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Summary record of the 17th meeting
Held at Headquarters, New York, on Thursday, 17 October 2019, at 10 a.m.

Chair: Ms. Anderberg (Vice-Chair) . . . . . (Sweden)
later: Mr. Mlynár . . . . . (Slovakia)

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19-18042 (E)

In the absence of Mr. Mlynár (Slovakia), Ms. Anderberg (Sweden), Vice-Chair, took the Chair.

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

Agenda item 84: The scope and application of the principle of universal jurisdiction (*continued*) (A/74/144)

1. **Mr. Abraheem** (Libya) said that, given the shared goal of combating impunity, in particular with regard to war crimes and crimes against humanity, Libya was cooperating with the International Criminal Court under a memorandum of understanding signed in 2013, even though it was not a party to the Court's Rome Statute. It insisted, nonetheless, on the principle of the sovereign right of the State to apply its domestic laws to crimes committed in its territory. Under Libyan law, the independence of the judiciary was guaranteed and judges were safe from any pressures or threats. Citizens had recourse to all courts and trials were fair.

2. In 2018, the Government of National Accord had signed a memorandum of understanding with the United States with a view to building the capacity of judicial personnel to ensure that they met international standards relating to criminal justice, thereby allowing the country to fulfil its obligations under international conventions and instruments to which it had acceded.

3. Libya shared the concerns of other Member States with regard to the potential for abuse of the principle of universal jurisdiction. The subject should therefore be considered very carefully, with due consideration given to the principle of legality and leaving aside private law disputes, which were beyond its scope. A fine line separated the legitimacy and credibility of universal jurisdiction from the prevention of impunity.

4. **Mr. Abdelaziz** (Egypt) said that his country viewed universal jurisdiction as a useful means of combating impunity and holding to account the perpetrators of serious international crimes, provided that its scope was determined and it was applied appropriately. Universal jurisdiction must be a complement to, rather than a substitute for, national jurisdiction. Recourse to it should be limited to cases in which the States where such crimes were committed were unwilling or unable to exercise their jurisdiction. States exercising universal jurisdiction should refrain from abusing the principle or using it for political purposes.

5. The exercise of universal jurisdiction should be limited by general international law and customary international law and, above all, by respect for the sovereignty of States, non-interference in their internal affairs, and the immunity of Heads of State and Government and high-level officials, and diplomatic immunity.

6. Regrettably, no notable progress had been made in the legal debate in the Sixth Committee on the application of the principle of universal jurisdiction over the previous 10 years. It might be useful for the Committee to focus its discussions on areas where there was agreement among Member States and not on controversial matters that would likely not enjoy consensus within the Committee. In that connection, the Committee might wish to consider international cooperation and the consent of the State in which the crime was committed as two key components for the dispensing of criminal justice on the basis of the principle of universal jurisdiction. His delegation was of the view that the topic should not be referred to the International Law Commission until the Sixth Committee had arrived at a consensus.

7. **Mr. Ademo** (Ethiopia) said that technology had blurred the geographical links between crime and its perpetrators. There was a need to ensure that laws and institutions were adequate to meet the new challenges posed by transgressors. Ethiopia recognized the principle of universal jurisdiction over international crimes such as genocide, crimes against humanity, war crimes, terrorism, money-laundering and all crimes proscribed under treaties to which it was a party. It also recognized the applicability of the principle to offences relating to the illicit manufacture and trafficking of drugs, human trafficking and the production of indecent images and publications.

8. International cooperation was key to enforcing the principle of universal jurisdiction. Accordingly, the African Union had adopted its Model National Law on Universal Jurisdiction over International Crimes to help States to apply the principle as intended. The risk that universal jurisdiction might be exercised improperly for malicious political ends and in violation of international law required close attention. A mechanism should be established to check any attempt to politicize its use. The fact that the International Law Commission had included the topic of universal criminal jurisdiction in its long-term programme of work was highly significant.

9. **Mr. Nyanid** (Cameroon) said that, for it to remain credible, the principle of universal jurisdiction should complement, not substitute, national jurisdictions, and it should be invoked only for the most serious crimes and atrocities and not be abused or used for political ends. A balance needed to be struck between the needs of justice

and the sovereign rights of States recognized under the law and through State practice.

10. The courts of the State in which genocide, war crimes or crimes against humanity were committed should have primary jurisdiction to investigate and punish the perpetrators of such crimes. For universal jurisdiction to apply, the power of the State to establish jurisdiction must be solidly based on international law, usually a treaty, and not solely on the national laws of the State invoking it. Another State could not claim jurisdiction unless the State in which the crime was committed demonstrated that it was neither willing nor capable of investigating or prosecuting such crimes. There could be a prescription that a State claiming universal jurisdiction should first obtain the consent of the State of commission and the State of nationality, and that the crimes to which the principle would apply and the conditions for the exercise thereof should be determined. Only crimes against humanity should fall within the scope of universal jurisdiction, which should be invoked only in exceptional circumstances and where it was established that there was no other way of bringing criminal proceedings against the perpetrators.

11. Cameroon was waging war against impunity at all levels and was a party to several instruments that applied the principle of universal jurisdiction. At the international level, it was a party to the Geneva Conventions of 1949 and their Additional Protocols of 1977, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. At the regional level, Cameroon was a member of the African Union which, under its Constitutive Act, reserved the right to intervene in a member State in case of genocide, war crimes or crimes against humanity. Cameroon was also a party to the Protocol on the Statute of the African Court of Justice and Human Rights, a veritable platform for combating impunity. At the domestic level, it had no specific laws on universal jurisdiction but was keen to promote judicial cooperation in respect of crimes to which the principle applied. Under its Criminal Code and Code of Criminal Procedure, national courts had latitude to hear cases concerning certain offences, regardless of the nationality of the perpetrators or the victims or the location where the offences were committed.

12. There was general agreement as to the essence of the principle of universal jurisdiction, but little agreement as to the manner and ulterior motives of its application. It would therefore be prudent to invoke the principle only in clearly defined circumstances and strictly in conformity with international law, with due regard for the country of nationality of the perpetrator. The principle should also be applied with the requisite political sensitivity.

13. **Mr. Bayyapu** (India) said that the principle of universal jurisdiction, which allowed a State to bring criminal proceedings in respect of certain crimes, irrespective of place of commission and nationality of the perpetrator or the victim, constituted an exception to the general criminal law principles requiring a territorial or nationality link with the crime, the perpetrator or the victim. It was justified by the need to prevent the perpetrators of grave crimes that affected the international community as a whole from obtaining safe haven or from using the procedural technicalities of general criminal law to escape prosecution.

14. Piracy on the high seas, in respect of which the principle of universal jurisdiction was codified in the United Nations Convention on the Law of the Sea, was the only crime over which claims of such jurisdiction were undisputed under international law. International treaties concerning certain serious crimes, such as genocide, war crimes and apartheid, provided a legal basis for the exercise of universal jurisdiction between the parties thereto. His delegation therefore believed that universal jurisdiction was applicable to a limited set of crimes, such as piracy on the high seas and other serious crimes under the relevant treaties adopted by States. Beyond that, every effort must be made to avoid misuse of the principle, the concept and definition of which had not yet been agreed upon and remained unclear.

