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Chairman:

Mr. MIKULKA

(Czechoslovakia)

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14 P.

The meeting was called to order at 10.20 a.m.

AGENDA ITEM 138: UNITED NATIONS DECADE OF INTERNATIONAL LAW (continued) (A/45/430 and Corr.1 and Add.1-3, A/45/666; A/C.6/45/L.5)

1. Mr. ROUCOUNAS (Greece) said that his delegation's position on the programme for the Decade had been reflected in the statement made by Italy at the 40th meeting on behalf of the 12 States members of the European Community. At the current meeting, he wished to reaffirm the Greek Government's desire to contribute to the achievement of the objectives of the Decade, and also to raise a number of points concerning the programme prepared by the Working Group.
2. The adoption of General Assembly resolution 44/23 had paved the way for a new approach to the role of law in international relations. While the twentieth century had indeed seen great suffering and many affronts to human dignity, considerable progress had been made in the field of international law as a result of a major codification process. The Decade would ensure that Governments and experts dealt with specific needs that had arisen over the years, and would facilitate the drafting of rules on new activities. It would also strengthen the machinery for the peaceful settlement of disputes between States, while highlighting the essential role of the International Court of Justice in that connection. It would, moreover, provide an opportunity for rationalization and co-ordination with a view to reaffirming and clarifying existing law. Greece strongly supported initiatives to encourage the teaching, study and dissemination of international law.
3. The Decade would increase support on the part of States for the observance of international law. It should be borne in mind, in that connection, that the most basic principles were also the most crucial to the rule of law. Perhaps the best way in which States could contribute to the Decade would be to show full respect for international law.
4. In its reply reproduced in the Secretary-General's report (A/45/430), his Government drew attention to the need to undertake, in the context of the Decade, an in-depth study of the question of collective security. So far the United Nations had considered and developed only two of the basic elements of the international legal order: the duty of States to settle their disputes by peaceful means; and the obligation to refrain from the use of force in international relations. The United Nations had not yet worked on the third component, collective security, even though it was absolutely essential to do so in order to guarantee the supremacy of international law. The concept of collective security should therefore be given a prominent place in the activities carried out under the Decade. The Special Committee on the Charter was clearly well suited to dealing with that matter. Greece noted that section III of annex I to the Working Group's report (A/C.6/45/L.5) made provision for the study of measures to strengthen the United Nations system for the maintenance of international peace and security. The outcome of such a study could be a concise text setting out the duties of States and the United Nations in the field of collective security. It would thus be

(Mr. Roucoussas, Greece)

possible to complete the exercise that had resulted in major United Nations declarations on friendly relations and co-operation among States, peaceful settlement of disputes, and non-use of force.

5. Mr. KOSTOV (Bulgaria) said that the Decade created an opportunity to outline a strategy for developing international law. Application of the concept of the primacy of law in politics, which had been undergoing a process of consolidation, should lead to the establishment of an international order that guaranteed that universal values took precedence over national ones. The system for maintaining international peace and security should therefore above all uphold the international legal order. The Decade should, among other things, achieve two interrelated objectives: strengthen respect for, and implementation of, existing international law; and encourage the progressive development of international law and its codification.

6. Bulgaria noted with satisfaction the statement by the Chairman of the Working Group that the comprehensive list of suggestions set out in annex II to the Group's report (A/C.6/45/L.5) would be a permanent source of inspiration for activities under the Decade. It also welcomed the fact that the draft programme for the activities to be commenced during the first term of the Decade (annex I) envisaged provisions, procedures and mechanisms to facilitate achievement of the Decade's main purposes. That draft programme was a good start, particularly since it was based on the realization that decisions should be adopted only after careful consideration. Bulgaria was pleased to note that it provided for ways of achieving generally acceptable practical results. Section III of the draft programme proposed a balanced mechanism for receiving and considering the necessary information for identifying areas of international law that might be ripe for progressive development or codification. The Sixth Committee's role as a co-ordinating body for the Decade was of particular importance in that connection.

