



General Assembly

Sixty-eighth session

Official Records

Distr.: General
25 November 2013

Original: English

Sixth Committee

Summary record of the 9th meeting

Held at Headquarters, New York, on Monday, 14 October 2013, at 3 p.m.

Chair: Mr. Kohona. (Sri Lanka)
later: Mr. Stuerchler Gonzenbach (Vice-Chair). (Switzerland)

Contents

Agenda item 84: Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization (*continued*)

Agenda item 79: Report of the United Nations Commission on International Trade Law on the work of its forty-sixth session

This record is subject to correction. Corrections should be sent as soon as possible, under the signature of a member of the delegation concerned, to the Chief of the Documents Control Unit (srcorrections@un.org), and incorporated in a copy of the record.

Corrected records will be reissued electronically on the Official Document System of the United Nations (<http://documents.un.org/>).

13-51215 (E)



Please recycle A small graphic of a recycling symbol, consisting of three chasing arrows forming a triangle.



The meeting was called to order at 3.05 p.m.

Agenda item 84: Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

(continued) (A/68/33, A/68/181 and A/68/226)

1. **Mr. Eden Charles** (Trinidad and Tobago), speaking on behalf of the Caribbean Community (CARICOM), said that CARICOM continued to support the Special Committee's work but agreed with others who had encouraged the Special Committee to examine its working methods with a view to maximizing its efficiency. More time could be spent on addressing new areas, including legal matters relating to the reform and revitalization of the United Nations and its organs; legal aspects of the arrangements for interactions with new actors on the international stage, such as civil society and non-governmental organizations (NGOs); and the consideration of reform proposals that would enhance the effectiveness of the United Nations system.

2. CARICOM commended the Special Committee on its work concerning questions relating to the maintenance of international peace and security. The Special Committee should, however, remain seized of measures adopted by the Security Council under Chapter VII of the Charter, including the imposition of sanctions, so as to ensure that such measures were not *ultra vires* and were consistent with the Charter and other non-derogable norms of international law. Sanctions should be used only as a last resort when all other actions had failed. It was also important to provide assistance to third States affected by the imposition of sanctions and to vulnerable groups in target countries. At the same time, CARICOM acknowledged the usefulness of sanctions as an instrument for safeguarding international peace and security, when implemented in keeping with international law.

3. CARICOM recognized the important role of the International Court of Justice and other international tribunals in the settlement of international disputes by peaceful means, in accordance with the Charter. The prevention of international disputes was also an important factor in preserving international peace and security and promoting good neighbourliness among States. In that regard, the Manila Declaration on the Peaceful Settlement of International Disputes remained an important document.

4. It was important to provide the international community with information on the work of the United Nations in order to improve understanding of the Organization's mandate. Accordingly, CARICOM commended the Secretariat for its efforts to update the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* and reiterated its call for both publications to be made available on the United Nations website in all official languages. It also welcomed the contributions to the trust fund established to assist in the preparation of the *Repertory*.

5. **Mr. Pavlichenko** (Ukraine) said that, while aligning itself with the statement made on behalf of the European Union, his delegation wished to express its own position. It welcomed the progress made on reducing the backlog in the *Repertory* and the *Repertoire*, but noted that no new voluntary contributions had been made to the trust fund for the elimination of the backlog in the *Repertory*; additional contributions were strongly encouraged. His delegation also urged the Secretary-General to continue his efforts to update the two publications and make them available electronically in all languages. With regard to assistance to third States affected by the imposition of sanctions, the issue could no longer be considered a priority, given that no United Nations organ had been approached for assistance since 2003, but it still merited discussion and should remain on the Special Committee's agenda. Indeed, the proposal to focus the Special Committee's efforts on the issue of establishing a mechanism for evaluating the effects of sanctions on third States and assisting such States deserved further consideration. Lastly, his delegation stood ready to contribute to the effort of enhancing the Special Committee's efficiency, which should receive priority attention.

6. **Mr. Lee Moon Hee** (Republic of Korea) said that his delegation supported the work of the Special Committee but remained concerned about its lack of efficiency and the scarcity of tangible outcomes. The Special Committee's agenda items should be rearranged in order to reduce overlap with other United Nations organs and forums. Proposals that had been before the Special Committee for a long time should be revisited so as to prioritize and rationalize them, and a sunset system should be introduced, whereby proposals that had been dormant for a certain period of time would be removed from the agenda automatically.

unless the Special Committee decided otherwise. Implementation of the recommendations concerning the submission of new proposals set out in the report of the Special Committee to the sixty-first session of the General Assembly (A/61/33) would also help improve efficiency. The activities of the Special Committee should be consistent with those of the other principal organs of the United Nations so as to ensure the overall productivity of the entire system. At the same time, given the importance of the Special Committee's mandate, untested alternatives or quick fixes should be avoided, since they might have unintended side effects. His delegation once again suggested decreasing the length and frequency of the Special Committee's sessions so as to free up limited resources for more productive activities.

7. His delegation commended the Secretary-General's ongoing efforts to reduce the backlog in the preparation of the *Repertory* and the *Repertoire* and encouraged him to continue those efforts. The two publications were useful resources and were an exemplary case of cooperation between the Organization and academic institutions.

8. **Ms. Dieguez La O** (Cuba) said that the work of the Special Committee was particularly important in the light of current attempts by some to reinterpret the principles of the Charter in support of a political agenda of interference in the internal affairs of foreign States, to the detriment of the sovereignty and territorial integrity of developing countries. It was vital to respect the provisions of the Charter and to strengthen the role of the General Assembly as the chief deliberative, policymaking and representative organ of the United Nations. The Special Committee was the appropriate forum for negotiating any Charter amendments that might emerge from the reform process and for ensuring that all Member States and organs of the United Nations acted in conformity with the provisions of the Charter and of international law. The Special Committee should therefore be open to debating all proposals that would help the various organs to fulfil their mandates, which had legal implications for the implementation of the Charter.

9. Despite the efforts of some countries to improve and expand the Committee's work, some delegations continued to hinder it, thereby preventing the adoption of valuable documents that would strengthen the rule of law within the Organization. She was confident that the Secretariat would take steps to improve the

organization of the Committee's work so as to allow more time for substantive discussion of proposals. Such discussions should not be conducted informally, but rather within the Working Group of the Whole in order to ensure a reliable record of the views expressed by Member States. Proposals should be discussed substantively, paragraph by paragraph, as in other forums.

