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Chair: Mr. Afonso (Mozambique)
later: Ms. Sverrisdóttir (Vice-Chair)..... (Iceland)

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Agenda item 175: Observer status for the International Trade Union Confederation in the General Assembly

Agenda item 176: Observer status for the Boao Forum for Asia in the General Assembly

Agenda item 124: Revitalization of the work of the General Assembly

The meeting was called to order at 10.15 a.m.

Agenda item 112: Measures to eliminate international terrorism (continued)

Oral report of the Chair of the working group on measures to eliminate international terrorism

1. **Mr. Kanu** (Sierra Leone), presenting the report on behalf of the Chair of the working group, said that, pursuant to General Assembly resolution [76/121](#), the Committee had decided at its first meeting, held on 3 October 2022, to establish a working group 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 General Assembly resolution [54/110](#) concerning the question of convening a high-level conference under the auspices of the United Nations. Pursuant to paragraph 9 of General Assembly resolution [51/210](#) and consistent with past practice, the working group was open to all States Members of the United Nations or members of the specialized agencies or of the International Atomic Energy Agency. In keeping with its established practice, the working group had decided that members of the Bureau of the Ad Hoc Committee established by resolution [51/210](#), to the extent of their availability, would continue to act as Friends of the Chair during the meetings of the working group.

2. The working group had had before it the report of the Ad Hoc Committee on its sixteenth session ([A/68/37](#)), which contained as annex I the preamble and articles 1, 2 and 4 to 27 of the draft comprehensive convention on international terrorism prepared by the Bureau, incorporating the various proposals contained in document [A/C.6/65/L.10](#), and written proposals in relation to the outstanding issues surrounding the draft comprehensive convention, contained in the report as annex II. The working group had also had before it a letter dated 1 September 2005 from the Permanent Representative of Egypt to the United Nations addressed to the Secretary-General ([A/60/329](#)), and a letter dated 30 September 2005 from the Permanent Representative of Egypt to the United Nations addressed to the Chair of the Sixth Committee ([A/C.6/60/2](#)). The Chair had also drawn the attention of the working group to the previous year's oral report by the Chair of the working group, contained in document [A/C.6/76/SR.27](#).

3. The Working Group had held two meetings, on 14 and 21 October 2022, respectively, convened against the backdrop of the plenary debate at the 1st, 2nd, 3rd, 4th and 5th meetings of the Committee, held on 3, 4 and 6 October 2022. The working group had adopted its

programme of work and had held its discussions in the framework of informal consultations,

4. At its meeting on 21 October, the working group had adopted a proposed recommendation, based on paragraphs 25 and 26 of resolution [76/121](#), that the Committee, at the seventy-eighth session of the General Assembly, should establish a working group 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. In the recommendation, the working group also recognized the valuable dialogue and efforts of Member States aimed at resolving any outstanding issues and encouraged all Member States to redouble their efforts during the intersessional period. The recommendation would form part of the draft resolution on the agenda item.

5. During the informal consultations on the draft comprehensive convention, held on 14 October, the Chair of the working group had provided an overview of the work undertaken over the years and an update on the status of the negotiations regarding the outstanding issues surrounding the draft comprehensive convention. Work had proceeded on the general understanding that further consideration would be given to all written amendments and proposals that were on the table, together with all other written and oral proposals, in future discussions, including on outstanding issues. Attention had also been drawn to the proposal by the Bureau contained in document [A/68/37](#), and to the informal non-paper prepared by the former coordinator on a way to overcome differences on the outstanding issues relating to the draft comprehensive convention and comments had been invited thereon.

6. During the informal consultations held on 21 October 2021, the coordinator of the outstanding issues had described the changes made to the Bureau's text in the informal non-paper, which had revolved around paragraph 2 of the text, and had invited comments on that paragraph. The coordinator had also invited delegates to consider the value of examining the description of the proposed convention, in particular the value of reducing any zero-sum consideration that delegations might have; ways in which the current framework of negotiations could be enhanced; and how to approach future work with a view to resolving the outstanding issues.

7. Some delegations had expressed their continued interest in remaining engaged in the efforts of the working group to reach a solution to the outstanding

issues. The point had also been made regarding the utility of understanding the underlying legal principles first, including those underpinning the definition of terrorism, before the working group could consider any textual proposals. The need to preserve the existing global counter-terrorism framework had also been emphasized.

8. The working group had also considered the question of convening a high-level conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations. The proponents of the proposal had reiterated its continued relevance. Some delegations had reiterated their support for convening a high-level conference and had emphasized that discussions on the outstanding issues surrounding the draft comprehensive convention could run in parallel with the high-level conference, while others had expressed the view that it would be premature to hold such a conference before consensus on the draft comprehensive convention was reached.

9. On behalf of the Chair of the working group, he encouraged delegations to continue working with the coordinator of the outstanding issues relating to the draft comprehensive convention during the intersessional period.

10. **The Chair** said he took it that the Committee wished to take note of the report of the Chair of the working group on measures to eliminate international terrorism.

