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Chairman:

Mr. MIKULKA

(Czechoslovakia)

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The meeting was called to order at 10.10 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. JASUDASEN (Singapore) said that the report of the Working Group on the United Nations Decade of International Law (A/C.6/45/L.5) represented a remarkable achievement. When the Working Group had begun its task, there had been little agreement among its members, and the final outcome of the exercise had been in doubt. While the report was certainly less than perfect from the point of view of many States, it was generally acceptable, and his delegation, for one, could support it. Much of the credit for the document, which contained a viable master-plan for the United Nations Decade of International Law, was due to the Working Group's Chairman, Mr. Vukas.
2. A point on which all members of the Sixth Committee were agreed was that international law could help to resolve many of the problems on the international agenda. It had to be recognized, however, that international law was and remained the privileged domain of its practitioners - international lawyers, diplomats and experts in international affairs - who formed an élite within the élite of each society. The master-plan proposed by the Working Group had been devised by members of that super-élite.
3. His delegation approached the Decade from the standpoint that the real problem was not dearth of international law but lack of implementation. Members of the Sixth Committee, most of whom were lawyers by training, naturally tended to believe that most problems, especially transnational ones, could be solved by new, more explicit or more comprehensively drafted law; yet there were good reasons for believing that such an approach, evidence of which was scattered throughout the report, was doomed to failure. The first such reason was that, as history showed, lawyers and law-makers could never work quickly enough to close the gap between law and reality; a second, also borne out by historical evidence, was that the adoption of an international agreement did not automatically mean respect for and implementation of the principles contained therein.
4. The unequal spread of international law across the world had led to very serious consequences. It was not a coincidence that the developed countries of the North, with their greater share of international lawyers and experts, had succeeded in avoiding open military conflict since the Second World War, while the developing countries of the South, which suffered from a grievous shortage of such experts, had during the same period seen more conflicts than ever before in modern history. To purchase sophisticated weapons in the international market-place was easier than to obtain the advice of international lawyers. The current Gulf crisis was a classic example of that truth. While welcoming some of the efforts that would be made during the Decade in order to redress those shortcomings, his delegation felt that greater attention needed to be focused in that area.

(Mr. Jasudasan, Singapore)

5. Many of the proposals incorporated in the Working Group's master-plan were a matter of experts talking to other experts, and did not represent the bold and imaginative change of approach that was called for if the Decade was to have any real impact on international relations. To put it simply, the first reaction of many Governments when faced with an international dispute was to summon their generals and colonels. The Decade's main objective should be to transform that situation into one in which, whenever and wherever a dispute between two or more States arose, the first reaction of the leaders of those States would be to ask what international law had to say about the matter, and demand to see their international lawyers. In that respect, the Decade offered a rare opportunity for gaining converts to the cause of international law. Two examples were relevant in that connection. The first was the story behind the play Lysistrata by Aristophanes, in which the women of two countries on the brink of conflict succeeded in stopping their men from going to war by the simple expedient of denying their husbands what they most wanted, namely, their conjugal rights. The second was the extraordinary success of the environmentalist movement, which, from being consigned to the lunatic fringe 20 years earlier, had become the rallying-point for the world's moral majority today.

6. Some important lessons could be learned from that dramatic reversal of attitudes. The environmentalists had achieved success by popularizing their cause and by appealing to the self-interest of individual voters, thus forcing political leaders to take notice. Similarly, the Decade's primary objective should be to market international law like a consumer product to the public at large, making extensive use of the print and electronic media in the process. Simply written books on international law, including comics to be used in teaching children, as well as computer programs for the layman, could be written and widely distributed; films could be made on the subject, and, as had been suggested during the Working Group's meetings, emphasis could be placed on university courses on international law. Such measures at the domestic level should be matched by articles in the international media focusing on the need for compliance with international norms and reinforcing institutional and systemic efforts. A whole "culture of shame" should be built round the notion of non-compliance; at the United Nations, for instance, defiant nations should be ostracized, criticized and generally brought under pressure.

7. The target audience for such activities should be the policy-makers and opinion-leaders in the political, social and economic arenas of all societies, who should make compliance with international law a domestic political concern, forcing Governments to respect international law in the conduct of international relations and to strive for peaceful settlement of disputes through the good offices of eminent persons, consultation, conciliation, arbitration or recourse to the International Court of Justice. Last but not least, such key individuals should take up the question of the large number of unratified conventions languishing in the depositories of various foreign ministries.

8. Mr. KOURULA (Finland) said that when his delegation had joined the sponsors of General Assembly resolution 44/23 on the United Nations Decade of International Law, it had done so with some concern regarding the lack of a substantive programme, a fact which of course had reflected the tentative and divergent nature of the views expressed in informal discussions on the topic during the forty-fourth session of the Assembly. Although there seemed to be wide agreement on the need to stress the importance of international law, that had not been accompanied by an equal measure of agreement on which part of the substantive law should be highlighted or developed further.

9. It seemed that the programme for the Decade would either be the object of political quarrels due to diverging preferences, or that it would have to be formulated in such general terms as to render it practically meaningless. Nor were his delegation's doubts wholly dispelled by the Secretary-General's report containing the replies of Governments (A/45/430 and Corr.1 and Add.1-3). While noting the clear and honest commitment on the part of countries to the strengthening of international law, Finland considered that the proposed measures were of such variety that it did not seem easy to visualize where the discussions would lead. The report of the Working Group on the United Nations Decade of International Law (A/C.6/45/L.5) had produced a programme for the Decade which was neither excessively ambitious nor too modest. It recognized that any measures taken to strengthen international law must be decided only after a careful study of the possibilities for realistic action. It recognized the imperative need for close co-operation between the Sixth Committee and the other organs of the United Nations, its specialized agencies and other relevant organisations, while highlighting the leading role of the General Assembly itself.

10. The programme emphasized the need to support academic and professional institutions working in the field of international law, and to create new ones where needed. Wisely, the programme did not assume that the United Nations itself would be the focal point of supportive measures; the emphasis would be on national and regional action, in accordance with local needs. With that aim in view, his Government had already increased its financial support to certain projects involving teaching and publishing materials in international law which would be carried out in Finnish law faculties. It was hoped that other countries would consider similar measures.

