



General Assembly

Sixty-second session

Official Records

Distr.: General
19 November 2007

Original: English

Sixth Committee

Summary record of the 16th meeting

Held at Headquarters, New York, on Friday, 26 October 2007, at 10 a.m.

Chairman: Mr. Tulbure (Moldova)
later: Ms. Orina (Vice-Chairman) (Kenya)

Contents

Agenda item 86: The rule of law at the national and international levels (*continued*)

Agenda item 108: Measures to eliminate international terrorism (*continued*)

This record is subject to correction. Corrections should be sent under the signature of a member of the delegation concerned *within one week of the date of publication* to the Chief of the Official Records Editing Section, room DC2-750, 2 United Nations Plaza, and incorporated in a copy of the record.

Corrections will be issued after the end of the session, in a separate corrigendum for each Committee.

07-56547 (E)



The meeting was called to order at 10 a.m.

Agenda item 86: The rule of law at the national and international levels (*continued*) (A/61/121, A/61/121/Add.1 and A/62/261)

1. **Mr. Mongkolnavin** (Thailand) said that Thailand strongly believed that adherence to the rule of law at the national and international levels was essential for a peaceful and prosperous community. As noted by the 2005 World Summit, it was also a linchpin in the nexus between development, peace and security and was essential for the protection of human rights and fundamental freedoms.

2. At the international level, the Charter of the United Nations, together with the Universal Declaration of Human Rights and other multilateral treaties, old and new, must be adhered to and applied as guidance for global interactions. Promotion of adherence to the rule of law by the United Nations itself was therefore indispensable.

3. His delegation was pleased to note that a large of number of United Nations entities had been involved in work relating to the promotion of the rule of law, many of them playing a valuable role in enhancing capacity-building in Member States. His delegation also appreciated the recent establishment of the Rule of Law Coordination and Resource Group and the Rule of Law Assistance Unit. He looked forward to receiving more information on their work, especially in regard to the three “baskets” of rule of law activity identified by the Secretary-General in his report (A/61/636-S/2006/980).

4. At the national level, although the diversity of legal systems had to be respected, each State must do its part in the global quest for adherence to the rule of law. It was incumbent on each Member State to ensure that the rule of law was duly observed within its territory. Failure to do so could lead to a state of lawlessness or could breed or reignite conflicts. As global boundaries increasingly diminished, each country bore greater responsibility than ever to ensure that its actions did not affect its neighbours or the world at large.

5. Although Thailand had recently undergone a challenging period, its commitment to the rule of law had never lessened. Indeed, the Government had become even more vigilant in its adherence to the rule of law. The first-ever referendum on the country’s new

Constitution and the general election scheduled for year’s end were strong testimony to that.

6. Over the years Thailand had striven continuously to foster the rule of law, both internally and internationally. In 2005 it had hosted the Eleventh Congress on Crime Prevention and Criminal Justice, which had led to the adoption of the Bangkok Declaration. During the 2007 Treaty Event, Thailand had deposited instruments of accession to the International Convention against the Taking of Hostages and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, thus re-emphasizing its firm and genuine commitment to the observance of international law.

7. Currently, Thailand was working with Chile, Sweden and South Africa in the Four Nations Initiative, which sought to promote improved governance and management of the United Nations Secretariat. The United Nations must practice what it preached, for good governance lay at the core of the rule of law. Moreover, better governance and management would help to enhance the Organization’s credibility, both internally and externally. As part of the effort to improve governance, the United Nations should put into place a new system of internal justice to correct the drawbacks of the existing system and provide staff with a fair and professional dispute settlement process.

8. In its work on the rule of law, the Sixth Committee, should not duplicate activities being carried out by other United Nations bodies or elsewhere and should focus on concrete outcomes. Thailand supported the proposal made in that regard by Cuba on behalf of the Movement of Non-Aligned Countries (see A/C.6/62/SR.14).

9. **Mr. Arévalo** (Chile) said that his delegation welcomed the creation of the Rule of Law Assistance Unit, which would ensure continued and heightened attention to the topic. The rule of law was a common thread that ran through all relations between States, harmonious social interaction within States and the work of the United Nations and its various organs, which themselves were subject to the rule of law. Chile appreciated, in that regard, the steps being taken to bring the system for the administration of justice at the United Nations into line with international standards. It also applauded the Organization’s concern about the criminal accountability of its officials on mission, and

it welcomed the measures adopted by the Security Council to improve the sanctions regime.

10. The rule of law was an extremely broad topic which could be addressed from many perspectives, and a precise and focused approach must be taken in order to deal with it effectively. The Committee should establish clearly what it intended to accomplish through its consideration of the topic. Otherwise, it might find itself engaged in lengthy and fruitless discussions that merely repeated firmly established principles. On the other hand, it would be inappropriate to introduce into the discussion elements which gave rise to particularist approaches or differential treatment of the various issues related to the rule of law at the national and international levels. The rule of law was founded on respect for certain universally accepted principles; unless they were strictly observed, the objectives of the exercise that the Committee was undertaking would not be achieved.

11. The first question that might be asked was whether the norms and institutions put in place by the international community were sufficient, or whether they needed to be augmented in some way in order to give real effect to the rule of law. Norms governing the threat or use of force, the peaceful settlement of disputes, human rights, international humanitarian law and international criminal law constituted a solid legal framework that might be said to meet the requirements for the rule of law in both its national and its international dimensions. However, for a variety of reasons, including lack of the means or the technical capacity to fulfil some obligations and failure to adopt domestic rules requiring compliance with international treaties, States did not always comply with their international obligations. The issue of non-compliance, and the reasons for it, should be one of the focuses for the Committee's consideration of the topic.

12. Other areas that might be examined in greater depth with a view to consolidating the rule of law included conflict prevention mechanisms, preventive diplomacy and multilateral mechanisms for dealing effectively with grave humanitarian crises. In that connection, strong support should be provided for the activities of the Peacebuilding Commission, particularly with respect to rebuilding judicial and law enforcement systems, which constituted the underpinnings of the rule of law.

13. The Committee might consider, as a sub-topic for discussion at a future session, the strengthening of domestic and international criminal justice systems as an effective means of combating impunity, the denial of justice or the failure to respect the rules of due process and other guarantees inherent in the rule of law.

14. **Mr. Lamine** (Algeria), reaffirming his delegation's attachment to the ideal of the rule of law and its desire to see respect for international legality prevail in inter-State relations, said that the newly established Rule of Law Assistance Unit would need to be strengthened and, above all, be protected from political considerations, particularly as the rule of law was a matter that had to do with the missions of various United Nations organizations, funds and agencies. It was a cross-cutting topic, about which a number of delegations had signalled the need for greater clarity in order to identify the perspective from which it would be approached.

15. The development of the rule of law at the national level contributed to economic and social development and to the furtherance of peace and justice. Better coordination was needed in order to respond to the needs of Member States seeking assistance in addressing gaps and deficiencies that might hinder the development of their administrative, political and judicial systems, especially in post-conflict situations. Certainly, the United Nations had a leading role to play in that regard, but in so doing it should seek to support, not supplant, local authorities, respecting the traditions and the social and cultural traditions of the country in question.

