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Summary record of the 5th meeting
Held at Headquarters, New York, on Wednesday, 14 October 2015, at 3 p.m.

Chair:	Mr. Charles	(Trinidad and Tobago)
later:	Mr. Kravik (Vice-Chair)	(Norway)
later:	Mr. Charles (Chair)	(Trinidad and Tobago)

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15-17812 (E)

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

Agenda item 108: Measures to eliminate international terrorism (*continued*) (A/70/211)

1. **Archbishop Auza** (Observer for the Holy See) said that the International Convention for the Suppression of the Financing of Terrorism contained a useful definition of terrorism as an act "intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in situations of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act". That definition had enabled the international community to adopt a host of counter-terrorism measures that were serving to promote peace and security for all, especially those under direct terrorist threat. As a non-partisan consensus builder, the United Nations was thus in a unique position to play an effective role in negotiating the adoption of multilateral policies and strategies to combat international terrorism.

2. The forms of savagery assumed by terrorism over the previous year, which had included the destruction of places of high historic, symbolic, cultural and religious value, together with atrocities committed against entire communities and even countries, should serve, in the words of Pope Francis, as a "grave summons to an examination of conscience on the part of those charged with the conduct of international affairs". Weapons alone could not defeat terrorism; nor could hearts and minds be won by an arbitrary application of unilateral measures, a selective approach to human rights or a disregard for cultures and religions. The underlying causes of terrorism must be addressed. That required education and mutual respect, perseverance in dialogue at all levels, rule of law and good governance, as well as action to engage local communities most at risk of radicalization and integrate them socially by creating job opportunities, especially for the young who were susceptible to terrorist propaganda. Preventive diplomacy, peacekeeping and peacebuilding efforts needed to be strengthened to promote peaceful societies and inclusive institutions.

3. The Holy See was particularly concerned about the manipulation of religious faith to promote terrorist activities. Religion must never be used as a pretext for committing acts of violence. The four fundamental freedoms abhorred by terrorists — freedom of speech, freedom of worship, freedom from want and freedom from fear — were the very freedoms that the international community was called on to uphold.

4. **Ms. Zeytinoğlu Özkan** (Turkey), speaking in exercise of the right of reply, denied the allegations of the representative of Syria. The Syrian Government had lost all legitimacy and was using every possible means to hang on to power, including chemical weapons, barrel bombs, targeted killings, torture and systematic violations of international human rights law. That regime had the blood of innocent people on its hands and had been rightly labelled a State sponsor of terrorism. The representative of such a regime, which was also responsible for the flourishing of Islamic State in Iraq and the Levant (ISIL), was badly placed to lecture the Committee on counter-terrorism. Turkey, for its part, was fighting terrorism on many fronts in line with democratic principles, the rule of law and international human rights and was actively cooperating to that end with the international community.

5. **Mr. Aldahhak** (Syrian Arab Republic), speaking in exercise of the right of reply, said that the world was now well aware of the actions of the Erdoğan regime, which was funding, supporting, training and facilitating the travel into Syria of foreign terrorist fighters, mercenaries and extremists from around the world. United Nations sources indicated that there were over 25,000 foreign terrorist fighters in Syria. Most of them had transited through Turkish territory with assistance from the Turkish Government and intelligence services. The Turkish regime was supporting ISIL, the Nusrah Front, the Army of Emigrants and Supporters and other terrorist organizations active in Syria and Iraq. The Erdoğan regime was thus the greatest threat to the safety and stability of the Middle East, Europe and the world.

6. The Turkish Government had long boasted of its "zero problems" policy. As its actions over the previous few years had shown, that policy was in fact one of zero law and zero ethics. By using religion for petty political ends, the Erdoğan regime was pursuing the colonialist fantasy of reviving the Ottoman Empire. The international community must bring an end to its support for terrorist groups in Syria and several other Middle Eastern States. Such practices undermined peace and security and were ultimately detrimental to

the Turkish people, with which his country was eager to preserve its warm relations.

Agenda item 85: The rule of law at the national and international levels (A/70/206)

7. **Mr. Mathias** (Assistant Secretary-General for Legal Affairs), introducing the report of the Secretary-General on strengthening and coordinating United Nations rule of law activities (A/70/206), said that, 70 years into its existence, the Organization had a strong legacy but faced many challenges in that area. The report highlighted the work of the various United Nations entities belonging to the Rule of Law Coordination and Resource Group in promoting the rule of law at the national and international levels, discussed efforts to ensure system-wide coordination and coherence of those activities and concluded, in an annex, with an analytical summary of the thematic debates on the rule of law held at the sixty-first to the sixty-eighth sessions of the General Assembly.

8. In keeping with the subtopic chosen for consideration at the current session of the General Assembly, "The role of multilateral treaty processes in promoting and advancing the rule of law", he would like to discuss some of the ways that the Office of Legal Affairs supported the development of a robust, open and transparent multilateral treaty framework. Over the years, the Office had been directly involved in the adoption of a number of important treaties, starting with the Convention on the Privileges and Immunities of the United Nations in 1946, and including, most recently, in 2015, the United Nations Convention on Transparency in Treaty-based Investor-State Arbitration. It had grown to comprise six substantive units, reflecting the multi-faceted nature of its mission.

9. The Office of Legal Affairs provided assistance during two phases in fulfilling the mandates entrusted to the various General Assembly bodies that had been instrumental in developing a relatively mature system of international law anchored in a web of treaties. The Sixth Committee was primarily tasked with that function, supported in particular by the International Law Commission, ad hoc committees on particular issues, the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, and the United Nations Commission on International Trade Law (UNCITRAL), as well as by diplomatic conferences where appropriate. In the pre-conclusion phase of the multilateral treaty process, the Office offered substantive servicing, advice and research for most of those bodies through its Codification Division and, for UNCITRAL, through its International Trade Law Division in Vienna. The Division for Ocean Affairs and the Law of the Sea provided substantive services to relevant ad hoc bodies, while the Treaty Section assisted in the drafting of final clauses. At that stage, the Office of the Legal Counsel and the General Legal Division could give advice on procedural matters and on the implications of any mechanisms contemplated in the draft instrument. In the post-conclusion phase, all the six units of the Office of Legal Affairs continued to provide advice and clarifications on all issues relating to the interpretation and application of the international conventions adopted.

