



General Assembly

Seventy-second session

Official Records

Distr.: General
5 December 2017

Original: English

Sixth Committee

Summary record of the 30th meeting

Held at Headquarters, New York, on Friday, 10 November 2017, at 10 a.m.

Chair: Mr. Gafoor (Singapore)

Contents

Agenda item 78: Criminal accountability of United Nations officials and experts on mission (*continued*)

Agenda item 80: United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law (*continued*)

Agenda item 81: Report of the International Law Commission on the work of its sixty-ninth session (*continued*)

Agenda item 84: The rule of law at the national and international levels (*continued*)

Agenda item 85: The scope and application of the principle of universal jurisdiction (*continued*)

Agenda item 87: Responsibility of international organizations (*continued*)

Agenda item 109: Measures to eliminate international terrorism (*continued*)

Agenda item 166: Report of the Committee on Relations with the Host Country (*continued*)

Agenda item 121: Revitalization of the work of the General Assembly (*continued*)

Agenda item 137: Programme planning

Agenda item 5: Election of the officers of the Main Committees

This record is subject to correction.

Corrections should be sent as soon as possible, under the signature of a member of the delegation concerned, to the Chief of the Documents Management Section (dms@un.org), and incorporated in a copy of the record.

Corrected records will be reissued electronically on the Official Document System of the United Nations (<http://documents.un.org/>).



The meeting was called to order at 10.10 a.m.

Agenda item 78: Criminal accountability of United Nations officials and experts on mission
(continued) (A/C.6/72/L.18)

Draft resolution A/C.6/72/L.18: Criminal accountability of United Nations officials and experts on mission

1. **Mr. Warraich** (Pakistan), introducing the draft resolution, said that the text largely reiterated and built upon General Assembly resolution 71/134. Both the preambular and operative parts had been strengthened and some additions had been made. The new twenty-third preambular paragraph emphasized that the development of harmonized United Nations standards of investigation of crimes allegedly committed by United Nations officials and experts on mission could be critical to strengthening the United Nations system of accountability.

2. In the operative part, the General Assembly, by new paragraph 7, would request the Secretary-General to ensure greater quality and consistency in investigations by investigative entities of the Organization through the development of harmonized standards of investigation, including verification of allegations and information received. In amended paragraph 8, the Assembly would express its deep concern with regard to the significant number of instances where States to which allegations had been referred had failed to advise the United Nations of any steps taken in response to such referrals, including the failure to acknowledge them. Paragraph 20, on the follow-up to credible allegations of criminal conduct, had also been amended: in the new wording, the General Assembly would urge the Secretary-General to provide periodic updates on the handling of such allegations in order to demonstrate that Member States were taking steps to ensure accountability for crimes committed by United Nations officials and experts on mission and would request him to continue and undertake the necessary follow-up with the States concerned, by all appropriate forms of communication. Amended paragraph 24, which underlined the importance of a culture in which individuals were encouraged and supported by the Organization to report alleged crimes, included a new reference to the Secretary-General's bulletin on protection against retaliation for reporting misconduct and for cooperating with duly authorized audits or investigations.

3. Paragraph 25 had been added to stress the importance of understanding what assistance and support were available for the benefit of victims of criminal conduct perpetrated by United Nations officials

and experts on mission and to request the Secretary-General to consider the matter and report to the Sixth Committee during the briefing at its seventy-third session. On the question of reporting requirements, the Secretary-General would be requested, by amended paragraph 29, to submit and keep updated a report setting out all the relevant existing United Nations policies and procedures of the United Nations system regarding the allegations referred to, and would also be requested to develop recommendations to help to ensure that such policies and procedures relating to the reporting, investigation, referral and follow-up of credible allegations were coherent, systematic and coordinated throughout the United Nations system. By amended paragraph 31, the Secretary-General would also be requested to report on the dates and methods of follow-up requests to Member States. He hoped that the draft resolution would be adopted without a vote.