16. At the international level, the role of the International Court Justice was of fundamental importance in strengthening the rule of law. Some had even suggested that the Court should hear cases concerning the legality of actions taken by other United Nations bodies, creating a sort of separation of powers at the international level. The growing trend towards the threat or use of force necessitated a more proactive role for the Court in reinforcing the rule of law. The United Nations should set an example by, inter alia, ensuring respect for the functions and powers of each of its main bodies.

17. Algeria believed that the Committee should engage in more in-depth discussion of the topic and of the future relationship between itself and the Rule of

Law Assistance Unit before embarking upon discussions of specific aspects of the rule of law.

18. **Ms. Celis** (Bolivarian Republic of Venezuela) said that her Government hoped that the topic of the rule of law would be treated in a balanced manner and that the discussion would be grounded in the principles of self-determination of peoples and non-interference in the internal affairs of States. At the national level, her country attached great importance to international law as one of the sources of domestic law. The provisions of the international human rights conventions and other instruments had been incorporated into domestic legislation and enshrined in the Constitution.

19. At the international level, the realization of a system in which the rule of law prevailed would remain a utopian aspiration until a democratic regime was established within the United Nations. Excessive politicization of the Security Council had often hindered implementation of the mandates of the General Assembly, giving rise in recent years to repeated violations of the sovereignty of States, interference in their internal affairs and military occupations that were in clear violation of international law. The United Nations had thus far been unable to prevent the application of double standards with respect to compliance with internationally agreed rules, which had resulted in discrimination and selectivity, generating a climate of injustice and damaging the Organization's credibility. Only by democratizing and strengthening the United Nations would it be possible to ensure that international law was equitably applied and enforced.

20. **Ms. Mwaipopo** (United Republic of Tanzania) said that absence of the rule of law invited anarchy, impunity, abuse of human rights and disregard for the tenets of good governance and democracy. Strengthening of the rule of law was therefore crucial in order to foster greater freedom, sustained peace and security, particularly in countries emerging from conflicts.

21. Her delegation attached high significance to treaties and other internationally binding instruments and commended the United Nations Office of Legal Affairs for promoting their ratification and implementation through the organization of annual treaty events. It also applauded the work of the international tribunals for Rwanda and the former

Yugoslavia, the Special Court for Sierra Leone and the newly established Special Tribunal for Lebanon in strengthening the international rule of law by combating impunity for individuals accused of committing the most serious crimes.

22. Her delegation also commended the International Criminal Court for its efforts to end impunity and encouraged cooperation between the Security Council and the Court to bring to justice the perpetrators of the gravest international crimes, namely, war crimes, crimes against humanity and genocide. The United Republic of Tanzania welcomed Japan's accession to the Rome Statute and encouraged all Member States to accept the Court's jurisdiction with a view to strengthening the rule of law.

23. At the regional level, the African Union and other subregional mechanisms were dedicated to promoting and upholding the rule of law. Her delegation was optimistic that the African Court on Human and Peoples' Rights and the East African Court of Justice, which the United Republic of Tanzania was proud to host, would contribute immensely to strengthening the rule of law, consolidating peace and reconciliation, and finally bringing economic prosperity to the African region.

24. Her Government was fully committed to human rights, good governance and the rule of law and had pursued numerous public-sector reforms, including programmes to improve its civil service, local government, public financial management, legal sector and health sector. Her delegation welcomed the establishment of the Rule of Law Assistance Unit and pledged its unflinching support for the work of the United Nations in strengthening the rule of law at the national and international levels.

25. **Mr. Mikanagi** (Japan) said that Japan strongly supported the activities of the United Nations with regard to the rule of law. Japan had been a strong backer of the International Court of Justice and continued to accept its jurisdiction. It also supported the International Tribunal for the Law of the Sea and its role in dispute settlement. In the area of criminal justice, Japan had supported the various ad hoc and hybrid international criminal tribunals, including the Extraordinary Chambers in the Courts of Cambodia. Japan was also providing technical support to help establish the rule of law in developing countries, especially South-East Asian countries. In addition, it

had recently become a party to the Rome Statute of the International Criminal Court. His Government appreciated the Court's role in combating impunity and hoped that the number of States parties to the Rome Statute would increase.

26. His delegation welcomed the activities of the Rule of Law Coordination and Resource Group and the Rule of Law Assistance Unit in strengthening United Nations efforts through better coordination. The Secretary-General's report (A/62/261) showed that many departments in the United Nations were carrying out rule of law activities. If duplications and other problems were occurring as a result of lack of coordination, the departments concerned must take measures to solve such problems. The various departments should, within their existing resources, continue to support the Rule of Law Coordination and Resource Group and the Rule of Law Assistance Unit. Japan looked forward to discussing the Secretary-General's report during the sixty-third session.

27. **Mr. Ben Lagha** (Tunisia) said that globalization and increased interaction among subjects of international law had made ensuring a commitment to an international order based on the rule of law more necessary than ever. Indeed, such a commitment was increasingly seen as the condition for peaceful coexistence of States.

28. Given that the rule of law was a cross-cutting topic that had to do with the activities of the United Nations in almost every area, his delegation welcomed the establishment of the Rule of Law Coordination and Resource Group and the Rule of Law Assistance Unit and underscored the need to provide them with the means necessary to enable them to perform their roles within the framework of a clear mandate and of regular and ongoing interaction with the General Assembly.

29. In view of the wide variety of issues that might be raised under the heading "the rule of law", the Sixth Committee should exercise great caution in identifying sub-topics for future discussion, taking care to give balanced treatment to the national and international dimensions and to avoid duplicating the discussions going on in other United Nations forums. The Committee should focus strictly on the legal aspects of the subject, taking a pragmatic approach that emphasized operational objectives, and should avoid giving the impression that it was trying to impose pre-established models on Member States.

30. One possible sub-topic that would encompass both the national and the international dimensions of the rule of law might be the provision of technical assistance to Member States that requested it, particularly those in post-conflict situations, and especially with regard to the incorporation of international instruments into domestic law. One way of choosing sub-topics might be to ask what value the Committee's discussion might add to the work on the topic under way elsewhere and what contribution the Committee might make towards enhancing the effectiveness of the rule of law activities undertaken by the various United Nations entities. In order to ensure that the Committee's work on the rule of law was effective and constructive, close interaction and synergy with the Rule of Law Assistance Unit would be imperative.

31. **Mr. Park Hee-kwon** (Republic of Korea) said that his delegation, believing that the rule of law was a safeguard for good governance in the national sphere and that it was a key element for maintaining peace and security in the international sphere, welcomed the Committee's discussion of the topic and regarded it as an important follow-up to the 2005 World Summit and a good opportunity for Member States to renew their commitment to the rule of law.

