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Committee for Programme and Coordination

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Agenda item 7

**Adoption of the report of the Committee on its
fifty-ninth session**

Draft report

Rapporteur: Mr. Jun Yamada (Japan)

Addendum

Programme questions: proposed programme budget for the year 2020

(Item 3 (a))

Programme 6 Legal affairs

1. At its 11th meeting, on 10 June 2019, the Committee considered programme 6, Legal affairs, of the proposed programme plan for 2020 and programme performance information for 2018 (A/74/6 (Sect. 8) and A/74/6 (Sect. 8)/Corr.1). The Committee also had before it a note by the Secretariat on the review of the proposed programme plan by sectoral, functional and regional bodies (E/AC.51/2019/CRP.1/Rev.2).

2. The Under-Secretary-General for Legal Affairs and United Nations Legal Counsel and the Assistant Secretary-General and Head of the International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic since March 2011 introduced the programme and responded to queries raised during its consideration by the Committee.

Discussion

3. Delegations expressed appreciation for the essential and valuable work performed by the Office of Legal Affairs and general support for the proposed programme plan for 2020. Particular appreciation was expressed for the activities conducted under the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law, namely, training programmes in international law, publications in international law and the operation



of the United Nations Audiovisual Library of International Law, as well as the ongoing work with regard to legal assistance provided to the new resident coordinator system. Regarding the Programme of Assistance, a question was raised about the delivery of training programmes on international law and the plan of the Office to provide them in Eastern Europe.

4. Attention was drawn to the information, under “Recent developments”, indicating that the Office had been at the forefront of the call by the Secretary-General for system-wide action to strengthen the Organization’s efforts to prevent and respond to acts of sexual exploitation and abuse and sexual harassment. The question was asked whether those activities ought not to be carried out under programme 14, Gender equality and the empowerment of women, in order to avoid duplication.

5. A delegation asked why the programme did not reference the Committee on Relations with the Host Country and the role of the Legal Counsel in upholding the legal interests of the Organization and its Member States in their relations with the host country.

6. Regarding subprogramme 1, Provision of legal services to the United Nations system as a whole, a delegation indicated its surprise at the inclusion of a reference to the “development of international justice and accountability” in the objective and sought information on the legal basis of that concept and the method by which the Office intended to promote it. Questions were raised as to the relevant mandates of the Office to develop international justice and accountability (para. 8.32) and conduct seminars on international criminal justice (para. 8.39).

7. The consultation with resident coordinators and the signing of associated host country agreements were welcomed as important steps towards formalizing the new role of resident coordinators, and information was sought on the number of agreements signed to date. It was stated that it would be important to hold the resident coordinators accountable for delivering results on the ground, which included performing the critical tasks of, among others, upholding and promoting United Nations values, such as human rights and fundamental freedoms, as well as leading and coordinating country teams. It was also stated that the new resident coordinator system must be independent and that there must be no intervention from the Secretariat except in the form of legal guidance offered by the Office. Referring to the performance measures for 2020 for the subprogramme, namely, the signing of 149 host country agreements, which provided the legal framework necessary for the resident coordinators and their offices to perform their functions and ensure their privileges and immunities, a delegation asked whether preparing a framework agreement for perusal by all host countries might be more valuable than counting individual agreements. Clarification was also sought on the type of work performed by the Office with regard to the said privileges and immunities.

8. Regarding subprogramme 2, General legal services provided to United Nations organs and programmes, delegations welcomed the efforts to simplify contracting documents in order to facilitate contracting with vendors while protecting the legal interests of the Organization, thereby supporting the shift to a decentralized management paradigm. A question was raised regarding the objective of the subprogramme, that of maximizing the protection of the Organization’s legal interests, and the alignment of the objective with all Sustainable Development Goals. More information was sought on the references to litigation in the United Nations Dispute Tribunal and the United Nations Appeals Tribunal in the context of the highlighted result of the subprogramme in 2018.

9. Regarding subprogramme 3, Progressive development and codification of international law, delegations expressed appreciation for the support of the Office to

the International Law Commission and the creation of online resources to disseminate legal publications, documents and information on international law.

10. A delegation highlighted the importance of subprogramme 4, Law of the sea and ocean affairs, and recalled that the meeting of the States parties convened in accordance with the United Nations Convention on the Law of the Sea would be held at Headquarters the following week.

11. Regarding subprogramme 5, Progressive harmonization, modernization and unification of the law of international trade, delegations expressed support for the work in promoting the participation of developing countries in the law-making activities of the United Nations Commission on International Trade Law. Support was also expressed for the efforts to promote the United Nations Convention on International Settlement Agreements Resulting from Mediation.

12. Appreciation was conveyed for activities undertaken under subprogramme 6, Custody, registration and publication of treaties, in particular as they related to the registration of treaties. Appreciation was also expressed for the transparency brought about by the subprogramme through the “improved, more efficient and timely registration and publication process and broad accessibility of treaties and treaty actions”.

