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Chairman: Mr. Baja (Philippines)

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The meeting was called to order at 10.05 a.m.

Agenda item 156: Measures to eliminate international terrorism (*continued*) (A/58/37 and Corr.1, A/58/116 and Add.1, and A/C.6/58/L.10)

1. **Mr. Mezeme-Mba** (Gabon) said that the memory of the terrorist attacks of 11 September 2001 on the United States of America persisted two years after those horrible events, while the memory of the terrorist attack on United Nations headquarters in Baghdad, in which the Special Representative of the Secretary-General in Iraq and other officials had perished, was still fresh. The question of international terrorism had taken on such grave proportions that it merited strong action on the part of the international community. For that reason, it was important for the 12 international conventions dealing with various aspects of terrorism to be supplemented by the draft comprehensive convention on international terrorism and the draft international convention for the suppression of acts of nuclear terrorism. While welcoming the efforts made by the Ad Hoc Committee established by General Assembly resolution 51/210, his delegation was deeply concerned at the fact that agreement had not yet been reached on the scope of those two instruments. There was no longer any question whether an act could be characterized as terrorist when it was liable to cause the deaths of innocent people, destroy buildings and entail economic losses. Nevertheless, the fight against terrorism should not overshadow the burning need to find a solution to numerous international concerns which could serve as a pretext for terrorism.

2. His delegation paid tribute to the work accomplished by the Security Council Committee established pursuant to resolution 1373 (2001) in its coordinating and advisory role. His Government had already submitted two reports to that Committee on the legal and practical steps which it had taken to combat terrorism.

3. The President of Gabon had recently issued a decree establishing a supreme authority on safety and security matters. That institution would be responsible for monitoring the national territory, in particular, public buildings and airports.

4. Since 13 March 2003 his Government had become a party to 6 of the 12 international anti-terrorism conventions. Lastly, his Government was in the process of enacting new legislation on banking

designed to ensure greater transparency in financial transactions with other countries. Those provisions would supplement the already extensive regulations of the Central African Economic and Monetary Community (CEMAC).

5. **Mr. Quartey** (Ghana) said that international terrorism had not begun on 11 September 2001. Terrible acts of terrorism had occurred in Bali, Baghdad, Mumbai, Mombasa, Haifa and Gaza, to name but a few places. As globalization increased, so did the mindless violence of international terrorism. The international community must face up to the task and confront the problem globally.

6. His delegation therefore considered that the United Nations and the Sixth Committee should play the central role in the efforts to achieve the early completion of an acceptable draft comprehensive convention on international terrorism and a draft international convention for the suppression of acts of nuclear terrorism. Such efforts must take into account all legitimate concerns, including the targeting of innocent civilians, women and children; the role of the armed forces when they violated international humanitarian law; nuances involving self-determination, bilateral cooperation and sharing of information, and the definitional problems associated with those concerns.

7. It was also necessary to address the hopelessness and injustice that fed frustration and consequent nihilism. Difficult as it might seem, it was necessary to try to understand what motivated international terrorism if the phenomenon was to be confronted. His delegation therefore supported a joint organized international response and had ratified most of the anti-terrorism conventions, both international and regional. It would welcome assistance in information-sharing and the protection of civil aviation and maritime transport.

8. **Mr. Traisorat** (Thailand) said that his delegation associated itself with the statement made by the representative of Viet Nam on behalf of the Association of South-East Asian Nations (ASEAN). Terrorism posed an immense threat to peace and security in many parts of the world. The targets of terrorist activities were no longer States or specific population groups; they had expanded to include international organizations, as witnessed by the attack on the United Nations compound in Baghdad on 19

August 2003, which had taken the lives of many United Nations personnel, including Sergio Vieira de Mello.

9. His delegation condemned terrorism in all its forms and manifestations. The only way to combat international terrorism was through unqualified cooperation. His Government had taken steps to fulfil its obligations under Security Council resolution 1373 (2001) and had become a party to the international conventions and protocols on terrorism. One of those conventions, the 1991 Convention on the Marking of Plastic Explosives for the Purpose of Detection, was expected to be ratified very soon. Moreover, his Government had issued a royal decree in August which had brought into force amendments to the Thai Penal Code and to the Anti-Money-Laundering Act of 2003.

10. His delegation expressed full support for the Counter-Terrorism Committee and believed that its efforts were making a significant contribution to the monitoring and suppression of the scourge of terrorism. His delegation drew attention to the statement made by Indonesia on behalf of ASEAN in the Security Council concerning regional cooperation on counter-terrorism, in which his Government was an active participant.

11. The elimination of international terrorism required all countries to strengthen their cooperation efforts. One way of doing so was to reach agreement on the draft comprehensive convention on international terrorism and the draft international convention for the suppression of acts of nuclear terrorism, which had been pending for some time.

12. **Mr. Becker** (Israel) said that the item under consideration had first been included in the agenda of the United Nations in 1972, following the massacre of 11 Israeli athletes at the Munich Olympics. Unfortunately, many of the disagreements that had accompanied those early debates were still continuing. Nevertheless, the United Nations and the Sixth Committee could take pride in several important legal achievements in the ongoing confrontation with terrorism. The international conventions for the suppression of terrorist financing and terrorist bombings, which his Government had ratified in 2003, were important legal milestones. Security Council resolution 1373 (2001) made a crucial contribution to the legal counter-terrorism framework, and the work of the Counter-Terrorism Committee could help to ensure compliance on the ground with the obligations imposed by that resolution.