32. Activities in the three "baskets" identified by the Secretary-General in his report (A/61/636-S/2006/980) should be well coordinated. His delegation therefore strongly supported the establishment of the Rule of Law Coordination and Resource Group and the Rule of Law Assistance Unit and looked forward to seeing them both fully operational. Rule of law activities required adequate financial and human resources, and the Republic of Korea was committed to providing such resources to assist countries in building their capacity to promote the rule of law. It had provided official development assistance funds to a number of countries to help them in dealing with a variety of issues, including crime prevention, forensic investigations, criminal justice, control of drug-trafficking, prevention of money-laundering, maritime security and cyber-security, and it was the host country for the United Nations Governance Centre, which sought to enhance United Nations rule of law activities through the study of good governance and the sharing of best practices with Member States.

33. His delegation supported the idea of choosing sub-topics for focused discussion each year and

favoured the selection of “criminal justice at the national and international levels” as the sub-topic for 2008.

34. **Mr. Muburi-Muita** (Kenya) said that the Rule of Law Assistance Unit should be strengthened because the rule of law was the mainstay of good governance in any democratic system and was therefore pertinent to the management of global affairs. In fact, there was no viable alternative to it.

35. Since the role of the International Court of Justice in the peaceful settlement of disputes could not be overemphasized, he called on all Member States to recognize the Court’s compulsory jurisdiction. Larger contributions to the Secretary-General’s Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice would greatly advance the rule of law at the international level. The United Nations should itself make full use of the Court’s competence by requesting advisory opinions and, in that connection, he was pleased that the possibility of authorizing the Secretary-General to request such opinions was being discussed. Furthermore, the jurisprudence emanating from the tribunals established by the Security Council should be absorbed into international criminal law.

36. The fact that rule of law and transitional justice initiatives had been incorporated into the mandates of recent peacekeeping and peacebuilding missions and that the General Assembly was examining the question of the criminal accountability of United Nations officials and experts on mission would undoubtedly promote the rule of law in United Nations missions.

37. A thorough evaluation of developing States’ specific needs would heighten the effectiveness of the technical assistance and capacity-building measures of the United Nations. Steps should also be taken to facilitate the participation of those States in meetings of highly specialized agencies and bodies such as the United Nations Commission on International Trade Law (UNCITRAL). Since an awareness of the links between peace and development on the one hand and the cultural values and aspirations of societies on the other was central to maintaining the rule of law, he commended the General Assembly for recognizing the period September 2007 to September 2008 as the year commemorating the Ethiopian Millennium.

38. At the national level, his Government had introduced comprehensive reforms in the sectors of

governance, law and order and justice. The purpose of those reforms was to strengthen the institutions dealing with corruption, boost the number of judges, magistrates and district courts, increase legal services at district level and improve the prosecution and litigation counsel service. The capacities of the police and prison services were being upgraded to meet the growing demands of the criminal justice system. Consideration was likewise being given to introducing small claims courts and a national legal aid scheme as a means of widening access to justice.

39. Lastly, he called on all States to use and expand the frameworks of fair rules already existing on many issues at the international level in order that the equity desired by all might be achieved.

40. **Ms. Naidu** (South Africa) said that a discussion of the rule of law at the national and international levels was extremely useful. Since the end of apartheid, national law in South Africa had been brought into step with international law and the courts had endeavoured to administer justice in a manner which upheld the spirit, purpose and ethos of the Bill of Rights, which had been inspired by the Universal Declaration of Human Rights.

41. The role of the United Nations in setting standards ensured that international law influenced the national judicial system and heightened the awareness that rights must be protected by law. That meant ensuring that disputes over rights could be submitted for adjudication to a competent, impartial and independent tribunal, and that State action could be analysed and justified rationally in a system whose operation could be tested for compliance with the law.

42. The establishment of the Rule of Law Coordination and Resource Group would fortify United Nations rule of law activities. For that reason, every effort must be made to bolster the Group’s role in identifying areas of common concern and in facilitating cooperation and coordination. Her Government therefore supported the funding of the Rule of Law Assistance Unit. In addition, the Group’s expertise could be utilized in countries emerging from conflicts to foster adherence to the rule of law and build confidence in the legal and judicial system, thereby creating the prerequisites for sustainable peace and development. In post-conflict situations, there was a need to deal with past abuses through formal and informal mechanisms for resolving grievances and to

create an impartial and accountable legal system. To that end, it was necessary to establish an effective law-enforcement apparatus, an open judicial system, fair laws, a humane correctional service and appropriate penalties for crimes.

43. **Ms. Wilcox** (United States of America) said that her Government strongly advocated the rule of law at the national and international levels. International law played a critical role in world affairs in as much as it was vital to the resolution of conflicts and was a powerful force in the search for freedom. The United States therefore helped to develop international law, relied on it and abided by it.

44. The United States strongly supported international legal mechanisms such as the International Court of Justice and approved of the Security Council's use of legal mechanisms and institutions to promote international peace and security by ensuring accountability for genocide, war crimes, crimes against humanity and terrorism. Her Government had pledged \$5 million towards the start-up costs of the Special Tribunal for Lebanon, whose findings would be crucial in calling to account the terrorist bombers who had killed the former Lebanese Prime Minister Rafiq Hariri and others. It had also contributed over half a billion dollars towards the International Criminal Tribunal for the former Yugoslavia, the International Criminal Tribunal for Rwanda and the Special Court for Sierra Leone.

45. The targeted sanctions regimes established by the Security Council contributed to the development of international law by imposing international obligations. Such sanctions remained a tool for championing international peace and security, and their adverse impact on innocent civilians could be minimized by careful targeting. Those regimes were an indispensable means of combating international terrorism and the proliferation of weapons of mass destruction and establishing stability in countries such as Sudan, Côte d'Ivoire, Liberia and the Democratic Republic of the Congo. Past concerns about the need for Security Council sanctions committees to follow fair procedures had been addressed, inter alia, in Security Council resolution 1730 (2006).

46. Other parts of the United Nations system were also influential in promoting the rule of law. For example, UNCITRAL had encouraged the emergence of international legal regimes which could enhance

commerce in all geographic regions and for States at all levels of development, while the Terrorism Prevention Branch of the United Nations Office on Drugs and Crime was spearheading efforts to help States to accede to and to implement international counter-terrorism conventions and protocols.

47. International law played an outstanding role in the United States Constitution and domestic law. In many instances the national courts were authorized to interpret and apply international law. Every year, her Government concluded hundreds of international agreements and treaties and it served as a depositary for approximately 200 multilateral treaties. Furthermore, the State Department's Treaty Office published useful information about the treaties to which the United States was a party on a public web page.

48. At the national level, the commitment of the United States to advancing the rule of law was demonstrated by its endeavours to assist other States to strengthen their legal, judicial and law-enforcement institutions and to combat the production and trafficking of illicit drugs. It was determined to promote the ratification and implementation of the United Nations Convention against Transnational Organized Crime and the United Nations Convention against Corruption which, as the first legally binding global instruments on those subjects, served as new tools for amplifying international cooperation, including mutual legal assistance.

