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THE UN @ 75: INTERNATIONAL LAW AND THE FUTURE WE WANT
INTERNATIONAL LAW DAY 2020
MONDAY, 26 OCTOBER 2020, AT 10:00 (NY TIME)

STATEMENT OF THE CHAIR DESIGNATE FOR THE SEVENTY-SECOND SESSION OF THE INTERNATIONAL LAW COMMISSION

MR. MAHMOUD D. HMOUD

Thank you, Mr. Chair.

Your Excellencies,

Distinguished delegates,

Ladies and gentlemen,

First, I would like to express my sincere gratitude to you, Mr. Chair, and your esteemed bureau for convening this virtual event, which affords us an opportunity to reaffirm the importance of international law in international relations. I also would like to acknowledge the distinguished panellists, the distinguished delegates, as well as everyone who is following this historic virtual event through webcast. Allow me, Mr. Chair, to also express solidarity with everyone dealing with the COVID-19 pandemic, and the families of those many lost in this very difficult and daunting juncture in human history.

The theme of this event, "The UN@75: International Law and the future we want" is indeed a relevant one in these unprecedented times and goes to the heart of the Commission's work.

Your Excellencies,

Distinguished delegates,

Ladies and gentlemen,

Seventy-five years ago, at the time of the founding of the United Nations, the General Assembly decided to create an expert subsidiary body to assist it in the implementation of Article 13, paragraph 1(a) of the Charter of the United Nations, that is, to initiate studies and make recommendations to encourage the progressive development of international law and its

codification. This expert subsidiary body is the International Law Commission, which I have the great honour and privilege to be the Chair-designate for its seventy-second session, to be held next year following the Assembly's decision to postpone this year's session.

The Charter of the United Nations places the Commission in a unique position in the progressive development of international law and its codification. In discharging its mandate, the Commission works closely with Member States and the Sixth Committee. The Commission is at the centre of the codification project, a project that began way back in the 19th Century, and has been reaffirmed time and time again not least because of the certainty and predictability that its outcomes bring to the international legal order, thereby guaranteeing a basis for the peaceful settlement of disputes among States.

Only two years ago, in 2018, the International Law Commission commemorated its seventieth anniversary. The theme of the commemorative events was "Seventy years of the International Law Commission: Drawing a balance for the future". On that, as on previous occasions, much was said about the future of the Commission, whether the Commission had become obsolete, and whether its path through progressive development of international law and its codification had become moribund. It became apparent, in my view, that the Commission, through its work on past and current topics, as well as in the selection of topics for its long-term programme of work, is more relevant than ever. The Commission is already looking to the future, tackling contemporary questions of international law and emerging issues of concern to the international community as a whole. The Commission has consistently strived to implement the invaluable mandate bestowed upon it under the Charter and by the General Assembly. It is pleasing to note that the various important statements and contributions made at the commemorative have recently been published in a book that is available under open access, thanks to generous contributions received from Member States and others, thereby meeting one of the objectives of the Commission to make international law readily available and accessible.

What is this future we want and the international law we need?

Mr. Chair,

We can only look to the future by looking at the past and the present. The world is in crisis. That crisis is not of international law. It is a crisis of alienation and lack of confidence in our institutions. A crisis of mistrust and great cynicism, which requires us to either reject the present or to reaffirm its continued relevance and build thereupon. The fact that we are gathered here today suggests that we want a future that places the United Nations and respect for international law at the centre of multilateralism. The Declaration on the commemoration of the seventy-fifth anniversary of the United Nations, adopted at the high-level meeting, acknowledges that "[t]here is no other global organization with the legitimacy, convening power and normative impact of the

United Nations".[1] Allow me also to recall the Declaration on principles of international law concerning friendly relations and cooperation among States in accordance with the Charter of the United Nations, which was adopted on 24 October 1970 – 50 years ago almost to the day. In that Declaration, the General Assembly recognized the duty of States to cooperate with one another in accordance with the Charter of the United Nations. This is Member States of the United Nations speaking. This is the mantra for our common future: international cooperation. As Martti Koskenniemi, a former Member of the Commission, so eloquently put it: "one is most 'sovereign' when one is mostly intensively engaged with the international world."[2]

