

**The scope and application of the principle of universal jurisdiction**  
**Oral report of the Chairperson of the Working Group**

*Chair:* Ms. Shara Duncan Villalobos (Costa Rica)

**I. Introduction**

1. Pursuant to General Assembly resolution 71/149 of 13 December 2016, the Sixth Committee decided, at its 1st meeting, on 2 October 2017, to establish a working group to continue to undertake a thorough discussion of the scope and application of universal jurisdiction. Pursuant to the same resolution, the Assembly decided that the Working Group should be open to all Member States and that relevant observers to the General Assembly would be invited to participate in the work of the Working Group.
2. At the same meeting, the Sixth Committee elected Ms. Shara Duncan-Villalobos (Costa Rica) as Chairperson of the Working Group, replacing Ms. Georgina Guillén-Grillo (Costa Rica). The Working Group pays tribute to Ms. Georgina Guillén-Grillo for her contribution to its work.
3. The Working Group had before it the 2017, 2016, 2015, 2014, 2013, 2012, 2011 and 2010 reports of the Secretary-General on the scope and application of the principle of universal jurisdiction (A/72/112, A/71/111, A/70/125, A/69/174, A/68/113, A/67/116, A/66/93 and Add.1 and

A/65/181), as well as the oral reports of the Chairperson on the work of the Working Group in 2016 (A/C.6/71/SR.31), 2015 (A/C.6/70/SR.27), 2014 (A/C.6/69/SR.28), 2013 (A/C.6/68/SR.23) and 2012 (A/C.6/67/SR.24). The Working Group also had before it the Informal Paper of the Working Group (A/C.6/66/WG.3/1), which contains agreements on the methodology, as well as an enumeration of issues for discussion, commonly referred to as the “Roadmap” by the Working Group. The Working Group also had before it (a) an informal compilation of “Multilateral and other instruments”, and (b) an informal compilation containing “Excerpts from decisions of international tribunals” which may be relevant in relation to the work of the Working Group, both prepared by the Secretariat, pursuant to an understanding reflected in the 2010 report of the Sixth Committee on the item (A/65/474, para. 4). Finally, the Working Group had before it the Chairperson’s Informal Working Paper that had been distributed and discussed in previous sessions of the Working Group. This Informal Working Paper served as a basis for our discussions. Copies of the Informal Working Paper are available in the room.

## **II. Proceedings of the Working Group**

4. The Working Group held two meetings, on 12 and 18 October 2017. It conducted its work in the framework of informal consultations. The Working Group was convened against the backdrop of the plenary debate at the 14th and 15th meetings of the Sixth Committee, held on 11 and 12 October 2017.

5. This summary is for reference purposes only and is not an official record of the proceedings. At its first meeting, on 12 October, in my capacity as Chairperson, I presented an overview of past proceedings,

including the discussions that had led to the drawing up and refinement of the Informal Working Paper. As is both customary and important, I stressed that it was understood that the issues raised in the Informal Working Paper were intended to be illustrative and without prejudice to future written or oral proposals made by delegations. Furthermore, the document was without prejudice to the positions of delegations. It did not reflect consensus among delegations; and was expected to be subject to further deliberation.

6. The Working Group proceeded to discuss, in both meetings, the way forward, in terms of the product that the Working Group could focus on producing, and how to use the time allocated to the Working Group to advance the process. It also held a brief discussion on the section of the Informal Working Paper concerning application of universal jurisdiction.

7. Delegations remained divided on the possibility of sending either the entire item or specific technical questions under the item to the International Law Commission. Some delegations were supportive of such a proposal, with some suggesting that the technical questions on the issues that remain could be formulated and presented for examination by the Commission with a view to contributing to the work of the Sixth Committee. Other delegations maintained that such a referral was premature and that the Working Group remained the proper forum for discussion of the present item at the current stage. Some delegations also put forth the possibility of streamlining the Informal Working Paper, highlighting aspects that appeared to find consensus support among delegations or removing those aspects that appeared to be repetitions. Other delegations suggested that focusing the work of the Working Group on a set

of specific technical questions could be most useful. Suggestions for creating a list of aspects from the Informal Working Paper where there was convergence amongst delegations and a list of divergent aspects was also raised.

8. Other delegations however suggested that until specific proposals were presented on such transformations to the Informal Working Paper, it remained in form and substance the best way to structure the debates in the Working Group. Some other delegations reiterated their general support for the usefulness of the dialogue on this item, appreciating also that such dialogue was part of the confidence-building exercise that could be seen as central to the work of the Working Group on this item.

9. It was stressed by some delegations that undertaking a revision of the form of the Informal Working Paper may be a step backwards, if the changes to the form or the continued dialogue remained unfocused on a final product.

10. I have served as chairperson for one only session. I have however reviewed the work of past sessions of the Working Group and I have a clear sense of the current state of the discussions this year.

The intellectually stimulating nature of the subject, as well as the range of approaches that delegations have taken at the domestic level, suggests that it would be possible to discuss the item *ad infinitum*. That may well be the wish of delegations, although such an activity would be best left to the plenary of the Sixth Committee, if it were not best left beyond the Sixth Committee altogether.

11. In my considered opinion, the Working Group should not be a repetition of the Sixth Committee debate. In this connection, I would urge

interested delegations to use the intersessional period to consult with each other with the aim of identifying the potential outcome of the Working Group that would both make use of the time wisely and also be appropriate to the nature of the topic. It is unclear exactly what the Working Group is working on and working towards. Devoting three, let alone nine, hours to this item at the seventy-third session would appear a waste of our time and resources unless, during the intersessional period, clearer guidance is offered as to the way forward. Such guidance is closely linked to the final form of our work.

12. I remain firmly committed to working closely with all delegations to make progress on this vital topic, and I look forward to garnering your support and cooperation in the coming intersessional period.

Thank you.