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SUMMARY RECORD OF THE 41st MEETING

Chairman:

Mr. MIKULKA

(Czechoslovakia)

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The meeting was called to order at 3.10 p.m.

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

1. Mr. MARTINEZ GONDRA (Argentina) said that the United Nations Decade of International Law, the initiative for which had come from the Movement of Non-Aligned Countries, would mark an important milestone in the history of the Organization and help to strengthen international law. His country, which like many others had submitted proposals set out in the report of the Secretary-General (A/45/430), thought that suggestions should continue to be made concerning the programme of the Decade, which offered a general framework of reference.
2. With regard to the first of the objectives of the Decade (Promotion of the acceptance of and respect for the principles of international law), particular attention should be given to the principles of the sovereign equality of States, non-use of force or threat of force against the territorial integrity or political independence of any State, non-interference in the internal affairs of other States, and peaceful settlement of disputes between States. Efforts should be made to persuade States to abide by the principle of the peaceful settlement of their disputes and to help them to choose the most appropriate means for that purpose, either recourse to the International Court of Justice or the Permanent Court of Arbitration, or other means such as good offices, mediation and fact-finding.
3. Mr. TUERK (Austria) said that there was general agreement on the primary importance of the Decade of International Law, which would probably be the most important item on the agenda of the Committee until the end of the century. His country welcomed the Decade, for international law constituted the very foundation of the international community, for which it provided a basis for the peaceful resolution of conflicts among its members. Furthermore, by asserting the principle of the sovereign equality of States international law made it possible to mitigate any differences between States in respect of size, power or political, economic or social system.
4. Everything should be done to ensure that decisions relating to the Decade were taken by consensus, so that it would enjoy the full support of all the members of the international community. The same held true for the elaboration of norms of international law. Accordingly, only those subjects on which there was already broad agreement should be considered in detail during the Decade.
5. Following the same line of thinking, the vast array of subjects contained in the list of suggestions in annex II of the report of the Working Group on the Decade (A/C.6/45/L.5) should be compressed.
6. His delegation believed that promotion of the peaceful settlement of disputes between States should be one of the major aims of the Decade, for the codification and progressive development of international law alone could not ensure world peace unless they were accompanied by settlement mechanisms. In that connection his

(Mr. Tuark, Austria)

delegation welcomed the recent trend for more and more States to accept the compulsory jurisdiction of the International Court of Justice, at least in certain areas. Moreover, it expected that the expert meeting on the peaceful settlement of disputes, to be held shortly by the Conference on Security and Co-operation in Europe, would also be able to provide some inspiration for endeavours at the universal level.

7. His delegation attached great importance to the elaboration of legal instruments on the protection of the environment, especially with respect to ultra-hazardous activities, and on the development of international humanitarian law.

8. The Working Group on the Decade should be given, for the total duration of the Decade, the status of a permanent body with the task of preparing recommendations which could be adopted by the General Assembly. The International Law Commission should also make a major contribution to the Decade, in particular by completing its work on the topics currently on its agenda.

9. Miss CHATOOR (Trinidad and Tobago) said that in a world which had undergone important changes since the end of the Second World War there was an urgent need to improve and enhance the international legal system. Her delegation therefore welcomed the decision of the General Assembly to declare the period 1990-1999 as the United Nations Decade of International Law. Being committed to the primacy of law in the settlement of disputes between States, her country hoped that the activities and goals of the Decade would be realistic and practical.

10. The Decade's activities should be organized around the main purposes enunciated in General Assembly resolution 44/23. In order to achieve the first of those purposes (Promotion of the acceptance of and respect for the principles of international law) States would have to be encouraged to enact domestic legislation to give effect to the principles contained in international conventions. With regard to promotion of the peaceful settlement of disputes between States, which was the second purpose, recourse to the International Court of Justice should be encouraged by simplifying the procedures, for, in conjunction with a trust fund to be administered by the Secretary-General, that would facilitate access to the Court. The International Law Commission would have a decisive role in the achievement of the third purpose (Encouragement of the progressive development of international law and its codification). In particular it would have to continue its elaboration of a code of crimes against the peace and security of mankind and the drafting of a statute for an international criminal court. With respect to the fourth purpose (Encouragement of the teaching, study, dissemination and wider appreciation of international law), her country's Institute of International Relations offered courses in international law to law students and to students of political science and social science. Some primary and secondary programmes, designed in collaboration with the United Nations Information Centre in Port-of-Spain, were intended to familiarize pupils with the work of the United Nations. Intergovernmental organizations, particularly UNESCO and UNITAR, made a valuable contribution to the attainment of that purpose. Technical assistance in

(Miss Chatoor, Trinidad and Tobago)

the form of refresher courses and courses at the United Nations and in the specialized agencies would be welcome.

