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Rapporteur: Mr. Rouven Klein (Germany)

Addendum

Programme questions: proposed programme budget for 2024

(Item 3 (a))

Programme 6 Legal affairs

1. At its 6th meeting, on 1 June 2023, the Committee considered programme 6, Legal affairs, of the proposed programme plan for 2024 and programme performance in 2022 (A/78/6 (Sect.8)). 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.51/2023/9).

2. The Assistant Secretary-General for Legal Affairs, the Assistant Secretary-General and Head of the Independent Investigative Mechanism for Myanmar 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, together with other representatives of the Secretary-General, responded to questions raised during its consideration by the Committee.

Discussion

3. Delegations expressed support and appreciation for the work of the Office of Legal Affairs, which, as the central legal service of the United Nations, dealt with a broad range of issues, including international law and its codification, the law of the sea, international trade, the registration of treaties and criminal justice. Delegations commended the Office for its professionalism, expertise, accountability, transparency, efficiency and delivery of its results. Some delegations recognized in particular the



support provided by the Office to the General Assembly, its Sixth Committee (Legal Committee) and other bodies involved in public international law.

4. Several delegations recognized the important contributions of the Office in support of a multilateral, rules-based system, expressed their appreciation for the comprehensive programme plan of the Office and noted their support to the objectives, strategies and deliverables. The diverse and complex mandate of the Office and its contribution to international justice and accountability were recognized and appreciated.

5. A delegation congratulated the Office for the excellent quality of the subregional workshop on legal matters it had organized for representatives of States in West Africa.

6. A delegation expressed the view that the basis for the prioritization of the activities in the programme plan were not clear, and noted that some activities were described in great detail while others had very brief descriptions. The delegation observed that there was no specificity provided on the work of the Office in assisting the Committee on Relations with the Host Country. The delegation noted that with regard to General Assembly resolution [77/114](#) on the report of the Committee on Relations with the Host Country, the Assembly had recalled that if certain issues raised in the report of the Committee remained unresolved, serious consideration should be given to taking steps under section 21 of the Headquarters Agreement. The delegation stated that it expected to find a description of the specific steps undertaken to solve the problems that the permanent missions of a number of States Members of the United Nations faced in the revised version of the programme plan, and noted that these were very specific tasks (deliverables) that the General Assembly and especially the affected States had expected from the Secretariat.

7. With regard to paragraph 8.5, and the use of the term “the global commons”, a delegation expressed the view that such a concept was not known in international law. The delegation noted that the same term had been used in the Secretary-General’s report “Our Common Agenda” to cover the Antarctic, the high seas, the atmospheres and space, and emphasized that the above spaces had a completely different legal status, regulated by multilateral international treaties. The delegation noted its expectation that the term would be removed from the programme.

8. With regard to paragraphs 8.24 and 8.25, a delegation welcomed the Office’s efforts for the improvement of monitoring and evaluation practices, including through the operationalization of a dedicated evaluation, monitoring and strategic planning function. The delegation also welcomed the more strategic and integrated management of all capacity-building activities of the Office, which would better assist relevant stakeholders and respond to requests by Member States.

9. A delegation expressed the view that the staffing of the Office could be made more inclusive and diversified, and expressed the hope that the Office would take practical measures to improve the representation of and increase the percentage of staff from developing and under- and unrepresented countries.

10. With regard to subprogramme 1, Provision of legal services to the United Nations system as a whole, a delegation expressed its particular support and appreciation for result 3 with regard to the Office’s efforts to ensure that the necessary legal framework would be adopted prior to the holding of the fourth International Conference on Small Island Developing States.