4. *Draft resolution A/C.6/72/L.18 was adopted.*

Agenda item 80: United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law
(continued) (A/C.6/72/L.19)

Draft resolution A/C.6/72/L.19: United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law

5. **Mr. Korbieh** (Ghana), introducing the draft resolution on behalf of the Bureau, said that it updated General Assembly resolution 71/139, on which it was closely based. It introduced a request, in paragraph 8, for funding for the Hamilton Shirley Amerasinghe Memorial Fellowship, which had not been awarded in 2016. Paragraphs 13, 14 and 15 had been updated to reflect the issuance of new legal publications, and, in paragraph 19, a reference to Chile as host of one of the regional courses in international law had been introduced. He recommended the draft resolution to the Commission for adoption without a vote.

6. *Draft resolution A/C.6/72/L.19 was adopted.*

Agenda item 81: Report of the International Law Commission on the work of its sixty-ninth session
(continued) (A/C.6/72/L.21)

Draft resolution A/C.6/72/L.21: Report of the International Law Commission on the work of its sixty-ninth session

7. **Mr. Horna** (Peru), introducing the draft resolution on behalf of the Bureau, said that it contained a number of technical updates and reflected the results of the

informal consultations held with delegations. In paragraph 2, the General Assembly would note the completion of the first reading of the draft articles on crimes against humanity with the adoption of the entire set of draft articles on the topic. In paragraph 4, it would draw the attention of Governments to the importance for the Commission of having their views by 15 January 2018 on the various aspects of the topics on its agenda, in particular on all the specific issues identified in chapter III of its report.

8. A footnote to paragraph 6 listed all the topics currently in the Commission's long-term programme of work. Paragraph 7 referred to the two new topics included therein and encouraged the Commission to take into consideration the comments and observations expressed by Governments in that regard during the debate in the Sixth Committee. In paragraph 13, which reflected article 12 of the Statute of the International Law Commission, the General Assembly would once again recall that the seat of the Commission was at the United Nations Office at Geneva. In paragraph 14, it would decide that the first part of the next session of the Commission would be held in New York, as recommended in paragraph 295 of the Commission's report (A/72/10), to coincide with the commemoration of its seventieth anniversary. Paragraph 38 concerned the date on which the Sixth Committee would commence its debate on the Commission's report in 2018, which was subject to the decision to be taken by the Committee under agenda item 121 and would be completed by the Secretariat following that decision. He hoped that the draft resolution would be adopted without a vote.

9. *Draft resolution A/C.6/72/L.21 was adopted.*

Agenda item 84: The rule of law at the national and international levels (continued) (A/C.6/72/L.17)

Draft resolution A/C.6/72/L.17: The rule of law at the national and international levels

10. **Mr. Eiermann** (Liechtenstein), introducing the draft resolution on behalf of the Bureau, said that the rule of law was a fundamental building block of the United Nations and was deeply enshrined in the purposes and principles of its Charter. It was therefore regrettable that no agreement had been reached in the Committee on the inclusion in the draft resolution of an explicit reference to the challenges arising in respect of United Nations assistance in promoting the rule of law in the field. Not only had there been no agreement on a subtopic for the 2018 debate, but also some delegations had not agreed to the suggestion of the Deputy Secretary-General to focus that debate on the

implementation of the 2030 Agenda for Sustainable Development. Member States needed to ensure that their joint efforts could lead to tangible results and progress and thus represent the interest of the entire membership.

11. The rule of law was currently being put to the test more than ever by the challenges facing the world. Poverty, climate change, ongoing wars and the struggle for gender equality demanded action. The question to be asked was whether and how the draft resolution in question could serve to strengthen the rule of law at the national and international levels. He drew attention to its final paragraph, in which Member States and the Secretary-General were invited to suggest possible subtopics for future Sixth Committee debates, for inclusion in the forthcoming annual report, with a view to assisting the Committee in choosing future subtopics.

12. **Mr. Al Arsan** (Syrian Arab Republic), speaking in explanation of position before action on the draft resolution, said that his delegation wished to make known its reservations about the reference, contained in part III, section C, paragraph 60, of the report of the Secretary-General (A/72/268), to the "International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic since March 2011". The establishment of that Mechanism had been a professional and legal mistake rooted in General Assembly resolution 71/248, which was underpinned by political designs and had followed an undemocratic process lacking in both fairness and transparency; it was deeply flawed. That resolution had been adopted without a consensus and reflected a polarization that was at odds with the principles and purposes of the Charter of the United Nations.