49. In order to achieve a more holistic approach to developing justice institutions, several Government organizations collaborated in the delivery of integrated and strategically focused rule of law assistance; they included the State Department's Bureau of International Narcotics and Law Enforcement Affairs (INL) and the United States Agency for International Development (USAID). INL assisted countries in their efforts to strengthen institutions in the criminal justice sector, and every year it invested over \$350 million in such programmes all over the world. USAID was investing over \$301 million in more than 50 countries to promote broad-based reform of the justice system. Specialists from the International Criminal Investigative Training Assistance Program (ICITAP) and the Office of Overseas Prosecutorial Development, Assistance and Training (OPDAT) from the Department of Justice had helped INL and USAID to

conduct rule of law activities worth \$150 million in 2006.

50. The United States provided wide-ranging technical assistance in the area of the rule of law by helping States to train police, implement criminal justice reforms, secure human rights protection, improve court administration, promote judicial reform, train judges and lawyers, modernize legal education, create bar associations and improve access to justice. Her Government was striving to incorporate policing projects in programmes covering the rule of law and human rights, and it already had a solid track record of community-based policing programmes in Africa and Central America. Moreover, it was scrutinizing the role of traditional legal systems in contributing to the rule of law.

51. Although the practical recommendations contained in the Secretary-General's report (A/61/636-S/2006/980) concerning closer coordination of the many players within the United Nations system which provided assistance in respect of the rule of law were commendable, and although the establishment of the Rule of Law Coordination and Resource Group and the Rule of Law Assistance Unit were promising developments, the Unit should be funded from existing resources. The idea of enhancing quality control over United Nations documentation in the area of the rule of law was worth considering. Moreover, in view of the importance of bilateral assistance in the rule of law area, the United Nations should coordinate its rule of law activities with non-United Nations actors and donors.

52. The Sixth Committee's future work on the agenda item under consideration should be practice-oriented. Some of the topics proposed were not focused enough to provide a constructive basis for the Committee's work. It would therefore be better to concentrate on ways in which the existing United Nations rule of law assistance programmes could be better coordinated and made more effective. The inventory of the current activities of the parts of the United Nations system devoted to the promotion of the rule of law at the national and international levels contained in the Secretary-General's interim report (A/62/261) would provide a good starting point for the Sixth Committee's deliberations. Alternatively the Sixth Committee could centre its studies on transitional justice at the national level, since that was an essential issue for societies striving to emerge from conflict.

53. **Mr. Al Saied** (Kuwait) said that fostering respect for and compliance with the rule of law at the national and international levels was of the utmost importance in enabling the international community to live in peace and security, achieve economic growth and sustainable development, eradicate poverty and hunger and protect human rights.

54. Kuwait was a constitutional democracy where sovereignty was vested in the people. Everyone's rights and freedom were protected. Justice, freedom and equality were the main pillars of society. The Constitution embodied the rule of law, since it provided for the separation of the powers of the executive and the legislature and ensured the independence of the judiciary. All citizens had equal rights and duties. Freedom of the press and of expression were guaranteed, as was freedom of association.

55. His Government abided by international law. It upheld the principle of maintaining international peace and security and of not using the rule of law as a pretext to interfere in the affairs of other States, or to encroach on their sovereignty. All States should refrain from the use of force and the threat of its use and should settle conflicts between them by peaceful means.

56. The rule of law must be strengthened as it laid the foundations for social and economic justice and the enjoyment by every human being of the right to development. It was therefore vital to buttress the rule of law through the exercise of democracy within the United Nations system at all levels.

57. **Mr. Eriksen** (Norway), having welcomed the establishment of the Rule of Law Coordination and Resource Group and the Rule of Law Assistance Unit, commended the Unit's work thus far with regard to the coordination of United Nations rule of law activities. The Secretary-General's interim report (A/62/261) made it clear that such coordination needed to be strengthened. His delegation therefore looked forward to the continued implementation of the Unit's workplan, which contained a number of important tasks related to the rule of law, such as the development of a coordinated workplan for the entire United Nations system, the identification of priority gaps in the Organization's capacity and the establishment of best practices based on the international experience gained in connection with rule

of law assistance. The General Assembly should provide the Unit with sufficient resources to carry out its work effectively. Moreover, that funding should come from assessed contributions so as to ensure financial security.

58. With regard to the Committee's discussions on the rule of law at the next session, the sub-topics selected should be clearly defined and sufficiently narrow to ensure focused and streamlined discussions and to avoid the risk of duplicating the work of other forums. His delegation therefore attached great importance to the consultations regarding the current session's resolution on the rule of law.

59. Promotion of the rule of law was a priority for his Government and was therefore an integral part of its international activities. For example, Norway had established a standby force for civilian and human rights efforts in crisis situations. The force, composed of civilian experts, had provided rule of law assistance in Afghanistan, Bosnia and Herzegovina, Georgia and Moldova. The promotion of international criminal justice was another important objective. Norway supported the international criminal tribunals and the International Criminal Court by such means as advocating the widest possible accession to the Rome Statute. It was also necessary to preserve the legacy of the special criminal tribunals. In order to strengthen national capacities to investigate and prosecute international crimes, Norway was providing funding for the Court's Legal Tools Project, an important resource base for national authorities, practitioners of law and scholars around the world.

60. The International Court of Justice was the principal body entrusted with the task of upholding the rule of law at the international level. However, only 65 of the 192 States Members of the United Nations had accepted the Court's jurisdiction in accordance with article 36, paragraph 2, of its Statute. Since its establishment, the Court had clearly demonstrated its vital and constructive role in conflict resolution. Both Member States and the international community would benefit greatly from wider acceptance of the Court's jurisdiction, which could be tailored to meet the needs of individual States. Norway would continue its active efforts to promote acceptance of the Court's jurisdiction among Member States.

61. **Ms. Schonmann** (Israel) expressed strong commitment to the purposes and principles of the

Charter of the United Nations and said that it was necessary to promote the concept of an international order based on the rule of law. Adherence to the rule of law was a cardinal element of her country's domestic legal system and a central component of its national security. Her Government was committed to the principle of legality, the balanced separation of powers, the protection of human rights and the guaranteeing of due process and access to justice for all. Fundamental human rights such as the right to liberty, freedom of expression and the right to privacy were protected by the basic laws of Israel and by a solid body of jurisprudence established by the Supreme Court. Promoting the rule of law at the national level was a vital means of furthering compliance with the international legal order.

62. Israel supported the numerous United Nations activities to consolidate the rule of law through the codification and development of international law. The rule of law was a fundamental element of conflict resolution, peacekeeping operations and nation-building in emerging democracies. The provision by States of legal assistance and training programmes for other States which were seeking to establish legal systems and enhance the rule of law might prove to be an enriching experience for all concerned, as well as a useful basis for dialogue.

63. Given the numerous actors participating in the wide range of rule of law activities, Israel supported the establishment of the Rule of Law Coordination and Resource Group. In its future work on the rule of law, the Sixth Committee would be well advised to adopt a practical approach focusing on technical assistance and capacity-building in order to make for greater compliance with international obligations.

64. **Mr. Shah** (Pakistan) said that upholding the rule of law at the national and international levels would ensure peace and security and equitable development opportunities for all. He therefore welcomed the establishment of the Rule of Law Assistance Unit. His Government supported the endeavours of the United Nations to promote the rule of law.

