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Chair: Ms. Lungu (Vice-Chair) (Romania)
later: Mr. Milano (Vice-Chair) (Italy)

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Agenda item 161: Report of the Committee on Relations with the Host Country
(*continued*)

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Agenda item 5: Election of the officers of the Main Committees

Completion of the Committee's work for the main part of the session

In the absence of Mr. Chindawongse (Thailand), Ms. Lungu (Romania), Vice-Chair, took the Chair.

The meeting was called to order at 10.10 a.m.

Agenda item 76: Criminal accountability of United Nations officials and experts on mission (continued) (A/C.6/78/L.6)

Draft resolution A/C.6/78/L.6: Criminal accountability of United Nations officials and experts on mission

1. **Mr. Uddin** (Bangladesh), introducing the draft resolution on behalf of the Bureau, said that it reflected and strengthened General Assembly resolution 77/98. A number of technical updates had been made. Notably, the references to previous resolutions in the twenty-second preambular paragraph and paragraph 15 had been updated. Several other amendments had been proposed; however, consensus had not been reached.

2. *Draft resolution A/C.6/78/L.6 was adopted.*

3. **Mr. Mead** (Canada), speaking also on behalf of Albania, Bosnia and Herzegovina, El Salvador, Georgia, Iceland, Montenegro, North Macedonia, Norway, the Republic of Moldova, Serbia, the United Kingdom, the United States of America and the European Union and its member States, said that it was regrettable that the Committee had once again failed to achieve consensus on any of the constructive proposals made during the negotiations on the draft resolution, including several pragmatic proposals that would have brought further clarity to the draft resolution and enhanced the Secretary-General's reporting, such as his delegation's proposal that the General Assembly request the Secretary-General to examine ways to improve screening and vetting of United Nations personnel.

4. In that regard, those delegations wished to highlight the need for a whole-of-system approach that included proactive predeployment screening and vetting through transparent mechanisms jointly owned by the United Nations and Member States. Strengthening predeployment measures would enhance the credibility of the Organization and Member States and contribute to the safety of United Nations staff and civilians. The objective of the proposal had been to initiate a discussion on how Member States and the Organization could continue to strengthen screening and vetting. The delegations encouraged the Secretary-General to address the matter in his briefing under the agenda item at the seventy-ninth session of the Assembly.

5. Once again, opposition to proposed amendments to the draft resolution had come from a very small minority. The delegations hoped that the Committee

would be able to move forward constructively on the aforementioned and other proposals at the seventy-ninth session of the General Assembly.

Agenda item 77: Report of the United Nations Commission on International Trade Law on the work of its fifty-sixth session (continued) (A/C.6/78/L.7, A/C.6/78/L.8, A/C.6/78/L.9 and A/C.6/78/L.10)

Draft resolution A/C.6/78/L.7: Report of the United Nations Commission on International Trade Law on the work of its fifty-sixth session

6. **Mr. Gorke** (Austria), introducing the draft resolution on behalf of the sponsors, said that the following delegations also wished to become sponsors: Armenia, Bosnia and Herzegovina, Denmark, Peru, Philippines, Russian Federation, Serbia, United Kingdom of Great Britain and Northern Ireland, United States of America and Zambia. The text was based on General Assembly resolution 77/99 and incorporated the developments and recommendations set forth in the report of the United Nations Commission on International Trade Law on the work of its fifty-sixth session. In paragraph 2, the Assembly would commend the Commission for the progress made in the context of investor-State dispute settlement reform; the finalization of the work on access to credit for micro-, small and medium-sized enterprises; and the adoption of a guidance text on early dismissal and preliminary determination in the area of dispute settlement.

7. In paragraph 3, the Assembly would commend the secretariat of the Commission for holding the United Nations Commission on International Trade Law Colloquium on Climate Change and International Trade Law. In paragraph 6, it would take note with interest of the decision of the Commission to task one of its working groups with the development of a model law on warehouse receipts. The Commission's decision to authorize the publication of a legal toolkit on the coronavirus disease (COVID-19) and international trade law instruments would be welcomed in paragraph 7. In paragraph 8, the Assembly would welcome the Commission's decision to proceed with further exploratory work on aspects of international trade law related to voluntary carbon credits.

8. *Draft resolution A/C.6/78/L.7 was adopted.*

Draft resolution A/C.6/78/L.8: Model Provisions on Mediation for International Investment Disputes and Guidelines on Mediation for International Investment Disputes of the United Nations Commission on International Trade Law

9. **Mr. Khng** (Singapore), introducing the draft resolution on behalf of the Bureau, said that under the terms of the draft resolution, the General Assembly would recommend the use of the Model Provisions on Mediation for International Investment Disputes and the Guidelines on Mediation for International Investment Disputes and request the Secretary-General to make all efforts to ensure that the Model Provisions and the Guidelines became generally known and available by disseminating them broadly to Governments and other interested bodies.

10. *Draft resolution A/C.6/78/L.8 was adopted.*

Draft resolution A/C.6/78/L.9: Code of Conduct for Arbitrators in International Investment Dispute Resolution and Code of Conduct for Judges in International Investment Dispute Resolution with respective commentary of the United Nations Commission on International Trade Law

11. **Mr. Gorke** (Austria), introducing the draft resolution on behalf of the Bureau, said that under the terms of the draft resolution, the General Assembly would recommend the use of the Code of Conduct for Arbitrators in International Investment Dispute Resolution and the Code of Conduct for Judges in International Investment Dispute Resolution and request the Secretary-General to make all efforts to ensure that the Code of Conduct for Arbitrators and the Code of Conduct for Judges became generally known and available by disseminating them broadly to Governments and other interested bodies.