10. The Special Committee's work was being constantly sabotaged by a group of developed States that sought to abolish it or reduce its work to a minimum, citing its failure to produce concrete results when, in fact, they were the ones that systematically refused to discuss substantive proposals and obstructed the adoption of decisions without explanation. That situation stemmed directly from the lack of political will of certain States, which was nothing new in an Organization that, for more than 20 years, had been unsuccessful in its attempts to reform the Security Council and to adopt a comprehensive convention on international terrorism.

11. Her delegation opposed any suggestion that the Special Committee should meet biennially or that its workload should be reduced, and she urged others to submit proposals for its consideration and to participate constructively in its discussions. She supported the Special Committee's current agenda and welcomed the willingness shown by the delegations of the Bolivarian Republic of Venezuela and Ghana to contribute to its work by submitting proposals. During a previous session of the Special Committee, her delegation had submitted a proposal relating to the maintenance of international peace and security, and it was currently exploring the possibility of a new working paper on the peaceful settlement of disputes.

12. **Ms. Ramírez Sanchez** (Nicaragua) said that the Committee's work was essential, since its mandate included reform of the Organization, the urgently needed democratization of its principal organs, and the preparation of recommendations aimed at preventing abuse of functions and mandates, such as the Security Council's current practice of discussing subjects outside its sphere of competence. The General Assembly remained the democratic and universal organ par excellence and should discuss any issues that fell within its remit under the Charter.

13. Sanctions should be imposed by the Security Council only as a last resort and only in the event of a

threat to peace and security or an act of aggression, never as a preventive measure. In the past, sanctions had not only failed to achieve their objectives but had had an unjustifiable impact on civilians and had run counter to international humanitarian law and human rights. Furthermore, her delegation rejected the unilateral imposition of sanctions, which undermined the principles set out in the Charter, and the selective application of international law.

14. Her Government conducted its international relations on a basis of friendship, solidarity and reciprocity and endorsed the principle of peaceful settlement of international disputes through the means offered by international law, of which it had often availed itself. The International Court of Justice, in particular, played an important role in safeguarding peace and global security. The topic of the peaceful settlement of disputes should therefore remain on the Special Committee's agenda, and in that context her delegation supported the proposal submitted by the delegations of the Russian Federation and Belarus that an advisory opinion should be requested from the International Court of Justice as to the legal consequences of the resort to the use of force by States without prior authorization by the Security Council, except in the exercise of the right to self-defence. Her delegation also supported the working papers submitted by the delegation of Cuba on the strengthening of the role of the Organization and enhancing its effectiveness: adoption of recommendations, and by the delegation of the Bolivarian Republic of Venezuela on the establishment of an open-ended working group to study the proper implementation of the Charter of the United Nations with respect to the functional relationship of its organs. All existing and new proposals before the Special Committee should be widely debated with a view to their adoption. Lastly, her delegation opposed any suggestion that the Special Committee should meet biennially or that the length of its sessions should be reduced.

15. **Mr. Raja Zaib Shah** (Malaysia) said that his delegation attached great importance to the Special Committee's work, since it was the only forum in the United Nations system for discussion of issues relating to the Charter and had played a positive role in the maintenance of international peace and security and promotion of the peaceful settlement of disputes. His delegation was concerned at the lack of progress in

giving the proposals before the Special Committee the in-depth consideration they deserved, owing to both a lack of political will and a need to improve the working methods employed. His delegation did not believe there was an overlap of work; on the contrary, the consideration of an issue by the Special Committee could complement that of other organs. He hoped that the various proposals would be given due consideration at the Special Committee's next session.

16. His delegation welcomed the improvements made to the work of some of the sanctions committees, but was in general opposed to the imposition of sanctions, which hurt the people of a State while having a minimal impact on their intended target. Sanctions should be considered only as a last resort and where there was a clear threat to international peace and security; they should not be used as a preventive measure. They should also be consistent with the Charter and the relevant principles of international law. His delegation welcomed the continued shift from comprehensive economic sanctions to targeted sanctions, which had helped reduce the potential for harmful effects on third States. However, given the wide and adverse impact of sanctions in an era of globalization and economic interdependence, the issue should continue to be considered.

17. His delegation supported the proposal to study the proper implementation of the Charter of the United Nations with respect to the functional relationship of its organs, particularly in the light of the various instances of encroachment by the Security Council on issues that fell within the competence of other organs. The General Assembly, which represented all 193 Member States, was the chief deliberative, policymaking and representative organ of the United Nations, and its role and authority must be preserved. The Special Committee was an appropriate forum in which to consider that issue.

18. Lastly, his delegation welcomed the progress made in updating the *Repertory* and the *Repertoire* and eliminating the backlog in the preparation of those publications. It hoped that further effort would be made with regard to volume III of the *Repertory* in particular.

19. **Ms. Salim** (Libya) said that her delegation had been and would continue to be an active participant in the work of the Special Committee. It had submitted a number of specific recommendations for reform of the Organization, one of which had contributed

significantly to General Assembly resolution 64/115, specifically the annex thereto on the introduction and implementation of sanctions imposed by the United Nations. Her delegation would also endeavour to develop further its proposal on strengthening the role of the United Nations in the maintenance of international peace and security, which had been submitted in 1998.

20. Her delegation commended the Secretariat for its efforts to speed up the online publication of the *Repertoire* and *Repertory*, which were an important resource for academics and legal practitioners. However, they should be made available in all official languages of the Organization, especially Arabic, so that everyone around the world could make use of them.

21. The Special Committee should play a pivotal role in the work of reforming the United Nations, including the democratization of its principal organs, such as the Security Council, and the strengthening of the role of the General Assembly as the main deliberative and policymaking organ. The ability of the Special Committee to participate in reform efforts and implement its mandate effectively depended on the political will of Member States. In that regard, she reiterated her delegation's support for the Special Committee.

22. **Mr. Leonidchenko** (Russian Federation) said that the Special Committee was capable of addressing complex legal issues relating to the Organization's work and thus helped to uphold the rule of law at the international level. His delegation shared the concerns of others about the current slow pace of the Special Committee's work and agreed that its working methods needed to be optimized; nonetheless, it should continue to meet regularly and consider substantive proposals that fell within its competence.

23. The joint Russian-Belarusian proposal that an advisory opinion should be requested from the International Court of Justice as to the legal consequences of the resort to the use of force by States without prior authorization by the Security Council had been on the Special Committee's agenda for some time. Regrettably, no consensus had been reached on the proposal; nonetheless, his delegation continued to believe that it had merit.