7. Mr. UHOMOIBHI (Nigeria) said that the item before the Committee was of particular interest in view of the importance of the rule of law in the life of a nation, and the crucial role of international law in the maintenance of international peace and security. The international community had endorsed the four main objectives set out in General Assembly resolution 44/23, because their implementation would enhance prospects for international peace and security. Nigeria noted that support for the Decade had gained considerable momentum. It was fully aware of the role that the promotion of acceptance of, and respect for, the principles of international law could play in the maintenance of international peace and security. Steps must be taken to ensure that the Decade resulted in specific, effective measures.

8. With reference to the measures outlined in the draft programme prepared by the Working Group, Nigeria would like to see greater co-operation between developing and industrialized countries, so as to enable the developing countries to participate more fully in multilateral treaty-making. It was equally important that Member States should show more willingness to abide by the principles of international law and the tenets of the United Nations Charter.

(Mr. Uhomobhi, Nigeria)

9. With regard to the specific measures recommended by the Working Group to promote the peaceful settlement of disputes between States and the resort to, and respect for, the decisions of the International Court of Justice, Nigeria emphasised that it would have difficulty in accepting any measures that did not facilitate the application of the Statute of the Court and international legal norms and practices.

10. Nigeria fully endorsed the Working Group's proposal on the strengthening of the United Nations role in the peaceful settlement of disputes. It agreed, furthermore, that international peace did not necessarily mean the absence of disputes but, rather, the ability of States to settle their disputes peacefully. The international community must not shirk its responsibility for devising ways of improving international legal machinery for the peaceful settlement of disputes between States.

11. The third objective to be achieved in the first biennium of the Decade, was to encourage the progressive development of international law and its codification. Nigeria fully subscribed to the relevant measures outlined by the Working Group.

12. Most developing countries would encounter obstacles in connection with the teaching, dissemination and wider appreciation of international law. Many of their universities and institutions of higher learning that would be responsible for the teaching and dissemination of international law during the Decade were short of both funds and books. Nigeria therefore urged the members of the international community to increase their support for developing countries' universities and libraries.

13. Mr. PANLAK (Poland) said that the beginning of the Decade of International Law had been marked by the most serious international crisis since the Second World War. A sovereign State had been invaded by a neighbour and been incorporated into that neighbour's territory. The international community, which had thus been confronted with the most serious kind of breach of international law, had responded to the crisis by applying international legal mechanisms under the United Nations Charter. Although the Gulf crisis was far from being solved, it demonstrated the importance of the legal dimension of today's world.

14. Poland itself observed the principle of the rule of law in international relations, and believed that the Decade should both enhance the rule of international law and encourage its progressive development and codification. One of Poland's earliest decisions once it had become a sovereign State again had been to accept the compulsory jurisdiction of the International Court of Justice.

15. The Decade provided an opportunity to enhance the rule of law in international relations by focusing on practical objectives. The proposed programme of work for the first two years of the Decade (A/C.6/45/L.5, annex I) was generally acceptable and realistic. Particular attention should be devoted to: promotion of the acceptance of, and respect for, international law; promotion of means and methods for the peaceful settlement of disputes between States; and encouragement of the

(Mr. Pawlak, Poland)

teaching, study, dissemination and wider appreciation of international law. United Nations bodies, particularly the International Law Commission, should take up major legal issues and prepare specific law-making treaties. The highest priority should be accorded to better enforcement of international law. To achieve that aim, proper use should be made of all means and methods provided for in the Charter. The post-cold-war order created an opportunity to adopt a new approach to United Nations peace-keeping activities, including collective operations. International law should be the basis for the promotion of global co-operation in dealing with such problems as international terrorism, drug abuse and illicit trafficking, the debt burden, financial instability, trade barriers, and transboundary pollution.

16. Attention should be focused first and foremost on the issue of the peaceful settlement of disputes. The settlement of disputes by means of wider resort to such practical means as conflict detection and prevention, fact-finding, negotiation, mediation, conciliation, reporting to United Nations organs, arbitration and judicial settlement, could ease international tensions and contribute to the elimination of armed conflicts among States. Poland was in favour of the preparation of a new universal convention on peaceful settlement of international disputes. However, if it was premature to prepare such a convention, generally acceptable rules should be adopted in the form of a declaration, as a basis for a future convention.