12. *Draft resolution A/C.6/78/L.9 was adopted.*

Draft resolution A/C.6/78/L.10: Guide on Access to Credit for Micro-, Small and Medium-sized Enterprises of the United Nations Commission on International Trade Law

13. **Ms. Flores Soto** (El Salvador), introducing the draft resolution on behalf of the Bureau, said that under the terms of the draft resolution, the General Assembly would request the Secretary-General to publish the Guide on Access to Credit for Micro-, Small and Medium-sized Enterprises of the United Nations Commission on International Trade Law and to make it widely known and available to Governments and other interested bodies.

14. *Draft resolution A/C.6/78/L.10 was adopted.*

Agenda Item 78: United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law (continued) (A/C.6/78/L.19)

Draft resolution A/C.6/78/L.19: United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law

15. **Ms. Hackman** (Ghana), introducing the draft resolution on behalf of the Bureau, said that the text was based on General Assembly resolution 77/102, with the necessary technical updates. In addition, under the expanded paragraph 22, the General Assembly would once again encourage the Codification Division to cooperate with the African Institute of International Law in the implementation of the relevant activities under the Programme of Assistance, including the second International Law Seminar for African Universities to be held in Ethiopia in 2024, subject to available resources, and encourage Member States and interested organizations to make voluntary contributions to the Seminar. The following Member States would be appointed members of the Advisory Committee of the Programme of Assistance: Canada, Chile, Colombia, El Salvador, Equatorial Guinea, Ethiopia, France, Ghana, Iran (Islamic Republic of), Israel, Italy, Kenya, Lebanon, Malaysia, Mexico, Nigeria, Philippines, Poland, Portugal, Russian Federation, Singapore, Slovakia, South Africa, Trinidad and Tobago and United States of America.

16. *Draft resolution A/C.6/78/L.19 was adopted.*

Agenda item 79: Report of the International Law Commission on the work of its seventy-third and seventy-fourth sessions (continued) (A/C.6/78/L.12 and A/C.6/78/L.21)

Draft resolution A/C.6/78/L.12: Report of the International Law Commission on the work of its seventy-fourth session

17. **Ms. Solano Ramirez** (Colombia), introducing the draft resolution on behalf of the Bureau, said that the text was based on General Assembly resolution 77/103, with some technical updates and other updates to reflect the work of the Commission at its seventy-fourth session. The eleventh preambular paragraph contained a reference to the establishment of a trust fund for assistance to Special Rapporteurs of the Commission or Chairs of its Study Groups and matters ancillary thereto. In paragraph 2, the Assembly would express its appreciation to the Commission for the work

accomplished at its seventy-fourth session and note in particular the completion of the first reading of the draft conclusions on general principles of law and the commentaries thereto. In paragraph 5, it would draw the attention of Governments to the importance for the Commission of having their comments and observations on the draft conclusions by 1 December 2024, while in paragraph 6, it would draw their attention to the importance that the Commission attached to receiving their comments and observations on the topic “Immunity of State officials from foreign criminal jurisdiction” ahead of its second reading of the draft articles on the topic.

18. In paragraph 7, the Assembly would take note of the Commission’s decision to include the topic “Non-legally binding international agreements” in its programme of work. In paragraph 9, it would take note with appreciation of the recommendation of the Commission regarding the commemoration of its seventy-fifth anniversary and encourage States, in association with regional organizations, professional associations, academic institutions and members of the Commission concerned, to convene national or regional meetings dedicated to the work of the Commission.

19. In paragraph 17, the Assembly would decide that the next session of the Commission would be held at the United Nations Office at Geneva from 15 April to 31 May 2024, which would coincide with the commemoration of the seventy-fifth anniversary of the Commission, and from 1 July to 2 August 2024. In paragraph 18, the Assembly would endorse the Commission’s request that the Secretariat proceed with the necessary administrative and organizational arrangements to facilitate the holding of the first part of its seventy-seventh session in New York.

20. In paragraph 31, the Assembly would welcome the issuance of the tenth edition of *The Work of the International Law Commission* in Chinese, English, French, Russian and Spanish and of volume 26 of the *United Nations Legislative Series*. It would also reiterate its request that the Secretary-General continue to publish *The Work of the International Law Commission* in all six official languages at the beginning of each quinquennium, the *Reports of International Arbitral Awards* in English or French and the *Summaries of the Judgments, Advisory Opinions and Orders of the International Court of Justice* in all six official languages every five years.

21. In paragraph 37, the Assembly would express its appreciation for contributions made to date to the trust fund for assistance to Special Rapporteurs of the Commission or Chairs of its Study Groups and matters

ancillary thereto and invite further contributions, in accordance with the terms of the trust fund, including the need for the financial contributions not to be earmarked for any specific activity.

22. She wished to make an oral revision to paragraph 44, replacing the placeholder ellipsis with “21” so that the paragraph would read: “*Recommends* that the debate on the report of the International Law Commission at the seventy-ninth session of the General Assembly commence on 21 October 2024.”

23. *Draft resolution A/C.6/78/L.12, as orally revised, was adopted.*

Draft resolution A/C.6/78/L.21: Peremptory norms of general international law (jus cogens)

24. **Mr. Košuth** (Slovakia), introducing the draft resolution on behalf of the Bureau, recalled that negotiations on the draft resolution had begun at the seventy-sixth session of the General Assembly and had been deferred to the current session owing to a lack of time at that session. The draft resolution was merely of a technical nature. and it was his understanding that the approach taken with regard to the draft resolution should not be seen as a precedent for the treatment of future products of the International Law Commission.