11. With regard to table 8.6 and category E, Enabling deliverables, a delegation enquired about the mechanism that was referred to in the text that read “legal advice to and support for one United Nations criminal tribunal and its oversight body and other international accountability mechanism”. The delegation also sought

clarification on the text “legal advice to 18 United Nations entities on the interpretation and implementation of the Relationship Agreement between the United Nations and the International Criminal Court”, specifically on the type of consultations undertaken and implementation referred to, and requested further clarification on how these were related to the Secretary-General’s position that the International Criminal Court and the United Nations were separate structures. In that context, the delegation also sought clarification with regard to the information contained in paragraph 8.127 on the provision of legal support to United Nations entities in cooperation with the International Criminal Court. The delegation questioned how States Members of the United Nations that were not party to the Rome Statute could finance the above-mentioned activities of the Office, and, in the event that such activities were financed from extrabudgetary resources, whether the resources were provided by the International Criminal Court or its Member States. The delegation opined that the International Criminal Court was a politicized institution that was created on the basis of an agreement between a limited number of countries, and emphasized that the regular budget funding of the United Nations should be used for such activities, and that the financing of the cooperation between the United Nations and the International Criminal Court from extrabudgetary resources would be considered a gross interference in the work of the United Nations Secretariat.

12. With regard to subprogramme 3, Progressive development and codification of international law, a delegation referred to paragraph 8.55 (c), expressed its appreciation for the Office’s initiatives with respect to the United Nations Regional Courses in International Law, also expressed its wish to see more regional courses on international law for countries in the Asia-Pacific region, and requested information on the Office’s plans to make such courses more accessible to countries in the region.

13. With regard to the programme performance in 2022, a delegation welcomed the resumption of in-person training programmes under the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law, and expressed its appreciation for the extensive dissemination activities conducted, including through social media and United Nations information centres, which emphasized that applications from qualified women candidates were encouraged. The same delegation recognized the role of the subprogramme as the secretariat of the Sixth Committee and the International Law Commission and other bodies as reflected in table 8.15.

14. A delegation welcomed the planned results for the subprogramme, noting in particular result 1 on the advancement of the International Law Commission’s study on sea-level rise in relation to international law, and expressed the view that this was an increasingly crucial topic.

15. With regard to subprogramme 4, Law of the sea and ocean affairs, delegations congratulated and expressed appreciation for the work of the Office and specifically for its essential support to Member States and contributions to the completion of the draft agreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction. A delegation observed that the completion of the process, which had been under preparation for over 10 years, was a significant demonstration of the ongoing value of multilateralism and an important contribution to the achievement of Sustainable Development Goal 14. Several delegations requested additional information on whether the Office anticipated additional work for the adoption of the draft agreement and on the preparatory work that would be required in terms of establishing new institutional arrangements, benefit-sharing, capacity-building and transfer of technology.

16. A delegation expressed its support for the subprogramme's work, in particular for its contributions to the implementation of the 2030 Agenda and the achievement of Sustainable Development Goal 14, and in that regard requested further information about the cooperation undertaken with the United Nations Environment Programme in this field.

17. With respect to the programme performance in 2022, a delegation referred to paragraph 8.70, acknowledged the subprogramme for its work in enhancing the full and effective implementation of the United Nations Convention on the Law of the Sea and its role in the advancement of Sustainable Development Goal 14, and also acknowledged other activities of the subprogramme, such as the United Nations Fish Stocks Agreement, and the work to ensure that the Convention remained relevant today.

18. Several delegations welcomed the support provided by subprogramme 4 with regard to the preparations and substantive servicing for the second United Nations Conference to Support the Implementation of Sustainable Development Goal 14: Conserve and sustainably use the oceans, seas and marine resources for sustainable development, held in Lisbon in 2022. In that regard, it was noted that Costa Rica and France would be co-organizing in 2025 the third Conference, and delegations emphasized the importance of providing legal support to this process, as noted in table 8.20.

19. A delegation praised the subprogramme's ongoing work in support of the implementation of the United Nations Convention on the Law of the Sea and the United Nations Fish Stock Agreement, and secretariat support for bodies like the Commission on the Limits of the Continental Shelf, and expressed the view that the protection of the ocean and its resources would be an integral part of pursuing the Sustainable Development Goals.

20. A delegation noted that the reference to the term "multi-stakeholder initiatives" in the fifth column of table 8.17 was not clear and sought clarification as to why States should implement them as the delegation was not aware of a mandate to develop such initiatives.