15. **Mr. Guerra Sansonetti** (Bolivarian Republic of Venezuela) said that States had an obligation to exercise their criminal jurisdiction in order to hold to account the perpetrators of serious crimes, such as genocide, war crimes and crimes against humanity. His delegation viewed with concern the misuse of the principle of universal jurisdiction through its unilateral, selective and politically motivated application by certain countries. It was therefore important to establish rules for the reasonable exercise of universal jurisdiction.

16. The working group of the Sixth Committee should continue to examine closely the scope and application of the principle, which must be limited by an absolute respect of the sovereignty and national jurisdiction of States and remain complementary to the actions and national jurisdiction of States. Universal jurisdiction was therefore applicable only to prevent impunity in cases where national courts were unable or unwilling to exercise their jurisdiction.

17. The crimes for which universal jurisdiction could be invoked needed to be clearly established at the international level and limited to those that, because of

their seriousness and in line with the principles of international law, were of concern to the international community as a whole.

18. **Mr. Alhakbani** (Saudi Arabia) said that the principle of universal jurisdiction had been formulated with the laudable objective of fighting impunity. However, the judicial measures for applying the principle required clarity, as did the standards and mechanisms for defining the types of offences subject to universal jurisdiction.

19. Many Member States, including his own, had drawn attention to other formal and substantive obstacles to its application, notably the principles set forth in the Charter of the United Nations and international law, such as the immunity of foreign officials and the sovereign equality of States. Any attempt to apply universal jurisdiction without regard for those principles would be counterproductive and leave the door open to politicization. Similarly, any national law that was inconsistent with the Charter and international law deserved condemnation. The enormous diversity in the conduct of judicial proceedings under the domestic laws of States also constituted an obstacle to the application of the principle.

20. His delegation called on all Member States to continue exploring ways to apply universal jurisdiction in keeping with the Charter and the principles of international law, in order to achieve their shared goal of finding an effective way to combat impunity.

21. **Mr. Warraich** (Pakistan) said that while there was general agreement that the imperative underlying the principle of universal jurisdiction was to uphold the ideals of accountability and justice by holding to account the perpetrators of the most heinous crimes, fundamental differences regarding the nature, scope and application of the principle continued to prevent consensus on the matter. The legitimate concerns of Member States regarding issues such as the immunity of State officials and the conditions in which the principle could be invoked must be addressed in a comprehensive manner.

22. The virtues of consistency could not be over-emphasized. With a selective approach to the application of universal jurisdiction, any “norm” would quickly turn into a mere “pretence”, such that any calls for accountability would smack of double standards, especially when egregious crimes, including killings and mass blinding, were being committed in full view of the international community. Consistent moral and legal standards must be applied to all such serious crimes.

23. The principle of universal jurisdiction should not be a licence to undermine the sovereignty of States, but rather a means, in full conformity with the principles of international law and the Charter of the United Nations, of ensuring that perpetrators did not use jurisdictional gaps to evade justice. Universal jurisdiction was subordinate to, and not a substitute for, territorial and national jurisdictions, and should be exercised only in exceptional circumstances. Domestic legal remedies must be given priority. The Sixth Committee was the most appropriate forum in which to continue discussing the issue.

24. **Mr. Itegboje** (Nigeria) said that the principle of universal jurisdiction was a key means of preventing impunity, promoting respect for the rule of law and punishing individuals in leadership positions responsible for the most appalling crimes and atrocities. Increasingly, the perpetrators of such crimes were escaping prosecution by relocating from the territories where they had committed the crime. It was therefore imperative that all States adopt laws and measures to enable the prosecution of such persons wherever they were apprehended, under the principle of universal jurisdiction.

25. As a signatory to the Rome Statute of the International Criminal Court, Nigeria had contributed much to the development of the principle of universal jurisdiction. It was working with other States parties to ensure that the Court applied the principle equitably and in a practical fashion, especially in cases where it could have an impact on a State’s political stability.

26. The principle should, however, be used only as a last resort. The lack of clarity about its application remained a source of concern. It should not be used where cooperation with the State where the crime had been committed was possible, especially through agreements on extradition and mutual legal assistance. Powerful States must not use it to impose their domestic legal systems on their less powerful counterparts by depriving them of prosecutorial authority.

27. His delegation reiterated its concern about the uncertainty surrounding the application of the principle and called on the international community to adopt measures to end the abuse and political manipulation of the principle. It also appealed to the international community to address the constructive criticism of all parties concerned and to allay their fears through targeted messaging, awareness-raising and possible modification of the application of the principle. Greater cooperation between Member States was essential to ensuring that the principle was applied without bias or political motivation.

28. **Ms. Villalobos Brenes** (Costa Rica) said that the principle of universal justice was a fundamental tool for combating impunity for the perpetrators of the most atrocious international crimes. Costa Rica welcomed the information provided by the International Committee of the Red Cross contained in the report of the Secretary-General (A/74/144) to the effect that the number of investigations and prosecutions at the national level against alleged perpetrators of international crimes based on the principle of universal jurisdiction had continued to increase. That information underscored the need to further extend the application of the principle so that prosecution of the most heinous crimes was not limited to a territory.

29. Her delegation also welcomed the news that the International Committee of the Red Cross was finalizing its international humanitarian law manual, which would help judicial authorities in their examination of violations of international humanitarian law. There was an urgent need to build the capacity of judicial personnel in that regard.

30. There were currently two mechanisms through which international criminal jurisdiction could be exercised: international courts such as the International Criminal Court, and the application of the principle of universal jurisdiction by national courts. Since the initiation of the debate on the topic of universal jurisdiction, there had been agreement on two fundamental points: that the fight against impunity concerned all countries, and that the primary role of universal jurisdiction in that regard should be recognized. Her delegation would like the Committee to discuss how the application of the principle of universal jurisdiction could help victims to obtain justice and how their rights could be protected. Establishing the optimum mechanism for applying the principle and deciding whether a legal framework was needed to oblige States to extradite or prosecute suspects of the most serious crimes who were in their territory would require multilateral dialogue.

31. **Ms. de Souza Schmitz** (Brazil) said that her delegation welcomed the establishment of a working group on the topic of the application of the principle of universal jurisdiction and reiterated the need for an incremental approach to the discussion. The working group's first task should be to find an acceptable definition of universal jurisdiction and a shared understanding of the scope of its application, which in turn would be instrumental in preventing the selective use or misuse of the principle. Universal jurisdiction could be a tool for the prosecution of individuals alleged to have committed serious crimes that violated peremptory norms of international law. Based on the principle of sovereign equality, the exercise of jurisdiction was a primary responsibility of the State concerned. Under numerous treaties, however, States had an obligation to end impunity in relation to the most serious crimes and to ensure that the perpetrators of such crimes were not offered safe haven anywhere.

32. The exercise of jurisdiction irrespective of the link between the crime and the prosecuting State was an exception to the principles of territoriality and nationality. It should thus be subsidiary to that of States with primary jurisdiction and limited to specific crimes that still required definition. The exercise of such jurisdiction must not be arbitrary or designed to satisfy interests other than those of justice. The working group would also need to consider other questions, such as the crimes that would trigger the universality principle, the need for the formal consent of the State with primary jurisdiction, the need for the presence of the alleged offender in the territory of the State wishing to exercise universal jurisdiction, the relationship between universal jurisdiction and other norms, such as the principle of *aut dedere aut judicare*, and the compatibility of universal jurisdiction with the immunity of State officials. Member States would need to be flexible on those matters in order to make progress.