13. Support had also been expressed for the principle that no remembered wrong or grievance could ever justify the deliberate murder of innocent civilians. States which abused the language of resistance to whitewash the premeditated targeting of innocents were increasingly isolated. The contemporary world was one in which it was far easier to destroy than to create. A skyscraper, a restaurant, a bus or a discotheque could be blown apart in a moment, and a human life, indeed scores of human lives, could be snuffed out in an instant. Those who flouted the rules of international law and had no moral scruples — who were willing to hide among civilians, to disguise themselves as pregnant women, to smuggle their weaponry in ambulances and to plan secondary attacks on medical workers — had a tactical advantage.

14. While the fight against terrorism must be conducted in accordance with international law, terrorists who had no respect for life or law posed a unique challenge. International law was not a suicide pact. There was already in place a significant body of law that provided support for the confrontation with terrorism.

15. Too little attention had thus far been paid to the role played by incitement in fostering terrorism. Many of those recruited to perpetrate terrorist attacks studied books filled with vicious incitement, watched television programmes interspersed with bloodthirsty songs, and were indoctrinated by official institutions that demonized other cultures. In failing to act against such incitement, whether through cowardice or design, States were in violation of fundamental obligations of international law, as embodied in the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination. Calls to address the underlying causes of terrorism were too often a poorly disguised attempt to justify the unjustifiable.

16. Lastly, it was necessary to address State sponsors of terrorism. Terrorist groups did not operate in a vacuum; frequently, they depended on sympathetic States for sponsorship and support. Since the tragedy of 11 September 2001, the international community had increasingly realized that those who harboured and supported terrorist groups were no less responsible for terrorist atrocities than groups which perpetrated them. For the international efforts to fight terrorism to succeed, it was not enough to enhance counter-terrorism capacity; those States with a capacity to fight

terror, who instead used the tools at their disposal to nurture and sustain it, must be held accountable.

17. **Mr. Awanbor** (Nigeria) said that his country had been a victim of reprehensible acts of terrorism. In 1998, during the terrorist attack on the United States Embassy in the United Republic of Tanzania, the Nigerian Embassy there had also been destroyed. Furthermore, many Nigerians had lost their lives in the 11 September 2001 terrorist attacks on the World Trade Center.

18. His delegation strongly condemned the August 2003 terrorist attack on the United Nations headquarters in Baghdad which had resulted in the untimely death of the Special Representative of the Secretary-General, Sergio Vieira de Mello, and 22 other innocent United Nations staff working to restore normal life to the Iraqis.

19. His delegation expressed support for the report of the Secretary-General on measures to eliminate international terrorism (A/58/116 and Add.1) and commended the efforts of the United Nations to encourage international cooperation in the fight against terrorism. His delegation also supported the work of the Counter-Terrorism Committee and called on other States to facilitate its work.

20. In accordance with the provisions of Security Council resolution 1373 (2001), his Government had enacted the necessary measures to freeze without delay funds and other financial assets or economic resources of persons who committed, or attempted to commit, terrorist acts or participated in or facilitated the commission of terrorist acts and of entities owned or controlled directly or indirectly by such persons. An appropriate legal instrument to monitor and counteract money-laundering had also been put in place.

21. In the same vein, his Government would continue to deny safe haven to those who financed, planned, supported, or committed terrorist acts. It had also strengthened surveillance at Nigeria's borders and implemented controls on issuance of travel documents and measures for preventing counterfeiting, forgery or fraudulent use of identity papers and travel documents.

22. His delegation continued to believe that a comprehensive convention on combating international terrorism, including nuclear terrorism, was necessary in order to protect individual and collective rights to life. More than ever before, there was a need for

international consensus in the fight against international terrorism. While there could be no justification whatever for any terrorist act, the world had a responsibility to examine the root causes of terrorism.

23. **Mr. Rodiles** (Mexico) said that his delegation fully endorsed the statement made at a previous meeting by the representative of Peru on behalf of the Rio Group. There was an urgent need to complete work on the two draft conventions before the Committee, namely, the draft comprehensive convention on international terrorism and the draft international convention for the suppression of acts of nuclear terrorism. His delegation fully shared others' concerns in that regard and believed that both instruments were essential in order to provide the international community with an integral and comprehensive legal framework for combating and preventing terrorist acts.

24. The Committee currently had an opportunity to advance towards a successful conclusion of the negotiations on the draft international convention for the suppression of acts of nuclear terrorism. An unnecessary link had been established between that convention and the draft comprehensive convention. A solution to the problems relating to one of the drafts would not necessarily lead to a solution of the problems relating to the other; each draft should be seen in its own context. Dealing separately with the two instruments could improve the chances of concluding both and establishing a legal framework for a comprehensive and effective fight against terrorism, with respect for the Charter of the United Nations, human rights and fundamental freedoms.