11. The programme for the first two years of the Decade might not meet all the expectations of States or academic and professional communities, but that did not necessarily reflect any failure on the part of the Sixth Committee or its Working Group. Much of the relevant substance of universal international law was already codified, and progressive development was already under way in many specialized organizations. It should be added that in many cases a regional or functionally limited approach would be easier to manage and would lead to more effective standards than a global approach.

12. His delegation believed that the codification of the rules of international law, and the establishment of meaningful and effective mechanisms for the peaceful settlement of disputes should not be undertaken without a fair expectation that the

(Mr. Kourula, Finland)

result could be a success. Sections II and III of the draft programme (A/C.6/45/L.5, annex I) were therefore correctly formulated, and provided for the necessary reports and studies, while leaving open the question of what action the Assembly might wish to take at a later stage. It was anticipated that States themselves would arrive at realistic and well-prepared proposals which would be subsequently included in the programme.

13. Mr. TRAXLER (Italy), speaking on behalf of the 12 States members of the European Community, said that the Twelve had all co-sponsored General Assembly resolution 44/23 declaring the period 1990-1999 as the United Nations Decade of International Law. Although the Decade had been proclaimed without a programme, the Twelve had considered that the idea was so important that it should not be deferred, and had been confident that the Sixth Committee, working by general agreement, would be in a position to elaborate a programme for the Decade at the forty-fifth session of the General Assembly. That drawing up a programme would not be an easy task had become clearly apparent with the issuance of the document containing the responses of a number of States and international organizations to questions formulated by the Secretariat in accordance with paragraph 3 of the resolution. The replies indicated many subjects of interest, but offered practically no concrete ideas on how a sequence of feasible and generally acceptable activities should be organized within the Decade. However, the Sixth Committee had been fortunate in entrusting the chairmanship of its Working Group on the Decade to Mr. Vukas of Yugoslavia, who, combining remarkable academic and diplomatic skills, had succeeded in steering the Working Group in such a way that, in only a few weeks of meetings, it had moved from a collection of non-homogeneous and often controversial proposals to a realistic and widely acceptable programme of activities to be started during the first two years of the Decade.

14. The fact that the Decade would encompass a series of diverse activities aimed at strengthening the role of international law was not, in the view of the Twelve, a matter for regret. The decision to declare the Decade was in itself a sign that, in the opinion of the overwhelming majority of States, the time was ripe for the adoption of many co-ordinated initiatives. True, the programme proposed in the Working Group's report (A/C.6/45/L.5) covered only activities to be commenced during the first term (1990-1992) of the Decade, but new projects might still be decided upon and developed, and, given suitable conditions, even major endeavours remained possible.

15. The Twelve looked forward to the activities which various entities invited to contribute to the Decade would undertake. They were confident that the Institute of International Law, the International Law Association and the Hague Academy of International Law would enrich the Decade with their experience and wisdom. They also expected the International Law Commission to contribute to the Decade, more especially by completing work on the topics at present on its agenda. They had taken due note of the readiness of various other international institutions, and in particular of the International Court of Justice, to make contributions to the Decade. It should not be forgotten, however, that primary responsibility for the Decade fell on the Sixth Committee and its Working Group, as well as on the Special

(Mr. Traxler, Italy)

Committee on the Charter. At the present juncture, the Twelve wished to express appreciation of the way in which the Secretariat had prepared the basic documents, thus enabling the Sixth Committee to make a positive start.

16. The Twelve were ready to participate actively in the initiatives for the Decade as developed in the programme, and, confident that the spirit of flexibility, mutual understanding and decision-making by general agreement shown by the Working Group would be maintained, looked forward to the beginning of substantive activities.

17. Mr. AUST (United Kingdom) said that despite two devastating world wars, international law and respect for it had grown steadily during the twentieth century's first 90 years. That progress was vividly illustrated by the world community's response to Iraq's invasion of Kuwait. The reaction of the United Nations to the challenge to the authority of the Security Council had been vastly different from that of its predecessor, the League of Nations, to similar acts of aggression in the 1930s. The world community had shown its determination to make international law its means of ensuring the rule of law, without which there could be no international peace and security.

18. As the representative of Singapore had suggested in his thought-provoking statement, there were many ways in which the United Nations Decade of International Law could help to create the political will without which resolutions, declarations and conventions were doomed to become dead letters. It was essential to make Governments - for it was Governments, not people, that committed acts of aggression - more aware of the advantages to themselves in acting lawfully and settling disputes by peaceful means. Governments did not have to be made aware of their legal obligations but, rather, to be convinced that observance of the law and peaceful settlement of disputes served their best interests. They had to be made to realize that attempts to settle disputes between States by the use of force were not only illegal, but also enormously wasteful in terms of direct costs, loss of human life and damage to society, to the economy and to international stability. The cost of going to law often complained of by private individuals was little compared with that of waging aggressive war.

19. His delegation was greatly encouraged by the increasing number of States which had accepted the compulsory jurisdiction of the International Court of Justice. Of the six States which had made the necessary declaration in the past two years, four were developing countries. As the only permanent member of the Security Council always to have accepted the compulsory jurisdiction of the International Court of Justice and of its predecessor, the Permanent Court of International Justice, the United Kingdom wished to urge all States which had not yet accepted the Court's compulsory jurisdiction to consider doing so, and also wished to encourage those which had not yet contributed to the Secretary-General's Trust Fund for the Court to do so. It was particularly pleased to note that many developing countries had made contributions to the Trust Fund, and enjoined more developed countries to do so as well. By practical means of that kind, international law could be made more directly relevant to the solving of problems.

(Mr. Aust, United Kingdom)

20. Another means of achieving that end was through education in international law - not so much general education of the population at large, but education and training of staffs of foreign ministries and other officials dealing with relations between States. His delegation warmly supported the inclusion of activities along those lines in the programme prepared by the Working Group. Within his country's extensive scheme of scholarships and awards for foreign students, increasing emphasis was being given to the award of scholarships for the study of law, and especially international law, at the post-graduate level. In addition, his Government also supported each year a course in London designed particularly for government legal advisers from other countries. Details concerning the course and funding were circulated each year by the United Kingdom Mission to the United Nations. He was pleased to note that several participants in the most recent courses had been members of missions to the United Nations or had heard of the course through those missions. The next course was to begin in January 1992, a timing which would make it easier for members of missions to the United Nations to attend it.