25. The four preambular paragraphs had been modelled on previous draft resolutions of a similar nature. In the operative part of the text, the Assembly would welcome the conclusion of the work of the International Law Commission on peremptory norms of general international law (*jus cogens*); take note of the Commission’s adoption of the draft conclusions on identification and legal consequences of peremptory norms of general international law (*jus cogens*); express its appreciation for the Commission’s continuing contribution to the codification and progressive development of international law; take note of the draft conclusions and the annex and commentaries thereto; and take note of the range of comments and observations submitted in writing by Governments or expressed in debates of the Sixth Committee.

26. The draft resolution represented a sensible and broadly accepted compromise, reflecting the views of delegations to the extent possible while also allowing the Committee to continue its practice of consensus-based decision-making. He appreciated the constructive engagement and great flexibility demonstrated by Member States throughout the negotiation process. The adoption of the draft resolution would demonstrate that the Committee was capable of fulfilling its mandate while maintaining consensus, even in situations where delegations held seemingly irreconcilable views.

27. *Draft resolution A/C.6/78/L.21 was adopted.*

28. **Mr. Hitti** (Lebanon), speaking also on behalf of Austria, Belgium, Brazil, Chile, Colombia, Costa Rica, El Salvador, Italy, Jordan, Mexico, Peru, Portugal, South Africa, Switzerland, Tunisia and the State of Palestine, said that peremptory norms of international law represented the fundamental principles of general international law, several of which were codified in the Charter of the United Nations. No derogation from those norms was permitted, and they gave rise to legal obligations owed to the international community as a whole. They were fundamental norms, the violation of which fell under the aggravated regime of State responsibility. The manner in which the Committee had embarked on negotiations on such an important topic and the approach taken by some to the outcome of the work of the International Law Commission sent a negative signal to the outside world with regard to the commitment to those fundamental rules. The delegations on whose behalf he was speaking reaffirmed their full adherence and commitment to the promotion of peremptory norms of international law as the pillars on which international law was built and invited other delegations to do the same at the earliest opportunity.

29. Those delegations had repeatedly stressed that the institutional relationship between the General Assembly and the Commission was being undermined by the Committee's recent lack of willingness and ability to address the Commission's recommendations effectively. There had always been, and always would be, differences of position regarding the merits of parts or the whole of each of the Commission's products. However, the failure to reflect the main tenets of the Commission's recommendation in the draft resolution that had just been adopted risked undermining the institutional relationship between the Commission and the Committee.

30. The Commission had recommended that the General Assembly take note of the draft conclusions on identification and legal consequences of peremptory norms of general international law (*jus cogens*) in a resolution, annex them to the resolution, ensure their widest dissemination and commend the draft conclusions and annex, together with the commentaries thereto, to the attention of States and to all who may be called upon to identify peremptory norms of general international law and to apply their legal consequences. The implementation of those recommendations by the Assembly would not have implied that it endorsed the content of the draft conclusions; the purpose of the recommendations had been simply to raise awareness of the draft conclusions among States and other relevant stakeholders, which would then have had the prerogative to evaluate, use or even disregard them.

Nevertheless, in a departure from the Committee's general practice, the draft resolution adopted reflected only one aspect of the Commission's recommendation.

31. In the past, the Committee had always been able to take note, disseminate widely, annex and commend to the attention of States and other stakeholders a wide array of instruments produced by the Commission, even when there had been diverging views on their content, as it had been understood that doing so was without prejudice to the views of Member States and did not prejudice any collective decision of Member States as to whether and how the products would be used. That practice also demonstrated institutional respect for the work of the Commission. The decision to make reference to the divergence of views in the very text of the draft resolution just adopted was inappropriate and sent a negative signal to the Commission.

32. It was regrettable that individual views informed by considerations regarding specific aspects of the topic of peremptory norms of international law (*jus cogens*) had prevented the Committee from adopting a balanced draft resolution. The Committee's commitment to consensus should not be used to transform the opposition of a vocal minority into the general will of the international community. The delegations on whose behalf he was speaking would continue to strive to ensure that the Committee was effective and efficient, represented the views of delegations and contributed substantively to the strengthening of the rule of law in international relations.

33. **Mr. Li Linlin** (China) said that his delegation appreciated the constructive engagement of all delegations in the negotiations on the draft resolution. However, while the draft resolution had been adopted by consensus, it did not faithfully reflect the concerns and differing views of Member States with respect to the draft conclusions.

34. The Charter of the United Nations was the foundation of contemporary international law and provided fundamental guidance for the conduct of international relations. All Member States should safeguard the authority of the Charter, abide by the principles and purposes set out therein and preserve the collective security mechanism with the Security Council at its core. The view that Security Council resolutions lost their efficacy if they came into conflict with peremptory norms of general international law was not grounded in practice or doctrine. Moreover, the criteria for the identification of peremptory norms should not be less stringent than those for the identification of customary international law. The criteria for the identification of peremptory norms should not be

relaxed and a non-consensus-based list of such norms should not be established.

35. China urged all Member States to cherish and maintain the Committee's tradition of consensus-based decision making, expend every effort to achieve the highest possible level of consensus and refrain from pushing through texts on which consensus had not been reached.

36. **Mr. Mainero** (Argentina) said that it was regrettable that the text of the draft conclusions included an annex containing examples of *jus cogens* norms, including the right to self-determination, even though both the inclusion of such a list and the reference to the right to self-determination therein had been criticized by various Member States. The inclusion of the annex raised questions about why certain international norms had been included while others had not. The approach of including norms that the Commission had recognized as *jus cogens* norms in its previous work could only have been justified if the Commission had applied the criteria set out in the draft conclusions when identifying those norms in the past, which was not the case.

37. Argentina did not dispute the existence of the right to self-determination. However, further discussion and analysis would be required to determine whether it amounted to a *jus cogens* norm. His delegation's view was that, in the context of decolonization and in accordance with paragraph 1 of the Declaration on the Granting of Independence to Colonial Countries and Peoples, the right to self-determination did not apply to simply any community but rather to peoples subjected to alien subjugation, domination and exploitation. Moreover, as established in paragraph 6 of the Declaration, the principle of territorial integrity must always be respected. It was, therefore, unfortunate that the Commission had referred to the right of self-determination as a *jus cogens* norm without specifying its scope.

