Chapter III

International legal questions

In 2006, the International Law Commission (ILC) continued to examine topics relating to the progressive development and codification of international law. It adopted the Guiding Principles applicable to unilateral declarations of States capable of creating legal obligations, which the General Assembly commended for dissemination. It also completed the second reading of draft articles on diplomatic protection, the first reading of draft articles on the law of transboundary aquifers and the second reading of draft principles on international liability in case of loss for transboundary harm arising out of hazardous activities. The Assembly, in December, took note of the draft principles and commended them to the attention of Governments.

United Nations bodies dealing with international terrorism continued their work to combat the phenomenon. The Ad Hoc Committee established by the Assembly continued to elaborate a draft comprehensive convention on international terrorism. In August, the Secretary-General reported on measures taken by 22 States, five UN system entities and six intergovernmental organizations to implement the 1994 General Assembly Declaration on Measures to Eliminate International Terrorism. In December, the Assembly condemned all acts, methods and practices of terrorism as criminal and unjustifiable and called on States to adopt further measures to prevent terrorism.

At its thirty-ninth session, the United Nations Commission on International Trade Law (UNCITRAL) finalized and adopted revised articles on the form of the arbitration agreement and interim measures of the UNCITRAL Model Law on International Commercial Arbitration. It also finalized and adopted recommendations regarding the interpretation of two articles of the 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards. In addition, UNCITRAL approved the recommendations of a draft legislative guide on secured transactions, designed to facilitate secured financing, thus promoting access to low-cost credit and enhancing national and international trade.

The Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization continued to consider, among other subjects, proposals relating to the maintenance of international peace and security, with a view to strengthening the Organization, and the implementation of Charter provisions on assistance to third States affected by the application of sanctions under Chapter VII.

The Committee on Relations with the Host Country addressed a number of issues raised by permanent missions to the United Nations, including transportation and parking issues, acceleration of immigration and customs procedures, delays in issuing visas and travel regulations.

Legal aspects of international political relations

International Law Commission

The 34-member International Law Commission (ILC) held its fifty-eighth session in Geneva in two parts (1 May–9 June; 3 July–11 August) [A/61/10]. During the second part, the International Law Seminar held its forty-second session, which was attended by 25 participants, mostly from developing countries. They observed ILC meetings, attended specially arranged lectures and participated in working groups on specific topics.

ILC, assisted by working groups and a Drafting Committee, considered the seventh report of the Special Rapporteur on diplomatic protection, completed the second reading of the topic and recommended to the General Assembly the elaboration of a convention on the basis of the 19 draft articles on diplomatic protection. It also considered eight draft principles on the legal regime for allocating loss in case of transboundary harm arising out of hazardous activities and recommended that the General Assembly endorse the draft principles by a resolution. On the topic of shared natural resources, the Commission adopted 19 draft articles on the law of transboundary aquifers, together with commentaries, and transmitted them to Governments for comments and observations. Concerning responsibility of international organizations, the Commission adopted 14 draft articles, together with commentaries, dealing with circumstances precluding wrong-
fulness, and the responsibility of a State in connection with the act of an international organization.

On the topic of reservations to treaties, the Commission referred to the Drafting Committee 16 draft guidelines dealing with the definition of the object and purpose of the treaty and the determination of the validity of reservations. Ilc also adopted five draft guidelines dealing with the validity of reservations, together with commentaries.

With regard to the unilateral acts of States, the Commission adopted 10 Guiding Principles, together with commentaries, relating to unilateral declarations of States capable of creating legal obligations and commended the Principles to the attention of the Assembly.

The Commission also considered the second report of the Special Rapporteur on the effects of armed conflicts on treaties, the preliminary report of the Special Rapporteur on the obligation to extradite or prosecute (aut dedere aut judicare) and the second report by the Special Rapporteur on the expulsion of aliens. Regarding the fragmentation of international law: difficulties arising from the diversification and expansion of international law, Ilc considered the report of the study group, which considered the issue, took note of its conclusions, and commended them to the attention of the Assembly. (See below for expanded treatment of these topics.)

It decided to hold its fifty-ninth session from 7 May to 8 June and from 9 July to 10 August 2007.

GENERAL ASSEMBLY ACTION

On 4 December [meeting 64], the General Assembly, on the recommendation of the Sixth (Legal) Committee [A/61/454], adopted resolution 61/34 without vote [agenda item 78].