11. *It was so decided.*

Agenda item 74: Criminal accountability of United Nations officials and experts on mission (continued)

Oral report of the Chair of the working group on the criminal accountability of United Nations officials and experts on mission

12. **Ms. Lahmiri** (Morocco), Chair of the working group, recalling that, pursuant to General Assembly resolution 76/106, the Committee had decided at its 1st meeting, held on 3 October 2022, to establish a working group, open to all States Members of the United Nations or members of the specialized agencies or of the International Atomic Energy Agency, with a view to continuing the consideration of the report of the Group of Legal Experts on ensuring the accountability of United Nations staff and experts on mission with respect to criminal acts committed in peacekeeping operations (A/60/980), in particular its legal aspects, taking into account the views of Member States and also noting the

inputs by the Secretariat, said that the working group had had before it the report of the Group of Legal Experts, the two reports of the Secretary-General on criminal accountability of United Nations officials and experts on mission issued at the current session (A/77/225 and A/77/237) and the previous reports of the Secretary-General on the item (A/63/260 and Add.1; A/63/331; A/64/183 and Add.1; A/65/185; A/66/174 and Add.1; A/67/213; A/68/173; A/69/210; A/70/208; A/71/167; A/72/121, A/72/126 and A/72/205; A/73/128, A/73/129 and A/73/155; A/74/142 and A/74/145; A/75/217 and A/75/228; A/76/205 and A/76/208), together with a web-based update of the information on national provisions; the note by the Secretariat on criminal accountability of United Nations officials and experts on mission (A/62/329); and General Assembly resolution 76/106.

13. Pursuant to paragraph 16 of resolution 76/106, representatives of the Secretariat from the Office of Human Resources and the Conduct and Discipline Service of the Department of Management, Strategy, Policy and Compliance, the Ethics Office, the Office of Internal Oversight Services, the Office of the Special Coordinator on Improving the United Nations Response to Sexual Exploitation and Abuse, the Victims' Rights Advocate and the Office of Legal Affairs had given a briefing for delegations on 11 October 2022, during which they had set out the respective roles and responsibilities of their units in addressing the item under examination, and had provided updates on relevant policies and procedures, as well as information on other developments. The briefing had been followed by a question-and-answer segment.

14. The working group had held two meetings, on 11 and 20 October 2022, convened against the backdrop of the plenary debate at the 5th and 6th meetings of the Committee, held on 6 October 2022. It had adopted its programme of work and had agreed to conduct its discussions in the framework of informal consultations. During its consultations, the working group had focused its discussions on three questions: first, whether (and, if so, when) a convention relating to the criminal accountability of United Nations officials and experts on missions should be elaborated; second, which substantive issues should be addressed in a convention; and, third, whether there were any matters that should be included in the annual General Assembly resolution to further enhance the mechanisms of accountability initially developed in resolutions 62/63 and 63/119.

15. Delegations had remained divided on the first question. Some had reiterated their positions as expressed in the plenary debate on the item and had raised questions about the scope *ratione personae* of a

potential convention, which crimes it would cover and how such a convention would interact with national legislation. Some delegations had also noted that a potential convention would only apply to States that became parties to it. Others had also suggested that a convention would fill a legal vacuum by establishing a harmonizing standard with regard to the jurisdiction of the States Parties thereto. Other delegations had noted that the work of the Group of Legal Experts could serve as a basis for work on a draft convention and that procedural modalities for such work should be explored. Some delegations had also emphasized the importance of ensuring accountability. No comments had been made in the working group on the third question, which had been considered in the context of informal consultations on the draft resolution on the item.

16. As Chair of the working group, she remained available to work with delegations to ensure that there was no impunity for criminal activity committed by United Nations officials and experts on mission.

17. **The Chair** said he took it that the Committee wished to take note of the report of the Chair of the working group on criminal accountability of United Nations officials and experts on mission.

18. *It was so decided.*

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

Oral report of the Chair of the working group on the scope and application of the principle of universal jurisdiction

19. **Mr. Ramírez Baca** (Costa Rica), Chair of the working group, recalling that, pursuant to General Assembly resolution 76/118, the Committee had decided at its 1st meeting, held on 3 October 2022, that it would establish a working group to continue its consideration of the scope and application of universal jurisdiction, without prejudice to the consideration of that topic and related issues in other forums of the United Nations, that the working group would be open to all Member States, and that relevant observers to the General Assembly would be invited to participate in its work, said that the working group had had before it the various reports of the Secretary-General on the topic, dating back to 2010 (A/77/186, A/76/203, A/75/151, A/74/144, A/73/123 and Add.1, A/72/112, A/71/111, A/70/125, A/69/174, A/68/113, A/67/116, A/66/93 and Add.1, and A/65/181). The working group had also had before it the non-paper previously submitted by Chile (A/C.6/66/WG.3/DP.1), the informal paper of the working group (A/C.6/66/WG.3/1), which contained a road map on the methodology and issues for discussion,

and the 2016 informal working paper prepared by the Chair, which had been discussed in previous sessions of the working group.

20. The working group had held two meetings, on 14 and 21 October 2022. It had conducted its work in the framework of informal consultations. Pursuant to General Assembly resolution 76/118, the working group had focused its discussion on what should be the role and purpose of universal jurisdiction. It had also held a discussion on the way forward. The plenary debate at the 12th and 13th meetings of the Committee, held on 12 and 13 October 2022, had provided some useful information regarding the delegations' positions.

