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Chair: Ms. Krutulytė (Vice-Chair) . . . . . (Lithuania)
later: Ms. Al-Thani . . . . . (Qatar)

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21-16015 (E)

In the absence of Ms. Al-Thani (Qatar), Ms. Krutulytė (Lithuania), Vice-Chair, took the Chair.

The meeting was called to order at 3.05 p.m.

Agenda item 82: Report of the International Law Commission on the work of its seventy-second session (*continued*) (A/76/10)

1. **The Chair** invited the Committee to continue its consideration of chapters VII and VIII of the report of the International Law Commission on the work of its seventy-second session (A/76/10).

2. **Mr. Nyanid** (Cameroon) said that his delegation was unhappy that, despite arranging with the secretariat to deliver its statement at the 25th meeting of the Committee, it had been given the floor near the end of the 24th meeting, only to be interrupted part way through its statement because the meeting had run too long. That situation had inconvenienced both him and the interpreters.

3. Continuing his delegation's comments on the topic "General principles of law", which he had started delivering at the 24th meeting, as reflected in document A/C.6/76/SR.24, he said that Cameroon called for the abandonment of the term "civilized nations", found in Article 38, paragraph 1 (c), of the Statute of the International Court of Justice. However, it did not support the Special Rapporteur's proposal to use the term "community of nations" (in French, "*l'ensemble des nations*"), found in paragraph 2 of article 15 of the International Covenant on Civil and Political Rights. His delegation suggested that "community of States" (in French, "*l'ensemble des États*") be used instead, because the word "nation" had a highly sociological and spiritual connotation referring to a sense of community or the desire of a people to live together, something that was non-existent, or at least not uniform. The notion of "State", on the other hand, seemed to have a more generally accepted legal connotation, since it encompassed the most complex situations and would reflect the same reality across the different language versions of the text. Moreover, Article 38 of the Statute referred to, and was applicable to, States.

4. Referring to the draft conclusions proposed by the Special Rapporteur in his second report (A/CN.4/741 and A/CN.4/741/Corr.1), he said, with regard to draft conclusion 5 (Determination of the existence of a principle common to the principal legal systems of the world), that his delegation supported the view that it was not necessary to refer to the methods and techniques of comparative law in the analysis of national legal systems in paragraph 1; rather, focus should be placed on the basic notions which those systems might have in common. Furthermore, his delegation did not support the use of the concept of "legal families" to establish the scope of the comparative analysis provided for in paragraph 2. Neither geographical representation nor language was a sufficient criterion for ascribing legal practices to a specific family. National laws obviously had a role to play, but they reflected the needs of men and women within a given space, as dictated by the maxim *ubi societas, ubi ius*.

5. Turning to draft conclusion 8 (Decisions of courts and tribunals), he said that contrary to what was indicated in Article 38, paragraph 1 (d), of the Statute of the International Court of Justice, domestic judicial decisions were not subsidiary means, but direct means, for the determination of general principles of law. Regarding draft conclusion 9 (Teachings), his delegation would prefer that resolutions of the United Nations and other bodies not be elevated to the level of subsidiary means for the determination of general principles of law, for greater serenity in the drafting and adoption of such resolutions. As the International Court of Justice had indicated in its judgment in *Obligations concerning Negotiations relating to Cessation of the Nuclear Arms Race and to Nuclear Disarmament (Marshall Islands v. United Kingdom)*, considerable care was required on the issue.

6. **Ms. Carral Castelo** (Cuba) said that the topic "General principles of law" was of the utmost importance for the gradual codification of international law. General principles of law must be basic norms or rules that might be applicable to international legal relations. They must reflect the principles established in Article 2 of the Charter of the United Nations and be recognized by States, either in their respective domestic legal orders or in their international relations. They must also be sufficiently general to be able to become a source of international law. They must stem from the very nature of international law, through a process of logical introduction, without the requirement to demonstrate the existence of precedents, as was the case with custom. It was crucial to refrain from reinterpreting the Charter in any future conceptualization of general principles.

7. **Mr. Baena Pedrosa** (Spain), referring to the topic "General principles of law", said that it had become clear that there were diverging views on the legal nature and substance of those principles. His delegation considered them to be a true source of international law, distinct from treaties and custom, and believed that their function was to fill gaps in the legal order. His delegation reiterated its belief in the dual origin of general principles of law: national and international.

Based on the basic categories of general theory of law, the possibility of identifying general principles of law formed within the international legal system could not be excluded, however difficult such identification might be in practice. His delegation took note of the fact that the Commission had debated that matter and had prudently decided to wait until its next session to take a decision on it. His delegation hoped that the Commission would return to the issue and adopt draft conclusion 7, as proposed by the Special Rapporteur in his second report (A/CN.4/741 and A/CN.4/741/Corr.1).

8. Spain agreed with the Special Rapporteur that the starting point for the Commission's work on the topic should be Article 38, paragraph 1 (c), of the Statute of the International Court of Justice, in the light of jurisprudence and State practice. It welcomed the Commission's decision to use the term "*principios generales del derecho*" as the Spanish equivalent of "general principles of law", as that was the term most commonly used in Spanish to refer to that legal category.

9. His delegation agreed with the Special Rapporteur that the term "civilized nations", found in Article 38, paragraph 1 (c), which was overly anachronistic and did not seem compatible with the principle of sovereign equality, should be replaced with the relevant term from article 15, paragraph 2, of the International Covenant on Civil and Political Rights. Spain supported the Commission's decision to use the terms from the different language versions of the Covenant in the corresponding language versions of the draft conclusions, even though the terms were all somewhat different in the different language versions. Its decision to use the term "*comunidad internacional*" (international community) in the Spanish version seemed correct. In paragraph (3) of the commentary to draft conclusion 2, which it had provisionally adopted, the Commission provided sufficient clarification as to the meaning of the new terminology used, thus preventing any confusion that might arise from terminological differences between the different language versions.

10. His delegation concurred with the statement in paragraph 174 of the Commission's report (A/76/10) that the topic "should deal with the legal nature of general principles of law as one of the sources of international law, their scope, their functions and their relationship with other sources of international law, as well as the method for identifying them." Spain was pleased that the Special Rapporteur had taken into consideration its suggestions for the definition of the scope of the topic: the nature, origins, functions and identification of general principles of law as a source of international law.

11. With regard to draft conclusion 4 (Identification of general principles of law derived from national legal systems), his delegation supported the two-step process for establishing the existence of a general principle of law and considered that the phrase "legal systems of the world" was sufficiently precise for the identification of general principles of law. Spain supported the Special Rapporteur's intention to dedicate his next report to the functions of general principles of law and their relationship with other sources of international law.