11. Her delegation believed that the ultimate aim of the Decade should be to ensure the primacy of law in international relations and that the present international legal order was incapable of coping with the considerable changes which were taking place. Consideration should be given to the possibility of reforming it and creating, where necessary, new institutions such as an international criminal court.
12. The Working Group of the Sixth Committee should continue to supervise the programmes for the Decade and ensure the necessary co-ordination in order to avoid overlapping or duplication.
13. Her delegation thought that it would be appropriate to mark the end of the Decade with an international peace conference which would reaffirm the primacy of international law.
14. Mr. GARRO (Peru) said that the outlook for the final decade of the century was uncertain; although the decade had begun on a very promising note, events were occurring that seriously threatened co-existence among peoples. In order to strengthen the positive elements and limit the dangers, bonds between States should be strengthened by encouraging multilateral efforts, and that was precisely the objective of the United Nations Decade of International Law.
15. After tracing the history of that initiative, from the special meeting of foreign ministers of the non-aligned movement and the Hague Declaration, to General Assembly resolution 44/23, he presented his observations and comments on the draft programme prepared by the Working Group of the Sixth Committee. The possibility of launching the Decade with a set of activities that could be undertaken within a short period of time seemed appropriate, provided that a balance was maintained between them and that they were carried out together.
16. The placement of the promotion of the acceptance of and respect for the principles of international law as the first objective listed in the programme underscored the fact that the Decade sought to make international law the focus of relations among States. As to the second objective (promotion of means for the peaceful settlement of disputes between States), it must be borne in mind that the effectiveness of those means would depend on the political will to implement them. It was therefore necessary to endeavour to create an international climate conducive to the use of existing machinery for the peaceful settlement of disputes, in particular, those listed in Article 33, paragraph 1, of the United Nations Charter, or of the mechanisms devised to deal with specific situations. It should then be left to States to select what means they wished to apply. In view of the rapid changes affecting the international situation, the third objective of the programme (encouragement of the progressive development of international law and its codification) was of particular importance, if the intention was to pave the way for a new era of co-operation. At a time when ideological confrontations were

(Mr. Garro, Peru)

fading and development was moving to the front of the international stage, priority should be devoted to defining the legal norms for a type of more just and stable international relations. Other "global" topics also merited attention, including traffic in drugs, the environment and certain human rights issues. Lastly, the fourth objective (encouragement of the teaching, study, dissemination and wider appreciation of international law) underscored the great importance of concrete action to influence ways of thinking, as a means for ensuring the rule of law in international relations.

17. In conclusion, he was encouraged by the progress already achieved and looked forward with confidence to the success of a Decade which should enable the world to move closer to its objective: the establishment of peace on the basis of justice.

18. Mr. ADHIKARI (Nepal) said that on 9 November 1990 a new Constitution institutionalizing democracy had been promulgated in his country. His new Government expressed its adherence to the principles of international law and its willingness actively to participate in the United Nations Decade of International Law.

19. On 17 November 1989, when the General Assembly had adopted resolution 44/23, by which it declared the period 1990-1999 as the United Nations Decade of International Law, it had defined the major objectives of the Decade, and he wished to offer his comments on each of those objectives.

20. With respect to the promotion of the acceptance of and respect for the principles of international law, it was the practice of the International Court of Justice and the international legal community to apply the provisions of conventions - even those that had not yet come into force - in order to settle international disputes. However, efforts to apply the rules against States risked dissuading them from adopting the instruments in question. The United Nations Convention on the Law of the Sea was a good example, for while it had been adopted nine years earlier, only 43 States had ratified it. That situation demonstrated not only a lack of political will on the part of Member States, but also, the inadequacy of appropriate international legal instruments. That was why the Working Group on the United Nations Decade of International Law should first address the question of the efficiency of existing systems and measures to verify the compliance of States with international treaties.

21. With regard to the promotion of means and methods for the peaceful settlement of disputes, including resort to and full respect for the International Court of Justice, his delegation endorsed the draft decision recommended by the Chairman of the Committee (A/C.6/45/L.7) to the effect that the question of peaceful settlement of disputes between States should be examined within the framework of the programme for the United Nations Decade of International Law and in the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, as appropriate. His delegation had voted in favour of that proposal on 9 November 1990 and, on 12 October, it had proposed that Article 36 of the Statute of the International Court of Justice should be amended to permit greater

(Mr. Adhikari, Nepal)

recourse to the Court. Moreover, now that the era of confrontation was over the super-Powers should reaffirm their faith in the Court by complying with its decisions.

22. Regional organisations such as the Asian-African Legal Consultative Committee and the specialised agencies of the United Nations also could play a vital role in that context. The Asian-African Legal Consultative Committee recently had organised a meeting on joint ventures in sea-bed mining, and planned to meet in 1991 at New Delhi to encourage its members to ratify conventions concerning refugees and to review the increasing problem of refugees and stateless persons in African and Asian States. The specialised agencies, such as UNITAR, UNESCO and others, also made a positive contribution to the progressive development of international law, and experience showed that their co-operation with the United Nations system had been extremely fruitful.

23. As to the encouragement of the progressive development of international law and its codification, the United Nations and the specialised agencies should play a vital role by opening East-West and North-South dialogues; the international community had in fact seemed rather apathetic in that regard. As Iran had aptly pointed out in its reply to the Secretariat (A/45/430, Add.1), while the norms of the law of armed conflict codified at The Hague conferences of 1899 and 1907 had been appropriate to the requirements of that era, the whole world could today be destroyed in a flash, given the development of ballistic missiles and weapons of mass destruction. His delegation therefore supported the proposal by the General Assembly in its resolution 44/23 that a third international peace conference might be held as a timely forum for regulating such activities.

24. Human rights constituted another area of increasing importance, and his delegation believed that the report of the Secretary-General on the effective implementation of United Nations instruments on human rights and effective functioning of bodies established pursuant to such instruments (A/45/707) was a positive step in the progressive development of international law. Efforts also should be made to identify the rules of international law applicable in various fields, such as the environment, with a view to their codification. The codification of international law had proceeded very slowly, perhaps because the international community had felt that it would impede the progress of co-operation among States. However, the contrary was true, as had been ably explained by Professor Schachter: a codification convention, authoritative as it might seem because of its universal acceptance, could not entirely freeze the development of law. Changing conditions and new perceptions of interests and aims continued to operate. The existence of written codified law could not prevent that. For that reason, it would be timely to hold a third international peace conference.