38. Despite those concerns, his delegation had supported the draft resolution, in the interest of consensus and in recognition of the fact that the text was balanced and included a reference to the comments and observations on the draft conclusions made by Member States.

39. **Mr. Khng** (Singapore) said that draft resolution [A/C.6/78/L.21](#) should not be understood to reflect an acceptance of any change in the Committee's working methods or practices, in particular the practice of circulating the text of a draft resolution under the no-objection procedure prior to its introduction to ensure that it would enjoy consensus. There was a common understanding that the approach taken in

respect of that resolution should not become an established practice for the consideration of products of the International Law Commission.

40. **Mr. Lahsaini** (Morocco) said that his delegation welcomed the constructive discussions and spirit of compromise that had characterized the negotiations on the draft resolution, as well as the preservation of the Committee's tradition of consensus. It wished to highlight that its position on the draft resolution did not represent any change in its views on substantial aspects of the draft conclusions expressed in writing in August 2022 and reiterated at the seventy-seventh session of the Committee. The Commission had proceeded to the adoption of the draft conclusions extremely quickly, despite the complexity of the topic, meaning that Member States had not had sufficient time to examine and reflect on the text, to allow the topic to mature. That was the basis or the justification of article 23, paragraph 2, of the Commission's statute. As a result, new concepts, such as "fundamental values of the international community", "specific preemptory norms" and "basic rules of international humanitarian law" had been included in the draft conclusions without the unanimous agreement of Member States.

41. Inclusiveness in the elaboration of the Commission's products was key to ensuring their relevance. Unfortunately, the comments submitted by Member States in writing, in particular those concerning draft conclusions 3, 7, 9, 16, 22 and 23, had not all been reflected in the final version of the draft conclusions.

42. Lastly, his delegation wished to highlight the importance of preserving the necessary safeguards to ensure that the progressive development of international law was achieved mainly through treaty instruments, prioritizing the sovereign equality of States, rather than through soft-law instruments, which lacked the requisite opposability.

43. **Ms. Bhat** (India), welcoming the flexibility demonstrated by Member States during the negotiations on the draft resolution, said that preemptory norms of general international law were hierarchically superior to other norms of international law. They were accepted and recognized by the community of States as a whole, and no derogation from them was permitted. Any rules codified as preemptory norms should therefore be well established or acknowledged as such by the international community as a whole, without exception. However, some of the norms included in the non-exhaustive list of preemptory norms in the annex to the draft conclusions were not well defined in international law. The grounds for the inclusion of those norms in the list was unclear, and States differed on the

interpretation of their applicability. Although its request for the list to be removed from the draft conclusions had not been accommodated, India had joined the consensus on the draft resolution, in recognition of the importance of the subject matter.

44. **Mr. Hollis** (United Kingdom) said that the draft resolution represented a fair balance between the different views expressed by members of the Committee. Moreover, it had been important to ensure that the negotiations did not continue into a subsequent session, given that the Committee had other important work to do. As the United Kingdom had noted at the seventy-seventh session and in its written comments submitted to the Commission, it did not consider the draft conclusions to reflect current law or practice in all respects. It was therefore essential that the draft conclusions be taken forward alongside the views of States. In that regard, his delegation was pleased that the General Assembly had taken note of the comments of Member States in the draft resolution.

45. **Mr. Arrocha Olabuenaga** (Mexico) said that his delegation had serious concerns about the completely unbalanced draft resolution that had just been adopted. Throughout the negotiations, a significant number of delegations had stated that if a compromise solution were adopted whereby the draft conclusions were not annexed to the draft resolution, the rest of the Commission's recommendations must be taken up. However, that had not been done, which meant that the final text did not reflect the position of the significant number of delegations that sought to take a serious and respectful approach to the Commission's work, taking into account the time that went into the development of its products and the opportunities that Member States were given to review and comment on them. It was important to bear in mind that mentioning recommendations of the Commission in a General Assembly resolution did not imply any endorsement of those recommendations by the Assembly.

46. During the negotiations, a significant number of delegations had expressed a preference for taking note of the Commission's recommendation and annexing the draft conclusions to the draft resolution, in line with the Committee's usual approach to the Commission's products. Instead, the draft resolution reflected only the position of those who had aimed to water down the Commission's product. That imbalance was unacceptable. Moreover, the adoption of such a diluted resolution was unprecedented.

47. Throughout the negotiations, certain delegations had demonstrated a consistent lack of flexibility and willingness to compromise. That minority had pushed

the tradition of consensus to an extreme in order to prevent the inclusion of meaningful references to the draft conclusions or the Commission's recommendation. It should be recalled that the Commission had recommended that the Assembly both take note of the draft conclusions and commend them to the attention of States and other relevant stakeholders. The draft resolution as adopted contained only a vague reference to the first element of that recommendation and did not address the second element at all. To make matters worse, the draft conclusions had not been annexed to the draft resolution, in a departure from past practice, even though annexation of a product of the Commission to a draft resolution had never been understood as endorsement of that product. While a considerable number of delegations had demonstrated flexibility during the consultations, the zero-sum approach and abuse of consensus had prevailed. The final draft resolution did not do justice to the work of the Commission, nor did it reflect the diversity of views within the Committee, the spirit of the negotiations on the draft resolution or the Sixth Committee's usual approach to the Commission's products.