13. His delegation had already addressed a letter on the matter to the Secretary-General (A/71/799). The suspicious insistence on the establishment of that illegal Mechanism had serious political implications; the Mechanism constituted an attack on the rule of law at the national and international levels and was a deliberate distortion of judicial principles. As the Sixth Committee was well aware, the provision of legal assistance by the United Nations to Member States was governed by a specific rule, which required the Member State concerned to request such assistance. The Syrian Arab Republic had never made such a request.

14. The Mechanism had been established by a non-inclusive process led by the permanent missions of two Governments whose positions in respect of the situation in his country were biased, reflected indeed in their financing of terrorism there. Consequently, the

Syrian Arab Republic, together with a number of other States, would not recognize that Mechanism. It could not be considered a subsidiary body of the General Assembly; the General Assembly could not accept funds or contributions to support the Mechanism or its work; no information or evidence collected, consolidated, preserved or analysed by the Mechanism could be used in any criminal proceedings; it could not be deemed to have legal personality and could not enter into agreements with Member States or any other entity. His delegation requested that the paragraph referring to it in the Secretary-General's report should be deleted and that no mention should be made of it in any document of the Sixth Committee. The Sixth Committee should disassociate itself from the Mechanism.

15. *Draft resolution A/C.6/72/L.17 was adopted.*

Explanations of position after adoption of the draft resolution

16. **Ms. McDougall** (Australia) wished to put on record her delegation's concern and disappointment over the discussions surrounding the draft resolution and the final text thereof. It was grateful to the Deputy Secretary-General for highlighting the importance of the rule of law to the achievement of the Sustainable Development Goals and for suggesting the inclusion in the draft resolution of a decision to adopt a subtopic on the implementation of rule of law elements of the 2030 Agenda for Sustainable Development and sharing of best practices. Her delegation was troubled that the inclusion of any such language or even a mention of the contribution of the rule of law to eliminating poverty, reducing inequalities, supporting gender equality, protecting the environment and creating strong, just and inclusive institutions had been blocked by a small group of Member States. The refusal to engage in a debate on those issues was contrary not only to the commitment made by Heads of State and Government to the 2030 Agenda, but also to the need of Member States to work together as one United Nations and to their collective commitment to discuss and resolve differences of views.

17. Australia remained committed to all aspects of the 2030 Agenda and considered there to be a need for stronger coherence within and among the different United Nations forums on the Agenda. In that spirit, the delegations of Argentina and Australia had together undertaken consultations and prepared a report on the strategic alignment of future sessions of the General Assembly, referred to in its resolution 71/323. The scope of the 2030 Agenda was indeed such that it could only succeed if it was addressed in ways that ensured its cross-cutting and integrated nature. She noted in conclusion that since the draft resolution contained no

mention of any subtopic, Member States were free to focus their statements on any topic of their choosing. In view of the high priority attached by her delegation to the achievement of the Sustainable Development Goals, Australia would be underscoring the deep links between the rule of law and of the 2030 Agenda and encouraged other Member States to do likewise.

18. **Mr. Chaboureau** (Observer for the European Union) said that his delegation likewise regretted the failure to achieve a consensus on the inclusion of the subtopic proposed by the Deputy Secretary-General. The 2030 Agenda applied to the whole United Nations system, including the Sixth Committee, and provided the basis for its work. The High-level Political Forum on Sustainable Development would be reviewing the Agenda in depth in 2019; it was unfortunate that the Sixth Committee would not be able to contribute to the debate.

19. **Ms. Kalb** (Austria), speaking as coordinator of the Group of Friends of the Rule of Law and on behalf of its members: Argentina, Austria, Bahamas, Belgium, Colombia, Costa Rica, France, Guatemala, Italy, Latvia, Liechtenstein, Netherlands, Peru, Philippines, Romania, Slovenia, Sri Lanka and Switzerland, said that the Group of Friends regretted the outcome of the deliberations. Since the adoption of the 2030 Agenda in 2015, its content had been reaffirmed time and time again. In view of the valuable contribution that the Sixth Committee could make to its implementation, a fuller explanation of the reasons why some Member States were refusing to debate United Nations rule of law assistance would be welcome. She hoped that the Committee would nevertheless find it possible to focus on the proposed subtopic in the future.