33. In Brazil, the exercise of criminal jurisdiction was based on the principle of territoriality, although the active personality and passive personality principles were also taken into consideration. Universal jurisdiction could be asserted by the national tribunals in relation to genocide and crimes such as torture, which Brazil had undertaken to repress through treaties or conventions. National legislation was also required to exercise universal jurisdiction or to bring charges for an action or omission considered a crime under international law. Universal jurisdiction could therefore not be exercised over a crime under customary international law alone, because the lack of specific legislation to that end would result in a violation of the principle of legality.

34. Lastly, although there was a distinction between universal jurisdiction and the exercise of criminal jurisdiction by international tribunals, such as the International Criminal Court, both aimed to deny impunity to the perpetrators of serious international crimes.

35. **Ms. Ponce** (Philippines) said that universal jurisdiction, as a generally accepted principle of international law, was considered a part of Philippine law. For her delegation, as a rule, jurisdiction was territorial in nature, such that universal jurisdiction was an exception arising from an imperative need to

preserve international order. It allowed any State to assert criminal jurisdiction over certain offences, even if the act occurred outside its territory and even if the perpetrators or victims were not its nationals. Because universal jurisdiction was exceptional, its scope and application must be limited and clearly defined. Immunity of State officials, in particular, must be preserved. The unrestrained invocation and exercise of universal jurisdiction would only undermine the principle. The offences to which it applied must be confined to *jus cogens* crimes deemed so fundamental to the existence of a just international order that States could not derogate from them, even by agreement. The rationale was that the crime was so egregious that it was considered to have been committed against all members of the international community, such that every State had jurisdiction over it.

36. **Mr. Millogo** (Burkina Faso) said that the principle of universal jurisdiction, which allowed national courts to exercise jurisdiction against the perpetrators of certain offences, irrespective of where the alleged crimes had been committed and of the nationality of the accused or of the victims, was an important tool for the fight against impunity and for the protection of human rights. Burkina Faso was by principle in favour of its application, but under certain conditions, given its conviction that impunity for serious crimes committed in the territory of a Member State constituted a threat to international peace and security. Punishing the perpetrators of the most serious crimes, wherever they might be, and providing reparation to the victims of such crimes should be a shared responsibility.

37. Burkina Faso was therefore a party to several international instruments that provided for the application of the principle of universal jurisdiction, including those on torture, enforced disappearance, human rights and international humanitarian law. The principle of universal jurisdiction had been incorporated into the new Criminal Code of Burkina Faso, adopted in May 2018. A law establishing the procedures and competent authorities for implementing the Rome Statute of the International Criminal Court in Burkina Faso had been adopted in 2009.

38. After ten years of contentious discussions in the Committee, it was worth recalling that the application of the principle of universal jurisdiction had been included in the Committee's agenda owing to the abusive use of the principle and, above all, its politicization. As the principle was an exception to the criteria for the conventional jurisdiction of States, it must be limited, in scope and application, to only the most serious crimes. Since judicial proceedings before national courts against foreign leaders based on the principle of universal jurisdiction had always been a source of friction between States, that noble principle must be applied taking into consideration the other basic principles of international law, such as the sovereign equality of States, non-interference in their internal affairs and the immunity of State representatives.

39. The increasing number of cases of abuse of the principle and especially its uneven application observed at the international level were not conducive to justice and international peace. His delegation therefore called for the principle to be applied in a reasonable manner in accordance with international law.

40. **Ms. Ighil** (Algeria) said that the selective and arbitrary application of the principle of universal jurisdiction, particularly without regard for the requirements of international justice and equality, affected the credibility of international law and the fight against impunity, and undermined attempts to dispense global justice. Its use in the pursuit of political goals must also be rejected. The African Union had already expressed concern about the selective, politically motivated and abusive application of the principle against the leaders of African States by courts such as the International Criminal Court.

41. Universal jurisdiction should be exercised in good faith and with due respect for the basic principles of international law, including the sovereign equality of States, non-interference in their internal affairs, and political independence. It should be considered a complementary mechanism and a measure of last resort which could not replace the jurisdiction of national courts over crimes committed in their territories. The scope and application of the principle should be consistent with the territorial jurisdiction of States and the immunity granted to Heads of State and Government and other senior officials under customary international law. It was important to proceed with caution in addressing the sensitive issue of immunity from criminal jurisdiction, which had been placed on the agenda of the General Assembly at the request of the Group of African States.

42. Her delegation took note of the decision by the International Law Commission to include the topic of universal criminal jurisdiction in its long-term programme of work and was of the view that the Sixth Committee should continue examining the issue through the working group established for that purpose, and that referral of the topic to the International Law Commission would be premature at the current juncture.

43. **Mr. Ly** (Senegal) said that Member States had a duty to strengthen their support for the principle of universal jurisdiction, which was the key to ending

impunity and atrocities and bringing the perpetrators to justice. His Government had incorporated the principle into its domestic law in 2007. In addition, Senegal was a party to several international instruments dealing with matters that might give rise to the exercise of universal jurisdiction.

44. In order to ensure that collective efforts to implement the principle were not undermined by concerns regarding its scope and potential misuse, it must be exercised in good faith, not selectively, and in line with the principles of international law, including the sovereignty of States, non-interference in their internal affairs, and their sovereign equality.

45. The principle of universal jurisdiction should be regarded as complementary and thus exercised only when States could not or would not investigate or prosecute the alleged perpetrators of crimes. Domestic courts had the primary responsibility for carrying out investigations or prosecutions of crimes committed by their nationals, in their territory or in other places under their jurisdiction.

46. While in favour of the Sixth Committee continuing its deliberations on the conditions for the exercise of universal jurisdiction in order to avoid the political difficulties created by its application, his delegation was of the view that a satisfactory outcome was only possible if the legal aspects of the principle were clearly defined, and only the International Law Commission could elucidate the legal notions, concepts and principles involved. It therefore welcomed the inclusion of the topic in the Commission's long-term programme of work.

47. **Ms. Chung** Yoon Joo (Singapore) said that the principle of universal jurisdiction was based on the recognition that some crimes were of such exceptional gravity that every State had the right to prosecute the perpetrators thereof. In Singapore, piracy, genocide and grave breaches of the Geneva Conventions of 1949 were subject to prosecution on the basis of the principle of universal jurisdiction. In light of the exceptional nature of the principle, its scope and application must not be inconsistent with its objectives and conceptual underpinnings. In that regard, the principle was not and should not be the primary basis for the exercise of criminal jurisdiction by States. Rather, it should be invoked only as a last resort and only in situations where no State was able or willing to exercise jurisdiction based on the other established grounds, such as territoriality and nationality.

48. The principle of universal jurisdiction should be applied only to particularly grave crimes that affected the international community as a whole. In order to determine whether a crime was subject to such jurisdiction, State practice and *opinio juris* must be examined thoroughly. That would help to guard against any unjustified application or extension of the principle. Universal jurisdiction could not be exercised in isolation from, or to the exclusion of, other applicable principles of international law, including the immunity of State officials from foreign criminal jurisdiction, State sovereignty and territorial integrity.

49. As a principle of customary international law, universal jurisdiction was discrete from the exercise of jurisdiction provided for in treaties or the exercise of jurisdiction by international tribunals constituted under specific treaty regimes. Each had their own specific set of juridical bases, rationales, objectives and considerations, all of which had to be borne in mind.