21. At the first meeting of the working group, held on 14 October, he had presented an overview of past proceedings, including the discussions that had led to the informal working paper, reiterating that the issues raised in the paper had been intended to be illustrative and without prejudice to future proposals made by delegations or to their positions. The paper had not been intended to reflect consensus among delegations and was expected to be subject to further deliberation. He had reminded delegations that no modifications to the text of the informal working paper had been introduced since 2016. No further modifications had been made at the current session.

22. To promote an exchange of views during both meetings of the working group, and to have a better appreciation of the views of delegations on the item, delegations had been invited to address the following two questions, which the General Assembly invited the working group to consider in paragraph 3 of its resolution 76/118: "What should be the role of universal jurisdiction?" and "What should be the purpose of universal jurisdiction?"

23. In response to each of those questions, the delegations that had taken the floor had generally noted that the main role of universal jurisdiction was to fight impunity for the most serious crimes under international law and to ensure that there were no safe havens for perpetrators of such crimes. The view had been expressed that universal jurisdiction should be understood as the jurisdiction of States to prosecute their nationals wherever they were located, and that nationality, in the context of universal jurisdiction, was the justification for a State to protect and to prosecute individuals. While some delegations had justified the establishment of universal jurisdiction on the basis of the international character or dimension of a number of crimes, others had pointed to a principle of effectiveness in the prosecution of specific crimes. Still others had expressed the view that universal jurisdiction should be

restricted to the prosecution of piracy on the high seas. Some delegations had expressed concerns regarding the potential misuse or political abuse of universal jurisdiction, and their potential interference with fundamental principles of international law, such as sovereign equality, and had reiterated the historical reasons of the introduction of the item in the agenda of the General Assembly.

24. The view had been expressed that the exercise of universal jurisdiction should be strictly subsidiary to the exercise of national jurisdiction on the basis of the principle of nationality or the principle of territoriality. Some delegations had reiterated that there was no consensus on the principle of universal jurisdiction under international law, and therefore had questioned the usefulness of the debate on the subject in the working group and in the Committee. The point had been made that the work of the Committee on universal jurisdiction could be focused on the negative aspects of universal jurisdiction, such as its potential conflict with other principles of international law. After the working group had completed its work, the delegation of Sierra Leone had shared with other delegations a non-paper setting out its views on what the role and purpose of universal jurisdiction should be.

25. Delegations had also shared their views on the best way to proceed towards fulfilling the mandate of the working group. While noting the importance and usefulness of the dialogue in the Committee and the working group, some delegations had indicated that such work could be more productive if a common understanding of the concept of universal jurisdiction could be reached.

26. He remained committed to working closely with all delegations and looked forward to their ideas and input in the coming intersessional period.

27. **The Chair** said he took it that the Committee wished to take note of the report of the Chair of the working group on the scope and application of the principle of universal jurisdiction.

28. *It was so decided.*

Agenda item 73: Responsibility of States for internationally wrongful acts (*continued*)

Oral report of the Chair of the working group on responsibility of States for internationally wrongful acts

29. **Mr. Fox Drummond Cançado Trindade** (Brazil), Chair of the working group, said that pursuant to General Assembly resolution 74/180 of 18 December 2019, the Sixth Committee had decided, at its 1st meeting, held on 3 October 2022, to establish a working

group to further examine, in the light of the written comments of Governments, as well as views expressed in the debates held in the Committee over the years and at the current session of the General Assembly, the possibility of negotiating an international convention, or any other appropriate action, on the basis of the articles on responsibility of States for internationally wrongful acts of the International Law Commission.

30. The working group had had before it the written comments of Governments issued in the most recent report of the Secretary-General (A/77/198), as well as a compilation of decisions in which the articles and their accompanying commentaries had been referenced by international courts, tribunals and other bodies between 2019 and 2022, contained in document (A/77/74). The working group had held three meetings, on 18 and 31 October and on 7 November 2022, respectively. At the first meeting, delegations had engaged in a general exchange of views followed by discussions of issues and questions which he had presented to the working group for consideration. Delegations had also been given the opportunity to make general remarks on any possible procedural steps to be taken regarding the articles and to elaborate on their concerns and reasons behind their positions on the matter, so as to identify possible common ground on the way forward.

31. A group of delegations had circulated a non-paper, which had since been issued as document A/C.6/77/W.1/1, containing a non-exhaustive list of procedural options, including taking note of the product of the Commission without deciding to further include the item on the agenda of the Sixth Committee; ending consideration of the topic; moving the topic from the Committee to the plenary of the General Assembly; moving the topic from the Committee to another Main Committee of the General Assembly; and establishing subsidiary organs, such as an ad hoc committee, a working group of the Sixth Committee or convening a diplomatic conference of plenipotentiaries. Several delegations had expressed appreciation for the non-paper as it had facilitated a more structured discussion on the possible procedural mechanisms and options for envisaging the way forward for outputs of the International Law Commission in general, and the draft articles on State responsibility in particular.