20. **Ms. Boucher** (Canada), **Ms. Neilson** (New Zealand), **Ms. Nyrhinen** (Finland), on behalf of the Nordic countries (Denmark, Finland, Iceland, Norway and Sweden), **Ms. Sande** (Uruguay), **Ms. Guardia González** (Cuba) and **Mr. García Reyes** (Guatemala) echoed the views expressed by the representative of Australia and said that their delegations looked forward to discussing the issue again during the seventy-third session.

21. **Mr. Musikhin** (Russian Federation) said that his delegation likewise regretted that it had not proved possible to find a compromise on a subtopic for future discussion in the Committee, particularly as it had itself proposed the subtopic of mutual legal assistance, which had been rejected without debate by a small group of Member States. It was to be hoped that such a situation would not recur and that all delegations together would seek to find a subtopic acceptable to everyone.

22. **Mr. Nasimfar** (Islamic Republic of Iran) said that the challenges to the rule of law at the national and international levels were not due to a lack of appropriate norms or to the inadequacy of the rules and principles of international law. They were deeply rooted in unilateralism, disregard for international law and a refusal to consider the collective interest of the international community as a whole and were reflected in foreign occupation, aggression and unilateral coercive measures. The discussion could not be advanced if those challenges were overlooked. His delegation welcomed any discussion on the full and balanced fulfilment of the Sustainable Development Goals in the appropriate framework. A selective approach to their implementation or the imposition of any conditions in that regard ran counter to the integrity and indivisible nature of the Goals, which should be pursued in an inclusive, comprehensive manner, avoiding a partial, one-sided approach.

23. His delegation shared the view of the Syrian Arab Republic that it was irrelevant to refer to the International, Impartial and Independent Mechanism for the Syrian Arab Republic, in the context of United Nations rule of law activities. The Secretary-General should omit any reference to it in his report to the General Assembly at its seventy-third session on rule of law activities.

24. **Mr. Al Arsan** (Syrian Arab Republic) said that he had been surprised by the partial and biased information conveyed by some delegations regarding the draft resolution on the rule of law, with particular reference to the proposed inclusion therein of a subtopic for the Committee's discussions at the seventy-third session. During the informal consultations, many delegations had suggested a number of very important topics, some relating to the 2030 Agenda. Some delegations had taken the view, however, that if they could not obtain an agreement on their proposal then they would simply reject any other proposal.

25. **Mr. Kemble** (Netherlands), responding to the statement of the representative of the Syrian Arab Republic, echoed by the Islamic Republic of Iran, calling into question the legality of the Impartial, Independent Mechanism for the Syrian Arab Republic, said that it was a perfectly legal instrument. It had been established by the General Assembly in accordance with the mandate of the General Assembly, and any suggestion that the Secretary-General should omit any reference to it in his report to the seventy-third session on rule of law activities was not supported by his delegation.

26. **Mr. Ahmed** (Sudan) said that, given that there had been agreement on all paragraphs but one of the draft resolution, it would perhaps be wiser to focus on the areas of agreement among Member States rather than of disagreement. The Sudan was one of the countries most in need of sustainable development assistance and wished to discuss all its aspects in all the available forums. Selectivity must be avoided. The question was not whether but how the various rule-of-law elements of sustainable development would be discussed at the seventy-third session. His delegation, for its part, remained fully committed to the attainment of the Sustainable Development Goals and to achieving the rule of law at the national and international levels.

27. **Mr. Atlassi** (Morocco) said that the Committee's failure to achieve a consensus on the inclusion of the proposed subtopic in the draft resolution was without precedent. By exploring every possible approach in search of a solution, the Sixth Committee traditionally set an example to the entire Organization in the matter of consensus-building. The situation was therefore all the more regrettable.