Report of the International Law Commission on the work of its fifty-eighth session

The General Assembly,

Having considered the report of the International Law Commission on the work of its fifty-eighth session,

Emphasizing the importance of furthering the codification and progressive development of international law as a means of implementing the purposes and principles set forth in the Charter of the United Nations and in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,

Recognizing the desirability of referring legal and drafting questions to the Sixth Committee, including topics that might be submitted to the International Law Commission for closer examination, and of enabling the Sixth Committee and the Commission to enhance further their contribution to the progressive development of international law and its codification,

Recalling the need to keep under review those topics of international law which, given their new or renewed interest for the international community, may be suitable for the progressive development and codification of international law and therefore may be included in the future programme of work of the International Law Commission,

Welcoming the holding of the International Law Seminar, and noting with appreciation the voluntary contributions made to the United Nations Trust Fund for the International Law Seminar,

Stressing the usefulness of focusing and structuring the debate on the report of the International Law Commission in the Sixth Committee in such a manner that conditions are provided for concentrated attention to each of the main topics dealt with in the report and for discussions on specific topics,

Wishing to enhance further, in the context of the revitalization of the debate on the report of the International Law Commission, the interaction between the Sixth Committee as a body of governmental representatives and the Commission as a body of independent legal experts, with a view to improving the dialogue between the two bodies,

Welcoming initiatives to hold interactive debates, panel discussions and question time in the Sixth Committee, as envisaged in resolution 58/316 of 1 July 2004 on further measures for the revitalization of the work of the General Assembly,

1. Takes note of the report of the International Law Commission on the work of its fifty-eighth session, and recommends that the Commission continue its work on the topics in its current programme, taking into account the comments and observations of Governments, whether submitted in writing or expressed orally in debates in the General Assembly;

2. Expresses its appreciation to the International Law Commission for the work accomplished at its fifty-eighth session, in particular for the following accomplishments:

(a) The completion of the second reading of the draft articles on diplomatic protection;

(b) The completion of the second reading of the draft principles on the allocation of loss in the case of transboundary harm arising out of hazardous activities under the topic “International liability for injurious consequences arising out of acts not prohibited by international law (International liability in case of loss for transboundary harm arising out of hazardous activities)”;

(c) The completion of the first reading of the draft articles on the law of transboundary aquifers under the topic “Shared natural resources”;

(d) The completion of the work on “Unilateral acts of States” by the adoption of the Guiding Principles applicable to unilateral declarations of States capable of creating legal obligations;

(e) The completion by its Study Group of the report and the conclusions on the topic “Fragmentation of inter-
national law: difficulties arising from diversification and expansion of international law;  
3. Takes note of the Guiding Principles applicable to unilateral declarations of States capable of creating legal obligations under the topic "Unilateral acts of States", contained in paragraph 176 of the report of the International Law Commission and commends their dissemination;

4. Also takes note of the forty-two conclusions of the Commission's Study Group on the topic "Fragmentation of international law: difficulties arising from diversification and expansion of international law", contained in paragraph 251 of the report of the International Law Commission, together with the analytical study on which they were based;

5. Draws the attention of Governments to the importance for the International Law Commission of having their views on the various aspects involved in the topics on the agenda of the Commission identified in chapter III of its report, including in particular on the draft articles and commentaries on the law of transboundary aquifers;

6. Invites Governments to provide to the International Law Commission, as requested in chapter III of its report, information on legislation and practice regarding the topic "The obligation to extradite or prosecute (aut dedere aut judicare)";

7. Takes note of the decision of the International Law Commission to include five topics in its long-term programme of work;

8. Invites the International Law Commission to continue taking measures to enhance its efficiency and productivity and to consider making proposals to that end;

9. Encourages the International Law Commission to continue taking cost-saving measures at its future sessions without prejudice to the efficiency of its work;

10. Takes note of paragraph 270 of the report of the International Law Commission, and decides that the next session of the Commission shall be held at the United Nations Office at Geneva from 7 May to 8 June and from 9 July to 10 August 2007;

11. Welcomes the enhanced dialogue between the International Law Commission and the Sixth Committee at the sixty-first session of the General Assembly, stresses the desirability of further enhancing the dialogue between the two bodies, and in this context encourages, inter alia, the continued practice of informal consultations in the form of discussions between the members of the Sixth Committee and the members of the Commission attending the sixty-second session of the Assembly;

12. Encourages delegations, during the debate on the report of the International Law Commission, to adhere as far as possible to the structured work programme agreed to by the Sixth Committee and to consider presenting concise and focused statements;

13. Encourages Member States to consider being represented at the level of legal adviser during the first week in which the report of the International Law Commission is discussed in the Sixth Committee (International Law Week) to enable high-level discussions on issues of international law;