10. All that work was underpinned by a broader concern to ensure training and the development of awareness in matters of international law. Indeed, and as had long been recognized by the General Assembly, for States to be able to fulfil their obligations in good faith, it was essential that they should understand the relevant multilateral treaties and treaty processes. The Codification Division was accordingly tasked with implementing the Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law. The Programme of Assistance was operationalized through the International Law Fellowship Programme, held annually in The Hague, the regional courses in international law, the Audiovisual Library of International Law and the preparation and dissemination of various legal publications. As for the Division for Ocean Affairs and the Law of the sea, the Trade Law Division and the Treaty Section, they all provided opportunities for training, capacity-building and research in their own areas of expertise. Substantial resources were thus earmarked by the Office of Legal Affairs for training and education activities, which would be continued and, it was hoped, would be built upon with the support of Member States.

11. The Office also promoted international mechanisms for the peaceful resolution of disputes between States, including, but not limited to, treaty-related disputes. Such mechanisms were a cornerstone of the rule of law at the international level and were actively supported by the Office of the Legal Counsel. The question of dispute settlement had been regularly

discussed in the Committee and related bodies, such as the International Law Commission, in connection, for instance, with specific provisions of texts or clarifications of the choice of means provided for under article 33 of the Charter of the United Nations. The Office of the Legal Counsel also supported the activities of the International Court of Justice, which was the principal judicial organ of the United Nations and played a special role in international dispute resolution. The Secretary-General's Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice was administered by the Office of Legal Affairs, and the Court's efforts to increase States' acceptance of its compulsory jurisdiction had long been supported by the Secretary-General.

12. International criminal law was particularly important since impunity was the very antithesis of the rule of law. Accordingly, the Office of Legal Affairs had long played a part in establishing international and hybrid criminal courts and tribunals to prosecute those responsible for international crimes; it also provided advice on the establishment, functioning and completion of such tribunals established on an ad hoc basis. At the operational level, the Office of the Legal Counsel provided support to criminal tribunals set up by or operating with the assistance of the United Nations, as well as related governance structures and the functions of the Secretary-General in their regard. Moreover, the work of the ad hoc criminal tribunals for the former Yugoslavia and Rwanda, which the Office had helped to establish, had paved the way for the adoption of the Statute of the International Criminal Court, which was one of the most important multilateral treaty processes in which the Office had participated in recent times. Since the entry into force of the Relationship Agreement between the United Nations and the Court in 2004, the Office had been playing a central role in facilitating cooperation between the two. The Office also provided the necessary assistance to commissions of inquiry set up to investigate violations of international humanitarian and human rights law, which were currently an all too frequent feature of international life.

13. The Office of Legal Affairs had continued over the decades to be of assistance in developing and supporting a robust, open and transparent multilateral treaty framework and in strengthening other pillars of the international rule of law at the international level, not only as a necessary condition for the sustainability of the international system but also as a basis for cohesive societies; it remained committed to providing Member States with the support they merited in order to further strengthen the international legal order.

14. **Mr. Villalpando** (Chief of the Treaty Section) said that the subtopic for debate under the current item, "The role of multilateral treaty processes in promoting and advancing the rule of law", was central to the mandate of the Treaty Section. The Section discharged, on behalf of the Secretary-General, depositary functions for more than 560 multilateral treaties and processed 900 treaty actions yearly, covering all aspects of international relations, from the promotion of trade or the protection of human rights to the fight against terrorism, disarmament and the preservation of the environment. It thus supported the General Assembly in an area that constituted one of its major contributions to contemporary international law.

15. The actors involved in multilateral treaty processes had multiplied, not only because of increased participation by States but also because of the growing role of other stakeholders, such as international organizations and non-governmental actors. The treaties themselves had become more complex, bringing with them a proliferation of institutional structures and containing more elaborate final clauses. The resulting new developments in treaty law and practice confronted the Treaty Section daily.

16. In the past, the General Assembly had provided valuable guidance to the Treaty Section. As early as 1946, it had adopted regulations on the registration and publication of treaties, amended in 1949, 1950 and 1978. In 1984 it had requested the Secretary-General to examine those regulations with a view to their possible updating but, except for a further instruction on the matter of limited publication of treaties, that initiative had not been followed up. The Assembly had also been required to address matters relating to the depositary functions of the Secretary-General; it had provided guidance and expressed support for some of the Secretary-General's initiatives in that area. For example, it had supported the annual treaty event by which the Secretary-General invited high-level officials to seize the opportunity of their presence in New York for the general debate of the General Assembly to sign or accede to multilateral treaties deposited with him. Since their inception, such treaty

events had resulted in almost 2000 treaty actions by Member States.

17. The General Assembly had also supported in its early stages the implementation of the Section's electronic treaty database, which had become a unique resource that was updated continuously. Besides providing authoritative information on the status of multilateral treaties deposited with the Secretary-General, it provided electronic access to all volumes of the United Nations Treaty Series and other publications on treaty law and practice. The General Assembly thus played an important role in the work of the Treaty Section.

18. **Mr. Dehghani** (Islamic Republic of Iran), speaking on behalf of the Movement of Non-Aligned Countries, said that respect for the rule of law at the national and international levels was essential to maintaining international peace and security and achieving socioeconomic development. The high-level meeting of the sixty-seventh session of the General Assembly on the rule of law had been a milestone in the Assembly's discussions on the subject and its efforts to develop a common understanding among Member States. The Movement would spare no efforts in continuing those discussions in the Committee, in cooperation with other partners.

19. It was essential to maintain a balance between the national and international dimensions of the rule of law. The Non-Aligned Movement continued to believe that the latter dimension needed greater attention on the part of the United Nations. The Charter of the United Nations provided normative guidance regarding the basis of the rule of law at the international level. Efforts to foster international relations based on the rule of law should be guided, in particular, by the principles of sovereign equality of States, prohibition of the threat or use of force in international relations and peaceful settlement of disputes. The principle of sovereign equality meant, inter alia, that all States should have an equal opportunity to participate in law-making processes at the international level. In addition, all States should comply with their obligations under treaties and customary international law. Selective application of international law must be avoided and the legitimate and legal rights of States under it respected.