12. Turning to the topic "Succession of States in respect of State responsibility", he said that despite the progress made at the current session, there were still a dozen draft articles on issues of great interest still pending in the Drafting Committee. During the consideration of those draft articles, particularly those concerning the legal consequences of internationally wrongful acts and reparation, there was a need to maintain consistency with the articles on responsibility of States for internationally wrongful acts. His delegation supported the Special Rapporteur's plan to examine matters related to the plurality of injured successor States and the plurality of responsible States in his next report.

13. **Mr. Milano** (Italy) said that, owing to the paucity of relevant State practice, the topic of succession of States in respect of State responsibility might not be ripe for codification of existing customary international law. Nevertheless, the work that had been completed thus far could constitute the basis for a set of guidelines, principles or conclusions on the topic. As an exercise in progressive development of the law, study of the topic might provide useful guidance to States on normative parameters for context-based, mutually agreed solutions, which were often the only realistic means of resolving matters of State succession.

14. As should be the case for all topics considered by the Commission, in that exercise, the Commission should state clearly which provisions represented existing general international law and which ones were aimed at its progressive development. His delegation supported the approach adopted by the Special Rapporteur and the Commission to use the latter's previous work on responsibility of States for internationally wrongful acts and on succession of States as its main source of reference. The Special Rapporteur was to be commended for considering State practice in different categories of State succession, in order to identify emerging rules regulating State succession in matters of State responsibility, and for

fully taking into account the views expressed by Member States in the Committee. Italy supported the avoidance of any general rule along the lines of either the “clean slate” rule or automatic succession.

15. Turning to the topic “General principles of law”, he said that his delegation took note of the Special Rapporteur’s consideration of two categories of general principles of law: those derived from national legal systems and those formed within the international legal system. It was crucial for the Commission to identify the essential features of the second category and, in particular, the factors distinguishing them from customary international law and from the rules regulating the formation of the latter. His delegation agreed with the Commission that the term “community of nations” should be used in the Commission’s work instead of the anachronistic expression “civilized nations”. His delegation would consider submitting written comments at a later stage.

16. **Mr. Bouchedoub** (Algeria), referring to the topic “General principles of law”, said that his delegation believed that general principles of law were an autonomous source of international law and that, while the list of sources in the Statute of the International Court of Justice was not hierarchical, they played a subsidiary or supplementary role. In view of its importance for the codification and progressive development of international law, the topic required careful consideration and in-depth legal analysis.

17. His delegation therefore encouraged the Commission to continue undertaking a wide comparative analysis encompassing national legal sources, including legislation and the decisions of national courts, taking into account the particularities of each legal system and identifying legal principles common to them. It was necessary to cover the principal legal systems of the world, in order to ensure that a principle had effectively been generally recognized by the international community. In order for a principle grounded in domestic law to be deemed a general principle of law, it must first be ascertained that the principle was common to the principal legal systems of the world and that it had been transposed to the international legal system, a rather difficult task. Accordingly, his delegation supported findings (a) through (g) set out in paragraph 184 of the Commission’s report (A/76/10) and the two requirements mentioned in paragraph 185.

18. His delegation was pleased that, as was stated in paragraph 177 of the report, there was general agreement both within the Commission and in the Committee that the term “civilized nations” contained in Article 38, paragraph 1 (c), of the Statute of the International Court of Justice was anachronistic and should be avoided. It would be preferable to use an alternative term that was agreed upon, uncontroversial, recognized and established in international law, and that reflected the current situation of international law. Options included “ international community”, “ international community of States”, or simply “States”.

19. His delegation had a reservation regarding the category of general principles of law formed within the international legal system. It was clear from the *travaux préparatoires* of the Statute of the Court that only general principles of law developed in domestic law were included in Article 38, paragraph 1 (c), of the Statute. The general principles described under the category of principles formed within the international legal system, to which reference was made in paragraph 211 of the report, were in fact rules of conventional or customary law. It would be preferable to avoid considering such principles in order to prevent confusion between general principles of law, as envisaged in Article 38, paragraph 1 (c), of the Statute, and other sources of international law. His delegation shared the doubts expressed by certain Member States, mentioned in paragraph 179 of the report, and agreed with the view, mentioned in paragraph 187 of the report, that there would not be sufficient or conclusive practice to reach conclusions regarding that category.

20. His delegation supported the proposal of the Special Rapporteur, to which reference was made in paragraph 190 of the report, that the Commission could provide at the end of its work a broadly representative bibliography of the main studies that had been cited. His delegation hoped that the proposal would be extended to all the topics being considered by the Commission, as that would help to ensure the credibility and transparency of the Commission’s work. It also hoped that the Special Rapporteur would continue working to define such terms as “general rules of international law”, “general principles of international law” and “fundamental principles of international law”, and that a distinction would be made between principles as a source of law and principles as a subsidiary category of customary or conventional law.

21. Addressing the topic “Succession of States in respect of State responsibility”, he said that, while his delegation supported the general rule set forth in article 6 of the draft articles proposed by the Special Rapporteur in his second report (A/CN.4/719), namely that responsibility was not in principle transferred to the successor State if the predecessor State continued to exist, that rule would not gain widespread acceptance or interest from Member States. The very limited support for treaties relating to succession was an indication that

the elaboration of draft articles might not be the most effective way for the Commission to influence future practice. Moreover, the scarcity of relevant State practice made the Commission's work on the topic particularly challenging. Indeed, experience showed that States tended to resolve issues concerning responsibility through negotiation, which suggested that there was little need for predetermined rules on the matter. The Commission should therefore consider giving the outcome of its work a different form, such as summary conclusions.

22. **Mr. Paraiso Souleymane** (Niger), referring to the topic "Succession of States in respect of State responsibility", said that his delegation welcomed the five new draft articles proposed in the Special Rapporteur's fourth report (A/CN.4/743) and the inclusion of new provisions to complement existing international conventions and international custom, although certain terms needed to be more clearly defined. His delegation welcomed the Special Rapporteur's explanations, as reflected in paragraph 129 of the Commission's report (A/76/10), on draft article 16 (Restitution), which was in line with the articles on responsibility of States for internationally wrongful acts, and draft article 17 (Compensation), which was informed by an analysis of practice, including decisions of the European Court of Human Rights and the United Nations Compensation Commission. The practice of other regional courts, such as the African Court on Human and Peoples' Rights, in matters of compensation should be examined and referenced in the work on draft article 17.

23. As indicated in the Commission's report, draft article 19 (Assurances and guarantees of non-repetition), like the other draft articles, was subsidiary in nature, and its provisions could be the subject of negotiation and future application under bilateral and multilateral agreements between States. His delegation looked forward to the Special Rapporteur's future work on matters related to the plurality of injured successor States, as well as the plurality of responsible States.