14. Requests the International Law Commission to continue to pay special attention to indicating in its annual report, for each topic, any specific issues on which expressions of views by Governments, either in the Sixth Committee or in written form, would be of particular interest in providing effective guidance for the Commission in its further work;

15. Takes note of paragraphs 271 to 274 of the report of the International Law Commission with regard to cooperation with other bodies, and encourages the Commission to continue the implementation of article 16, paragraph (e), and article 26, paragraphs 1 and 2, of its statute in order to further strengthen cooperation between the Commission and other bodies concerned with international law, having in mind the usefulness of such cooperation;

16. Notes that the International Law Commission, in accordance with article 25, paragraph 1, of its statute, envisages a meeting during its fifty-ninth session with United Nations experts in the field of human rights, including representatives from human rights treaty bodies, in order to hold a discussion on issues relating to human rights treaties;

17. Also notes that consulting with national organizations and individual experts concerned with international law may assist Governments in considering whether to make comments and observations on drafts submitted by the International Law Commission and in formulating their comments and observations;

18. Reaffirms its previous decisions concerning the indispensable role of the Codification Division of the Office of Legal Affairs of the Secretariat in providing assistance to the International Law Commission;

19. Approves the conclusions reached by the International Law Commission in paragraphs 262 to 267 of its report, and reaffirms its previous decisions concerning the documentation and summary records of the Commission;

20. Notes with appreciation the expansion of the website of the International Law Commission to include all its documentation, and welcomes the continuous efforts of the Codification Division to maintain and improve the website;

21. Expresses the hope that the International Law Seminar will continue to be held in connection with the sessions of the International Law Commission and that an increasing number of participants, in particular from developing countries, will be given the opportunity to attend the Seminar, and appeals to States to continue to make urgently needed voluntary contributions to the United Nations Trust Fund for the International Law Seminar;

22. Requests the Secretary-General to provide the International Law Seminar with adequate services, including interpretation, as required, and encourages him to continue considering ways to improve the structure and content of the Seminar;
23. Also requests the Secretary-General to forward to the International Law Commission, for its attention, the records of the debate on the report of the Commission at the sixty-first session of the General Assembly, together with such written statements as delegations may circulate in conjunction with their oral statements, and to prepare and distribute a topical summary of the debate, following established practice;

24. Requests the Secretariat to circulate to States, as soon as possible after the conclusion of the session of the International Law Commission, chapter II of its report containing a summary of the work of that session, chapter III containing the specific issues on which the views of Governments would be of particular interest to the Commission and the draft articles adopted on either first or second reading by the Commission;


International liability

Under the topic international liability for injurious consequences arising out of acts not prohibited by international law (international liability in case of loss from transboundary harm arising out of hazardous activities), the Commission considered the third report by Special Rapporteur Pemmaraju Sreenivasa Rao (India) [A/CN.4/566] on the legal regime for the allocation of loss in case of transboundary harm arising out of hazardous activities, along with the comments and observations received from Governments [A/CN.4/562/Add.1]. The Commission also considered the report of the Drafting Committee. It adopted on second reading the text of the preamble and a set of eight draft principles with commentaries thereto, recommended that the General Assembly endorse the draft by a resolution, and urged States to implement them.

GENERAL ASSEMBLY ACTION

On 4 December [meeting 64], the General Assembly, on the recommendation of the Sixth Committee [A/61/454], adopted resolution 61/36 without vote [agenda item 78].

Allocation of loss in the case of transboundary harm arising out of hazardous activities

The General Assembly,

Recalling that the International Law Commission at its fifty-third session completed the draft articles on prevention of transboundary harm from hazardous activities and recommended to the General Assembly the elaboration of a convention on the basis of the draft articles,

Recalling also its resolution 56/82 of 12 December 2001,

Having considered chapter V of the report of the Commission on the work of its fifty-eighth session, which contains the draft principles on the allocation of loss in the case of transboundary harm arising out of hazardous activities,

Noting that the Commission decided to recommend to the General Assembly that it endorse the draft principles by a resolution and urge States to take national and international action to implement them,

Emphasizing the continuing importance of the codification and progressive development of international law, as referred to in Article 13, paragraph 1 (a), of the Charter of the United Nations,

Noting that the questions of prevention of transboundary harm from hazardous activities and allocation of loss in the case of such harm are of major importance in the relations of States,

Taking into account views and comments expressed in the Sixth Committee on chapter V of the report of the Commission on international liability in case of loss from transboundary harm arising out of hazardous activities of the report of the Commission at its fifty-eighth session,

1. Expresses its appreciation to the International Law Commission for its continuing contribution to the codification and progressive development of international law;

2. Takes note of the principles on the allocation of loss in the case of transboundary harm arising out of hazardous activities, presented by the Commission, the text of which is annexed to the present resolution, and recommends them to the attention of Governments;

3. Decides to include in the provisional agenda of its sixty-second session an item entitled “Consideration of prevention of transboundary harm from hazardous activities and allocation of loss in the case of such harm”.