50. **Mr. Jaiteh** (Gambia) said that it was regrettable that the Group of African States had requested that the scope and application of the principle of universal jurisdiction be placed on the agenda of the General Assembly ten years previously simply because the noble purpose of that legal regime had in some instances been undermined by politics. His delegation recognized that the purpose of the principle of universal jurisdiction was to end impunity for the perpetrators of heinous crimes, and therefore called for clarity and guidance on which crimes were subject to universal jurisdiction.

51. His delegation stressed the importance of respecting other norms of international law in the application of universal jurisdiction, including the sovereign equality of States and their existing territorial jurisdiction. It welcomed the inclusion of the topic, which was of particular concern to African States, in the long-term programme of work of the International Law Commission and hoped that debate on the subject would also continue in the Sixth Committee, without prejudice to its consideration in other United Nations forums.

52. **Ms. Onanga** (Gabon) said that holding the perpetrators of the most serious violations of international law to account was an important aspect of efforts to end impunity and ensure justice for victims. Her Government attached great importance to all international instruments aimed at protecting civilians, in particular the third and fourth Geneva Conventions of 1949.

53. Under the Gabonese Constitution, high-level State officials could be held criminally responsible before the High Court of Justice for acts committed while carrying out their duties, where such acts were already defined as crimes at the time of their commission. Her delegation believed that the scope of universal jurisdiction must be limited; that it must not clash with national jurisdiction;

and that the State in which a serious international crime had been committed had the primary responsibility for prosecution. Universal jurisdiction should be exercised only where the territorial State was unwilling or unable to exercise its jurisdiction. Moreover, it must be exercised in compliance with the principles of international law, in particular the principles of sovereign equality of States, non-interference in their internal affairs and the immunity of State officials. In its Constitutive Act, the African Union reserved the right to intervene in a member State in respect of grave crimes when warranted by the circumstances.

54. Building national capacity was of utmost importance in efforts to promote international criminal justice in a manner that was compatible with the crucial national processes required to achieve reconciliation and lasting peace. While noting the decision by the International Law Commission to include the topic of universal criminal jurisdiction in its long-term programme of work, her delegation was of the view that the topic, by its nature, should remain on the agenda of the Sixth Committee.

55. **Mr. Taufan** (Indonesia) said his delegation hoped that the consideration of the scope and application of the principle of universal jurisdiction would help to end impunity for and deny safe haven to individuals who committed heinous crimes. There was general agreement that universal jurisdiction could apply to certain types of crimes, irrespective of the place where they were committed and the nationality of the perpetrators or the victims. However, there were differences in State practice with regard to the definition of the principle, its scope and the list of crimes subject to it. The principle was also not uniformly applied under both national and international law.

56. Under its Criminal Code, Indonesia could assert criminal jurisdiction over crimes that were repugnant to all of humankind, such as piracy and hijacking, wherever they took place. Indonesia also recognized the jurisdiction of its human rights courts over gross violations of human rights by Indonesian nationals, irrespective of where they committed them.

57. Cooperation between States was crucial for implementing the principle of universal jurisdiction. Without a strong cooperation regime, no investigation or prosecution could take place. However, international consensus on the scope and application of the principle was required. His delegation wished to underline the distinction between universal jurisdiction and the obligation to extradite or prosecute, which in many instances was broader in scope, as enshrined in agreements between States.

58. **Mr. Caballero Gennari** (Paraguay) said that his delegation viewed the principle of universal jurisdiction as the individual exercise of jurisdiction, in conformity with international law and in the common interest of the international community, to ensure that serious international crimes did not go unpunished and that perpetrators found no safe haven. Paraguay recognized the principles of international law and the existence of a supranational legal order that protected human rights and under which statutory limitations did not apply to crimes such as torture, genocide, enforced disappearance, abduction and politically motivated murder.

59. The domestic law implementing the Rome Statute distinguished national from universal jurisdiction, specified the limits of national jurisdiction and established the penalties for genocide, crimes against humanity and war crimes. Under the country's Criminal Code and in accordance with the principle of universal jurisdiction, the scope of Paraguayan criminal jurisdiction extended to acts committed abroad against protected Paraguayan legal goods or legal goods enjoying universal protection, and to cases in which the offender was a Paraguayan national or was a foreign national present in the territory of Paraguay whose extradition had been refused.

60. His delegation considered that the principle of universal jurisdiction, subject to the principles of complementarity and good faith, provided sufficient guarantees that perpetrators of serious crimes would be held to account for their acts, thereby setting an important precedent for transgressors, paving the way for an end to impunity and for justice and protection of victims. Paraguay recognized that universal jurisdiction could only be exercised in accordance with the principles of the Charter of the United Nations and guided by the principles of international law.

61. **Ms. Conde** (Guinea) said that under the principle of universal jurisdiction, all States of the international community had the right to prosecute the perpetrators of certain crimes, regardless of their nationality or the place in which the crime was committed. It was a key instrument for combating impunity which had its legal basis in the Rome Statute. By the same token, State sovereignty and the equal rights and self-determination of peoples were fundamental principles of international law enshrined in the Charter of the United Nations.

62. Of the two recognized categories of universal jurisdiction, namely mandatory universal jurisdiction and relative universal jurisdiction, her delegation would advocate the latter, whereby the primary responsibility for prosecution lay with the States where the crimes was

committed or with the State of nationality of the perpetrators. In that connection, it was worth noting that the African Union reserved the right, under article 4 (h) of its Constitutive Act, to intervene in a member State where war crimes, genocide or crimes against humanity had been committed. Guinea supported all decisions by the Union aimed at countering abuses of the principle of universal jurisdiction.

63. In keeping with the commitment of Guinea to human rights, the provisions of the Rome Statute and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment had been incorporated into the country's national laws through the Criminal Code of 2016, under which fundamental freedoms had been enhanced and the death penalty abolished.

64. **Ms. Ozgul Bilman** (Turkey) said that Turkish courts had jurisdiction over certain categories of crime, including some of the most serious international crimes, regardless of the perpetrator's nationality or where the crime was committed. The initiation of proceedings in the case of crimes such as genocide, crimes against humanity, human trafficking and torture required a formal request by the Minister of Justice if they were committed abroad. Various treaties to which Turkey was a party included provisions relating to the obligation to extradite or prosecute, which was closely related to the concept of universal jurisdiction.

65. Given that the obligation to investigate and prosecute might lie with the State where the crime was committed or of which the alleged offender was a citizen, judicial cooperation between States was crucial. Member States had legitimate concerns regarding the possible misuse or abuse of universal jurisdiction. Some scholars had opined that universal jurisdiction, if used in bad faith and for political purposes, could lead to the erosion of human rights, disrupt the international social order and violate State sovereignty and the principle of the sovereign equality of States.

66. The scope, limits and application of what was an exceptional and subsidiary form of jurisdiction should be considered with care. It was important to safeguard the principles of lawfulness and non-retroactivity and to preserve the delicate balance between ensuring the legitimacy of universal jurisdiction and preventing impunity for international crimes.

67. **Mr. Aung** (Myanmar) said that the State where a crime was committed had the primary responsibility to exercise jurisdiction over it. The national sovereignty, territorial integrity and political independence of all States must be respected fully. His delegation considered that the risk of universal jurisdiction being applied improperly was high and shared the concerns of many States about its implications for the immunity of State officials and the sovereignty of the States concerned.

68. The principle of universal jurisdiction could be manipulated and applied selectively. The so-called Independent Investigative Mechanism on Myanmar, for example, had been established without a consensus among nations and, most importantly, without the consent of the country concerned, and was a blatant attempt to abuse the principle of universal jurisdiction. Rather than a legal mechanism, it was a purely political instrument that created a negative precedent for the future application of universal jurisdiction.