17. Since effective international tribunals were an important safeguard of law in international relations, the role of the International Court of Justice should be strengthened, and all States should be encouraged during the Decade to make declarations accepting the Court's compulsory jurisdiction. Poland was in favour of establishing an international criminal court or similar international mechanism with jurisdiction over individuals guilty of terrorism, piracy, hijacking, hostage-taking, genocide, drug trafficking and other crimes of an international character.

18. Poland strongly supported the efforts of the United Nations and regional organizations in the area of the teaching and study of international law, and education and training in such law. An important role would be played by the Hague Academy of International Law, the United Nations University and the United Nations Institute for Training and Research. More attention should be paid to obligatory training in international law for the legal officers of States' foreign services. At the end of the Decade, it would also be advisable to publish a comprehensive universal handbook on public international law, under the aegis of the United Nations.

19. Poland's suggestions and concerns were reflected in many ways in the draft programme for the activities to be commenced during the first term of the Decade. His delegation noted with particular satisfaction that the draft programme contained an elaborate section on the peaceful settlement of disputes between States, including the issue of resort to, and full respect for, the decisions of the International Court of Justice. It also welcomed consideration of the issue of the encouragement of the teaching, study, dissemination and wider appreciation of international law.

20. Mr. BELLOUKI (Morocco) said that the current international détente and dialogue augured well for the establishment of a new order in international relations founded on international law. The initiative of the Movement of Non-Aligned Countries had been in response to the generally recognized need to promote the rule of law in international affairs, and had led to the adoption by consensus of General Assembly resolution 44/23, declaring 1990-1999 the United Nations Decade of International Law. The objectives of the Decade should be tailored to the needs of the twenty-first century.

21. Despite its brevity, the draft programme drawn up by the Working Group was doubtless a good start. However, his delegation feared that an unambitious Decade might consecrate the unjust status quo, instead of helping to change and strengthen the role of international law, to entrench the principle of law firmly and irrevocably in human thinking, and to narrow the gap between the law and the needs of the public. International peace and security should be strengthened on the basis of law, justice and the legitimate rights of countries; international economic relations should be based on justice and the promotion of development in the developing world. International law should keep pace with developments in international relations, and the interests of the developing countries should be reflected in the foundations of the new international order.

22. Constant priority should be given during the Decade to various means of peaceful settlement of disputes. His delegation welcomed the idea of the proposed international convention, and praised the efforts of the Secretariat in preparing a practical guide to the peaceful settlement of disputes. The role of the Secretary-General and the organs of the United Nations should be strengthened in that regard. The peaceful settlement of disputes with third-party assistance should be encouraged, especially through the International Court of Justice.

23. The progressive development and codification of international law should encompass such fields as the environment, the question of regional blocs and the particular needs of developing countries. It was also important to streamline the work of the International Law Commission and enrich it with contributions from all its members.

24. Efforts to encourage the teaching, study, dissemination and wider appreciation of international law should focus on universities, jurists and public opinion. There should be regional and international seminars and workshops. Law faculties in the developing countries should be given assistance through the provision of textbooks on international law in the official languages of the United Nations.

25. His delegation feared that voluntary contributions to the Decade might be insufficient for the desired objectives. It considered, too, that a body which met periodically would be in a good position to implement the programme. It therefore hoped for an enhancement of the co-ordinating role of the Sixth Committee in regard to the examination of legal topics within the framework of the United Nations.

26. Mr. VAN DE VELDE (Netherlands), after explaining that his comments were a complement to the statement made at the 40th meeting by the representative of Italy on behalf of the States members of the European Community, paid tribute to the Legal Counsel's efforts to assist the Committee and its Working Group. The numerous contributions made towards the formulation of the programme for the Decade testified to a renewal of interest in international law. Noting that the improvement in East-West relations was contributing to the process of strengthening the authority of international law, his delegation welcomed the Soviet representative's remarks concerning the rule of law and the primacy of international law over domestic law.

27. The action of the Security Council in dealing with the Iraqi aggression was a heartening development. It encouraged those who believed in the role of international law in settling international disputes to continue advocating recourse to the available machinery while refining it further, publicising new standards and seeking ways of ensuring compliance. It was to be hoped that the Decade would be fruitful in that respect.

