

# The Work of the Sixth Committee of the United Nations General Assembly in 2018 and 2019

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## Introduction

The present instalment is the next in a series of articles reviewing the activities of the Sixth (Legal) Committee of the General Assembly, since 2011.<sup>1</sup> The focus is on the work undertaken during the 73rd and 74th sessions of the Assembly, held in 2018 and 2019, respectively.<sup>2</sup> Following the pattern of its predecessors, the review is structured into four sections: the substantive consideration of certain legal issues; the review of the annual work of expert legal bodies; the discharge of oversight functions; and the handling of requests by international organisations for observer status in the General Assembly.<sup>3</sup>

## Substantive Topics on the Agenda of the Sixth Committee

During the period under review, the Sixth Committee had ten substantive topics on its agenda, all but one of which had been considered at its prior sessions. Five entailed a substantive consideration of the legal issues at hand. The focus of the debate on the

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- 1 For a description of the functions and work of the Sixth Committee at the 66th session of the General Assembly, in 2011, as well as the history of a number of items on the agenda of the Committee, see Arnold Pronto, 'The Work of the Sixth Committee of the United Nations General Assembly in 2011' (2011) 36 SAYIL 237. See also Arnold Pronto, 'The Work of the Sixth Committee of the United Nations General Assembly in 2012 and 2013' (2013) 38 SAYIL 144; Arnold Pronto, 'The Work of the Sixth Committee of the United Nations General Assembly in 2014 and 2015' (2015) 40 SAYIL 223; and Arnold Pronto, 'The Work of the Sixth Committee of the United Nations General Assembly in 2016 and 2017' (2017) 42 South African Yearbook of International Law 289. Each section should be read in conjunction with its respective predecessors.
  - 2 As is customary, all the draft resolutions and decisions negotiated in the Sixth Committee, during the period under review, were adopted by consensus, both in the Committee and subsequently by the General Assembly.
  - 3 The information reflected herein is drawn in part from the website of the Sixth Committee at <<http://www.un.org/en/ga/sixth/>>. All official United Nations documents cited herein are available on the website or can be retrieved at <<http://documents.un.org/>>.

remaining five topics was on taking a decision on the respective recommendations of the International Law Commission (ILC) for the further negotiation and adoption of legal instruments. All ten substantive topics were formally before the Committee itself for its consideration and decision, and are herein further distinguished on those grounds from the Committee's substantive consideration of the annual reports of several subsidiary bodies (covering topics formally before those bodies), which is the subject-matter of the next section.

### **Measures to Eliminate International Terrorism**

As in the past, the consideration of legal measures to contribute to the elimination of the scourge of international terrorism continued to be a key focus of consideration in the Sixth Committee during both sessions under review.<sup>4</sup> In reiterating their unequivocal condemnation of terrorism in all its forms and manifestations, all delegations once again observed that terrorism constituted a serious breach of international law and a threat to international peace and security, as well as economic and social development. Some noted that terrorism was a major factor in hindering sustainable development under the 2030 Agenda.

The need to take a holistic approach when countering terrorism was also mentioned. Likewise, the importance of engaging women and youth was emphasised, and the fundamental role of a culture of peace was highlighted. Furthermore, the role of women in preventing violent extremism, as well as in de-radicalisation and reintegration projects was reinforced. A number of delegations voiced their concern about the growing resort to deliberate and systematic sexual and gender-based violence as a method of terrorism. Several delegations also stressed the importance of addressing the root causes of terrorism, including poverty, exclusion, lack of access to resources, social marginalisation and injustice. The importance of addressing challenges raised by the internet and prevention of the dissemination of terrorist content online was also raised. Ongoing concern over the threat posed by foreign terrorist fighters was also expressed.

Delegations reiterated the importance, in countering terrorism, of a strict observance of the Charter of the United Nations as well as other rules of international law, including those pertaining to international human rights law, international refugee law and international humanitarian law. A number of delegations also reiterated their view that terrorism should not be associated with any religion, culture, ethnicity, race, nationality or civilisation; nor should it be confused with the legitimate self-determination and national liberation struggle of peoples under colonial or alien domination and foreign occupation.

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4 For the summary records of the debates in 2018, see UN Docs A/C.6/73/SR 1-5, 33 and 35; and for 2019, see UN Docs A/C.6/74/SR 3-7, 34 and 35. The Sixth Committee had before it the respective reports of the Secretary-General. See UN Docs A/73/125 and A/74/151.

Reference was also made to the fundamental importance of international and regional cooperation, including the sharing of information and best practices. States were called upon to ratify and accede to instruments relating to counter-terrorism, many of which provide a legal basis for such cooperation. Particular mention was also made of the need for capacity-building in vulnerable states with a view to promoting accountability and prosecution of perpetrators. States were also urged to refrain from financing, organising, instigating, or assisting terrorist acts, as well as providing safe havens.

Delegations reiterated their support for the United Nations (UN) counter-terrorism architecture, and specifically the Office of Counter-Terrorism. The importance of implementing the UN Global Counter-Terrorism Strategy and the UN Global Counter-Terrorism Coordination Compact was highlighted. Several delegations took note of the UN High-level Conference of Heads of Counter-Terrorism Agencies of member states, held on 28 and 29 June 2018 in New York. Delegations also expressed their commitment to the first Global Congress of Victims of Terrorism, to be held in 2020, and urged consideration of the needs and rights of victims when developing counter-terrorism measures. A number of delegations underlined the importance of the various sanctions regimes, including the 1267/1989 and 1540 Sanctions Committees. Support was expressed for the continuing and strengthened implementation of fair and clear procedures by the sanctions committees and for the role of the ombudsperson.

Delegations continued to reaffirm the importance of the negotiations on the draft comprehensive convention on international terrorism and the necessity to find consensus thereupon. Some delegations called on all states to exhibit compromise and flexibility, as indefinite postponement on the draft convention was not justified. While some delegations noted the potential usefulness of convening a high-level Conference under the auspices of the UN to contribute to finalising the outstanding issues with respect to the draft comprehensive convention, other delegations maintained that the conference could only take place after technical negotiations had achieved a more advanced stage of consensus.

The work on both the draft convention and the possibility of convening a high-level conference continued in the context of a Working Group of the Sixth Committee, which was established at both sessions.<sup>5</sup>

In both years, the Sixth Committee adopted draft resolutions, by consensus, which were subsequently adopted by the Plenary of the General Assembly as resolutions 73/211 of 20 December 2018, and 74/194 of 18 December 2019, respectively. The Sixth

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5 For the oral report of the Chair of the Working Group in 2018, see UN Doc A/C.6/73/SR.33 paras 1–9; and 2019, see UN Doc A/C.6/74/SR.34 paras 1–10. In 2019, the Chair of the Working Group, Amb. Rohan Perera (Sri Lanka) announced that Mr Michael Imran Kanu (Sierra Leone) had been appointed coordinator of the outstanding issues relating to the draft comprehensive convention on international terrorism.

Committee was scheduled to continue its consideration of the topic in 2020. After a particularly productive spell in the 1990s and early 2000s, 2019 marked the end of a decade of relative inaction; a period during which it became increasingly clear that the impetus for further action by the General Assembly had lost steam, and that the centre of gravity of anti-terrorism efforts at the UN had, for all intents and purposes, shifted to the Security Council.

### **Criminal Accountability of United Nations Officials and Experts on Mission**

The Sixth Committee considered the item at both sessions during the period under review,<sup>6</sup> on the basis of successive reports of the Secretary-General.<sup>7</sup> The working group, which had last been convened in 2015, was reconvened in 2018.<sup>8</sup>

Delegations once again reiterated the importance of the question of the criminal accountability of UN officials and experts on mission, and strongly reaffirmed their support for the zero-tolerance policy of the UN. Delegations also acknowledged the commitment and dedication of UN personnel in the field, while emphasizing the need to ensure that all UN personnel perform their duties in a manner that preserves the image, credibility, impartiality and integrity of the organisation. At the same time, the need to ensure both the due process rights for persons subject to investigation, as well as the protection of victim's rights, was highlighted.

The Secretary-General was commended for the launch, in 2017, of his strategy to improve the organisation's system-wide approach to preventing and responding to sexual exploitation and abuse, particularly in addressing the conduct of all uniformed and civilian personnel. Support was also expressed for various other initiatives, including the creation of the circle of leadership on the prevention of sexual exploitation and abuse in UN operations, the establishment of the UN System Chief Executives Board Task Force on addressing sexual harassment within the organisations of the UN system, the work of the Special Coordinator on improving the UN response to sexual exploitation and abuse, as well as the launch of the Action for Peacekeeping (A4P) initiative. Reference was also made to the establishment of a Group of Friends to eliminate sexual harassment. Initiatives protecting the rights of victims, such as the appointment of a victims' rights advocate and the establishment of a trust fund for victims, were also acknowledged.

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6 For the summary records of the debates in 2018, see UN Docs A/C.6/73/SR 5, 6, 33 and 34; and for 2019, see UN Docs A/C.6/74/SR 7, 8 and 35.

7 See UN Docs A/73/128, A/73/129, A/73/155, A/74/142 and A/74/145.

8 The mandate of the Working Group was to continue the consideration of the report of the Group of Legal Experts of 2006 (A/60/980), in particular its legal aspects, taking into account the views of member states and also noting the inputs by the Secretariat. For the oral report of the Chair of the Working Group (Mr Thabo Molefe of South Africa) see UN Doc A/C.6/73/SR.33 paras 12–18.