25. **Mr. Haj Ibrahim** (Syrian Arab Republic) said that his country condemned all forms of terrorism and called for genuine international cooperation to take the measures needed to counteract and eliminate it, in which regard he expressed his support for the work of the Counter-Terrorism Committee. The most serious problem was that certain States distorted the ideas and values agreed upon by the international community and claimed to be combating terrorism while in fact perpetrating it. It was only natural that Israel's long-standing and increasingly brutal persecution of the Palestinian people in violation of international law and Security Council resolutions should produce a reaction such as that of the Palestinian resistance. Such resistance to foreign occupation and aggression was a right stipulated in the Charter of the United Nations

and a legitimate act of self-defence. Under no circumstances did it constitute terrorism, yet the terrorist State of Israel continued to level that charge against the Palestinians. The danger of State terrorism demanded joint international action, free of partiality and double standards. It was thus essential to distinguish terrorism from the legitimate struggle of peoples for liberation, a right which should be universally defended through adoption of the necessary measures.

26. The work of the Ad Hoc Committee established by General Assembly resolution 51/210 and of the Working Group of the Sixth Committee was an important step towards the elimination of terrorism. It was essential that the draft comprehensive convention on international terrorism should fill the gaps overlooked by previous conventions, in particular the matter of a clear and specific definition of terrorism. It was also imperative that it should include all activities undertaken by the military forces of States that were deemed illegitimate under the Charter of the United Nations and international law. He welcomed the efforts of the coordinator of the informal consultations on a draft international convention for the suppression of acts of nuclear terrorism, with whom the Syrian Arab Republic was ready to cooperate in order to resolve the current dilemma, provided that certain countries demonstrated the necessary political will. He affirmed his country's commitment to combating the scourge of terrorism in all its forms and manifestations and said that it was fully prepared to cooperate within the United Nations framework in order to assist in its elimination. To that end, he emphasized the need to convene an international conference under the auspices of the United Nations with the aim of defining terrorism and distinguishing it from the struggle of peoples for national liberation, an initiative which his country had launched many years previously and which was currently proving to be more vital than ever before.

27. **Ms. Ramoutar** (Trinidad and Tobago) said that the intensification of terrorist attacks in recent years was a reminder that terrorists were no respecters of human life, peace or the rule of law. The fight against terrorism called for collective action and, in that regard, her delegation fully supported the work of the Counter-Terrorism Committee, which highlighted the need to strengthen both national and international capabilities. A meeting in March 2003 between the

Committee and international and regional organizations had concerned ways and means of increasing cooperation, improving contacts and providing technical assistance. Useful discussions had subsequently been held between the Committee and the Inter-American Committee against Terrorism. In that context, her country intended to avail itself of the technical assistance offered by the Committee.

28. Trinidad and Tobago was a party to 11 of the 12 international counter-terrorism instruments and would take steps to accede to the International Convention for the Suppression of the Financing of Terrorism. It had signed the two relevant inter-American Conventions and the United Nations Convention against Transnational Organized Crime. Accession to the relevant conventions was, however, only a first step. Measures should be taken to ensure the effective implementation of such conventions by all States, especially developing countries. Terrorists tended to seek out jurisdictions where enforcement measures were weak, in order to establish networks from which attacks on key targets could be launched. It was therefore in the interests of Member States to engage in political, economic, military and technical cooperation. It was regrettable, in that context, that little progress had been made in elaborating the two draft anti-terrorism conventions. The remaining obstacles could be overcome only with the necessary political will and she encouraged all Member States to make a more concerted effort to finalize the draft texts.

29. Any action against terrorism must be conducted with full respect for the provisions of the Charter of the United Nations, human rights and international law. The root causes of terrorism should also be addressed by putting greater emphasis on economic and social development, poverty eradication, an end to oppression and respect for human rights.

30. **Ms. Lavelle** (Canada) said that terrorism was irrational and indiscriminate; its victims came from all backgrounds, ethnicities, nationalities and religions. It was a global problem, so the international community must work together to devise an effective response while at the same time respecting international law.

31. Misconceptions about people who were different could breed hatred; and hatred often led to violence. Canada's Anti-Terrorism Act therefore addressed the spreading of hatred as a factor in the fight against terrorism. The Act contained amendments to the

Criminal Code allowing the courts to order the deletion of hate propaganda from computer systems and protecting places of religious worship from hate-motivated mischief. At the same time, it stated that no terrorist offence was committed merely by reason of the expression of political, religious or ideological opinions.

32. Canada had signed and ratified all 12 international counter-terrorism conventions, but defeating terrorism involved more than the development of a sound international legal architecture: the appropriate resources must be applied for the implementation of common standards. That would require appropriate national mechanisms, including well-trained police and law-enforcement officials and independent judiciaries. Countries that could not meet such standards should request help, if necessary. Other countries, such as her own, should accept the responsibility of assisting them.

33. **Ms. Plazas** (Colombia) said her delegation endorsed the statement made on behalf of the Rio Group. The killing of United Nations personnel in Baghdad two months earlier showed that the main aim of terrorists was to create terror. The international community owed it to future generations to eliminate terrorism, wherever it arose. Its costs could not be quantified, since they involved the fate of defenceless men, women and children, the destruction of infrastructure, the deterioration of the environment and, ultimately, the exacerbation of poverty and hunger. Terrorism was a crime, whatever its motives, and should be stripped of its political rationale.