65. The different rule of law baskets should be dealt with in the relevant committees. Debate on those issues in the plenary required the establishment and coordination of dedicated rule of law teams. That would be a resource-intensive exercise which might prove difficult for small delegations, especially if more

baskets were added. He was therefore in favour of consolidating the agenda within respective committees.

66. The subject of the rule of law should be delimited in order to ensure that the committees' work in that area did not overlap. In addition it would be advisable for the Sixth Committee to identify the scope of the rule of law at the national and international levels. No new mandates should be created through the interpretation of existing mandates. His delegation did not support a monitoring role at national level for any United Nations subsidiary bodies or entities, apart from the United Nations Development Programme. Activities aimed at developing the rule of law at national level should be carried out only at the request of, and in close consultation with, the national or host Government. Lastly, as far as sub-topics for further consideration were concerned, he supported the proposal put forward by the Movement of Non-Aligned Countries.

67. **Mr. Baghaei Hamaneh** (Islamic Republic of Iran) said that the rule of law and justice was of crucial importance at the national and international levels. Adherence to the rule of law was essential for building an order where right would prevail over might and for progressing towards a secure and prosperous world. For the Islamic Republic of Iran, which was situated in a region long torn by conflicts imposed by supra-regional actors, replacing the rule of power with the rule of law was a matter of urgency.

68. The rule of law could be seen as a three-pronged concept: the rule of international law in inter-State relations; the rule of law at the national level and the rule of law at the United Nations. It was, however, necessary to reach a common understanding of the term before embarking upon any discussion of ways of strengthening the rule of law at each level. To that end, it might be wise to identify some common elements based on general principles of international law such as States' obligation to refrain from the threat or use of force in their international relations, to comply with the principles of universal respect for human rights and fundamental freedoms for all, to respect the equal rights and self-determination of peoples, and the sovereign equality and independence of all States, and not to interfere in the domestic affairs of other States. The principles of the Charter of the United Nations must also form the point of departure for any initiative to reinforce the rule of law at the national and international levels.

69. Buttressing the rule of law in international relations encompassed the sphere of lawmaking and the acceptance of international law. All States must therefore have the chance to participate in standard-setting processes and all States, irrespective of their size, must honour their obligations under international law. The adoption of a policy of compliance only when it was expedient, double standards and arbitrary enforcement undermined the very foundations of the international rule of law.

70. As far as the rule of law at the national level was concerned, it was every nation's sovereign right to decide on the appropriate ways and means of developing an efficient and fair legal system for enhancing the rule of law within its own jurisdiction, taking account of its specific cultural, historical, economic and social needs and conditions. Nevertheless, since States could and should benefit from each other's successful experiences, the United Nations could contribute in that respect by providing, at the request of the State concerned, technical assistance for capacity-building, especially with regard to the incorporation of treaty-based obligations into the internal legal system. The newly established Rule of Law Assistance Unit should help to coordinate the assistance available from various United Nations organs and bodies with a view to preventing duplication of effort; it should not, however, interfere in policymaking, which was the prerogative of the General Assembly.

71. The United Nations should promote the rule of law within the Organization as well. Staff members should have access to an efficient system for the administration of justice, but they must be held accountable for any misconduct. The steps taken to redesign the United Nations system for the administration of justice and to devise a mechanism for ensuring the criminal accountability of United Nations personnel were therefore welcome. On the other hand, the rule of law at the institutional level could be strengthened, only if the principal organs of the United Nations respected each other's mandate and competence, as defined in the Charter. The continuing encroachment of the Security Council on the functions of the other organs and its growing tendency to enter areas of standard-setting and lawmaking which fell within the purview of the General Assembly had prejudiced the Organization's overall functioning. The Security Council was bound by the Charter and it must

therefore exercise its powers in accordance therewith and refrain from intervening in the internal affairs of Member States.

72. As for sub-topics for further discussion, it was essential to identify the common elements, as well as the scope of the concept of the rule of law. At the same time, a balanced approach should be taken to the national and international aspects of rule of law. If the international rule of law was not defended collectively, the United Nations would be consigned to oblivion in the interests of domination and unilateralism and the rule of power would become the norm.

73. **Ms. Borjas Chávez** (El Salvador), noting that the 2005 World Summit Outcome emphasized the importance of the rule of law for peaceful coexistence and cooperation among States, said that there was a close link between the rule of law, peace and security and development. The strengthening of the rule of law was therefore in the interests of the entire international community. The issue should be considered in a comprehensive manner, taking into account the characteristics of the rule of law at both the national and the international levels and the links between the two.

74. At the national level, State action derived legitimacy from the fact that it was subject to the law. The hegemony of the law over the will of rulers and the existence of a predictable legal and institutional order were prerequisites for the observance of due process and the respect of human rights and fundamental freedoms.

75. Judicial independence was fundamental to the rule of law. For that reason, El Salvador had taken action, including the introduction of constitutional reforms, to establish and strengthen legal norms that would ensure an independent, transparent and impartial administration of justice system, and to ensure that administrative institutions complied with those norms.

76. The establishment and maintenance of the rule of law, including transitional justice at the national level, was vital in conflict and post-conflict situations. However, efforts to promote the rule of law should not be limited to those situations, because respect for the rule of law was also a means of preventing conflicts.

77. At the international level, respect for international law and the rule of law were inextricably linked. While States were sovereign entities, they were

also interdependent and were therefore willing to become parties to international legal instruments. States should comply with the international legal order by fulfilling their international obligations in good faith and implementing international instruments effectively.

78. The United Nations, as the principal promoter of international law and a provider of technical assistance, in particular to developing countries, played a key role in ensuring the implementation of international legal instruments at the national level. In that regard, her delegation welcomed the establishment of the Rule of Law Coordination and Resource Group and looked forward to the Secretary-General's recommendations with regard to the rule of law at the national and international levels.

79. With regard to the Committee's future work on the agenda item, her delegation supported the idea of selecting one or two sub-topics for discussion each year while avoiding duplication of debates in other forums. The scope of the item should be clearly defined in order to allow for a focused discussion.

80. **Ms. Zabolotskaya** (Russian Federation) said that her country had consistently supported the principle of the rule of law. However, the rule of law could not be achieved without respect for the principles of the sovereign equality of States, non-interference in internal affairs and the settlement of disputes by peaceful means. International law should act as a deterrent to attempts to resolve international problems through the use of force.

81. International law did not allow for double standards and the imposition by some States of their rules of the game on other States. The issue of the rule of law should not be used as a tool for putting pressure on States. The Sixth Committee was the most appropriate forum for discussion of the issue and for the elaboration of decisions acceptable to the entire international community.

82. Many of the Organization's departments, programmes, funds and organs were already involved to a greater or lesser extent in rule of law activities. Her delegation welcomed the Secretary-General's efforts to coordinate those activities, in particular through the establishment of the Rule of Law Coordination and Resource Group and the Rule of Law Assistance Unit. It would be useful if the Group could prepare ideas for improving the effectiveness of rule of

law activities already under way in the United Nations system. Such ideas could form the basis of the report to be submitted by the Secretary-General at the next session, which should pave the way for the identification of priority activities and the preparation of appropriate action by the Secretariat.