20. The members of the Non-Aligned Movement stood ready to engage with the Committee on the theme of the current year's debate and to explore with the Secretariat ways and means of enhancing multilateral treaty-making processes in the United Nations. The Movement also encouraged States to strive to settle disputes peacefully, using the mechanisms and tools established under international law, including the International Court of Justice, treaty-based courts, such as the International Tribunal for the Law of the Sea, and arbitration. The Movement called upon the General Assembly and the Security Council to make use, whenever appropriate, of their right under Article 96 of the Charter to request advisory opinions on legal questions from the International Court of Justice.

21. Human rights, the rule of law and democracy were interdependent and mutually reinforcing. The purposes and principles of the Charter and the principles of international law were of paramount importance for peace and security, the rule of law, economic development, social progress and human rights for all, and Member States should renew their commitment to uphold, preserve and promote them. The Non-Aligned Movement remained concerned about the use of unilateral measures, which had a negative impact on the rule of law and international relations. No State or group of States had the authority to deprive other States of their legal rights for political reasons. The Movement condemned any attempt to destabilize the democratic and constitutional order in any of its member States.

22. States Members of the United Nations must respect the functions and powers of its principal organs, particularly the General Assembly, and maintain the balance among them. The continuing encroachment by the Security Council on the functions and powers of the General Assembly and the Economic and Social Council remained a matter of concern. The Security Council should fully comply with international law and the Charter of the United Nations.

23. The General Assembly should play a leading role in promoting and coordinating efforts to strengthen the rule of law. The international community should not, however, supplant national authorities in their task of establishing or strengthening the rule of law at the national level. National ownership of rule of law activities was important, as was strengthening the capacity of Member States to implement their international obligations, including through enhanced technical assistance and capacity-building. United

Nations funds and programmes should provide such assistance, solely at the request of Governments and strictly within their respective mandates. Account should be taken of the customs and the political and socioeconomic features of each country, and the imposition of pre-established models should be avoided.

24. Appropriate mechanisms should be established to enable Member States to keep abreast of the work of the Rule of Law Unit and to ensure regular interaction between the Unit and the General Assembly. The lack of an agreed definition of the rule of law should be taken into account in the preparation of reports and in the collection, classification and evaluation of the quality of data on issues directly or indirectly related to the rule of law. The data-gathering activities of United Nations bodies should not lead to unilateral formulation of rule of law indicators or ranking of countries, when indicators had not been agreed upon by Member States in an open and transparent manner.

25. Cognizant of the importance of the rule of law within the United Nations, the Non-Aligned Movement appreciated the role of the system of administration of justice in the United Nations and supported initiatives to hold United Nations personnel accountable for any instances of misconduct while serving in an official capacity.

26. The Movement reiterated its position welcoming the General Assembly's adoption of resolution 67/19, according to Palestine the status of non-member observer State in the United Nations and reflecting the international community's longstanding, principled support for the inalienable rights of the Palestinian people, including self-determination, independence and a two-State solution based on the pre-1967 borders. The Movement reaffirmed its support of the State of Palestine's application for admission to full membership in the United Nations, still pending before the Security Council.

27. While the Movement underlined the importance of freedom of opinion and expression, as provided under article 19 of the Universal Declaration of Human Rights, it wished to emphasize that morality, public order and the rights and freedoms of others must be recognized and respected in the exercise of that freedom, in accordance with article 29 of that same Declaration. Freedom of expression was not absolute and it should be exercised with responsibility and in accordance with the relevant international human rights law and instruments.

28. **Mr. Phansourivong** (Lao People's Democratic Republic), speaking on behalf of the Association of Southeast Asian Nations (ASEAN), said that the rule of law was an important basis for cooperation among nations and was essential nationally and internationally as it contributed to peace, security and stability, which were a prerequisite for the development of all countries. The rule of law was relevant to the three pillars of the United Nations, namely, peace and security, development and human rights, and necessary for the fulfilment of the purposes and principles of the Charter of the United Nations and of international law — indispensable foundations for the sovereign equality of States, peaceful settlement of disputes and territorial integrity.

29. As a rule-based organization, ASEAN attached importance to promoting the rule of law as it moved towards establishing an ASEAN Community at the end of 2015. It had accordingly put in place the Treaty of Amity and Cooperation in Southeast Asia (1976), with 32 high contracting States parties and more States keen to accede thereto; the Treaty on the Southeast Asia Nuclear Weapon-Free Zone (1995); the Declaration on the Conduct of Parties in the South China Sea (2002); the Declaration of the East Asia Summit on the Principles for Mutually Beneficial Relations (2011); and the ASEAN Human Rights Declaration (2012). In addition, ASEAN member States were working with China towards the early conclusion of a code of conduct in the South China Sea. At the same time, they were continuing to further develop their national institutions and legal frameworks for fulfilling their obligations and commitments under the Charter of the United Nations, In April 2015, their leaders had adopted the Kuala Lumpur Declaration on a People-Oriented, People-Centred ASEAN, by which the member States had committed themselves to the further enhancement of their judicial systems and legal infrastructure.

30. With regard to human rights, ASEAN had established the ASEAN Intergovernmental Commission on Human Rights, which had overall responsibility for the promotion and protection of human rights in ASEAN countries. His delegation welcomed the progress made by the Commission and encouraged it to engage further in meeting current human rights challenges in the region.

31. **Ms. Aching** (Trinidad and Tobago), speaking on behalf of the Caribbean Community (CARICOM), said that a rule-based international system that applied equally to all Member States was inextricably linked to the achievement of lasting peace and security, the protection of human rights, sustained economic growth and social progress, and the advancement of all peoples. CARICOM remained committed to upholding the principles of international law and justice and promoting an international order based on the rule of law. Its member States, founded on the principles of democracy, liberty, good governance, the rule of law and respect for human rights and dignity, adhered to the fundamental principle of the United Nations that everyone, from the individual to the State, was accountable to laws that were publicly promulgated, equally enforced and independently adjudicated. They were therefore strongly opposed to impunity.