34. Colombia, as was well known, faced attack by violent groups aiming to destabilize the democratically constituted Government in order to obtain land for the production and marketing of drugs. Such terrorism, which was closely connected with transnational organized crime, illicit drug trafficking, illicit arms trafficking and money-laundering, was combated by her Government with firmness, calmness and dedication, with full respect for human rights. The Government was developing a policy of democratic security, since security was the primary human right for Colombians. Encouraging results had already been achieved, but the basic problem of terrorism persisted, aided by external factors. A constitutional amendment had therefore been adopted allowing a specialized force to take more comprehensive military action in cases of terrorism. There had been some criticism, which the

Government welcomed in the interests of making the force more effective. It would be of even greater benefit if every country could adopt measures that would complement Colombia's efforts to establish peace. For that reason, the President had called on other countries not to shelter Colombian terrorists.

35. In addition to introducing domestic legislation, Colombia had concluded bilateral agreements on legal cooperation in criminal matters. It supported the continuing work on the two draft anti-terrorism conventions, which ought to be speedily concluded.

36. **Mr. Tidjani** (Cameroon) said that, although the elimination of international terrorism had been on the agenda of the General Assembly since 1972, the world remained vulnerable to terrorists, who might soon gain access to weapons of mass destruction. The threat affected the whole world and the response should therefore be collective and coordinated. The international community's determination to eliminate the scourge of terrorism would be best demonstrated by the adoption of a legislative framework for that purpose. The United Nations was the natural centre for international cooperation in that regard. His delegation therefore welcomed the achievements of the Counter-Terrorism Committee, which helped States to understand the need for urgency in strengthening their legislative and institutional capacities and which had initiated a useful dialogue with international and regional organizations.

37. To be effective, the campaign against terrorism should tackle the deeper causes of the phenomenon, such as poverty, disease, injustice and despair. A crucial factor must therefore be to promote a culture of peace, tolerance, democracy, justice and freedom, which necessarily meant showing full respect for the law, human rights and the Charter of the United Nations. At the same time, since terrorists took advantage of the logistical and technological deficiencies which existed in some countries, it was important that greater assistance should be given by the industrialized countries and by specialized institutions and organizations. Only thus would the developing countries and their regional organizations be able to implement appropriate policies.

38. Terrorists also exploited existing legal deficiencies. International legislation related more to specific categories of terrorist acts, and hence did not constitute the best framework for combating the threat.

It was therefore regrettable that the two draft anti-terrorism conventions, although near completion, were being impeded by a few remaining obstacles, the removal of which was a matter of political will. The draft comprehensive convention on international terrorism, of which article 18 was the key provision, should clearly define its scope of application. It should, moreover, complement rather than replace existing anti-terrorist conventions. In that context, he commended the way in which the Sixth Committee and the Counter-Terrorism Committee complemented each other. His delegation proposed that the Chairman of the latter Committee should be invited to address the Sixth Committee. A similar dialogue could take place with other committees whose work was relevant to that of the Sixth Committee.

39. **Mr. Aliyev** (Azerbaijan), speaking on behalf of the States members of the GUUAM Group (Georgia, Ukraine, Uzbekistan, Azerbaijan and the Republic of Moldova), said that those who had committed the terrorist acts against United Nations personnel in Baghdad on 19 August 2003 deserved the severest punishment. The international community had already shown its resolve to deal with terrorism, particularly through the efforts of the Counter-Terrorism Committee. The next step was to improve each nation's legislative and administrative capacity — and that of regional organizations — in order to achieve tangible results in combating terrorism. The Group welcomed the Counter-Terrorism Committee's endeavours to facilitate dialogue and exchange of information.

40. The setting of international norms through the adoption of legal instruments should remain a priority for the United Nations in consolidating international efforts against terrorism. A prompt conclusion of the work on the two draft anti-terrorist conventions was thus all the more necessary. However, the fight against terrorism could not be successful if the phenomenon was treated in isolation from organized crime, separatism, extremism, drug trafficking and the proliferation of small arms and weapons of mass destruction. It was also important to prevent terrorist groups from accumulating huge financial assets. Another area of concern was that territories out of the control of central governments as a consequence of "frozen conflicts" were, in some cases, providing safe havens for terrorists. Vigorous steps should therefore be taken to resolve such conflicts and restore control to governments.

41. The GUUAM Charter had as one of its main objectives the struggle against international terrorism, organized crime and drug trafficking. To that end the member States had concluded the Agreement on Cooperation in the Field of Combat against Terrorism, Organized Crime and Other Dangerous Types of Crime in 2002. Furthermore, in order to facilitate operative interaction, the GUUAM member States had concluded the Agreement on Establishment of the GUUAM Virtual Centre on Combating Terrorism, Organized Crime, Drug Trafficking and Other Forms of Dangerous Crime and the Inter-State Information/Analytical System. Experts had already met to discuss the implementation of the Agreement and the System. The GUUAM Group also cooperated with the United States and was ready to engage in similar cooperation with other States in spheres of mutual interest.

42. **Mr. Dhakal** (Nepal) said that his country had suffered massive loss of life and property as a result of terrorist acts committed by self-proclaimed Maoists. The Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996 had made significant progress in identifying common ground; he urged Member States to find acceptable solutions to the outstanding issues so that the Ad Hoc Committee could complete its work. His delegation supported the convening of a high-level conference under United Nations auspices in order to prepare a joint, organized response to terrorism in all its forms and manifestations.