83. The Secretary-General's interim report (A/62/261) focused on rule of law activities at the Secretariat level and therefore did not touch on the work of international expert bodies that reported to the General Assembly such as the International Law Commission and UNCITRAL. The next report should therefore include the opinions of such expert bodies and of the International Court of Justice as to how they could help strengthen the principle of the rule of law in the context of the elaboration of a strategy by the General Assembly.

84. Lastly, it was important to decide on priority areas for the Committee's discussions with regard to the rule of law at the next session. One suitable topic might be "The importance of the implementation of international obligations through technical assistance and capacity-building".

85. **Mr. Medrek** (Morocco) said that a strong international legal order based on the rule of law, respect for human rights and the recognition of international law was vital for the achievement of a more just and prosperous world. The 2005 World Summit Outcome had demonstrated the commitment of all Member States to those principles.

86. In an era of globalization where interactions between States were essential for ensuring peace and stability, Member States needed to determine what was meant by the rule of law within the United Nations. Given the diversity and complexity of the issues involved, a pragmatic approach should be taken. No definition could claim to be applicable in all legal traditions, but inspiration could be taken from the Charter of the United Nations, international law and the general principles on which justice, democracy, human rights and the equality of all before the law were founded.

87. Given the variety of rule of law activities being conducted across the United Nations system and the number of actors involved, his delegation warmly welcomed the establishment of the Rule of Law Coordination and Resource Group and the Rule of Law Assistance Unit. The latter should be provided with the

support necessary to enable it to carry out its tasks for the long term. His delegation looked forward to receiving a consolidated report on the Organization's various rule of law activities at the sixty-third session.

88. The rule of law needed to be strengthened at both the national and the international levels, since the two complemented each other. It was not sufficient to elaborate new international norms; an effective system for monitoring their application was also needed. Strengthening of the rule of law at the national level was essential not only for peace and security but also for development and economic prosperity. Morocco was currently examining all of its national legislation in order to ensure that it complied with the country's international obligations and supported the democratic process.

89. He reiterated Morocco's support for an international order based on the rule of law and for the efforts of the United Nations system to strengthen the rule of law at the international level. The General Assembly and its Sixth Committee, the International Law Commission and UNCITRAL had a vital role to play in such efforts through their work on the codification and progressive development of international law. Efforts to promote accession to and implementation of international treaties were equally important for the strengthening of the international rule of law. The International Court of Justice played a vital role in ensuring respect for international law and the rule of law. His delegation also supported all efforts to strengthen international criminal justice.

90. The rule of law was a cross-cutting issue relevant to the Organization's activities in almost all areas. For the purposes of a focused discussion, the Committee should select specific sub-topics which enjoyed broad support among members. His delegation, while remaining open to any suggestions in that regard, considered that the sub-topic proposed by Cuba on behalf of the Movement of Non-Aligned Countries could help to define the nature and scope of the rule of law issue.

91. **Mr. Stastoli** (Albania) said that his delegation viewed the rule of law as the cornerstone of efforts to improve the Government's public functions with the involvement of civil society. The rule of law was crucial for the institutionalization of democracy and the establishment of legal certainty, legitimate

expectations and the equality of all before the law, at both the national and the international levels.

92. During the past two years, special emphasis had been placed on strengthening the rule of law in Albania, in line with the Government's European integration agenda. The difficult transition from a dictatorial to a democratic system had been a matter not only of ideology and economy but also of a change of mindset towards the rule of law. Currently, democracy in Albania was understood mainly in terms of reinforcing the rule of law and the institutions which safeguarded it, together with the proper checks and balances. Specifically, legislative and judicial reform was being pursued and a transparent legal system was being developed.

93. Internal and external oversight institutions carried out ongoing work to increase transparency in the court system. A decentralization process was under way and efforts were being made to combat corruption. In addition, measures were being taken to increase the level of professionalism and fairness in the judiciary. The Government had established or reinvigorated institutions such as the Office of the Ombudsman and the Civil Service Commission that aimed to safeguard the rights, freedoms and lawful interests of individuals. Albania considered the rule of law to be a prerequisite for democracy and the overarching objective for full integration with the European Union. In that context, it had established a highly advanced legislative system, together with institutions which would ensure its applicability. However, much work remained to be done in order to make those institutions fully operational.

94. At the international level, there was broad acceptance of the term "rule of law" but little consensus on its meaning and applicability. Sometimes it was used as a political ideal without being substantively defined. His delegation strongly supported the inclusion of the rule of law item in the Committee's agenda, but efforts should be made to ensure that the concept was not rendered meaningless by overuse and ideological manipulation. He reiterated his delegation's support for the establishment of an inventory of current United Nations activities relating to the rule of law.

95. The rule of law was at the core of the Organization's work, as reaffirmed in the 2005 World Summit Outcome and demonstrated by the fact that, in

Timor-Leste and Kosovo, the United Nations had had direct responsibility for the administration of justice, including the control of police and prison services. The Organization also supported or substituted for domestic rule of law institutions and had created international criminal tribunals such as the International Tribunal for the Former Yugoslavia. Albania supported the idea of a comprehensive United Nations approach to strengthening the rule of law at the national and international levels.

96. **Mr. Adi** (Syrian Arab Republic) said that infringement by the Security Council of the competencies of the General Assembly was a violation of the rule of law at the international level, as were the use of force and occupation of the sovereign territory of States. There were multiple forms of the rule of law, and attention should be paid to each State's cultural heritage when providing technical and financial assistance. Above all, the rule of law should not be used as a tool for political pressure or interference in a State's internal affairs. Despite progress, the true rule of law had yet to be achieved in international relations, where the will of the strong continued to be imposed on the weak. He welcomed the establishment of the Rule of Law Assistance Unit and stressed that Member States needed to be kept informed of its activities.

97. **Ms. Stipniece** (Latvia) welcomed the establishment of the Rule of Law Coordination and Resource Group and the Rule of Law Assistance Unit, which would help ensure a coherent, efficient approach to rule of law activities across the United Nations system. The Group and the Unit should be provided with adequate resources from the regular budget to ensure their proper functioning. A paragraph to that effect should be included in the resolution on the rule of law to be adopted at the current session.

98. Her delegation was pleased to note that the 2007 annual parliamentary hearing organized jointly by the United Nations and the Inter-Parliamentary Union would focus on the theme "Reinforcing the rule of law in international relations: the key role of parliaments". The choice of that theme demonstrated the high priority placed on the rule of law by Member States.

99. *Ms. Orina (Kenya), Vice-Chairman, took the Chair.*

100. **Archbishop Migliore** (Observer for the Holy See) said that the mutually reinforcing values of peace, development and human rights were both the guiding

principles and the goals of the United Nations. The rule of law created the basis for mechanisms for the promotion of justice and peace and ensured the predictability and security needed for a stable economy and the protection of the dignity of every person, regardless of social, economic or political status. In an increasingly globalized society, where people from different cultures interacted more frequently, migration occurred on a global scale and international trade propelled rapid global development, relations among States must be regulated in order to ensure peaceful coexistence.