24. His delegation called for further discussion on the general rule of non-succession, the "clean slate" rule and automatic succession, with a view to reaching a common understanding and consensus on the relevant draft articles. Further consideration of those issues would also provide an opportunity to better explain the difference between the "transfer of responsibility" of States and the "transfer of rights and obligations arising from responsibility" of States. It appeared from paragraph 140 of the Commission's report that the question of the transfer of obligations was inconsistent with the requirement of attribution under article 2 of the articles on responsibility of States for internationally wrongful acts.

25. The Commission should continue examining the question, given the concerns expressed in that regard. His delegation welcomed the suggestion to add a draft article concerning any right of reparation that might be owed to individuals subject to the jurisdiction of the injured State, especially since that question was related to combating impunity and protecting human rights. To the extent that the articles on responsibility of States for internationally wrongful acts were not adequate to cover all relevant aspects of the question, they would need to be complemented in order to fill the gaps in the codification of the relevant rules, taking into account the relevant concerns expressed by some members of the Commission and subject to the agreement of Member States.

26. Turning to the topic "General principles of law", he said that all sources of international law, including general principles of law, were important for the administration of justice. His delegation believed that the topic should encompass the legal nature of general principles of law as one of the sources of international law, their scope, their functions and their relationship with other sources of international law, as well as the method for their identification. General principles derived from national legal systems and those formed within the international or regional legal system could provide the basis for the determination of general principles of law, in particular the recognition of the basic notions which those systems had in common. The same was true of subsidiary means for the determination of general principles of law. His delegation called on the members of the Commission to come to an agreement regarding the consideration of recognition of a principle by the major legal families or recognition of the principle by national laws within those families.

27. His delegation was in favour of avoiding the term "civilized nations", found in Article 38, paragraph 1 (c), of the Statute of the International Court of Justice and using instead "community of nations", found in article 15, paragraph 2, of the International Covenant on Civil and Political Rights, or another term, such as "international community of States" or "community of States as a whole", as agreed by Member States. Although diverging views had been expressed in relation to the transposition of general principles of law to the international legal system, his delegation welcomed the approval of the two criteria for transposition of a principle set out in draft conclusion 6, as proposed by the Special Rapporteur in his second report (A/CN.4/741 and A/CN.4/741/Corr.1), namely that it was compatible with fundamental principles of international law, and that the

conditions existed for its adequate application in the international legal system.

28. **Mr. Asiabi Pourimani** (Islamic Republic of Iran), referring to the topic of general principles of law and the draft conclusions proposed by the Special Rapporteur in his second report (A/CN.4/741 and A/CN.4/741/Corr.1), said that his delegation supported the provisions of draft conclusions 4 (Identification of general principles of law derived from national legal systems), 5 (Determination of the existence of a principle common to the principal legal systems of the world), and 6 (Ascertainment of transposition to the international legal system), which would assist in the identification of general principles of law in accordance with Article 38, paragraph 1 (c), of the Statute of the International Court of Justice.

29. With regard to the concept of "legal systems", his delegation agreed with the Special Rapporteur that the general principles of law referred to in Article 38, paragraph 1 (c), should be understood as those that had been recognized by States. However, an inclusive process for the identification and recognition of general principles of law was crucial, in order to ensure a balanced representation of all legal systems. The *travaux préparatoires* of the Statute of the Permanent Court of International Justice had shown that full acceptance by all nations had been considered a necessary requirement for the emergence of a general principle of law. The International Court of Justice had reaffirmed that principle in its judgment in the *North Sea Continental Shelf* case, stating that a principle could be recognized as a general principle of law when it had "entered into all legal systems".

30. Moreover, as noted in the Special Rapporteur's report, in its judgment of 1966 in the *South West Africa, Second Phase* case, the Court had noted that *actio popularis* might be known to certain municipal systems of law, but that it could not be considered a general principle of law in the sense of Article 38, paragraph 1 (c), of its Statute, because it had not been sufficiently recognized in national legal systems at the time. Hence, recognition by a certain group of States was not sufficient for the emergence of a general principle of law. Therefore, his delegation did not agree with the Special Rapporteur that *opinio juris* was not necessary for the emergence of a general principle of law.

31. The Commission should proceed with caution in respect of draft conclusion 7 (Identification of general principles of law formed within the international legal system). It could be concluded from the *travaux préparatoires* of the Statute of the Permanent Court of International Justice that the concept of general principles of law was confined to those principles that had crystalized in the light of the experiences of different national legal systems. His delegation was therefore not convinced that such principles or rules constituted a category of general principles of law under Article 38 of the Statute of the International Court of Justice, in particular since they usually came into existence through the development of customary international law. In that regard, the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations already provided States with general principles formed within the international legal system. While his delegation acknowledged the vital role that the Commission played in the progressive development of international law, it believed that the Commission must be guided by consistent and coherent State practice on such a controversial issue.

32. His delegation approved of draft conclusion 8 (Decisions of courts and tribunals) and draft conclusion 9 (Teachings), which were well supported by State practice and *opinio juris*. Lastly, the Commission's work should not result in the development of a list of general principles of law, since the purpose of the topic was not to increase the number of rules and principles of international law, but rather to clarify how general principles emerged and developed.

33. **Ms. Arumpac-Marte** (Philippines) said that her delegation agreed that the starting point for consideration of the topic "General principles of law" must be Article 38, paragraph 1 (c), of the Statute of the International Court of Justice, in which "the general principles of law recognized by civilized nations" were identified as a source of international law. It also agreed that the term "civilized nations" was anachronistic and should be avoided. The Philippines supported the category of general principles of law derived from national legal systems, but had doubts about the existence of general principles of law formed within the international legal system.

34. Her delegation welcomed the fact that the Special Rapporteur had reflected the views expressed by Member States in his second report and that the Commission had done likewise in the draft conclusions and the commentaries thereto which it had provisionally adopted, including by stating explicitly in draft conclusion 1 that general principles of law were a source of international law, and by using the term "community of nations", rather than "civilized nations", in draft conclusion 2. Her delegation also supported the general approach to the identification of general principles of law derived from national legal systems, as set out in draft conclusion 4. It was stated in the commentary to

the draft conclusion that the two-step analysis provided for in the draft conclusion was an objective method that was widely accepted in practice; however, her delegation was not convinced that that was the case with regard to the first step (ascertaining the existence of a principle common to the various legal systems of the world). The Special Rapporteur's survey of State practice in that regard concerned mainly pleadings of States before international courts and tribunals and should be supplemented by submissions from States regarding their contemporary practice.

35. In that connection, it was worth noting that under the Philippine Constitution, generally accepted principles of international law were part of the law of the land and, as indicated by the Supreme Court, included general principles of law in the sense of Article 38, paragraph 1 (c). Philippines case law also indicated that general principles of law were established by a process of reasoning based on the common identity of all legal systems. Their status as a primary source of obligations was derived from their *jus rationale* character and their validity across human societies. Those principles were developed through the use of concepts from municipal law by international courts to fill gaps and/or address weaknesses in international law through legal reasoning and analogy from said municipal law.