28. Special attention should be given in the Decade to promoting methods for the peaceful settlement of disputes between States, and the special role of the International Court of Justice as the principal organ for the settlement of disputes should be emphasized. Increasing acceptance of the optional clause under Article 36, paragraph 2, of the Court's Statute was an essential element in strengthening the Court; if by 1999 the number of States accepting the Court's compulsory jurisdiction had substantially increased, one of the main goals of the Decade would have been accomplished. His delegation also advocated a more active role for the Court in the field of environmental protection. In that connection, he referred to a declaration adopted at The Hague in March 1989, which provided for a role by the Court in the context of the preservation of the earth's atmosphere. The Netherlands intended to contribute to the Secretary-General's Trust Fund to Assist States in the Settlement of Disputes through the Court, and strongly urged other countries to do likewise. His delegation also felt that better use should be made of other existing organs for the settlement of disputes, in particular the Permanent Court of Arbitration.

29. The Sixth Committee seemed to be agreed that, in addition to other issues, the Decade should focus on the encouragement of the teaching, study, dissemination and wider appreciation of international law. With regard to dissemination, his delegation considered that electronic methods should be applied to the collection and transfer of international legal materials. The case-law of the International Court of Justice and other relevant materials such as treaties, resolutions and other texts deposited with the United Nations Secretariat should be made generally available through a consumer-friendly data bank. It was to be hoped that developing countries would be among the first beneficiaries of such a system.

30. The suggestion of the Nordic countries that the Secretary-General should be invited to prepare a survey of the areas in international law so far covered by codification or generally accepted treaties was to be welcomed. Furthermore, consideration should be given to the possibility of carrying out a project in which

(Mr. van de Velde, Netherlands)

international law was reviewed from the viewpoints of different legal cultures. The compilation and publication of a multi-volume United Nations manual on international law would be a valuable contribution to the Decade.

31. His country's connection with international law was traditionally a very strong one. Grotius, known as the father of the law of nations, had been a Dutch scholar; The Hague had been the venue for the peace conferences of 1899 and 1909, and was today the home of the International Court of Justice and the Permanent Court of Arbitration. Important tasks were also performed by the Hague Conference on Private International Law and the Hague Academy of International Law, singled out for appreciative mention in General Assembly resolution 44/28. In conclusion, referring to his country's programme of scholarships for foreign students, inter alia, in the field of international legal education, he said that the Netherlands intended to maintain its commitment to funding legal scholarships.

32. Mr. MONGA (Zaire) said that his delegation was deeply committed to the principles of the Charter of the United Nations and of the Manila Declaration on the Peaceful Settlement of International Disputes. It was pleased to note that promotion of means and methods for the peaceful settlement of disputes between States, including resort to and full respect for the International Court of Justice, appeared prominently among the activities to be commenced during the first term of the United Nations Decade of International Law. In that context, he particularly stressed his delegation's support of the Secretary-General's Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice.

33. His delegation welcomed the proposed activities in connection with the encouragement of the progressive development of international law and its codification, especially in the field of environmental protection. It supported the activities envisaged in connection with the encouragement of the teaching of international law at all levels - primary, secondary and higher - and of its study, dissemination and wider appreciation. It also supported the idea of holding an international conference at the end of the Decade with a view to the adoption of a declaration setting forth the principles of international law concerning peace and development, and affirming the primacy of international law in the maintenance of international peace and security.

34. Mr. VUKAS (Yugoslavia), speaking as Chairman of the Working Group on the United Nations Decade of International Law, thanked all delegations for their kind remarks about the work of the Working Group, as well as for those addressed to him as the Working Group's Chairman.

35. Many topics pointed out as being important in the discussion, although not specifically mentioned in the draft programme for the first-term (A/C.6/45/L.5, annex I) were covered by the general language used in the programme. For example, the programme invited States to detect lacunae and poor solutions in existing international law and to make suggestions for its improvement. The programme made it clear that all States and all international organizations or institutions were

(Mr. Vukas, Yugoslavia)

free to study all means and methods of peaceful settlement of disputes, as well as all aspects of the jurisdiction of the International Court of Justice, and to make suggestions in that connection to the Sixth Committee. Furthermore, as a speaker in the debate had pointed out, bona fide implementation of the Decade involved more than undertaking the specific tasks set out in the programme; rather, it meant that all activities, whether in the United Nations, in bilateral relations between States or in the teaching of international law, should be constantly inspired by the purposes of the Decade.