24. Lastly, his delegation welcomed the Secretariat's work on the preparation of the *Repertory* and the

Repertoire and assumed that, in compiling the *Repertoire*, the Secretariat would continue to follow the rules contained in the Secretary-General's report of 18 September 1952 (A/2170).

25. **Mr. Gharibi** (Islamic Republic of Iran) said that the Special Committee had made valuable contributions to the promotion of the purposes and principles of the Charter, in particular the maintenance of international peace and security, the peaceful settlement of disputes and the upholding of the rule of law in international relations. Nonetheless, the political will of all parties was required in order for the Special Committee to fulfil its potential.

26. States had an obligation to refrain, in their international relations, from the threat or use of force against the territorial integrity or political independence of any other State. They also had an obligation to settle their disputes by peaceful means; adherence to those principles was a necessary prerequisite for the rule of law at the international level, and recent debates regarding the threat or use of force had served as a reminder of the need for continued efforts in that regard. The Special Committee had an important role to play in addressing those concerns, and his delegation supported serious consideration of all proposals put forward to that end, including the proposal submitted by the delegations of Belarus and the Russian Federation.

27. Sanctions could be imposed as a last resort where the Security Council had determined — on the basis of valid evidence, not speculation or misinformation — that an actual threat to peace or breach of the peace existed or that an act of aggression had occurred and, even then, only when peaceful means of resolving the situation had been exhausted or proved inadequate. In imposing sanctions, the Council must act in strict conformity with the Charter; it must not seek to deprive any Member State of its legitimate rights under international law, nor could it consider a lawful act by a State to be a threat to international peace and security.

28. As an organ of the United Nations established by intergovernmental agreement, the Council was subject to and obliged to comply with legal obligations established under the Charter and with peremptory norms of international law (*jus cogens*). Its political character did not release it from those obligations, and it must be held accountable for the consequences of

sanctions imposed in pursuit of unlawful objectives or as a result of political pressure. Sanctions could not be considered lawful if they resulted from political manipulation of the Council by some permanent members or from arbitrary and politically motivated determination of the existence of a threat to peace and security. States that sought to impose such sanctions bore international responsibility for the wrongful act of the Organization in applying them. Moreover, in such cases, the targeted States were entitled to compensation, and in that context the International Law Commission should give due consideration to the legal consequences of arbitrarily imposed sanctions under the topic of responsibility of international organizations.

29. The application of arbitrary unilateral economic sanctions against developing countries as an instrument of foreign policy was cause for serious concern. Such sanctions — which were almost always imposed by one State on many developing countries — were morally wrong; they not only undermined the rule of law at the international level, but also infringed on the right to development, led to the violation of basic human rights and contravened international law and the Charter of the United Nations. In many cases, unilateral sanctions were imposed as a result of the extraterritorial application of domestic law against legal and natural persons in other countries, which also constituted a violation of international law.

30. On a number of occasions, the targeted nature of such sanctions had been highlighted. In practice, however, they targeted the daily lives of ordinary citizens in the hope that such citizens would pressure their Governments into submitting to the illegitimate demands of those imposing the sanctions. Far from being “smart”, such sanctions were a brutal instrument used to punish nations for insisting on their right to self-determination and political independence.

31. His delegation echoed the concerns expressed about the continuing encroachment by the Security Council on the functions and powers of the General Assembly. The Special Committee should address that issue as a matter of priority. Lastly, he expressed appreciation for the proposals put forward during previous sessions of the Special Committee, in particular those submitted by the delegations of the Bolivarian Republic of Venezuela and Cuba, and looked forward to further deliberation on them.

32. **Mr. Shang Zhen** (China) said that China had always supported the Special Committee’s work in promoting the effective implementation of the purposes and principles of the Charter. With regard to sanctions, his delegation believed that the Security Council should continue to exercise caution in their use and should resort to them only when all peaceful means of resolving a situation had been exhausted. Where sanctions became necessary, they must be implemented in compliance with international law, including the Charter, have clear objectives and predetermined timelines and be subject to periodic review. Once their objectives had been achieved, they must be lifted immediately. Such conditions were crucial to mitigating the possible adverse impact of sanctions on the population and on third States. The Security Council had worked actively in recent years to reduce the negative impact of sanctions, and his delegation stood ready to join others in exploring practical solutions to that question.

33. His delegation supported efforts to improve the working methods and efficiency of the Special Committee and was in favour of the consideration of new agenda items, where relevant and practicable. At the same time, the Special Committee’s work and the addition of new items must be in line with the mandate conferred by the General Assembly. Lastly, his delegation welcomed the progress made on the *Repertory* and the *Repertoire* and hoped that the Secretariat would continue its efforts in that regard.

34. **Ms. Cabello de Daboin** (Bolivarian Republic of Venezuela) said that it was vital to ensure that the Charter was properly implemented and that each United Nations organ was carrying out its functions appropriately, without detriment to any of the others. The Special Committee had an important role to play in reforming the United Nations to ensure that it effectively promoted friendship and peace among the world’s peoples and Governments and encouraged international cooperation in efforts to achieve the goals of development and social justice established in the Charter. Democratization, including urgent reform of the Security Council’s membership and decision-making process and strengthening of the General Assembly’s role as the Organization’s democratic and universal organ, was essential.

35. Article 24 of the Charter did not necessarily empower the Security Council to take up issues that fell within the purview of the Assembly or the

Economic and Social Council, including the establishment of norms. It must be borne in mind that the Assembly had the power to encourage the progressive development of international law and its codification. The trend of usurpation of such issues by the Council must be reversed since it weakened the role of the Assembly, and thus of all Member States, and undermined the rule of law within the Organization. As the only United Nations organ with the power to consider any issue that it chose, the Assembly should formulate the Organization's principal policies and decisions and deal with major global issues.

36. The Special Committee should play a more active role in legal matters and should consider measures aimed at revitalizing the General Assembly and enabling it to exercise its powers, in particular with regard to international peace and security. She welcomed the Special Committee's continued consideration of the working paper submitted by her Government and hoped that, at its next session in 2014, there would be further discussion of the paper with a view to its adoption.

37. Member States had both a duty, under Article 2, paragraph 3, of the Charter, to settle their international disputes by peaceful means and the right to choose the means of dispute settlement. The Organization, for its part, should strengthen its capacity to help prevent conflicts.