36. Her delegation supported the use of domestic legal sources of States, including legislation and decisions of national courts, in the comparative analysis provided for in draft conclusion 4. However, insufficient evidence had been provided to support the view that rules issued by international organizations could also be taken into account. As for subparagraph (b) of the draft conclusion, her delegation agreed with the Special Rapporteur that the transposition of a principle common to the principal legal systems of the world to the international legal system was not automatic, and also that transposition did not have to be effected through a formal or express act.

37. Referring to the draft conclusions proposed by the Special Rapporteur in his second report ((A/CN.4/741 and A/CN.4/741/Corr.1), she said that her delegation would welcome further examples of State practice concerning the criteria for transposition set out in draft conclusion 6 (Ascertainment of transposition to the international legal system), namely that the principle must be compatible with fundamental principles of international law, understood by the Special Rapporteur to be the principles enshrined in the Charter of the United Nations, and that conditions must exist for the adequate application of the principle in the international legal system.

38. Her delegation was pleased that it would be part of the work of the Commission to examine in detail the possible existence of general principles of law formed within the international legal system, and that the Special Rapporteur intended to address the question of the functions of general principles of law and their relationship with norms from other sources of international law. An examination of the relationship between general principles of law and customary international law was also needed, in order to clarify both of those sources of international law and prevent them from being conflated. Her delegation supported the Special Rapporteur's proposal that the Commission provide at the end of its work a broadly representative bibliography of the main studies relating to the general principles of law.

39. **Ms. de Souza Schmitz** (Brazil) said that the Commission's work on the topic of succession of States in respect of State responsibility could complement its work on other aspects of succession of States, thus filling a gap in international law. State responsibility for internationally wrongful acts was essential for the effectiveness of international law and therefore must not disappear whenever a State ceased to exist. Thus, the "clean slate" rule might not be an appropriate solution in cases of State succession. Nevertheless, Brazil did not believe that automatic succession should be the general rule, as it did not reflect widespread State practice. The applicability of the general rules on State responsibility in situations of succession of States should be determined on a case-by-case basis. Her delegation therefore agreed that the draft articles on succession of States in respect of State responsibility were subsidiary in nature and that agreements between the States concerned should take priority.

40. Her delegation supported the view that more geographically diverse sources of State practice should be taken into account. It also believed that the outcome of the work on the topic did not necessarily need to be in the form of draft articles, and that a set of draft guidelines or draft principles could be preferable.

41. Turning to the topic "General principles of law", she said that such principles had great importance as a primary source of international law. The current study on the topic was not only timely, but also needed. It would fill a gap in the Commission's work following its work on other sources of international law and would help to shed light on Article 38, paragraph 1 (c), of the Statute of the International Court of Justice.

42. Referring to the draft conclusions provisionally adopted by the Commission, she said that her delegation agreed with the content of draft conclusion 2 (Requirement of recognition), which indicated that for a

general principle of law to exist it must be recognized by the international community. Her delegation was pleased that the Special Rapporteur had avoided the outdated term "civilized nations", which was inconsistent with the core values and principles of the Organization and should not be used by the Commission or courts of law. Although the formulation "community of nations" adopted by the Commission was reflected in other instruments, such as the International Covenant on Civil and Political Rights, Brazil encouraged the Commission to use more precise terminology to reflect the primary role of States in the formation of international law.

43. Her delegation supported the criteria set out in draft conclusion 4 for the identification of general principles of law derived from national legal systems. It was particularly important to ensure that such identification was based on a careful analysis of the different legal systems and regions of the world. Similarly, her delegation agreed with the Special Rapporteur that the comparative analysis of legal systems provided for under draft conclusion 5, as proposed by the Special Rapporteur in his second report (A/CN.4/741 and A/CN.4/741/Corr.1), must be wide and representative. To that end, it must not only cover as many legal systems as possible but also be geographically and linguistically diverse. In that connection, the sparce references to materials from Portuguese-speaking countries in United Nations documents did not reflect the importance of the legal tradition of those countries. Brazil therefore encouraged the Commission to expand the linguistic and geographical reach of its analyses to represent different national legal systems.

44. Her delegation had nominated George Galindo for election to the Commission and encouraged other delegations to support his candidacy.

45. **Ms. Ozgul Bilman** (Turkey), referring to the topic of succession of States in respect of State responsibility and the draft articles proposed by the Special Rapporteur in his fourth report (A/CN.4/743), said that the difference between composite acts and continuing acts was not conveyed clearly enough in draft article 7 bis (Composite acts). Moreover, while the Special Rapporteur had sought to maintain consistency with the articles on responsibility of States for internationally wrongful acts, it should be borne in mind that the question of whether and to what extent those articles reflected customary international law had not been settled. The Commission should therefore consider draft article 7 bis in more detail as part of its future work.

46. With regard to paragraph 2 of draft article 16 (Restitution), her delegation supported the view that the successor State did not have an obligation to make restitution in lieu of the predecessor State. Turkey also subscribed to the view that paragraph 2 of draft article 17 (Compensation) did not clearly demonstrate causality, and therefore urged the Commission to proceed cautiously in its work on that provision.

47. Some members of the Commission had expressed the view that the recourse to lump-sum agreements should not undermine the rule of full reparation as a fundamental principle of the law of State responsibility, and that lump-sum agreements might not be appropriate to settle disputes involving *erga omnes* obligations. However, since lump-sum agreements were part of State practice, that view was inconsistent with the subsidiary nature of the draft articles and the priority that should be given to agreements between the States concerned.

48. With regard to the continuity theory, her delegation noted that the Special Rapporteur had used the phrase "Turkey (the continuing State of the Ottoman Empire)" in his second report (A/CN.4/719), in reference to the *Lighthouses Arbitration* case between France and Greece. That case had been mentioned again in the Commission's report (A/76/10). Her delegation wished to reiterate that Turkey had not been a party to that case. Moreover, the continuity theory remained controversial and diverging views were evident in the relevant doctrine. Given that the Special Rapporteur had reflected the array of existing views on other instances of secession and succession in his second report, he should also take into consideration the differing opinions on the situation concerning the Ottoman Empire.

49. Turning to the topic "General principles of law", she said that her delegation agreed with the Special Rapporteur's general approach that the criteria for identifying general principles of law must be sufficiently strict to prevent them from being used as a shortcut to identify norms of international law, and at the same time sufficiently flexible so that identification would not amount to an impossible task.

50. With regard to the draft conclusions provisionally adopted by the Commission, her delegation supported the decision, in draft conclusion 2, to abandon the term "civilized nations", contained in Article 38, paragraph 1 (c), of the Statute of the International Court of Justice. It welcomed the decision to use the phrase "various legal systems", rather than "principal legal systems" in draft conclusion 4.