32. CARICOM recognized the importance of the multilateral treaty process for developing a comprehensive international legal framework and promoting the rule of law at all levels. The process enabled all States to contribute meaningfully, on an equal basis, to the development of international law and norms, regardless of their size. Examples were the Rome Statute of the International Criminal Court and the United Nations Convention on the Law of the Sea, both of which had been adopted through the pioneering leadership of small States.

33. CARICOM reaffirmed its support for the work of the United Nations in strengthening the rule of law by providing capacity-building and technical assistance to Member States, thereby enhancing the domestic implementation of international laws. The United Nations was to be commended in particular for its efforts to provide support to Member States, on request, in the areas of conflict prevention, law reform, access to justice, protection of refugees, corruption, counter-terrorism and transnational organized crime.

34. An important part of the capacity-building work carried out by the Office of Legal Affairs was undertaken through the Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law. CARICOM called again for that Programme to be adequately financed through the regular budget. It had never been intended that it should be funded through voluntary contributions alone, and the current situation undermined the effectiveness of the Programme.

35. CARICOM welcomed the growing number of ratifications of the Kampala Amendments to the Rome Statute of the International Criminal Court on the crime of aggression and urged all States parties to the Rome Statute that had not yet done so to ratify the amendments so that they might enter into force by 2017.

36. CARICOM looked forward to the adoption of an international legally binding instrument under the United Nations Convention on the Law of the Sea on the issue of the conservation and sustainable use of marine biological diversity in areas beyond national jurisdiction. The promotion of the rule of law internationally must lay the foundation for sustainable development and the protection and sustainable management of the common heritage of present and future generations. Representing a region that was highly vulnerable to the loss of marine biodiversity and the impacts of unsustainable practices on the marine environment beyond national jurisdictions, CARICOM stressed that the conclusion of a legally binding instrument to address those matters was crucial as a matter of justice and fairness. Her delegation therefore welcomed the adoption of General Assembly resolution 69/292, which provided for the establishment of a preparatory committee, to be convened in 2016 and 2017, to make substantive recommendations to the General Assembly on the draft text of such an instrument.

37. **Mr. Fornell** (Ecuador), speaking on behalf of the Community of Latin American Countries (CELAC), said that, in the Belen Declaration adopted at the third CELAC summit in January 2015, as in the Santiago and Havana Declarations adopted respectively at its first and second summits, the members of the Community had reiterated their respect for international law; peaceful settlement of disputes; prohibition of the threat or use of force; respect for the self-determination of peoples under colonial domination and foreign occupation and for sovereignty, territorial integrity and non-interference in the internal affairs of States; protection and promotion of human rights; national and international rule of law; and democracy. They were also committed to working together for the prosperity of all, in particular through the eradication of discrimination, inequalities, exclusion, human rights violations and transgressions against the rule of law. They recognized the importance of the rule of law in the achievement of

fraternal relations and equality among States as well as in the building of just and fair societies.

38. As States Members of the United Nations, the CELAC countries were committed to supporting the same principles at the international level, promoting cooperation and fulfilling in good faith the obligations assumed under the Charter. CELAC recognized the need for a commitment to the international legal framework in order for there to be respect for the rule of law at the international level, entailing its equal application to all States, as well as to international organizations, including the United Nations and its principal organs. States were under an obligation to solve their disputes by peaceful means, in full compliance with the relevant General Assembly resolutions. Peace and security at the international level were essential for strengthening the rule of law.

39. CELAC attached importance to continuing efforts to revitalize the General Assembly, strengthen the Economic and Social Council and reform the Security Council in order to make those organs more efficient, democratic, representative and transparent, in accordance with the relevant resolutions and decisions. It also recognized the importance of reforms of the governance structures, quotas and voting rights of the Bretton Woods institutions with a view to enhancing their effectiveness, credibility, accountability and legitimacy.

40. CELAC was committed to strengthening and promoting the rule of law at the regional level through dialogue, cooperation and solidarity among its members. The Community recognized the importance of national ownership of rule of law activities and the need for a transparent legal system accessible to all, solid democratic institutions and laws, independent and impartial judicial systems and adequate redress mechanisms for human rights violations in order to provide a framework for political and social development. It also recognized the necessary link between the rule of law at the international and national levels.

41. CELAC strongly urged States to refrain from promulgating and applying any unilateral sanctions or other economic, financial or trade measures not in accordance with international law and the Charter that impeded the full achievement of economic and social development, particularly in developing countries. Strengthening the rule of law was not an exclusive concern of certain countries or regions but a global aspiration to be governed by agreed values, principles and norms created through open, predictable and recognized processes that took into account national perspectives.

42. The Community welcomed United Nations activities aimed at strengthening the rule of law but considered that there was still room for improvement in order to avoid duplication and enhance efficiency. The assistance provided by the United Nations should be broad in scope, covering also challenges relating to economic growth, sustainable development and the eradication of poverty.

43. The rule of law and development were mutually reinforcing. Advancement of the rule of law at the national and international levels was essential for achieving sustainable development, eradicating poverty and hunger and fully realizing human rights, including the right to development. Moreover, in the implementation of the 2030 Agenda for Sustainable Development, it should be borne in mind that the promotion of access to justice for all was an important means of overcoming the root causes of exclusion, in particular by providing free legal aid to vulnerable populations, advancing towards the universalization of birth registration and fostering dispute resolution mechanisms such as mediation and conciliation.

44. CELAC recognized the important role of multilateralism in treaty-making processes, spearheaded by the General Assembly, for the progressive development and codification of international law. From the inception of the United Nations, its Member States had recognized the crucial importance of a robust international legal framework. Multilateralism had allowed that framework to keep pace with a changing and ever more globalized world without losing sight of the governing principles of the United Nations. Those principles were recognized by member States of the Community, which remained active in the development of international law at the regional level; indeed, there were norms and legal concepts developed in the Americas that had later been incorporated in multilateral treaties negotiated under the auspices of the United Nations.