36. It was deplorable that at the end of the twentieth century international disputes were still the international community's main preoccupation. Given the necessary political will, the delimitation of a maritime area or the avoidance of border incidents could easily be achieved. On the other hand, mankind was faced with serious and frightening realities such as violations of human rights, pandemic diseases, poverty, hunger, overexploitation of the remaining natural resources, extermination of species, and global threats to the environment. The international community should concentrate on finding ways of improving the lives of individuals and ensuring the survival of mankind. Parallel with promoting respect for international law in relations between States, the Decade should mark the beginning of an era in which the individual became the ultimate beneficiary of international rules. Constitutional recognition of the primacy of international rules over national ones would represent a first step in that direction.

37. At the end of the Decade, scheduled to coincide with the eve of a new millennium, a concluding conference could be held with the task of adopting a general convention on the settlement of disputes, or any other document the United Nations might consider appropriate. Whether the conference was held at The Hague, in Belgrade or in New York, he firmly hoped that it would not be called the "third peace conference" but would be designated by a name distinguishing it from the first two peace conferences, which had been followed by world war.

AGENDA ITEM 143: CONSIDERATION OF THE DRAFT ARTICLES ON THE STATUS OF THE DIPLOMATIC COURIER AND THE DIPLOMATIC BAG NOT ACCOMPANIED BY DIPLOMATIC COURIER AND OF THE DRAFT OPTIONAL PROTOCOLS THERETO (A/44/10; A/C.6/45/L.8)

38. The CHAIRMAN drew attention to chapter II of the report of the International Law Commission on the work of its forty-first session (A/44/10), containing the draft articles on the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier and the draft optional protocols thereto. It would be recalled that, in accordance with paragraph 2 of General Assembly resolution 44/36, the Committee had agreed that informal consultations should be held at the current session under his guidance to study the draft articles and draft optional protocols, as well as the question of how to deal further with those draft instruments with a view to facilitating the reaching of a generally acceptable decision in the latter respect. During the first session of informal consultations, which had been open-ended, a brief exchange of views had taken place on the various aspects on the task thus defined. There had been general agreement that the work should be done in stages and that the first phase, of an exploratory

(The Chairman)

nature, could most profitably be conducted in a more restricted framework. A small group had accordingly been established by him and had held six meetings.

39. He had then convened a second session of informal consultations, in the course of which he had made an oral report on the results achieved. It had been agreed that he would transmit that oral report to the Sixth Committee at the start of consideration of agenda item 143.

40. In the oral report, he had described the three main trends that had emerged from the debate. Some members had reiterated their general support for the draft articles as adopted by the International Law Commission, but at the same time had expressed readiness to consider possible amendments in the interest of consensus. Other members had reserved their position until it became clearer whether a useful and generally acceptable text could be arrived at by remedying what they viewed as shortcomings and imbalances in the existing draft. Still other members had said that they remained unconvinced of the need for, or usefulness of, a new convention on a matter already regulated by widely accepted conventions, the application of which had not given rise to any serious difficulties in the past 30 years.

41. Against that background, a review had been undertaken of some of the provisions which had been most extensively discussed both in the Commission itself and in the Sixth Committee at the forty-fourth session of the General Assembly, namely, articles 17, 18 and 28.

42. In the opinion of some members, article 17, on the inviolability of the courier's temporary accommodation was difficult to justify in terms of functional necessity, and imposed an undue burden on receiving and transit States. Other members had remarked that by inserting the words "carrying a diplomatic bag" after the words "the temporary accommodation of the diplomatic courier", the Commission had made it clear that the intention of the text was not to confer a privileged status on the temporary accommodation, but to prevent tampering with the diplomatic bag. They had also observed that the rule enunciated in paragraph 1 admitted of exceptions, as the words "in principle" suggested and as the rest of the article confirmed. While favouring the text proposed by the Commission, those members had felt that an additional step could conceivably be made in the direction indicated by the Commission itself, with the emphasis shifted further from the inviolability of the temporary accommodation to the protection of the bag while present in the temporary accommodation.