21. Yet another way in which the programme for the Decade could produce concrete results was by identifying those areas of international law, including areas already codified, which needed to be developed further. Sometimes the area might be narrow, but it could still involve a problem of general importance. In some cases the issue would best be considered by bodies such as the International Law Commission, or even by non-governmental bodies. His delegation believed that it had identified such an area, and regretted that a decision to ask the Commission to study it had not been taken at the present session. It was to be hoped that other delegations would reflect on the matter before the next session.

22. In conclusion, he remarked that a common aim for the Decade might be to keep statements on all items on the Committee's agenda short and to the point.

23. Mr. APRIL (Canada) said that the first objective of the United Nations Decade of International Law should be to enhance the implementation of existing law, rather than to develop new rules. The Decade should result in the improved acceptance and implementation by States of their basic international legal obligations, particularly with respect to human rights and the fight against terrorism.

24. Despite the existence of a comprehensive and impressive system of human-rights law - from the Universal Declaration of Human Rights, much of which constituted customary law binding on all States, to the Optional Protocol to the International Covenant on Civil and Political Rights, which recognised the right of the individual to petition an expert international committee - often nothing was done when the most heinous violations occurred or when a State was guilty of killing a large number of its own innocent citizens. Frequently, none of the existing mechanisms were used to deal with such grievous violations and, within the United Nations, there often was not even a forum where such issues could be raised on an urgent basis. A concerted effort should be made during the Decade to ensure that serious cases could be dealt with at short notice within the United Nations

(Mr. April, Canada)

system. His delegation had encouraged inter-sessional meetings of the bureau of the Commission on Human Rights for that purpose. Extraordinary meetings of the Economic and Social Council, attended primarily by representatives resident in New York, would be another suitable means to indicate that very serious violations of internationally agreed norms would not be ignored.

25. In the case of terrorism, as well, violations of broadly accepted legal norms contained in anti-terrorism conventions were too often ignored. Better use should be made of the Council of the International Civil Aviation Organization to report breaches of international civil aviation conventions.

26. While the focus during the Decade should be on ensuring respect for existing law, environmental protection was one field in which the progressive development of new instruments should be encouraged. States must, as a matter of urgency, elaborate new rules of law to ensure the preservation of life on Earth; no longer was it enough only to seek to improve environmental quality.

27. The other major objective of the Decade was to encourage recourse to machinery for the peaceful settlement of disputes. As the current international situation demonstrated all too well, the use of force to settle disputes between nations occurred too frequently. The Decade should serve as an occasion to reaffirm the purposes and principles of the United Nations Charter through the strengthening of the authority of the Organization and the Security Council, particularly with respect to the settlement of disputes and the maintenance of international peace and security. States should be encouraged to bring cases before the International Court of Justice and to accept the Court's compulsory jurisdiction.

28. In addition to the Court, States had available to them a wide range of dispute-settlement mechanisms which were either underused or simply not used at all. The Permanent Court of Arbitration had at its disposal a standing list of jurists from which a panel could be chosen according to the type of dispute. Other bodies had elaborated highly detailed procedures to handle potential conflict situations, and the United Nations itself provided a variety of forums and mechanisms, from fact-finding to binding arbitration.

29. His delegation wished to suggest that the GATT procedures could act as effective models which were actually in use and which should be looked at more closely in the case of disputes beyond the commercial sphere, as they involved compulsory panels which provided recommendations to States in cases in which differences arose. Such recommendations might be negotiated and adjusted by the States concerned in order to obtain agreement; the right to take proportionate retaliatory action was permitted only if negotiations failed. In conclusion, his delegation fully supported the report of the Working Group, and particularly welcomed the fact that priority in the programme for the first stage of the Decade had been accorded to enhancing respect for the existing rules of international law, and recourse to the established machinery for the peaceful settlement of disputes. His country would continue to respect the obligations it had undertaken in regard to human rights and the struggle against terrorism. On the basis of more

(Mr. April, Canada)

widespread education in the field of international law, the international community, and individual Member States, would succeed in living in peace and security.

30. Mr. MOGENSEN (Denmark), speaking on behalf of the Nordic countries, said that in view of the fact that the draft programme for the activities to be undertaken during the first three years of the Decade had not yet been adopted when the Decade had been launched, it was indeed an accomplishment that delegations could now look forward to substantive discussions on the basis of studies and documentation from international, national and non-governmental legal institutions. The Nordic countries looked forward to making their contribution to the Decade.

31. Mr. ALVAREZ (Uruguay) said that his delegation, in considering what concrete results could be expected of the United Nations Decade of International Law, viewed international law as a framework of norms applicable to international society. Given the complexity of that society, which was a function of the existence of so many political, ethnic and cultural differences and of imbalances in the levels of development of rich and poor countries, it was extremely difficult to determine what norms should prevail. The Decade should provide an opportunity to clarify those norms, and should give impetus to the codification efforts of the United Nations and to the revitalization of mechanisms for the peaceful settlement of disputes, particularly with respect to the role of the International Court of Justice.

32. The draft programme prepared by the Working Group for the first term (1990-1992) of the Decade was disappointingly lacking in detail, a situation which could be attributed to uncertainty as to the availability of funding. However, unless resources were allocated under the regular budget of the United Nations to carry out the activities of the Decade, the Decade would fail to meet the expectations placed in it. Voluntary contributions generally proved inadequate in such situations.

33. His delegation was particularly dismayed that the draft programme did not include a number of specific topics and activities suggested by Member States, and that there was no direct reference to the long-term plans envisaged for the Decade.

34. His delegation attached particular importance to the encouragement of the teaching, study, dissemination and wider appreciation of international law, dealt with in section IV of annex I to the Working Group's report (A/C.6/45/L.5). It was in that area, particularly through technical and financial assistance to the developing countries, that the most immediate positive results would be achieved. The training of professionals in international law was perhaps one of the most important tasks to be tackled during the Decade. Training activities such as those called for in section IV, paragraph 5, would facilitate the work of officials confronted with conflicts between norms of international law and internal law. Specialized bodies such as the United Nations Institute for Training and Research and the Hague Academy of International Law could provide valuable assistance in preparing the training courses, which ultimately could be adapted to the needs of each country.