43. The South Asian Association for Regional Cooperation (SAARC) had adopted a Regional Convention on Suppression of Terrorism. Furthermore, the Declaration adopted at the eleventh SAARC Summit, in 2002, called for the urgent conclusion of a comprehensive convention on combating international terrorism; recognized the link between terrorism, drug trafficking, money-laundering and other transnational crimes; and stressed the need for coordination at the national and regional levels in response to the threat of terror.

44. Nepal was a party to several international counter-terrorism instruments, including the International Convention for the Suppression of Terrorist Bombings, and had submitted its reports to the Counter-Terrorism Committee. His Government condemned all acts of terrorism, wherever and by whomever committed, and extended its condolences to the families of those who had lost their lives in the 19

August 2003 attack in Baghdad. Lastly, he stressed that the international community should express its commitment to combating terrorism by providing technical and financial assistance to developing countries.

45. **Mr. Oegroseno** (Indonesia) said his Government believed that terrorism could best be dealt with by laying a legal foundation that could protect the public interest and was consistent with respect for human rights. At the national level, it had adopted a counter-terrorism and anti-money-laundering legislation and had established a counter-terrorism task force. Moreover, many had asserted that the accused perpetrators of the Bali bombing attack of October 2002 had been given a fair trial.

46. Various States of his region were parties to an agreement on information exchange and establishment of communication procedures in combating transnational crime, including terrorism. In December 2002, Indonesia and Australia had hosted a Conference on Combating Money-Laundering and Terrorist Financing; they would host a regional conference on terrorism in February 2004.

47. At the international level, Indonesia was a party to 4 of the 12 international counter-terrorism conventions and had signed two others; it consistently fulfilled its reporting obligations to the Counter-Terrorism Committee. In light of the sophisticated, borderless nature of terrorism, international cooperation was needed in the areas of information exchange, regional and international law enforcement cooperation and extradition. His Government also supported the conclusion by consensus of the two draft counter-terrorism conventions; their adoption would send a clear signal that the international community was united and determined to end the scourge of terrorism.

48. **Mr. Thiam** (Senegal) said that it was urgent to make rapid progress towards the adoption of the two draft counter-terrorism conventions. The varied and in some cases opposing views on the issue made it essential to view terrorism as a universal problem independent of any religion or culture and to arrive at an agreed definition which reflected all relevant aspects of the issue in the modern world and left no gaps in the set of applicable international conventions or in international positive law.

49. His Government had submitted reports to the Counter-Terrorism Committee and had established a working group responsible for preparing draft legislation which would amend the Penal Code and the Code of Criminal Procedure and would criminalize various offences relating to terrorism, including ecological terrorism and the incitement to or financing of terrorism. The draft legislation would incorporate the principle of specialization into all stages of judicial proceedings; make the national courts competent to investigate terrorism-related offences committed abroad, provided that the accused had been arrested in Senegal; and establish a 30-year statute of limitations and a 40-year sentence for terrorist crimes.

50. Following the events of 11 September 2001, his Government had strengthened its measures for the protection of diplomatic and consular offices in its territory and its monitoring of foreigners entering the country as visitors or future residents. It had established an airport security office and a counter-terrorism unit composed of army, *gendarmerie* and police officers. The West African Economic and Monetary Union (WAEMU) regulation on the freezing of accounts and other assets had been incorporated into Senegalese law and the WAEMU directive on money-laundering would soon be incorporated. Senegal had ratified 10 of the 12 international counter-terrorism conventions and was soon to ratify the remaining two instruments.

51. At the international level, the African Union was currently preparing a protocol to its Convention on the Prevention and Combating of Terrorism. His delegation therefore supported the holding of a high-level conference under United Nations auspices once consensual solutions to the outstanding issues relating to the two draft counter-terrorism conventions, including a definition of terrorism, had been found.

52. **Mr. Sermoneta** (Israel), speaking in exercise of the right of reply, said that he had not singled out any State as responsible for supporting terrorism, although there were a number of worthy candidates. Yet the representative of the Syrian Arab Republic had engaged, as usual, in virulent accusations against Israel and had seen fit to use the Committee's debates to engage in incessant political attacks and to misrepresent recent events and the nature of his own country's regime. He failed to see the benefit of such statements for the Committee's work or how they could

encourage and foster understanding and peaceful reconciliation.

53. The representative of the Syrian Arab Republic had chosen once again to champion the distinction between deliberately murdering civilians, which constituted terrorism, and murdering civilians in the name of resistance, which, in his view, did not. Perhaps he could explain, without any diplomatic word games, why the massacre of 21 innocent civilians in a restaurant was an act of so-called legitimate resistance or how it was that Syrian armed forces had dealt with such so-called resistance by massacring some 10,000 civilians in the town of Hama. As a State that was widely known for sponsoring terrorism in violation of international law and Security Council resolution 1373 (2001) even as it sat on the Council, and as a country whose State-run radio had recently glorified what it called the wonderful suicide attacks executed by some of the sons of the Palestinian nation, the Syrian Arab Republic was the last State to lecture anyone about international law and the Charter of the United Nations.