69. **Monsignor Hansen** (Observer for the Holy See) said that, although the sovereign equality of States, non-interference in their internal affairs and the immunity of State officials were undeniable principles of international relations, all States also had a common duty to ensure that those responsible for the most serious crimes were held accountable. Accountability was critical to safeguarding the rule of law at the national and international levels.

70. Member States must therefore continue the dialogue in order to identify principles and practices that would ensure that there was no safe harbour for those guilty of the most heinous crimes against humanity and, at the same time, that the principle of universal jurisdiction was not abused or misused. A balance was achievable, based on widely accepted principles, such as that of *aut dedere aut judicare*, already embodied in existing international conventions and State practices. It was also important to bear in mind the principle of subsidiarity, whereby, to the extent that the territorial State or the State of nationality of the alleged perpetrator was willing and able to prosecute, the community of nations and third States should defer to it. Moreover, a State asserting universal jurisdiction must have some concrete link to the facts or to the parties concerned, such as the presence of the accused or of the victims in its territory. Universal jurisdiction should not be invoked to justify prosecutions in absentia, "forum shopping" or the unwarranted interference in the internal affairs of other States.

71. In the light of the principle of the sovereign equality of States, particular attention must be given to the procedural conditions that must be met in order to set aside the jurisdictional immunities of public officials. Mechanisms should be developed to ensure that the exercise of universal jurisdiction did not generate inter-State conflict. Any set of norms developed by the Sixth Committee should be consistent

with the fundamental principles of criminal justice, such as those of *nullum crimen sine lege, nulla poena sine lege*, due process, presumption of innocence and non-refoulement.

72. **Mr. Harland** (Observer for the International Committee of the Red Cross (ICRC)) said that the principle of universal jurisdiction was a key tool for ensuring that serious violations of international humanitarian law were prevented or, when they did occur, were investigated and prosecuted. The Geneva Conventions of 1949 and Additional Protocol I thereto stipulated that States parties had an obligation to search for persons alleged to have committed acts defined therein as grave breaches, regardless of their nationality, and to either prosecute or extradite them. Other international instruments, such as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, placed a similar obligation on States parties to vest in their courts some form of universal jurisdiction over serious violations of the rules set out therein. In addition, State practice and *opinio juris* had helped to consolidate a customary rule whereby States had the right to exercise universal jurisdiction over serious violations of international humanitarian law.

73. States had the primary responsibility for investigating and prosecuting alleged perpetrators of serious violations of international humanitarian law. Where States did not take legal action, however, the exercise of universal jurisdiction by other States could serve as an effective mechanism to ensure accountability and limit impunity.

74. ICRC welcomed the growing number of domestic prosecutions based on universal jurisdiction for serious violations of international humanitarian law. Since 2018, in many countries, extraterritorial investigations in relation to international crimes allegedly committed in situations of armed conflict had been initiated or resumed by national prosecution services, several trials were pending or ongoing, and a number of judgments had been handed down by domestic courts on the basis of universal jurisdiction. Universal jurisdiction was thus part of the toolkit used by States to close impunity gaps effectively. ICRC hoped that more States would join those efforts, sending a message to victims and survivors that accountability was not just an aspirational goal.

75. ICRC continued to support States in strengthening their national criminal legislation and in establishing universal jurisdiction over serious violations of international humanitarian law. It also produced technical documents and practical tools on the application of the principle of universal jurisdiction. Although some States might attach conditions to the application of the principle, those conditions must be aimed at increasing the effectiveness and predictability of universal jurisdiction and not at unnecessarily restricting the possibility of bringing suspected offenders to justice.

Agenda item 146: Administration of justice at the United Nations (A/74/169, A/74/171 and A/74/172)

76. **The Chair**, recalling that, at its 2nd meeting, the General Assembly had referred the current agenda item to both the Fifth and Sixth Committees, said that, in paragraph 41 of its resolution 73/276, the Assembly had invited the Sixth Committee to consider the legal aspects of the report to be submitted by the Secretary-General, without prejudice to the role of the Fifth Committee as the Main Committee entrusted with responsibility for administrative and budgetary matters.

77. **Mr. Jaiteh** (Gambia), speaking on behalf of the Group of African States, said that the Group commended the progress made in strengthening the system of administration of justice at the United Nations. As litigation was costly and the Organization's international legal status made it difficult to resolve disputes through national courts, the Group was encouraged that, in 2018, a number of applications pending before the United Nations Dispute Tribunal had been resolved without the need for a final adjudication on the merits. Of the matters submitted for management evaluation during that year, 85 per cent had not proceeded to the Dispute Tribunal as at 31 December 2018, indicating the critical role of the management evaluation function in providing resolution to staff members. The Group would support efforts to ensure that work-related disputes were resolved with the highest possible level of expertise and at the lowest possible cost.

78. The internal justice system was designed to enhance the Organization's overall performance and provide a sense of security among employees. However, it was also necessary to create a sound work environment in which human resources were valued, as such an environment fostered a positive work climate, which, in turn, enhanced employees' commitment and performance and improved service delivery. The Group of African States supported the measures taken by the United Nations to protect the rights of its staff members and partners and encouraged the Administration to build on the progress made in that regard, in conformity with agreed international standards and best practices in the area of human resources development.

79. The debate under the current agenda item should focus on how to develop a fair system of administration of justice at the United Nations and how to help the Organization to retain the best staff members. The Committee should concentrate specifically on ensuring that the system was decentralized, transparent, professional and had adequate resources; that its working methods were consistent with the principles of international law, the rule of law and due process; and that adequate attention was given to the achievements made and challenges faced by the subsidiary organs of the United Nations.

80. The Group of African States encouraged the members of the judicial arm of the United Nations to continue their important work. The Group welcomed the development by the Office of Administration of Justice of a toolkit for applicants representing themselves before the Dispute Tribunal, which, together with a feedback survey, had been posted on the website of the internal justice system in May 2019. The Group was interested to know how the results of the survey would be used to enhance the utility of future versions of the toolkit so that self-represented applicants could make informed decisions regarding whether and how to file a case.

81. The efficiency and effectiveness of the system of administration of justice at the United Nations must be improved. The Group supported the Organization's efforts to ensure that staff had easy access to the formal and informal components of that system and to professional legal advice, that their cases were heard by professional and independent judges, and that the judgments rendered were fair.

82. **Mr. Chaboureau** (Observer for the European Union), speaking also on behalf of the candidate countries Albania, Montenegro, North Macedonia and Serbia; the stabilization and association process country Bosnia and Herzegovina; and, in addition, Georgia, the Republic of Moldova and Ukraine, said that the European Union continued to attach great importance to the efficient functioning of the system of administration of justice at the United Nations, which was essential to ensure that individuals and the Organization as a whole were held accountable for their actions. The United Nations Dispute Tribunal and the United Nations Appeals Tribunal had a particularly critical role to play in that regard, and the work of the Office of Staff Legal Assistance was instrumental in preventing unnecessary conflicts and misunderstandings. In 2018, the Management Evaluation Unit had received its third highest volume of requests to date, indicating its vital role in providing resolution to staff members.