45. CELAC wished to highlight the work performed by the Office of Legal Affairs in discharging the functions of the Secretary-General as the depositary of multilateral treaties and in registering and publishing

them. It would be important to undertake a comprehensive review of the practices and regulations adopted in 1946, in consultation with Member States and to determine the need for any further improvements in that regard.

46. The Committee should continue its consideration of the rule of law in all its aspects to further develop the linkages between the rule of law and the three main pillars of the United Nations, namely, peace and security, human rights and development, as called for 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).

47. **Mr. Joyini** (South Africa), speaking on behalf of the African Group, said that multilateral treaties were an integral aspect of a comprehensive and robust international legal framework, as they helped to ensure that relations between States of all sizes were governed by the rule of law. Multilateral treaties promoted international consensus, provided certainty regarding the rights and obligations of States, and facilitated the peaceful settlement of disputes.

48. Strengthening the rule of law was central to achieving the vision of the United Nations for a just, secure and peaceful world. It was linked to such critical goals as poverty reduction and sustainable human development, as well as to peacebuilding and peacekeeping, accountability for gross violations of human rights and combating organized crime and terrorism.

49. Capacity-building, including enhanced technical assistance, was key to promoting the rule of law at the national level. In determining capacity-building needs and priorities, the concepts of effectiveness and local or national ownership should be prime considerations. Partnership and mutual respect between providers and recipients were essential, and the customs and national, political and socioeconomic realities of the recipient States must be taken into account. In that regard, the Rule of Law Unit should be encouraged to explore initiatives that would enable donors, recipients and other entities involved in financing rule of law activities to work in a more coordinated manner.

50. The African Group supported a balanced approach to both levels of the rule of law, the national and the international. It called on States to ensure that the provisions of the international instruments they adopted were effectively implemented in domestic law.

51. **Mr. Marhic** (Observer for the European Union), speaking also on behalf of the candidate countries Albania, Montenegro, Serbia and the former Yugoslav Republic of Macedonia; the stabilization and association process country and potential candidate Bosnia and Herzegovina; and, in addition, Georgia, the Republic of Moldova and Ukraine, said that multilateral treaties played a key role in strengthening just, peaceful and rules-based international relations in the areas of human rights, trade, the environment and development. The European Union was a contracting party in an increasing number of international agreements, often alongside its States members.

52. The General Assembly played a prominent role in initiating, conducting and concluding multilateral treaty processes. In particular, the European Union welcomed the adoption of General Assembly resolution 69/292 concerning the development of an international legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.

53. The European Union commended the efficient work of the Office of Legal Affairs in discharging the functions of depositary of multilateral treaties and, in particular, the use of new technologies for the Treaty Section database, which was a useful tool for legal practitioners around the world. It also commended its capacity-building and training activities related to the law of treaties and treaty practice. The annual treaty events convened by the Secretary-General had prompted a growing number of signatures and ratifications of international treaties. The European Union welcomed that trend, particularly in respect of treaties on human rights, the law of the sea and the fight against terrorism, corruption, trafficking and transnational organized crime. In several cases, such as the Rome Statute of the International Criminal Court, the Arms Trade Treaty and the Kyoto Protocol to the United Nations Framework Convention on Climate Change, the European Union and its States members had been decisive in providing the critical mass for treaties to enter into force. At the upcoming session of the Conference of the Parties to the Framework Convention, the European Union would seek a fair, ambitious and legally binding agreement on climate change.

54. The European Union commended the work of the United Nations to support implementation of multilateral treaties at the national level, including

assistance for constitutional and legal reform. An effective legal system consistent with international obligations led to political, social and economic stability, boosting entrepreneurship and investment.

55. The European Union firmly supported the International Criminal Court and other international criminal tribunals, which played a critical role in promoting the rule of law, fighting impunity and ensuring accountability for the most serious crimes. It favoured an efficient and effective interplay between the Court and national justice systems, in keeping with the principle of complementarity. It also welcomed the fact that the Office of the Special Representative of the Secretary-General for Children and Armed Conflict had continued to work with the International Criminal court to protect children in armed conflict. The Union acknowledged the important role of the International Tribunal for the Former Yugoslavia, the International Criminal Tribunal for Rwanda and the International Residual Mechanism for Criminal Tribunals and also recognized the importance of the Residual Special Court for Sierra Leone, the Special Tribunal for Lebanon and the Extraordinary Chambers in the Courts of Cambodia and their need for voluntary contributions. It welcomed the efforts of United Nations entities to support international and national judicial institutions, particularly to investigate and prosecute conflict-related sexual violence and addressing women's access to justice. The European Union had adopted an ambitious new Action Plan on Human Rights and Democracy (2015-2020), which focused on justice and the rule of law. By the end of 2015, it would adopt a policy on support for transitional justice.

56. The European Union commended the Organization's efforts to ensure a strategic approach to its broader rule of law work, including the critical work carried out by the Rule of Law Coordination and Resource Group. It also welcomed the thematic briefings and meetings organized in 2015 by the Rule of Law Unit in cooperation with Member States. It was important for States to implement their pledges to share knowledge and best practices and enhance international cooperation.

57. The European Union reaffirmed its commitment to the declaration of the high-level meeting of the General Assembly on the rule of law at the national and international levels and supported further consideration of the rule of law and its linkages with the three pillars of the United Nations. It welcomed the intention of the President of the General Assembly to hold a high-level thematic debate in 2016 on the role of the United Nations in the field of human rights including in relation to governance, the rule of law, gender equality and institution building, with a particular focus on addressing the needs of people affected by conflicts and disasters. The 2030 Agenda for Sustainable Development recognized the importance of fostering peaceful, just and inclusive societies based on the rule of law and good governance and of building transparent, effective and accountable institutions; the Union was committed to supporting partner countries most in need in implementing the new Agenda.

58. **Mr. Johansen** (Denmark) speaking on behalf of the Nordic countries (Denmark, Finland, Iceland, Norway and Sweden), said that, although the rule of law agenda might seem very broad, the Nordic countries believed in the importance of maintaining a comprehensive approach and looked forward to discussing how to further strengthen the linkages between the rule of law, human rights, peace and security and development. The approach called for strong coordination and coherence within the United Nations system.