21. With regard to paragraph 8.74 and table 8.18, a delegation noted the reference to the term "ocean-climate nexus" and the reference to paragraph 211 of General Assembly resolution 76/72. The delegation observed that the paragraph of the General Assembly resolution referred to the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea, which was simply a platform for the exchange of views on topical maritime issues and therefore did not provide a mandate to the Secretariat to carry out the proposed tasks.

22. A request was made for further details on capacity-building efforts under the subprogramme, while a delegation expressed its appreciation and continued support to the ongoing work, including on marine litter, microplastics and plastic pollution.

23. With regard to subprogramme 5, Progressive harmonization, modernization and unification of the law of international trade, a delegation highlighted the important work of the subprogramme as the secretariat of the United Nations Commission on International Trade Law (UNCITRAL) and noted its efforts to coordinate and encourage the harmonization and development of international trade law. The delegation expressed its appreciation for the subprogramme's work to promote the education and engagement of legal practitioners and industry professionals, as well as the full participation of developing countries in the work of UNCITRAL.

24. Another delegation expressed its appreciation of and support for the increased activities of subprogramme, especially technical assistance and capacity-building provided to Governments on UNCITRAL texts, and noted in particular the

subprogramme's work relating to a harmonized framework for digital trade and electronic transactions.

25. The subprogramme's work on supporting the United Nations Convention on the International Effects of Judicial Sales of Ships and on reforms to investor-State dispute settlement through the development of multiple solutions (result 3) were recognized and appreciated.

26. With respect to subprogramme 6, Custody, registration and publication of treaties, delegations highlighted the important work of the subprogramme and expressed their appreciation. A delegation requested further clarification on the "data dashboard on participation in multilateral treaties" contained in paragraph 8.99 of the subprogramme, while several delegations expressed their support for the 2022 (actual) result and the access provided to a data dashboard, as reflected in table 8.26. A delegation welcomed the modernization of the processes for the registration of treaties, observed that developing countries in particular greatly benefitted from the electronic registration of treaties, and requested further information on electronic systems for treaty registration. Another delegation expressed its strong support for the subprogramme's work, which contributed to increased knowledge among Member States' representatives on treaty law and practice, through the organization in 2022 of two seminars at United Nations Headquarters and additional seminars at the national and regional levels to be organized in the future.

27. Regarding the Independent Investigative Mechanism for Myanmar, several delegations expressed their full support for and confidence in the work of the Mechanism, which reflected Member States' commitment to combating impunity and supporting justice and accountability for atrocities and other abuses committed before and after the military coup of February 2021. The view was expressed that preventing new atrocities and other abuses, addressing the needs of victims and survivors and ensuring those responsible for atrocities and other abuses were held accountable were all essential to addressing the ongoing crisis in Myanmar and helping Myanmar return to a path towards a democratic, peaceful and prosperous state. A delegation noted that promoting accountability for atrocities and abuses demonstrated its commitment to human rights and aligned with efforts to bring an end to the violence.

28. It was noted that the February 2021 military coup and the violence that accompanied it had both increased the work of the Mechanism and the challenges of doing this work. The logistical challenges created by the coronavirus disease (COVID-19) pandemic for the Mechanism to travel and collect much of the evidence that was critical to the fulfilment of its mandate were noted, and the Mechanism's efforts to address those challenging circumstances were appreciated. A delegation congratulated the Mechanism on the progress achieved and welcomed its flexibility and effectiveness in adjusting its workflow and planning to address the challenges raised by the COVID-19 pandemic and the February 2021 coup.

29. The view was expressed that the Mechanism had been mandated pursuant to Human Rights Council resolutions [39/2](#), [42/3](#) and [43/26](#), and reaffirmed by General Assembly resolution [73/264](#). A delegation noted the vital role played by the Mechanism in collecting, consolidating, preserving and analysing evidence of the most serious international crimes and violations of international law committed in Myanmar since 2011. The delegation said that the prepared files could be shared with national, regional or international courts or tribunals to facilitate fair and independent criminal proceedings.

30. Other delegations expressed concern and disappointment that the Independent Investigative Mechanism for Myanmar was still included in programme 6. They reiterated that the inclusion of what they termed an illegitimate structure was inappropriate and set a dangerous precedent, as the Mechanism had been created by

what they saw as an improper and politicized country-specific Human Rights Council resolution for a single Member State and had no relevance to United Nations legal affairs. Some delegations expressed the view that the Mechanism should be removed from programme 6.