Efforts by the Secretary-General and the Office of Legal Affairs of the UN to refer cases to the state of nationality and to facilitate criminal investigations, as well as gathering information on such referrals were commended. Nonetheless, concern continued to exist over the relative lack of information provided by member states on the status of investigations and prosecutions. Several delegations expressed their view that the state(s) of nationality bore the primary responsibility for the investigation and prosecution of allegations against officials and experts on mission. They called for the provision of technical assistance by the UN to support the development of domestic criminal laws, and national capacities to investigate and prosecute serious crimes. A number of delegations noted the worrying trend of states failing to exercise jurisdiction over their nationals even where their domestic legal framework would allow for it, thus causing a gap between prescriptive and enforcement jurisdictions.

Regarding future steps, some delegations reiterated that the full and proper implementation of General Assembly resolutions and the remedial measures contained therein could address the issue of jurisdictional gaps. Other delegations highlighted their support for a combination of short-term measures with long-term processes to address the jurisdictional gaps.

Different views continued to be voiced regarding the report of the Group of Legal Experts and the proposal for an international convention on the topic. While some delegations expressed their support for the proposal or remained ready to consider it, other delegations reiterated that it was still premature to consider a draft convention.

In both years, the Sixth Committee adopted draft resolutions which were subsequently adopted by the Plenary of the General Assembly as resolutions 73/196 of 20 December 2018, and 74/181 of 18 December 2019, respectively. The Sixth Committee was scheduled to continue its consideration of the topic in 2020.

### **The Scope and Application of the Principle of Universal Jurisdiction**

The Sixth Committee considered the item at both sessions under review,<sup>9</sup> on the basis of successive reports of the Secretary-General.<sup>10</sup> As in past sessions, the work was also undertaken in the context of a working group, which was established at both sessions.<sup>11</sup>

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9 For the summary records of the debates in 2018, see UN Docs A/C.6/73/SR 10-12, 33 and 35; and for 2019, see UN Docs A/C.6/74/SR 14-17, 34 and 35.

10 See UN Docs A/73/128, A/73/123 and Add.1, and A/74/144.

11 The mandate of the Working Group was to undertake a thorough discussion of the scope and application of the principle of universal jurisdiction. For the oral report of the Chair of the Working Group in 2018 (Ms Shara Duncan Villalobos of Costa Rica), see UN Doc A/C.6/73/SR.33 paras 19–23, and in 2019 (Mr Christian Guillermet-Fernández of Costa Rica), see UN Doc A/C.6/74/SR.34 paras 32–40.

Delegations reiterated the view that universal jurisdiction was an important and well-established principle of international law aimed at combating impunity. It was emphasized that universal jurisdiction was a complementary mechanism to hold perpetrators accountable for the most serious crimes under international law, which should be exercised in accordance with the principle of subsidiarity. Some delegations also highlighted its role as a critical component of the international criminal justice system and in promoting the rule of law. At the same time, several delegations pointed to the exceptional character of the assertion of universal jurisdiction.

As regards the scope of universal jurisdiction, a number of delegations considered that universal jurisdiction applied to the most serious crimes under international law and provided various examples of such crimes, including war crimes, genocide, crimes against humanity, slavery, torture, piracy, aggression and terrorism. Others cautioned against establishing an exhaustive list of crimes. Instead, in their view, such determination should be based on customary international law, and required a careful analysis of state practice and *opinio juris*.

With respect to its application, some delegations reaffirmed their concern over its potential abuse or misuse. They reiterated their expectation that the principle be applied in accordance with the Charter of the UN and international law, including the requirement of respect for the sovereign equality of states, territorial integrity and non-interference in the internal affairs of states. A number of delegations further highlighted the need for its application in accordance with existing rules of international law on immunity of state officials. The importance of cooperation between states in matters such as extradition, mutual legal assistance, information exchange and law enforcement, was also stressed.

Several delegations supported continued discussions within the Sixth Committee and the Working Group, while some delegations considered that such discussions had reached an impasse. Delegations also shared different views on the decision taken by the ILC to include the topic ‘universal criminal jurisdiction’ in its long-term programme of work. While several delegations voiced support for the ILC to undertake a study on the topic, other delegations considered that it would be premature.

In both years, the Sixth Committee adopted draft resolutions, which were subsequently adopted by the Plenary of the General Assembly as resolutions 73/208 of 20 December 2018, and 74/192 of 18 December 2019, respectively. The Sixth Committee was scheduled to continue its consideration of the topic in 2020.

### **Administration of Justice at the United Nations**

While the item continued to be considered at both sessions, primarily in the Fifth Committee, the General Assembly followed the established practice of also allocating

it to the Sixth Committee for purposes of considering the legal aspects.<sup>12</sup> Delegations again welcomed the reports of the Secretary-General,<sup>13</sup> the Office of the United Nations Ombudsman and Mediation Services,<sup>14</sup> and of the Internal Justice Council<sup>15</sup> and reiterated their satisfaction with the progress achieved by the reform of the administration of justice system since 2009.

During the debate in the Sixth Committee delegations reiterated the view that the administration of justice system should reflect the core principles of justice and the rule of law, together with the principles of due process, transparency, and judicial independence. It was noted that access to justice was one of the most fundamental human rights that the organisation actively promoted. It was therefore essential to ensure access to justice for personnel who, though not considered members of the organisation's staff, played a central role in supporting the implementation of its programmes.

The contribution of the Dispute and Appeals Tribunals to the administration of justice in the organisation was acknowledged, as was the fact of gender parity in their composition. At the same time, some delegations also called for equal gender, race and regional representation throughout the administration of justice system. A number of delegations expressed concern about the backlog of pending cases on the docket of the UN Dispute Tribunal. It was suggested that the rules of procedure of the Dispute Tribunal be reviewed to identify opportunities to increase its working speed.

At the same time, the view was expressed that more should be done to promote a culture of trust and conflict prevention throughout the organisation and to encourage the informal resolution of disputes whenever possible in order to avoid costly and unnecessary litigation. The Secretary-General was encouraged to explore new ways to improve the use of informal mechanisms, such as mediation. It was also suggested that incentives should be offered to encourage greater use of informal options. A number of delegations also pointed to the importance of the work of the Management Evaluation Unit, which helped to prevent unnecessary litigation before the Tribunal. Support was expressed for the work of the Office of Staff Legal Assistance in providing legal guidance to UN staff worldwide. Nonetheless, delegations noted the considerable number of self-represented applicants before the Dispute Tribunal and welcomed the creation of the toolkit for self-represented applicants. Further analysis of the trend of self-representation was recommended.

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12 For the summary records of the debates in 2018, see UN Doc A/C.6/73/SR.12, and in 2019, UN Doc A/C.6/74/SR.17.

13 See UN Docs A/73/217 and Add.1 and A/74/172.

14 See UN Docs A/73/167 and A/74/171.

15 See UN Docs A/73/218 and A/74/169.

The Secretary-General was commended for his comprehensive analysis of the remedies available to non-staff personnel and for the establishment of a pilot project to offer such personnel access to informal dispute-resolution services as part of the mandate of the Office of the United Nations Ombudsman and Mediation Services. Support was also expressed for the recommendation put forward by the Internal Justice Council in its report (A/73/218) that the Secretary-General should further strengthen capacity within the UN to investigate claims of sexual harassment and to implement fair and efficient procedures to address complaints. The approval by the UN system Chief Executives Board of a model policy on sexual harassment for UN system entities was welcomed. Several delegations also highlighted the indispensability of effective protection against retaliation in the system of administration of justice. Several delegations welcomed efforts to improve transparency and raise awareness of the internal justice system. Nevertheless, it was recognised that further work needed to be done in publicising the work of the internal justice system.

In line with the established practice, no draft resolution was adopted in the Sixth Committee at either session under review. Instead, on both occasions the Sixth Committee again opted for sending a letter, addressed from its Chairperson to the President of the General Assembly, drawing attention to the views of the Committee on certain specific issues relating to the legal aspects of the reports submitted under the agenda item as discussed in the Committee, and requesting that such information be brought to the attention of the Fifth Committee.<sup>16</sup>

### **Consideration of Texts Proposed by the International Law Commission**

During the period under review the Sixth Committee considered five items arising from the work of the ILC. Formally speaking, the nature of the decision before the General Assembly was procedural, namely what action to take on the respective recommendations made by the Commission for the negotiation of international conventions. However, of the ten sets of draft articles transmitted by the ILC to the General Assembly since 2001, with the recommendation that they form the basis of the conclusion of an international treaty, action had only been taken on one proposal.<sup>17</sup> The Sixth Committee had been unable to reach agreement on the way forward on all the other recommendations. This trend continued during the period under review. Notwithstanding such impasse, it should be noted that, as will be described, the debate

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16 For further information on the action taken by the Fifth Committee in 2018 and 2019, see UN Docs A/73/669 and A/74/433, respectively. See also: UNGA Res 73/276 (22 December 2018) and UNGA Res 74/258 (27 December 2019), respectively.

17 In 2017 the General Assembly, following the recommendation of the Sixth Committee, did not renew its periodic consideration of the agenda item ‘effects of armed conflicts on treaties’, thereby effectively putting to rest the recommendation of the ILC that the articles on that topic be adopted as a treaty. See Arnold Pronto, ‘The Work of the Sixth Committee of the United Nations General Assembly in 2016 and 2017’ (2017) 42 SAYIL 290–319.



in the Sixth Committee invariably also strayed into issues of substance which, for some delegations, were central to their views on the procedural action to be taken.