83. The European Union was concerned at the low number of judgments rendered by the Dispute Tribunal in 2018, the high number of pending applications as at 31 December 2018, and the backlog of cases carried over into 2019. Moreover, the average length of time required for the Dispute Tribunal to process cases had not decreased significantly, even though the statutes of the Dispute Tribunal and the Appeals Tribunal had been amended to provide for the authority of the President of each Tribunal to monitor the timely delivery of judgments. However, in response to the General Assembly's request in its resolution 73/276 to develop a case disposal plan, the President of the Dispute Tribunal had established monthly targets for the rendering of judgments and disposal of cases for each Dispute Tribunal location. As a result of the implementation of that plan, the Tribunal's overall caseload and the number of cases that had been pending for 401 days or longer had been reduced. The European Union hoped that the situation that had resulted in the existence of two competing claims to the presidency of the Dispute Tribunal would soon be remedied, as it had delayed the plan's implementation. The European Union also noted that, for the first time since 2013, the number of appeals against Dispute Tribunal judgments filed on behalf of the Secretary-General had exceeded the number filed by staff members.

84. The European Union commended the Office of Administration of Justice for continuing to implement the outreach strategy requested by the General Assembly in its resolution 73/276, which was critical to raising the awareness of staff members, in particular those in field locations, funds and programmes and peacekeeping operations, with regard to the internal justice system. The European Union also welcomed the outreach activities carried out by the Office of the United Nations Ombudsman and Mediation Services, the Management Evaluation Unit and the Office of the Ombudsman for United Nations Funds and Programmes. In addition, it appreciated the availability of the handbook entitled "A staff member's guide to resolving disputes" in all official languages. The European Union looked forward to the implementation of the system developed to enable the Registries of the Dispute and Appeals Tribunals to better track and manage cases.

85. With regard to the root causes of conflict, the European Union noted the response of the Secretary-General to the observations contained in the report on the activities of the Office of the United Nations Ombudsman and Mediation Services (A/74/171). It also welcomed the adoption by the United Nations System Chief Executives Board for Coordination of a model

policy on sexual harassment for United Nations system entities, and noted that the number of sexual harassment investigations had increased significantly in 2018. With regard to retaliation against staff members who filed cases with the Dispute and Appeals Tribunals, the European Union supported the proposal that heads of offices of the Secretariat be given, within existing resources, prevention, monitoring and protection responsibilities. It also welcomed the development by the Office of Administration of Justice of a toolkit for applicants representing themselves before the Dispute Tribunal. Lastly, while noting that the Office of Legal Affairs considered the remedies available to non-staff personnel to be sufficient, the European Union welcomed the initiatives undertaken, within existing resources, to facilitate the prevention and resolution of disputes involving such personnel, including the proposal to identify a cost-effective means of engaging a neutral entity to support arbitration procedures for consultants and individual contractors.

86. The informal resolution of disputes was a crucial element of the system of administration of justice and should be used whenever possible in order to avoid costly and unnecessary litigation. In that regard, the European Union welcomed the activities of the Office of the United Nations Ombudsman and Mediation Services, which must be underpinned by the principles of independence, neutrality, confidentiality and informality. The ombudsmen and mediators must also be multilingual so that visitors could communicate in their preferred language. The European Union noted the increase in the number of cases opened by the Office in 2018, which had mainly emanated from offices away from Headquarters. The three issues most commonly reported to the Office in 2018 had remained the same as in previous years, although there had been an increase in the number of cases related to evaluative relationships and to compensation and benefits. A neutral, third-party mediator was essential to resolving immediate issues. In that connection, it was encouraging that 83 per cent of the cases mediated by the Office had been resolved.

87. The European Union noted the continuing increase in the number of cases brought by non-staff personnel, which, according to the Secretary-General, would require additional resources, should the ongoing implementation of the pilot project to offer access to informal dispute-resolution services to non-staff personnel lead to an increase in the number of cases from non-staff personnel beyond 350 per year. Lastly, the European Union took note of the recommendations made by the Internal Justice Council in its report on administration of justice at the United Nations (A/74/169).

88. **Ms. Oates** (New Zealand), speaking also on behalf of Australia and Canada, said that good will and meaningful engagement by Member States had ensured the continuous improvement of the internal justice system since its establishment. Access to justice was a basic principle of the rule of law, a concept enshrined in the Charter of the United Nations. Australia, Canada and New Zealand welcomed the initiatives that had been launched to raise the awareness of staff members regarding the internal justice system. They also welcomed the recommendations on protection from retaliation put forward by the Internal Justice Council in its report (A/74/169), which would enable staff members wishing to do so to file cases with the Dispute and Appeals Tribunals or to appear as witnesses in internal justice procedures without fear of reprisal. As the availability and quality of representation could impede access to justice, the three Member States supported the Council's recommendation to carry out a survey among applicants who represented themselves in order to determine their reason for doing so. The creation of a toolkit for such applicants was a valuable measure in that regard. Australia, Canada and New Zealand were also in favour of the Council's recommendation to allocate additional funds to the Office of Staff Legal Assistance. In that connection, they welcomed the outreach carried out to solicit contributions to the voluntary supplemental funding mechanism for that Office.

89. The three Member States were concerned at the Dispute Tribunal's substantial caseload and backlog of cases. They welcomed the Council's recommendations to promote judicial efficiency and accountability while ensuring judicial independence. In particular, the recommended review of the Dispute Tribunal's rules of procedure could enable the identification of opportunities to streamline and expedite case management. Australia, Canada and New Zealand also welcomed the efforts of the Office of the United Nations Ombudsman and Mediation Services to identify trends and systemic issues underlying workplace conflicts. All Member States must work with the Organization to ensure the effectiveness, fairness and timely operation of the internal justice system.

90. **Mr. Arrocha Olabuenaga** (Mexico) said that the administration of justice at the United Nations should be guided by the principles of independence, transparency, professionalism, decentralization, legality and due process.

91. The necessary changes should be introduced to ensure effective access to justice for consultants, contractors and other non-staff personnel, whose work was as important as that of staff members. Mexico took

note of the initiatives put forward by the Secretary-General in his report (A/74/172) to improve the prevention and resolution of disputes involving non-staff personnel. His delegation would pay particular attention to the report on consistency and standardization of practices regarding the use of such personnel, to be prepared by the Human Resources Services Division of the Department of Operational Support, as it would inform future consideration of dispute prevention and resolution mechanisms for non-staff personnel.

92. Ensuring access to justice for non-staff personnel was particularly important in view of the significant increase in the number of cases opened by the Office of the United Nations Ombudsman and Mediation Services for such personnel between 2017 and 2018. The implementation of the pilot project to extend access to informal dispute-resolution services to non-staff personnel, which had enabled the provision of such services to 173 such personnel by the end of June 2019, should be allowed to take its course so that its results could be meaningfully assessed. That project, if combined with an effective outreach strategy, could contribute to reducing the number of cases involving non-staff personnel in the future. His delegation hoped that, in addition to a thematic overview of the types of cases referred to the Office of the United Nations Ombudsman and Mediation Services, the Secretary-General's next report on the Office's activities would include information on resolved cases.

93. Informal measures that could promote harmony in the workplace and facilitate the early identification and resolution of problems before they escalated into formal disputes were essential to reversing the upward trend in the number of cases involving non-staff personnel. Respect for workers' rights had long been a priority of Mexico, whose Constitution provided for a system of institutional safeguards guaranteeing basic conditions that must be met in the context of all employment relationships. His delegation strongly valued access to justice, a fundamental human right that was a corollary to the right to work. It was therefore essential to identify solutions to the challenges posed by disputes involving non-staff personnel, who played a central role in supporting the implementation of the Organization's programmes.