59. The Nordic countries welcomed the decision of the President of the General Assembly to convene a high-level event on implementing the human rights, governance, rule of law and gender aspects of the work of the United Nations. The rule of law and development were mutually reinforcing. The Nordic countries therefore welcomed the adoption of Goal 16 of the new 2030 Agenda for Sustainable Development, which recognized that sustainable development could not be realized without the rules of law and good governance, including the provision of access to justice for all and the building of effective, accountable institutions at all levels. The rule of law was meaningful only when reflected in practice, and therefore had a rightful place as a core task spanning the three pillars of the United Nations.

60. The Nordic countries strongly supported the work of the international courts and tribunals and called on those Member States that had not already done so to consider accepting the compulsory jurisdiction of the International Court of Justice and acceding to the Rome Statute of the International Criminal Court. International and hybrid criminal courts could play a crucial role in ensuring the rule of law in situations

where, for various reasons, legal processes were unavailable at the national level. In order for any peace agreement to be lasting and inclusive, the victims of mass atrocity crimes must first receive justice. The international community should therefore enhance its efforts to strengthen the international criminal justice system, and States should shoulder their responsibility to close any impunity gap. Enhanced cooperation and assistance had an important part to play in that process.

61. With regard to the role of multilateral treaty processes in promoting the rule of law, the Nordic countries had a long tradition of regional cooperation, reflected in hundreds of treaties on a wide range of topics. Such open and active cooperation had helped to create close and friendly relations among their peoples. Although multilateral treaty processes should evolve in response to emerging needs, it was also important to avoid formulating treaties that were only sparsely ratified and in some cases never entered into force. Such processes could take up unnecessary resources and create a blurred legal situation that impeded the rule of law at the international level.

62. *Mr. Kravik (Norway), Vice-Chair, took the Chair.*

63. **Mr. Norman** (Canada), speaking also on behalf of Australia and New Zealand, said that the three countries welcomed the adoption of Goal 16 of the Sustainable Development Goals, as the rule of law was essential for sustained economic growth, poverty eradication and the protection of all human rights and fundamental freedoms. Treaties had an important role to play in clarifying and providing structure to inter-State relations and thereby led to a fairer and more predictable global economic order. The inclusive process of multilateral treaty-making was itself an illustration of the equality that underpinned relations among States of all sizes.

64. The rule of law was also inextricably linked to the maintenance of international peace and security and the ending of impunity for genocide, war crimes and crimes against humanity. The three countries had supported a range of nationally-owned transitional justice mechanisms, including truth-seeking, justice, reparation and guarantees of non-recurrence. Such initiatives could strengthen the rule of law, help resolve social grievances and promote national reconciliation. In order to be effective, they required an inclusive and flexible approach, one that was based on national ownership and sensitive to political, cultural and gender considerations.

65. Canada, Australia and New Zealand commended the work of the United Nations system in promoting and advancing the rule of law, in particular the work of the International Law Commission in the codification and progressive development of international law and the work of the International Court of Justice in the peaceful settlement of disputes. The three countries were strong supporters of the international criminal tribunals, particularly the International Criminal Court, to which they were States parties. The Rule of Law Coordination and Resource Group and the Rule of Law Unit had also done invaluable work in providing greater coherence to rule of law policy and coordinating information exchange within the United Nations system.

66. Primary responsibility for enhancing the rule of law, however, lay with Member States. Canada had supported programmes to develop rule-of-law capacity in fragile and conflict-affected areas, such as Afghanistan, Colombia, the Democratic Republic of the Congo, Haiti, Ukraine and the West Bank. It was supporting efforts to strengthen counter-terrorism legislation in Africa, the Middle East and South-East Asia. Through the Anti-Crime Capacity-Building Programme, Canada was contributing to the fight against transnational organized crime in the Americas. At the institutional level, Canada had focused on strengthening global institutional norms and policies to uphold the rule of law, and on supporting international initiatives to ensure accountability for human rights abuses.

67. Australia worked bilaterally with partner Governments to support their efforts to strengthen their law and justice systems and improve their efficiency and accountability. It worked with police, courts, corrections systems, legal aid agencies, justice departments and informal justice providers in its region to support the rule of law, ensure access to justice for all and strengthen the safety and security of communities.

68. New Zealand, for its part, carried out assistance and capacity-building programmes supporting regional partners' efforts to ensure access to justice that was appropriate for national and local circumstances, strengthen judicial independence and ensure effective participation in democratic processes. New Zealand

provided sitting judicial officers to its neighbours in the Pacific region, when required. In May 2015, it had sent observers to the elections in the Autonomous Region of Bougainville, Papua New Guinea, as part of a wider programme of electoral support in the region and beyond.

69. **Mr. Barriga** (Liechtenstein) said that the deliberations of the Sixth Committee could occasionally give the impression that Member States were divided over the precise definition of the rule of law and over fears that it could be used as an excuse to interfere in internal affairs. Notwithstanding, their differences were outweighed by what united them. Promoting the rule of law, at the request or with the consent of the countries concerned, was part of the Organization's core business. The main obstacle that it faced was lack of funding, rather than lack of political will. The Committee had yet to reach any firm agreement on ways and means of further developing the linkages of the rule of law and the three pillars of the United Nations; yet the Member States had been able to incorporate numerous elements of the rule of law into the Sustainable Development Goals, thereby making a practical contribution to the development of such linkages. In view of the importance of involving all stakeholders in rule of law activities, Liechtenstein strongly supported the Global Compact's "Business for the Rule of Law" initiative, which sought to increase private sector involvement in rule of law assistance.