Of all of the ILC texts before the Sixth Committee, the key recommendation continued to be that regarding the fate of the 2001 articles on the responsibility of states for internationally wrongful acts,<sup>18</sup> which the Sixth Committee reverted to in 2019. The importance of the work on that agenda item related to the fact that the fate of several other ILC texts (such as those on diplomatic protection and the responsibility of international organisations) continued to be perceived (in the Committee) as being linked to the outcome of the state responsibility articles. There was also a growing appreciation that the solution eventually found for the state responsibility articles could serve as a model for some of the other instruments. The importance of those articles was further evident from the amount of energy invested by delegations on both sides of the debate. 2019 witnessed a significant hardening of positions resulting in a drawn-out negotiation of the draft resolution so much so that, with the exception of the draft articles on the prevention and punishment of crimes against humanity, very little space and time was left in 2019 for the work on the other ILC texts that were before the Sixth Committee. In all such other cases, the Committee fell back on the default position of adopting ‘roll-over’ draft resolutions simply deferring the consideration of those texts into the future.

### *Responsibility of States for Internationally Wrongful Acts*

The Sixth Committee reverted to its consideration of the 2001 articles on the responsibility of states for internationally wrongful acts in 2019 on the basis of two Secretary-General reports: one containing a further instalment of the compilation of decisions of international courts, tribunals and other bodies citing the articles,<sup>19</sup> and the second containing comments and information received from governments.<sup>20</sup> The Committee established a working group with the mandate to continue the debate of examining the question of a convention or other appropriate action based on the ILC’s draft articles.<sup>21</sup> As in past sessions, delegations continued to disagree on whether to proceed to the negotiation of a multilateral convention.

As of 2019, more than half of the membership of the UN (over 100 member states, as represented by regional group positions, and drawn from all the regional groups within the UN) continued to support the conclusion of a convention based on the 2001 articles. The prevailing view among those delegations was that a convention would lead to

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18 See UNGA Res 56/83, annex (12 December 2001).

19 UN Doc A/74/83.

20 UN Doc A/74/156.

21 The Working Group, which was chaired by Ms Maitê de Sousa Schmitz (Brazil), held three meetings, on 15, 22 October and 7 November 2019, respectively. See UN Doc A/C.6/74/SR.34 paras 13–21 for the oral report of the Chair of the Working Group.

increased legal certainty and the crystallisation of the rules on state responsibility, which had, by and large, been accepted by the international community as settled law. It would also offer an opportunity to address the few remaining outstanding substantive issues of concern to some states. It was further suggested that the risk of a treaty negotiation undermining the 2001 articles could be mitigated by clearly defining the scope of a diplomatic conference convened to negotiate such treaty, with a view to retaining the careful balance struck within the articles. The concern of some of those favouring a treaty negotiation was that the continued inability of the Sixth Committee to act risked sending the signal that states were disinterested in the articles.

The group of delegations opposing such treaty negotiation grew to approximately thirty states (with the addition of the Nordic countries, which came out definitively in opposition to a treaty), drawn primarily from within the Western European and Other States Group.<sup>22</sup> Those delegations pointed to the risk of disturbing the careful balance struck within the articles, and the potential questioning or risk of unravelling of the 2001 articles that could occur during negotiations at a diplomatic conference. It was also suggested that the articles in their existing form served as an influential and widespread tool for governments and international courts and tribunals. Some argued that the acceptance of the articles would be wider if consistently resorted to in state practice, rather than by means of encapsulation in a convention.

The focus of the work was on the text of the draft resolution. Various ideas were put forward (primarily by the proponents of a treaty) with a view to commencing a process that would result in the Assembly taking a decision one way or the other. Those included increasing the frequency of consideration of the topic to annually, or biennially, as well as activating the possibility, envisaged in resolution 71/133, of the General Assembly requesting the Secretary-General to provide information on all procedural options regarding possible action on the basis of the articles, without prejudice to the question of whether such possible action would be appropriate. The delegations in opposition to a treaty mostly also opposed taking any such steps, ostensibly out of the concern that any movement could be perceived as momentum towards the eventual negotiation of a treaty.

Despite intense negotiations, held over several meetings of the Working Group, very little progress was found possible. The draft resolution proposed by the Sixth Committee, subsequently adopted by the General Assembly as resolution 74/180 of 18 December 2019, retained the status quo of its predecessors. The key decision was to again postpone the consideration of the fate of the 2001 articles by a further three years, to 2022. Such outcome came as a bitter disappointment for a number of delegations, which over the years had become increasingly vocal in their support for the negotiation

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22 Even if it was not a position common to that group. States such as Spain and France continued to support a treaty. Portugal was a particularly active proponent of a treaty within the Sixth Committee.

of a convention or who felt that the time had come for the Sixth Committee to begin to take action on the ILC's recommendation. Some mention was even made, in passing, to the possibility of calling a vote. Nonetheless, the prevailing view within the Sixth Committee remained that, given the significance of the rules on state responsibility, any procedural decision on the way forward had to be based on consensus among the states. At the same time, the concern existed that the consensus-based decision-making process of the Sixth Committee should not be understood as providing each delegation with a veto. Rather, consensus-based decision making was more in the nature of a collaborative process, whereby states work together to seek a commonly agreed outcome, and which at times might entail those holding a minority view recognising as much and seeking to find an accommodation with the majority.

It is unclear to the present writer what outcome future negotiations on the 2001 articles might bring. It is tempting to draw the conclusion, as many have done and continue to do, that the possibility of a convention is for all intents and purposes dead. Nonetheless, what such assessment misses is the increasingly strident manner in which the proponents of a treaty have made their case during the last two occasions in which the outcome of the 2001 articles was discussed (2016 and 2019), and that the ferment in thinking, in terms of ideas on how to move forward, has quite clearly been more evident in that camp. What is more, the position of the states opposing a treaty increasingly appears to be more in the nature of a rear-guard action, blocking any movement at all, seemingly without a clearly articulated vision as to an alternative outcome for the recommendation of the ILC. Seen from this perspective, it is also quite possible to draw the conclusion that the wind is at the collective backs of the proponents of a treaty.

By the time the Sixth Committee considers the matter again (in 2022), it will have passed the twenty year mark since the ILC made its recommendation. At some point, a decision either to proceed to a convention or to put such possibility to bed ought to be taken. While further procrastination may seem to some to be the most convenient or realistic outcome (politically), the risks to the reputation of the Sixth Committee are palpable. It is increasingly viewed as a committee characterised by gridlock, where substantive decisions are, by and large, avoided, and feeds into a broader narrative of the committee being a shadow of its former self; and, furthermore, that results are best achieved through processes undertaken elsewhere. Direct evidence of this is already visible in the form of an initiative undertaken by a group of states (all member states of the UN) outside of the organisation, relating to mutual legal assistance in the context of crimes against humanity (discussed further below), which has been quite clearly espoused as a more viable alternative to a similar process being undertaken in the Sixth Committee (also arising from the work of the ILC). There was a time (not that long ago) when states would not lightly consider the possibility of undertaking initiatives outside of the Sixth Committee—not least initiatives in direct competition to those presently before the Committee.

There is no gainsaying the potentially negative effect of such growing cynicism on the long-term vitality of the Sixth Committee. It risks hollowing out the perceived value of consensus-based decision making more generally, with potentially broader implications for the work of the Committee in the future. It is not entirely beyond the realm of possibility that states, increasingly frustrated by a committee whose decision-making process has ground to a halt, will no longer bring future initiatives to it and will seek solutions for existing work by other means, such as by resorting to the vote (as they are already entitled to under the rules of procedure of the General Assembly), or elsewhere, by initiating diplomatic negotiations among like-minded states outside of the organisation. The risk of fragmentation of international law implied by either of those outcomes is at least the same if not more than that inherent in a treaty negotiation undertaken within the auspices of the UN.

### *Diplomatic Protection*

In 2019, the Sixth Committee returned to its consideration of the ILC's 2006 recommendation that the General Assembly adopt an international convention on the basis of the draft articles on diplomatic protection, finalised by the Commission.<sup>23</sup> As in past sessions, views among delegations on the feasibility of a treaty continued to be divided. Those that favoured proceeding with the negotiation of a treaty were of the view that the ILC's articles had struck a fair balance between the progressive development of international law and its codification, and that a convention would bring legal certainty and achieve greater acceptance by states. Some stressed the importance of the proposed convention for the protection of human rights, including that of refugees and stateless persons.

However, other delegations continued to express doubts as to the advisability of proceeding to a treaty negotiation. For some, it would be more advisable to allow time for the rules in the articles to be consolidated through state practice. Others expressed opposition on substantive grounds, namely that they were not in a position to accept some of the provisions relating, inter alia, to the protection of refugees and stateless persons, dual nationality and the recommended practice for states which have received compensation arising from the exercise of diplomatic protection.

The key drag on the negotiations, which once again took place in the context of a working group of the Sixth Committee, remained the inaction on the 2001 articles on the responsibility of states for internationally wrongful acts (discussed above). There continued to be a general understanding that, given the close connection between the two texts, the fate of the diplomatic protection articles was linked to that of the state responsibility text, so much so that a specific proposal was made (by the delegation of Armenia) that the two agenda items be formally merged so that both texts would be

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23 For the summary records of the debates in 2019, see UN Docs A/C.6/74/SR 13–15, 34 and 35. The Sixth Committee had before it the report of the Secretary-General. See UN Doc A/74/143.

considered together in the future. The proposal was, however, not accepted (not least because the proponents of the negotiation of an international convention on the basis of the 2001 articles were reluctant to introduce further complexity into the negotiations).

