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## Sixth Committee

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### Sixth-third session

#### **NATIONALITY OF NATURAL PERSONS IN RELATION TO THE SUCCESSION OF STATES *(Agenda Item 72)***

##### **Summary of work**

Background (source: A/63/100)

At its fifty-fourth session, in 1999, the General Assembly, under the item entitled "Report of the International Law Commission on the work of its fifty-first session", considered chapter IV of the report of the Commission (A/54/10 and Corr.1 and 2), which contained the final draft articles on nationality of natural persons in relation to the succession of States. The Assembly decided to include in the provisional agenda of its fifty-fifth session an item entitled "Nationality of natural persons in relation to succession of States", with a view to the consideration of the draft articles and their adoption as a declaration at that session; and invited Governments to submit comments and observations on the question of a convention on the topic, with a view to the General Assembly considering the elaboration of such a convention at a future session (resolution 54/112).

The General Assembly considered the item at its fifty-fifth session (resolution 55/153).

At its fifty-ninth session, the General Assembly reiterated its invitation to Governments to take into account the provisions of the articles contained in the annex to resolution 55/153, in dealing with issues of nationality of natural persons in relation to the succession of States; encouraged States to consider at the regional or subregional levels, the elaboration of legal instruments regulating questions of nationality of natural persons in relation to the succession of States, with a view to preventing the occurrence of statelessness as a result of a succession of States; and invited Governments to submit comments concerning the advisability of elaborating a legal instrument on the question of nationality of natural persons in relation to the succession of States, including the avoidance of statelessness as a result of a succession of States (resolution 59/34).

##### Consideration at the sixty-third session

The Sixth Committee considered the item at its 11<sup>th</sup>, 25<sup>th</sup> and 26<sup>th</sup> meetings, on 21 October, and on 5 and 14 November 2008.

Statements were made by the representatives of India, Kenya (on behalf of the African Group), Nigeria, Lesotho, Qatar, South Africa, Slovenia, Algeria, the Russian Federation, Venezuela (Bolivarian Republic of), Iran (Islamic Republic of) and Austria.

Delegations expressed their support for the draft articles on "Nationality of natural persons in relation to the succession of States", adopted by the International Law Commission in 2001. They stressed the importance of the right to a nationality, as recognised in several international legal instruments, as well as the need to avoid statelessness following the succession of States. Some delegations also underlined the principle of non-discrimination in dealing with nationality issues in the context of State succession.

With regard to the outcome of the draft articles, some delegations favoured their adoption by the General Assembly in the form of a declaration, arguing that a non-binding instrument would provide guidance to States in establishing domestic legislation on nationality, while respecting their sovereignty in determining the conditions of attribution of nationality. Other delegations expressed their preference for a convention. It was also proposed that the possibility of elaborating a convention be considered at a later session of the General Assembly. In addition, the view was expressed that further analysis of State practice was needed in order to ensure that the draft articles better reflect contemporary international standards.

## Action taken by the Sixth Committee

At the 25<sup>th</sup> meeting, on 5 November 2008, the representative of the Democratic Republic of the Congo, on behalf of the Bureau, introduced a draft resolution entitled "Nationality of natural persons in relation to the succession of States" (A/C.6/63/L.14), as orally revised. At the 26<sup>th</sup> meeting, on 14 November, the Committee adopted draft resolution A/C.6/63/L.14, as orally revised, without a vote. Under this draft resolution, the General Assembly would invite Governments to submit comments concerning the advisability of elaborating a legal instrument on the question of nationality of natural persons in relation to the succession of States, including the avoidance of statelessness as a result of a succession of States; and decide to include the item in the provisional agenda of its sixty-sixth session, with the aim of examining the subject, including the question of the form that might be given to the draft articles.

**CRIMINAL ACCOUNTABILITY OF UNITED NATIONS OFFICIALS AND EXPERTS ON MISSION (Agenda item 73)****Summary of work**

Background (source: A/63/100)

At its sixty-first session, in 2006, the General Assembly decided that the agenda item entitled "Comprehensive review of the whole question of peacekeeping operations in all their aspects", which had been allocated to the Special Political and Decolonization Committee (Fourth Committee), should also be referred to the Sixth Committee for discussion of the report of the Group of Legal Experts on ensuring the accountability of United Nations staff and experts on mission with respect to criminal acts committed in peacekeeping operations (see A/60/980), submitted pursuant to Assembly resolutions 59/300 and 60/263 and decision 60/563 (decision 61/503 A).

At the same session, the General Assembly decided to establish an Ad Hoc Committee, open to all States Members of the United Nations or members of specialized agencies or of the International Atomic Energy Agency, for the purpose of considering the report of the Group of Legal Experts, in particular its legal aspects; requested the Ad Hoc Committee to report on its work to the Assembly at its sixty-second session; and decided to include in the provisional agenda of its sixty-second session the item entitled "Criminal accountability of United Nations officials and experts on mission" (resolution 61/29).

At its sixty-second session, the General Assembly strongly urged States to consider establishing to the extent that they had not yet done so jurisdiction, particularly over crimes of a serious nature, as known in their existing domestic criminal laws, committed by their nationals while serving as United Nations officials or experts on mission, at least where the conduct as defined in the law of the State establishing jurisdiction also constitutes a crime under the laws of the host State; requested the Secretary-General to bring credible allegations that reveal that a crime may have been committed by United Nations officials and experts on mission to the attention of the States against whose nationals such allegations were made, and to request from those States an indication of the status of their efforts to investigate and, as appropriate, prosecute crimes of a serious nature, as well as the types of appropriate assistance States might wish to receive from the Secretariat for the purposes of such investigations and prosecutions; and decided that the Ad Hoc Committee on criminal accountability of United Nations officials and experts on mission should reconvene from 7 to 9 and on 11 April 2008 for the purpose of continuing the consideration of the report of the Group of Legal Experts, in particular its legal aspects, taking into account the views of Member States and the information contained in the note by the Secretariat, and that the work should continue during the sixty-third session of the Assembly within the framework of a working group of the Sixth Committee (resolution 62/63).

## Consideration at the sixty-third session

The Sixth Committee considered the item at its 5th, 14th, 19th and 26th meetings, on 10, 24 and 29 October, and on 14 November 2008. At the 5th meeting, on 10 October 2008, the Chairperson of the Ad Hoc Committee on Criminal Accountability of United Nations Officials and Experts on Mission introduced the report of the Ad Hoc Committee (A/63/54).

On the recommendation of the Ad Hoc Committee on Criminal Accountability of United Nations Officials and Experts on Mission, the Sixth Committee, at its 1st meeting on 6 October 2008, established a Working Group to continue the consideration of the report of the Group of Legal Experts established by the Secretary-General pursuant to resolution

59/300, focusing on its legal aspects, taking into account the views expressed in the Ad Hoc Committee. At the same meeting, the Sixth Committee elected Ms. Maria Telalian (Greece) as Chairperson of the Working Group (A/C.6/63/SR.1). The Working Group held 4 meetings, on 14, 15 and 17 October. At the 14th meeting, on 24 October, the Chairperson of the Working Group presented an oral report on the work of the Working Group (A/C.6/63/SR.14).

Statements were made by the representatives of Mexico (on behalf of the Rio Group); Australia (also on behalf of Canada and New Zealand), Cuba (on behalf of the Non-Aligned Movement), France (on behalf of the European Union; the candidate countries Turkey, Croatia and The former Yugoslav Republic of Macedonia; the countries of the Stabilization and Association Process and potential candidates Albania, Bosnia and Herzegovina, Montenegro and Serbia; the EFTA country Iceland, member of the European Economic Area; as well as Ukraine, the Republic of Moldova and Armenia aligned themselves with the statement), Kenya (on behalf of the African Group), Trinidad and Tobago (on behalf of the Caribbean Community), Liechtenstein, Switzerland, the Sudan, Nigeria, Uruguay, Algeria, the Democratic Republic of the Congo, Tunisia, Guatemala, Indonesia, China, Israel, Egypt, Iran (Islamic Republic of), India, Malaysia, the Russian Federation, Norway, Venezuela (Bolivarian Republic of), Canada and the United States of America.

All speakers reiterated their support for the zero tolerance policy of the Organization concerning criminal conduct, particularly that involving sexual abuse and exploitation, committed by United Nations officials or experts on mission. The point was made that the United Nations system must exemplify the rule of law principles that it seeks to foster. Reference was also made to the need to keep in mind similar efforts being undertaken in other parts of the Organization, as well as the impact of the ongoing reform of the internal administration of justice system.

All speakers also expressed support for resolution 62/63 of 6 December 2007 and expressed gratitude to the Secretary-General for his report on the topic (A/63/260 and Add.1), and several speakers called on the Assembly to build on that resolution. Specific issues identified for further deliberation included: the scope of the topic; criminal investigations; the provision of evidence and its assessment in administrative *versus* criminal procedures; strengthening cooperation and sharing of information; extradition; servicing of sentences; and other judicial assistance mechanisms. The importance of respecting the territorial jurisdiction of the Host State was reiterated. Some delegations emphasized the need to give jurisdictional priority to the State of nationality of the accused. The view was also expressed that military observers and formered civilian police units working for the United Nations as experts on mission were to be treated in the same manner as national contingents.