48. Mexico was concerned about the precedent that the draft resolution could set and the negative message that it sent regarding both the work of the Commission and the relationship between the Commission and the Committee. All products of the Commission, however controversial, should be given the same treatment and consideration. Member States must take a consistent approach commensurate with the demands of the prevailing global context. The Committee should seriously consider whether it was worth prioritizing consensus-based decision making – a process that was not defined, or even envisaged, in the rules of procedure of the General Assembly – at all costs. His delegation considered that advancing the overall objectives of the Committee and the Organization as a whole was much more important. Traditions should not be used to hold the Assembly hostage or as a pretext for inaction.

49. Given its concerns, Mexico had decided to dissociate itself from the draft resolution. It would continue to promote a stronger relationship between the Committee and the Commission and hoped that the Committee would engage in constructive collective reflection on its practices. In particular, the Committee should consider how it should handle the outcomes of the topics on the Commission's current programme of work.

50. **Ms. Yankssar** (Saudi Arabia) said that her delegation had supported the draft resolution in the interests of consensus and in recognition of the importance of the topic under consideration and the role

of the International Law Commission. However, it had reservations with regard to the draft conclusions. The identification of peremptory norms of general international law was solely a matter for States, which were the main subjects of international law; yet the Commission had not taken into consideration all the comments and observations made by Member States in its draft conclusions. In draft conclusion 2, it made reference to the fundamental values of the international community. The term “fundamental values” was vague, had not been defined, and did not appear in the Vienna Convention on the Law of Treaties (1969). Moreover, it created confusion in view of certain other provisions, including those in draft conclusion 2 and in draft conclusion 4 concerning the nature of the norms and the criteria for their identification.

51. Paragraph 2 of draft conclusion 7 provided that acceptance and recognition by a very large and representative majority of States was required for the identification of a norm as a peremptory norm of general international law (*jus cogens*), and that acceptance and recognition by all States was not required. The term “large majority” was unclear, imprecise and inconsistent with the definition set forth in draft conclusion 3, which provided that a peremptory norm of general international law (*jus cogens*) was a norm accepted and recognized by the international community of States as a whole, which meant by all States.

52. In paragraph 2 of draft conclusion 8, a non-exhaustive list of forms of evidence was given. In order to ensure stability in legal practice, the forms of evidence should be defined clearly. Otherwise, certain forms of State conduct could be interpreted as implicit acceptance, something that would create confusion.

53. With regard to draft conclusion 23, her delegation believed that it would not be appropriate to include an annex containing a non-exhaustive list of peremptory norms. Some of the proposed norms did not meet the necessary criteria. Indeed, the very existence of the list reflected a selective approach. In the interests of objectivity, it would have been more appropriate to provide a definition of the nature of peremptory norms and their consequences without including a list.

54. **Mr. Nyamid** (Cameroon) said that while his delegation appreciated the hard work of the Commission on the topic of peremptory norms of general international law (*jus cogens*), it was disappointed that the Commission had reintroduced the debate on *jus cogens* that had taken place during the negotiation of the Vienna Convention on the Law of Treaties, which had highlighted divergences of views and resulted in some States deciding not to accede to the Convention. It

would have been better for the Commission to consider the issue of *jus cogens* in more detail, rather than shoehorn its work of 1969 into its current work. The topic of *jus cogens* was both highly sensitive and greatly important to Member States, given the crucial role of such norms in protecting humanity.

55. His delegation’s aim had not been to devalue the work of the Commission, but simply to ensure that the draft resolution reflected the concerns expressed by Member States. It had joined the consensus on the draft resolution out of its conviction that a bad settlement was better than a good lawsuit. However, it continued to have concerns about the draft conclusions. For instance, the inclusion of a list of criteria for the identification of *jus cogens* norms, rather than a list of examples of such norms, would have been preferable. His delegation therefore dissociated itself from the recommendation contained in paragraph 41 of the Commission’s report (A/77/10).

56. The Commission’s role was to provide legal guidance for legal advisors. It was not a parliament, nor was it a church where the congregation simply listened and said “amen”. Cameroon would continue to examine carefully and express its opinion on the Commission’s products. In no way did it seek to silence any other delegations, for any reason. The role of delegations was to ensure that the States they represented, and their particularities and sensibilities, were respected.

Agenda item 81: Expulsion of aliens (*continued*) (A/C.6/78/L.16)

Draft resolution A/C.6/78/L.16: Expulsion of aliens

57. **Mr. Panier** (Haiti), introducing the draft resolution on behalf of the Bureau, said that the draft resolution largely reflected General Assembly resolution 75/137, with some technical updates. The final text of paragraph 3 was the result of a compromise.

58. *Draft resolution A/C.6/78/L.16 was adopted.*

59. **Ms. Flores Soto** (El Salvador), speaking also on behalf of Argentina, Brazil, Colombia and Costa Rica, said that the topic of the expulsion of aliens, and the draft articles on the expulsion of aliens adopted by the International Law Commission at its sixty-sixth session, were of great importance to those delegations. The topic was closely tied to the rules of international human rights law and should be examined in the light of the corresponding obligation of States to promote, respect and guarantee the human rights and fundamental freedoms of persons under their jurisdiction. Those delegations encouraged Member States to address in their interventions at the eighty-first session not only the

question of the form that might be given to the articles or any other appropriate action, but also their views on the content of the articles, in accordance with paragraph 3 of the draft resolution. The topic should be approached in a balanced and collaborative manner.

60. The negotiations on the draft resolution had demonstrated once again how the Committee's tradition of consensus-based decision-making often resulted in proposals aimed at making dialogue between delegations more dynamic and interactive being blocked. While the compromise reached on paragraph 3 had broken the cycle of draft resolutions on the agenda item being adopted with only technical updates, the changes represented only minimal progress. Those delegations hoped that Member States would implement the draft resolution in a constructive spirit and reach a common understanding on the draft articles. They understood paragraph 3 to mean that the General Assembly had invited Member States to engage in greater depth on the agenda item, and that such engagement might include participation in interactive discussions, as opposed to the reading of prepared statements, either within the framework of the eighty-first session of the General Assembly or during an intersessional period. A frank exchange of ideas regarding the draft articles and the form that they might take in the future would be the only way to bridge the current divergence of views.