70. In order to ensure a level playing field among negotiating parties, treaties in areas of universal concern should always be initiated and negotiated in a universal forum, such as the General Assembly. However, in recent years, the Committee had contributed relatively little to the formulation of treaties. That worrying trend was partly a result of the Committee's insistence on concluding treaties by consensus. It was questionable whether consensus was the only way to satisfy aspirations for universality; treaties adopted after a vote, such as the Arms Trade Treaty, the Rome Statute of the International Criminal Court and the International Convention on Civil and Political Rights, had also been successful from the outset and had gained a wider membership over time. In contrast, striving for consensus without so much as the possibility of a vote strongly reduced the incentive to compromise. The result was either prolonged deadlock or treaties so diluted that parliaments had little interest in ratifying them. Rather than seeking consensus for its own sake, the Committee should therefore focus on garnering support from countries that were genuinely interested in ratifying a treaty.

71. At previous meetings of the Committee, some delegations had expressed their concern that insufficient attention was being paid to the rule of law at the international law. His own delegation believed that the onus for such action lay primarily on States. In particular, accountability and the independent adjudication of disputes depended largely on the active consent of concerned States. Just over one third of Member States had accepted the compulsory jurisdiction of the International Court of Justice, and just under two thirds were parties to the Rome Statute. Consent to those and other forms of international adjudication was the most practical way for States to support the rule of law at the international level. Any such commitment could not be selective; judges' decisions must be accepted and implemented once final.

72. *Mr. Charles (Trinidad and Tobago) resumed the Chair.*

73. **Mr. Meza-Cuadra** (Peru) said that his country had been a driving force behind multilateral treaties at the Latin American level since the nineteenth century, and had subsequently been part of the group of Latin American States that had contributed to the drafting of the Charter of the United Nations. Peru recognized the vital work of the General Assembly in initiating multilateral treaty processes, exemplified, most recently, by the conclusion of the Arms Trade Treaty and the adoption of General Assembly resolution 69/292 concerning the development of an international legally binding instrument on marine biological diversity. Peru also welcomed the contributions of the International Law Commission, UNCITRAL, the Economic and Social Council and the Human Rights Council. The International Labour Organization and the Hague Conference on Private International Law had also helped formulate international treaties in their areas of competence.

74. The report of the Secretary-General rightly highlighted the growing specialization of the domains of treaty regulation, the increasing role of non-governmental actors in treaty processes and the proliferation of institutional structures created by multilateral treaties. As Chair of the Conference of Parties to the United Nations Framework Convention

on Climate Change, Peru hoped that the forthcoming session in Paris, to be held from 30 November to 11 December 2015, would lead to the conclusion of a binding, ambitious and balanced agreement.

75. Goal 16 of the Sustainable Development Goals, whose negotiation Peru had facilitated, reflected the fact that development and the rule of law were interrelated and mutually reinforcing. The General Assembly should work to further develop the linkages of the rule of law and the three pillars of the United Nations: peace and security, human rights and development.

76. **Ms. Yeow** (Singapore) said that, as a country founded on the rule of law, Singapore was convinced that the concept was a vital basis for relations among States and between States and other international entities. Her delegation had thus supported the inclusion of a stand-alone goal on the rule of law in the 2030 Agenda for Sustainable Development. Multilateral treaty processes had an integral role to play in advancing the rule of law. The negotiation of such treaties involved a process of consultation and consensus-building, and the resulting binding standards provided structure, predictability, accountability and fairness. Transparent and inclusive negotiations, in which diverse viewpoints were robustly debated, led to convergence and ultimately ensured that the resulting international legal framework was accepted and implemented. The United Nations Convention on the Law of the Sea, the United Nations Framework Convention on Climate Change and the agreements concluded under the aegis of the World Trade Organization all provided examples of such virtuous circles. Multilateral treaties also helped to codify and develop customary international law, thereby helping it to respond to the changing needs of the international community.

77. The rule of law at the international level was of particular importance to small States, as it helped to mitigate power asymmetries and provided a more predictable and fairer global order. Along with Cyprus and Trinidad and Tobago, and in cooperation with the Rule of Law Unit, Singapore had helped to convene a panel discussion entitled “Multilateral Treaty-Making: Perspectives on Small States and the Rule of Law”, held on 19 May 2015. Small States had distinctive and valuable perspectives that could contribute to the shaping of international treaties and norms. They were also in a good position to bridge divergent viewpoints during treaty-making processes. They could function as neutral, trusted venues for alternative dispute resolution mechanisms, such as the Permanent Court of Arbitration Facility in Singapore. Singapore had therefore established the Forum of Small States, an informal grouping of 105 Member States. It also played an integral role in the Global Governance Group comprising 30 small and medium-sized States, which promoted the exchange of views regarding global governance and the engagement of small States in the activities of the Group of Twenty.

78. Small States’ participation in international processes was often hampered by limited resources, personnel or capacities. One practical solution had been the formation of regional and other groups. The international community could also consider enhancing the delivery of capacity training responsive to changes in multilateral treaty processes. Another possibility would be to bring together different specialized domains within one forum, or to enhance treaty-making processes in order to facilitate input from small States.

79. **Mr. Mahmuduzzaman** (Bangladesh), recalling the United Nations definition of the rule of law set out in paragraph 2 of document A/66/749, said that justice was key to the rule of law and to securing rights and dignity for all. People must be empowered to seek and have access to justice and the mechanisms must be established to deliver it. The rule of law at both the national and the international levels was one of the core values of the United Nations. Through the universal standard-setting power of the General Assembly, the enforcement power of the Security Council and the judicial power of the International Court of Justice, the Organization played a vital role in promoting and enhancing the rule of law at the global level. The corpus of international law developed at the United Nations provided the normative framework for promoting and preserving peaceful and friendly relations among nations and should therefore be observed by all States.

80. The rule of law was a necessary condition for sustainable peace and development in any society. In recent years, his Government had undertaken much-needed administrative, judicial and electoral reforms, including separation of the judiciary from the executive. It had also strengthened the anti-corruption commission, an independent constitutional body, and established a human rights commission to safeguard

the rights of all citizens and ensure that international standards regarding human rights and personal freedoms were respected. An information commission had been established to ensure free access to public information by any citizen. Recently enacted laws provided assistance to autistic children, safeguarded the rights of persons with disabilities and protected women and children from family violence and discrimination. Measures had also been taken to ensure that law enforcement institutions operated with accountability and within the framework of international legal norms and principles. Vulnerable and marginalized groups, including women and minorities, had been given access to affordable legal services, with free legal aid and access to justice provided through hotline services at the national, district, subdistrict and union levels. His Government had taken careful measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law and fairness in the application of the law, including in the trials of the so-called "war criminals of 1971" and in trials of persons accused of terrorist acts.