The Sixth Committee settled on a draft resolution, subsequently adopted by the General Assembly as resolution 74/188 of 18 December 2019, which once again deferred the taking of a decision on the recommendation of the ILC for three years (to 2022). The key difference in the resolution, in relation to its predecessors, was that the Assembly no longer called for the negotiations to be conducted in a working group of the Sixth Committee.<sup>24</sup> This constituted an admission that the substantive discussion had, for the time being, largely run its course, and that delegations were awaiting developments on the state responsibility front to proceed with the work on diplomatic protection.

*Prevention of Transboundary Harm from Hazardous Activities and Allocation of Loss in the Case of such Harm*

In 2019, the Sixth Committee returned to the consideration of the fate of the draft articles on prevention of transboundary harm from hazardous activities, as well as that of the draft principles on the allocation of loss in the case of transboundary harm arising out of hazardous activities, adopted by the ILC in 2001 and 2006, respectively.<sup>25</sup> The two texts had emerged from the Commission's work on international liability for injurious consequences arising out of acts not prohibited by international law, starting in the 1970s (itself an outgrowth of the work on state responsibility). By the late 1990s, the ILC had decided to separate the two components (prevention and allocation of loss) resulting in the development of the two instruments in question. Upon the ILC's adoption of the latter instrument, in 2006, the Sixth Committee decided to join the consideration of the fate of both texts under a single agenda item,<sup>26</sup> which from 2007 the General Assembly discussed on a triennial basis.

The debate in 2019 followed the standard two-tier approach, with views being expressed both on the substance and on the preferred procedural outcome. As for the former, some delegations, for example, noted the absence of a definition of the term 'significant transboundary harm' in the articles. The view was also expressed that due consideration should be provided to the different features of environmental damage and that the considerations of hazardous activities should contemplate disaster management.

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24 The Working Group, which was chaired by Mr Thabo Molefe (South Africa), held two meetings, on 16 and 22 October 2019, respectively. See UN Doc A/C.6/74/SR.34 paras 24–29 for the oral report of the Chair of the Working Group.

25 For the summary records of the debates in 2019, see UN Docs A/C.6/74/SR.21, 33 and 34. The Sixth Committee had before it two reports of the Secretary-General. See UN Docs A/74/131 and Add.1 and A/74/132.

26 For a brief overview of the origins of the consideration of the topic in the Sixth Committee, see Pronto 2013 (n 1) 154–155.

Nonetheless, as in past sessions, delegations continued to be unable to reach agreement on the fate of both texts. For some delegations, the texts would be most effective in the form adopted by the ILC, as non-binding guidance or as a reflection of customary international law. Indeed, in the view of some delegations, both texts were already part of general international law. Some of the hesitance was more structural, in the sense that, for some delegations, the topics of the two texts were best dealt with through sector-specific and regional instruments, rather than a general convention. Other delegations continued to prefer a single convention incorporating both the articles and the principles, and called for continuing the work on finding the most acceptable format for adopting both texts.

Although not explicitly framed in such terms, the variance in views described above can also be understood as being a consequence of the long shadow cast by the work on state responsibility. The inertia resulting from the inability to reach a solution on the articles on the responsibility of states for internationally wrongful acts has also had an effect on the work on prevention and allocation of loss, for at least two reasons. First, because of the substantive overlap between the topics. Both at their root concern themselves with the legal consequences of injury, and as such the debate in the Sixth Committee on both sets of texts revealed a certain alignment of political views and considerations among states. Second, as discussed above, the failure to find a procedural formula for advancing the work on state responsibility also resulted in a lack of movement on the work on international liability.

The Sixth Committee finalised a draft resolution, subsequently adopted by the General Assembly as resolution 74/189 of 18 December 2019, which once again deferred the taking of a decision on the recommendation of the ILC for three years (to 2022).

### *The Law of Transboundary Aquifers*

In 2019, the Sixth Committee reverted to its consideration of the articles on the law of transboundary aquifers,<sup>27</sup> adopted by the ILC in 2008, and, in particular, the recommendation of the ILC that the Assembly, inter alia, recommend that states concerned make appropriate bilateral or regional arrangements for the proper management of their transboundary aquifers on the basis of the principles enunciated in the articles and consider, at a later stage, and in view of the importance of the topic, the elaboration of a convention on the basis of the articles. The recommendation had been considered by the Sixth Committee on a triennial basis since 2008.

As per the established pattern in debates on ILC texts, governments commented on both the substance of the articles and on the question of their final form. As for the former, a number of delegations pointed to the social and economic factors linked to the

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27 For the summary records of the debates in 2019, see UN Docs A/C.6/74/SR.21, 34 and 35.

exploitation of transboundary aquifers and recalled the importance of capacity-building, technical assistance and international cooperation. Several delegations also highlighted the linkage with the achievement of the Sustainable Development Goals (SDGs), specifically Goal 6 which concerns ensuring the availability and sustainable management of water and sanitation for all. Some delegations expressed the view that sovereignty over aquifers must be exercised in conformity with other rules of international law, which provide limits to the overuse or exploitation thereof. The need to apply the concept of equitable use in relation to future generations was also mentioned. Several delegations again pointed to the 2010 Agreement on the Guarani Aquifer as an example of a regional arrangement which implemented the principles contained in the articles.

No agreement was again forthcoming as to the future form of the articles. A number of delegations preferred to emphasise the importance of the articles as guidelines for states in their conclusion of bilateral or regional agreements. At the same time, support was also expressed for the articles eventually serving as a basis for an international framework convention. Nonetheless, it continued to be the case that since only a relatively small number of states shared groundwaters with other states, or enjoyed the technical expertise to exploit existing shared aquifers, the perceived necessity of a global convention remained low. In fact, consideration was given to extending the periodicity of the consideration of the agenda item by the Sixth Committee from three to five years, since it was felt that a longer period would allow a proper assessment of developments and state practice with a view to facilitating decision-making by the Assembly on the final form. That proposal did not, however, garner sufficient support within the Committee.

The Sixth Committee finalised a draft resolution, subsequently adopted by the General Assembly as resolution 74/193 of 18 December 2019, which once again deferred the taking of a decision on the recommendation of the ILC for three years (to 2022). As had become standard in the resolution adopted by the Assembly on this topic, the International Hydrological Programme of the United Nations Educational, Scientific and Cultural Organization was encouraged to continue its contribution by providing further scientific and technical assistance to states.

### *Protection of Persons in the Event of Disasters*

In 2018, the Sixth Committee returned to its consideration of the recommendation of the ILC that the General Assembly conclude an international convention on the basis of the draft articles on the protection of person in the event of disasters.<sup>28</sup> The draft articles were adopted by the ILC in 2016, and the Assembly decided to postpone the consideration of the ILC's recommendation by two years, to 2018. The debate in the

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28 For the summary records of the debates in 2018, see UN Docs A/C.6/73/SR 31 and 35. The Sixth Committee had before it the report of the Secretary-General. See UN Doc A/73/229.

Committee, held that year, did not lead to agreement as to the fate of the draft articles. While a number of delegations, drawn from most of the regional groups represented in the UN, supported the conclusion of an international convention, others were either undecided or opposed. Some expressed concerns at the level of substance, and, for example, took the view that the draft articles, if adopted as a treaty, would encroach on the sovereignty of states affected by disasters, by, *inter alia*, purporting to establish an international legal obligation to seek disaster assistance when the affected state's national coping capacity was overwhelmed. Other delegations were opposed to a treaty on more fundamental grounds, namely that, in their view, the protection of persons in the event of disasters was best addressed through guidance and practical cooperation, and not through a binding legal instrument purporting to establish legal rights and obligations.

The outcome of the consideration that year was a further postponement of the discussion. The Sixth Committee settled on a draft resolution, subsequently adopted by the General Assembly as resolution 73/209 of 20 December 2020, which deferred the taking of a decision on the recommendation of the ILC for two years to 2020.

### **Strengthening and Promoting the International Treaty Framework**

The only new item considered by the Sixth Committee during the period under review was the item 'Strengthening and promoting the international treaty framework', added to the agenda of the General Assembly by Argentina, Austria, Brazil, Italy and Singapore, in 2018.<sup>29</sup> The origin of the new topic lay in the work on 'the rule of law at the national and international levels' in 2015, when the Assembly invited the Secretary-General to present elements for a review of the regulations to give effect to Article 102 of the Charter of the UN ('the Regulations'),<sup>30</sup> which had last been updated in 1978.<sup>31</sup> While some such elements were presented by the Secretary-General in his 2016 report on that agenda item,<sup>32</sup> the Assembly requested the Secretary-General to further elaborate on the issue in a dedicated report,<sup>33</sup> which was subsequently produced in 2017, under the title 'Review of the regulations to give effect to Article 102 of the Charter of the United Nations.'<sup>34</sup> In that report, the Secretary-General made some suggestions regarding, *inter alia*, the possible means for increasing the efficiency of the registration and publication process and enhancing the role played by the Treaty Section of the Office of Legal Affairs of the UN. The following year, the sponsor delegations proposed the inclusion of a separate agenda item on the agenda of the General Assembly to serve

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29 See UN Doc A/73/141.

30 UNGA Res 70/118 (14 December 2015).

31 UNGA Res 33/141 (19 December 1978).

32 UN Doc A/71/169.

33 UNGA Res 71/148 (13 December 2016).

34 UN Doc A/72/86.



as ‘dedicated platform for a review of the regulations to give effect to Article 102 of the Charter of the United Nations.’<sup>35</sup>

During the debate held in the Sixth Committee in 2018,<sup>36</sup> delegations generally supported the inclusion of the agenda item, while noting that the goal was to reaffirm and promote the appropriate registration and publication of treaties and international agreements under Article 102 of the Charter of the UN. Support was also expressed for establishing a dedicated process for the periodic review of the regulations, to consider the evolution of practice and encourage the use of modern technological tools. This could be done by establishing a new, updated and user-friendly e-platform for the international treaty framework, as well as streamlining the procedural requirements for registering treaties.