51. As indicated by the Special Rapporteur in his second report (A/CN.4/741 and A/CN.4/741/Corr.1), practice and jurisprudence regarding the role of international organizations in the formation of general

principles of law derived from national legal systems appeared to be scant. While there might be exceptions, the relevant practice had generally been in favour of the approach of identifying general principles of law by analysing the national legal systems of States. Her delegation therefore supported a cautious approach to the question of the inclusion of the practice of international organizations in the analysis, and agreed with the view that such inclusion would require justification, as Article 38, paragraph 1 (c), did not refer to international organizations.

52. *Ms. Al-Thani (Qatar) took the Chair*.

53. **Ms. Falconi** (Peru), referring to the topic "Succession of States in respect of State responsibility" and highlighting the subsidiary nature of its draft articles, said that the role of the concepts of equity, equitable proportion and distribution of rights and obligations, and the need to combine codification with progressive development of international law were of vital importance.

54. With respect to the topic of general principles of law, her delegation considered that the relationship between general principles of law and norms from other sources of international law was a relevant subject for the Special Rapporteur's third report. Without prejudice to future considerations on the topic, the Special Rapporteur might also wish to consider the relationship between those principles and peremptory norms of general international law (*jus cogens*).

55. With regard to the draft conclusions provisionally adopted by the Commission and specifically draft conclusion 2, her delegation agreed with other delegations that the expression "civilized nations" should be abandoned. However, it shared the doubts expressed about the appropriateness of the suggested expression "community of nations", given the ambivalence and broad meaning of the concept of "nation", which was not considered to be equivalent to "State" in either international law or the social sciences. The alternative of "international community" was less problematic, but its meaning was still relatively diffuse. It would be more appropriate to use the phrase "recognized by States" or "recognized in State practice".

56. Her delegation agreed that the key element for the identification of general principles of law was recognition by States. Furthermore, the practice of international organizations, whose decisions were not always binding, could not be likened to the practice of supranational bodies. The practice of entities of either type should be taken into consideration only insofar as it constituted evidence of the existence of principles of law.

57. As cooperation and dialogue between the Commission and the Committee were vital for success, coordinated and fluid interaction should be maintained between the two bodies, with the necessary definition and distinction of the roles assigned to each. There should also be increased informal dialogue not only between States, but also between the Chair of the Commission and the Chair of the Committee.

58. **Archbishop Caccia** (Observer for the Holy See), referring to the topic "Succession of States in respect of State responsibility", said that succession was legally complicated, politically sensitive and had the potential to generate conflict and tension. His delegation therefore supported the Commission's cautious approach, as well as the broad agreement that was emerging as to the subsidiary nature of the draft articles on the topic and on the priority to be given to agreements between the States concerned. Nonetheless, it was important for the Commission and the Committee to proceed with their examination of the topic, given the continued relevance of the rules on State succession and the apportionment of responsibility between the successor State and the predecessor State or States, in particular with regard to the different forms of reparation, the obligation of cessation and assurances and guarantees of non-repetition.

59. In the light of the importance of agreements between the States concerned and the scarcity of State practice, it was crucial to gather whatever information was available about existing State practice, even if it was limited in scope or nature. Efforts should also be made to clarify the obligation of cessation in respect of internationally wrongful acts of a continuing character and the obligation to offer appropriate assurances and guarantees of non-repetition.

60. Regarding the topic of general principles of law, he said that Article 38 of the Statute of the International Court of Justice remained the most authoritative reference for the sources of international law. While scholars continued to debate whether or not the principles enshrined therein were hierarchical, there was no doubt that they were crucial to the work of the Committee and the Commission. His delegation supported the Commission's approach to the topic, including with regard to the requirement of recognition; the importance of establishing that general principles of law were derived from national legal systems; and the two-step approach to the identification of such principles. Those basic parameters would guide the Commission's work in an appropriate direction.

61. Treaties were central to international law and the international legal order. The Committee and the Commission must therefore avoid contributing to the growing confusion in the international community with respect to the legal and legally binding nature of international instruments, governed by the Vienna Convention on the Law of Treaties, and the non-binding and non-legal nature of proposals, opinions, reports and private documents produced by conference secretariats, expert bodies, commissions and other auxiliary entities.

62. **Mr. Hmoud** (Chair of the International Law Commission) said that he was pleased at the large number of delegations that had commented on the topics under consideration. Additional means should be made available to allow all States, especially those with limited capacities, to have access to the work of the Commission. There was a need to improve lines of communication between States and the Commission: the reports of the Commission and of the Chair of the Drafting Committee did not always provide a complete picture of how a given topic had been approached. It was important for all States to be involved in the Commission's work; when a State remained silent, it was left out of the process of consensus-building or the development of international law. For the same reason, it was essential for States to respond to requests for comments and observations. Some delegations had commented that when the Commission established a given rule, it was unclear whether that rule consisted of *lex lata* or *lex ferenda*; but if States did not provide information on their practice, it was difficult for the Commission to determine the nature of the rule.

63. The Commission had proved capable of overcoming the challenges posed by the coronavirus disease (COVID-19) pandemic, both in formal and in informal meetings. It would continue to use technology and convene meetings in a hybrid format. Nevertheless, there was no substitute for in-person attendance; the Commission's work could not take place solely in a virtual format, and even hybrid meetings created difficulties, not least because of the range of time zones involved. Further discussions would take place regarding the use of technologies. He hoped that Member States and the Committee would help to ensure that the seventy-third session of the Commission was convened successfully.

64. Over the previous two decades, with the single exception of the United Nations Convention on Jurisdictional Immunities of States and Their Property, none of the outputs submitted by the Commission as the potential basis for an international convention or treaty had resulted in the elaboration of such convention or treaty. The Committee and the Commission needed to consult with one another to ensure that such work, which had taken years to elaborate, was not simply set aside.

65. Apart from the topic of sea-level rise in relation to international law, no new topic had been referred to the Commission. He hoped that States would make proposals to the Commission, which would consider them in a positive light.

66. It was essential to reinstate the honorariums for Special Rapporteurs. Since the honorariums had been discontinued, the geographic distribution of Special Rapporteurs had become skewed; not all members of the Commission had access to the funds and academic resources that would enable them to fulfil that role.

67. **Mr. Vázquez-Bermúdez** (Special Rapporteur for the topic "General principles of law") said that he welcomed and would take due account of the views and information provided by delegations on the topic of general principles of law, in particular with regard to the scope of such principles.

Agenda item 84: Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization (A/76/33, A/76/186 and A/76/223)

68. **Mr. Lam Padilla** (Guatemala), Chair of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, introducing the Special Committee's report (A/76/33), said that the Special Committee had met in New York from 16 to 24 February 2021 and had continued its deliberations on the questions mandated by General Assembly resolution 75/140.