Agenda item 82: Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization
(continued) (A/C.6/78/L.5)

Draft resolution A/C.6/78/L.5: Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

61. **Mr. Nouh** (Egypt), introducing the draft resolution on behalf of the Bureau, said that the text was based on General Assembly resolution 77/109 and contained the technical updates required pursuant to previous resolutions, in particular paragraph 2 of the annex to resolution 71/146, regarding the mandate of the Special Committee, and paragraph 5 (b) of resolution 77/109, concerning the subtopics of thematic debates at future sessions. The draft resolution also incorporated the recommendations made by the Chair of the Special Committee regarding the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*.

62. *Draft resolution A/C.6/78/L.5 was adopted.*

Agenda item 83: The rule of law at the national and international levels (continued) (A/C.6/78/L.14)

Draft resolution A/C.6/78/L.14: The rule of law at the national and international levels

63. **Ms. Jiménez Alegría** (Mexico), introducing the draft resolution on behalf of the Bureau, said that the text contained a number of new elements when compared with previous resolutions. In particular, in the new twelfth preambular paragraph, the General Assembly would take note of the high-level debate of the Assembly held in 2023 on the theme "Equal access to justice for all: advancing reforms for peaceful, just and inclusive societies". In the new thirteenth preambular paragraph, the Assembly would recall its resolution 75/274 of 28 April 2021 on the International Day of Women Judges. A reference to resolution 77/322, entitled "Commemoration of the 125th anniversary of the Permanent Court of Arbitration", had been included in paragraph 7. Paragraph 24 contained an invitation for Member States to focus their comments on the agenda item during the seventy-ninth session of the Committee on the subtopic "The full, equal and equitable participation at all levels in the international legal system".

64. *Draft resolution A/C.6/78/L.14 was adopted.*

65. **Mr. Khaddour** (Syrian Arab Republic) said that his delegation wished to express its unequivocal reservation regarding paragraph 3 of the draft resolution, in which the General Assembly would take note of the report of the Secretary-General (A/78/184), and to dissociate itself from the consensus on the paragraph. His delegation's reservation was based on the reference to the International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic in paragraph 101, under the heading "Other international accountability mechanisms". That paragraph was imbalanced and inappropriate. The Mechanism should not have been mentioned in the report at all. The fact that his delegation had joined the consensus on the draft resolution should not be taken to mean that it approved of the Mechanisms or any of its activities, which were entirely illegitimate.

66. *Mr. Milano (Italy), Vice-Chair, took the Chair.*

Agenda item 84: The scope and application of the principle of universal jurisdiction (*continued*)
(A/C.6/78/L.15)

Draft resolution A/C.6/78/L.15: The scope and application of the principle of universal jurisdiction

67. **Ms. Raojee** (Mauritius), introducing the draft resolution on behalf of the Bureau, said that the text was based on General Assembly resolution 77/111, with the necessary technical updates. A proposal by several delegations that the International Law Commission undertake a study on the question of universal jurisdiction had been considered and subsequently withdrawn, owing to a lack of consensus. A purely technical update had been considered a better option, in particular since, in paragraph 4 of the draft resolution, the General Assembly would request the Secretary-General to submit a report to the Assembly at its seventy-ninth session reviewing all the submissions of Member States and relevant observers, as well as views expressed in the debates of the Sixth Committee since the sixty-second session of the Assembly, and identifying possible convergences and divergences on the definition, scope and application of universal jurisdiction for the consideration of the Committee.

68. *Draft resolution A/C.6/78/L.15 was adopted.*

69. **Mr. Nyamid** (Cameroon) said that during the negotiations his delegation had highlighted, as it had during the negotiations on General Assembly resolution 77/111, that there was a misunderstanding with regard to universal jurisdiction. It had been assured that its position would be fully reflected in the text of the draft resolution. However, once again, that was not the case. His delegation therefore wished to make its position clear, for the record, since its voice had gone unheeded during the negotiations.

70. Universal jurisdiction was an African initiative, but it had become unrecognizable to Africa. As clearly stated in every resolution that had been adopted on the topic, since the sixty-fourth session of the Assembly, the application of universal jurisdiction must be consistent with international law. Those resolutions had been drafted by the Committee, which was composed of legal professionals. Legal professionals were not careless in their use of words. It was essential to bear in mind that references to conformity with international law concerned the Westphalian system, in which the State had primary importance. In the face of the surprising analysis of universal jurisdiction that had emerged, his delegation wished to make it unequivocally clear that it would never agree that universal jurisdiction gave States the freedom to beat up on other States. Rather, universal jurisdiction gave States the freedom to prosecute their

own nationals, wherever they might be. That understanding must be upheld in order to prevent the dismantling of the Westphalian system. That system had been agreed at the end of a war, and undoing it would be a risky venture. Nothing could justify the assumption by certain States of the prerogative to cast blame on or punish other States. The principle of the sovereignty of States had been consistently upheld by the courts and must be respected.

Agenda item 85: Responsibility of international organizations (*continued*) (A/C.6/78/L.18)

Draft resolution A/C.6/78/L.18: Responsibility of international organizations

71. **Mr. Muniz Pinto Sloboda** (Brazil), introducing the draft resolution on behalf of the Bureau, said that, during the plenary debate, some delegations had expressed support for considering the negotiation of an international convention on the basis of the articles on the responsibility of international organizations elaborated by the International Law Commission, while others had expressed reservations. Some delegations had identified a close relationship between the topic and the topic of responsibility of States for internationally wrongful acts, while others had highlighted the differences between the two, including in relation to the amount of State practice available.