38. She reiterated her delegation's position that sanctions imposed under Chapter VII of the Charter should not be used as a preventive measure. They were justified only when all mechanisms for peaceful dispute settlement had been exhausted and must be consistent with the Charter and international law. The conditions for their lifting should be established and humanitarian considerations should be taken into account. They should not be imposed indefinitely or with the aim of overthrowing legitimately constituted State authorities, nor should they be used to punish a population. Their objectives should be clearly defined and based on tenable legal grounds, and they should be imposed for a specific time frame and lifted when their objectives had been achieved. The United Nations should remain alert to and mitigate the adverse impact of sanctions on civilians; assistance to third States should remain a priority on the agendas of the General Assembly and the Economic and Social Council; and the Assembly should ensure that certain countries did

not use sanctions as a cover for applying unilateral coercive measures broader than those established by the United Nations.

39. The *Repertory* and the *Repertoire* were valuable tools for research and for preservation of the Organization's institutional memory. Her delegation therefore urged the Secretariat to continue updating both publications and make them available on the Organization's website in all official languages.

40. **Ms. Zarrouk Boumiza** (Tunisia) said that the Special Committee should play a leading role in shaping the needed reforms of the Organization. The main objectives should be to democratize the Security Council's membership and make its work more transparent and to allow the General Assembly to respond more quickly and effectively to peace and international security issues. In addition, greater consideration should be given to strengthening the functional relationships among the various organs of the United Nations.

41. Regarding sanctions, she stressed that such measures should be imposed only as a last resort and in compliance with the Charter. They should also be imposed for a specific time frame, be lifted as soon as their objectives had been achieved and avoid targeting the civilian population. Further discussion was needed on a number of issues, in particular the possibility of compensating the targeted State or third States for the harm caused by sanctions.

42. A number of proposals concerning the strengthening of the Organization's role had been on the Special Committee's agenda for several years. Their adoption would give a new impetus to the Special Committee's work. Consideration should also be given to different approaches to streamlining the Special Committee's working methods and the inclusion of new topical items on its agenda. However, its ability to fulfil its mandate depended more on Member States' political will than on any improvements in its working methods.

43. **Mr. Arbogast** (United States of America) said there had been some positive developments in the work of the Special Committee. The 2012 commemoration of the thirtieth anniversary of the Manila Declaration was an example of an undertaking that was appropriate for the Special Committee's consideration and on which it could agree. The Special Committee had before it a number of long-standing proposals, some of

which showed considerable overlap. Moreover, because many of the issues raised therein had been taken up elsewhere in the United Nations, the Special Committee had shown little enthusiasm for acting on those proposals or discussing them in depth. During the Special Committee's 2012 session, in a welcome step towards the much-needed rationalization of its work, it had withdrawn or set aside two such proposals and had decided to delete from its annual report a section on recommendations containing rote, rollover provisions that had become redundant. The Special Committee should remain focused on ways to improve its productivity and should give serious consideration to reducing the frequency and/or duration of its sessions.

44. With regard to the items on the Special Committee's agenda concerning international peace and security, his delegation remained of the view that it should not pursue activities that would duplicate or be inconsistent with the roles of the principal organs of the United Nations as set forth in the Charter, including consideration of a revised working paper calling for a new, open-ended working group to study the proper implementation of the Charter with respect to the functional relationship of its organs and another long-standing working paper that called, *inter alia*, for a legal study of the General Assembly's functions and powers.

45. His delegation welcomed the measures taken elsewhere in the Organization to ensure that the system of targeted sanctions remained a robust tool for combating threats to international peace and security and noted that the shift to targeted sanctions had led to reductions in unintended adverse impacts on third States. An increasing number of delegations agreed that the issue no longer merited discussion by the Special Committee, and he hoped that a decision could be made at the Special Committee's next meeting to remove it from the agenda. His delegation maintained its opposition to the proposal to request an advisory opinion on the legal consequences of the use of force from the International Court of Justice.

46. While his delegation was not, in principle, opposed to exploring new subjects that might warrant consideration by the Special Committee, caution should be exercised; any items added to its agenda should be of a practical and non-political nature and should not duplicate efforts under way elsewhere in the United Nations system. Its past work in the area of

dispute prevention and settlement mechanisms was one such example.

47. His delegation commended the Secretary-General's ongoing efforts to reduce the backlog in preparation of the *Repertory* and the *Repertoire*, both of which provided a useful resource on the practice of United Nations organs.

48. **Mr. Laasri** (Morocco) said that his delegation attached great importance to the Special Committee's work and hoped that greater efforts to achieve tangible results would be made. He reiterated his delegation's firm position that sanctions under Chapter VII of the Charter should be imposed only as a last resort, when all peaceful means of dispute settlement had been exhausted. Every effort must be made to eliminate the negative impact of sanctions not only on non-targeted individuals, but on third States. In addition, sanctions must have a specific time frame and must be regularly reviewed with a view to amending or lifting them when they were no longer needed. He welcomed the improvement in the working methods of the Security Council sanctions committees and the increased emphasis on capacity-building aimed at helping Member States to fulfil their international obligations in that regard.

49. His delegation strongly supported the role of the United Nations as the international forum for issues relating to the maintenance of international peace and security and the promotion of human rights and sustainable development. It also attached great importance to the Manila Declaration. There was a need to make optimal use of the Special Committee's resources and consider ways of enhancing its work, in particular with regard to future subjects of discussion, rather than focusing on the duration of its meetings.

50. He welcomed the progress made in eliminating the backlog in the preparation of the *Repertory* and the *Repertoire*, which helped to preserve the Organization's institutional memory. He hoped that they would be made available in all official languages on the United Nations website.

51. **Mr. De Vega** (Philippines) said that his delegation attached importance to the Special Committee's work and supported the proposals and working papers submitted by the delegations of Libya, the Bolivarian Republic of Venezuela, Belarus, the Russian Federation and Cuba. In 2012, the United Nations had commemorated the thirtieth anniversary of

the Manila Declaration, which was one of the Special Committee's most significant achievements.

52. With regard to arbitration as one of the means of peaceful settlement of disputes set out in the Charter and the Declaration, he noted that his Government had initiated arbitration proceedings with a view to clarifying maritime entitlements and resolving maritime disputes in the region. It also sought the expeditious conclusion of a code of conduct in order to manage tensions in the region. Institutions constituted pursuant to international treaties and conventions, such as the mechanism of arbitral tribunals established in annex VII to the United Nations Convention on the Law of the Sea, must be respected. As stated by the President of the Philippines at the recent Association of Southeast Asian Nations (ASEAN) Summit held in Brunei, the rule of law at the international level was a prerequisite for the development of the region and for ensuring respect for the interests of every member State.