Several delegations expressed support for the proposal to consider, in the long term, the negotiation of an international convention, while others maintained that it was still premature to contemplate such instrument. Several speakers expressed support for the combined approach of taking both short (as per resolution 62/63) and long-term measures. In the short term, those States which did not already do so were encouraged to extend their respective national criminal jurisdiction to cover criminal activity committed by their nationals employed by the UN or serving as experts on mission. It was observed that since many already extended such jurisdiction, the possible future treaty could focus exclusively on cooperation and leaving the question of jurisdiction to a separate draft model law.

Several delegations also commended the Secretariat for its pre-deployment and in-mission training activities, and called upon the Secretary-General to continue supporting programmes and policies designed to instill the highest standards of conduct and behaviour in United Nations officials and experts. Some delegations emphasized the importance of preventive measures. Support was also expressed for the comprehensive strategy on assistance and support to victims of sexual exploitation and abuse by United Nations staff and related personnel, adopted by the General Assembly in resolution 62/214. A call was made for States to implement resolution 61/291 amending the revised draft model Memorandum of Understanding.

#### Action taken by the Sixth Committee

At the 19th meeting, on 29 October 2008, the representative of Greece, on behalf of the Bureau, introduced a draft resolution entitled "Criminal accountability of United Nations officials and experts on mission" (A/C.6/63/L.10). At the 26th meeting, on 14 November, the Committee adopted draft resolution A/C.6/63/L.10 without a vote. The draft resolution, which builds upon General Assembly resolution 62/63 of 6 December 2007, includes a number of additional elements which are aimed at enhancing international cooperation to ensure the criminal accountability of United Nations officials and experts on mission. Moreover, the Secretary-General would be requested to report to the

General Assembly at its sixty-fourth session on the implementation of the resolution, on the basis of information received from Governments and the Secretariat.

**REPORT OF THE UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW ON THE WORK OF ITS FORTY-FIRST SESSION (Agenda item 74)****Summary of work**

Background (source: A/63/100)

The General Assembly established the United Nations Commission on International Trade Law (UNCITRAL) at its twenty-first session, in 1966, to promote the progressive harmonization and unification of the law of international trade, and requested the Commission to submit an annual report to the Assembly (resolution 2205 (XXI)). The Commission began its work in 1968. It originally consisted of 29 Member States representing the various geographic regions and the principal legal systems of the world. At its twenty-eighth and fifty-seventh sessions, respectively, the General Assembly increased the membership of the Commission from 29 to 36 States (resolution 3108 (XXVIII)) and from 36 to 60 States (resolution 57/20).

At its sixty-second session, the General Assembly welcomed the decision by the United Nations Commission on International Trade Law to hold a comprehensive review of its working methods; appealed to Governments, the relevant bodies of the United Nations system, organizations, institutions and individuals to make voluntary contributions to the UNCITRAL Trust Fund for Symposia; recalled its resolutions in which it encouraged the Commission to further explore different approaches to the use of partnerships with non-State actors in the implementation of its mandate, particularly in the area of technical assistance; and requested the Secretary-General to explore options to facilitate the timely publication of the Yearbook of the United Nations Commission on International Trade Law and to continue providing summary records of the meetings of the Commission relating to the formulation of normative texts (resolution 62/64).

At the same session, the General Assembly welcomed the initiatives to celebrate the fiftieth anniversary of the adoption of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, which took place in New York on 10 June 1958 (resolution 62/65).

**Consideration at the sixty-third session**

The Sixth Committee considered the item at its 9th, 10th, 25th and 26th meetings, on 20 October and on 5 and 14 November 2007. At the 9th meeting, on 20 October, the Chairperson of the United Nations Commission on International Trade Law (UNCITRAL) at its forty-first session introduced the reports of the Commission on the work of its resumed fortieth and forty-first sessions.

Statements were made by the representatives of Norway (on behalf of the Nordic countries), Austria, Australia, Belarus, Guatemala, Japan, India, China, the Russian Federation, Singapore, Qatar, Thailand, Mexico, Cameroon, Senegal, France, Spain, the Republic of Korea, Iran (Islamic Republic of), Venezuela, New Zealand, Slovenia, Algeria, the United States of America, the United Kingdom, Greece, Canada, Malaysia, South Africa, Pakistan, Ghana, the Netherlands and Indonesia.

Delegations generally commended the work and progress accomplished by UNCITRAL during its resumed fortieth and its forty-first sessions and reiterated their strong support for the work of UNCITRAL in the harmonization and modernization of international trade law.

General support was expressed for the work done by Working Group I (Procurement) in revising the UNCITRAL Model Law on Procurement of Goods, Construction and Services and by Working Group II (Arbitration and Conciliation) in revising the UNCITRAL Arbitration Rules. While the decision by the Working Group to postpone inclusion of specific provisions concerning investor-State dispute settlement in the UNCITRAL Arbitration Rules was welcomed, it was stressed that such inclusion would need to be considered in the near future. Several delegations also commended the progress made by Working Group V (Insolvency) with regard to the treatment of enterprise groups in insolvency and the recent efforts by Working Group VI (Security Interests) in addressing security interests in intellectual property, with a goal of formulating an annex to the Legislative Guide on this matter.

As regards the future work in electronic commerce, some delegations expressed support for the decision by UNCITRAL to work in consultation with the World Custom Organization on legal issues involved in implementing a cross-border single windows facility.

Delegations generally welcomed the comprehensive review of UNCITRAL's working methods and the note prepared by the Secretariat for such purposes describing the current practices. While several delegations recalled their support for the established practice of consensus, few speakers stressed the need to clarify that concept. With regard to the participation of NGOs as observers in UNCITRAL meetings, it was observed that only Member States should participate in the decision-making process even though the expertise and technical support that NGOs are able to provide are of value and greatly welcomed.

Several delegations emphasized the participation of developing States in the works of UNCITRAL and also recalled the importance of technical assistance provided by the Secretariat to those developing States.

As to the UNCITRAL Legislative Guide on Secured Transactions, it was widely felt that the Legislative Guide would assist States, especially developing countries, in modernizing their secured transaction regimes by providing a legal framework that promotes greater access to low-cost credit.

A number of delegations expressed their support for the adoption of the United Nations Convention on the International Carriage of Goods Wholly or Partly by Sea stressing that existing rules in the field of transport law was not able to fully reflect the current practices of the industry. It was observed that the Convention would provide a modern and comprehensive framework that would fill those gaps and enhance more predictability and uniformity, improving conditions for international trade and leading to an overall reduction in transaction costs.

#### Actions taken by the Sixth Committee

At the 25th meeting, on 5 November 2008, the representative of Austria, on behalf of Algeria, Argentina, Australia, Belarus, Belgium, Benin, Brazil, Bulgaria, Cameroon, Canada, Chile, China, Congo, Cote d'Ivoire, Croatia, Cyprus, the Czech Republic, the Democratic Republic of the Congo, Denmark, El Salvador, Estonia, Finland, France, Germany, Ghana, Greece, Guatemala, Hungary, India, Ireland, Israel, Italy, Japan, Jordan, Liechtenstein, Lithuania, Luxembourg, Madagascar, Mexico, Morocco, the Netherlands, Nigeria, Norway, Paraguay, the Philippines, Poland, Portugal, Romania, the Russian Federation, Senegal, Serbia, Singapore, Slovakia, Slovenia, South Africa, Spain, the Sudan, Sweden, Switzerland, Thailand, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukraine, the United Kingdom, Uruguay and Venezuela (Bolivarian Republic of), subsequently joined by Egypt, the former Yugoslav Republic of Macedonia, Albania, Bosnia and Herzegovina, Iran (Islam Republic of), Fiji, Latvia, Malta, Moldova, Montenegro and the Republic of Korea, introduced a draft resolution entitled "Reports of the United Nations Commission on International Trade Law on the work of its resumed fortieth and forty-first sessions" (A/C.6/63/L.4). At the 26th meeting, on 14 November, the Committee adopted draft resolution A/C.6/63/L.4 without a vote.

At the 25th meeting, on 5 November, the representative of Austria, on behalf of the Bureau, introduced two other draft resolutions entitled "Legislative Guide on Secured Transactions of the United Nations Commission on International Trade Law." (A/C.6/63/L.5) and "United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea." (A/C.6/63/L.6) At the 26th meeting, on 14 November, the Committee adopted the two draft resolutions (A/C.6/63/L.5 and A/C.6/63/L.6) without a vote. Upon taking action on draft resolution A/C.6/63/L.6, the General Assembly would be formally adopting the United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea contained in the Annex to the draft resolution and authorizing a signing ceremony to be held on 23 September 2009 in Rotterdam, the Netherlands.

### **REPORT OF THE INTERNATIONAL LAW COMMISSION ON THE WORK OF ITS SIXTIETH SESSION (Agenda Item 75)**

#### **Summary of work**

Background (source: A/63/100)

The International Law Commission was established by the General Assembly at its second session, in 1947, with a view to giving effect to Article 13, paragraph 1 a, of the Charter and with the objective of promoting the progressive development of international law and its codification (resolution 174 (II)).