54. **Mr. Haj Ibrahim** (Syrian Arab Republic), speaking in exercise of the right of reply, said the Zionist entity had maintained that his delegation's political statements in the Committee were unrelated to reality; as a jurist and a member of the Committee, he did not agree. As usual, the Israeli delegation had sought to bury the truth in trivia; the acts of terrorism perpetrated in the occupied Arab territories constituted both State terrorism and genocide. In his earlier statement, the representative of Israel had mentioned treaties which guaranteed the protection of civilians. Yet Israel had used aircraft manufactured in the United States of America to kill civilians in Gaza and elsewhere and in early October, the international community had condemned Israel's missile attacks on civilians and their homes in the Syrian Arab Republic, in violation of Security Council resolutions and of international law.

55. The State of Israel had been founded through the use of terrorism; the Haganah had terrorized even the United Nations by assassinating its mediator, Count Bernadotte. The Israeli Prime Minister had the blood of the Palestinians killed at the Sabra and Shatila and Jenin camps on his hands. Thus, to say that Israel was a victim of Palestinian terrorists was to reverse the truth; by deciding to bomb homes in Ramallah, the Israeli Government was pursuing its policy of terrorism.

56. In a recent interview with the *Jerusalem Post*, Israel's Prime Minister had stated that he had no intention of murdering or banishing Yasser Arafat, yet construction of the wall of separation continued; if it was completed, there would be no way to pursue the two-State vision proposed by the United States of America. The Prime Minister had also said that he had no plans to attack the Syrian Arab Republic again, but Israel's violations of international law were the rule rather than the exception. The Palestinian Arab children who were bombed from aircraft and had no hope of living with dignity in a free State had no alternative to resistance. Moreover, half the States Members of the United Nations had gained their independence through resistance, the right to which was embodied in the Charter.

57. **Mr. Sermoneta** (Israel), speaking in exercise of the right of reply, said that his delegation did not, of course, blame the representative of the Syrian Arab Republic personally for the misrepresentations made; he was doubtless acting on instructions from Damascus, the capital of Hamas and of the Islamic Jihad. He urged delegates to take advantage of the freedom of information available in the host country and in Israel, though not in the Syrian Arab Republic, to judge the veracity of the Syrian representative's of allegations. He hoped that the Committee could return to the substantive items on its agenda without expending more time and resources on such unproductive exchanges.

58. **Mr. Haj Ibrahim** (Syrian Arab Republic), speaking in exercise of the right of reply, said that his delegation was accustomed to the lie that Hamas and the Islamic Jihad existed in his country. According to United Nations sources, half a million Palestinians who had been displaced by Israel and could not return home were currently living in the Syrian Arab Republic, where they enjoyed the right to freedom of expression. The representative of the occupying forces had no right to speak of democracy; everyone knew of the discriminatory treatment to which Jews of Eastern origin were subjected in Israel and of the suffering inflicted on its Arab population in 1948, and corruption was rampant there. Lastly, his Government took pride in its confrontation with terrorism in the town of Hama and its representatives were proud to implement faithfully the directions received from their Capital.

Agenda item 128: Administration of justice at the United Nations (A/C.6/58/L.7)

59. **The Chairman** noted that agenda item 128 had been allocated to the Fifth Committee for its consideration and to the Sixth Committee for the sole purpose of considering the question of an amendment to the Statute of the Administrative Tribunal. In paragraph 14 of its resolution 57/307, the General Assembly had agreed that the Tribunal should be strengthened through an amendment to its statute requiring that candidates for the Tribunal possess judicial experience in the field of administrative law or its equivalent, as recommended in paragraph 13 of the report of the Advisory Committee on Administrative and Budgetary Questions (A/57/736) and had decided to take a decision on the matter at its fifty-eighth session.

60. He drew attention to draft resolution A/C.6/58/L.7, which would amend the Tribunal's Statute in accordance with paragraph 14 of General Assembly resolution 57/307, and said that the words "or other relevant legal" should be inserted between "judicial" and "experience" in the operative paragraph of the draft resolution.

61. **Mr. Eljy** (Syrian Arab Republic) drew attention to the fourth paragraph of General Assembly decision 56/402, which stated that, at its 42nd plenary meeting, on 9 November 2001, the General Assembly had decided to allocate the agenda item entitled "Administration of justice at the United Nations" to the Fifth Committee, on the understanding that any decision requiring amendment of the Statute of the Tribunal or relating to the establishment of a higher-level jurisdiction would be subject to the advice of the Sixth Committee. Thus, the Sixth Committee could not take a decision to amend the Tribunal's Statute; it could only advise the Fifth Committee in that regard. He therefore proposed that the Chairman should send the Chairman of the Fifth Committee a written proposal concerning the draft amendment to the Statute as contained in document A/C.6/58/L.7.

62. **The Chairman** said that he would seek clarification of the matter.

Agenda item 154: International Criminal Court (A/58/372)

63. **Prince Zeid Ra'ad Zeid Al-Hussein** (President of the Assembly of States Parties to the Rome Statute

of the International Criminal Court) said that there had been major developments since the Committee had considered the item in 2002. On 1 December 2003 the number of States parties would rise to 92. The increasing acceptance of the Rome Statute was a firm indication of the continuing interest in the Court and of support for its objectives. Universal acceptance of the Statute remained a realizable goal. The second session of the Assembly of States Parties had also been open to attendance by other States, intergovernmental organizations and non-governmental organizations, in a manifestation of the desire of the States parties to remain transparent and aware of the need for wide acceptance of the Statute.