32. During the exchange of views, delegations had made general remarks on the possible procedural steps for the articles and had made references to procedural precedents. A number of delegations had been of the view that the articles had been well-received by States, courts and tribunals alike, which had been substantiated by the reports of the Secretary-General. They had also noted that some of the articles reflected customary

international law rules, and thus had the same legal value as those contained in treaties, in accordance with Article 38 of the Statute of the International Court of Justice. Some delegations had recalled the Commission's recommendation, contained in its report on the work of its fifty-third session (A/56/10), that the General Assembly, *inter alia*, "consider, at a later stage, and in the light of the importance of the topic, the possibility of convening an international conference of plenipotentiaries to examine the draft articles on responsibility of States for internationally wrongful acts with a view to concluding a convention on the topic". In the view of those delegations, in making that recommendation, the Commission had envisaged that the General Assembly would hold a discussion precisely on whether to proceed to the convening of an international conference.

33. Some delegations had also noted the importance of preserving the balance struck by the Commission in the articles and a number of delegations had cautioned against establishing any procedural mechanisms for considering the articles further, particularly any that might lead to an eventual negotiation of an international convention. While delegations had generally been in agreement as regards the importance of maintaining legal certainty and stability, there had been a range of views on whether negotiating a convention would contribute to attaining that goal or not. Delegations had exchanged views on both the risks and the benefits of either moving towards a convention or maintaining the status quo. Some delegations had been of the view that a consensus among States on the content of the articles could contribute to legal certainty, while others had suggested that reopening the text for an eventual negotiation could pose some risks to the delicate balance achieved by the Commission and undermine the content of the articles, without necessarily resulting in a convention that would be widely ratified. Nonetheless, a number of delegations called for a discussion of procedural options, so as to find a pragmatic solution for the way forward.

34. A proposal had been made to request that the Secretary-General prepare a report setting out the procedural options, based on precedents, in advance of future meetings of the working group, and that a review of such alternatives could also be useful for the work of the Committee in relation to other agenda items. Other delegations had been of the view that there remained no clear general desire to move forward with the articles and that accelerating the pace of discussion could affect the coherence of the law.

35. Turning to the issue of possible procedural safeguards, he said that delegations had also been

invited to express views on any possible procedural safeguards that might ease the concerns that certain delegations had had about the risks of embarking on a process that could involve, among other possible outcomes, the transformation of the articles into an international convention. Some delegations had been of the view that it would be premature to identify procedural safeguards for the articles. Doing so might also harm the delicate balance struck by the Commission. Some delegations had suggested identifying provisions that reflected customary law and excluding them from a subsequent deliberative process so as to protect their integrity and to focus the discussion instead on the other articles. Although some provisions had been referred to and applied by States, their further development or codification was not necessarily precluded.

36. Some delegations had referred to the possibility of inviting experts and practitioners to provide views on the customary international law basis of the articles and on possible safeguards that could be put into place, including in advance of a treaty negotiation. Reference had also been made to the procedural safeguards put in place in advance of the two United Nations conferences on the law of treaties, held in Vienna, in particular those agreed to in advance of the second conference, where the General Assembly had adopted a package identifying groups of provisions drawn from the 1969 Vienna Convention on the Law of Treaties which were to be excluded from the negotiation of the subsequently adopted 1986 Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations. Delegations had also mentioned that different voting requirements could be established for the modification of provisions that were based on the 2001 articles, as opposed to new provisions that might be proposed at a future conference.

37. Both in the Committee and in the working group, the view had been expressed that after more than twenty years since the adoption of the articles, there had not yet been sufficient convergence of opinion as to the customary international law status of the articles as a whole to justify proceeding to the conclusion of an international convention. He had invited delegations to express their views on the criteria for ascertaining the point at which the necessary "critical mass" of opinion had been reached and to reflect on the extent to which the information provided by the Secretary-General in the various reports prepared over the years could be useful in making that assessment. He had also recalled that Governments could also refer to the conclusions on identification of customary international law, adopted in

2018 by the International Law Commission, to help inform their thinking on such matters.

38. Several delegations had been of the view that a “critical mass” of opinion had been achieved and that the second part of the Commission’s recommendation could be implemented. Other delegations had expressed strong opposition to such a view, stating that State practice around the articles should be allowed to continue to evolve naturally. A view had also been expressed that the possibility of the articles, as whole, enjoying the status of customary international law was an argument against concluding a treaty, which would be unnecessary and could undermine the customary rules embodied in the articles. Some delegations had pointed out that the Commission itself had envisaged the possibility of embodying the articles in an international convention in its recommendation by indicating that the Member States could consider the possibility of undertaking that step at some future stage. As such, establishing objective criteria for assessing whether the time was ripe to proceed to such a step would be useful for guiding future interaction between delegations.

39. With regard to the need to ensure legal certainty, for some delegations, the fact that some customary rules were reflected in the articles, regardless of the status of the articles as a whole, was a reason for not moving forward with a convention, to avoid the risk of disrupting settled rules of customary international law. Other delegations considered that the fact that some of the rules contained in the articles had a customary status did not preclude their inclusion in a treaty, and that having a treaty would, in fact, provide for greater certainty and stability. According to some delegations, it was unlikely that converting the articles into treaty-based rules would be particularly risky, in light of their customary international law status and, subsequently, of the general agreement among States as to the rules in question.