53. **Mr. Kim Yong Song** (Democratic People's Republic of Korea) said that, almost 70 years since the founding of the United Nations, actions that ran counter to the purposes and principles of the Charter persisted in the Organization. The Security Council acted in an arbitrary and high-handed manner, and issues that affected the vital interests of Member States were addressed in accordance with the will of certain countries in order to advance their own interests. Even the legitimate peaceful efforts of developing countries to safeguard their sovereignty and improve their economies were treated as threats to peace and security. It was therefore urgent to democratize the United Nations, in particular through reform of the Security Council. The Special Committee should take concrete action in that regard.

54. The so-called "United Nations Command" stationed on the Korean peninsula was an example of abuse of the United Nations that must be stopped. It had been illegally formed by the United States of America in 1950 in order to justify its military intervention in the Korean War and, as confirmed by former Secretaries-General, had nothing to do with the United Nations. It continued to aggravate tension on the Korean peninsula, where a state of neither peace nor war persisted, and threatened peace and security in the entire Asia-Pacific region. It should be dismantled immediately in accordance with General Assembly resolution 3390 (XXX).

55. **Ms. Tatarinovich** (Belarus) said that her delegation attached great importance to the Special Committee as the main forum for discussing the legal aspects of reform of the United Nations and improvement of its effectiveness. The Special Committee should not focus excessively on the content and optimization of its agenda. The relevance of its work and its ability to find legal solutions to topical issues would engender the necessary political will among Member States to step up its activities.

56. The United Nations was the only entity with the authority to impose sanctions on sovereign States, in line with its mandate to maintain international peace and security. As a priority, the Special Committee and the Organization as a whole should respond more actively to the unilateral imposition of sanctions by States or groups of States, since such encroachments on the Security Council's prerogatives undermined the Organization's authority and the international order. In that connection, her delegation agreed with the representative of the Russian Federation that the joint Belarusian-Russian proposal to request an advisory opinion from the International Court of Justice as to the legal consequences of the use of force remained relevant. Much progress had been made in minimizing the impact of sanctions on third States and individuals and ensuring that they were consistent with international law. However, even targeted sanctions had negative effects on third countries to some extent. It was therefore premature to remove the issue from the Special Committee's agenda.

57. Her delegation welcomed all initiatives aimed at enhancing the legal framework for the Organization's work and attached particular importance to striking a balance between the functions and powers of its principal organs, primarily the General Assembly and the Security Council. Not all aspects of their interaction were sufficiently regulated by the Charter; however, the Assembly and its subsidiary bodies, such as the Special Committee, had the power to interpret the Charter, which meant that the legal basis of the Organization's work could be adapted without changing it radically. The Special Committee could also propose action to be taken by the Assembly as the main representative organ based on the principle of the sovereign equality of States. In that regard, her delegation supported the proposal submitted by Libya with a view to strengthening the role of the United Nations in the maintenance of international peace and

security and also the working papers submitted by the delegations of the Bolivarian Republic of Venezuela and Cuba. Lastly, she expressed her delegation's appreciation for the work carried out on the *Repertory* and the *Repertoire*.

58. **Mr. Aldahhak** (Syrian Arab Republic) said that the Charter represented the cornerstone of international law and international relations. However, over the decades since its adoption, experience had shown that there was a need to reform some of the Organization's working methods so as to preserve its credibility and effectiveness. He reiterated his delegation's rejection of the hegemony, selectivism and double standards pursued by certain influential States and its demand for an end to the unilateral and arbitrary measures that were inflicting suffering on the Syrian people and others. Such measures represented a grave violation of international law and of the Charter.

59. The United Nations had been founded as a tool for preserving international peace and security and establishing friendly relations between nations; hence the Charter urged Member States to settle their disputes peacefully and set out clear conditions for the use of force. In that context, he reiterated his delegation's support for the Russian-Belarusian proposal to request an advisory opinion from the International Court of Justice as to the legal consequences of the resort to the use of force by States without prior authorization by the Security Council.

60. Specific Governments were interfering in the internal affairs of the Syrian Arab Republic by arming and financing terrorists who were spreading violence and extremism there. Such actions, which exacerbated the crisis in his country and obstructed a political solution based on dialogue among the Syrians themselves, were a clear violation of international law and the Charter. A number of reports by the United Nations and other organizations had highlighted the involvement of the Government of Qatar in supporting terrorism not only in the Syrian Arab Republic but also in a number of other countries in the Middle East, North Africa and the Sahel; the final report of the Panel of Experts established pursuant to Security Council resolution 1973 (2011) concerning Libya, contained in the annex to document S/2013/99, was one example. The establishment of a Taliban embassy in Doha was a further indication of the Qatari Government's support for terrorism and its lack of respect for international law and the Charter. The United Nations must hold that

Government accountable and take steps to ensure that it withdrew the extremists and mercenaries it had sent to his country. At the same time, he expressed appreciation to the people of Qatar, whose reputation was being tarnished by the actions of their Government.

61. **Mr. Hassan Ali** (Sudan) said that the United Nations would be better able to achieve its purposes if Member States could participate in its organs on a democratic basis in accordance with the principle of sovereign equality. In that context, his delegation attached great importance to the Special Committee's work. Regional organizations should be allowed to play their full role in issues related to the maintenance of international peace and security, with the support of the international community. In that connection, his delegation commended the African Union for its contributions throughout the continent, including the Sudan, and encouraged Member States to consider the proposal submitted by the delegation of Ghana in 2010 with regard to strengthening cooperation between the United Nations and regional organizations. At the recent Extraordinary Session of the Assembly of the African Union concerning Africa's relationship with the International Criminal Court, participants had rejected the targeting of African leaders by the Court and called for dialogue with the Security Council on issues relating to international peace and security.

62. The composition of the Security Council was outdated; it should be reformed so that the Council did not become a tool for serving the interests of specific countries. A balance must also be maintained between the Council and the General Assembly.

63. His delegation joined others in expressing concern at the manner in which the Security Council had implemented sanctions over the past 20 years. Sanctions should have a specific time frame and should be imposed humanely, in accordance with international law, and only after all peaceful means had been exhausted. His delegation rejected the use of unilateral sanctions as a political tool, which was an example of certain States' selectivism and double standards. The Special Committee should consider the proposals submitted to it by various delegations, particularly those relating to the strengthening of the role of the Organization.