(Mr. Alvarez, Uruguay)

35. Consideration also should be given to broadening the impact of international-law training courses by sending specialists to various regions so that they could present their courses to a wider audience, instead of increasing the number of scholarships made available for such courses. His country had had positive experience with such arrangements through technical co-operation agreements with United Nations bodies. The Advisory Committee on the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law should consider strengthening that type of technical co-operation machinery.

36. With respect to section V, paragraph 4, of the draft programme, his delegation felt that the establishment of the recommended committees would facilitate the co-ordination of national efforts and activities carried out by international bodies, particularly those concerned most directly with the Decade.

37. In conclusion, he emphasized that the success of the Decade ultimately would depend on the willingness of States to recognize that the cause of international law was also the cause of peace, co-operation and international security.

38. Mr. THAHIM (Pakistan) said that his country believed in the primacy of international law and was firmly committed to the principles enshrined in the United Nations Charter. It considered that the Working Group on the Decade had successfully concluded a broadly acceptable draft programme for the activities to be commenced during the first term of the Decade.

39. With the end of the cold war had come a growing recognition within the international community of the importance of settling disputes through peaceful means, and States were increasingly turning to the United Nations for assistance in solving regional and international problems. The situation had never been more conducive to the promotion of greater respect for the principles of international law and its progressive development and codification.

40. Referring to paragraphs 2 (a) and 2 (b) of General Assembly resolution 44/23, he said that his delegation was open to various means for the peaceful settlement of disputes, such as the use of good offices, negotiations, mediation, conciliation, arbitration, judicial settlement, and increased recourse to court mechanisms such as those of the International Court of Justice. Pakistan welcomed the wider acceptance of the compulsory jurisdiction of the Court, and the increasing trend on the part of States to withdraw reservations with respect to treaty clauses providing for the compulsory jurisdiction of the Court. That showed the increased willingness of States to be bound by the rules of international law. States should also be encouraged to seek advisory opinions from the Court on the legal aspects of disputes. The Secretary-General's initiative in establishing a trust fund to help developing countries utilize the services of the Court was an important step towards ensuring wider access by States to that institution.

41. With respect to section IV of annex I to document A/C.6/45/L.5, while his delegation agreed that existing training institutions should be supported, it felt

(Mr. Thabim, Pakistan)

that special emphasis should be placed on encouraging the establishment of such institutions in the developing countries. The importance of promoting greater public understanding of international law could not be over-emphasized. He endorsed the suggestions in section IV, paragraph 4, and suggested that students, professors, lawyers and foreign ministry personnel should be given university scholarships in international law. Judges should be invited to attend as well.

42. The programme for the Decade also should focus on strengthening international peace and security and ushering in a progressive and just world order. Disarmament must receive the due attention of the international community in that context. His delegation hoped that the dialogue between the two major nuclear Powers would lead to a substantial reduction in, and the eventual elimination of, nuclear weapons. Regional approaches to disarmament complemented global efforts, and the two should be pursued simultaneously.

43. The progressive development of international law should proceed in such a manner as to facilitate human development within the framework of a just international order. Drawing attention to various negative features of the economic environment affecting the developing countries, he said that underdevelopment and economic disparities among States were major contributors to social and political instability, and had adverse consequences for international peace and security. Accordingly, attention should be paid, in the context of the Decade, to resolving international economic problems, particularly those of the developing countries.

44. Ms. DOWSETT (New Zealand) said that the Gulf crisis had underlined the need for the rule of law in maintaining peace and security, a recurrent theme of discussions at the current session of the Sixth Committee. As the Decade of International Law began, recent events had accentuated the need to ensure respect for international law, and to promote the peaceful settlement of disputes.

45. A great number of ideas for the programme for the Decade had been discussed in the Working Group, but in considering possible activities, delegations must bear in mind that the United Nations, like many individual Governments, was subject to budgetary constraints. It was therefore appropriate to focus on those activities which were both concrete and meaningful.

46. In the context of promoting the peaceful settlement of disputes, her delegation endorsed the establishment of the Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice as a practical and important measure. New Zealand had been happy to make a significant contribution to the Fund earlier in 1990.

47. Her delegation also attached importance to the topic of the teaching, study, dissemination and wider appreciation of international law (section IV of the programme for the Decade (A/C.6/45/L.5, annex I)). It agreed with the view expressed in the Working Group that that was an area in which practical steps could be taken quickly. In observance of the Decade, her Government had made a

(Ms. Dowsett, New Zealand)

substantial contribution in 1990 to the scholarship fund set up in memory of Professor Quentin-Baxter, a former New Zealand member of the International Law Commission.

48. States also had an important role to play in promoting international law and legal training through co-operation with, and assistance to, States in their regions or in other regions, which might not have the same level of resources available to them. Her delegation noted that paragraph 3 of section I of the programme encouraged States and international organizations to provide assistance and technical advice to States, in particular to developing countries, to facilitate their participation in the process of multilateral treaty-making, including their adherence to and implementation of multilateral treaties.

49. In 1990 New Zealand had also announced the establishment of a \$20,000 fund to sponsor attendance by South Pacific lawyers at the International Law Seminar in Geneva in June 1991.

50. Activities should concentrate on topics of general relevance and importance, and duplication of work should be avoided. It was to be hoped that the Decade would provide an appropriate focus for the development of international law in addressing global environmental issues and the elaboration of appropriate environmental-protection measures.

51. Mr. ELIASSON (Sweden) said that the United Nations had risen to the defence of one of its Members subjected to flagrant violations of the Charter, and that there were now real prospects that international law, as embodied in the Charter, would fulfil its inherent role of safeguarding international peace and security by replacing the law of force by the force of law in inter-State relations.

52. For the majority of States, assuring respect for international law was the primary means of safeguarding their independence and sovereignty, and his Government accordingly attached the highest importance to the adoption by the General Assembly of its resolution 44/23 on the Decade of International Law.