43. In his view, the discussion had opened prospects for a possible compromise solution which would consist in dropping the concept of inviolability stricto sensu, and adopting instead a pragmatic approach whereby the authorities of the receiving or transit State would refrain from any intrusion into the temporary accommodation which could jeopardize the safety or inviolability of the bag; at the same time, paragraphs 2 to 4 of article 17 would be retained in their present form. He also felt that, under certain conditions, the deletion of article 17 could be envisaged as part of a broader package deal.

(The Chairman)

44. Article 18, on immunity from jurisdiction, had been criticized by some members; they had favoured its deletion in view of the abuses to which, in their opinion, such a provision could give rise. The article had furthermore been viewed as superfluous and functionally unwarranted. Other members, however, had felt that article 18 went a long way towards accommodating the concerns of those who favoured the functional approach. It had been remarked that the phrase "in respect of acts performed in the exercise of his functions" granted the diplomatic courier, notwithstanding the importance of his functions, a lower degree of protection than was afforded to the administrative and technical staff of diplomatic missions by the 1961 Convention on Diplomatic Relations.

45. Some members, while being of the view that article 18 struck an adequate balance between full immunity for the courier and the interests of receiving and transit States, had observed that the provision was closely linked to article 16, which placed on the receiving and transit States an obligation to protect the courier and granted the courier personal inviolability and immunity from any form of arrest or detention. It had been suggested that the possibility of covering the concerns underlying article 18 in article 16 might be explored, bearing in mind that, as a rule, a person discharging official functions on behalf of a State was not answerable for the acts performed in the exercise of those functions. A compromise solution could perhaps be arrived at on the basis of that suggestion.

46. Article 28, on the protection of the diplomatic bag, had generally been considered as a very important provision on which the acceptability of the draft as a whole would depend. With regard to paragraph 1 of the article, the view had been expressed that the diplomatic bag should be exempt from any form of examination which might jeopardize the confidentiality of its contents. In that connection, it had been observed that the phrase "and shall be exempt from examination directly or through electronic or other technical devices" answered a real need in view of the existence of sophisticated means of examination which might result in violation of the bag's confidentiality. On the other hand, the view had been expressed that the text did not take sufficient account of abuses of the bag, such as had occurred in contemporary international practice, or of the legitimate security concerns of the receiving and transit States.

47. Some members had observed that, as pointed out by the Commission in paragraph (6) of its commentary to the article, the phrase in question did not rule out non-intrusive means of examination such as sniffing dogs, and that article 25 limited the contents of the bag to diplomatic correspondence and documents or articles intended exclusively for official use. It had been suggested by some that those two elements could be built upon in order to protect the confidentiality of the permissible contents of the bag, while preventing at least one form of abuse, namely, the use of the diplomatic bag for the transport of narcotic drugs.

48. Others had expressed doubts as to the efficacy of such an approach; there were other, perhaps still more serious, abuses of the bag, such as the carriage of firearms, explosives and explosive devices, and currency; the prevention of such abuses might involve the use of more intrusive means.

(The Chairman)

49. The point had been made that the main problem raised by article 28 was to be found in paragraph 2 rather than paragraph 1. If the receiving or transit State had serious grounds to believe that a diplomatic bag was being misused, the question arose as to what choices would then be open to it: could it apply to the diplomatic bag the treatment provided for in paragraph 2 in relation to the consular bag, or was it under an obligation to let the bag continue on its journey? Several members had felt that a case could be made for extending to all bags the régime provided in paragraph 2 for the consular bag. Others, however, had pointed out that such a provision would constitute a serious departure from existing law as codified in the 1961 Convention on Diplomatic Relations.

50. In his opinion, no generally acceptable way had yet been found of reconciling the protection of the legitimate contents of the bag with the protection of the interests of the receiving States and the prevention of abuse of the bag.

51. Other articles had not been discussed. In his view, agreement on the issues to which he had referred might encourage delegations to make the additional effort needed in order to overcome their differences in respect of other articles, in particular articles 13, 15, 19, 20 and 30. The consultations had certainly contributed to clarifying existing positions, and he was most grateful to the participating delegations for their co-operation and help.