25. With regard to the teaching, study, dissemination and wider appreciation of international law, Member States should carefully consider the question of what types of study or teaching should be pursued, who would prepare the textbooks, what would be the contents of those books and whether they would be intended for primary or secondary schools. Those questions should be answered clearly. His delegation,

(Mr. Adhikari, Nepal)

representing a least developed State, felt that the question of poverty was directly related to the question of education. Therefore, it was practically impossible for poorer countries to reap adequate benefits from the Decade of International Law and to promote the dissemination and wider appreciation of international law. The United Nations, the specialized agencies and regional organizations and States should consider organizing seminars, symposiums, training courses, lectures and meetings and undertaking studies on various aspects of international law.

26. To achieve that goal, it would be necessary to train teachers in international law. UNITAR could play a vital role in that regard. However, owing to the current economic situation within developing countries and the United Nations itself, teachers from developing countries might not be able to exploit such opportunities. His delegation felt that UNITAR, whose budget was composed of voluntary contributions, should award fellowship to those who were unable to participate in such activities owing to their financial constraints.

27. Finally, the Sixth Committee should be aware of the need to set a precise yet flexible agenda for the Decade of International Law. The agenda should include the environmental question. The Sixth Committee could give guiding principles to the United Nations Conference on Environment and Development to be held in Brazil in 1992. In addition, as suggested by Mexico (A/45/430/Add.1, p. 10), a review conference should be held in 1995. His delegation felt that the United Nations should not repeat the same agenda every year unless that was truly necessary. If that continued, the United Nations would not be able to reach its goal, and the Decade of International Law would only be a formality without any concrete progress.

28. Mr. DROUSHIOTIS (Cyprus) said that his country was closely associated with the United Nations Decade of International Law, since resolution 44/23, by which the General Assembly had proclaimed the Year, had emanated from a proposal adopted by the Movement of Non-Aligned Countries at the Conference held in Nicosia in 1988 and a declaration adopted at the meeting of the Movement held in The Hague in 1989, both of which had been endorsed by the Non-Aligned Summit held in Belgrade in September 1989.

29. As a State which attached high priority to international law, the Republic of Cyprus regarded the promotion and primacy of international law in international relations and adherence to the purposes and principles of the Charter of the United Nations as essential elements governing relations between States. That was of particular significance to small and militarily weak States, such as Cyprus, which often found that the only way to address the problems that confronted them was through strict and consistent application of international law.

30. Cyprus supported efforts towards strengthening the rule of law in international relations and endorsed the goals of the Decade set out in General Assembly resolution 44/23. Considerable progress had been made towards those goals at the current session as a result of the recommendations of the Working Group.

(Mr. Droushiotis, Cyprus)

31. With regard to the promotion of the acceptance of and respect for the principles of international law, he wished to emphasize the importance of the Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, as well as the Manila Declaration on the Peaceful Settlement of International Disputes and the Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations.

32. On the 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, his delegation welcomed efforts for strengthening the mechanisms for the peaceful settlement of disputes, with particular emphasis on the role of the Court. His delegation had taken note of the remarks made by the Secretary-General on that question in his Report on the work of the Organization and of his proposal on the extension of authority under Article 96 of the Charter to the Secretary-General to request advisory opinions from the Court on the legal aspects of a dispute, which would be a very positive measure.

33. In that connection, he wished to recall that Cyprus had accepted the compulsory jurisdiction of the International Court of Justice, and stood ready to have the legal aspects of the Cyprus problem authoritatively adjudicated by the highest judicial organ of the United Nations, as proposed by the delegation of Cyprus at the Meeting of the Foreign Ministers of the Non-Aligned Movement held in The Hague in June 1989 and reiterated in the recent letter addressed to the Secretary-General on 23 October 1990 (A/45/658-S/21898).

34. The progressive development and codification of international law was a substantial element to be furthered during the Decade, and the Sixth Committee, as well as the International Law Commission and other legal bodies of the Organization, would have ample opportunity to make major contributions in that direction. In that connection, he wished to recall the two suggestions made by his delegation on possible areas of future work of the International Law Commission during the recent debate on the report of the Commission. One concerned the question of the implementation of United Nations resolutions and the legal consequences arising out of non-implementation, and the other concerned the binding nature of Security Council resolutions in the context of Article 25 of the United Nations Charter and the advisory opinion handed down by the Court on the question of Namibia. In addition, the international and intergovernmental organizations could play an important role; in that connection, the Commonwealth and the African-Asian Legal Consultative Committee, of which Cyprus was a member might be mentioned.

35. The further dissemination and enhancement of the study of international law during the Decade was essential for promoting a clear understanding of the primacy of international law in international relations. The Advisory Committee of the United Nations Programme Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law could make a major contribution to that important



(Mr. Droushiotis, Cyprus)

aspect of the Decade. Cyprus had contributed to various components of the programme and would continue to do so in order to assist in its implementation.

36. The promotion of human rights law and the protection of human rights, including ratification of or accession by States to the conventions on human rights should be among the Decade's objectives. Review of the status of legal conventions aiming at greater ratification of or accession to those treaties by States could form an important part of the Decade.