The statute of the Commission, annexed to resolution 174 (II), was subsequently amended (resolutions 485 (V), 984 (X), 985 (X) and 36/39). The Commission consists of 34 members elected for a term of five years. The last election

was held at the sixty-first session of the General Assembly (decision 61/411), and the next election will be held during the sixty-sixth session.

At its sixty-second session, the General Assembly recommended that the Commission continue its work on the topics in its current programme; drew the attention of Governments to the importance for the Commission of having their views on the various aspects involved in the topics on its agenda, in particular on all the specific issues identified in chapter III of its report; invited Governments to provide information to the Commission regarding practice with regard to the topics "Expulsion of aliens" and "The obligation to extradite or prosecute (*aut dedere aut judicare*)", and regarding State practice, in particular more contemporary practice on the topic "Effects of armed conflicts on treaties"; drew the attention of Governments to the importance for the Commission of having their comments and observations on the draft articles and commentaries on the law of transboundary aquifers by 1 January 2008; took note of the decision of the Commission to include the topics "Protection of persons in the event of disasters" and "Immunity of State officials from foreign criminal jurisdiction" in its programme of work; and recommended that the debate on the report of the International Law Commission at the sixty-third session of the Assembly commence on 27 October 2008 (resolution 62/66).

#### Consideration at the sixty-third session

The Sixth Committee considered agenda item 75 at its 16th to 26th meetings, from 27 to 31 October, and from 3 to 5 and on 14 November 2008.

The Chairman of the International Law Commission at its sixtieth session introduced the report of the Commission: chapters I to V and XII at the 16th meeting, on 27 October, chapters VI, VII and VIII at the 18th meeting, on 29 October, and chapters IX, X and XI at the 22nd meeting, on 31 October (see A/C.6/63/SR.16, 18 and 22).

Statements were made by the representatives of Norway (on behalf of the Nordic countries), Finland (on behalf of the Nordic countries), Austria, Belarus, the Philippines, the Republic of Korea, Brazil, the United Kingdom, Germany, Switzerland, Italy, Saudi Arabia, the Czech Republic, Ghana, Nigeria, Uruguay, the Russian Federation, New Zealand, the United States of America, Slovenia, Israel, Lebanon, Japan, Greece, Indonesia, Iran (Islamic Rep. of), Cyprus, France, Portugal, the Netherlands, Sweden (on behalf of the Nordic countries), China, Argentina, Estonia, Denmark (on behalf of the Nordic countries), Mexico, Hungary, Canada, Malaysia, Viet Nam, Bulgaria, Poland, Belgium, Romania, Spain, Chile, India, El Salvador, Thailand, Australia, Cuba, Qatar, Jamaica, the United Republic of Tanzania and the Sudan. The representatives of the observer delegations of the European Commission and the International Federation of the Red Cross and Red Crescent Societies also made statements.

A summary of the discussions on this agenda item may be found in the Topical summary of the discussion held in the Sixth Committee of the General Assembly, during its sixty-third session, prepared by the Secretariat (A/CN.4/606 (forthcoming)).

#### Action taken by the Sixth Committee

At the 26th meeting, on 14 November 2008, the representative of New Zealand, on behalf of the Bureau, introduced a draft resolution entitled "Report of the International Law Commission on the work of its sixtieth session" (A/C.6/63/L.20) and orally revised it by adding, after operative paragraph 8 the following paragraph:

"Requests the Secretary-General to submit to the General Assembly, in accordance with the established procedures, and bearing in mind its resolution 56/272, a report on the assistance currently provided to special rapporteurs and options regarding additional support of the work of special rapporteurs;"

At the same meeting the Committee adopted draft resolution A/C.6/63/L.20, as orally revised, without a vote. By the terms of the draft resolution, the General Assembly would express its appreciation for the work accomplished at the sixtieth session, in particular the completion, on second reading, of the draft articles on the law of transboundary aquifers, and, on first reading, the draft articles on Effects of armed conflicts on treaties.

At the same meeting, the representative of New Zealand, on behalf of the Bureau, introduced a draft resolution entitled "The Law of transboundary aquifers" (A/C.6/63/L.21) and the Committee adopted the draft resolution without a vote. By the terms of the resolution the General Assembly would take note of the draft articles and commend them to the attention of Governments without prejudice to the question of their future adoption or other appropriate action. The Assembly would also decide to in the provisional agenda of its sixty-sixth session an item entitled "The law of

transboundary aquifers” with a view to examining, inter alia, the question of the form that might be given to the draft articles.

## **STATUS OF PROTOCOLS ADDITIONAL TO THE GENEVA CONVENTIONS OF 1949 AND RELATING TO THE PROTECTION OF VICTIMS OF ARMED CONFLICTS (Agenda Item 76)**

### **Summary of work**

Background (source: A/63/100)

This item was included in the agenda of the thirty-seventh session of the General Assembly, in 1982, at the request of Denmark, Finland, Norway and Sweden (A/37/142).

The General Assembly considered the question biennially at its thirty-seventh to fifty-ninth sessions (resolutions 37/116, 39/77, 41/72, 43/161, 45/38, 47/30, 49/48, 51/155, 53/96, 55/148, 57/14 and 59/36).

At its sixty-first session, the General Assembly requested the Secretary-General to submit to the Assembly at its sixty-third session a report on the status of the Additional Protocols relating to the protection of victims of armed conflicts, as well as on measures taken to strengthen the existing body of international humanitarian law, inter alia, with respect to its dissemination and full implementation at the national level, based on information received from Member States and the International Committee of the Red Cross (resolution 61/30).

### Consideration at the sixty-third session

The Sixth Committee considered the item at its 13th, 14th and 26th meetings, on 23 and 24 October and 14 November 2008.

Statements were made by the representatives of Australia (also on behalf of Canada and New Zealand), Mexico (on behalf of the Rio Group), France (on behalf of the European Union; the Candidate Country the former Yugoslav Republic of Macedonia; the Countries of the Stabilization and Association Process and potential candidates Albania and Montenegro, the EFTA country Iceland, member of the European Economic Area; as well as Ukraine, the Republic of Moldova and Armenia which aligned themselves with the declaration), Sweden (on behalf of the Nordic countries), Kenya (on behalf of the African Group), Switzerland, the Sudan, Algeria, the Russian Federation, Cuba, Japan, the United Kingdom, Venezuela (Bolivarian Republic of), the Syrian Arab Republic, Tunisia, Qatar, Colombia and Viet Nam. The representatives of Israel and the Syrian Arab Republic spoke in exercise of the right of reply. Statements were also made by the observers of the International Committee of the Red Cross (ICRC) and of the International Federation of Red Cross and Red Crescent Societies.

Delegations recalled the importance of the Geneva Conventions and the Protocols Additional thereto and stressed the need for those States that have not already done so to ratify the Protocols as well as the Rome Statute of the International Criminal Court and other relevant instruments. Some delegations encouraged States to accept the competence of the International Fact-Finding Commission, pursuant to Article 90 of the First Additional Protocol. Some speakers welcomed the adoption of the Third Protocol Additional to the Geneva Conventions, relating to the Adoption of an Additional Emblem. The adoption in 2008 of the Convention on cluster munitions was noted by some delegations. Concern was expressed over the increasing numbers of civilians being targeted in armed conflicts and the need to apply international humanitarian law was stressed.

Delegations commended the ICRC on its role in the promotion of international humanitarian law and monitoring compliance with it. While some delegations noted with interest the ICRC's study on customary international humanitarian law, a view stressing concern about its methodology, and in particular, its conclusion that certain rules contained in the Additional Protocols have become customary international law for all States, was also expressed. Some delegations welcomed the 2008 Montreux Document elaborated under the leadership of Switzerland and the ICRC to clarify legal obligations and to define good practices relevant to private military and security companies operating in an armed conflict.

Delegations referred to national activities designed to implement and disseminate international humanitarian law and welcomed the Secretary-General's report containing information in this regard (A/63/118 and Corr.1). Some delegations encouraged States to contribute relevant information to the report.

## Action taken by the Sixth Committee

At the 26th meeting, on 14 November 2008, the representative of Sweden, also on behalf of Albania, Argentina, Australia, Austria, Belarus, Belgium, Belize, Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Cambodia, Canada, Chile, Congo, Costa Rica, Croatia, Cyprus, the Czech Republic, Denmark, Ecuador, El Salvador, Estonia, Fiji, Finland, France, Germany, Greece, Guatemala, Hungary, Iceland, Ireland, Italy, Jamaica, Japan, Jordan, Kenya, Latvia, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malta, Mexico, Monaco, Mongolia, Montenegro, the Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Peru, Poland, Portugal, the Republic of Moldova, Romania, Senegal, Serbia, Sierra Leone, Slovakia, Slovenia, South Africa, Spain, Swaziland, Switzerland, the former Yugoslav Republic of Macedonia, Trinidad and Tobago, Uganda, Ukraine, the United Kingdom, the United Republic of Tanzania, Uruguay, Venezuela (Bolivarian Republic of) and Zambia, introduced a draft resolution entitled "Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts" (A/C.6/63/L.15\*). At the same meeting, the Committee adopted draft resolution A/C.6/63/L.15\* without a vote. Before the adoption of the draft resolution, the representative of Egypt made a statement in explanation of position; after the adoption of the draft resolution, the representative of Israel made a statement in explanation of position. Under this draft resolution, the General Assembly would request the Secretary-General to submit to the Assembly at its sixty-fifth session a report on the status of the Additional Protocols relating to the protection of victims of armed conflicts, as well as on measures taken to strengthen the existing body of international humanitarian law, inter alia, with respect to its dissemination and full implementation at the national level, based on information received from Member States and the International Committee of the Red Cross.