40. Concerning the possible criteria for assessing whether a convergence of opinion had been achieved, a doubt had been expressed whether it would be feasible to require general agreement as to the customary international law status of the entire set of articles. The very point of a treaty negotiation would be to reach agreement on any remaining issues. As such, it would be sufficient if there were a convergence of opinion around most of the articles, in particular those in Part One. Other suggestions regarding the criteria had included assessing the extent and nature of the discussion; the frequency with which the topic was included on the agenda of the Committee; and the fact that a working group continued to be established. The information

provided in the reports of the Secretary-General on the topic was also relevant in any such assessment.

41. The working group had also been invited to comment on how best to structure its work and improve its working methods. Some delegations had referred to the value of maintaining continuous discussion under the current arrangement. Others had raised the need for a more structured exchange on the topic, including during the intersessional period. Some delegations had observed a need for more predictability and had suggested that advance notice be given of intersessional discussions, so as to ensure an effective interactive dialogue. A suggestion had been made that the views of technical experts could be solicited, and that the interactive discussions could be guided by concept notes or lists of questions. There was a need to ensure continuity between sessions, since the composition of delegations was not the same from one session to the next and the item was taken up by the Committee every three years. Intersessional discussions could contribute to continuing the exchanges, without needing to revert to points that had been addressed at previous sessions, which could help delegations from smaller missions.

42. A number of delegations had acknowledged the importance of the frequency of consideration of the agenda item by the General Assembly and had noted that the fact that there was a discussion with multiple views confirmed its relevance. A number of delegations had considered that the agenda item should be discussed more frequently, preferably on an annual basis, so as to allow meaningful interaction and exchanges on all possible procedural action to be taken on the basis of the articles. Delegations also saw the need for consistency with the treatment of other outputs of the Commission, which required similar continuous discussion. Some delegations had also noted that having more frequent discussions did not necessarily imply support for a treaty negotiation. Still other delegations had expressed a preference for considering the agenda item every five years, instead of every three years, because the positions of delegations were not likely to change in a short period of time and less frequent consideration would allow for State practice to evolve.

43. Some delegations had signalled that they were open to more frequent dialogue in an informal setting to complement the consideration of the topic in the Committee. The view had been expressed that the three-year cycle for the consideration of the topic necessitated a more robust intersessional dialogue. Alternatively, if the topic were to be considered more frequently, the intersessional dialogue could be less frequent.

44. With regard to future work, including the possibility of continuing the discussion during the intersessional period in a more structured manner, various proposals had been made by delegations, including convening annual side events during International Law Week and preparing a list of issues to be discussed at the annual informal meetings of legal advisors. It had also been suggested that the working group could develop a list of questions on particular articles, to be discussed at or before the working group's next meeting. Some delegations had proposed that the working group focus its discussions at its next meeting on finding areas of possible convergence and divergence, and on identifying those parts of the articles which already enjoyed the status of customary international law. Other delegations had expressed concern that discussing the merits and demerits of a possible convention could devalue the Commission's work product. Instead, a preference had been expressed that State practice be allowed to continue to evolve naturally around the articles.

45. He suggested that delegations continue consultations during the intersessional period and exchanging views on the topics discussed by the working group at the current session as detailed above.

46. **The Chair** said he took it that the Committee wished to take note of the report of the Chair of the working group on the responsibility of States for internationally wrongful acts.

47. *It was so decided.*

Agenda item 86: The law of transboundary aquifers
(continued) (A/C.6/77/L.12)

Draft resolution A/C.6/77/L.12: The law of transboundary aquifers (continued)

48. *Draft resolution A/C.6/77/L.12 was adopted.*

49. **Mr. Fox Drummond Cançado Trindade** (Brazil), speaking in explanation of position, said that the third preambular paragraph, which contained a reference to the Guarani Aquifer Agreement, concerned a topic that was of particular relevance for many countries, including Brazil. The Committee should break its usual cycle of deadlocked discussions followed by technical rollovers of draft resolutions by engaging in meaningful discussions on the draft articles on the law of transboundary aquifers and come to a reasoned and informed decision on appropriate action to be taken.

50. Although, in the spirit of flexibility, his delegation agreed with the decision to defer consideration of the agenda item until the eighty-first session, rather than the eightieth, as set out in paragraph 3 of the draft

resolution, it reserved the right to revisit its position on periodicity, to rethink its strategies of intersessional engagement and to consider any other solution in order to move the topic forward if negotiations remained stalled. His delegation would monitor closely whether the deferral of consideration of the item by an additional year would affect the Committee's ability to take action. The conclusions drawn from that experience would help inform its position on the periodicity of other agenda items.

Agenda item 169: Observer status for the Cooperation Council of Turkic-speaking States in the General Assembly

51. **The Chair** recalled that, at its sixty-sixth to seventy-sixth sessions, the General Assembly had decided to defer to the subsequent session a decision on the request for observer status for the Cooperation Council of Turkic-speaking States in the General Assembly (General Assembly decisions 66/527, 67/525, 68/528, 69/527, 70/523, 71/524, 72/523, 73/534, 74/524, 74/523, 75/529 and 76/527). If he heard no objection, he would take it that the Committee wished to recommend that the General Assembly defer to the seventy-eighth session a decision on the request.

52. *It was so decided.*

Agenda item 170: Observer status for the Eurasian Economic Union in the General Assembly

53. **The Chair** recalled that, at its seventieth to seventy-sixth sessions, the General Assembly had decided to defer to the subsequent session a decision on the request for observer status for the Eurasian Economic Union in the General Assembly (General Assembly decisions 70/524, 71/525, 72/524, 73/535, 74/524, 75/530 and 76/528). If he heard no objection, he would take it that the Committee wished to recommend that the General Assembly defer to the seventy-eighth session a decision on the request.