37. In conclusion, after reviewing the most outstanding recent events which had led to an improvement of the international situation, he said that those and other positive developments augured well for the application of the rule of law in international relations and in achieving the noble objectives of the United Nations Decade of International Law.

38. Mr. ORDZHONIKIDZE (Union of Soviet Socialist Republics), noting that the new international situation would lead to a new approach to international law, said that the proclamation of the United Nations Decade of International Law was an important step towards the establishment of an international order based on the rule of law. The Soviet Union had actively supported that initiative, as well as the idea of convening a third international peace conference to commemorate the centenary of The Hague Peace Conference. In that regard, his Government had announced its willingness to organize in Moscow an international conference to discuss, inter alia, the codification of the system for the peaceful settlement of disputes. Such a conference could be one of the central activities of the Decade.

39. The increasing interdependence of the world made it necessary for States to establish the rule of law. The affirmation of the primacy of law was based on the assumption that relations between States and peoples were founded on principles of universal morality. Mankind would not be able to progress and establish a world that was free of nuclear weapons and violence unless all States adhered strictly to the fundamental principles set forth in the United Nations Charter. Although in theory every State agreed in recognizing the validity of those principles, which could hardly be disputed, many violations occurred in practice. The problem was not in the instruments themselves which, if fully developed and applied, represented a considerable potential. The problem was that the political will to resort to those instruments was often lacking.

40. One of the principal tasks of the international community, therefore, was to ensure the progressive development of international law by applying its fundamental principles and, above all, by having greater recourse to existing mechanisms and procedures and by creating new ones. To take up the distinction made by political scientists, who saw in the absence of war a negative peace and in the absence of any threat of war a positive peace, it could be said that the improvement of the international situation favoured a positive development of international law; in other words, it made it possible to establish new rules not centred only on prohibition but on intensifying international co-operation in all areas.

(Mr. Ordshonikidse, USSR)

41. One means of making the rules more effective was to strengthen the machinery for verification. In that connection, a radically new concept should be adopted of the role of the verification bodies. Instead of confining themselves to establishing the facts and making a judgement, they should endeavour to find solutions and promote peaceful co-operation by exercising three functions: verifying that States were complying to the full with their commitments, helping them to do so and preventing them from breaking off the implementation of those commitments.

42. Peaceful means of settling disputes had acquired new importance. The Soviet Union believed that States should recognise the compulsory jurisdiction of the International Court of Justice, beginning with the permanent members of the Security Council. It had given up its own reservations in that connection in the case of six conventions on human rights and was preparing to take similar steps for other agreements. In addition, the role of other peaceful means of settling disputes should be enhanced, in particular those calling for mediation. The Soviet Union had abandoned the outworn stereotypes whereby the binding provisions of international law impaired national sovereignty.

43. The international organisations, particularly the United Nations and its organs, had great potentialities in regard to the maintenance of peace. Those potentialities were particularly important at the regional level, since regional conflicts currently constituted one of the most serious problems facing the international community. There were several reasons why that was so. First, it was hard to find a region where there was no conflict, actual or potential. Secondly, world interdependence was negatively mirrored at the regional level by the internationalisation of domestic and inter-State conflicts. Thirdly, the scientific and technological revolution, with all its consequences in respect of armaments, meant that conflicts were now much more lethal than before for the civilian population. Fourthly, the fact that the parties to the conflict lacked the political will to resort to the settlement machinery provided by international law led to violations of fundamental human rights and freedoms. Fifthly, conflict situations engendered a steady flow of armaments and encouraged the presence of outside elements. Lastly, there was an obvious link between the excessive burden placed on countries by the regional arms race and the difficulty they had in extricating themselves from underdevelopment. All those reasons meant that it was time to work out a system of measures, based on international law, for preventing regional conflicts.

44. Renouncing a basically statist approach to international relations brought the human rights question into the foreground by associating it closely with the major universal problems. The very problem of the defence of law had taken on a global dimension, not only because only States based on law could ensure the primacy of international law, or because respect for human rights at the national level was indissociable from respect for international commitments, but also because guaranteeing the rights and freedoms of individuals depended on solving all the other problems (disarmament, environment, etc.). The intent of perestroika was to make the USSR a State of law, in other words, a State which respected human rights

(Mr. Ordshonikidze, USSR)

and complied with the norms of international law. The Supreme Soviet had adopted legislation including a provision that stipulated that, in the case of a conflict between domestic regulations and an international treaty, the treaty had priority.

45. The Decade of International Law could help to promote respect for law and to confirm the primacy of law in domestic affairs as well as at the international level. In the view of the Soviet Union, the programme of activities proposed by the Working Group for the first part of the Decade (A/C.6/45/L.5, annex I) was eminently suited to that purpose. Section I contained an essential concept, namely, that the maintenance of international peace and security required States to act in accordance with international law. That idea should be at the centre of the Decade and the criterion for any activity.

46. Regarding the peaceful settlement of disputes (sect. II), his delegation hoped that the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organisation would continue its consideration of the question of strengthening the role of the United Nations system in regard to the maintenance of peace and would make specific proposals in that connection. It was ready to contribute to promoting resort to the International Court of Justice.

47. His delegation wholeheartedly supported the proposals to encourage the teaching, study, dissemination and wider appreciation of international law (sect. IV) and stressed the need for measures to be adopted at the governmental and non-governmental level in that connection. It attached great importance to the establishment of national committees for the Decade, which would, in its view, encourage popular participation in the Decade and help to co-ordinate the activity of non-governmental legal organisations and the various educational institutions. As far as other procedures and organisational aspects were concerned, the Sixth Committee, through its Working Group, should be the co-ordinating body of the programme for the Decade. Lastly, it went without saying that, to be effective, the programme must be adopted by consensus.