## **CONSIDERATION OF EFFECTIVE MEASURES TO ENHANCE THE PROTECTION, SECURITY AND SAFETY OF DIPLOMATIC AND CONSULAR MISSIONS AND REPRESENTATIVES (Agenda Item 77)**

### **Summary of work**

Background (source: A/63/100)

This item was included in the agenda of the thirty-fifth session of the General Assembly, in 1980, at the request of Denmark, Finland, Iceland, Norway and Sweden (A/35/142).

The General Assembly considered the item annually at its thirty-sixth to forty-third sessions, and biennially thereafter (resolutions 36/33, 37/108, 38/136, 39/83, 40/73, 41/78, 42/154, 43/167, 45/39, 47/31, 49/49, 51/156, 53/97, 55/149, 57/15 and 59/37).

At its sixty-first session, the General Assembly requested the Secretary-General to submit to the Assembly at its sixty-third session a report containing (a) information on the state of ratification of, and accessions to, the instruments relevant to the protection, security and safety of diplomatic and consular missions and representatives; and (b) a summary of the reports received from States on serious violations involving diplomatic and consular missions and representatives and actions taken against offenders, as well as of the views of States with respect to any measures needed or already taken to enhance the protection, security and safety of diplomatic and consular missions and representatives (resolution 61/31).

### Consideration at the sixty-third session

The Sixth Committee considered the item at its 14th, 25th and 26th meetings, on 24 October and on 5 and 14 November 2008.

Statements were made by the representatives of France (on behalf of the European Union; the Candidate Country the former Yugoslav Republic of Macedonia; the Countries of the Stabilization and Association Process and potential candidates Albania and Montenegro, the EFTA country Iceland, member of the European Economic Area; as well as Ukraine and the Republic of Moldova which aligned themselves with the declaration), Norway (on behalf of the Nordic countries), Canada (also on behalf of Australia and New Zealand), China, Turkey, Venezuela (Bolivarian Republic of), Iran (Islamic Republic of), Cuba and Israel. The representative of Cyprus spoke in exercise of the right of reply.



Delegations welcomed the Secretary-General's report on the topic (A/63/121). They voiced their concern and condemned the continuing acts of violence against the security and safety of diplomatic and consular missions and their representatives and urged States to respect their obligations under international law and to take all the necessary measures in order to protect the diplomatic and consular missions and the representatives within their territories. Some delegations urged States to comply with relevant reporting procedures. Some speakers also stressed that the breaches by States of their obligations under the Vienna Conventions on Diplomatic and Consular Relations entail an obligation to make reparation or to take other remedial action. The need and responsibility to take preventive measures was emphasized by some delegations.

The progress in the participation of States in relevant instruments was welcomed by some speakers.

#### Action taken by the Sixth Committee

At the 25th meeting, on 5 November 2008, the representative of Finland, also on behalf of Argentina, Australia, Austria, Belarus, Belgium, Bulgaria, Canada, China, Croatia, Cuba, Cyprus, the Czech Republic, Denmark, Estonia, Fiji, France, Germany, Ghana, Hungary, Iceland, Ireland, Italy, Lebanon, Liechtenstein, Lithuania, Luxembourg, Malawi, Mali, Malta, Mexico, the Netherlands, Nicaragua, Nigeria, Norway, Paraguay, Peru, Poland, Portugal, the Republic of Moldova, Romania, the Russian Federation, Serbia, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Trinidad and Tobago, Turkey, Ukraine and the United Kingdom, subsequently joined by Albania, Benin, Burkina Faso, Ecuador, Gabon, Israel, Latvia, Madagascar and Montenegro, introduced a draft resolution entitled "Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives" (A/C.6/63/L.12). At its 26th meeting, on 14 November, the Committee adopted the draft resolution without a vote (A/C.6/63/L.12). Under this draft resolution, the General Assembly would request the Secretary-General to submit to the Assembly at its sixty-fifth session a report containing information on the state of ratification of, and accessions to, the instruments relevant to the protection, security and safety of diplomatic and consular missions and representatives; and a summary of the reports received from States on serious violations involving diplomatic and consular missions and representatives and actions taken against offenders, as well as of the views of States with respect to any measures needed to enhance the protection, security and safety of diplomatic and consular missions and representatives.

### **REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (Agenda Item 78)**

#### **Summary of work**

Background (source: A/63/100)

The item entitled "Need to consider suggestions regarding the review of the Charter of the United Nations" was included in the agenda of the twenty-fourth session of the General Assembly, in 1969, at the request of Colombia (A/7659).

At its twenty-ninth session, the General Assembly decided to establish an Ad Hoc Committee on the Charter of the United Nations to consider any specific proposals that Governments might make with a view to enhancing the ability of the United Nations to achieve its purposes, as well as other suggestions for the more effective functioning of the United Nations that might not require amendments to the Charter (resolution 3349 (XXIX)).

Meanwhile, another item, entitled "Strengthening of the role of the United Nations with regard to the maintenance and consolidation of international peace and security, the development of cooperation among all nations and the promotion of the rules of international law in relations between States", was included in the agenda of the twenty-seventh session of the General Assembly at the request of Romania (A/8792).

At its thirtieth session, the General Assembly decided to reconvene the Ad Hoc Committee as the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization to examine suggestions and proposals regarding the Charter and the strengthening of the role of the United Nations with regard to the maintenance and consolidation of international peace and security, the development of cooperation among all nations and the promotion of the rules of international law (resolution 3499 (XXX)).

Since its thirtieth session, the General Assembly has reconvened the Special Committee every year (resolutions 31/28, 32/45, 33/94, 34/147, 35/164, 36/123, 37/114, 38/141, 39/88, 40/78, 41/83, 42/157, 43/170, 44/37, 45/44, 46/58, 47/38, 48/36, 49/58, 50/52, 51/209, 52/161, 53/106, 54/106, 55/156, 56/86, 57/24, 58/248, 59/44, 60/23 and 61/38).

At its sixty-second session, the General Assembly decided that the Special Committee should hold its next session from 27 February to 5 March and on 7 March 2008 and requested it to submit a report on its work to the Assembly at its sixty-third session (resolution 62/69).

The Special Committee met at United Nations Headquarters from 27 to 29 February and on 3 to 5 and 7 March 2008. Also at its sixty-second session, the General Assembly requested the Special Committee, at its session in 2008: (a) to continue its consideration of all proposals concerning the question of the maintenance of international peace and security in all its aspects in order to strengthen the role of the United Nations, and, in that context, to consider other proposals relating to the maintenance of international peace and security already submitted or which might be submitted to the Special Committee at its session in 2008; (b) to continue its consideration of the working document submitted by the Russian Federation, entitled "Basic conditions and standard criteria for introduction and implementation of sanctions", on a priority basis; and (c) to continue to consider, on a priority basis and in an appropriate substantive manner and framework, the question of the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter based on all of the related reports of the Secretary-General and the proposals submitted on the question; and requested the Secretary-General to submit to it at its sixty-third session a report on both the Repertory of Practice of United Nations Organs and the Repertoire of the Practice of the Security Council, and a report on the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions (resolution 62/69).

#### Consideration at the sixty-third session

The Sixth Committee considered the item at its 12th, 13th and 26th meetings, on 22 and 23 October and on 14 November 2008. At the 12th meeting, on 22 October, the Chairman of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization introduced the report of the Special Committee (A/63/33).

Statements were made by the representatives of Kenya (on behalf of the African Group), Mexico (on behalf of the Rio Group), Cuba (on behalf of the Non-Aligned Movement), France (on behalf of the European Union; the Candidate Countries Turkey and the former Yugoslav Republic of Macedonia, the Countries of the Stabilisation and Association Process and potential candidates Albania, Montenegro and Serbia, the EFTA country Norway, member of the European Economic Area, as well as Ukraine and Armenia aligned themselves with the declaration), Belarus, China, India, Egypt, Nigeria, the Sudan, the Libyan Arab Jamahiriya, Côte d'Ivoire, Iraq, Cuba, the Russian Federation, the Syrian Arab Republic, Senegal, Japan, Trinidad and Tobago, Iran (Islamic Republic of), Venezuela (Bolivarian Republic of), Turkey, the United States of America, Yemen, South Africa, Afghanistan, Cameroon, Algeria and Malaysia.

Some delegations recalled the important role of the Special Committee in the maintenance of international peace and security.

Some speakers recalled that sanctions, which are an important tool for the maintenance of international peace and security, should be used only in last resort, be clearly defined, targeted, limited in duration and periodically reviewed. It was also emphasized that sanctions should strictly comply with the Charter of the United Nations, international law and human rights and never be unilaterally imposed. The progress achieved in various United Nations fora to target and streamline sanctions procedures was welcomed by some delegations.