64. **Mr. Lee Moon Hee** (Republic of Korea), speaking in exercise of the right of reply, said that the

United Nations Command had been created legally by the Security Council pursuant to resolutions 82 to 85 (1950), the validity of which had subsequently been reaffirmed by the Council and by an advisory opinion of the International Court of Justice. In addition, the General Assembly had adopted two resolutions on the matter, 3390 (XXX) A and 3390 (XXX) B; it was misleading to refer to only one of them out of context. Regarding the Secretary-General's position on the matter, a letter dated 24 March 2006, released to the Korean press, had stated that the United Nations Secretariat did not take a formal position with regard to the United Nations Command on the Korean peninsula. Lastly, the Committee was not the appropriate forum in which to discuss the status of the United Nations Command.

65. **Mr. Kim Yong Song** (Democratic People's Republic of Korea), speaking in exercise of the right of reply, said that the United Nations Command was a remnant of the Cold War dating back more than 60 years. Furthermore, the Security Council's resolutions on the issue had no legal basis because they had been adopted in the absence of the representative of the former Soviet Union and because the Democratic People's Republic of Korea, which had been a party to the conflict, had been excluded from the deliberations on the issue. The resolutions referred not to a "United Nations Command" but to a "unified command", and several Secretaries-General had denied that the United Nations had any role in it.

66. The Korean peninsula was moving closer to the brink of war because of the presence in South Korea of the United States Army, wearing United Nations helmets. The United States was responsible for introducing nuclear weapons to the Korean peninsula and staged many military drills there every year, including large-scale simulated nuclear strikes. Only a few days previously, a joint naval exercise had been staged with the nuclear-powered aircraft carrier *USS George Washington*. The Special Committee must pay due attention to resolving the issue, and the United States must dismantle the United Nations Command in accordance with General Assembly resolution 3390 (XXX).

67. **Mr. Lee Moon Hee** (Republic of Korea), speaking in exercise of the right of reply, said that it was regrettable to hear the baseless accusations and biased remarks of the representative of the Democratic People's Republic of Korea concerning the United Nations

Command, which was entrusted by the Organization with maintaining peace on the Korean peninsula. With regard to Security Council resolutions, he stressed that the International Court of Justice had reaffirmed their validity; the *Repertoire of the Practice of the Security Council* also made clear that the abstention of a permanent member did not preclude satisfaction of the requirement of Article 27, paragraph 3, of the Charter. He reiterated that the United Nations Command had been established in accordance with all due legal procedures of the Security Council.

68. The joint military exercises conducted by the United States and the Republic of Korea were legitimate drills in the light of the North's provocations and daily threats against his country. They were purely defensive in nature and had contributed to deterring war on the Korean peninsula over the past decades. Moreover, every year the United Nations Command Military Armistice Commission notified North Korea in advance of the exercises and their defensive nature. It was inappropriate to link the debate on strengthening the role of the United Nations to the status of the United Nations Command.

69. **Mr. Kim Yong Song** (Democratic People's Republic of Korea), speaking in exercise of the right of reply, said that there was no justification for South Korea's involvement in the matter as the United Nations Command was controlled by the United States, not by South Korea. Furthermore, his delegation considered that the Committee was indeed an appropriate forum in which to discuss the issue.

Mr. Stuerchler Gonzenbach (Switzerland), Vice-Chair, took the Chair.

Agenda item 79: Report of the United Nations Commission on International Trade Law on the work of its forty-sixth session (A/68/17)

70. **Mr. Schöll** (Switzerland), Chair of the United Nations Commission on International Trade Law (UNCITRAL), introducing the Commission's report on the work of its forty-sixth session (A/68/17), said that one of the main achievements of the session had been the adoption of the UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration. The UNCITRAL Arbitration Rules had been devised to serve commercial parties, but had become popular for ad hoc investor-State arbitrations. Over the years, in camera arbitration had come to be considered less and

less suited to the settlement of investment disputes, since they often involved issues of public interest and public governance. The newly adopted Rules on Transparency acknowledged that the general public was a fundamental stakeholder in investor-State disputes and provided that arbitration proceedings, including the hearing before the arbitrators, would generally be open to the public, and that the notice of arbitration and the arbitral award would be published. That constituted an unprecedented level of transparency and accessibility.

71. The Rules were also innovative in that they balanced the public interest in an arbitration involving a State with the disputing parties' interest in a fair and efficient resolution of their dispute. In order to make information available to the public, the Rules provided for the establishment of a transparency repository. The Commission had expressed its strong and unanimous opinion that the UNCITRAL secretariat should fulfil that role and had mandated the secretariat to seek the funding necessary to enable it to do so. The Commission had also mandated Working Group II to prepare a convention that would make the Rules applicable to disputes arising under existing investment treaties; that work was ongoing. The three years of negotiations in Working Group II had made it clear that views on what information a Government owed to its citizens regarding its dealings differed radically from one country to another. The fact that the Commission had nonetheless succeeded in achieving consensus was therefore remarkable.

72. The Commission had also adopted the UNCITRAL Guide on the Implementation of a Security Rights Registry (the "Registry Guide"). Like mortgages, security interests in movable property needed to be registered in a public registry so as to give potential creditors notice thereof; that was the recommendation contained in the UNCITRAL Legislative Guide on Secured Transactions of 2007 (the "Secured Transactions Guide") to States implementing modern secured transaction laws. However, experience had shown that States needed more specific guidance on security rights registries; the new Registry Guide therefore supplemented the Secured Transactions Guide. It provided recommendations on the establishment and operation of such registries and made secured transaction regimes more efficient and reliable. If the recommendations of the two Guides were implemented

broadly at the international level, the result would be the harmonization of national secured transaction regimes, which would in turn facilitate the cross-border recognition of security rights and thus international trade. As a next step, the Commission had asked Working Group VI to prepare a model law on secured transactions based on the recommendations of the Secured Transactions Guide.

73. The Commission had adopted revisions to the Guide to Enactment of the UNCITRAL Model Law on Cross-Border Insolvency, which not only addressed uncertainties that had arisen in a number of States in cross-border insolvency decisions that applied the Model Law but also provided more information and guidance on the application and interpretation of certain key concepts of the Model Law. The revisions related, first, to the characteristics of a foreign proceeding susceptible to recognition under the Model Law and, second, to the factors relevant to determining the debtor's centre of main interests for the purposes of recognition. Since the work on the issue of the centre of main interests was relevant to the interpretation and application of the European Union regulation on insolvency proceedings, the Commission hoped that the revision of that regulation currently being considered would be in step with its own work.

74. The Commission had also adopted part four of the UNCITRAL Legislative Guide on Insolvency Law, which addressed the obligations of directors in the period approaching insolvency. When a company began experiencing financial distress, timely action by directors was often key to rescuing the company or at least minimizing the effects of such distress, and could also avoid a slide into insolvency that would affect the interests of all stakeholders. The new recommendations covered incentives to take such action.