64. With the assumption of office by the judges, the Prosecutor and the Registrar of the Court, the International Criminal Court had become operational. The Deputy Prosecutor had also been elected, as well as the two remaining members of the Committee on Budget and Finance of the Court and the members of the Board of Directors of the Trust Fund for the benefit of victims of crimes within the jurisdiction of the Court and families of such victims (Victims Trust Fund). Since the prominent role assigned to the participation of victims in the criminal justice system created by the Rome Statute was an important development in international criminal law, it was gratifying that the Assembly had elected eminent persons of international standing to play a pioneering advisory role in that regard.

65. The Assembly had also adopted the Court's programme budget for 2004 and approved the staff regulations of the Court and had decided to establish a permanent secretariat of the Assembly of States Parties. In addition, it had established a trust fund for the participation of the least developed countries in the activities of the Assembly of States Parties and requested the transfer of funds from the special fund established pursuant to General Assembly resolution 51/207. With those developments, the relationship with the United Nations had entered a new phase, and arrangements should be made for a smooth transition, including the assistance of the Codification Division of the United Nations Secretariat in that process. The early conclusion of a relationship agreement between the Court and the United Nations would enable the two institutions to enhance their cooperation.

66. **Mr. Strømmen** (Norway) said that the past year had seen the formal adoption of all the Court's primary

governing instruments and the election of all its senior officials, all excellent human resources. It was moving ahead to complete its staffing, formalize its policies, regulations and procedures and complete construction of its premises, with the outstanding support of its host country. The inauguration of operations had added urgency to the need for States to join Norway and Trinidad and Tobago in ratifying the Agreement on the Privileges and Immunities of the International Criminal Court. Moreover, all States parties to the Rome Statute must adopt implementing legislation and pay their assessed contributions promptly.

67. His delegation was confident that the Court would rapidly establish its credentials as a vital institution in the fight to end impunity for those responsible for the most serious crimes of international concern. The office of the Prosecutor had already begun examining some 500 situations referred to the Court and had selected the situation in Ituri in the Democratic Republic of the Congo as the first to merit its close attention. His Government would continue to give priority to dialogue on issues concerning the fight against impunity, not only with States already convinced of the need for an objective International Criminal Court, but also with States that had so far shown a preference for addressing those issues only within the framework of their own national systems. It hoped to demonstrate over time that the Court was in the national interest of all States committed to the rule of law. His delegation was confident that the Court would show itself in practice to be independent, impartial and objective and that the deferral of jurisdiction provided for in Security Council resolutions 1422 (2002) and 1487 (2003) would only be needed in a transitional phase. There should be close cooperation between United Nations bodies and the Court, when conditions allowed. Norway's commitment to the operation of a credible and responsible Court enjoying the broadest possible support of States was based not only on its belief in long-term peace and reconciliation through justice but also on a realistic assessment of the needs of today's interdependent world.

68. **Mr. Nesi** (Italy), speaking on behalf of the European Union, the acceding countries Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia, the associated countries Bulgaria and Romania, and, in addition, Iceland, said the European Union believed that the Court would by

its very existence be a strong deterrent to serious crimes and strengthen the pre-eminence of law, thus making a fundamental contribution to peace and security and the achievement of the aims of the United Nations. The great majority of States participating in the Security Council meetings on justice and the rule of law held on 24 and 30 September 2003 had shared that conviction. The European Union was confident that the Court would prove to be independent and effective and not open to political manipulation.

69. The task of the States parties to the Rome Statute was by no means done, now that the Court was a reality. They must continue to support the Court by promoting wide participation, preservation of the integrity of the Statute and the commitment to fighting impunity, which were the pillars of the Common Position adopted by the Council of the European Union on 16 June 2003. To implement its Common Position, the European Union was making efforts, in the framework of political dialogues with third countries, to persuade them to ratify or accede to the Rome Statute. It was urging and, where possible, assisting States parties to enact the necessary implementing legislation, as well as encouraging them to pay their assessed contributions and ratify the Agreement on the Privileges and Immunities of the Court. It was also looking forward to the conclusion of the relationship agreement between the Court and the United Nations and the finalization of the headquarters agreement between the Court and the host country.

70. With the aim of defending the integrity of the Rome Statute, the Council of the European Union had adopted a set of Conclusions and appended Guiding Principles to serve as guidelines for States when considering the necessity and scope of possible bilateral non-surrender agreements. Although addressed to European Union member States and acceding countries, the Guiding Principles were potentially of interest to all States parties to the Rome Statute.

71. The European Union intended to maintain a broad-based dialogue with those States that had concerns about the Court but shared the same fundamental values and placed the same importance on ending impunity for the most serious crimes. It should be remembered that the Court did not aim to replace domestic jurisdictions but to assume responsibility as a last resort and only when a State was unable or unwilling to do so. The Prosecutor was to be

commended for the emphasis he had placed on complementarity in formulating his prosecutorial policy. The Union agreed with the Secretary-General that it was for the Court to act responsibly and deliberately to assuage the concerns that lingered in parts of the international community.

72. **Mr. Zhang** Yishan (China) said that his Government had long supported the establishment of an international criminal court that would be independent, just, effective and universal in nature. It had participated in all the preparatory phases and continued to participate in the sessions of the Assembly of States Parties as an observer.