Annex

Principles on the allocation of loss in the case of transboundary harm arising out of hazardous activities

The General Assembly,

Reaffirming Principles 13 and 16 of the Rio Declaration on Environment and Development,

Recalling the draft articles on the Prevention of Transboundary Harm from Hazardous Activities,

Aware that incidents involving hazardous activities may occur despite compliance by the relevant State with its obligations concerning prevention of transboundary harm from hazardous activities,

Noting that as a result of such incidents other States and/or their nationals may suffer harm and serious loss,

Emphasizing that appropriate and effective measures should be in place to ensure that those natural and legal persons, including States, that incur harm and loss as a result of such incidents are able to obtain prompt and adequate compensation,

Concerned that prompt and effective response measures should be taken to minimize the harm and loss which may result from such incidents,

Noting that States are responsible for infringements of their obligations of prevention under international law,
Recalling the significance of existing international agreements covering specific categories of hazardous activities and stressing the importance of the conclusion of further such agreements,

Desiring to contribute to the development of international law in this field,

... Principle 1
Scope of application

The present draft principles apply to transboundary damage caused by hazardous activities not prohibited by international law.

Principle 2
Use of terms

For the purposes of the present draft principles:

(a) “damage” means significant damage caused to persons, property or the environment; and includes:

(i) loss of life or personal injury;
(ii) loss of, or damage to, property, including property which forms part of the cultural heritage;
(iii) loss or damage by impairment of the environment;
(iv) the costs of reasonable measures of reinstatement of the property, or environment, including natural resources;
(v) the costs of reasonable response measures;
(b) “environment” includes natural resources, both abiotic and biotic, such as air, water, soil, fauna and flora and the interaction between the same factors, and the characteristic aspects of the landscape;
(c) “hazardous activity” means an activity which involves a risk of causing significant harm;
(d) “State of origin” means the State in the territory or otherwise under the jurisdiction or control of which the hazardous activity is carried out;
(e) “transboundary damage” means damage caused to persons, property or the environment in the territory or in other places under the jurisdiction or control of a State other than the State of origin;
(f) “victim” means any natural or legal person or State that suffers damage;
(g) “operator” means any person in command or control of the activity at the time the incident causing transboundary damage occurs.

Principle 3
Purposes

The purposes of the present draft principles are:

(a) to ensure prompt and adequate compensation to victims of transboundary damage; and
(b) to preserve and protect the environment in the event of transboundary damage, especially with respect to mitigation of damage to the environment and its restoration or reinstatement.

Principle 4
Prompt and adequate compensation

1. Each State should take all necessary measures to ensure that prompt and adequate compensation is available for victims of transboundary damage caused by hazardous activities located within its territory or otherwise under its jurisdiction or control.

2. These measures should include the imposition of liability on the operator or, where appropriate, other person or entity. Such liability should not require proof of fault. Any conditions, limitations or exceptions to such liability shall be consistent with draft principle 3.

3. These measures should also include the requirement on the operator or, where appropriate, other person or entity, to establish and maintain financial security such as insurance, bonds or other financial guarantees to cover claims of compensation.

4. In appropriate cases, these measures should include the requirement for the establishment of industry-wide funds at the national level.

5. In the event that the measures under the preceding paragraphs are insufficient to provide adequate compensation, the State of origin should also ensure that additional financial resources are made available.

Principle 5
Response measures

Upon the occurrence of an incident involving a hazardous activity which results or is likely to result in transboundary damage:

(a) the State of origin shall promptly notify all States affected or likely to be affected of the incident and the possible effects of the transboundary damage;
(b) the State of origin, with the appropriate involvement of the operator, shall ensure that appropriate response measures are taken and should, for this purpose, rely upon the best available scientific data and technology;
(c) the State of origin, as appropriate, should also consult with and seek the cooperation of all States affected or likely to be affected to mitigate the effects of transboundary damage and if possible eliminate them;
(d) the States affected or likely to be affected by the transboundary damage shall take all feasible measures to mitigate and if possible to eliminate the effects of such damage;
(e) the States concerned should, where appropriate, seek the assistance of competent international organizations and other States on mutually acceptable terms and conditions.