75. The Commission had adopted two texts designed to support the UNCITRAL Model Law on Public Procurement of 2011 and had decided that no further work was currently needed in that area.

76. Turning to other legislative work, he said that Working Group III was currently discussing draft rules for online dispute resolution in respect of low-value cross-border transactions. The work currently covered both disputes between businesses and disputes involving consumers. Differing views had been expressed in the Working Group in relation to the nature of the final stage of online dispute resolution

proceedings; in order to reconcile those views, a two-track system had been proposed, one track of which would end in arbitration and one of which would be limited to mediation. The Commission had reaffirmed the Working Group's mandate and had requested it to consider and report back on how the draft rules would respond to the needs of developing countries and those facing post-conflict situations, an issue of particular interest to countries that wished proceedings to end in an arbitration phase. The Commission had also requested the Working Group to consider the issue of consumer protection, particularly in cases where the consumer was the respondent party. Lastly, the Working Group had been requested to explore means of ensuring that online dispute resolution outcomes were implemented, whether or not proceedings ended in arbitration.

77. With regard to electronic commerce, the texts adopted by the Commission had influenced the legislation of many States, and it was with great satisfaction that the Commission had noted the entry into force on 1 March 2013 of the United Nations Convention on the Use of Electronic Communications in International Contracts. At its forty-sixth session, the Commission had reaffirmed the mandate conferred on Working Group IV in 2011 to carry out work on electronic transferable records, which should contribute to the use of electronic commerce in international trade. The Commission had stated that that work could also cover issues such as identity management, the use of mobile devices in electronic commerce and electronic single windows.

78. With regard to possible future work, the Commission had spent an entire day discussing the strategic direction of UNCITRAL, including a detailed discussion of the considerations that should govern the distribution of resources between legislative work and technical assistance activities. Given the growing number of topics referred to the Commission for future consideration each year, that debate should be included in its agenda at all future sessions. The Commission had expressed its wish to include in the debate the role and relevance of UNCITRAL activities within the broader United Nations agenda and the priorities of national Governments and donor communities.

79. With regard to its legislative work, the Commission had emphasized the need for specific mandates but also for a degree of flexibility in the allocation of conference time for that work. It had also

recognized that certain topics lent themselves to more informal working methods, but only on the condition that all legislative texts were considered by the Commission prior to adoption. The Commission had established four tests for determining whether a legislative text on a particular topic should be undertaken by a working group: whether the topic was clearly amenable to harmonization and the consensual development of a legislative text; whether the scope of a future text and the policy issues for deliberation were sufficiently clear; whether a legislative text on the topic was likely to result in modernization or harmonization of international trade law; and whether or not legislative work on the topic was already being undertaken by other organizations. The Commission had accordingly established a programme of legislative work for the period up to its next session in 2014, to be led by the six working groups, including Working Group I, which would focus on micro-, small- and medium-sized enterprises. Colloquiums would also be held on possible future work on insolvency law and public-private partnerships. The secretariat would continue its work in the areas of international contract law and commercial fraud.

80. Without questioning the primary importance of its legislative work, the Commission had stressed once again the importance of technical cooperation and assistance and had expressed its appreciation to the secretariat for the activities it had undertaken over the past year. The Commission had noted that the continuing ability to respond to requests from States for such activities was dependent upon the availability of funds to meet associated costs. Despite the secretariat's efforts to secure new contributions, the resources available in the Trust Fund were limited. Accordingly, requests for technical cooperation and assistance activities continued to be very carefully considered; the few activities that had been undertaken recently had been carried out on a cost-share or no-cost basis where possible. The Commission had requested the secretariat to continue exploring alternative sources of extrabudgetary funding, in particular by more extensively engaging permanent missions and other possible partners in the public and private sectors. The capacity of the UNCITRAL secretariat to respond to requests for technical assistance depended largely on Member States' contributions. He therefore appealed to all States, international organizations and other interested entities to contribute to the UNCITRAL

Trust Fund and to help the secretariat identify other sources of funding.

81. The UNCITRAL Regional Centre for Asia and the Pacific had been established in 2012 to evaluate needs and identify trade law reform projects in the region with a view to improving regional coordination. For example, on activities relating to the facilitation of paperless trade, the Centre had coordinated with the Economic and Social Commission for Asia and the Pacific (ESCAP). The work carried out by the Centre had shown that, with regard to trade law reform, the States and other actors in the region attached great importance to uniform texts as a means of increasing legal certainty and reducing costs in international trade, particularly since there were no regional economic integration organizations with broad legislative power. The Centre, which was located in Incheon, Republic of Korea, benefited from the generous support of the Government of that country and contributions in kind from various public and private sources. Other States had expressed interest in hosting an UNCITRAL regional centre and the secretariat was considering the possible establishment of more such centres.

82. The CLOUT (Case Law on UNCITRAL Texts) system was one of the tools maintained by the Commission in order to promote the uniform application of the legal texts that it produced. The number of case-law abstracts in the CLOUT system had increased significantly to almost 1,300; they related to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention) and nine other UNCITRAL texts. The secretariat had also published digests of case law on the international sale of goods and commercial arbitration and was preparing another on cross-border insolvency. He thanked the secretariat for its excellent work on that task and an ever-increasing number of other activities.

83. UNCITRAL texts were increasingly used throughout the world: at its forty-sixth session, the Commission had noted 38 actions by States, including the signature or ratification of treaties and the adoption of legislation enacting UNCITRAL model laws. In the area of cooperation, the secretariat continued to engage in activities with a number of organizations both within and outside the United Nations system, such as the United Nations Conference on Trade and Development (UNCTAD), the World Bank, the Hague Conference on

Private International Law, the Organisation for Economic Co-operation and Development (OECD), the International Institute for the Unification of Private Law (UNIDROIT) and the European Union. The secretariat also participated in meetings of those organizations, with the Commission's full support, with a view to avoiding duplication of work.

84. As invited by General Assembly resolution 67/97, the Commission had commented in its report on its role in promoting the rule of law; in the context of the subtopic chosen by the General Assembly for the current session, "The rule of law and the peaceful settlement of international disputes", it had referred in particular to its work in the area of arbitration and dispute resolution. It had also highlighted its important role in achieving near-universal accession to the New York Convention, which for more than 50 years had been the bedrock of international arbitration, and had referred to the recently adopted UNCITRAL Rules on Transparency, which were expected to play a major role in achieving transparency and accountability — both fundamental to the rule of law — in the field of investment arbitration.