54. *It was so decided.*

Agenda item 171: Observer status for the Community of Democracies in the General Assembly

55. **The Chair** recalled that, at its seventieth to seventy-sixth sessions, the General Assembly had decided to defer to the subsequent session a decision on the request for observer status for the Community of Democracies in the General Assembly (General Assembly decisions 70/525, 71/526, 72/525, 73/536, 74/525, 75/531 and 76/529). If he heard no objection, he would take it that the Committee wished to recommend

that the General Assembly defer to the seventy-eighth session a decision on the request.

56. *It was so decided.*

Agenda item 172: Observer status for the Ramsar Convention on Wetlands Secretariat in the General Assembly

57. **The Chair** recalled that, at its seventy-second to seventy-sixth sessions, the General Assembly had decided to defer to the subsequent session a decision on the request for observer status for the Ramsar Convention on Wetlands Secretariat in the General Assembly (General Assembly decisions 72/526, 73/537, 74/526, 75/532 and 76/530). If he heard no objection, he would take it that the Committee wished to recommend that the General Assembly defer to the seventy-eighth session a decision on the request.

58. *It was so decided.*

Agenda item 173: Observer status for the Global Environment Facility in the General Assembly

59. **The Chair** recalled that, at its seventy-second to seventy-sixth sessions, the General Assembly had decided to defer to the subsequent session a decision on the request for observer status for the Global Environment Facility in the General Assembly (General Assembly decisions 72/527, 73/538, 74/527, 75/533 and 76/531). If he heard no objection, he would take it that the Committee wished to recommend that the General Assembly defer to the seventy-eighth session a decision on the request.

60. *It was so decided.*

Agenda item 174: Observer status for the International Organization of Employers in the General Assembly

61. **The Chair** recalled that, at its seventh-fourth to seventy-sixth sessions, the General Assembly had decided to defer to the subsequent session a decision on the request for observer status for the International Organization of Employers in the General Assembly (General Assembly decisions 74/528, 75/534 and 76/532). If he heard no objection, he would take it that the Committee wished to recommend that the General Assembly defer to the seventy-eighth session a decision on the request.

62. *It was so decided.*

63. *Ms. Sverrisdóttir (Iceland), Vice-Chair, took the Chair.*

Agenda item 175: Observer status for the International Trade Union Confederation in the General Assembly

64. **The Chair** recalled that, at its seventy-fourth to seventy-sixth sessions, the General Assembly had decided to defer to the subsequent session a decision on the request for observer status for the International Trade Union Confederation in the General Assembly (General Assembly decisions 74/529, 75/535 and 76/533). If she heard no objection, she would take it that the Committee wished to recommend that the General Assembly defer to the seventy-eighth session a decision on the request.

65. *It was so decided.*

Agenda item 176: Observer status for the Boao Forum for Asia in the General Assembly

66. **The Chair** recalled that, at its seventy-fourth to seventy-sixth sessions, the General Assembly had decided to defer to the subsequent session a decision on the request for observer status for the Boao Forum for Asia in the General Assembly (General Assembly decisions 74/530, 75/536 and 76/534). If she heard no objection, she would take it that the Committee wished to recommend that the General Assembly defer to the seventy-eighth session a decision on the request.

67. *It was so decided.*

Agenda item 124: Revitalization of the work of the General Assembly

68. **The Chair** recalled that the agenda item had been allocated to all the Main Committees for the purpose of considering the working methods of the Committees and in order to take action on their respective tentative programmes of work for the following session. The revitalization of the working methods of the Sixth Committee had been considered by the past, as well as the current, Bureaux of the Committee. A “lessons-learned” paper had been developed several years previously, and had been shared from Bureau to Bureau, with new suggestions for improvement being added each time based on the recommendations made during the debate. The Bureau had prepared a draft provisional programme of work for the Committee for the seventy-eighth session, which would be applied flexibly, taking into account any needs as they arose.

69. **Ms. Flores Soto** (El Salvador), speaking also on behalf of the delegations of Colombia, Italy, Lebanon, Mexico, Portugal and Sierra Leone, said that those delegations had repeatedly expressed their concerns about the working methods of the Committee, which

were seriously affecting its ability to engage in substantive discussions on the topics before it at a level that reflected its mandate under the Charter of the United Nations. The delegations were particularly concerned about the Committee's inertia to follow up more meaningfully on the work of the International Law Commission and contribute to the codification and progressive development of international law. As States played a central role in the codification and progressive development of international law, the Committee should be the main multilateral forum where States performed that role.

70. The increased complexity of international relations and global phenomena required more and better discussions aimed at addressing old and emerging challenges. The steady decline in the Committee's ability to make progress on those debates, risked impairing the role of the General Assembly in the progressive development and codification of international law, which could tempt some States to bypass the United Nations altogether when developing international law. The Committee's methods of work should enable it to achieve an action-oriented outcome in a constructive manner.

71. In line with General Assembly resolution [75/325](#), in which each Main Committee had been requested to discuss its working methods, the Committee should consolidate its institutional memory on any best practices that might improve its functions, and reflect on and implement any necessary changes to ensure the continued revitalization and improvement of its working methods.