48. Mr. AL-BAHARNA (Bahrain) thought that the draft programme for the activities to be commenced during the first term (1990-1992) of the United Nations Decade of International Law, in annex I of the report of the Working Group (A/C.6/45/L.5), was excellent. He also welcomed the report of the Secretary-General (A/45/430 and Add.1-3).

49. As far as the general comments were concerned, his delegation shared the view that "in order for the Decade to be successful its programmes should be generally acceptable, well defined and action oriented; they should be concrete and realistic and should not cause duplication of work of existing organs" (A/45/430, para. 8).

50. In the case of the acceptance of the principles of international law, the existing monitoring and implementation machinery, aimed at ensuring strict observance by States of their obligations in international law should be strengthened (*ibid.*, para. 11). However, there was no need to create new machinery: it would be better to ensure that the existing machinery was fully

(Mr. Al-Baharna, Bahrain)

utilized. His delegation wholeheartedly endorsed the suggestion that during the Decade, the progress made in regard to ratifications and accessions should be monitored (*ibid.*, para. 12). That would help to remind States of the need to ratify multilateral treaties more rapidly, which had become more necessary than ever at a time when international customary law tended increasingly to be replaced by treaty law. The comment that "one way to enhance acceptance of and respect for the principles of international law was to encourage States to accept international law as part of their municipal laws and to have their courts apply them" (*ibid.*, para. 13) touched on a question - that of the relationship between municipal law and international law - to which different countries brought different solutions. His delegation thought, therefore, that the Organization's possibilities of action on that point were limited. However, it endorsed the suggestion that a series of recommendations should be drawn up on more effective ways to incorporate international law into municipal law. The question could be studied by the Secretariat or some other appropriate organ of the Organization. It also endorsed the suggestion that an attempt should be made during the Decade to remedy the difficulties experienced by judges and lawyers in certain countries, particularly developing countries, in obtaining the decisions of international tribunals and documentation on international law in general.

51. With respect to the peaceful settlement of disputes between States, his delegation did not see any incompatibility between the elaboration of an international convention that would deal not only with all peaceful means of settling disputes but also with conflict prevention, as suggested in paragraph 17 of the report, and the proposal in paragraph 20, which emphasized better use of existing mechanisms in that field. Moreover, with the end of the cold war, recent changes in the international political situation opened new avenues for the International Court of Justice.

52. As for encouraging the progressive development of international law, his delegation supported the objectives that the International Law Commission had set itself for the Decade (*ibid.*, p. 74), in particular the preparation of a draft statute for an international criminal court. It had also noted with interest the suggestions contained in paragraph 25 of the report, two of which it had found to be of particular interest: "the formulation of rules of international law for establishing a new international economic order to promote growth and development" and "an analytical study on the sources of international law, including such instruments as declarations and resolutions of the United Nations". The Commission might consider the possibility of including those questions in its long-term programme.

53. While the United Nations had made laudable progress in the dissemination of international law since the 1960s, in particular through the organization of seminars and training courses in Africa, Asia and Latin America, much remained to be done in that field. His delegation therefore supported the conclusion of the International Court of Justice that one of the objectives of the Decade should be "to create in lawyers in all fields, and in all those whose professional activities are in any way linked to relations between States, an enhanced awareness of the

(Mr. Al-Baharna, Bahrain)

scope of the rules of contemporary international law" (*ibid.*, p. 69, para. 16). It also believed that efforts should be made to increase the awareness of the general public with respect to international law.

54. Of the ideas presented in paragraphs 26 to 33 of the report regarding the teaching and study of international law, the idea that the United Nations might prepare a general manual on international law (*ibid.*, para. 27) was particularly interesting. In the absence of such a manual, it might also be possible to publish a collection of judicial decisions and documentation in the field of international law and to make it available to all users in developing countries at a moderate price.

55. Mr. BERG (Germany) said that, since at the previous meeting the representative of Italy had spoken on behalf of the 12 States members of the European Community, the comments he was about to make were designed only to complement that statement.

56. In a world in which the importance of international law was growing, the declaration of the period 1990-1999 as the United Nations Decade of International Law was a welcome initiative. The task of the Organisation during that period would be to develop further the international legal system in order to ensure the survival of mankind. It now appeared possible that the world's problems could be settled through reconciliation and understanding, and respect for the principles of international law. The possibilities in that regard were strengthened by the end of the division of Europe and by German unity.

57. His delegation welcomed the programme prepared by the Working Group on the United Nations Decade of International Law, which was now before the Committee. It represented the first stage of the Decade and indicated the direction to be taken over the coming nine years. The activities proposed in the programme were very useful, and his country would participate in them to the fullest possible extent.

58. In due course, it would be advisable to conduct a mid-term review of the Decade in order to make any necessary adjustments. Certain criteria would contribute to the success of the Decade. It was essential to avoid duplication, to conduct a thorough analysis before formulating new norms, and to make sure that a consensus could be reached before undertaking the elaboration of new legal provisions. The draft programme took those criteria largely into account.

59. Efforts during the Decade should focus mainly on the enforcement of existing norms. Available implementation mechanisms should be strengthened and, where needed, extended. In that respect, chapter I of the programme was welcome.