53. Many constructive ideas had been put forward during the preparation of the Programme for the Decade, which contained a request for a report by the Secretary-General on the international legislative work currently being performed within the United Nations system. Such a report could serve as a useful tool for co-ordinating work on international legal issues in individual States: it should not, however, be too detailed or extensive, since the primary goal would be to arrive at a document that could be used within the Sixth Committee and in the planning of international legal work within the relevant ministries in Member States. Its format, in his delegation's view, should be the responsibility of the Secretary-General.

54. While it was desirable that progress should be made in the codification of international law, the Decade should not merely provide an opportunity of laying new obligations on the Sixth Committee, the International Law Commission and other

(Mr. Eliasson, Sweden)

United Nations bodies. Due account should be taken of the substantial volume of international law, both customary and codified, which had already been developed. If existing law was fully respected and if more States would accept the compulsory jurisdiction of the International Court of Justice, the situation in many parts of the world would indeed be quite different, and an important contribution would be made to the concept of the rule of law.

55. The Nordic countries had strongly emphasized that, in order to promote the aims of the Decade, one of its corner-stones must be respect for the rule of law at the national level, and Governments should therefore bear in mind their obligations under the international treaties to which they were parties.

56. In that connection, it was regrettable practice to use general references to national sovereignty as a reason for not adhering to international commitments; to enter into such agreements was to exercise sovereignty by making use of a State's right to commit itself, both for the common good of the international community, but also in its own interest.

57. His delegation regarded the informal consultations which had taken place at United Nations Headquarters between a number of heads of departments responsible for international legal services of the ministries of foreign affairs of Member States of the United Nations as being of great importance, and they should, in his delegation's view, continue, on the understanding that their aim was to strengthen the role of the Sixth Committee and, in the wider sense, that of international law. They could, moreover, serve as a means of establishing closer personal contact between the participants.

58. Stress should also be laid on the importance of law as an academic discipline, particularly in the law faculties of universities, and it was important to ensure that financial resources were available to ensure awareness of the Decade of International Law. He noted that the programme for the Decade included provision for a special trust fund. The various other ways in which States could best contribute to the realization of the aims of the Decade might be discussed. Sweden was prepared to make its contribution by offering opportunities for lawyers from developing countries to participate in special courses on international law organized by the law faculties of its universities.

59. In conclusion, he said that the Decade of International Law should lead to a wider and deeper acquaintance with international law at the national level. The outcome of the Decade would be of great significance for the capacity of the United Nations to perform its vital functions in the field of international peace and security in the post-cold-war era. The primacy of international law, as expressed in the aims of the Decade, must be the guiding principle in confronting that challenge.

60. Mr. SUPHAMONGKHON (Thailand) said that 1990 had marked the end of the cold war and opened the way to renewed efforts by the international community to strengthen and comply with international law and to resort to it in the settlement of international disputes. With the eruption of the Persian Gulf crisis, the international community had reacted swiftly, taking decisive actions which had been fully in accordance with international law and the Charter of the United Nations. That augured well for the United Nations Decade of International Law.

61. The Gulf crisis had underscored two vital points, namely, that law enforcers must ensure that their methods were consistent with the law, and that the United Nations should be utilized fully to maintain international peace and security.

62. The idea that the United Nations should play a role in diplomacy was very timely. It was with that intention that his Government in 1986 had proposed the creation of a United Nations early warning system for the prevention of regional conflicts. It had contemplated the establishment of a United Nations mechanism to monitor global situations likely to develop into a crisis which threatened international peace and security. He therefore welcomed the establishment in 1987 of the United Nations Office for Research and the Collection of Information and was confident that it would contribute to the effectiveness of the United Nations.

63. During 1990, the United Nations had ventured into the area of election supervision as an integral part of its peace-keeping operations. As the Organisation might take further steps in that direction in the future, its role in the administration of elections, as well as in the administration of a sovereign State, was currently under discussion.

64. As a complement to the enhanced role of the United Nations, the international legal system should be strengthened, and respect for international law must be encouraged, in as many ways as possible. Currently, there were numerous multilateral treaties which were relevant to the progressive development and codification of international law. Universal acceptance of those treaties would strengthen the international legal system; however, that was not an easy task, as the varying and sometimes contradictory interests of States must be accommodated. The question of reservations would be important and could determine whether or not a particular State would become a party to a multilateral treaty. It would therefore be useful to invite the International Law Commission to study the legal effect of objections to reservations to multilateral treaties.

65. Full compliance with the decisions of the International Court of Justice was another important goal. The Sixth Committee should be a forum for proposals by States on means of achieving that objective.

66. Education must be an integral part of the programme for the Decade. Special emphasis should be given to the research and training aspects of education. Training courses should be available in wide areas of international law, including both public and private law. New areas, such as intellectual property, electronic funds transfers and international taxation should also be included. Scholarships and fellowships should be readily available for candidates from all countries, especially in the developing world.

(Mr. Suphamongkhon, Thailand)

67. The holding of seminars, symposia, workshops and formal training courses in international law should be encouraged. The United Nations and universities in developing countries should be encouraged to initiate joint programmes to provide training in international law.

68. In considering the various activities proposed for the Decade, he wondered whether it would be helpful to divide them into national and international categories. States should retain flexibility in carrying out national activities, while those in the latter category would require international co-ordination. In addition, further attention should be given to the question of funding. A mid-term review of the progress of the programme for the Decade would also be very useful.

69. Mr. FUKUKAWA (Japan) said that his country had welcomed the adoption by consensus of General Assembly resolution 44/23 proclaiming the United Nations Decade of International Law. The basic structure of the post-war international community had changed dramatically in the past year. International law had an ever greater role to play in relations among nations. In order to establish a peaceful international community based on the rule of law, it was essential to promote understanding among States as to the importance of respecting the norms of international law. Accordingly, it would be of great significance if the United Nations focused on the teaching, study, dissemination and wider appreciation of international law and the peaceful settlement of disputes between States as themes of the Decade.

70. In contrast to domestic law, there were few cases in which an individual could be the subject of international law. Nevertheless, in promoting respect for international law on the part of States, it was essential to enhance understanding of the importance of international law on the part of their nationals. In promoting a wider public appreciation of international law, it might be helpful to select those laws which were fundamental. In his view, the Charter of the United Nations was the most fundamental international law governing international society, and it deserved to be widely appreciated by those who would constitute its members in the twenty-first century.