In this context, some delegations expressed their support for the revised working paper proposed by the Russian Federation on the "Basic conditions and standard criteria for the introduction and implementation of sanctions imposed by the United Nations", as it would provide a clear sanctions regime, and called for its early adoption after its consideration at the next session of the Special Committee. However, some other delegations, while sharing this view, observed that the proposal could not be adopted as such and would require further consideration and amendments. Furthermore, a view was expressed that the Special Committee was not the adequate framework to devise norms concerning the design and implementation of sanctions.

Some speakers noted the importance of the consideration of the issue of the negative effects of sanctions on third States, including by establishing a working group to study this issue. The point was made that it should remain on the agenda of the Special Committee as it provides a forum to raise concerns regarding the Security Council's exercise of its sanctions powers. A view was expressed in support of the establishment of a mechanism to assist third States affected by sanctions. However, some other speakers observed that this matter was usefully addressed by the Sanctions Committees and therefore coupled to the fact that targeted sanctions made this topic irrelevant, a suggestion was made that this topic could be removed from the Special Committee's agenda. In view of the divergence of opinions on the relevance of this item for the Special Committee, a suggestion was made to survey Member States in order to take a decision. Still on this topic, divergence of views was expressed on the meaning and interpretation to be given to Article 50 of the Charter, especially on the responsibility of the Security Council to assist third States affected by the imposition of sanctions.

A view welcoming the deletion from the agenda of the Special Committee of the item legal basis for peacekeeping operations was expressed, as well as a wish that the recommendations made by the Special Committee on the matter be taken into account by the Fourth Committee.

While some delegations expressed support for the joint proposal submitted by Belarus and the Russian Federation, to request an advisory opinion from the International Court of Justice on 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, some other delegations did not support this proposal. A point was also made that that further discussion and study was required to formulate a suitable question to the Court, if any. An emphasis on the principle of free choice of means in dispute settlement was also made.

Concerning the working methods of the Special Committee, some speakers were of the view that they should be further improved towards a better use of the resources allocated to the Committee, including by reducing the duration of its session to one week, and reviewing items on which no consensus is foreseeable only every two or three years. However, it was also underlined by some other speakers that the shortcomings within the Special Committee were due to the lack of political will and not to its working methods. A view was also expressed that a reasonable amount of time should be allocated for the submission of proposals.

While some delegations supported the proposal of the Rio Group to include a new topic on the agenda of the Special Committee, entitled "Consideration of the legal aspects of the reform of the United Nations", some other delegations emphasized their general reluctance to include a new topic in view of the great number of items already on the Special Committee's agenda, and that therefore further information would be required in this regard.

Some speakers commended the efforts made by the Secretariat in the preparation of the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* and welcomed the posting of the advance versions of various studies on the United Nations website. They also welcomed the cooperation with academia. It was recalled that those publications contribute to the institutional memory of the Organization and are valuable tools for both researchers and practitioners.

Some delegations encouraged further consideration of the proposals submitted by Cuba and the Libyan Arab Jamahiriya, concerning the "Strengthening of the role of the Organization and enhancing its effectiveness", and the "Strengthening of the role of the Organization in the maintenance of international peace and security", respectively.

A point was also made that the Special Committee could be the best forum to discuss the possibility and means to record and preserve the gentlemen's agreement between African and Asian States on the distribution of seats among them at the Security Council.

#### Action taken by the Sixth Committee

At the 26th meeting of the Committee, on 14 November 2008, the representative of Egypt, on behalf of the Bureau, introduced a draft resolution entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization" (A/C.6/63/L.19). At the same meeting, the Committee adopted draft resolution A/C.6/63/L.19 without a vote. Under this draft resolution, the General Assembly would decide that the Special Committee shall hold its next session from 17 to 25 February 2009.

**THE RULE OF LAW AT THE NATIONAL AND INTERNATIONAL LEVELS (Agenda Item 79)****Summary of work**

Background (source: A/63/100)

This item was included in the provisional agenda of the sixty-first session of the General Assembly, in 2006, at the request of Liechtenstein and Mexico (A/61/142). At that session, the Assembly requested the Secretary-General to prepare an inventory of the current activities of the various organs, bodies, offices, departments, funds and programmes within the United Nations system devoted to the promotion of the rule of law at the national and international levels for submission at its sixty-third session; and also requested the Secretary-General, after having sought the views of Member States, to prepare and submit, at its sixty-third session, a report identifying ways and means for strengthening and coordinating the activities listed in the above-mentioned inventory, with special regard to the effectiveness of assistance that might be requested by States in building capacity for the promotion of the rule of law at the national and international levels (resolution 61/39).

At its sixty-second session, the General Assembly reiterated the two requests it had made in resolution 61/39; and invited the International Court of Justice, the United Nations Commission on International Trade Law and the International Law Commission to comment, in their respective reports to the General Assembly, on their current roles in promoting the rule of law (resolution 62/70).

**Consideration at the sixty-third session**

The Sixth Committee considered the item at its 6th, 7th, 8th and 26th meetings, on 13 and 14 October and on 14 November 2008.

The Under-Secretary-General for Legal Affairs, the Legal Counsel, introduced the reports of the Secretary-General on the agenda item (A/63/64, A/63/154, A/63/226). The Deputy Secretary-General made a statement on the work of the Rule of Law Coordination and Resource Group.

Statements were made by the representatives of New Zealand (also on behalf of Canada and Australia), France (on behalf of the European Union, the candidate countries Turkey, Croatia and the former Yugoslav Republic of Macedonia, the countries of the Stabilization and Association Process and potential candidates Albania, Bosnia and Herzegovina, Montenegro and Serbia, as well as Ukraine, the Republic of Moldova and Armenia aligned themselves with the statement), Cuba (on behalf of the Non-Aligned Movement), Mexico (on behalf of the Rio Group), Kenya (on behalf of the African Group), Liechtenstein, Switzerland, Bangladesh, Guatemala, Cuba, the Republic of Korea, China, Egypt, Japan, Pakistan, India, the Democratic Republic of the Congo, Indonesia, Singapore, Mozambique, Norway, Zambia, Nigeria, Myanmar, Iran (Islamic Republic of), Lesotho, Kazakhstan, Lao People's Democratic Republic, Trinidad and Tobago, the Russian Federation, Viet Nam, the United Republic of Tanzania, Qatar, Ghana, the Libyan Arab Jamahiriya, the Syrian Arab Republic, the United States of America, Kuwait, Venezuela (Bolivarian Republic of), South Africa, Mexico and Azerbaijan. Statements were also made by the observers of the Holy See, the International Development Law Organization and the Asian-African Legal Consultative Organization.

In their general observations, delegations reiterated their strong commitment to the promotion of the rule of law, which was at the centre of the United Nations efforts in the field and needed to be articulated with the guarantees for human rights, development goals and support for democratization. Several delegations emphasized the importance of the promotion of the rule of law at the national level and provided information on relevant features of their own system in this regard. It was indicated that technical assistance by the United Nations and other external actors should be provided at the request of the recipient State, with a view to further enhancing national ownership.

The view was expressed that the promotion of the rule of law at the international level needed to be considered as complementary to activities performed at the national level. On the international plane, delegations put particular emphasis on the codification and progressive development of international law as well as on issues relating to the adoption and implementation of treaties and to the pacific settlement of disputes, in particular by encouraging resort to the International Court of Justice. Some delegations also mentioned efforts made to enhance the dissemination and teaching of international law. In this regard, reference was made to the need to make a better use of electronic resources, as exemplified by the launch of the United Nations Audiovisual Library of International Law.

Several delegations also mentioned the need to pay particular attention to the promotion of the rule of law at the institutional level. According to these views, the functions and mandates of the General Assembly should not be infringed upon by other organs and should be respected by Member States. Mention was specifically made of the decisions of the Security Council. The view was expressed that the Security Council should pay particular attention to the requirements of the rule of law in the context of the activities of its Sanctions Committees.

Delegations welcomed the inventory of the current activities performed system-wide by the United Nations for the promotion of the rule of law at the national and international levels (A/63/64). It was emphasized that this inventory, by reflecting the important commitment of 40 United Nations entities to promoting the rule of law, illustrated the need for better streamlining and coordination within the system.

Delegations also welcomed the report aimed at identifying ways and means for strengthening and coordinating the activities listed in the inventory (A/63/226). They particularly supported the approach based on developing coordination, promotion strategies and partnerships. Appreciation was also expressed for the follow-up tools envisaged in the report, such as a joint strategic plan for the implementation of a common approach to rule of law assistance, the establishment of a rule of law website and the creation of a trust fund. It was noted that this report did not contain sufficient proposals for enhancing coordination within the United Nations.

Several delegations expressed their appreciation for the establishment and work of the Rule of Law Coordination and Resource Group, supported by the Rule of Law Unit. The view was expressed that the Group and the Unit should have a coordinating rather than operational function and should focus on technical assistance as the area where progress needed to be made as a matter of priority. It was suggested that a focal point be established in order to centralize and redirect requests for assistance by Member States. As to the financing of the Rule of Law Unit, a preference was indicated for adequate resources being provided through the regular budget.