It was noted that, although over 70,000 treaties and more than 125,000 treaty actions had been registered since 1945, the obligation under Article 102 had not been met with universal compliance and the extent of treaty registrations appeared to be geographically imbalanced. What was more, a significant number of treaties had not been registered with the UN. Accordingly, the work on the agenda item, while focused initially on a review of the existing regulations, was also intended as an opportunity to hold a broader exchange of views among member states regarding their treaty-making practice. It was also suggested that the agenda item could provide the opportunity for a discussion on other treaty law-related topics, such as the role of the Secretary-General as depositary of multilateral treaties.

The Sixth Committee proposed a draft resolution, subsequently adopted by the General Assembly as resolution 73/210 of 20 December 2018, by which the Assembly, *inter alia*, adopted a further amendment to the Regulations (as negotiated in the Sixth Committee that year). In the resolution the Assembly also acknowledged that some states considered that the Regulations needed further consideration or possible updating. Furthermore, the Assembly welcomed efforts to build the capacity of states in treaty law and practice; as well as the efforts made to develop and enhance the UN electronic treaty database; and recognised the importance of the legal publications prepared by the Treaty Section of the Office of Legal Affairs of the UN. The Assembly further requested the Secretary-General to provide, in 2020, a report, following broad consultations with member states, with information on practice and possible options to review the regulations, taking into account the outstanding issues identified by member states.

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35 UN Doc A/73/141 para. 1.

36 For the summary records of the debate in 2018, see UN Docs A/C.6/73/SR.5 and 35. The Sixth Committee proceeded on the basis of the recommendations of the Secretary-General from 2017. See UN Doc A/72/86.

## Consideration of Reports of Expert Legal Bodies

### Report of the International Law Commission

The reports of the ILC on its 70th (2018)<sup>37</sup> and 71st (2019)<sup>38</sup> sessions were considered by the Sixth Committee during the period under review.<sup>39</sup>

The main achievement of the 2018 session of the ILC<sup>40</sup> was the adoption of two texts, namely the draft conclusions on subsequent agreements and subsequent practice in relation to the interpretation of treaties<sup>41</sup> and the draft conclusions on identification of customary international law;<sup>42</sup> both of which were adopted on second reading with commentaries. Given the non-binding nature of both texts, the ILC did not recommend that they serve as a basis for an international convention. As regards the first of the two texts, the ILC instead recommended that the General Assembly take note of the draft conclusions (and the commentaries) in a resolution, including by annexing them to the resolution, and drawing them to the attention of states and all who may be called upon to interpret treaties.<sup>43</sup> Similarly, the ILC recommended that the General Assembly, *inter alia*, take note in a resolution of the draft conclusions on identification of customary international law, annex the draft conclusions to the resolution, and ensure their widest dissemination; as well as commend the draft conclusions (and the commentaries) to the attention of states and all who may be called upon to identify rules of customary international law. It also recommended that the Assembly pursue a number of suggestions made by the Secretariat, in a memorandum it prepared on ways and means of making the evidence of customary international law more readily available.<sup>44</sup> In the same year, the ILC further completed the first reading of two further texts, namely the

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37 UNGA, ‘Report of the International Law Commission on the Work of its 70th Session’ (30 April–1 June 2018 and 2 July–10 August 2018) UN Doc A/73/10.

38 UNGA, ‘Report of the International Law Commission on the Work of its 71st Session (29 April–7 June and 8 July–9 August 2019) UN Doc A/74/10.

39 For the summary records of the debates in 2018, see UN Docs A/C.6/73/SR 20 to 30 and 33; and for 2019, see UN Docs A/C.6/74/SR 23 to 33 and 35.

40 For a more detailed summary of the work of the ILC in 2018, see the statement of its Chair, summarised in UN Docs A/C.6/73/SR 20 paras 2–19; A/C.6/73/SR 24 paras 81–102; A/C.6/73/SR 28 paras 27–49. See the website of the ILC <<http://legal.un.org/ilc/>>. See also Dire Tladi, ‘The International Law Commission is 70... Staying with the Old and Playing with the New? Reflections on the Work of the Commission during its Commemorative Year’ (2018) SAYIL 43 at 100–118,

41 See UN Doc A/73/10 para 52.

42 *ibid* para 65.

43 The General Assembly carried out the recommendation of the ILC in UNGA Res 73/202 (20 December 2018).

44 See UN Doc A/CN.4/710/Rev.1 paras 100–124. The General Assembly carried out the first part of the ILC’s recommendation in UNGA Res 73/203 (20 December 2018). It also ‘[a]cknowledge[d] the utility of published digests and surveys of practice relating to international law, including those that make legislative, executive and judicial practice widely available, and encourage[d] States to make every effort to support existing publications and libraries specialized in international law.’

draft articles on the protection of the atmosphere,<sup>45</sup> and the draft guide to the provisional application of treaties,<sup>46</sup> both with commentaries thereto. As per the normal practice, governments were given a year (until the end of 2019) to review and comment on both texts, with a view to the second reading of both texts taking place in 2020.

In 2019,<sup>47</sup> the ILC adopted, on second reading, the draft articles on prevention and punishment of crimes against humanity,<sup>48</sup> with commentaries thereto, and recommended that an international convention be concluded on the basis of the draft articles either by the General Assembly or by an international conference of plenipotentiaries. The ILC also concluded the first reading of two further texts, namely the draft conclusions on peremptory norms of general international law (*jus cogens*),<sup>49</sup> and the draft principles on protection of the environment in relation to armed conflicts,<sup>50</sup> both together with commentaries thereto. The second reading of both texts is expected to take place in 2021, based on the views of governments received by the end of 2020.

The ILC also continued its consideration of the other topics on its programme of work, including immunity of state officials from foreign criminal jurisdiction and succession of states in respect of state responsibility. In 2018, the ILC decided to include the topic ‘general principles of law’ to its programme of work, and appointed the Ecuadorian member, Mr Marcelo Vázquez-Bermúdez, as Special Rapporteur. He submitted his first report on the topic<sup>51</sup> to the ILC in 2019. In 2019, the ILC decided to include the topic ‘sea-level rise in relation to international law’ in its programme of work, and established a Study-Group, with five co-chairs,<sup>52</sup> to undertake the work on the topic, which was scheduled to commence in earnest in 2020.

The ILC further decided to include the following topics in its long-term programme of work, as potential topics for consideration in the future: universal criminal jurisdiction, reparation to individuals for gross violations of international human rights law and serious violations of international humanitarian law, and prevention and repression of piracy and armed robbery at sea.

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45 A/73/10 para 77.

46 *ibid* para 89.

47 For a more detailed summary of the work of the ILC in 2019, see the statement of its Chair, summarised in UN Doc A/C.6/74/SR 23 paras 2–35. See the website of the ILC <<http://legal.un.org/ilc/>>.

48 UN Doc A/74/10 para. 44.

49 *ibid* para 56 (undertaken on the basis of the work of the Special Rapporteur for the topic, Prof. Dire Tladi of South Africa).

50 *ibid* para 70.

51 UN Doc A/CN.4/732.

52 Mr Bogdan Aurescu (Romania), Mr Yacouba Cissé (Côte d’Ivoire), Ms Patrícia Galvão Teles (Portugal), Ms Nilüfer Oral (Turkey) and Mr Juan José Ruda Santolaria (Peru).

The Sixth Committee considered the annual report of the ILC, in both years, during ‘international law week’, at the end of October each year, and which continued to be the high-level segment of the Sixth Committee (attended by legal advisers from capitals). As in the past, the debate on the ILC’s report provided an opportunity for governments to provide their views on the substance of the work product of the ILC,<sup>53</sup> as well as to place their state practice on record. In doing so, governments, acting collectively through the General Assembly, also carried out an important policy function, namely of both renewing the mandate of the ILC and in providing guidance in terms of which topics the ILC might consider taking on next. Hence, for example, the strong support expressed in the Sixth Committee for the consideration of the topic ‘sea-level rise in relation to international law’ played a significant role in the ILC’s subsequent decision to commence work on it. On the other hand, differences of opinion within the Sixth Committee on the advisability of the ILC considering the topic ‘universal criminal jurisdiction’ continued to constrain the possibility of the ILC taking up the topic.

In 2019, a key area of activity in the Sixth Committee was the consideration of the ILC’s recommendation that the General Assembly consider concluding a convention on the basis of the draft articles on prevention and punishment of crimes against humanity (see above). Strong cross-regional support for the proposal (which was considered by some delegations to be among the most important recommendations ever made by the ILC) was expressed in the Committee, and the possibility of convening a diplomatic conference of plenipotentiaries to negotiate the convention (possibly in Vienna) was referred to. Nonetheless, several delegations, including China, the Russian Federation, Turkey and Egypt, among others, expressed doubts, and called for more time to consider the recommendation. Since no agreement on the way forward was forthcoming, the Sixth Committee proposed that the discussion be simply rolled-over to 2020.<sup>54</sup> Such discussions were further complicated by the existence of a parallel treaty-negotiation process, being undertaken outside of the UN by a group of like-minded states (led by Argentina, Belgium, Mongolia, the Netherlands, Senegal and Slovenia), known as the ‘Joint Initiative for a Multilateral Treaty on Mutual Legal Assistance and Extradition for the Most Serious International Crimes.’<sup>55</sup> Although initially focused on mutual legal assistance, the initiative had evolved over time to become more all-encompassing, to include both procedural and substantive questions, thereby overlapping significantly with the draft articles of the ILC.<sup>56</sup>

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53 A summary of the views expressed in the Sixth Committee is to be found in the annual topical summary prepared by the Secretariat. See UN Docs A/CN.4/724 (for the 2018 debate) and A/CN.4/734 (for the 2019 debate).