71. In order to strengthen public awareness and understanding of the Charter, the United Nations could consider upgrading its public information materials and, if possible, preparing new ones. For example, it might produce a manual on the fundamental points of international law, including a brief commentary on such basic instruments as the Charter. It might also be a good idea to conduct surveys at the beginning and the end of the Decade in order to ascertain the level of public understanding of international law.

72. At a higher level, it might be useful to draw up a list of the principal treaties in each of the major fields. Each year of the Decade could be assigned a specific priority, such as promoting the Charter, human rights law, and the law of the sea.

(Mr. Fukukawa, Japan)

73. It would be advisable to examine the concrete programme of work during the Decade within the framework of the Working Group and the Committee. For example, the Working Group could be convened every two years to review the progress of work and set an agenda for the following biennium. Furthermore, attention should be paid to avoiding a duplication of effort within the United Nations and other international organisations. The Committee's role as a co-ordinator in that regard should be emphasized.

74. Mr. G'NEY (Turkey) said that his delegation had welcomed from the outset the initiative taken by the Movement of Non-Aligned Countries emphasizing the need to strengthen the principle of the primacy of law in international relations, which had led to the adoption by consensus of General Assembly resolution 44/23. The adoption of that resolution had underlined the greater awareness among States of the growing importance of the promotion of and strict respect for international law. Furthermore, the unanimous support for the declaration of the United Nations Decade of International Law had demonstrated the importance that the United Nations attached to the progressive development of international law and its codification. The declaration of a decade of international law was a timely initiative that could give renewed impetus to an extensive exchange of views on both current and future tasks in the field of international law, as well as to the progressive development of international law and its codification.

75. Recognizing the key role that international law should play in relations between States, the Assembly had set in motion an accelerated process of codification of law and its progressive development. Genuine progress had been made as a result of the multilateral agreements adopted on the basis of the major efforts undertaken by United Nations legal organs such as the International Law Commission and the Sixth Committee. Among the fields in which co-operation between States and solutions based on international law was called for was above all international protection of the environment, action to combat terrorism and drug abuse control. Such universal problems could be solved only with support from all States. The principle of the adoption of decisions by consensus upheld in the negotiations on General Assembly resolution 44/23 must also be applied in all preparatory phases and in the implementation of the programme of action for the Decade.

76. With regard to the draft programme for the activities to be commenced during the first term (1990-1992) of the Decade, Turkey supported the idea of carrying out activities designed to facilitate international co-operation with a view to strengthening international law; promoting acceptance of and respect for the principles of international law; promoting means and methods for the peaceful settlement of disputes; encouraging the progressive development of international law and its codification; and encouraging the teaching, study, dissemination and wider appreciation of international law. The international community must also reaffirm that the fulfilment by States in good faith of their obligations under international law was the way to prevent disputes. Among the purposes that it must achieve, the Decade must strengthen multilateral diplomacy and co-operation, enhance the effectiveness of international law in international relations, draw the

(Mr. Guney, Turkey)

attention of States to the need to fulfil their obligations under international law, and reaffirm the principles and basic norms of international law.

77. Mr. MONTAZ (Islamic Republic of Iran) said that the draft programme for the activities to be commenced during the first term of the Decade was satisfactory as a whole. His delegation noted that the main features of the Decade, as outlined in General Assembly resolution 44/23, had been developed considerably. The proposed programme represented a compromise achieved with great difficulty and therefore could not meet the requirements of all delegations. None the less, the programme was sufficiently flexible to allow States to continue to make proposals regarding action that could be taken under the Decade or to explore certain issues further.

78. With regard to section I of the comprehensive list of suggestions set out in annex II to the Working Group's report, concerning promotion of the acceptance of and respect for international law, his delegation wished to emphasize once again the importance of the principle of non-use of force, which had been stressed repeatedly in connection with the events in the Persian Gulf, many delegations having underlined the need to take appropriate action to maintain international peace and security. Today there were still many instances of acts of aggression that were continued with complete impunity. The importance of the maintenance of international peace and security in the context of the Decade could not be overemphasized.

79. The legal arsenal in the field in question was truly impressive. For example, his delegation had in mind Articles 2 and 4 of the United Nations Charter and the Definition of Aggression. Other important texts adopted by the General Assembly that constituted sources of law were the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations. The International Court of Justice was of the view that support for the resolution containing that Declaration could be understood as an acceptance of the validity of the rule or set of rules set forth therein, and that the principle of non-use of force, for example, could thus be regarded as a principle of customary international law, not as such conditioned by provisions relating to collective security, or to the facilities or armed contingents to be provided under Article 43 of the Charter (ICJ Judgment of 27 June 1986 in the case Military and Paramilitary Activities in and against Nicaragua, ICJ Reports, 1986, p. 100, para. 188). The same comment applied in respect of the Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations.

80. During the Decade the principle of non-use of force should be developed on the basis of those instruments. It would not suffice yet again to reaffirm well-established principles. Furthermore, the international community should devote particular attention to the causes of the phenomenon of foreign domination in all its forms. It was also necessary to strengthen the peace-keeping capabilities of the United Nations, particularly those of the Security Council. The Security Council's political potential should be considered in that connection. Forms of coercion other than use of force should be studied. There

(Mr. MONTAN, IRAM)

too, emphasis should be placed on the relevant declarations adopted by the General Assembly, which should be regarded as a starting-point, on an equal footing with other existing legal instruments, for developing the principle in question. His delegation had in mind the Manila Declaration on the Peaceful Settlement of International Disputes and the Declaration on the Prevention and Removal of Disputes and Situations Which May Threaten International Peace and Security and on the Role of the United Nations in this Field.

81. Efforts must be made during the Decade to defuse international tensions. Economic co-operation and disarmament deserved particular attention in that connection. Where disarmament was concerned, it was a question of implementing existing disarmament programmes, particularly those focusing on non-proliferation of nuclear weapons and weapons of mass destruction. In that connection, his delegation wished to draw attention to the work of the Ad Hoc Committee on the World Disarmament Conference on chemical weapons. The international community must redouble its efforts to conclude as soon as possible a convention on chemical weapons that would fill the gaps in the Geneva Protocol of 1925. A successful outcome for negotiations both on economic co-operation and on disarmament would increase confidence among the members of the international community and thus prevent disputes from occurring.