Multilateralism, international cooperation and international solidarity are essential in dealing with the challenges we face today. We however need international law in our response to these contemporary pressing issues. International law is indispensable to providing the appropriate legal tools to deal with such challenges in a manner compatible with the purposes and principles of the Charter of the United Nations, and other rules of international law. The Commission, in its functioning, is in a unique position to fulfil its mandate, while assisting the Organization and its Member States in the quest to finding solutions to the challenges we face. The more widespread knowledge and understanding of the legal issues associated with these challenges, the more States and others will become engaged in their responses to the problems that we confront. To this end, Commission continues to promote the progressive development of international law and its codification through advocating a better understanding of the law and identifying the legal interests of the many stakeholders it seeks to serve. The Commission is uniquely positioned to do this, given its distinctive vantage point. Yet, its relationship with Member States is key to the successful performance of its mandate. As such, the importance of the dialogue between the Commission and the Sixth Committee cannot be over emphasized.

The Commission has, over the decades, produced legal texts in the various fields of international law which became a core of the general and special rules in legal instruments. Such texts and legal provisions have been quoted by national and international courts even when they were not adopted in the form of a treaty or a convention. National and international practices have also been triggered or based on such outcomes. This attests to the fact that the ILC plays a critical role in the promotion of the rule of law and a rule-based international order and is able to adapt to the contemporary challenges facing the international community.

As you are aware, since the beginning of the current millennium, the Commission has presented to the Sixth Committee several completed outcomes, from the responsibility of States for internationally wrongful acts to the responsibility of international organizations; from prevention of transboundary harm from hazardous activities to liability aspects concerning such activities; from diplomatic protection, expulsion of aliens to protection of persons in the event of

[1] https://undocs.org/A/75/L.1
[2] https://kulawr.msal.ru/jour/article/download/24/24

disasters and so on, subjects that touch on various facets of the international system. Several of these remain before the Sixth Committee as it strives to address legal, policy and other considerations surrounding possible future action on those texts. Building consensus on these issues is the hallmark in contemporary law-making in international law.

In addition to the topics of general international law, the International Law Commission continues to play a central role in and is focusing more on contemporary issues of relevance to the international community as a whole. Ranging from matters related to international criminal law and environmental law to those that are intrinsically linked to the growing threat of climate change, the Commission is seeking to confront current legal issues that require greater understanding by the international community. As we speak, issues concerning international peace and security, the climate crisis, the destruction of the environment, armed conflict, and the protection of persons in the event of disasters are among the challenges of our time and are before the Commission or have recently been referred to the Sixth Committee. You alluded to some of these in your earlier remarks, Mr. Chair, namely "Crimes against humanity", "Protection of the atmosphere", "Sea-level rise in relation to international law" and "Protection of the environment in relation to armed conflicts". In proceeding with these topics, the Commission not only remained true to addressing the legal aspects of international peace and security and international cooperation, but also recognized the importance of being fully engaged with the international community's present-day needs, while mindful of the increasing intersection among various fields of international law.

Mr. Chair,

As the Secretary-General highlighted in his remarks at the General Assembly ceremony marking the seventy-fifth anniversary of the United Nations, "we have a surplus of multilateral challenges and a deficit of multilateral solutions".[3] The Declaration on the commemoration acknowledges that "[o]ur challenges are interconnected and can only be addressed through reinvigorated multilateralism".[4] There is an affirmation that "[w]e will abide by international law and ensure justice". It is also vital to understand the legal implications of current issues and identify concerted measures to tackle them and provide legal frameworks to deal with such issues, in accordance with international law. The International Law Commission stands ready to play its part, in its object of promoting the progressive development of international law and its codification. As Chair-designate for the seventy-second session of the Commission, I can assure you that the Commission will do its utmost to contribute to the international law we need for the future we want. The Commission will continue to work on topics that address urgent and pressing

[3] https://www.un.org/sg/en/content/sg/statement/2020-09-21/secretary-generals-remarks-general-assembly-ceremony-marking-the-75th-anniversary-of-the-united-nations-bilingual-delivered-scroll-down-for-all-english-and-all-french

[4] https://undocs.org/A/75/L.1

issues of concern to the international community as a whole and contribute to the multilateral solutions that we, the peoples, need.

Thank you.