72. It was also time to examine more closely how the Committee engaged with the wide variety of topics on its agenda, and whether its ultimate goals would be more effectively achieved with enhanced procedural engagement. By taking a more clear, procedural approach, rather than a one-size-fits-all approach, the Committee could ensure that delegations were able to consider the output of the International Law Commission with a greater degree of coherence and coordination and engage in meaningful dialogue and active coordination with the Commission. The two bodies would then support each other in giving effect to the provisions of Article 13 (1) of the Charter regarding the obligation to promote international cooperation in the political field and to encourage the progressive development of international law and its codification.

73. The Commission had recently re-established a planning group to consider its programme, procedures and working methods. The Committee could follow that example by creating an informal forum where it could

focus its discussions on working methods, agenda management and programme procedures, while continuing to interact closely with the Commission. The Committee could also establish online forums before starting work on a topic where delegations could request preliminary clarifications regarding the work of the Commission and the Special Rapporteurs could present additional information while waiting for States to submit their contributions. It could also be conducive to a more substantive exchange between the Commission and Member States if the Commission held regular sessions in New York. Both the Committee and the Commission, in their respective mandates and roles, were subsidiary bodies of the General Assembly and a fruitful, mutual interaction was essential to their ability to discharge their functions effectively.

74. The tradition of taking decisions by consensus, which the Committee had informally adopted decades earlier, while valuable, had never been intended to undermine substantive engagement by the Committee with the topics before it. The Committee's efficiency, effectiveness and integrity, and its vital role within the United Nations and in the world of international law, were undermined when delegations utilized the lack of consensus as a veto power, rather than engage in negotiations in good faith, resulting in the excessive use of technical rollovers which had paralyzed the Committee and had kept it from taking action on a range of topics on its agenda. The Committee should prepare and adopt draft resolutions that reflected the substantive commitment and engagement of delegations, even when their positions diverged. Rolling over existing texts that reflected the default position, but not the evolution of discussions over time, incentivized delegations to avoid substantive engagement.

75. More regular rotation among the coordinators of the Committee's draft resolutions was also needed, to ensure representation, inclusivity and transparency. The Committee should also engage in a more systematic discussion on the ways in which it could support small and developing delegations in enhancing their engagement with the Commission. Doing so would increase the impact of the Commission's outcomes and help many delegations overcome obstacles to engagement within the Committee. Her delegation, and those on whose behalf it was speaking, would engage in intersessional discussions with other delegations in order to revitalize the Committee's methods and its ability to fulfil its mandate. The valuable support of the Committee's secretariat in that regard would be greatly appreciated.

76. **Mr. Abdelaziz** (Egypt), noting that the Committee had maintained its tradition of consensus since the sixtieth session of the General Assembly, said that it

remained a good way for the Committee to proceed, in particular with regard to topics of importance to the international community as a whole. While it was neither prudent nor strategic to set aside the consensus tradition for the sake of quick gains, preserving consensus did not mean maintaining the status quo or refusing to engage in negotiations in good faith by abandoning maximalist and inflexible positions. His delegation was committed to engaging in fruitful, results-oriented discussions, premised on consensus, with all delegations.

77. The outputs of the International Law Commission remained of paramount value for the codification and progressive development of international law. It was important to improve communication between the Committee and the Commission in all phases of the Commission's work, including the selection of topics, the choice of type of output and its adoption, to ensure that the views of Member States were represented in the work of the Commission, as they were ultimately the ones who crafted international law and were its subjects. The Commission should also develop clear criteria to distinguish between several types of outputs and the legal consequences attached to each one.

78. The Committee should also address all outputs of the Commission in a consistent manner. While not all outputs necessarily needed to be turned into international conventions, an efficient process was needed for handling and validating all outputs. There could be no explanation why the Committee fast-tracked discussions on some outputs, while refusing to engage in in-depth discussions on others.

79. The Committee needed to also revitalize the work of its working groups by having them hold their meetings during resumed sessions of the Committee, outside peak meeting times, to allow them to engage in the necessary in-depth, action-oriented discussions for which the working groups had been envisaged.

80. **Ms. Carral Castelo** (Cuba) said that for the General Assembly to fulfil its role, it needed to fully exercise its functions as set out in the Charter. The General Assembly drew its authority, functions and powers primarily from the participation of all Member States, which ensured that it was genuinely democratic and representative. The principle of the sovereign equality of States, the cornerstone of the current system of international relations, found its direct expression through the General Assembly.

81. The Committee should maintain its good practices, based in the consensus-based decision-making that had traditionally characterized its work. Her delegation welcomed efforts by the Bureau and the Secretariat to

prevent scheduling conflicts during the Committee's consideration of topics and refine the Committee's programme of work, which helped delegations to remain engaged. The Bureau should work to overcome any remaining shortcomings highlighted by delegations. Her delegation noted the usefulness of the electronic tools and platforms available to Member States and the efficiency with which essential information could be distributed using the eDelegate portal.