54 The General Assembly endorsed the recommendation in UNGA Res 74/187 (18 December 2019).

55 Also known as the ‘Mutual Legal Assistance (MLA) Initiative’.

56 It was apparent that the Joint Initiative had been undertaken outside of the UN on the calculation that no agreement would be possible within the Sixth Committee on the ILC’s draft articles. The proponents

In both years, the General Assembly adopted resolutions, on the recommendation of the Sixth Committee, *inter alia*, renewing the mandate of the ILC.<sup>57</sup> It is also worth recalling that the ILC celebrated its 70th anniversary in 2018 with events held both at its seat in Geneva, and at UN headquarters in New York. The first part of the 2018 session was held in New York (for the first time since 1998).<sup>58</sup>

### **Report of the United Nations Commission on International Trade Law**

The Sixth Committee considered the report of the United Nations Commission on International Trade Law (UNCITRAL)<sup>59</sup> on the work of its 51st<sup>60</sup> and 52nd<sup>61</sup> sessions, held in 2018 and 2019, respectively.<sup>62</sup>

UNCITRAL's main achievement in 2018<sup>63</sup> was the finalisation of the UN Convention on International Settlement Agreements Resulting from Mediation,<sup>64</sup> which was subsequently adopted by the General Assembly, on the recommendation of the Sixth Committee.<sup>65</sup> In doing so, the Assembly recommended that the Convention be known as the 'Singapore Convention on Mediation'.<sup>66</sup> In addition, UNCITRAL also adopted the UNCITRAL Model Law on International Commercial Mediation and International Settlement Agreements Resulting from Mediation,<sup>67</sup> which amended the 2002 UNCITRAL Model Law on International Commercial Conciliation; as well as the UNCITRAL Legislative Guide on Key Principles of a Business Registry,<sup>68</sup> and the UNCITRAL Model Law on Recognition and Enforcement of Insolvency-Related Judgments and its guide to enactment.<sup>69</sup>

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of the Joint Initiative announced their intention to convene a diplomatic conference in the summer of 2020 to adopt the treaty.

57 See UNGA Res 73/265 (22 December 2018) and 74/186 (18 December 2019) respectively.

58 See: <<https://legal.un.org/ilc/sessions/70/70thanniversary/>>.

59 Information on the work of UNCITRAL is available at its website <<http://www.uncitral.org>>.

60 UNGA, 'Report of the United Nations Commission on International Trade Law on the work of its fifty-first session' (25 June–13 July 2018) UN Doc A/73/17.

61 UNGA, 'Report of the United Nations Commission on International Trade Law on the work of its fifty-second session' (8–19 July 2019) UN Doc A/74/17.

62 For the summary records of the debates in 2018, see UN Docs A/C.6/73/SR 15, 32 and 34; and for 2019, see UN Docs A/C.6/74/SR 20, 21, 32 and 34.

63 For a detailed summary of the work of UNCITRAL in 2018, see the statement of its Chair, summarised in UN Doc A/C.6/73/SR 15 paras 1–14.

64 UN Doc A/73/17, annex I.

65 UNGA Res 73/198 (20 December 2018).

66 The convention was opened for signature on 7 August 2019, and entered into force, following the deposit of the third instrument of ratification, on 12 September 2020.

67 UN Doc A/73/17, annex II. See UNGA Res 73/199 (20 December 2018).

68 See UN Doc A/CN.9/940, as revised by the Commission at its 51st session.

69 UN Doc A/73/17, annex III. See UNGA Res 73/200 (20 December 2018).

In 2019,<sup>70</sup> UNCITRAL adopted the following texts: updated versions of the UNCITRAL Model Legislative Provisions on Public-Private Partnerships<sup>71</sup> and the UNCITRAL Legislative Guide on Public-Private Partnerships;<sup>72</sup> the UNCITRAL Model Law on Enterprise Group Insolvency<sup>73</sup> and its Guide to Enactment; a text on the obligations of directors of enterprise group companies in the period approaching insolvency,<sup>74</sup> to be added to part four of the UNCITRAL Legislative Guide on Insolvency Law; and the UNCITRAL Practice Guide to the UNCITRAL Model Law on Secured Transactions.<sup>75</sup> It also approved for publication the notes on the main issues of cloud computing contracts as notes by the Secretariat.<sup>76</sup>

In both years, the General Assembly, following the recommendation of the Sixth Committee, adopted resolutions on the respective annual reports, inter alia, renewing UNCITRAL's mandate and approving its proposed future programme of work.<sup>77</sup>

### **Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organisation**

At its 2018 and 2019 sessions,<sup>78</sup> the Special Committee on the Charter of the UN and on the Strengthening of the Role of the Organisation<sup>79</sup> again considered the two themes of the maintenance of international peace and security and the peaceful settlement of disputes.<sup>80</sup> The main issue of consideration under the maintenance of international peace and security remained the question of the implementation of sanctions by the UN. Following an agreement negotiated in 2016, the sub-topic of the 'implementation of the provisions of the Charter of the UN related to assistance to third states affected by the application of sanctions' was only considered in 2018 on the basis of a report prepared

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70 For a detailed summary of the work of UNCITRAL in 2019, see the statement of its Chair, summarised in UN Doc A/C.6/74/SR 20 paras 43–66.

71 UN Doc A/74/17, annex I. See UNGA Res 74/183 (18 December 2019).

72 <<https://uncitral.un.org/en/lgppp>>.

73 UN Doc A/74/17, annex II. See UNGA Res 74/184 (18 December 2019).

74 UN Doc A/CN.9/990.

75 <[https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/19-10910\\_e.pdf](https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/19-10910_e.pdf)>.

76 <[https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/19-09103\\_eng.pdf](https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/19-09103_eng.pdf)>.

77 See UNGA Res 73/197 (20 December 2018) and 74/182 (18 December 2019).

78 See 'Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization' (20–28 February 2018) UN Doc A/73/33, and 'Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization' (19 to 27 February 2019) UN Doc A/74/33.

79 See the website of the Special Committee <<http://legal.un.org/committees/charter/>>.

80 The Special Committee also reviewed the work of the UN Secretariat in updating the Repertory of Practice of United Nations Organs and the Repertoire of Practice of the Security Council, as reported in the respective reports of the Secretary-General, UN Docs A/73/190 and A/74/194. For more information on each publication, see <<http://legal.un.org/repertory/>> and <<http://www.un.org/en/sc/repertoire>>.

by the Secretary-General.<sup>81</sup> The other component, namely the consideration of the question of the introduction and implementation of sanctions imposed by the UN, continued to be considered in both years, with particular focus on the implementation by the sanctions committees of the Security Council of the recommendations adopted by the General Assembly in 2009, based on the work of the Special Committee.<sup>82</sup> This was undertaken by means of a series of briefings provided by the Secretariat, with the opportunity for government representatives to ask questions about the functioning of the sanctions committees of the Security Council.<sup>83</sup> The Special Committee also considered a number of long-standing proposals.<sup>84</sup>

As regards the question of the peaceful settlement of disputes,<sup>85</sup> in 2018 the Special Committee held the inaugural annual thematic debate on the means for the settlement of disputes, in accordance with Chapter VI of the Charter of the UN, including in particular those contained in Article 33, and in line with the Manila Declaration on the Peaceful Settlement of International Disputes (in accordance with a proposal initially submitted by the Non-Aligned Movement). The topic of discussion in the debate held that year was the ‘exchange of information on State practices regarding the use of negotiation and enquiry.’<sup>86</sup> The debate was held again in 2019, focusing on the topic ‘exchange of information on State practices regarding the use of mediation’.<sup>87</sup>

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81 See UN Doc A/72/136.

82 UNGA Res 64/115, annex.

83 For the summaries of the discussions in the Special Committee see UN Docs A/73/33, ch II A–B, and A/74/33, ch II A.

84 A proposal submitted at the 1998 session by Libya with a view to strengthening the role of the UN in the maintenance of international peace and security (A/53/33 para 98); a working paper, submitted at the 2014 session by Belarus and the Russian Federation, on an advisory opinion to be requested from the ICJ as to the legal consequences of the resort to the use of force by states without prior authorisation by the Security Council, except in the exercise of the right to self-defence (A/69/33 para 37); a working paper submitted by Cuba on the strengthening of the role of the organisation and enhancing its effectiveness: adoption of recommendations, a new version of which was submitted at the 2019 session (A/74/33, annex I); and a working paper submitted by Ghana at the 2018 session on strengthening the relationship and cooperation between the UN and regional arrangements or agencies in the peaceful settlement of disputes (A/73/33, annex) and revised in 2019 (A/74, annex II). Prior to the 2018 session, Venezuela withdrew its longstanding proposal, presented in 2011, entitled ‘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’ (A/66/33, annex). For the summaries of the discussions in the Special Committee on the proposals see UN Docs A/73/33, ch II C–F, and A/74/33, ch II B–E.

85 The Special Committee reverted to a proposal submitted by the Russian Federation, that the Secretariat be requested to establish a website on the peaceful settlement of disputes and update the *Handbook on the Peaceful Settlement of Disputes between States* (See A/69/33 para 52), but with no agreement reached. See UN Docs A/73/33, ch III B and A/74/33 ch III B.