52. Mr. MARTINEZ GONDRA (Argentina), after briefly reviewing the history of the consideration of the item before the Committee, said that the very fruitful informal consultations showed that all participating delegations were interested in co-operating in order to make progress on the draft. While difficulties remained with respect to a number of articles, in particular, articles 17 and 28, suggestions and alternatives had emerged on the basis of which it should be possible to reach an agreement acceptable to all.

53. The consultations should continue, and it was to be hoped that all delegations would demonstrate a genuine interest in reaching an agreement, and that it would be possible to take a final decision on the text at the forty-sixth session of the General Assembly.

54. Mr. NEDELICHEV (Bulgaria) said that the process of the codification and progressive development of international diplomatic and consular law was an important factor in enhancing the stability of diplomatic and consular relations among States and, hence, of international relations as a whole. The elaboration of an international instrument on the status of the diplomatic courier and the diplomatic bag merited particular attention, since the draft articles adopted by the International Law Commission represented the first text on which the Commission had completed its work during its current mandate.

55. Although his delegation's position was not fully reflected in the draft, it recognized that compromise was the only way to establish a balance between the interests, rights and obligations of the sending State and those of the receiving or transit State. His delegation had reiterated its general support for the draft

(Mr. Nedelchev, Bulgaria)

articles during the informal consultations, and had expressed its readiness to consider possible amendments in the interest of enhancing their acceptability. While at first glance it might appear that the results of the informal consultations had not lived up to expectations, they had in fact enabled delegations to understand the differing approaches to the topic, and such understanding was necessary in order to arrive at generally acceptable solutions.

56. His delegation therefore would welcome a decision to resume the informal consultations at the forty-sixth session of the General Assembly, with a view to facilitating the reaching of a generally acceptable decision on how to deal further with the draft instruments under consideration. It was his understanding that delegations now agreed that all options for reaching the desired solution had not yet been exhausted. While considering the possible grounds for a reasonable compromise, delegations should take due account of two interrelated concerns: firstly, the need to prevent the violation of the confidentiality of the legitimate content of the diplomatic bag, as a sine qua non for the normal conduct of official relations among States and, secondly, the need to prevent abuses of the bag such as had been witnessed in contemporary international practice.

57. Mr. ALVAREZ (Uruguay) said that some of the proposed draft articles stated norms which filled gaps in the 1961 Vienna Convention on Diplomatic Relations and the 1963 Vienna Convention on Consular Relations. Other articles elaborated on those instruments, and still others sought to cover situations which occurred in contemporary international practice but were not regulated. That harmonisation effort was useful, and his delegation agreed that informal consultations were an appropriate way to deal with the unresolved issues.

58. Draft article 17, on inviolability of temporary accommodation, sought to establish a balance between the rights of the sending State and those of the receiving and transit States. The restrictions on the inviolability of temporary accommodation were appropriate given the nature of the accommodation, which differed considerably from that of the premises of a diplomatic or consular mission. The protection accorded to the diplomatic bag and the courier in article 17, paragraph 3, and article 28 guaranteed their inviolability. Article 17 also covered situations which might endanger the security of citizens of the receiving or transit State. The words "in principle" in paragraph 1 should be deleted in order definitively to establish the criterion of inviolability, which would cease to apply only in the circumstances mentioned in subparagraphs (a) and (b) of paragraph 1.

59. With respect to article 28, his delegation could accept the distinction drawn between the situations envisaged in paragraphs 1 and 2 if it would elicit the agreement of all the States parties to the 1961 and 1963 Conventions.

60. As to article 28, paragraph 2, for the purpose of stressing the importance of the general principle of the inviolability of the bag, it might be desirable to insert a clause which specifically underscored the responsibility of the competent authorities of the receiving or transit State.

(Mr. Alvarez, Uruguay)

61. Delegations should make an intensive effort in the course of the broadest possible consultations to reach a decision on the text, at the very latest, at the forty-seventh session of the General Assembly. It was essential not to allow government policies to stand in the way of a result which had emerged from years of effort by the International Law Commission on the topic.

The meeting rose at 12.10 p.m.