82. It had been years since the Committee had convoked an international conference to elaborate a convention on a topic of particular importance to the international community, such as a comprehensive convention on international terrorism, a convention on responsibility of States for internationally wrongful acts or a convention on diplomatic protection. It was unacceptable when priority was given to some topics over others, in particular in the case of topics examined by the International Law Commission, given the apparent lack of consensus on the substance of those topics within that body. Her delegation stood ready to work with other Member States to steer the Committee towards recommendations that strengthened the central role of the General Assembly.

83. **Mr. Kanu** (Sierra Leone) said that the mandate of the Sixth Committee was to make recommendations to the General Assembly for the purpose of promoting the progressive development of international law and its codification, as set out in Article 13 (1) (a) of the Charter, and to address legal questions of pressing concern to the international community. While his delegation acknowledged that the Committee had made recent changes to its methods of work with a view to enhancing the efficiency of its work, including the introduction of time limits in its plenary debates, save for the debate on the report of the International Law Commission, it was concerned that inconsistency in the Committee's methods of work, challenges to pluralism experienced not just in the Committee but across the United Nations, and inertia owing to a lack of good faith, might lead to the misuse and abuse of its consensus-based decision-making practice and undermine the legitimacy of its role in the international law-making process.

84. The Committee should examine its working methods with a view to safeguarding the rules-based multilateral system, preventing a regression from said system to a power-based international order and enhance the role of the United Nations in that regard. While imperfect, the international legal order had provided important safeguards and established a more level playing field norm-setting in international law

85. The Committee's inconsistency in approach and inertia had been most manifest when it considered the products and recommendations of the Commission. Irrespective of States' differing positions on the Commission's outputs, it was in the interests of the Committee to take stock of and rationalize agenda items dealing with the Commission's outputs with a view to scheduling meaningful debate on them, and take action on the Commission's recommendations. The Committee should also examine the frequency of meetings held on the topics, to ensure that delegations had adequate opportunities to engage on the substance of the Commission's outputs over time, in particular when the elaboration of a convention was recommended.

86. His delegation was not advocating a "one-size-fits-all approach"; rather, it was calling for consistency, and, by extension, legitimacy in the work of the Sixth Committee. Such an approach would complement the Commission's review of its own working methods following the re-establishment of its Working Group on methods of work and the receipt of working papers on such issues as the Commission's relationship with other bodies, including the Sixth Committee, and the nomenclature of its outputs. The Committee could mirror that approach by examining its own methods of work with a view to addressing its current challenges.

87. Under the agenda item, the Committee was called on to review the efficiency of the administrative and financial functioning of the United Nations, as it applied to the Committee. Since in line with General Assembly resolution 58/316, the Committee could consider and take action on its tentative programme of work, it had the opportunity to improve its processes and find a better balance in the allocation of conference resources and time. Increasingly, the Committee was constrained to hold its in-depth deliberations during plenary meetings, working group meetings and informal consultations on draft resolutions. As the Committee's Bureau was elected early, the Committee could also identify and appoint facilitators and coordinators early, to allow for equally early signalling of approaches to a topic, calls for proposals and "informal informal" engagements, which would ensure that delegations had sufficient time to engage in informal consultations and maximize conference time and resources available in the main part of the session.

88. Despite the existing challenges, the Committee had largely undertaken the work assigned to it and was ready to conclude its work in the main part of the session having made significant substantive progress on important topics. That was, in part, the result of the decision by delegations to not accept the easy default but often futile technical rollover approach used during the previous two sessions which had been affected by the COVID-19 pandemic.

89. **Mr. Bouchedoub** (Algeria) said that consensus-based decision-making would remain the modus operandi of the Committee. Given the special and legal nature of the issues considered by the Committee, consensus did not necessarily mean unanimity. It simply meant that the reconciliation and harmonization of positions expressed by Member States to enable the Committee to take decisions with real and tangible outcomes without excluding any Member State. Based on goodwill in relations among States and as part of the commitment to strengthen international cooperation and multilateralism with no one left behind and to foster the revitalization of the work of the General Assembly, his delegation hoped that discussions in the Committee would continue to be constructive, and not politicized or used to pursue of narrow objectives.

90. His delegation encouraged continued cooperation and dialogue between the Committee and the International Law Commission, with the Committee of course being able to seek clarifications about the work of the Commission and its outputs. His delegation was pleased to see that more time had been allocated at the current session for exchanges between the members of the Committee and the Chair of the Commission during the consideration of the Commission's report, held as part of International Law Week. It was also expressed its appreciation to the Secretariat for webcasting the Commission's recent session, which helped to provide more transparency and clarity about the Commission's work. His delegation urged the Commission to hold part of its session in New York, as the International Commission on International Trade Law did.

91. His delegation welcomed the continued publication of the statements of Member States on the relevant portal of the Committee, which would help to preserve the institutional memory of the Committee. His delegation also appreciated the transparency shown with regard to the preparation of documents, including the Commission's submissions to the Committee.

92. Over the years, many adjustments and renovations had been made to the working methods of the Committee in a number of areas, including on the basis of the recommendations introduced during the annual debate. His delegation urged the Secretary-General to publish, in coordination with the Office of the President of the General Assembly, a report on the best past practices of the Committee, which would also help to strengthen the institutional memory of the Bureau.

93. Lastly, it was important to fully implement all resolutions relating to multilingualism and to ensure that all official languages of the Organization were put on an equal footing.

The meeting rose at 12.30 p.m.