94. **Ms. Pierce** (United States of America) said that the system of administration of justice had been established as an independent, transparent and professionalized system. The United States commended the efforts of the Presidents of the Dispute and Appeals Tribunals to reform those Tribunals, as well as the independent support provided to the Tribunals by the Principal Registrar and Executive Director of the Office of the Administration of Justice.

95. One of the goals of General Assembly resolution 73/276 was to protect and foster trust among staff in the system of administration of justice by ensuring that the Presidents of the Tribunals had the support they needed to fulfil their statutory mandates to enhance the Tribunals' efficiency through effective case management. In response to the growing backlog of cases pending in the Dispute Tribunal, which had led to unacceptable delays in delivering justice and had undermined the system's credibility, the Assembly had recommended the development of a case disposal plan with a real-time case-tracking dashboard and performance indicators on the disposal of caseloads. As a result of the implementation of that plan, cases that had been pending for months or years had been disposed of, and the case disposal rate for the Dispute Tribunal for 2019 was already higher than for 2018. The United States looked forward to the continued implementation of the resolution.

96. Although judicial efficiency had been improved, the reports before the Committee revealed some troubling issues relating to judicial accountability. The Committee should explore practical solutions to establish transparent mechanisms to resolve those issues before they disrupted judicial work. The system of administration of justice had been designed to foster a workplace that was consistent with United Nations values, including those of civility and respect for diversity and the dignity of all. In that connection, the United States welcomed the judges newly elected to the Dispute and Appeals Tribunals.

97. The efforts to improve the transparency of the administration of justice system, including through outreach and website redesign, were welcome. However, there was additional work to do with regard to publicizing the workings of the system. In particular, judicial directives should be published or otherwise made available online, as was common practice among courts, so that staff members, their representatives and the General Assembly could better understand how the Tribunals were carrying out administrative justice.

98. The role of the Management Evaluation Unit and the Office of Staff Legal Assistance in helping to resolve requests before they reached the litigation stage was crucial to ensuring the efficiency and effectiveness of the entire system. The Office's practice of not turning away applicants because of a lack of resources should continue. In addition, the work of the Office of the United Nations Ombudsman and Mediation Services to foster competency in conflict resolution was to be

commended. The United States noted the intention of that Office to provide, in its next report, an assessment of the feasibility of institutionalizing the pilot project to offer access to informal dispute-resolution services to non-staff personnel. Lastly, noting that justifications for amendments to the statutes of the Dispute and Appeals Tribunals should clear a reasonably high bar, her delegation was not convinced of the legal necessity of the amendments recommended by the Internal Justice Council in its report (A/74/169).

99. **Ms. Schneider Rittener** (Switzerland) said that her delegation welcomed the ongoing efforts to enhance the effectiveness of the administration of justice at the United Nations. Effective protection against retaliation was an indispensable attribute of a fair and effective internal justice system. Switzerland therefore welcomed the recommendations of the Internal Justice Council aimed at ensuring such protection for staff members seeking redress or testifying as witnesses before the Dispute and Appeals Tribunals. The Secretary-General's policy on protection against retaliation for reporting misconduct and for cooperating with duly authorized audits or investigations should continue to be reviewed, and his next report should include information on progress made in ensuring protection against retaliation.

100. Switzerland supported the initiatives taken to improve prevention and resolution of disputes involving non-staff personnel, in particular the review of the use of non-staff personnel in the Secretariat; the review of formal policies and issuances regarding the engagement of consultants and individual contractors, including the dispute-resolution provisions of their employment contracts; and the pilot project to grant non-staff personnel access to the Office of the United Nations Ombudsman and Mediation Services. The Secretary-General should provide detailed information on those initiatives in his next report. The increase since 2017 in the number of non-staff personnel seeking that Office's services indicated the urgent need to resolve disputes involving such personnel. In his next report, the Secretary-General should provide information on the number of cases brought to the Office by non-staff personnel and on the resources required for the Office to continue to provide services to such personnel.

101. Non-staff personnel accounted for a significant proportion of the Organization's workforce. In the absence of recourse against the United Nations in domestic courts owing to the Organization's immunity, such personnel needed to have access to alternative remedies for settling workplace disputes. For those who had recourse to arbitration, there was no guarantee that they could participate in arbitration proceedings on an equal footing with staff members. Moreover, initiating such proceedings against the United Nations was a daunting and potentially costly undertaking. Switzerland therefore welcomed the Secretary-General's proposal to identify a cost-effective means of engaging a neutral entity to support arbitration procedures for consultants and individual contractors.

102. Lastly, it commended the Secretary-General's continuous efforts to improve the situation of non-staff personnel and ensure the rule of law within the Organization.

103. **Mr. Kemble** (Netherlands) said that the important role of the Office of the United Nations Ombudsman and Mediation Services in providing a safe, accessible and cost-effective way for staff members to discuss workplace concerns could not be overemphasized. Although the issues most commonly brought to the Office by non-staff personnel were the same as those brought by staff members, it was still too early to decide whether to apply the same approach to dispute resolution, including formal procedures, to both types of personnel. The implementation of the pilot project to grant all personnel access to the Office's services should therefore continue, and an assessment of the types of issues brought by non-staff personnel, as well as the best forms of recourse to resolve those issues, should be carried out.

104. His delegation was concerned at the persistence of a number of systemic issues observed during previous reporting periods, including abrasive behaviour by some managers, which had a negative impact on the physical and mental well-being of staff members. It nevertheless appreciated the work of the regional ombudsman offices, including their visits to field missions and the attention given to the needs of female staff members in the field. The Office of the United Nations Ombudsman and Mediation Services had an essential role to play in amplifying the voices of staff members that were seldom heard in order to effect a behavioural shift with a view to preventing conflict and promoting a safe workplace.

105. The Netherlands welcomed the recent election of new judges to the Dispute and Appeals Tribunals and hoped that the judges newly elected to the Dispute Tribunal would help to professionalize its functioning and address its case backlog expeditiously. It was a matter of concern that the number of judgments rendered by the Dispute Tribunal in 2018 was the third lowest in the past 10 years, while pending applications were at their highest level since the system had been introduced. In that regard, his delegation thanked Judge Bravo for promptly assuming her functions as President of the Dispute Tribunal and speedily disposing of

pending cases, and called on her to continue her term in 2020.

106. The celebration of the achievements of the internal justice system in the 10 years since its establishment had been tempered by a number of troubling developments during the reporting period. To address those issues, his delegation proposed that, at the conclusion of its deliberations, the Committee keep open the current agenda item so that the General Assembly could remain seized of the matter; that the Secretary-General provide information on the number of judgments rendered by the Dispute Tribunal per judge per month, and on the implementation of the caseload disposal plan; that, every three months, President Bravo report to the General Assembly, through the Internal Justice Council, on progress in and impediments to her work; that a procedure be established to end the mandated terms of duly elected Presidents of the Dispute and Appeals Tribunal prior to their expiration; and that the code of conduct for the judges of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal be amended to include an oath of office for judges.

Agenda item 82: Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization (A/74/33, A/74/152 and A/74/194)

107. *Mr. Mlynár (Slovakia) took the Chair.*

108. **Ms. Theofili** (Greece), Chair of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, introducing the Special Committee's report (A/74/33), said that the Special Committee had met in New York from 19 to 27 February 2019 and had continued its deliberations on the questions mandated by the General Assembly in its resolution 73/206.