As to the future consideration of the agenda item, the view was expressed that the Secretary-General should prepare an annual report on the activities of the United Nations system in the field of the rule of law, with a particular focus on specific themes. In this respect, several delegations reiterated their support for a thematic and focused debate, based on the selection of one or two relevant subtopics, which should not overlap with the work done by other Committees. A wide range of views was however expressed concerning the theme of the subtopic to be chosen for the next session. Suggestions previously made regarding strengthening criminal justice at the international and national levels, with particular reference to "legacy" issues, were reiterated. It was suggested to deal with the role of the International Court of Justice and other international tribunals in promoting the application of international law and to study the implementation of international standards at the national level. The view was expressed that the Committee should first try to reach a common understanding of the concept of the rule of law at the national and international levels. Other proposals concerned transitional justice in conflict and post-conflict situations; technical assistance and capacity-building, especially for the implementation and interpretation of international obligations and in post-conflict situations; the role of the International Criminal Court in the establishment of the rule of law; the convening of a conference to adopt a Declaration on the Principles and Purposes of the Rule of Law at the National, Regional and International Levels.

#### Action taken by the Sixth Committee

At the 26th meeting, on 14 November 2008, Mexico introduced, on behalf of the Bureau, a draft resolution entitled "The rule of law at the national and international levels" (A/C.6/63/L.17). The Secretary of the Committee made a statement regarding the financial implications of the draft resolution (A/C.6/63/SR.26). At the same meeting, the Committee adopted draft resolution A/C.6/63/L.17 without a vote. Following the adoption of the draft resolution, the Sixth Committee agreed that the understanding reached in connection with operative paragraph 10 of draft resolution A/C.6/63/L.17 would be issued in a Note by the Chairman (A/C.6/63/L.23). Under this draft resolution, the General Assembly would request the Secretary-General to submit an annual report on United Nations rule of law activities, in particular the work of the Rule of Law Coordination and Resource Group and the Rule of Law Unit, with special regard to the improvement of the coordination, coherence and effectiveness of rule of law activities. Under operative paragraph 10 of the draft resolution, the General Assembly would also invite Member States to focus their comments in future Sixth Committee debates on the sub-topics "Promoting the rule of law at the international level" (sixty-fourth session), "Laws and practices of Member States in implementing international law" (sixty-fifth session), and "Rule of law and transitional justice in conflict and post-conflict situations" (sixty-sixth session), without prejudice to the consideration of the item as a whole.

**MEASURES TO ELIMINATE INTERNATIONAL TERRORISM (Agenda Item 99)****Summary of work**

Background (source: A/63/100)

This item was included in the agenda of the twenty-seventh session of the General Assembly, in 1972, further to an initiative of the Secretary-General (A/8791 and Add.1 and Add.1/Corr.1). At that session, the Assembly decided to establish the Ad Hoc Committee on International Terrorism, consisting of 35 members (resolution 3034 (XXVII)).

The General Assembly continued its consideration of the item biennially at its thirty-fourth to forty-eighth sessions, and annually thereafter (resolutions 34/145, 36/109, 38/130, 40/61, 42/159, 44/29, 46/51, 49/60 and 50/53; and decision 48/411).

At its fifty-first session, the General Assembly established an Ad Hoc Committee to elaborate an international convention for the suppression of terrorist bombings and, subsequently, an international convention for the suppression of acts of nuclear terrorism, to supplement related existing international instruments, and thereafter to address means of further developing a comprehensive legal framework of conventions dealing with international terrorism (resolution 51/210).

The General Assembly continued its consideration of the item at its fifty-second to sixty-first sessions (resolutions 52/164, 52/165, 53/108, 54/110, 55/158, 56/88, 57/27, 58/81, 59/46, 60/43 and 61/40).

At its sixty-second session, the General Assembly called upon all Member States, the United Nations and other appropriate international, regional and subregional organizations to implement the United Nations Global Counter-Terrorism Strategy (resolution 60/288) in all its aspects at the international, regional, subregional and national levels without delay, including through mobilizing resources and expertise; decided that the Ad Hoc Committee established by General Assembly resolution 51/210 should, on an expedited basis, continue to elaborate the draft comprehensive convention on international terrorism, and should continue to discuss the item included in its agenda by the Assembly in resolution 54/110 concerning the question of convening a high-level conference under the auspices of the United Nations; and also decided that the Ad Hoc Committee should meet on 25 and 26 February and 6 March 2008 in order to fulfil that mandate (resolution 62/71).

**Consideration at the sixty-third session**

The Sixth Committee considered the item at its 2nd, 3rd, 4th, 14th and 26th meetings, on 8, 9 and 24 October and on 14 November 2008. At its 1st meeting, on 6 October 2008, the Sixth Committee decided to establish a Working Group to continue to carry out the mandate of the Ad Hoc Committee established by General Assembly resolution 51/210, as contained in General Assembly resolution 62/71 of 6 December 2007. The Working Group held two meetings, on 9 and 16 October 2008. Informal consultations were also held on the resolution on this item.

At the 2nd meeting of the Sixth Committee, on 8 October 2008, the Chairman of the Ad Hoc Committee established by General Assembly resolution 51/210 introduced the report of the Ad Hoc Committee (A/63/37). At the 14th meeting, on 24 October, the Chairman of the Working Group presented an oral report on the work of the Working Group and on the results of the bilateral contacts with delegations which were held intersessionally on 1 October, and during the current session on 13 and 14 October (A/C.6/63/SR.2 and 14).

Statements were made by the representatives of the Russian Federation (on behalf of the Shanghai Cooperation Organization), Mexico (on behalf of the Rio Group), Australia (also on behalf of Canada and New Zealand), Cuba (on behalf of the Non-Aligned Movement), Vietnam (on behalf of ASEAN), Trinidad and Tobago (on behalf of the Caribbean Community), Kenya (on behalf of the African Group), France (on behalf of the European Union; the candidate countries Turkey, Croatia and the former Yugoslav Republic of Macedonia; the countries of the Stabilization and Association Process and potential candidates Albania, Bosnia and Herzegovina, Montenegro and Serbia; the EFTA country Iceland, member of the European Economic Area; as well as Ukraine, the Republic of Moldova and Armenia which aligned themselves with the statement), Pakistan (on behalf of OIC), Lebanon (on behalf of the Arab Group), Liechtenstein, Switzerland, the Sudan, the United Arab Emirates, Bangladesh, Turkey, Nigeria, Algeria, Israel, the Democratic Republic of the Congo, Tunisia, Guatemala, Indonesia, Colombia, India, Lesotho, Cuba, China, Yemen, Uganda, Belarus, Iceland, the United Republic of Tanzania, the Republic of Korea, the Syrian Arab Republic, Saudi Arabia, Thailand, Mozambique, Oman, Morocco, Egypt, Japan, Myanmar, Côte d'Ivoire, the Democratic People's Republic of Korea, Singapore, Iran (Islamic Republic of), Senegal, Qatar, Venezuela, Iraq,

Norway, Sri Lanka, Angola, the Libyan Arab Jamahiriya, Malaysia, Cameroon, Afghanistan, Mongolia, Ecuador, Mali, Bahrain, Burkina Faso, Nicaragua, Kuwait, Maldives and the United States of America. Cuba and Venezuela also made statements in the exercise of their right of reply.

Delegations reaffirmed their strong condemnation of terrorism in all its forms and manifestations, and recalled that it remains a major threat to international peace and security. They emphasized the transnational dimension of the phenomenon requiring a global response of the international community, which should be coordinated at the regional and international levels. Delegations further observed that terrorism should not be associated with any culture or religion. The necessity to encourage dialogue among civilizations and religions as an integral part of the fight against terrorism was stressed and, in this regard, the role of the media and the civil society was emphasized.

Several delegations stressed that counter-terrorism measures must be in conformity with the Charter of the United Nations, international law, and in particular human rights, refugee and humanitarian law. Some speakers stressed that the right of peoples to self-determination and to fight against foreign occupation should also be respected and clearly differentiated from terrorist acts. Some delegations also recalled the necessity of addressing the conditions conducive to terrorism, as well as other crimes used to finance terrorism, such as drug trafficking.

Several delegations put an accent on the central role of the United Nations in the formulation of the response of the international community to terrorism, and some speakers underlined the specific role of the General Assembly as the most appropriate organ. It was noted that the resolutions of the Security Council and the General Assembly provided solid basis for the fight against terrorism and should be fully implemented by Member States. Some delegations further praised the work of the three Security Council Sanctions Committees established to counter terrorism. The need to strengthen the international legal framework to prevent and suppress terrorism, particularly through a wider participation of States to existing instruments, was also underlined. However, it was also noted that the absence of a definition of terrorism was undermining the legitimacy of the United Nations to deal with this scourge.

Delegations reiterated their support for the United Nations Global Counter-Terrorism Strategy and viewed it as a key achievement in the coordination of the action of the international community against terrorism. It was stressed that the Strategy should be fully implemented by Member States without selectivity. The first review on the implementation of the Strategy in September 2008 was generally welcomed. Delegations further expressed their appreciation for the institutionalization by the Secretary-General of the Counter-Terrorism Implementation Task Force, which they hoped would enhance coordination among various units of the Organization.

Some speakers noted the importance to accord adequate recognition and support to the victims of terrorism and welcomed the first International Symposium on Supporting Victims of Terrorism organized by the United Nations in September 2008.