85. As States had reaffirmed in the Declaration of the high-level meeting of the General Assembly on the rule of law at the national and international levels (General Assembly resolution 67/1), the rule of law and development were strongly interrelated and mutually reinforcing, and that interrelationship should be considered in the post-2015 international development agenda. The Commission intended to contribute to the relevant processes in the light of its role in the promotion of the rule of law and sustainable development.

86. UNCITRAL was the core United Nations body in the field of commercial law and for almost half a century had been committed to providing a legal environment that fostered international trade. Its impact on the harmonization and modernization of international trade law had been repeatedly acknowledged by the General Assembly. Over the years, UNCITRAL and its working groups had developed highly effective working methods and a negotiation culture that was both robust and inclusive. The Rules on Transparency were just one example of the Commission's unparalleled ability to translate a broad global policy agenda into legal norms that carried rights and obligations for individuals. Moreover, UNCITRAL was prepared for the challenges

of the future: should the United Nations ever decide to translate its Guiding Principles on Business and Human Rights into concrete concepts of international corporate and commercial law, UNCITRAL would be the natural entity to carry out such a task.

87. The recently adopted Rules on Transparency would take effect on 1 April 2014, at which time States would be able to incorporate them into new investment treaties. The Rules on Transparency were an instrument of the United Nations and were universal in nature. Moreover, transparency lay at the very foundation of good governance and, as such, was promoted by a number of different United Nations organs and agencies. The High-level Panel of Eminent Persons on the Post-2015 Development Agenda had called for a “transparency revolution” to empower citizens to have greater scrutiny over government actions and expenditures. He therefore called for delegations’ strong support, in both the Sixth and the Fifth Committees, for the provision of the resources necessary to enable the UNCITRAL secretariat to undertake the function of repository provided for in the Rules on Transparency.

88. He also sought their continued participation in and support for UNCITRAL and its activities. UNCITRAL had been carrying out its mandate with great efficiency: its secretariat consisted of only 14 lawyers and half a dozen support staff, substantially the same as in the 1970s. Bearing in mind the Commission’s current and future work programmes, there was a limit to what such a small secretariat could do to enable the Commission to maintain the same level of service. The ever-increasing importance of international trade and the accelerating pace of economic globalization required UNCITRAL to continue its work, which ultimately benefited all States.

89. **Mr. Karstensen** (Denmark), speaking on behalf of the Nordic countries (Denmark, Finland, Iceland, Norway and Sweden), said that in July 2013 Denmark had been elected a member of UNCITRAL, thus succeeding Norway in representing the Nordic countries on the Commission. The Nordic countries appreciated the Commission’s efforts to maintain close cooperation with other international organizations active in the field of international trade law. Those countries had actively participated in the Commission’s working groups and would continue to do so; the working groups’ open and inspiring discussions

contributed to the high standard of their substantive preparatory work on topics in the Commission’s work programme. The Nordic countries also appreciated the efforts that had led to the adoption of the Rules on Transparency and other documents at the Commission’s forty-sixth session; they welcomed the Commission’s decision to mandate a working group to consider the issue of reducing the legal obstacles faced by micro-, small- and medium-sized enterprises and looked forward to following its work and that of the other working groups in the future.

90. **Ms. Dieguez La O** (Cuba), speaking on behalf of the Community of Latin American and Caribbean States (CELAC), said that global trade was constantly evolving as a result of technological developments and the diversification of business activities. The Commission faced the challenge of ensuring that its codification activities kept pace with those changes; for over 40 years, it had shown that, through determination and broad participation, it could make substantive progress towards the objective of modernizing and harmonizing international trade rules, which in turn facilitated the exchange of goods and services. The participation of CELAC member States in the Commission and its working groups attested to their commitment to the Commission’s work.

91. Referring to paragraphs 348 and 349 of the report concerning the date and place of future meetings, she said that the tradition of holding UNCITRAL sessions in New York and Vienna in alternate years made it easier for many countries to participate, in particular developing countries or those that did not have permanent diplomatic representation in Austria. Every effort should be made to maintain that pattern; in general, the Organization’s subsidiary bodies should be shielded from the impact of budget constraints as far as possible. Broad participation enriched the Commission’s debates and contributed to the achievement of substantive results.

92. **Ms. Quidenus** (Austria) said that her delegation welcomed the adoption at the Commission’s forty-sixth session of a number of important documents, in particular the Rules on Transparency, and concurred with the Commission’s view that its secretariat should fulfil the role of a transparency repository, which would play a critical role in implementing the Rules and constitute a significant tool for fighting corruption and promoting the rule of law in international investment.

93. In the Declaration of the high-level meeting of the General Assembly on the rule of law at the national and international levels, Member States had rightly commended the work of UNCITRAL in modernizing and harmonizing international trade law, which played a key role in the strengthening of the rule of law. No other organization was better equipped to provide internationally acceptable model laws and rules in the field of international trade and the accompanying education and training.

94. Her delegation also commended the Commission's contribution to the rule of law in the context of sustainable development, conflict prevention and post-conflict reconstruction. International commercial arbitration rules played an important role in strengthening the rule of law through the peaceful settlement of international disputes, such as cross-border disputes over investments in natural resources, as highlighted by the panel discussion at the Commission's forty-sixth session. In connection with that discussion, the Commission had also rightly emphasized the importance of the secretariat's technical assistance activities and had called for closer cooperation within the United Nations system to achieve the increased use of UNCITRAL standards. Her delegation also welcomed the regular dialogue between UNCITRAL and the Rule of Law Coordination and Resource Group through the Rule of Law Unit.

95. **Mr. Silberschmidt** (Switzerland) said that the adoption of the UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration was a landmark contribution to the law and policy of international dispute resolution involving sovereign States, since investment disputes routinely involved issues of public interest and public governance. Reaching consensus in an area as important and sensitive as transparency was a remarkable achievement for UNCITRAL. His delegation continued to support the Commission's work on the preparation of a multilateral convention that would make the Rules on Transparency applicable to existing investment treaties and looked forward to constructive negotiations on such a convention. The repository of published information would play a critical role in implementing the Rules; his delegation agreed that the UNCITRAL secretariat would be the natural host for the repository. The Commission's work on transparency in investor-State relations constituted an important contribution to the promotion of the rule

of law and human rights at the national and international levels and his delegation looked forward to further work in that area.

The meeting rose at 6.05 p.m.