82. With regard to section III of the comprehensive list of suggestions, on encouragement of the progressive development of international law and its codification, his delegation wished to stress the role to be played by the International Law Commission. However, a number of adjustments would have to be made in the Commission's agenda, in order to meet the need to guarantee observance of the principle of non-use of force. His delegation had in mind the establishment of a system for the effective suppression of the use of force at the international level. The highest priority should therefore be accorded to the completion of the draft Code of crimes against the peace and security of mankind. The Commission's work on the topic of State responsibility should also be intensified. On the issue of the Commission's future programme of work, in the selection of topics account should be taken of the need to reduce international tensions. The international community's urgent needs, particularly the most controversial ones, should be given priority during the Decade. In his delegation's view, more attention should be devoted to the studies conducted by the Commission's Planning Group. Moreover, in any endeavour involving the progressive development of international law and its codification account must be taken of the principal legal systems in the world.

83. With regard to section IV of the comprehensive list of suggestions, on encouragement of the teaching, study, dissemination and wider appreciation of international law, his delegation welcomed the Working Group's relevant recommendations, particularly those designed to encourage the teaching of international law.

84. Mr. SHANNON (Australia) said that the Working Group's report (A/C.6/45/L.5) contained a programme for the first biennium of the Decade that met the criteria for projects established in General Assembly resolution 44/23. The programme was ambitious in its aspirations but generally prudent in its approach. A number of the projects would be initiated by a survey of views of Member States and, where appropriate, international organizations. That would place a significant burden on the Secretariat, and delegations should be conscious of that in assigning it tasks in other areas of the Sixth Committee's work in the current year. Member States had also created a responsibility for themselves to respond fully and constructively to the various requests that they would receive from the Secretary-General in the course of the programme for the first biennium. The effort that they put into their responses should, in addition to providing the information base for the Committee's activities, lay the important groundwork for national and regional programmes.

85. The greatest benefits of the Decade would emerge from those national and regional activities. Of course, the General Assembly, principally through the Sixth Committee, would have a key role to play in identifying and filling gaps in the network of régimes that constituted current international law. But the law-abiding behaviour of States was the result of individual decisions of Governments that took account, often in an undefined way, of the value that national communities placed on international law. Member States had before them, in annex II to the report, many ideas to draw on in preparing their national programmes. In that context, they should not overlook the useful role that non-governmental organizations could play. For example, many representatives to the Sixth Committee were members of the International Law Association. Australia had hosted the Association's biennial conference in 1990, and could report that it was keen to be involved in the promotion of the Decade. The preparation of its own programme had been waiting upon the emergence of the Working Group's report.

86. At the international level, the great law-making enterprises of the Decade would be in the environmental area. As the work of the International Law Commission on the subjects of international watercourses and international liability demonstrated, there were difficult legal issues to be dealt with. His delegation wondered whether the major negotiations on environmental conservation that were about to be embarked upon had been adequately factored into the programme of activities. A number of statements made in the debate on the Commission's report had called for that body to play a greater role in the area of environmental law. What was needed, in Australia's view, was a statement of broad principles to guide the negotiators in their work, inter alia, on climate change and biodiversity. The Commission's current report contained much useful analytical material. When looking at the role that the Commission could play in the Decade, Committee members should keep in mind the Commission's expertise in international environmental law and their need of it.

87. Australia was committed to making the Decade a success. It intended to act purposefully at the national and international levels and in governmental and non-governmental arenas. The Working Group's report would be the guidebook for its activities.

88. Ms. PINESCHI (Italy), introducing document A/45/666, to which the conclusions of the Siena Forum on International Law of the Environment were annexed, said that the Forum had been convened by the Italian Government in follow-up to paragraph 47 of the Economic Declaration of the seven most industrialized countries adopted in Paris in July 1989. It had been held at Siena, Italy, with participation by scholars, diplomats and experts from 30 States and eight international organisations. Mr. Carlos Calero Rodrigues (Brasil) had been elected President, Mr. Mohamed Bennouna (Morocco) had chaired the Drafting Committee, and Mr. Alexandre Kiss (France) and Mr. Stephen McCaffrey (United States) had chaired the two working groups set up.

89. The Forum had been provided with an introductory document prepared by a group of Italian jurists, who had availed themselves of the advice of an international committee made up of well-known legal experts from all areas of the world, including members of the International Law Commission and United Nations Secretariat officials.

90. On 21 April 1990, the Forum had adopted by consensus the conclusions set out in the appendix to document A/45/666. Even though the conclusions focused on just one area of international law, for a number of reasons they were of interest in connection with the United Nations Decade of International Law.

91. Firstly, the conclusions might serve as models of activities that Governments could undertake during the Decade in order to promote its purposes. A meeting of experts from universities and from ministries and other official agencies, both political and technical, participating in their personal capacity, would promote understanding, a free flow of ideas and eventual progress in the development of the law in question.

92. Secondly, the conclusions contained an assessment of the status of international law in a particular field and of the gaps in that field. Section III of the draft programme for the Decade proposed such an assessment in more general terms.

93. Thirdly, the conclusions contained references to "treaty and other devices" that could be used to address particular concerns relating to international protection of the environment. Such "treaty and other devices" were designed, in particular, to fill gaps in the international regulation of the environment with regard to the implementation of existing law and problems arising from non-compliance with such law. They included, for instance: mechanisms to promote participation by new parties to multilateral instruments so as to bridge the gap between signature and entry into force and to update treaties quickly; ideas for combining non-binding and binding commitments; reporting requirements; and appropriate use of international institutions. Those were the kinds of problems addressed in section I of the draft programme for the Decade, particularly in paragraph 2. Italy was convinced that the conclusions would be helpful to States, both individually and collectively, in the framework of the Decade.

94. Mr. SENE (Senegal) said that the proclamation of the United Nations Decade of International Law had, above all, been an affirmation of faith in the primacy of law. The positive changes occurring in international relations had created favourable conditions for greater co-operation among nations which up to then had been in conflict. In spite of the Gulf crisis, the use of force in international relations had declined, and new avenues were opening for law as a guarantor of peace and stability. The international community's reaction to the Gulf crisis was the most recent evidence of the role which States assigned to law in the burgeoning new world order.