Agenda item 85: The scope and application of the principle of universal jurisdiction (*continued*)
(A/C.6/72/L.23)

Draft resolution A/C.6/72/L.23: The scope and application of the principle of universal jurisdiction

28. **Mr. Waweru** (Kenya), introducing the draft resolution on behalf of the Bureau, welcomed the high level of engagement of delegations in the informal consultations, which had led to more significant changes being made to the text than in previous years. The second preambular paragraph now included a reference to General Assembly resolution 71/149, on which the draft resolution was based. The third preambular paragraph had been updated to take into account the discussions held in the Sixth Committee during the current session. In the fourth preambular paragraph, the General Assembly would note the constructive dialogue in the Sixth Committee, including in the context of the Working Group on the scope and application of the principle of universal jurisdiction. That paragraph was intended to convey that the Working Group continued to be a viable forum for delegations with diverse views to debate and discuss the scope and application of the principle of universal jurisdiction. In paragraph 2, the Working Group was again given the mandate to continue, during the seventy-third session of the General Assembly, to discuss the scope and application of universal jurisdiction. Under paragraph 5, the General Assembly would decide to include in the provisional

agenda of its seventy-third session an item devoted to the topic.

29. *Draft resolution A/C.6/72/L.23 was adopted.*

Agenda item 87: Responsibility of international organizations (*continued*) (A/C.6/72/L.22)

Draft resolution A/C.6/72/L.22: Responsibility of international organizations

30. **Mr. Luna** (Brazil), introducing the draft resolution on behalf of the Bureau, said that different versions had been discussed during the informal consultations, as delegations had expressed opposing views on whether a convention should be elaborated on the basis of the articles on responsibility of international organizations. The draft resolution currently before the Committee reflected the consensus that had emerged for the text to provide for continued dialogue on possible future action regarding the articles while deferring consideration of the question of the ultimate form the future articles would take to a future session. Some delegations had also suggested that the cycles for the consideration of the agenda items on the responsibility of international organizations and the responsibility of States for internationally wrongful acts should be aligned because, in their view, the topics were closely related. However, other delegations had stressed that there were important differences between the topics, including the amount of relevant State practice.

31. The text had been prepared on the basis of General Assembly resolution 69/126. A new sixth preambular paragraph had been added, by which the General Assembly would note the compilation of decisions of international courts, tribunals and other bodies referring to the articles, prepared by the Secretary-General (A/72/81). Paragraph 1 again commended the articles to the attention of Governments and international organizations without prejudice to the question of their future adoption or other appropriate action. Paragraph 2 sought to ensure that more material on practice was provided for the next discussion on the item in 2020. Under paragraph 3, the General Assembly would include the agenda item in the provisional agenda of its seventy-fifth session with a view to considering what form might be given to the articles. He recommended that the draft resolution should be adopted without a vote.

32. *Draft resolution A/C.6/72/L.22 was adopted.*

Agenda item 109: Measures to eliminate international terrorism (*continued*) (A/C.6/72/L.14)

Draft resolution A/C.6/72/L.14: Measures to eliminate international terrorism

33. **Ms. Boucher** (Canada), introducing the draft resolution on behalf of the Bureau, said that the text was similar to that of General Assembly resolution 71/151, with a few additions and technical updates. The recent establishment of the Office of Counter-Terrorism was welcomed in a new preambular paragraph and paragraph 21, and technical amendments had been made to the text to reflect the transfer of current Counter-Terrorism Implementation Task Force Office and the United Nations Counter-Terrorism Centre from the Department of Political Affairs of the Secretariat to the Office of Counter-Terrorism. A preambular paragraph in which the General Assembly would note the importance of continuing to strive towards achieving a world free of terrorism has also been added. The phrase “valuable dialogue” had been added to paragraph 26 in order to recognize the valuable dialogue of Member States towards resolving the outstanding issues discussed under the mandate of the Working Group on measures to eliminate international terrorism, which had been established with a view to finalizing the process on the draft comprehensive convention on international terrorism as well as discussions on the item included in its agenda by Assembly resolution 54/110 concerning the question of convening a high-level conference under the auspices of the United Nations. She proposed that the draft resolution should be adopted without a vote.