60. Chapter IV, "Encouragement of the teaching, study, dissemination and wider appreciation of international law", was rightly the longest chapter of the programme. Concrete measures and results could be expected in the near future in that area. His Government had consistently supported the activities of the Organization in that field through financial contributions to the relevant United Nations programme of assistance.

(Mr. Berg, Germany)

61. In preparing and carrying out the various activities envisaged for the Decade, it was necessary to take into account the efforts being made in Europe and within the context of the Conference on Security and Co-operation in Europe (CSCE). That was especially true with regard to the peaceful settlement of disputes and human rights. In early 1991, experts of the CSCE member States would meet in Valletta, Malta, to study issues connected with the peaceful settlement of disputes. That meeting could give impetus to work in that complex field during the Decade. Conflict prevention, another question which was mentioned in the programme for the Decade, was also of concern to CSCE.

62. With respect to the peaceful settlement of disputes within the framework of the United Nations, efforts should be directed towards greater utilization of existing mechanisms, including the International Court of Justice, and to bringing their existence to the attention of States that were parties to a dispute. When those parties were not willing to accept third-party decisions, neutral authorities, such as the Secretary-General of the United Nations or commissions of inquiry or arbitration, could contribute through fact-finding missions and mediation. The programme for the Decade offered a good basis in that regard.

63. In the area of human rights, the European Convention and its additional Protocols represented the most comprehensive protection system in that area ever devised. If acceptance of and respect for the principles of international law were to be promoted, human rights should be a focal point of the Decade. In that context, the establishment of an international human rights tribunal patterned after the European model might also be envisaged.

64. Mr. BEN MANSOUR (Tunisia) said that, since the first Peace Conference at The Hague, there had been considerable progress in international law, but that much remained to be done. He therefore welcomed the declaration of the Decade of International Law, during which it would be important to invite States which had not yet done so to become parties to the multilateral treaties in force, especially with regard to the progressive development of international law and its codification and to promote the principle of the peaceful settlement of disputes between States by encouraging the acceptance and use of the existing legal instruments in that area and the formulation of new instruments. With respect to the progressive development of international law, priority should be given to such serious issues as illicit drug trafficking, the settlement of the problems posed by the external debt burden, and the protection of the environment. It would also be necessary to encourage the teaching, study, dissemination and wider appreciation of international law by supporting higher educational institutions that were already engaged in research and teaching in that field and by promoting the establishment of such institutions where needed. The organization of international and regional seminars, symposia, and lectures should permit the more active and fruitful participation of developing countries in the formulation of principles of international law. Lastly, his delegation supported the idea of holding an international peace conference at the end of the Decade.

65. Mr. ACHITSAIKHAN (Mongolia) said that his Government fully supported the objectives for the Decade put forward in The Hague Declaration adopted at the Meeting of the Ministers of Foreign Affairs of the Movement of Non-Aligned Countries. The main thrust of the Decade should be in the following areas: the elaboration of international legal principles concerning peace and security in all their aspects (political, military, economic, environmental, social, humanitarian, and other); the formulation of rules of international law concerning the establishment of a new international political and economic order on the basis of equality, non-interference and self-determination and the establishment of the legal framework for a new era of international relations in the twenty-first century (in that respect, the treaties on good-neighbourly relations concluded recently between the Soviet Union and other European States were encouraging); the enhancement of the role of the developing countries in the progressive development and codification of international law on the basis of universal values; and the codification of United Nations resolutions as a source of international law in different fields of global development.

66. His delegation welcomed the draft programme for the activities to be commenced during the first term of the Decade (1990-1992) and hoped that many of the interesting proposals contained in annex II of the report of the Working Group (A/C.6/45/L.5) would be taken up in the programme for the entire Decade. His Government's views concerning the programme were set out in document A/45/430/Add.2 and he would therefore limit himself to emphasizing certain particularly important points. During the Decade greater attention should be given to the development and codification of means for the peaceful settlement of international disputes. It was necessary in particular to identify the causes preventing the effective use of the existing international instruments and to analyse the experience of recent years in order to facilitate the elaboration of a system of universally acceptable standards. The question of the security of small States should receive special attention, as the Gulf crisis showed. During the Decade practical means must be found of strengthening the legal guarantees of the security of small States. An undertaking by States with superior military capability not to deploy forces near the borders of neighbouring small States would be of great significance in that respect.

67. The specialized agencies and international organizations working in the legal field had an important role to play in the attainment of the objectives of the Decade. His country commended in that connection the work done by the Asian-African Legal Consultative Committee, to which it endeavoured to make its contribution. At Mongolia's initiative the Consultative Committee was at present engaged in a study of the elements of a legal instrument on friendly and good-neighbourly relations between States of Africa and the Asia-Pacific region. His delegation expected that within the framework of the Decade the Consultative Committee would intensify its efforts in that area.

68. His Government was in favour of convening a third peace conference at the end of the Decade, for it would provide an occasion not only to assess the achievements of the Decade but also to lay the foundation for the development of international law in the twenty-first century.

69. Mr. ELHUNI (Libyan Arab Jamahiriya) said that his country was among those which, following the meeting of ministers for foreign affairs of the non-aligned countries at The Hague, had requested the General Assembly to declare the period 1990-1999 as the United Nations Decade of International Law. It was also one of the States which had sponsored General Assembly resolution 44/23.