95. Drawing attention to document A/C.6/45/L.5, to which his country attached special importance, he said that the acceptance of and respect for the principles of international law, as discussed in paragraphs 1 to 4 of chapter I, constituted one of the main goals of the Decade. Over the past 45 years, the international community had concluded a large number of international agreements. It was not the absence of rules of law, but rather the non-observance of existing ones, which was the most serious threat to the international legal system. He emphasized the importance of general principles of law, as defined in Article 38, paragraph 1 (c), of the Statute of the International Court of Justice, as one of the main sources of international law. In that connection, paragraph 1 of section I constituted a declaration of principle which he hoped would be given further detailed consideration.

96. With regard to the peaceful settlement of disputes between States, it was necessary first to consider means of preventing conflicts. At the forty-fourth session of the General Assembly, the Secretary-General had pointed out that the United Nations had not yet fully made use of the possibilities afforded by its Charter for preventing conflicts, and interesting proposals in that regard had been made in his report on the work of the Organization submitted to the General Assembly at its current session (A/45/1). Similarly, interesting ideas had been put forward within the framework of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization. The United Nations Decade of International Law offered an opportunity to give concrete shape to those proposals. He hoped that means of preventing conflicts would be given a prominent role in the studies and proposals called for in paragraphs 1 and 2 of section II.

97. The importance of the International Court of Justice in the peaceful settlement of disputes between States was no longer in question. He supported the proposals made in paragraph 1 of chapter II to promote resort to and full respect for the Court. He reaffirmed his support for the Secretary-General's Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice. His country had already made a financial contribution to the Fund and believed that on the occasion of the Decade, all Member States should demonstrate their faith in the Court by financially supporting the Secretary-General's initiative.

98. With regard to section III, particular emphasis should be given to paragraph 1 inviting the United Nations and other international organizations to submit to the

(Mr. Sene, Senegal)

Secretary-General summary information regarding their legislative activities in the field of international law. In view of the large number and diversity of international agreements, it would be prudent to inventory and assess those which already existed before undertaking any new efforts at codification or progressive development, even if such activity involved relatively new areas, such as the environment and illicit drug trafficking. Such an approach would avoid a duplication of effort with regard to both the subject of legislation and the most appropriate structure for its elaboration. Lastly, while welcoming most of the proposals in section IV, he regretted the fact that information media had not received the attention they deserved in view of the role which they could play in bringing the objectives of the Decade to the general public.

99. In his view, the Working Group had done well to confine the programme of activities, for the time being, to the first two years of the Decade. The programme outlined in annex I had been the result of compromise and, as such, had not fully satisfied the expectations of every delegation. In that connection, he drew attention to annex II, which contained a list of suggestions initially made by States and international organizations. That list would be a source of ideas for the later stages of the Decade.

100. Ms. WILLSON (United States of America) said that the United States had been pleased to be among the 72 sponsors of General Assembly resolution 44/23, which had been adopted by consensus. At the time of the adoption of the resolution, the United States had noted that declaring a decade was only the beginning of Member States' common task, a task undertaken with the full agreement of States. Because of the fundamental importance of the consent of sovereign States in the development of international law, consensus provided the purest basis for actions intended to strengthen the role of international law in international relations.

101. The Decade offered unique opportunities, since it was a time to assess developments in the field of international law in the twentieth century, a time to contribute to the field and a time to focus on its future. The United States viewed the approach to formulating a programme for the Decade in segments as prudent. Such an approach would ensure consideration of new ideas for projects that might emerge over the course of the Decade, possibly reflecting the results of various agreed projects as well as changes in the world. For similar reasons, any decision regarding the manner in which the conclusion of the Decade was to be marked might better be made later rather than earlier in the Decade.

102. The drafters of resolution 44/23 had successfully identified the main purposes of the Decade, and the States that had submitted comments on the Decade had confirmed the widespread support for work in those areas. Now, within the framework of the Decade the Sixth Committee would be able to formulate goals, objectives and priorities for future work in the field of international law both within the Committee and within the international community. The Decade presented an opportunity for greater co-ordination and rationalization of work. A step in that direction had been taken with the adoption by the Sixth Committee of the decision on the item on peaceful settlement of disputes.

(Ms. Willson, United States)

103. The Working Group had produced a realistic programme for the period 1990-1992, which, while structured according to the main purposes of the Decade, was limited neither in scope nor in participation. International organizations, regional organizations and States were all called upon to participate and contribute.

104. Paragraph 1 of section .II of the programme indicated that international organizations, including the United Nations system of organizations, should be invited to submit to the Secretary-General summary information regarding the programmes and results of their work relevant to the progressive development of international law and its codification. That approach was fundamental to the success of the Decade. As pointed out in paragraph 3 of the same section, the co-ordinating role of the United Nations, and/or specifically of the Sixth Committee, was crucial.

105. Within the United Nations system itself, there were many projects that would be developed during the Decade that might contribute to international law. In the area of criminal law, for example, at its current session the Assembly was considering a number of issues forwarded to it by the recent United Nations Congress on the Prevention of Crime and the Treatment of Offenders, and the Sub-Commission on Prevention of Discrimination and Protection of Minorities had issued a report in June on the right to a fair trial. The report gave an overview of the subject, including principal sources of international fair-trial norms, and included recommendations for further study of the subject during the Decade. No doubt there were other examples of ongoing activities within the United Nations system that could be incorporated into the Decade. Such co-ordination could be an important step in unifying work in the area of international law within the unitary United Nations - a body with many parts forming an effective whole. A co-ordination or oversight role for the Sixth Committee might be one road to that end. The United States would regard enhanced co-ordination, and thus greater efficiency and effect, as a significant achievement of the Decade.

106. The United States had joined many other delegations in submitting proposals for the programme for the Decade. Its specific proposals in the areas of peaceful settlement of disputes and encouragement of the teaching, study, dissemination and wider appreciation of international law were contained in document A/45/430/Add.2. It was pleased that some of those ideas had been included in the programme.

107. The Sixth Committee was off to a good start in dealing with the challenges and possibilities the Decade offered. The United States looked forward to making the Decade a period that would contribute to the maintenance of international peace and security by enhancing the role of law.

The meeting rose at 1.05 p.m.