With regard to the work of the Ad Hoc Committee established by General Assembly resolution 51/210, several delegations reiterated their call for the early conclusion of the draft comprehensive convention on international terrorism. It was stressed that the convention would serve to fill a lacuna in the existing legal counter-terrorism framework and establish a useful tool for cooperation between States in their efforts to combat international terrorism. Delegations were urged to seize the momentum of the successful conclusion of the review process of the United Nations Global Counter-Terrorism Strategy and to continue the negotiations on the comprehensive draft convention in a spirit of flexibility and compromise. The view was also expressed that time had come to review the negotiating process in order to decide how to proceed further, as well as to consider possible alternatives.

Some delegations expressed support for the proposal of the Coordinator of the draft comprehensive convention made during the 2007 session of the Ad Hoc Committee and considered it to be legally and politically sound and a viable basis for compromise. It was also pointed out that the proposal had to be considered as a package. Several delegations noted that the proposal sought to address the concerns over the possible grant of impunity for military forces of States. It was also stressed that the proposal mainly aimed at clarifying the relationship between the draft convention and international humanitarian law and that it did not impose on future State parties rules of international humanitarian law by which they were not already bound. The point was also made that the proposal had to be considered in the context of the other provisions of the draft convention. Further, it was stressed that the draft convention should be viewed as a law enforcement instrument, and that any compromise text would not necessarily have to include a clear distinction between terrorism and the right to self-determination, or an explicit reference to State terrorism, the latter issue being partly dealt with in draft article 2. The draft convention would not on its own provide an overarching definition of terrorism, but only as read in conjunction with the existing instruments and other rules of international law.

Several other delegations expressed the view that the draft convention should contain a universally accepted definition of terrorism, which would differentiate it from the legitimate struggle of peoples in the exercise of their right to self-determination from foreign occupation or colonial domination. Some delegations also stressed the need for the instrument to address the issue of State terrorism and include in its scope activities of military forces that may not be regulated by international humanitarian law.

The necessity to preserve and respect the integrity of international humanitarian law was emphasized by several delegations.

In relation to the question of convening a high-level conference under the auspices of the United Nations, several delegations expressed their support for the proposal, which would help to formulate a joint coordinated response of the international community to terrorism in all its forms and manifestations. Such a conference would also expedite the finalization of the comprehensive convention, as well as the formulation of an agreed definition of terrorism. On the other hand, several other delegations reiterated that this issue should only be considered once an agreement on the comprehensive convention on international terrorism had been reached or once it has been concluded and adopted.

Several delegations reiterated their support for the proposal by Tunisia to convene a high-level conference to establish a code of conduct in the fight against terrorism, and for the proposal by Saudi Arabia to establish an international centre, under United Nations auspices, to combat international terrorism.

#### Action taken by the Sixth Committee

At the 26th meeting, on 14 November 2008, the representative of Canada, on behalf of the Bureau, introduced a draft resolution entitled "Measures to eliminate international terrorism" (A/C.6/63/L.11). At the same meeting, the Secretary of the Committee made a statement regarding the financial implications of the draft resolution (see A/C.6/63/SR.26). Also at the same meeting, the Committee adopted draft resolution A/C.6/63/L.11 without a vote. Before the adoption of the draft resolution, the representatives of Egypt, Iran (Islamic Republic of) and Cuba made statements in explanation of position; after the adoption of the draft resolution, the representative of Tunisia made a statement in explanation of position (see A/C.6/63/SR.26).

Under the terms of the draft resolution, the General Assembly would note the progress attained in the elaboration of the draft comprehensive convention on international terrorism and, welcoming continuing efforts to that end, would decide that the Ad Hoc Committee established pursuant to resolution 51/210 of 17 December 1996 shall, on an expedited basis, continue to elaborate the draft comprehensive convention and to discuss the question of convening a high-level conference under the auspices of the United Nations, which was included in its agenda by General Assembly resolution 54/110. The General Assembly would further decide that the Ad Hoc Committee shall meet from 29 June to 2 July 2009 in order to fulfill its mandate.

### **REVITALIZATION OF THE WORK OF THE GENERAL ASSEMBLY (Agenda item 110)**

#### **Summary of work**

Background (source: A/63/100)

This item, which was included in the agenda of the forty-sixth session of the General Assembly, in 1991, had originally been proposed for inclusion in the draft agenda of that session by the President of the Assembly at its forty-fifth session (see decision 45/461).

The General Assembly considered the question at its forty-sixth to forty-eighth, fifty-second and fifty-third sessions (resolutions 46/77, 47/233 and 48/264 and decisions 52/479 and 53/491).

At its fifty-fourth session, the General Assembly decided to defer consideration of the item and to include it in the draft agenda of its subsequent session (decision 54/491).

The General Assembly continued its consideration of the item from its fifty-fifth to fifty-eighth sessions (resolutions 55/285, 56/509, 57/301 and 58/126, annex). At its resumed fifty-eighth session, in July 2004, the General Assembly



adopted a number of measures, inter alia, to reorganize the agenda of the Assembly; and decided to review the provisions of the reorganized agenda at its sixty-first session with a view to making further improvements (resolution 58/316).

At its sixty-second session, the General Assembly adopted the proposed programme of work and timetable of the First Committee for 2008 (decision 62/515), the Special Political and Decolonization Committee (Fourth Committee) (decision 62/524), the draft programmes of work of the Second Committee (decision 62/543) and the Third Committee (decision 62/535) and the provisional programme of work of the Sixth Committee (decision 62/517) for the sixty-third session.

At its resumed sixty-second session, in September 2008, the General Assembly decided to establish, at its sixty-third session, an ad hoc working group on the revitalization of the General Assembly, open to all Member States, in order, inter alia, to submit a report thereon to the Assembly at its sixty-third session (resolution 62/276).

No advance documentation is expected.

Consideration at the sixty-third session

At its 2nd plenary meeting on 19 September 2008, the General Assembly, on the recommendation of the General Committee, decided to allocate item 110 to all the Main Committees for the sole purpose of considering and taking action on their respective tentative programmes of work for the sixty-fourth session of the General Assembly. The Committee considered the item at its 26<sup>th</sup> meeting, on 14 November 2008 (A/C.6/63/SR.26).

Action taken by the Sixth Committee

At the 26th meeting, on 14 November 2008, the Chairman introduced the draft decision on the provisional programme of work for the sixty-fourth session of the General Assembly as proposed by the Bureau and contained in document A/C.6/63/L.16. At the same meeting, the Committee adopted the draft decision on the provisional programme of work for the sixty-fourth session of the General Assembly (A/C.6/63/L.16). After the adoption of the draft decision, the representatives of New Zealand and Mexico (on behalf of the Rio Group) made statements in explanation of position. Under this draft decision, the General Assembly would note the decision of the Sixth Committee to adopt the provisional programme of work for the sixty-fourth session of the General Assembly, as proposed by the Bureau.

## **ADMINISTRATION OF JUSTICE AT THE UNITED NATIONS (Agenda Item 129)**

### **Summary of work**

Background (source: A/63/100)

At its fifty-fifth session, in 2001, under the item entitled "Human resources management", the General Assembly requested the Secretary-General to report to it on an annual basis on the outcome of the work of the Joint Appeals Board (resolution 55/258, sect. XI).

The General Assembly considered the item at its fifty-sixth to fifty-ninth sessions (resolutions 57/307 and 59/283; decisions 56/458 C and 58/576).

At its resumed fifty-seventh session, in April 2003, the General Assembly requested the Secretary-General to include statistics on the disposition of cases and information on the work of the Panel of Counsel in his annual report on the administration of justice in the Secretariat (resolution 57/307, para. 21).

At its resumed fifty-ninth session, in April 2005, the General Assembly requested the Secretary-General to submit, in the context of his annual report on the administration of justice in the Secretariat, information on the activities of the Ombudsman, including general statistical information and information on trends and comments on policies, procedures and practices that have come to the attention of the Ombudsman (resolution 59/283, sect. II).

Also at its resumed fifty-ninth session, in April 2005, the General Assembly decided that the Secretary-General should form a panel of external and independent experts to consider redesigning the system of administration of justice; and that the panel should submit its findings and recommendations by the end of July 2006 (resolution 59/283, sect. IV).

At its resumed sixtieth session, in May 2006, the General Assembly decided to defer until its sixty-first session consideration of some of the documents issued under this item (decision 60/551 B).

At its sixty-first session, the General Assembly decided to allocate the item to the Fifth Committee for its consideration, and to the Sixth Committee for the purpose of considering the legal aspects, both institutional and procedural, of the comments by the Secretary-General on the recommendations contained in the report of the Redesign Panel on the United Nations system of administration of justice (decision 61/503 A).

At its sixty-second session, the General Assembly decided to establish: a two-tier formal system of administration of justice, comprising a first instance United Nations Dispute Tribunal Office (UNDT) and an appellate instance United Nations Appeals Tribunal (UNAT); the Office of Administration of Justice, comprising the new Office of Staff Legal Assistance and the Registries for the UNDT and UNAT; a single integrated and decentralized Office of the Ombudsman for the UN Secretariat, Funds and Programme with branches in several duty stations and a new mediation division; the Internal Justice Council; the management evaluation unit within the Office of the Under-Secretary-General for Management. The General Assembly also requested the Secretariat to report at its sixty-third session on: the mandate of the Office of Staff Legal Assistance; specific measures taken to address systemic issues; terms of reference for the Registries of UNDT and UNAT; possible options for delegation of authority for disciplinary measures; revised terms of reference for the Ombudsman; cost-sharing arrangements; and mechanisms for the removal of judges. The General Assembly also decided to revert to the issue of transitional arrangements at the second part of its resumed sixty-second session and requested the Secretary-General to report at the second part of its resumed sixty-second session on a series of issues such as the statute and the jurisdiction of UNDT and UNAT; proposals on allocation of cases to UNDT; and mechanisms envisaged to provide dispute settlement to non-staff personnel (resolution 62/228).