69. The report consisted of five chapters and an annex. Chapter I was entirely procedural. Chapter II dealt with the maintenance of international peace and security. Section A of chapter II covered the Special Committee's consideration of the question of the introduction and implementation of sanctions imposed by the United Nations and the briefing it had received from the Secretariat on the document annexed to General Assembly resolution 64/115 on the introduction and implementation of sanctions imposed by the United Nations. Section B covered the Special Committee's consideration of the revised proposal submitted by Libya with a view to strengthening the role of the United Nations in the maintenance of international peace and security.

70. Section C contained a summary of the discussion on the revised working paper submitted by Belarus and the Russian Federation concerning a request for an advisory opinion from the International Court of Justice as to the

legal consequences of the use of force by States without prior authorization by the Security Council, except when exercising the right to self-defence. Section D dealt with the Special Committee's consideration of the revised working paper submitted by Cuba on strengthening the role of the Organization and enhancing its effectiveness: adoption of recommendations. Section E covered the work of the Special Committee on the working paper further revised and resubmitted by Ghana on strengthening the relationship and cooperation between the United Nations and regional arrangements or agencies in the peaceful settlement of disputes.

71. The Special Committee's consideration of the item entitled "Peaceful settlement of disputes", which had focused on the subtopic "Exchange of information on State practices regarding the use of arbitration", was set out in section A of chapter III. At the thematic debate to be held during the following session of the Special Committee, Member States would discuss the subtopic entitled "Exchange of information on State practices regarding the use of judicial settlement". Section B of chapter III contained a summary of the discussion of the proposal of the Russian Federation to establish a website dedicated to the peaceful settlement of disputes between States and to prepare an update of the *Handbook on the Peaceful Settlement of Disputes between States*. Section C contained a summary of the Special Committee's discussion of the commemoration of the fortieth anniversary of the Manila Declaration on the Peaceful Settlement of International Disputes, together with the relevant draft resolution for consideration by the General Assembly.

72. Chapter IV dealt with the Special Committee's discussions on the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*, as well as the briefing by the Secretariat on the status of the *Repertory* and the *Repertoire*. It also contained the Special Committee's recommendations on the item. Chapter V concerned the consideration of the remaining items on the agenda of the Special Committee. Section A reflected a summary of the discussion on its working methods. Section B contained a summary of the views expressed on the identification of new subjects.

73. **Mr. Llewellyn** (Director of the Codification Division, Office of Legal Affairs), introducing the report of the Secretary-General on the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* (A/76/223), said that the backlog on volume III of Supplement No. 10 (2000–2009) of the *Repertory* had been reduced, thanks to assistance from Korea University, which had drafted studies on Articles 43 to 47 of the Charter of the United Nations. In addition, the University of Ottawa had completed a study on Articles 104 and 105 of the Charter, to be included in volume IV of Supplement No. 10. A study on Article 11 for volume II had been drafted with the assistance also of the University of Ottawa, and the Department of Economic and Social Affairs had completed a study on Article 58 for volume IV. In regard to Supplement No. 12 (2016–2020), three studies, on Articles 8, 33 and 51, had been completed, thanks to the continued assistance of the University of Ottawa.

74. He offered special thanks to Qatar and the Philippines for their generous contributions to the trust fund for the elimination of the backlog in the *Repertory* and to the University of Ottawa and Korea University for their contributions. As geographical diversity was very important for the preparation of the *Repertory*, it would be useful if delegations could reach out to their national and regional academic institutions to discuss the possibility of contributing to the preparation of *Repertory* studies.

75. **Ms. Ershadi** (Islamic Republic of Iran), speaking on behalf of the Movement of Non-Aligned Countries, said that the Special Committee continued to do important work and should play a key role in the ongoing United Nations reform process, as mandated in General Assembly resolution 3499 (XXX). As the negotiation and adoption of the Manila Declaration on the Peaceful Settlement of International Disputes had demonstrated, the Special Committee had the potential to clarify and promote general international law and the provisions of the Charter of the United Nations. The Special Committee had also been instrumental in the preparation of the *Handbook on the Peaceful Settlement of Disputes*, which needed to be updated in light of new developments and State practice.

76. The United Nations was the central and indispensable forum for addressing issues relating to international cooperation, economic development and social progress, peace and security, human rights and the rule of law, based on dialogue, cooperation and consensus-building among States. The Non-Aligned Movement attached great importance to strengthening the role of the United Nations and recognized the efforts being made to develop its full potential.

77. The Non-Aligned Movement remained concerned that the Security Council continued to encroach on the functions and powers of the General Assembly and the Economic and Social Council by addressing issues that fell within the competence of the latter organs and by attempting to set norms and establish definitions in areas that came within the purview of the General Assembly. The Organization should be reformed in accordance

with the principles and procedures established by the Charter and in keeping with its legal framework. The Special Committee could contribute to the examination of legal matters in that process.

78. In the Special Committee, Member States received briefings from the Secretariat on all aspects of the introduction and implementation of sanctions imposed by the United Nations, in accordance with the annex to General Assembly resolution 64/115. Those briefings should preserve the comprehensive, balanced approach, reflected in that annex, to the issue of United Nations sanctions. In particular, the Non-Aligned Movement was interested to hear more about objective assessments by the Security Council's sanctions committees of the short-term and long-term socioeconomic and humanitarian consequences of sanctions and the methodology used to assess the humanitarian implications of sanctions. It also expected to hear information on the humanitarian consequences of the introduction and implementation of sanctions having a bearing on the basic living conditions of the civilian population of the target State and its socioeconomic development and on third States that had suffered or might suffer as a result of their implementation. The Secretariat should develop its capacity to assess the unintended side effects of sanctions.

79. Sanctions imposed by the Security Council remained an issue of serious concern to the members of the Non-Aligned Movement. The imposition of sanctions should be considered as a last resort and only when there was a threat to international peace and security or an act of aggression, in accordance with the Charter. Sanctions were not applicable as a preventive measure in all instances of violation of international law, norms or standards. They were blunt instruments, the use of which raised fundamental ethical questions of whether the suffering inflicted on vulnerable groups in the target country was a legitimate means of exerting political pressure.

80. The purpose of sanctions was not to punish or otherwise exact retribution on the population. Sanctions regimes should avoid unintended consequences in the target State or third States that might lead to violations of human rights and fundamental freedoms; they should not hinder humanitarian assistance from reaching the civilian population. The objectives of sanctions regimes should be clearly defined and based on tenable legal grounds, and their imposition should be for a specified time frame. They should be lifted as soon as the objectives were achieved. The conditions demanded of the State or party on which sanctions were imposed should be clearly defined and should be subject to periodic review. The Movement also expressed its deep concern at the imposition of laws and coercive economic measures, including unilateral sanctions, against developing countries, which violated the Charter and undermined international law and the rules of the World Trade Organization, and called on countries that imposed unilateral sanctions to put an end to such sanctions immediately.