72. Delegations had also expressed differing views during the five rounds of informal consultations that had been held on the draft resolution. Some had submitted proposals regarding specific frameworks for the examination of the topic, including a resumed session, and the formation of a working group, while others had expressed a preference for a purely technical update.

73. One delegation had proposed that the current agenda item be considered on an annual basis. Others had suggested that the cycle of consideration of the current agenda item be aligned with that of the agenda item “Responsibility of States for internationally wrongful acts”, because of the relationship between the two topics. Still others had expressed the view that the item did not need to be included in the agendas of future sessions at all.

74. In addition to the necessary technical updates, the draft resolution contained some new elements when compared with General Assembly resolution 75/143. Paragraph 3, which was entirely new, contained an invitation for States to engage in substantive dialogue on the topic on an informal basis during the intersessional periods. By the expanded paragraph 4, the Assembly would decide to include the item in the provisional agenda of its eighty-first session, with a

view to further examining the recommendation of the Commission on the topic, namely to consider, at a later stage, the elaboration of a convention on the basis of the draft articles, or any other appropriate action. In the same paragraph, the Assembly would invite the Committee to consider at a later stage the framework, if any, in which it could continue its examination of this topic.

75. *Draft resolution A/C.6/78/L.18 was adopted.*

76. **Mr. Assadi** (Islamic Republic of Iran) said that, in relation to the fourth preambular paragraph of the draft resolution, his delegation wished to highlight that it considered the subject of responsibility of international organizations to be of major importance not only in the relations of States and international organizations but also in the relations between individuals and international organizations. The responsibility of international organizations in the context of their relations with individuals should be given due attention by the International Law Commission and Member States in their future consideration of the question of responsibility of international organizations.

Agenda item 87: Strengthening and promoting the international treaty framework (*continued*)
(A/C.6/78/L.4)

Draft resolution A/C.6/78/L.4: Strengthening and promoting the international treaty framework

77. **The Chair** drew attention to the statement on programme budget implications contained in document A/C.6/78/L.20.

78. **Mr. Khng** (Singapore), introducing the draft resolution on behalf of the Bureau, said that the text was based on General Assembly resolution 76/120 but contained a number of important substantive updates, in addition to the necessary technical updates.

79. In paragraph 5, the Assembly would once again note that no Treaty Section workshops on treaty law and practice had been held since 2016, for reasons including insufficient funds, and invite States and interested organizations and institutions to make voluntary financial contributions or otherwise assist in the implementation and possible expansion of such workshops. It would also express appreciation for the contributions that had already been received. Building on the strong support of Member States for the work of the Treaty Section, the Assembly would, in paragraph 12, call upon the Secretary-General to strengthen the capacity of the Section to perform its mandated responsibilities and functions and meet the increasing demands in the performance of those functions.

80. In paragraph 13, the Assembly would welcome the thematic debate on the subtopic “Best practices of depositaries of multilateral treaties” that had taken place at the present session. In paragraph 14, it would take note of the subtopics suggested for future thematic debates and request the Secretariat to maintain a non-exhaustive indicative list of such subtopics and circulate it sufficiently in advance of the meetings of the Committee on the agenda item. Paragraph 15 would provide for the undertaking of a regular thematic debate in the Committee to foster a technical exchange of views on practice relating to the strengthening and promoting of the international treaty framework. The same paragraph contained a request for the Secretary-General to invite Governments and international organizations to submit information on their practice relating to the subtopic for the eightieth session, “The role of technology in shaping treaty-making practice”, and provide a report on the matter. In paragraph 16, the Assembly would request the Secretary-General to strengthen the capacity of the Treaty Section to support the regular thematic debate, including with regard to the preparation of a report on the subtopic selected for each session.

81. *Draft resolution A/C.6/78/L.4 was adopted.*

Agenda item 109: Measures to eliminate international terrorism (*continued*) (A/C.6/78/L.13)

A/C.6/78/L.13: Measures to eliminate international terrorism

82. **Ms. Maillé** (Canada), introducing the draft resolution on behalf of the Bureau, said that the text was mostly a technical update of General Assembly resolution 77/113, as there had been a general feeling that it would be best to avoid any duplication of the work that had gone into the eighth review of the United Nations Global Counter-Terrorism Strategy. The second preambular paragraph had been streamlined by moving the references to the reviews of the Strategy to a footnote, together with the references to the related resolutions, which had previously appeared in separate, now deleted, preambular paragraph. The nineteenth preambular paragraph had been updated with the inclusion of a reference to the third United Nations High-level Conference of Heads of Counter-Terrorism Agencies of Member States, held in 2023.

83. *Draft resolution A/C.6/78/L.13 was adopted.*

Agenda item 144: Administration of justice at the United Nations (*continued*)

84. **Ms. Vittay** (Hungary), speaking on behalf of the Bureau and introducing a draft letter on the agenda item

from the Chair of the Sixth Committee to the President of the General Assembly, said that in the current letter, the Committee underlined the importance of the independence of the judiciary; emphasized the need for knowledge of the internal system of administration of justice and for outreach activities; underlined the importance of transparency and consistency of jurisprudence and judicial directions; and expressed continued interest in improving the regulatory framework, including measures to address racism and promote dignity for all at the United Nations.