101. At the international level, the rule of law guaranteed respect for even the smallest of nations, safeguarding the right of all States to voice legitimate concerns as equals and restraining powerful nations from dominating weaker ones. Those principles were highly relevant to the ongoing reform of the Security Council and the revitalization of the General Assembly.

102. The United Nations played a vital role in the elaboration and implementation of international treaties. By ensuring that the principles of free consent, good faith and *pacta sunt servanda* were respected, the Organization guaranteed that relations between States were governed by reason, justice and fair negotiations rather than by fear, force or manipulation. In enforcing such treaties, the United Nations must be a neutral arbitrator and must respect the contracting intent and desire of the parties. A treaty body system that became opaque and unaccountable to States parties risked undermining the basic tenets of the rule of law and diminished the credibility and legitimacy of the United Nations as a promoter and guarantor of international law.

103. It was the duty of States to ensure that treaties were respected. Selective enforcement and observance of treaties were antithetical to the rule of law. It would be preposterous to claim observance of the rule of law at the national level if international treaties and international law were not observed. Moreover, the implementation of treaties in good faith had benefits that went beyond the rule of law: it was an excellent confidence-building measure, as it promoted trust among parties. That was particularly true in the area of disarmament, where the fear of non-compliance on the part of even one State party paralysed the disarmament and non-proliferation agenda. It was easier to ensure that others complied with their commitments if one complied with one's own.

104. However, there was a growing gap between the development of international law and the capacity of individual States to incorporate it into national legislation and implement it. Technical assistance to those countries was therefore of the utmost importance. In that regard, his delegation welcomed the establishment of the Rule of Law Coordination and Resource Group.

105. Efforts to combat terrorism were necessary but must be conducted on the basis of legal instruments designed to tackle the problem in a rational manner. It was sometimes difficult to apply the rule of law to terrorists who had little or no respect for it. However, States must not take steps that were antithetical to the very principles that gave them legitimacy through the rule of law.

106. Recent years had seen a greater focus on the rule of law at all levels. Although that focus had not always been accompanied by action, some progress had been made, particularly in the area of international criminal justice. Individuals and peoples whose rights had been violated, for example in cases of crimes against humanity, had access to a justice system that served the truth and banished fear, revenge, impunity and inequality before the law.

107. In the 2005 World Summit Outcome, the international community had affirmed its willingness to take timely and decisive action, through the Security Council, to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity when peaceful means proved inadequate and national authorities were manifestly failing to provide such protection. Sovereignty should not be understood as an absolute right and used as a shield against outside involvement. Rather, it should be understood as a responsibility not only to protect citizens but also to promote their welfare. Those principles should be further debated and codified. Through the creation of legal norms, the arbitration of legal disputes and the establishment of safeguards, especially when States failed in their responsibility to protect, the United Nations was called to advance the rule of law in all corners of the globe.

108. **Mr. Loris** (International Development Law Organization (IDLO)) said that IDLO had been established in 1983 and had been given a broad mandate by its current 18 member States to promote the rule of law and good governance in developing

countries, countries in transition and post-conflict countries. It enjoyed longstanding cooperation to that effect with other intergovernmental bodies, particularly in the United Nations system, as well as with a number of United Nations missions and peacebuilding initiatives. It was active in 41 countries through its IDLO alumni associations, which worked to promote the rule of law at the national and regional levels. He urged the United Nations and its Members to include those associations in consultations and initiatives to promote the rule of law at the national and international levels.

109. He announced the launch, following the current meeting, of the new Rule of Law Assistance Directory, available on the IDLO website, which provided the first comprehensive view of ongoing rule of law initiatives throughout the world. He hoped that the report of the Secretary-General on rule of law activities, to be submitted to the General Assembly at its sixty-third session, would take that Directory into account. IDLO for its part would use the report to expand its Directory.

110. He welcomed the establishment of the Rule of Law Assistance Unit, which would give his organization a contact point in the United Nations system, thereby creating synergies. IDLO would support the work of the United Nations to further the progressive development of the rule of law at the national and international levels and would be willing to participate in the Committee's annual focused discussions on related topics. One such topic might be devoted to methods for strengthening United Nations outreach to non-United Nations centres of excellence for the promotion of the rule of law.

Agenda item 108: Measures to eliminate international terrorism (*continued*)

Oral report of the Chairman of the Working Group

111. **Mr. Perera** (Sri Lanka) recalled that, at its first meeting, the Committee had decided to establish a working group with a view to finalizing the draft comprehensive convention on international terrorism and, in accordance with General Assembly resolution 54/110, to continue considering 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 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. It had held three meetings, at which it had had before it the reports of the Ad Hoc Committee on its sixth and eleventh sessions (A/57/37 and A/62/37), as well as the report of the Chairman of the Working Group during the sixty-first session of the General Assembly, reflected in the summary records of the Sixth Committee (A/C.6/61/SR.21). It had also had before it two letters from the Permanent Representative of Egypt, one addressed to the Secretary-General (A/60/329) and the other to the Chairman of the Sixth Committee (A/C.6/60/2).

112. At its first meeting, on 11 October 2007, the Working Group had decided to proceed with its discussion on outstanding issues relating to the draft comprehensive convention and then go on to consider the question of convening a high-level conference. At its second meeting, on 15 October 2007, the Working Group had received a report from the Coordinator on the results of the intersessional bilateral contacts regarding the draft comprehensive convention. On 16 and 17 October 2007, he, as Chairman, together with the Coordinator of the draft comprehensive convention, Ms. Telalian, had had bilateral contacts with interested delegations on the outstanding issues. At its third meeting, on 18 October 2007, the Working Group had received a report on the results of the bilateral contacts, followed by an exchange of views among delegations and a discussion on the question of convening a high-level conference.

113. The purpose of the intersessional bilateral contacts had been to gain further insights into the views of delegations on the elements of the non-paper on the draft comprehensive convention that had been presented during the eleventh session of the Ad Hoc Committee and to ascertain whether those elements could form the basis of an overall package which would help to move the process forward. During the discussions, which had focused mainly on draft article 18, some members had been concerned that the use of ambiguous language would leave the implementation of the draft convention open to abuse.

114. In her briefing on the intersessional contacts, on 15 October 2007, the Coordinator had explained that an effort had been made to bridge the different views held by delegations and had stressed that the draft convention had been designed to serve as a law

enforcement instrument that would operate in the context of other existing legal regimes.

115. In her statement on 18 October 2007, she had noted that the purpose of the informal bilateral contacts had been to clarify how the elements of the non-paper sought to be contextualized in the scheme under the draft convention, in the light of views expressed, during both the Committee's debate on measures to eliminate international terrorism and the bilateral contacts. The concerns expressed had included the importance of safeguarding the right of peoples to self-determination, the need to take into account "State terrorism", the satisfactory resolution of matters concerning potential impunity of military forces of a State and the need to distinguish clearly between activities falling within the scope of the draft convention and those governed by international humanitarian law.