81. The Non-Aligned Movement supported all efforts to promote the peaceful settlement of disputes on the basis of international law and the Charter; the annual thematic debates on the means for the settlement of disputes was the result of an initiative of the Movement. In 2021, the Special Committee had held a constructive debate on States' use of arbitration in the peaceful settlement of disputes, and the Movement looked forward to discussing other means. The annual thematic debate would contribute to the more efficient and effective use of peaceful means of dispute settlement and would promote a culture of peace among Member States. Moreover, once the Special Committee had exhausted discussions on all the means of dispute settlement under Article 33 of the Charter, the inputs and materials collected for that purpose could provide a valuable basis for further deliberations and the achievement of concrete and result-oriented outcomes.

82. The Movement was concerned about the reluctance of some Member States to engage in meaningful discussion of proposals on the maintenance of peace and security and the peaceful settlement of disputes. It reiterated the need for genuine political will to advance the long-standing issues on the Special Committee's agenda and invited Member States to submit practical new proposals. The Special Committee should redouble its efforts to examine proposals relating to the Charter and to strengthening the role of the United Nations. The Movement stood ready to engage in discussions with other groups on the establishment of a work programme for the Special Committee with a view to facilitating future discussions aimed at enhancing the ability of the United Nations to achieve its purposes.

83. The Non-Aligned Movement took note of the progress made by the Secretariat since the last report in updating both the *Repertory* and the *Repertoire*. However, it noted with concern that the backlog in the preparation of volume III of the *Repertory* had not been eliminated, and it called upon the Secretary-General to address the issue as a matter of priority. It also welcomed the online availability of the *Repertory* from a regularly updated, dedicated website.

84. **Ms. Gauci** (Representative of the European Union, in its capacity as observer), speaking also on behalf of the candidate countries Albania, Montenegro

and North Macedonia; the stabilization and association process country Bosnia and Herzegovina; and, in addition, Georgia, the Republic of Moldova and Ukraine, said that the Security Council applied the sanctions imposed by the United Nations for various reasons, including to support peaceful transitions, deter non-constitutional changes, combat terrorism, protect human rights and promote non- proliferation. Those sanctions were part of the Council's toolbox for the achievement of international peace and security. The European Union implemented such sanctions in a full and timely manner, incorporating the Council's resolutions and the designation decisions of the sanctions committees into its law. It supported the work of the United Nations to ensure maximum global impact through implementation support, guidance and capacity-building, and it had been active in raising due process concerns about United Nations designations in the light of the requirements established by the Court of Justice of the European Union for challenges to such designations brought in the European Union.

85. In reference to the report of the Secretary-General on implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions (A/76/186), her delegation noted in particular the absence of requests by the Security Council or its organs for the Department of Economic and Social Affairs to monitor or evaluate specific cases of third States affected by sanctions.

86. The European Union looked forward to the discussions on the subtopic "Exchange of information on State practices regarding the use of judicial settlement" during the 2022 session of the Special Committee. It welcomed the progress made towards eliminating the backlog on the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*, and wished to thank the States, including States members of the European Union, whose contributions to the trust fund had made that progress possible.

87. Lastly, the European Union strongly encouraged the Special Committee to assess the items on its agenda for relevance and the likelihood of consensus, as it had made no progress on a number of them for years, in contradiction with the purpose for which it had been established.

88. **Mr. Moncada** (Bolivarian Republic of Venezuela), speaking on behalf of the Group of Friends in Defence of the Charter of the United Nations, said that the principles of the Charter of the United Nations, including the principles of self-determination of peoples, sovereign equality of States, non-intervention in the internal affairs of States and abstention from the threat or use of force against the territorial integrity or political independence of any State, were as relevant in 2022 as they had been in 1945. Growing threats to the Charter, including rising unilateralism, attacks on multilateralism, unfounded claims of exceptionalism, attempts to ignore the purposes and principles enshrined in the Charter or even to replace them with a new set of "rules" that had never been discussed in an inclusive or transparent manner, and selective or accommodative interpretations of its provisions, were a matter of deep concern, since they fuelled global uncertainty, instability and mistrust and tensions between States.

89. The Group was also concerned at the prolonged failure of some Member States to engage in any significant discussion of valuable proposals that had been submitted to the Special Committee, mostly by Group members. It appealed to those States to demonstrate the political will required to enable the Special Committee to fulfil its mandate.

90. **Mr. Inashvili** (Georgia), speaking also on behalf of the Republic of Moldova and Ukraine, said that their delegations had participated actively in the work of the Special Committee during its February 2021 meetings because they believed firmly in its potential to strengthen the role of the United Nations, including its capacity to maintain and consolidate international peace and security. However, for the Special Committee to fulfil that potential, its report must contain an impartial, balanced and accurate summary of its meetings. A speech delivered on behalf of a group of States was reduced to one sentence in the report, which was inadequate to convey the content of the speech, and even that sentence had been censored by one of the Member States on the pretext of maintaining a consensus-based approach to the adoption of the report.

91. As countries that shared the grim experience of having their sovereignty and territorial integrity violated by the same Member State, Georgia, the Republic of Moldova and Ukraine attached great importance to the toolkit for a peaceful settlement of disputes provided in Article 33 of the Charter. Since the beginning of the foreign aggression in 2014, Ukraine had urged the Russian Federation – the occupying Power – to accept its international legal responsibility, proposing to submit any disputes to arbitration or to International Court of Justice. On 19 April 2017, the International Court of Justice had issued a binding order on provisional measures in the case concerning the *Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination* – an order which the

Russian Federation continued to ignore, as reflected in General Assembly resolutions.

92. More recently, in his report on the situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine (A/76/260), the Secretary-General had called on the Russian Federation to uphold its obligations in Crimea under international human rights law and international humanitarian law. Lastly, on 23 August 2021, the participating countries of the International Crimea Platform had issued a joint declaration, urging the Russian Federation to immediately end all violations and abuses of human rights in Crimea and provide established regional and international monitoring mechanisms with full and unimpeded access to Crimea, and also reaffirming their commitment to strongly oppose any unilateral attempts to change the rules-based international order. Ukraine remained firmly committed to the rule of law and the peaceful settlement of disputes and would continue to use all available legal means to hold the occupying Power accountable.

93. The Republic of Moldova continued to seek a negotiated solution for the withdrawal of the Russian troops stationed on its territory since 1993. The General Assembly, in its resolutions 54/117, 55/179, 56/216 and 57/298 on cooperation between the United Nations and the Organization for Security and Cooperation in Europe and its resolution 72/282 on complete and unconditional withdrawal of foreign military forces from the territory of the Republic of Moldova, had repeatedly emphasized the commitments made by the Russian Federation at the summit of the Organization for Security and Cooperation in Europe held in Istanbul in 1999 to withdraw its military forces from the territory of the Republic of Moldova.