86 See UN Doc A/73/33, ch III A for the summary of the 2018 thematic debate.

87 See UN Doc A/74/33, ch III A for the summary of the 2019 debate.

In 2018, the delegation of Mexico proposed that the Special Committee consider the substantive and procedural aspects of the invocation of Article 51 of the Charter of the UN, in order to clarify its interpretation and application and to avoid possible abuse of the right to self-defence.<sup>88</sup> It reiterated its proposal in 2019. No decision on including the topic among the two thematic areas of its programme of work was taken.<sup>89</sup>

As in past years, the debate in both the Special Committee and in the Sixth Committee (on the annual report of the Special Committee),<sup>90</sup> continued to reveal a fundamental difference of opinion on almost all of the proposals, particularly those contemplating a modification of the powers or composition of the Security Council. Nonetheless, there was general support for the shift in focus away from the consideration of specific proposals towards the holding of exchanges of views on broader subjects, such as the implementation of sanctions and the application of the various modes for the peaceful settlements of disputes.

Based on the respective recommendations of the Sixth Committee, the General Assembly subsequently adopted resolutions 73/206 of 20 December 2018 and 74/190 of 18 December 2019, establishing, inter alia, the mandate for the respective subsequent sessions of the Special Committee.

### **Report of the Committee on Relations with the Host Country**

As at past sessions, the Sixth Committee considered the annual reports of the Committee on Relations with the Host Country<sup>91</sup> at each session during the period under review.<sup>92</sup> The reports reviewed annual activities concerning the fulfilment of the Host Country's obligations under the Convention on the Privileges and Immunities of the UN<sup>93</sup> and the UN Headquarters Agreement,<sup>94</sup> and the actions taken to accommodate the needs of the diplomatic community in New York in various areas. The main issues raised in the

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88 See UN Docs A/73/33 paras 83–84, and A/74/33 paras 85–87.

89 In 2019, Cuba proposed that the Special Committee take on the topic of 'The Role of the General Assembly in the Organization'. See UN Doc A/74/33 paras 88–89.

90 For the summary records of the debates in 2018, see UN Docs A/C.6/73/SR 13, 14, 31 and 33; and for 2019, see UN Docs A/C.6/74/SR 17, 18, 19 and 35.

91 'Report of the Committee on Relations with the Host Country' (17 January, 11 April 2018, 12 July 2018, 1 October and 22 October 2018) UN Doc A/73/26, and 'Report of the Committee on Relations with the Host Country' (18 December 2018, 22 February, 13 June, 2 October 2019, 15 and 29 October 2019) UN Doc A/74/26.

92 For the summary records of the debates in 2018, see UN Docs A/C.6/73/SR 32 and 35; and for 2019, see UN Docs A/C.6/74/SR 33 and 35.

93 Convention on the Privileges and Immunities of the United Nations (adopted 13 February 1946, entered into force 17 September 1946) 1 UNTS 15.

94 Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations (adopted 26 June 1947, entered into force 21 October 1947) 11 UNTS 147.



reports<sup>95</sup> and debate in the Sixth Committee related primarily to the seizure of property by the host country authorities and the question of the inviolability of diplomatic missions under international diplomatic law; the use of official names of states in tax exemption cards; the expulsion of members of delegations from the host country; travel restrictions within the host country imposed on some delegations; banking services for permanent missions to the UN; the delay in issuance, or denial of, entry visas for government representatives accredited to the UN as well as members of the Secretariat;<sup>96</sup> and the question of the security of missions and the safety of their personnel.

Following the respective recommendations of the Sixth Committee, the General Assembly subsequently adopted resolutions 73/212 of 20 December 2017 and 74/195 of 18 December 2019, in which the Assembly, *inter alia*, indicated that it expected the prompt issuance by the host country of entry visas to all representatives of member states and members of the Secretariat pursuant to Article IV, section 11, of the Headquarters Agreement.

## Oversight Activities

### **The Rule of Law at the National and International Levels**

The Sixth Committee considered the item ‘the rule of law at the national and international levels’, during both years under review,<sup>97</sup> on the basis of the annual reports of the Secretary-General.<sup>98</sup>

During the debate at both sessions, delegations pointed to the fundamental role of the rule of law in advancing the three pillars of the UN (ie, peace and security, human rights and development) and in achieving the 2030 Agenda and the Sustainable Development Goals, in particular Goal 16, and access to justice for all. They also stressed the need for the promotion of the rule of law in accordance with the purposes and principles of the Charter, including respect for the sovereign equality and territorial integrity of states as well as the right to self-determination, refraining from the threat or use of force, emphasising the need for non-interference in domestic affairs, and the peaceful settlement of disputes. Some further emphasised the importance of maintaining a

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95 See the introduction of the report at each session by the Chair of the Committee, summarised in UN Docs A/C.6/73/SR 32 paras 5–7, and A/C.6/74/SR 33 paras 48–50.

96 The concerns surrounding the question of the issuance of visas became particularly acute in 2019 when it led to the delegation of the Islamic Republic of Iran opposing the approval of the programme of the work of the Sixth Committee, resulting in the delay of the commencement of the work of the Committee that year.

97 For the summary records of debates in 2018, see UN Docs A/C.6/73/SR 7 to 10 and 35; and for 2019, see UN Docs A/C.6/74/SR 8 to 11 and 35.

98 See UN Docs A/73/253 and A/74/139. More information on the rule of law activities of the United Nations is available at <<https://www.un.org/ruleoflaw/>>.

balance between national and international dimensions of the rule of law. Several delegations expressed the view that there was no single definition of the rule of law and stressed the importance of national ownership in rule-of-law activities and the need for different approaches to accommodate states' domestic needs.

A number of delegations highlighted the role of poverty and inequalities as challenges to the rule of law. Reference was also made to efforts in promoting gender equality and providing security and justice for women and girls, as well as the importance of ending all forms of violence against women and girls. Some delegations also proposed developing rules regarding cybersecurity. Several delegations referred to the need to develop strategies to combat corruption and expressed concern about the threat posed by the increased proliferation of hate speech and incitement to violence. Several delegations also noted the new challenges posed to the rule of law by climate change.

The role of multilateralism in advancing the rule of law at the international level was emphasised and was viewed as being under threat. Delegations acknowledged the significant contributions of the ILC to the codification and development of international law. Several delegations further expressed their support for international courts and tribunals such as the ICJ and the International Criminal Court (ICC). Some delegations also welcomed the activation of the jurisdiction of the ICC over the crime of aggression and the amendments to Article 8 of the Rome Statute to cover additional war crimes. While some delegations welcomed the operationalisation of the International Impartial Independent Mechanism (IIIM) for Syria and the establishment of a similar mechanism for Myanmar, others criticised the creation of such mechanisms. More generally, some delegations stressed the role of truth, justice and reconciliation mechanisms.

No thematic debate was held in 2018 because delegations had not been able to agree on a subtopic. In 2019, delegations provided information on their national efforts to promote rule of law, under the rubric of the debate on the subtopic 'sharing best practices and ideas to promote the respect of States for international law.' It was decided that the subtopic for the 2020 thematic debate would be: 'Measures to prevent and combat corruption.'

Acting on the respective recommendations of the Sixth Committee, the General Assembly subsequently adopted resolutions 73/207 of 20 December 2019, and 74/191 of 18 December 2019.

## **Status of the Protocols Additional to the Geneva Conventions of 1949 and Relating to the Protection of Victims of Armed Conflicts**

The item, which is included on the agenda of the General Assembly biennially, was considered by the Sixth Committee in 2018,<sup>99</sup> pursuant to a report by the Secretary-General.<sup>100</sup>

Delegations emphasised the importance of the full implementation of and respect for international humanitarian law (IHL) and recalled the significance of the Geneva Conventions<sup>101</sup> and the protocols additional thereto. They also called for wider participation in the Additional Protocols<sup>102</sup> as well as in other relevant instruments, and full compliance with their content. The concern was expressed that certain states were redefining international law to justify their activities. The emergence of new technologies and the classification of modern armed conflicts were also highlighted as challenges in the implementation of IHL. With respect to measures in the fight against international terrorism, the concern was expressed that such measures should not violate international law. The necessity for the law of armed conflict to regulate asymmetric warfare and to sufficiently address the conduct of non-state parties to armed conflicts was also noted.

Delegations also emphasised the importance of protecting civilians in armed conflicts, and reference was made to the Responsibility to Protect. Several delegations stressed the necessity of ensuring access to humanitarian assistance for those in need, and the obligation to avoid attacks on medical personnel and facilities as well as on humanitarian convoys. Reference was made to Security Council resolution 2286 (2016)<sup>103</sup> and the importance of its continued implementation. Delegations also noted the importance of measures to address missing persons in armed conflicts. The

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99 For the summaries of the debates in 2018, see UN Docs A/C.6/73/SR 16, 17 and 35.

100 See UN Doc A/73/277.

101 Geneva Convention for the amelioration of the condition of the wounded and sick in armed forces in the field (adopted 12 August 1949, entered into force 21 October 1950) 75 UNTS 31; Geneva Convention for the amelioration of the condition of the wounded, sick and shipwrecked members of the armed forces at sea (adopted 12 August 1949, entered into force 21 October 1950) 75 UNTS 85; Geneva Convention relative to the treatment of prisoners of war (adopted 12 August 1949, entered into force 21 October 1950) 75 UNTS 135; and Geneva Convention relative to the protection of civilian persons in time of war (adopted 12 August 1949, entered into force 21 October 1950) 75 UNTS 287.