85. With regard to the informal system of internal justice, the Committee continued to emphasize that informal dispute settlement was a crucial component of the internal system of administration of justice. It also supported the consideration of various mechanisms to increase the use of mediation for workplace disputes. With regard to the formal system of internal justice, the Committee again commended the Management Evaluation Unit, the United Nations Dispute Tribunal and the United Nations Appeals Tribunal for continuing to play an important role in enabling the resolution of work-related disputes of staff members. The Committee also requested the Internal Justice Council to provide more information on its proposal for a pilot judicial mediation programme, taking into account the concerns raised by the Secretary-General and the Office of the Ombudsman and Mediation Services.

86. The Committee also took note of the Secretary-General's revised proposal to amend article 9 of the statute of the United Nations Dispute Tribunal by adding a new paragraph 4, as well as of the different views expressed by key stakeholders and Member States. The Committee underlined the importance of legal certainty in relation to the review of disciplinary cases. Drawing on the early jurisprudence of the United Nations Appeals Tribunal, in particular paragraph 27 of the Tribunal's judgment in *Mahdi* (2010-UNAT-018) and paragraphs 42 and 43 of its judgment in *Sanwidi* (2010-UNAT-084), the Committee recommended the adoption of its own proposed text for article 9, paragraph 4, of the statute of the United Nations Dispute Tribunal. Its proposed paragraph 4 would make it clear that the role of the Tribunal was to conduct a judicial review of the administrative decision to impose a disciplinary measure, rather than a merits-based review of the disciplinary case. That would require the Dispute Tribunal to make an assessment on whether the facts on which the disciplinary measure was based had been established by evidence, whether the established facts legally amounted to misconduct, whether the applicant's due process rights had been observed and whether the disciplinary measure imposed was proportionate to the

offence. In conducting a judicial review, the Tribunal would consider the record assembled by the Secretary-General and upon the basis of which the decision to impose a disciplinary measure was taken and could also admit other evidence.

87. The Sixth Committee encouraged the Fifth Committee to take the views of key stakeholders, including the two United Nations tribunals, into consideration when considering its recommended amendment. The Sixth Committee also recommended the approval of a number of amendments to the rules of procedure of the Dispute Tribunal and suggested that the decision on the three remaining amendments should be postponed until the seventy-ninth session of the General Assembly.

88. Lastly, the Committee requested that the practice of having the Internal Justice Council include the respective views of the Appeals Tribunal and the Dispute Tribunal in its annual reports to the General Assembly be resumed.

89. **The Chair** said that it was recommended, as had become the practice, that the Chair of the Sixth Committee send the letter to the President of the General Assembly. Following past practice, the letter contained a request that it be brought to the attention of the Chair of the Fifth Committee and circulated as a document of the General Assembly. He took it that the Committee wished to authorize the Chair to sign and forward the draft letter to the President of the General Assembly.

90. *It was so decided.*

Agenda item 161: Report of the Committee on Relations with the Host Country (continued)
(A/C.6/78/L.11)

Draft resolution A/C.6/78/L.11: Report of the Committee on Relations with the Host Country

91. **Mr. Pittakis** (Cyprus), introducing the draft resolution on behalf of the sponsors, said that the text was based on General Assembly resolution 77/114. In addition to technical updates, it contained new wording reflecting the recommendations and conclusions based in paragraph 146 of the Report of the Committee on Relations with the Host Country (A/78/26). Thus, paragraph 2 now included wording reflecting the serious concerns raised by a Member State expressing the inappropriate treatment and screening of certain of its high-ranking officials by host country Customs and Border Protection officers and requesting the host country to carefully investigate those concerns and take the necessary preventive and remedial action, as appropriate. In paragraph 6, the General Assembly

would note the easing in 2023 of travel restrictions on two missions. In the same paragraph, the wording from resolution 77/114 expressing concern about additional restrictions applied to one mission in late 2022 had been retained.

92. In paragraph 7, the Assembly would note a relative decrease in the percentage of visas not issued. Paragraph 10 had been amended to indicate that while the Assembly acknowledged that action taken in 2023 had led to a relative reduction in entry visa processing times for certain missions, it remained seriously concerned that other missions and Secretariat staff members of certain nationalities continued to be adversely impacted by processing times.

93. In paragraph 15, the Assembly would note the resourceful engagement of the Legal Counsel and the Secretary-General in discussions with the host country. Later in the paragraph, the wording “reiterates its recommendation to the Secretary-General to now give most serious consideration and take any appropriate steps under section 21 of the Headquarters Agreement and to enhance efforts to resolve the issues” from resolution 77/114 had been updated to read “once again reiterates its request to the Secretary-General to now give the most serious consideration and take any appropriate steps under section 21 of the Headquarters Agreement and intensify efforts to expedite resolution of the issues”.

94. *Draft resolution A/C.6/78/L.11 was adopted.*

Agenda item 120: Revitalization of the work of the General Assembly (continued) (A/C.6/78/L.17)

Draft decision A/C.6/78/L.17: Provisional programme of work of the Sixth Committee for the seventy-ninth session

95. *Draft decision A/C.6/78/L.17 was adopted.*

Agenda item 5: Election of the officers of the Main Committees

96. **The Chair** said that in accordance with rule 99 (a) of the rules of procedure of the General Assembly and rule 103, as amended by General Assembly resolution 58/126, all of the Main Committees should, at least three months before the opening of the session, elect a Chair and a full Bureau. Based on the interim arrangement concerning the rotation of Chairs of the Main Committees of the General Assembly, contained in General Assembly resolution 72/313, it was his understanding that the Chair of the Sixth Committee for the seventy-ninth session of the General Assembly would be selected by the Group of Western European

and Other States. He therefore suggested that the regional groups hold consultations at an appropriate time to enable the Committee to elect its next Chair, three Vice-Chairs and Rapporteur in June 2024.

Completion of the Committee’s work for the main part of the session

97. After the customary exchange of courtesies, the Chair declared that the Sixth Committee had completed its work for the main part of the seventy-eighth session.

The meeting rose at 1 p.m.