34. *Draft resolution A/C.6/72/L.14 was adopted.*

Agenda item 166: Report of the Committee on Relations with the Host Country (*continued*) (A/C.6/72/L.20)

35. **Ms. Krasa** (Cyprus), introducing the draft resolution on behalf of the sponsors, said that the text was based on that of General Assembly resolution 71/152. Paragraphs 1 and 15 contained technical updates. New language stating that the observance of the privileges and immunities of delegations and missions could not be subject to any restrictions arising from the bilateral relations of the host country, in line with paragraph 89 (c) of the report of the Committee on Relations with the Host Country (A/72/26), had been added to paragraph 2. The new paragraph 3, concerning the observance of the privileges and immunities applicable to the premises of the permanent missions to the United Nations, reflected paragraph 89 (e) of the report. She proposed that the draft resolution should be adopted without a vote.

36. *Draft resolution A/C.6/72/L.20 was adopted.*

37. **Mr. Musikhin** (Russian Federation), speaking in explanation of position, said that his delegation took issue with paragraph 11 of the draft resolution, in which the General Assembly expressed its appreciation for the efforts made by the host country. As his delegation had mentioned during the general debate on the agenda item, the host country had not made an effort to correct the flagrant violation of its obligation to respect the privileges and immunities of the Permanent Mission of the Russian Federation with respect to its property in Upper Brookville, Long Island, New York State, which formed part of the premises of the Mission. If the matter were resolved as recommended in the report of the Committee on Relations with the Host Country, his delegation would be able to endorse paragraph 11.

Agenda item 121: Revitalization of the work of the General Assembly (continued) (A/C.6/72/L.24)

38. **The Chair** said that, taking into account the Committee's discussions, at its twenty-ninth meeting, on the Bureau's draft proposal for a provisional programme of work of the Committee for the seventy-third session, the Bureau had prepared a final version of the provisional programme of work, contained in draft decision A/C.6/72/L.24. However, owing to continuing concerns that the proposed start date of the session on 1 October 2018 would leave delegations too little preparation time between the conclusion of the general debate of the General Assembly and the commencement of the meetings of the Sixth Committee, the Bureau had drawn up a revised proposal, which had been distributed to the regional groups before the meeting and circulated in the meeting room. Under the new proposal, the meetings of the Sixth Committee would begin on 3 October 2018 and end on 13 November 2018, which would leave two business days between the end of the general debate and the first meeting of the Committee, while still limiting the overlap between the meetings of the Committee and the negotiations on the annual General Assembly resolution on sustainable fisheries, which usually began around the time the Sixth Committee concluded its work. Several meetings would be held in reserve in the provisional programme of work in order to provide flexibility. Time would also be allotted for the meetings of several working groups, without prejudice to the right of the Committee to decide whether to establish those working groups.

39. **Mr. Fintakpa Lamega** (Togo) said that the revised provisional programme of work was acceptable to his delegation.

40. **The Chair** said that he took it that the Committee wished to adopt the draft decision, as amended by the Bureau's proposal.

41. *Draft decision A/C.6/72/L.24, as amended, was adopted.*

Agenda item 137: Programme planning

42. **The Chair** explained that the agenda item had been allocated to all Committees on an annual basis since the sixty-first session of the General Assembly. However, no reports under that item had been provided to the Sixth Committee at the current session.

Agenda item 5: Election of the officers of the Main Committees

43. **The Chair** said that, in accordance with rule 99 (a) of the rules of procedure of the General Assembly and rule 103, as amended by General Assembly resolution 58/126, all the Main Committees should, at least three months before the opening of the session, elect a Chair and a full Bureau. Based on the interim arrangement concerning the rotation of Chairs of the Main Committees of the General Assembly, contained in General Assembly decision 68/505, it was his understanding that the Chair of the Sixth Committee for the seventy-third session of the General Assembly would be selected by the African States. He suggested that the regional groups should hold consultations at an appropriate time to ensure that the Committee was in a position to elect its next Chair, three Vice-Chairs and Rapporteur in June 2018.

Completion of the Committee's work

44. After the customary exchange of courtesies, **the Chair** declared that the Sixth Committee had completed its work for the main part of the seventy-second session.

The meeting rose at 12.15 p.m.