102 Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I) (adopted 8 June 1977, entered into force 7 December 1978) 1125 UNTS 3; Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) (adopted 8 June 1977, entered into force 7 December 1978), 1125 UNTS 609; and Protocol additional to the Geneva Conventions of 12 August 1949, and Relating to the Adoption of an Additional Distinctive Emblem (Protocol III) (adopted 8 December 2005, entered into force 14 January 2007) 2404 UNTS 261.

103 UNSC Res 2286 'Protection of civilians in armed conflict' (3 May 2016).

importance of combating sexual and gender-based violence in armed conflicts was further stressed.

While the progress in the participation of states in IHL treaties was welcomed, the need for greater compliance with IHL was nonetheless still emphasised. Delegations encouraged further discussion on other perspectives on accountability, including the role of universal jurisdiction and ways to strengthen cooperation in bringing forward national prosecutions. The use of alternative international mechanisms that promoted accountability was also welcomed, and it was suggested that the cooperation between international mechanisms and other actors could be further strengthened. At the same time, the view was expressed that national judicial institutions should be permitted to fulfil their responsibilities without foreign interference, especially from international tribunals whose competence was disputed.

Several delegations drew attention to their respective national IHL implementation measures. Some also provided information on regional initiatives to disseminate and implement IHL. In particular, the work of national committees to strengthen compliance with IHL was referred to. A number of delegations commended the work of the ICRC, as well as of the national Red Cross and Red Crescent societies. The outcome of the 32nd International Conference of the Red Cross and Red Crescent, held in 2015, was referred to.<sup>104</sup> Some delegations also highlighted the importance of the International Humanitarian Fact-Finding Commission, pursuant to Article 90 of the First Additional Protocol.

The General Assembly, acting on the recommendation of the Sixth Committee, subsequently adopted resolution 73/204 of 20 December 2018, in which the Assembly decided, *inter alia*, to revert to the item at its 75th session (2020).

### **Consideration of Effective Measures to Enhance the Protection, Security and Safety of Diplomatic and Consular Missions and Representatives**

The item, which is also included on the agenda of the General Assembly biennially, was considered by the Sixth Committee in 2018,<sup>105</sup> on the basis of a report by the Secretary-General.<sup>106</sup> Delegations again denounced continuing acts of violence against the security and safety of diplomatic and consular missions and their representatives and urged states to respect their obligations under international law and to take all the necessary measures in order to protect diplomatic and consular missions and the representatives of other states within their territories.

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104 See <<https://www.icrc.org/en/document/outcomes-32nd-international-conference-red-cross-and-red-crescent>>.

105 For the summaries of the debates in 2018, see UN Docs A/C.6/73/SR 17, 18 and 35.

106 See UN Doc A/73/189.

Delegations noted that an obligation to protect foreign emissaries had existed in the legal systems of all cultures across the centuries. The immunities thus enshrined in international law were a cornerstone of international relations and were not designed to benefit individuals, nor meant to be abused by their beneficiaries. Several delegations highlighted the importance of the reporting mechanism established by the resolutions adopted by the General Assembly on this topic over the years. Delegations also urged states to strictly observe and enforce relevant customary international law and treaty law, including the 1961 Vienna Convention on Diplomatic Relations and the 1963 Vienna Convention on Consular Relations.

Several delegations provided information on specific incidents involving their diplomatic and consular missions and representatives, as well as measures they had taken in relation to incidents occurring in their territory. Concern was expressed as to the increase in the number of incidents. Delegations also underlined the importance of avoiding impunity in cases of breaches of the security and safety of diplomatic and consular missions and representatives.

A number of delegations highlighted the particular threats posed by terrorist and other armed groups to diplomatic and consular missions. Some reiterated their concern about the effects that state surveillance and the interception of their communications have on their diplomatic functions. Several delegations restated their view that the General Assembly should address new challenges in the digital era. The view was also expressed that the protection and inviolability of the premises of diplomatic missions, consular premises, and premises of permanent missions with diplomatic status to international intergovernmental organisations, should be respected.

The Sixth Committee adopted a draft resolution, by consensus, which was subsequently also adopted by the General Assembly as resolution 73/205 of 20 December 2018, in which the Assembly decided, *inter alia*, to revert to the topic at its 75th session (2020).

### **United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law**

During the period under review, the Sixth Committee considered<sup>107</sup> the consecutive reports of the Secretary-General providing an overview of the various activities undertaken in the context of the Programme of Assistance.<sup>108</sup>

During the debate on the item, delegations again commended the role of the Programme of Assistance in furthering knowledge of international law and thereby strengthening

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107 For the summaries of the debates in 2016, see UN Docs A/C.6/73/SR 18, 19 and 35; and for 2017, see UN Docs A/C.6/74/SR 22 and 35.

108 See UN Docs A/73/415 and A/74/496. For more information on the activities of the Programme of Assistance see <<http://legal.un.org/poa/>>.

international peace and security, promoting friendly relations and cooperation among states, and supporting the rule of law. Several delegations stressed its importance as a critical capacity-building activity and noted that the training it provided had enabled generations of government lawyers, judges and diplomats from across the globe to obtain a better understanding of international law. Its contribution towards the achievement of Sustainable Development Goal 16 was also noted.

Reference was made to the UN Audiovisual Library of International Law<sup>109</sup> as an invaluable research and teaching resource, offering free access to a vast range of materials, and noted its reach and continued expansion in both content and users. Delegations welcomed the issuance of the *International Law Handbook*,<sup>110</sup> in English and French, used as training material for the training programmes. Delegations also expressed support for the efforts of the Codification Division to expedite the issuance of its publications.<sup>111</sup> Delegations again expressed their support for the Regional Courses in International Law and for the International Law Fellowship Programme.<sup>112</sup>

Based on the respective recommendations of the Sixth Committee, the General Assembly subsequently adopted resolutions 73/201 of 20 December 2018 and 74/185 of 18 December 2019.<sup>113</sup>

## Requests for Observer Status

In 2018 and 2019, the Sixth Committee considered proposals for the grant of observer status in the General Assembly to fourteen entities. Five requests, namely those for the Cooperation Council of Turkic-speaking states (2011),<sup>114</sup> the Eurasian Economic Union (2015),<sup>115</sup> the Community of Democracies (2015),<sup>116</sup> the Ramsar Convention on Wetlands Secretariat (2017),<sup>117</sup> and the Global Environment Facility (2017),<sup>118</sup> were carried over from prior sessions. No agreement on the grant of observer status to any of those entities was again forthcoming during the period under review, and, in 2019, their

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109 See: <<https://legal.un.org/avl/lectureseries.html>>.

110 See: <<https://legal.un.org/avl/handbook.html>>.

111 See: <<https://legal.un.org/cod/publications.shtml>>.

112 See: <<https://legal.un.org/poa/rcil.html>>.

113 The GA, inter alia, appointed the following twenty-five member states as members of the Advisory Committee on the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law for a period of four years, beginning on 1 January 2020: Argentina, Canada, Chile, Ethiopia, France, Ghana, Iran (Islamic Republic of), Israel, Italy, Kenya, Lebanon, Malaysia, Mexico, Nigeria, Pakistan, Poland, Portugal, Russian Federation, Singapore, Slovakia, Sudan, Trinidad and Tobago, United Republic of Tanzania, United States of America, and Uruguay.

114 See UN Doc A/66/141.

115 See UN Doc A/70/141.

116 See UN Doc A/70/142.

117 See UN Doc A/72/194.

118 See UN Doc A/72/195.

respective requests were deferred to the 2020 session. The reasons for the disagreement in the Sixth Committee once again fell into two categories: technical (whether the entity in question was an international organisation, under international law) and political (whether the entity was politically acceptable to the entire membership of the UN).<sup>119</sup>

In 2019, three further requests for the grant of observer status for the following entities were likewise unsuccessful: the International Organization of Employers;<sup>120</sup> the International Trade Union Confederation;<sup>121</sup> and the Boao Forum for Asia.<sup>122</sup> The primary reason for opposition to the grant of observer status was ostensibly doubts within the Sixth Committee as to their status as international organisations. All three requests were deferred to the 2020 session.

In 2018 and 2019, the following entities were successfully granted observer status in the General Assembly on the basis of the recommendation of the Sixth Committee: the New Development Bank;<sup>123</sup> the International Council for the Exploration of the Sea;<sup>124</sup> the European Public Law Organization;<sup>125</sup> the Asian Infrastructure Investment Bank;<sup>126</sup> the International Think Tank for Landlocked Developing Countries;<sup>127</sup> and the Group of Seven Plus.<sup>128</sup>

## Conclusion

The Sixth Committee was scheduled to revert to its consideration of the above topics at the 2020 session (or future sessions) of the General Assembly.

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119 For a more detailed description of the criteria for the grant of observer status in the General Assembly to international organisations, see Pronto (n 17) 317–319.

120 See UN Doc A/74/291.

121 See UN Doc A/74/292.

122 See UN Doc A/74/293.

123 See UN Doc A/73/142; see UNGA Res 73/213 (20 December 2018).

124 See UN Doc A/73/145; see UNGA Res 73/214 (20 December 2018).

125 See UN Doc A/73/191; see UNGA Res 73/215 (20 December 2018).

126 See UN Doc A/73/194; see UNGA Res 73/216 (20 December 2018).

127 See UN Doc A/73/231; see UNGA Res 73/217 (20 December 2018).

128 See UN Doc A/74/214; see UNGA Res 74/196 (18 December 2019).

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