13. Regarding the Independent Investigative Mechanism for Myanmar, some delegations expressed their trust in the work of the Mechanism. Deeply concerned at the violation of human rights and abuses against the Rohingya and other minorities in Myanmar, those delegations also stated that the accountability mechanisms of the Government had proved insufficient. A delegation emphasized that the collection of evidence was crucial and time-sensitive and recommended the inclusion of a clause noting that the collection and storage of evidence encompassed digital evidence. Another delegation expressed disappointment at the inclusion of the section on the Mechanism, suggesting that the practice of the Third Committee adopting politicized country-specific resolutions did not help to solve problems in the field of human rights and undermined both the United Nations system and the system of international law. Several delegations expressed strong opposition to the country-specific resolutions and disagreement with section II of programme 6, Independent Investigative Mechanism for Myanmar, being included in the proposed programme budget.

14. A question was raised regarding planning assumptions and the status of “entry points for engagement with other Member States where relevant victims, witnesses and evidence may be found”. Highlighting the crucial importance of entry points in gathering evidence, information was sought on whether sufficient entry points were available and, if not, what legal redress existed and how that would have an impact on the workplan for 2020.

15. Many comments were made on the International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic since March 2011, with some delegations conveying their support for the Mechanism and others denying its legitimacy.

16. Some delegations commended the Mechanism on the progress made since its establishment in implementing its mandate to collect, consolidate, preserve and analyse evidence of violations of international humanitarian law and human rights violations and abuses. Welcoming the Mechanism’s commitment to include women, civil society and multilateral mechanisms, including the Independent International Commission of Inquiry on the Syrian Arab Republic, the same delegations also noted that securing independence and impartiality would require the Mechanism to collect

evidence from a wide range of sources, including non-governmental sources, and emphasized the need for the cooperation of all countries. In response to a statement by one delegation that evidence currently being collected consisted of unverified information from biased non-governmental organizations unfamiliar with the situation on the ground, other delegations stressed that the impartiality of evidence could be guaranteed only if that evidence stemmed from the widest possible range of sources. Furthermore, a delegation recalled the legal principle that the judge was the arbiter of witness credibility and stated that the Mechanism was neutral since its role was restricted to gathering evidence.

17. Several other delegations emphasized that the General Assembly, in its resolution [71/248](#), had established the Mechanism without the consent of the Syrian Arab Republic and that, in the absence of such consent or a Security Council resolution adopted under Chapter VII of the Charter of the United Nations, the creation of the Mechanism constituted a violation of the principles of the sovereign equality of all Members of the Organization and non-interference in their internal affairs, as enshrined in Article 2 of the Charter. Consequently, the Mechanism could not be considered a subsidiary body established by the Assembly, had no legal personality, could not enjoy the privileges and immunities under the Convention on the Privileges and Immunities of the United Nations and had no legal capacity to enter into agreements with States and other entities, including international organizations. While some delegations reiterated their long-standing position of not supporting country-specific resolutions, the view was also expressed that it was an established practice of the Assembly to take action on such resolutions.

18. Several delegations emphasized that the Mechanism had been established in full compliance with the Charter, that its establishment fell under the authority of the General Assembly and that any statements to the contrary were unpersuasive and had been rejected when adopting resolution [71/248](#). It was also asserted that the argument that the Mechanism interfered in the national sovereignty of the Syrian Arab Republic was not valid as the Mechanism had no mandate to indict, issue warrants or try any individual. Rather, its mandate was to gather, preserve and analyse evidence so as to be able to present it to a jurisdiction with the necessary mandate.

19. Information was sought on the existence of cooperation agreements in the form of legal instruments such as memorandums of understanding. In that connection, it was stressed that some States could not cooperate with an entity such as the Mechanism without a legal instrument, and that it would therefore be appropriate to include the implementation of such agreements as a deliverable of the Mechanism. It was suggested that the number of legal agreements signed with States or non-State entities could be a useful measure of the progress of the Mechanism. A delegation referred to the highlighted planned result for the Mechanism in 2020 and, recognizing that many activities were not yet quantifiable, asked whether the unquantified deliverables might be rendered quantifiable in the future.

20. Several delegations expressed their strong support for the idea of funding the Mechanism through the regular budget of the Organization, which would allow the Mechanism to implement its mandate and work on a firm financial footing. A delegation further stressed that funding the Mechanism through extrabudgetary contributions was not sustainable and that the General Assembly had therefore asked the Secretary-General to present a funding mechanism. Several other delegations expressed their disagreement with section III of programme 6, International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic since March 2011, being included in the proposed programme budget. Those delegations emphasized that resolution [71/248](#) had been adopted without a statement of programme budget implications and that the Mechanism had

no legitimacy. A delegation suggested that the Committee should not discuss questions on the funding of the Mechanism and should focus instead on whether the matters before it accurately reflected the mandate assigned by the Assembly.

21. Referring to resolution [72/266 A](#), in which the General Assembly had reiterated that the Committee and the Advisory Committee on Administrative and Budgetary Questions should examine the proposed programme budget in accordance with their respective mandates while preserving the sequential nature of the review processes, a delegation pointed out that the Advisory Committee was currently reviewing the same documents as the Committee and asked for confirmation that the Advisory Committee would examine the question of resources after the Committee had examined the programme plans.

22. Views were expressed regarding the perceived inconsistent approach to the alignment of the work of the Office with the Sustainable Development Goals, and clarifications were sought in relation to the presentation of deliverables.