70. There was a need to draft effective rules of international law which could eliminate the inequality on which international economic relations were based by establishing a new international economic order characterized by justice and equity, and which could promote economic growth and development in the world. His delegation hoped that the programme for the Decade would make it possible to eradicate colonialism in all its forms and put an end to the frightening growth of military arsenals and the waste of resources represented by the arms race. Peaceful coexistence and stability in the relations among States, the development of rules of international law designed to bring about a world free of oppression, full respect for the rule of law in international relations, respect for the right of peoples to self-determination and to exercise their full and permanent sovereignty over their land and natural resources, the protection of the environment and the use of nuclear energy for peaceful purposes were all matters which should be promoted by the programme of the Decade.

71. His delegation attached particular importance to the observance of the legal principles set out in international conventions and instruments and to the elaboration of international legal standards which could lead to comprehensive disarmament, eliminate the threat or use of force in international relations and protect the environment.

72. It supported the draft programme for the activities to be commenced during the first term of the Decade (A/C.6/45/L.5, annex I). It fully supported the statement in section I, paragraph 1, that maintenance of international peace and security was the underlying condition for the success of the implementation of the programme of the Decade, and the call to all States to act in accordance with international law. Promotion of the accession of the largest possible number of States to multilateral treaties must certainly be part of the Decade's programme. During the past year his own country had acceded to all the international agreements on human rights.

73. One of the most important elements of the programme must be the promotion of means for the peaceful settlement of disputes between States, including recourse to and full respect for the International Court of Justice. His country had already brought cases before the Court, including its territorial dispute with Chad, because it attached great importance to the Court's role in the peaceful settlement of disputes.

74. In the Decade's first term efforts should be made to promote the progressive development of international law and its codification and to encourage its dissemination and wider appreciation. His own country was taking steps to promote the codification and dissemination of international law. For example, a few months earlier it had organized a seminar on international law attended by many professors from Libyan universities.



75. Mr. CALERO RODRIGUES (Brazil) said that the draft programme prepared by the Working Group on the United Nations Decade of International Law was satisfactory. It might indeed appear modest, but if the organs and organizations concerned endeavoured to implement it meticulously, it could deliver considerable results. His delegation was ready to do everything in its power to contribute to the programme's implementation.

76. Mr. MANGUSHO (Uganda) said that, with regard to the draft programme for the first term of the Decade, his delegation supported the recommendations made in annex I, section I, for increasing the accession of States to multilateral treaties, for that was in itself a means of encouraging the progressive development of international law and its codification. However, it was disappointed that the crucial reference to provision of financial assistance to developing countries, in particular the least developed countries, had been deleted from section I, paragraph 3, and hoped that it would be restored. His delegation fully supported the idea of seeking more effective ways of applying international law at the national level, for that would create a genuine international moral standard based on universal observance of the rule of law in international relations. In that connection it looked forward to the early publication of a handbook on treaty-making, which would be very useful to States which did not have sufficient qualified legal personnel.

77. With regard to the search for means for the peaceful settlement of disputes between States, it seemed to his delegation that each region followed its own methodology in the matter, and it hoped that some work would be done on enhancing the role of regional organizations in identifying, preventing and resolving disputes. It was up to each region to determine its own methodology without necessarily departing from the provisions of the Charter of the United Nations. It was a matter of even greater urgency to promote appropriate means for the peaceful settlement of disputes between States since the situation in the Middle East posed a threat to the peace and security of mankind. Hence, too, the absolute necessity of making an early start on the elaboration of an international legal instrument on the peaceful settlement of disputes. Of course, legal instruments alone could not avert the risk of war. His delegation therefore urged all States which had not yet done so to recognize immediately the compulsory jurisdiction of the International Court of Justice and to undertake to respect its decisions scrupulously.

78. Implementation of sections III and IV of the draft programme, entitled respectively "Encouragement of the progressive development of international law and its codification" and "Encouragement of the teaching, study, dissemination and wider appreciation of international law" would give the developing countries an opportunity to make a positive contribution to the better understanding and appreciation of international law.

79. It was to be hoped that the envisaged co-operation in the field of international law among developing States themselves and among developed and developing States would help to lessen the Eurocentricity of present-day principles of international law. It would be up to the developing countries to draw attention to the international legal norms of particular interest to them.

(Mr. Mangusho, Uganda)

80. Now that the programme had been established, Member States must work together to attain the ambitious goals of the Decade of International Law.

81. Mr. VILLAGRAN KRAMER (Guatemala), referring to the section of the draft programme relating to the teaching, study, dissemination and wider appreciation of international law, said that the Inter-American Juridical Committee could make a substantial contribution in that field. Each year the Committee organised, for the benefit of teachers of law and young jurists from ministries of foreign affairs of the Latin American countries, a course in international law to which jurists from other regions, Asia and Africa in particular, could be invited. The course had highlighted the need for wider dissemination of the new manuals and books relating to international law and the study, from a legal standpoint, of such issues as drugs, disarmament, budget deficits and external debt.

82. With regard to the peaceful settlement of disputes between States, his delegation had submitted for the Sixth Committee's consideration a document on conciliation which could make an important contribution in that field.

83. The development of international law during the 1990s required the active participation of all States, large and small. Against that background, the Sixth Committee should consider the question of rotating participation in United Nations bodies and machinery in order to overcome the obstacle of insufficient rotation, which particularly affected small States, for example in the case of the International Law Commission and the International Court of Justice. The United Nations Decade of International Law should provide small States with the opportunity to contribute to the development of international law by proposing new concepts. The Decade should not be reduced to a mere search for consensus but should instead provide an opportunity for an exchange of opposing points of view from which solutions would emerge.