116. She had explained that, in the overall scheme of the draft comprehensive convention, all those aspects were addressed in draft article 18, whose constituent elements had to be read as a whole: it would be incomplete if it was not related to the other articles of the draft convention, in particular draft article 2, which provided, for the purpose of the draft convention, the criminal law definition of acts of terrorism. Draft article 18, read in conjunction with draft article 2, had merely excluded from the scope of the convention certain activities that were regulated by other fields of law, it being understood that the draft instrument would have to operate in the context of an overall international legal framework where other rules of international law were also applicable. An attempt had been made in draft article 18 to safeguard, as far as possible, the application of such other law, by not rendering unlawful otherwise lawful acts under such law. At the same time it had sought to close any loopholes that might open possibilities for impunity for certain categories of persons.

117. The Coordinator had noted that paragraph 1 of draft article 18, which stated that nothing in the convention should affect other rights, obligations and responsibilities of States, peoples and individuals under international law, in particular the purposes and principles of the Charter and international humanitarian law, was not contentious. It served to determine what was excluded from the scope of the draft convention, including exercise of the right of peoples to self-determination.

118. The definition of acts of terrorism in draft article 2 included acts undertaken by "any person". By excluding certain activities of armed forces in paragraph 2 of draft article 18, it reflected the clear understanding that such activities were governed by other rules of international law. It had nevertheless been found useful also to address the question of "military forces of a State", that was to say activities of "armed forces of a State" in peacetime and other persons covered by the definition of "military forces of a State" in article 1 of the draft convention. Moreover, under paragraph 3 of draft article 18, activities undertaken by military forces of a State in the exercise of their official duties, inasmuch as they were governed by other rules of international law, were not governed by the draft convention. It had been pointed out that in practically all jurisdictions military forces of a State were subject to a code of conduct separate from civilians and that that the phrase "inasmuch as they are governed by other rules of international law" embraced conduct that might be both lawful and unlawful under international law. Read in conjunction with paragraph 4, that provision did not make lawful otherwise unlawful acts, but simply recognized that other laws would apply and did not preclude prosecution under such laws. The addition proposed to paragraph 4, in the text submitted during the 2007 session of the Ad Hoc Committee, namely the reference to the fact that "acts which would amount to an offence as defined in article 2 of this Convention remain punishable under such laws", together with the new preambular language based on the Convention for the Suppression of Acts of Nuclear Terrorism, sought to buttress the fact that there was an inner core of conduct which, if committed, would constitute a punishable offence, irrespective of the regime that would apply.

119. The Coordinator had further stressed that paragraph 2 of draft article 18 already established a demarcation between what was covered by the draft convention and activities of armed forces during armed conflict, "as those terms are understood under international humanitarian law". However, in order to provide further clarity a new paragraph 5, framed as a "without prejudice clause", had been added during the 2007 session of the Ad Hoc Committee. That paragraph consisted of a general "without prejudice" statement which had subsequently been elucidated with regard to rules of international law applicable for certain acts that would be lawful under international humanitarian

law. It had been clarified that the term “lawful” in that context should, from an international humanitarian law perspective, properly be understood with its double negative connotation as “not unlawful acts”, since international humanitarian law did not in a literal sense define which acts were “lawful”, but defined which acts were prohibited. However, in view of the need to distinguish those acts that were “unlawful” under paragraph 1 of draft article 2, the term “lawful” in paragraph 5 had been used as being more appropriate in the circumstances. That paragraph, together with draft article 18 as a whole, had been drafted in such a way as to provide the necessary direction to those that would be responsible for the implementation of the draft convention. It would be for the parties and consequently the judicial authorities to make interpretations in the light of the circumstances in specific cases. The key consideration was that international humanitarian law should not be prejudiced by the draft convention.

120. Some delegations had expressed support for the proposal made by the Coordinator during the eleventh session of the Ad Hoc Committee (A/62/37, annex B, para. 14), which they had considered to constitute a good basis for reaching a compromise solution on the text. It had been noted that the elements, together with the explanations provided by the Coordinator, offered a satisfactory clarification that the draft comprehensive convention did not interfere with the regime of international humanitarian law. The point had also been made that that clarification provided by the Coordinator offered a breakthrough in the deliberations and should be part of the *travaux préparatoires* of the draft convention.

121. Some other delegations had expressed doubt whether the proposal sufficiently addressed their concerns, in particular the need to distinguish clearly between activities falling within the scope of the draft convention and those governed by international humanitarian law. It had also been pointed out that the proposal still contained ambiguous language that might leave the implementation of the draft convention open to uncertainties. It had been acknowledged that there was need to study the proposal further, in the light of the clarifications provided by the Coordinator during the briefing, together with the proposal. Notwithstanding the difficulties, delegations had remained committed to the ongoing process and had supported the efforts for the early conclusion of the

draft comprehensive convention. Several delegations had noted that the format of informal bilateral contacts constituted a constructive and satisfactory mechanism for advancing the process.

122. At its third meeting, on 18 October 2007, the Working Group had considered the question of the convening of a high-level conference, in accordance with General Assembly resolution 61/40, following the proposal to convene a special session of the General Assembly to examine and adopt an action plan for cooperation against terrorism.

123. The representative of Egypt had recalled that, although many international and regional conventions aiming to fight terrorism had been adopted, the number of terrorist acts had continued to increase, particularly in the most recent past; moreover, the comprehensive convention had not been yet finalized. Accordingly, it had been felt to be still necessary to strengthen international cooperation in order to combat terrorism in all its aspects, and not only from the security angle. The view had been expressed that the political, legal, social and economic aspects of the issue needed to be linked and that, in discussions within the United Nations system, the required balance had been lacking.

124. The representative of Egypt had stressed the key importance of sending a clear and strong message from the international community, which could take the form of an action plan and a declaration to be adopted during the proposed high-level conference. The sponsor delegation had noted that it was timely and relevant to convene such a high-level conference on the subject.

125. Some delegations had expressed their support for Egypt’s proposal, observing that such a conference would offer an opportunity to look at the issue from a global perspective, as well as to define terrorism. It had been noted in that connection that terrorism could only be effectively combated on the basis of a holistic approach. Some delegations had emphasized that the convening of the conference should not be linked with, or deferred until, the adoption of the comprehensive convention but would, on the contrary, be a good opportunity to resolve outstanding issues.

126. Some other delegations, while not opposed in principle to the proposal, had maintained that such a conference should take place after the adoption of the comprehensive convention and that efforts should continue to focus on its negotiation. It had also been

pointed out that, following the adoption of the United Nations Global Counter-Terrorism Strategy, more time and resources needed to be devoted to its implementation rather than to the convening of another conference.

127. He expressed his confidence that the text proposed by the Coordinator at the last session of the Ad Hoc Committee, together with the very useful additional clarifications presented during the Working Group, contained the potential to facilitate agreement on the elements of an overall package and called on delegates to demonstrate the necessary political will to that end.

The meeting rose at 12.45 p.m.