31. Regarding 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, several delegations expressed support for its work and congratulated the Mechanism on its progress. It was stressed that the Mechanism was vital in bringing accountability to situations of appalling wrongdoing in the Syrian Arab Republic. A delegation noted that, for over a decade, the Syrian people had endured the unimaginable, and in that regard the Mechanism had become a vital instrument that provided prosecutors and investigators with the evidence needed to ensure criminal accountability, thereby achieving a measure of justice for the many victims. The same delegation expressed its view that the Syrian people should be heard and that every Syrian should have the opportunity to seek justice. The delegation recalled that accountability and justice were essential to the international community's efforts to ensure a lasting United Nations-facilitated political process in the Syrian Arab Republic.

32. Several delegations acknowledged the progress made by the Mechanism in implementing its critically important mandate to collect, consolidate, preserve and analyse evidence of violations of international humanitarian law and human rights violations and abuses committed in the Syrian Arab Republic over the past decade. The view was expressed that the Mechanism's structural investigations and case-building work provided the foundation for criminal accountability efforts that were necessary to combat impunity, and a delegation noted its strong support for such information to be made available to assist in new prosecutions, where jurisdiction exists. Another delegation stressed that sustainable peace was not possible without justice and expressed its continued full support to the Mechanism, as well as to the complementary mechanisms contributing to the fight against impunity, such as Commissions of Inquiry and the Organisation for the Prohibition of Chemical Weapons' Investigation and Identification Team. Some delegations expressed their strong view that there was a clear mandate for the International, Impartial and Independent Mechanism, as set out in General Assembly resolution [71/248](#), and a clear need to include that work presented under programme 6.

33. Other delegations expressed concern and disappointment that the Mechanism was still included in programme 6 and reiterated that the inclusion of what was termed an illegitimate structure was not appropriate. Another delegation expressed its view that the General Assembly had overstepped the powers vested in it under Articles 10 to 12 and 22 of the Charter of the United Nations when it created the Mechanism. The delegation further expressed its view that the establishment of the Mechanism, in the absence of consent of the Syrian Arab Republic or a resolution of the Security Council adopted pursuant to Chapter VII of the Charter, violated of the principles of the sovereign equality of States and non-interference in their internal affairs. The delegation also recalled that the General Assembly resolution that established the Mechanism had been adopted without the consent of the host country and that the text had been drafted and agreed upon by a group of interested States and against the will of Syrian Arab Republic.

34. The delegation further expressed its view that the Mechanism should not be financed from the United Nations budget and noted that there was limited reporting and a lack of accountability on the use of funds by the Mechanism. Some delegations expressed their strong view that the Mechanism should be removed from programme 6, and the regular budget.

35. The view was expressed that the deliverables and activities of both the Independent Investigative Mechanism for Myanmar and 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, lacked specificity and were vague. A delegation also expressed the view that the total staffing and financial resources for the two Mechanisms had increased and were close to a similar level with those of the Office of Legal Affairs.

36. The view was expressed that mandates arising from individual country issues were unacceptable, and that the use of human rights issues for political purposes ran counter to the principles of universality, multilateralism, impartiality and non-selectivity. It was noted that long-standing resolutions on the situation in Myanmar and the Syrian Arab Republic had no added value, but only served as a source of further tension. The same delegation expressed its view that it considered the Mechanisms on Myanmar and the Syrian Arab Republic to be counterproductive tools aimed not at involving interested parties in dialogue but at isolating those countries. The delegation noted that it was convinced that the universal periodic review at the Human Rights Council could and should remain the main inter-State mechanism on human rights issues.

Conclusions and recommendations

37. The Committee recommended that the plenary or the relevant Main Committee or Main Committees of the General Assembly, in line with Assembly resolution 77/254, consider the programme plan for programme 6, Legal affairs, of the proposed programme budget for 2024 under the agenda item entitled “Programme planning” at the seventy-eighth session of the Assembly.