109. In paragraph 3 of that resolution, the Special Committee had been requested to continue its consideration of all proposals concerning the question of the maintenance of international peace and security; to consider other proposals concerning that question already submitted or which might be submitted to the Special Committee at its session in 2019; to keep on its agenda the question of the peaceful settlement of disputes between States; to consider, as appropriate, any proposal referred to it by the General Assembly in the implementation of the decisions of the high-level plenary meeting of the sixtieth session of the General Assembly that concerned the Charter and any amendments thereto; and to continue to consider, on a priority basis, ways and means of improving its working methods and enhancing its efficiency and utilization of resources with a view to identifying widely acceptable measures for future implementation. Pursuant to paragraph 5 of the resolution, the Special Committee had also undertaken an annual thematic debate, under the agenda item on the peaceful settlement of disputes, to discuss the means for the settlement of disputes.

110. The report consisted of five chapters and one annex. Chapter I was entirely procedural. Chapter II dealt with the maintenance of international peace and security. Section A of chapter II covered the Special Committee's consideration of the question of the introduction and implementation of sanctions imposed by the United Nations and the briefing it had received from the Secretariat on the document annexed to General Assembly resolution 64/115 on the introduction and implementation of sanctions imposed by the United Nations. Section B concerned the revised proposal submitted by Libya with a view to strengthening the role of the United Nations in the maintenance of international peace and security. Section C contained a summary of the discussion on the revised working paper submitted by Belarus and the Russian Federation concerning a request for an advisory opinion from the International Court of Justice as to the legal consequences of the resort to the use of force by States without prior authorization by the Security Council, except in the exercise of the right to self-defence. Section D reflected the work of the Special Committee on the working paper submitted by Cuba on the strengthening of the role of the Organization and enhancing its effectiveness: adoption of recommendations. Section E covered the work of the Special Committee on the revised working paper submitted by Ghana on strengthening the relationship and cooperation between the United Nations and regional arrangements or agencies in the peaceful settlement of disputes.

111. The Special Committee's consideration of the item entitled "Peaceful settlement of disputes", which had focused on the subtopic "Exchange of information on State practices regarding the use of mediation", was set out in section A of chapter III. At the thematic debate to be held at the following session of the Special Committee, Member States would discuss the subtopic entitled "Exchange of information on State practices regarding the use of conciliation". Section B of chapter III contained a summary of the discussions on the proposals introduced by the Russian Federation to establish a website dedicated to the peaceful settlement of disputes between States and to prepare an update of the *1992 Handbook on the Peaceful Settlement of Disputes between States*.

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

113. **Ms. Montejo** (Security Council Practices and Charter Research Branch, Department of Political and Peacebuilding Affairs), updating members of the Sixth Committee on the status of the *Repertoire of the Practice of the Security Council* and related activities, said that, by its resolution 686 (VII), the General Assembly had mandated the Secretary-General to undertake the publication of the *Repertoire of the Practice of the Security Council* as one of the ways and means for making the evidence of customary international law more readily available. Since the publication of its first volume in 1954, the *Repertoire* had provided an authoritative overview of the Security Council's contribution to the advancement of customary international law, including comprehensive analytical summaries of its interpretation and application of the Charter of the United Nations and its own provisional rules of procedure. The publication contained, inter alia, a synopsis of the Council's activities under each item on its agenda, as well as information on procedural matters; constitutional issues; the Council's functions, powers and relations with other United Nations bodies; decisions and discussions related to the pacific settlement of disputes; enforcement action; and the mandates of subsidiary bodies. A searchable, systematized version of the *Repertoire* was available on the Council's website.

114. As a result of progress made in recent years, the *Repertoire* was being produced on a contemporaneous basis for the first time in its history. The Security Council Practices and Charter Research Branch had recently published the twentieth Supplement to the *Repertoire*, covering the period 2016–2017, and, over the past year, had been preparing the twenty-first and twenty-second Supplements, the first single-year editions of that publication, covering 2018 and 2019, respectively. The advance version of the twenty-first Supplement would be made available online by the end of October 2019, and the advance version of the twenty-second Supplement was expected to be completed by October 2020.

115. Contributions to the trust fund for the updating of the *Repertoire* had enabled the timely completion of the twentieth Supplement and the preparation of the twenty-first and twenty-second Supplements on a one-year schedule. Financial support from Member States would be critical to ensuring the sustainability of that contemporaneous approach, which was aimed at ensuring that invaluable information on the practice of the Council was made available expeditiously to the broader United Nations membership, in particular incoming Council members. Indeed, voluntary contributions from Member States had enabled the Security Council Practices and Charter Research Branch to implement efficiency-enhancing initiatives and make available additional human resources. The Branch had also achieved progress through close collaboration with the Department for General Assembly and Conference Management, the Department of Global Communications and the Office of Information and Communications Technology. In addition, the Branch had mobilized resources to develop a database that would facilitate and automate the research and drafting process.

116. All Supplements of the *Repertoire* covering the period 1989–2015 were available online in all six official languages. The translated versions of the twentieth Supplement were expected to be made available in early 2020. Through cooperation with the Department for General Assembly and Conference Management, the time lag between the completion of Supplements and their eventual publication in all six official languages was being shortened. The Branch hoped that the extraordinary financial situation facing the Organization would not undermine the progress achieved thus far.

117. Besides the *Repertoire*, the newly revamped website of the Security Council, which had been launched in December 2018 with the support of the Netherlands, offered a broad range of other information resources, such as tables, graphs and statistical information providing an overview of different aspects of Council practice. The Branch was working to adapt the content, search functionalities, visualization capabilities and structure of the website to its new layout. The Branch was also exploring the use of modern technologies in order to enhance information tools, in particular to improve visualization and user interaction. As a result of its collaboration with the Office of Information and Communications Technology, it had released the 2018 edition of *Highlights of Security Council Practice* in January 2019, earlier than ever before. In cooperation with that Office, the Department of Peace Operations and a consultant, the Branch was developing a new layout for the 2019 edition of *Highlights*, using a new technological platform and new

visualization capabilities. In addition, in August 2019, the Branch had launched the Field Missions Dashboard, which allowed users to browse information on the mandates of active United Nations peace operations. Available on the Council's website and updated on a quarterly basis, the Dashboard was the product of collaboration among the Department of Political and Peacebuilding Affairs, the Department of Peace Operations and the United Nations Volunteers programme, and was the result of over ten years of work by the Branch to track and systematize the mandates of field missions. While the Branch continued to develop information products and to pursue new efficiency and quality measures, future progress would be largely dependent on additional resources.

118. The progress made in the preparation and publication of the *Repertoire*, in particular the elimination of the gap between the coverage of past and contemporary Council practice, would not have been possible without contributions to the trust fund for the updating of the *Repertoire*. In that regard, the Branch expressed gratitude to Argentina, China, Ireland, Poland, Singapore and Ukraine for their recent contributions to the trust fund, and to Italy and the Republic of Korea for their sponsorship of associate experts, and encouraged other Member States to consider sponsoring such experts. In view of the extreme financial constraints faced by the Organization, the progress achieved thus far might prove unsustainable unless the trust fund was replenished and resources were secured to strengthen the work of the Branch, for which the Council's increasingly demanding workload posed a significant challenge. The Branch welcomed feedback on its work from Member States and stood ready to support them with information and guidance on all procedural and constitutional aspects of current and past Council practice.

The meeting rose at 1.05 p.m.