73. With the assumption of office of the judges, the Prosecutor and the Registrar, the initial phase in the establishment of the Court had been completed. Although some further clarification was needed, his delegation welcomed the practical and transparent approach adopted by the Prosecutor in his document on prosecution policy and in particular the explanations on implementing the principle of complementarity, and it intended to follow the subject closely. The Court needed time to grow and mature. Time would test the Court's ability to adhere strictly to the principle of complementarity, to prosecute within its limited resources the most serious international crimes set out in the Statute and to carry out its mandate fairly without political bias and double standards, particularly in its treatment of the crime of aggression. As an observer, his Government would be following closely the development of the newborn institution, which embodied the international community's long-held ideal of the rule of law, its aspirations for justice and its fervent hopes for peace.

74. **Mr. Barriga** (Liechtenstein) said that, now that the International Criminal Court had become a reality, the quality of its senior officials and professional staff confirmed Liechtenstein's belief in the feasibility of a permanent institution for international criminal justice, a conviction shared by an increasing number of States, as the growing number of ratifications of the Rome Statute clearly showed. Universal ratification must remain the goal, and the transparency of the initial prosecutorial activities should facilitate the process.

75. The most important issue the Committee faced under the item was the future relationship between the Court and the United Nations. Although the United Nations had given birth to it, the Court was in the

process of detaching itself from the parent Organization and had not yet found its rightful place, most obviously in relation to the Security Council. A relationship agreement between the United Nations and the Court had not yet been concluded, and negotiations on the draft, for which the Committee should give a specific mandate at the current session, could take considerable time. Provisional measures were therefore needed.

76. The effective technical support of the United Nations Secretariat had been crucial to the establishment of the Court and would continue to be important in the transition to the newly established Permanent Secretariat of the Assembly of States Parties to the Rome Statute of the International Criminal Court. The commitment of the States parties to an impartial, independent and effective Court and the coordination of efforts would also be crucial in preserving the integrity of the Rome Statute and bringing the Court closer to universality.

77. **Mr. Mwandembwa** (United Republic of Tanzania) said that the International Criminal Court was at last a reality, although the road to its formation had not been smooth. His Government had ratified the Rome Statute in August 2002 and was ready and willing to cooperate to advance the cause of the Court. The choice of competent and experienced individuals as judges and Prosecutor had allayed fears that the Court could not handle its heavy responsibilities.

78. Those States worried about interference with their sovereignty should bear in mind, first, that certain crimes under the jurisdiction of the Court affected the entire international community, and the investigation and punishment of such crimes could not be confined within national boundaries. Second, the Court had been founded on the principle of complementarity. The primary responsibility to prevent, control and prosecute the most serious crimes would still reside with the States where they were committed; the Court would only intervene if such States were unwilling or unable to prosecute.

79. The Prosecutor had told the Assembly of States Parties that he was looking carefully at atrocities committed in the conflict in the Democratic Republic of the Congo. His delegation would urge the Prosecutor to proceed expeditiously. The Court could make an important contribution to the search for peace and the promotion of the rule of law and democracy. A major

outstanding piece of business was the elaboration of a definition of the crime of aggression by the Special Working Group. His delegation looked forward to cooperating in that task.

80. Impressive though the rate of ratification had been, there was no cause for complacency. The importance of universalization of the jurisdiction of the Court was well understood. Among the countries that had not yet ratified were some of the world's largest, most powerful and most populous. It was to be hoped that perceptions might change with the passage of time, and that those who had been waiting for the Court to be firmly established might opt to come on board.

81. **Mr. Requeijo** (Cuba) said that his country was an advocate of multilateralism in international relations and supported all efforts to create an impartial and independent system of international justice. It had supported the establishment of the International Criminal Court as a truly impartial, non-selective and independent complement to national systems of justice. The Rome Statute had marked an advance in the codification and progressive development of international law.

82. For that very reason, Cuba had watched with dismay the disappointing outcome of the negotiations. As constituted, the Court was not the body it had been meant to be, but was subordinate to political interests and vulnerable to political manipulation, hamstrung from its inception by the decisions of a permanent member of the Security Council. True international justice could not be expected of a body that lacked a definition of the crime of aggression or was subject to the instructions of the Security Council to suspend a proceeding at the request of one of the permanent members. There was no guarantee that the Court would not end up as a tool of interventionism and domination by the most powerful nations.

83. To use the Security Council to amend de facto the international treaty creating the Court or to require other countries to enter into humiliating bilateral agreements obliging them not to fulfil their international obligations under the treaty was not only arrogant but irresponsible. Although Cuba was not a State party to the Rome Statute, it believed that the rights of States that had made a sovereign decision to ratify or accede to it should be respected.

84. The Cuban delegation had participated as observer in sessions of the Assembly of States Parties

and in the Special Working Group on the crime of aggression, which was open to all States Members of the United Nations, and had proposed a definition and conditions for the exercise of the Court's jurisdiction. It hoped that the working group could complete its work quickly and arrive at a definition of the crime of aggression that included all acts committed by a person who, being in the position of effectively controlling or directing the political, economic or military actions of a State, ordered, authorized, permitted or participated actively in the planning, preparation, initiation or execution of an act which directly or indirectly undermined the sovereignty, territorial integrity or political or economic independence of another State, or in any other manner inconsistent with the Charter of the United Nations.

The meeting rose at 1 p.m.