81. Bangladesh staunchly supported conflict resolution through peaceful, non-military means. Peace was currently threatened by civil wars, uprisings, religious intolerance, transnational crimes, terrorism, piracy, the effects of climate change and financial and energy crises, which had made more apparent than ever the need for just and equitable application of international law, adherence to the Charter of the United Nations and reliance on the International Court of Justice for the peaceful settlement of disputes. His delegation supported efforts to uphold the sovereign equality, territorial integrity and political ideology of all States and to ensure that States refrained from the threat or use of force and settled disputes peacefully. Given the strong interrelationship between the rule of law and development, advancing the rule of law at the national and international levels was essential for sustained and inclusive economic growth.

82. **Ms. Dieguez La O** (Cuba) said that her Government reiterated its commitment to promoting the rule of law in the true sense, which would enable the unjust international order to be transformed. The process must begin with a reformed United Nations that would set the standard for transparency and democracy and ensure the participation of the entire international community in the resolution of pressing global problems. One of those reforms should be to reinforce the central role of the General Assembly, the only organ with universal membership and the exclusive responsibility for the progressive development and codification of international law. As indicated in paragraph 36 of 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), true rule of law also entailed democratizing the international economic, monetary and financial organizations, to place them at the service of the development of peoples, rather than the enrichment of a few. In addition, her delegation was committed to achieving a thoroughgoing reform of the Security Council, to make it an inclusive, transparent and democratic organ that reflected the genuine interests of the international community. It reserved its position on paragraph 28 of the declaration on the rule of law, since the Security Council had not made a positive contribution to the rule of law and was not mandated to do so. The Security Council and some of its members openly violated international law and even the Council's own decisions in order to impose their political agenda and military domination on developing countries.

83. The principles of sovereign equality, compliance with obligations in good faith, peaceful settlement of disputes, refraining from the threat or use of force against the territorial integrity or political independence of any State, non-interference in the internal affairs of other States and non-selectivity should govern the actions of States at all times. The international community should work to ensure the implementation of those basic principles. Any attempt to supplant or replace national authorities, including activities to foment internal conflicts in order to impose external agendas, was unjustified. Promotion of the rule of law must take as its point of departure respect for the legal institutions of all States and recognition of the sovereign right of peoples to establish the legal and democratic institutions most appropriate to their sociopolitical and cultural interests. Activities to strengthen national legal systems must be undertaken only at the request of the State concerned, without any political conditions and with due respect for the State's right to self-determination.

84. Her delegation had noted with concern intentions to impose a particular concept of the rule of law and establish a follow-up mechanism independent of the

Sixth Committee; it rejected any attempt to politicize the item on the pretext that it was a cross-cutting issue. The delegations in the Sixth Committee represented the entire membership of the Organization and were fully competent to deal with the matter.

85. With regard to the report of the Secretary-General on strengthening and coordinating United Nations rule of law activities (A/70/206), an appropriate balance had not been maintained between the rule of law at the national and international levels. As an international organization, the United Nations should focus on the latter. Moreover, there was a lack of balance between the report's treatment of the subtopic for the debate on the rule of law at the current session, namely "The role of multilateral treaty processes in promoting and advancing the rule of law", and the description of the activities carried out by the Rule of Law Unit, which took up much of the report. The report's bias towards the national level could give rise to interventionist interpretations and violation of the principle of non-interference in the internal affairs of States. Furthermore, the report inappropriately linked the rule of law with a human rights-based approach; respect for human rights should be comprehensive and non-selective. The assertion in paragraph 35 of the report that legitimate national constitutions were the cornerstone of rule-of-law-based systems was based on partial, selective concepts highly prone to manipulation. The constitutional order of each nation was subject to the absolute authority of the people of that nation, and no constitutional order that had been legally established by the people in exercise of their right to self-determination could be categorized as illegitimate. It was therefore unclear who, under what parameters and with what authority, would decide which States had a legitimate constitutional order and which did not.

86. Paragraph 34 of the Secretary-General's report coined the term "atrocity prevention", which was legally ambiguous and undefined. "Atrocity crimes" had not been defined under international law and it was technically incorrect to use the term to refer to crimes against humanity. Furthermore, with regard to the reference in the same paragraph to the assistance provided by the Office of the Special Advisers on the Prevention of Genocide and the Responsibility to Protect, it was worth reiterating that paragraph 139 of the 2005 World Summit Outcome (General Assembly resolution 60/1) stressed the need for the Assembly to continue consideration of the concept of responsibility to protect, thereby indicating that its scope and content had not yet been agreed upon. Her delegation noted with concern the attempts to treat the rule of law as a cross-cutting issue, when it had not yet been defined, and to link it to other concepts that also lacked endorsement by the international community. The two concepts in question were still being developed and discussed and did not enjoy consensus in the General Assembly.

87. Lastly, some of the initiatives proposed in chapter IV, section A, of the report exceeded the mandate conferred on the Secretary-General by the General Assembly in its resolution 67/1. The Sixth Committee was the competent forum for analysis and discussion of the concept of the rule of law; there was no mandate to transfer that agenda item to any other body. Moreover, with regard to the assertion in chapter IV, section C, that United Nations leadership at the country level was responsible for guiding and overseeing rule of law strategies and for coordinating country support on the rule of law, it should be clarified that United Nations officials had no mandate to perform rule of law-related activities in any country without the authorization of the State concerned. In accordance with the principles of the Charter of the United Nations, every State had the right to implement its national policies in accordance with its own legislation, without external interference.

88. True rule of law required the renunciation of unilateral acts, including the promulgation and application of extraterritorial laws or the politically motivated exercise of jurisdiction. In that regard, Cuba demanded the immediate lifting of all the extraterritorial provisions constituting the economic, financial and trade embargo imposed by the United States of America on Cuba.

The meeting rose at 5.55 p.m.