In its decision 62/519, the General Assembly took note of the conclusions of the Sixth Committee on the administration of justice at the United Nations (A/C.5/62/11, Appendix I) following its consideration of the legal aspects of the report of the Secretary-General (A/62/294); decided to establish an Ad Hoc Committee on the Administration of Justice at the United Nations, for the purpose of continuing the work on the legal aspects of the item, taking into account the results of the deliberations of the Sixth Committee on the item, previous decisions of the Assembly and any further decisions that the Assembly may take during its sixty-second session prior to the meeting of the Ad Hoc Committee; requested the Secretary-General to respond to the requests for information contained in the conclusions of the Sixth Committee, taking into account any further decisions that the General Assembly may take during its sixty-second session prior to the meeting of the Ad Hoc Committee; and decided to include the item in the provisional agenda of its sixty-third session.

The Ad Hoc Committee met from 10 to 18 April and on 21 and 24 April 2008 and will report to the General Assembly at its sixty-third session.

On 22 July 2008, the General Assembly decided to re-establish the Ad Hoc Committee on the Administration of Justice at the United Nations for one meeting for the sole purpose of taking note of the oral report of the coordinator on the informal inter-sessional consultations and to request the Secretary-General to issue the coordinator's summary entitled "Coordinator's summary of the preliminary observations made in the informal consultation on the draft statute of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal" as an addendum to the Report of the Ad Hoc Committee. Pursuant to this decision of the General Assembly, the Ad Hoc Committee was re-established for one meeting on 5 August 2008.

**REPORT OF THE COMMITTEE ON RELATIONS WITH THE HOST COUNTRY (Agenda Item 150)****Summary of work**

Background (source: A/63/100)

The Committee on Relations with the Host Country was established by the General Assembly at its twenty-sixth session, in 1971 (resolution 2819 (XXVI)). The Committee is currently composed of the following 19 Member States: Bulgaria, Canada, China, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, France, Honduras, Hungary, Iraq, Libyan Arab Jamahiriya, Malaysia, Mali, Russian Federation, Senegal, Spain, United Kingdom of Great Britain and Northern Ireland and United States of America.

At its sixty-second session, the General Assembly endorsed the recommendations and conclusions of the Committee on Relations with the Host Country contained in paragraph 62 of its report; requested the host country to consider removing the remaining travel restrictions imposed by it on staff of certain missions and staff members of the Secretariat of certain nationalities; and requested the Secretary-General to remain actively engaged in all aspects of the relations of the United Nations with the host country (resolution 62/72).

**Consideration at the sixty-third session**

The Sixth Committee considered the item at its 26th meeting, on 14 November 2008. The Chairman of the Committee on Relations with the Host Country introduced the report of the Committee (A/63/26).

Statements were made by the representatives of France (on behalf of the European Union; the Candidate Countries Turkey, Croatia and the former Yugoslav Republic of Macedonia; the Countries of the Stabilization and Association Process and potential candidates Bosnia and Herzegovina, Montenegro and Serbia, the EFTA countries Iceland and Norway, members of the European Economic Area; as well as Ukraine, the Republic of Moldova and Armenia which aligned themselves with the declaration), Mauritius (on behalf of the African Group), India, Cuba, the Russian Federation, Iran (Islamic Republic of) and the United States of America.

Appreciation was expressed by some speakers for the continued efforts of the host country to accommodate the needs of the diplomatic community and the importance of fulfilling its obligations under the Convention on the Privileges and Immunities of the United Nations and the Headquarters Agreement was also stressed. Some delegations welcomed the decision of the host country to partly exempt the diplomats from secondary screening procedures and the efforts to ensure the timely issuance of visas. However, the host country was urged by some delegations to remove travel restrictions for staff of certain nationalities. A point was made that the outstanding issues concerning the selective treatment of diplomats in the airports, transportation, immigration, customs procedures and tax exemptions should be addressed. Concerns regarding the imposition of property taxes were also raised. The host country was urged by some speakers to issue visas in a timely fashion and to treat all missions on the basis of equality.

The United States confirmed its commitment to fulfil its obligations under international law and highlighted, in particular, the improvements of immigration procedures for diplomats at its airports. It also pointed out that restrictions on private non-official travel did not violate international law.

**Action taken by the Sixth Committee**

At the 26th meeting, on 14 November 2008, the representative of Cyprus, also on behalf of Bulgaria, Canada, Costa Rica and Côte d'Ivoire, introduced a draft resolution entitled "Report of the Committee on Relations with the Host Country" (A/C.6/63/L.18). At the same meeting, the Committee adopted draft resolution A/C.6/63/L.18 without a vote. Under this draft resolution, the General Assembly would *inter alia* request the host country to continue to solve, through negotiations, problems that might arise and to take all measures necessary to prevent any interference with the functioning of missions, to consider removing the remaining travel restrictions imposed by it on staff of certain missions and staff members of the Secretariat of certain nationalities, and would request the Committee on Relations with the Host Country to continue its work in conformity with General Assembly resolution 2819 (XXVI).

**OBSERVER STATUS FOR THE SOUTH CENTRE IN THE GENERAL ASSEMBLY (Agenda Item 151)****Summary of work**

## Background

The item was included in the agenda at the request of the United Republic of Tanzania.

## Consideration at the sixty-third session

The Committee considered the item at its 11th and 25th meetings, on 21 October and 5 November 2008.

## Action taken by the Sixth Committee

At the 11th meeting, on 21 October 2008, the representative of the United Republic of Tanzania, also on behalf of Angola, Benin, Brazil, China, Côte d'Ivoire, the Democratic Republic of the Congo, Guyana, India, Indonesia, Iran (Islamic Republic of), Jamaica, Kenya, Malawi, Malaysia, Mauritius, Morocco, Mozambique, Namibia, Nigeria, Pakistan, the Philippines, Sierra Leone, South Africa, the Sudan, Suriname, the Syrian Arab Republic, Viet Nam, Zambia and Zimbabwe, subsequently joined by Madagascar and Mali, introduced a draft resolution entitled "Observer status for the South Centre in the General Assembly" (A/C.6/63/L.3). At its 25th meeting, on 5 November, the Committee adopted the draft resolution without a vote (A/C.6/63/L.3). Under this draft resolution, the General Assembly would decide to invite the South Centre to participate in the sessions and the work of the General Assembly in the capacity of observer and request the Secretary-General to take the necessary action to implement the resolution.

**OBSERVER STATUS FOR THE UNIVERSITY FOR PEACE IN THE GENERAL ASSEMBLY (Agenda Item 153)****Summary of work**

## Background

The item was included in the agenda at the request of Costa Rica.

## Consideration at the sixty-third session

The Committee considered the item at its 11th and 25th meetings, on 21 October and 5 November 2008.

## Action taken by the Sixth Committee

At the 11th meeting, on 21 October 2008, the representative of Costa Rica, also on behalf of Chile, Colombia, Italy, Nicaragua, Peru, the Philippines, Saint Lucia, Turkey and Venezuela (Bolivarian Republic of), subsequently joined by Croatia, Cuba, Egypt, El Salvador, Guatemala, Jordan, Mexico, Montenegro, Pakistan, Paraguay, the Russian Federation, Slovenia, Spain and the former Yugoslav Republic of Macedonia, introduced a draft resolution entitled "Observer status for the University for Peace in the General Assembly" (A/C.6/63/L.2). At its 25th meeting, on 5 November, the Committee adopted the draft resolution without a vote (A/C.6/63/L.2). Under this draft resolution, the General Assembly would decide to invite the University for Peace to participate in the sessions and the work of the General Assembly in the capacity of observer and request the Secretary-General to take the necessary action to implement the resolution.

## **OBSERVER STATUS FOR THE INTERNATIONAL FUND FOR SAVING THE ARAL SEA IN THE GENERAL ASSEMBLY (Agenda Item 156)**

### **Summary of work**

#### Background

The item was included in the agenda at the request of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan.

#### Consideration at the sixty-third session

The Committee considered the item at its 25th and 26th meeting, on 5 and 14 November 2008.

#### Action taken by the Sixth Committee

At the 25th meeting, on 5 November 2008, the representative of Tajikistan, also on behalf of Kazakhstan, Kyrgyzstan, Turkmenistan and Uzbekistan, introduced a draft resolution entitled "Observer status for the International Fund for Saving the Aral Sea in the General Assembly" (A/C.6/63/L.13). At its 26th meeting, on 14 November, the Committee adopted the draft resolution without a vote (A/C.6/63/L.13). Under this draft resolution, the General Assembly would decide to invite the International Fund for Saving the Aral Sea to participate in the sessions and the work of the General Assembly in the capacity of observer and request the Secretary-General to take the necessary action to implement the resolution