94. Georgia adhered to the policy of peaceful resolution of conflicts, underpinned by respect of international law and the Charter. In that connection, it continued to seek a peaceful solution to the protracted occupation and ongoing militarization of its Abkhazia and Tskhinvali regions. It would continue to use every peaceful means available under Article 33 of the Charter and to pursue a comprehensive conflict resolution policy based on de-occupation of those regions and reconciliation and confidence-building between the communities divided by the occupation. Georgia would also continue to use the courts as another peaceful conflict resolution instrument. In that context, it wished to recall the landmark ruling of 21 January 2021 of the European Court of Human Rights, in which the Court had confirmed that the regions in question were integral parts of Georgia occupied by the Russian Federation. It had further ruled that Russia had exercised effective control over them during and after the August 2008 war and was therefore responsible for the massive human rights violations committed there.

95. **Mr. Ghorbanpour Najafabadi** (Islamic Republic of Iran) said that, with multilateralism within the framework of the United Nations at a critical juncture, with international relations being threatened by the arbitrary interpretation of the principles and rules of international law, including the Charter, and with United Nations mechanisms being misused by some specific States in order to achieve their narrow political agenda, the Special Committee was the only remaining United Nations mechanism where challenges to the principles of the Charter and issues related to strengthening the role of the Organization could be discussed. In that context, his delegation supported the proposal of Cuba on the strengthening of the role of the Organization and enhancing its effectiveness.

96. Misinterpretation of the right of self-defence enshrined in Article 51 of the Charter was increasingly a matter of concern, and clarification of that Article could help to strengthen the Organization. His delegation therefore reiterated its support for the joint proposal of the Russian Federation and Belarus to request an advisory opinion from the International Court of Justice as to the legal consequences of the resort to the use of force by States without prior authorization by the Security Council, except in the exercise of the right to self-defence. It also welcomed consideration of the working paper submitted by Mexico, entitled “Analysis of the application of Article 51, in the light of its interrelation with Article 2 (4) of the Charter of the United Nations”.

97. Rather than being driven by a small number of Member States, the imposition of United Nations sanctions should be based on pre-established criteria for identifying the existence of conditions under which they were permitted by the Charter, taking into account the sovereign equality of States and basic human rights. In view of the adverse impacts of unilateral coercive measures, his delegation had proposed the consideration of a new subject entitled “Obligations of Member States in relation to unilateral coercive measures: guidelines on ways and means to prevent, remove, minimize and redress the adverse impacts of unilateral coercive measures”. It was time for the Special Committee to consider the substance of that proposal.

98. His delegation welcomed the working paper submitted by the Syrian Arab Republic, entitled “Privileges and immunities enjoyed by representatives of the Members of the United Nations and officials of the Organization that are necessary for the independent exercise of their functions in connection with the

Organization", and called on the host country to comply with its obligations under the relevant international instruments in a non-discriminatory and responsible manner. His delegation also welcomed the draft resolution proposed by the Philippines to commemorate the fortieth anniversary of the Manila Declaration on the Peaceful Settlement of International Disputes.

99. Lastly, while recognizing the constraints of the Special Committee's diverse agenda, his delegation urged the Special Committee to give priority consideration to ways and means of improving its working methods and enhancing its efficiency and utilization of resources, in accordance with General Assembly resolution 75/140.

100. **Ms. Carral Castelo** (Cuba) said that the importance of the Special Committee's mandate was reaffirmed by the attempts of certain countries to reinterpret the Charter to promote political interventionism in the internal affairs of States. The United States of America, in particular, engaged in a policy of interference and had imposed coercive unilateral measures on various States, including the economic, financial and trade embargo against the people of Cuba. It had furthermore interfered in the economic relations between Cuba and other countries.

101. The role of the Special Committee was to promote the norms of the Charter, in particular the guiding role of the General Assembly as the Organization's primary normative organ. As the appropriate forum for negotiating amendments to the Charter and formulating recommendations on its implementation, the Special Committee should encourage full discussion of any proposed resolutions, decisions or actions by United Nations organs with implications for the implementation of or compliance with the Charter. Despite attempts by certain States to obstruct the work of the Special Committee by refusing to examine proposals, the body's recent discussions on the topic of the peaceful settlement of disputes and the number of proposals submitted for its consideration in 2021 demonstrated its importance. Her delegation supported the Special Committee's current agenda and welcomed the proposals submitted by Belarus, the Russian Federation, Ghana, Mexico, the Syrian Arab Republic, the Islamic Republic of Iran and the Movement of Non-Aligned Countries. Her delegation urged other delegations to study the proposal it had submitted with a view to reaching a consensus.

102. **Ms. Arumpac-Marte** (Philippines) said that her country attached great importance to the work of the Special Committee. One of its most important achievements was the Manila Declaration on the Peaceful Settlement of International Disputes, which had been adopted by consensus, had clarified existing international law and had engendered a common understanding of the principles and rules of peaceful settlement of international disputes. Her delegation was pleased that the discussion on its proposal for the commemoration of the fortieth anniversary of the adoption of the Declaration had been captured in the Special Committee's report..

103. With regard to the maintenance of international peace and security, her Government continued to view sanctions as a measure of last resort that should be used when there existed a threat to international peace and security, a breach of the peace or an act of aggression, and always in accordance with the Charter. It rejected as unacceptable the imposition of unilateral sanctions in violation of international law. Sanctions were an important tool of the Security Council when properly utilized. They should have clearly defined objectives, be based on tenable legal grounds and be imposed with a clear time frame. They should also be subject to monitoring and periodic review and be lifted as soon as their objectives were achieved.

104. Her delegation continued to support the proposal of Cuba on strengthening the role of the United Nations and enhancing its effectiveness, as well as the proposal of Ghana on strengthening the relationship and cooperation between the United Nations and regional arrangements or agencies in the peaceful settlement of disputes. In addition, it supported the inclusion of the proposal of Mexico entitled "Analysis of the application of Articles 2 (4) and 51 of the Charter of the United Nations" in the agenda of the Special Committee. Her delegation also supported efforts to improve the Special Committee's working methods.

105. Her delegation noted the progress made in the preparation of both the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*. Those publications provided valuable information about the application and interpretation of the Articles of the Charter by the Organization and the Security Council. However, they needed to be available, both electronically and online, in all official languages.

106. **Mr. Skachkov** (Russian Federation), speaking in exercise of the right of reply and responding to the statement delivered by the representative Georgia, also on behalf of the Republic of Moldova and Ukraine, said that the Russian Federation was once again the victim of false accusations. Furthermore, delegations should not speak on matters that did not pertain to the agenda item, which was disrespectful of the other members of the Committee.

The meeting rose at 5.55 p.m.