84. Mr. TANKOANO (Niger) said that promotion of the peaceful settlement of disputes between States and recourse to the International Court of Justice should be the cornerstone of the programme for the United Nations Decade of International Law. Referring in particular to the contribution of the International Court of Justice to the peaceful settlement of disputes and the codification of international law, he said that while, following its judgement of 18 July 1966 regarding South-West Africa, the Court had lost considerable credibility and prestige among developing countries, and among the African States in particular, his delegation had always been convinced that its past shortcomings in no way diminished its potential for playing a role in the peaceful settlement of disputes and in promoting the rule of law. Indeed, the Court had subsequently regained its credibility in the international community, particularly among the African States. It was for that reason that, for the first time two African States, namely Burkina Faso and Mali, had submitted their territorial dispute to the Court in 1986. The legal significance of the judgement handed down by the Court on 22 December 1986 in the case lay in the fact that it incorporated the principle of the inviolability of borders inherited from colonial times as a principle of general international law,

(Mr. Tankoano, Niger)

thus ending a long-standing doctrinal controversy. Chad and Libya had also decided to submit their territorial dispute to the Court.

85. In his delegation's view, judicial settlement was the best means of settling disputes peacefully, in that it obliged the parties to respect the decision of the Court in order to ensure that law prevailed. For that reason, his delegation welcomed the initiative of the States which had decided to contribute to the Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice, and it urged States to recognize the binding jurisdiction of the Court. It also encouraged States to avail themselves of the adjudicatory procedure in order to settle their disputes when they had exhausted all other means of peaceful settlement. That would be the best way to contribute to strengthening the role of the Court in promoting international justice in the cause of international peace and security. It was only thus that the Court, which under Article 92 of the Charter was the principal judicial organ of the United Nations, could and should contribute to the establishment of a world of justice and law.

86. In conclusion, he said that only the political will of the member States of the international community would enable the Decade of International Law to achieve its objectives.

87. Mr. BOTERO (Colombia) said that the draft programme prepared by the Working Group on the United Nations Decade of International Law would make it possible to undertake activities which were of common interest, while leaving States the possibility of changing their views, where necessary, as to the best way of implementing the Decade, thereby taking into account any new developments on the international scene. Resolution 44/23 represented an important contribution by the United Nations to the development and strengthening of international law, in that it crystallized the will of the world community to strengthen the principles and norms which governed civilized nations and which should be the primary means of preventing and settling disputes. Apart from providing an opportunity to reaffirm the principles and norms established by the international community, the Decade could help to promote new means and new procedures for confronting the challenges and needs of the future. The search for broadly acceptable agreements should not be the pretext for subordinating law to the requirement of unanimity. Experience had shown that it was possible to arrive at agreements, as had been the case in the Working Group, without undermining the recognized rights of all States. His delegation endorsed the report of the Working Group (A/C.6/45/L.5) and hoped that it would be adopted by the Sixth Committee without delay.

88. Mrs. CHAVES (International Committee of the Red Cross) said that ICRC regularly published the status of ratification of the 1949 Geneva Conventions and the 1977 Additional Protocols. The periodic publication of the status of ratification of treaties was a useful way of drawing the attention of the competent authorities to possible oversights or omissions. In that regard, the biannual report of the Secretary-General on the status of the Additional Protocols could only be commended.

(Mrs. Chaves)

89. All Parties to Protocol I relating to the protection of victims of international armed conflicts should be urged to recognize the competence of the International Fact-Finding Commission referred to in article 90 of that instrument. The Commission, which would be established when 20 High Contracting Parties agreed to accept its competence (19 States had so far done so), would be competent to inquire into any facts alleged to be a grave breach of humanitarian law and to facilitate, through its good offices, the restoration of respect for such law.

90. The institution of the protecting Power foreseen by international humanitarian law should also be recalled, as should the fact that ICRC, in accordance with the mandate entrusted to it by the international community, was responsible for ensuring the faithful application of international humanitarian law and for fulfilling the tasks assigned to it under the Geneva Conventions for the protection of, and assistance to, the victims of armed conflicts.

91. ICRC would find it useful to include in the programme of activities for the Decade the question of measures to be taken at the national level to ensure the implementation of treaties.

92. With regard to the codification and progressive development of international law, the mandate entrusted to ICRC by the international community in respect of the development of international humanitarian law had been confirmed in 1986 by the twenty-fifth International Conference of the Red Cross, attended by the States Parties to the Geneva Conventions. Since the adoption of the 1864 Geneva Convention, ICRC had continuously endeavoured to provide improved protection under international law for the victims of armed conflicts. The 1977 Additional Protocols were the most recent result of those efforts.

93. ICRC was convinced that the international community must now focus on increased respect for existing humanitarian law rather than on its development. It was nevertheless paying close attention to the problems that had arisen, for example with regard to the law of war at sea or weapons causing unnecessary suffering, and was ready to take further initiatives if the circumstances so required. It had taken note of the proposal for the elaboration of additional rules applicable in armed conflicts, but considered it a matter of greater urgency that States ratify, without delay, the two Additional Protocols of 1977.

94. ICRC attached great importance to dissemination of the norms of humanitarian law, particularly among the armed forces, and recalled how necessary it was to spread such knowledge even in time of peace. It had read with interest the proposals made in the Working Group's report concerning the dissemination of international law, and was ready to share its experience in that field.

95. ICRC pledged to contribute to the success of the Decade and would remain in contact with the Secretary-General on the subject.

The meeting rose at 6.10 p.m.