Principle 6
International and domestic remedies

1. States shall provide their domestic judicial and administrative bodies with the necessary jurisdiction and competence and ensure that these bodies have prompt, adequate and effective remedies available in the event of transboundary damage caused by hazardous activities located within their territory or otherwise under their jurisdiction or control.

2. Victims of transboundary damage should have access to remedies in the State of origin that are no less prompt, adequate and effective than those available to victims that suffer damage, from the same incident, within the territory of that State.
Paragraphs 1 and 2 are without prejudice to the right of the victims to seek remedies other than those available in the State of origin.

States may provide for recourse to international claims settlement procedures that are expeditious and involve minimal expenses.

States should guarantee appropriate access to information relevant for the pursuance of remedies, including claims for compensation.

### Principle 7
#### Development of specific international regimes

1. Where, in respect of particular categories of hazardous activities, specific global, regional or bilateral agreements would provide effective arrangements concerning compensation, response measures and international and domestic remedies, all efforts should be made to conclude such specific agreements.

2. Such agreements should, as appropriate, include arrangements for industry and/or State funds to provide supplementary compensation in the event that the financial resources of the operator, including financial security measures, are insufficient to cover the damage suffered as a result of an incident. Any such funds may be designed to supplement or replace national industry-based funds.

### Principle 8
#### Implementation

1. Each State should adopt the necessary legislative, regulatory and administrative measures to implement the present draft principles.

2. The present draft principles and the measures adopted to implement them shall be applied without any discrimination such as that based on nationality, domicile or residence.

3. States should cooperate with each other to implement the present draft principles.

### Shared natural resources

The Commission reconvened the Working Group on shared natural resources, chaired by Enrique Candioti (Argentina). The Group completed the review and revision of the 19 draft articles on transboundary groundwaters submitted by the Special Rapporteur in 2005 [YUN 2005, p. 1409]. The Commission considered the report of the Group and referred the draft articles to the Drafting Committee. On 9 June, the Commission considered the report and referred those draft articles to the Drafting Committee, whose report on the articles and commentaries thereto it adopted.

### Responsibility of international organizations

ILC considered the fourth report on responsibility of international organizations [A/CN.4/564 & Add. 1, 2] by Special Rapporteur Giorgio Gaja (Italy), as well as written comments received from Governments and international organizations [A/CN.4/568]. The report contained 13 draft articles: eight corresponding to those contained in Chapter V of the articles on responsibility of States for international wrongful acts, under the heading “Circumstances precluding wrongfulness; and five on the responsibility of a State in connection with the wrongful act of an international organization. The eight articles (17 to 24) related to circumstances precluding wrongfulness, consent, self-defence, countermeasures, force majeure, distress, necessity, compliance with peremptory norms and consequences of invoking a circumstance precluding wrongfulness. The five draft articles (25 to 29) covered aid or assistance by a State in the commission of an internationally wrongful act by an international organization, direction and control exercised by a State over the commission of an internationally wrongful act by an international organization, coercion of an international organization by a State, use by a State that was a member of an international organization of the separate personality of that organization and responsibility of a State that was a member of an international organization for the internationally wrongful act of that organization.

The Commission considered the report and referred those draft articles to the Drafting Committee, whose report on the articles and commentaries thereto it adopted.

### Unilateral acts of States

ILC considered the ninth report on unilateral acts of States [A/CN.4/569 & Add.1] by Special Rapporteur Víctor Rodríguez Cedeño (Venezuela), which presented draft guiding principles, together with a description and analysis of those principles. The first part of the report related to the causes of invalidity and termination of unilateral acts, and the second, to the definition, capacity of a State to formulate a unilateral act, competence to formulate unilateral acts on behalf of the State, subsequent confirmation of an act formulated by a person without authorization, the basis for the binding nature of the unilateral acts and the interpretation of such acts.

On 5 July, the Commission reconstituted the Working Group on the subject, with Alain Pellet (France) as its chair, and requested it to prepare conclusions and principles on the topic. The
Commission observed that it was important for States to be in a position to judge with reasonable certainty whether and to what extent their unilateral conduct might legally bind them internationally, as the concept of a unilateral act was not uniform. On the one hand, certain unilateral acts were formulated in the framework and on the basis of an express authorization under international law, whereas others were formulated by States in exercise of their freedom to act on the international plane. In accordance with the Commission’s previous decisions, only the latter had been examined by the Commission and its Special Rapporteur. In the second case, there existed a wide spectrum of conduct designated as “unilateral acts” and the differences among legal cultures partly accounted for the misunderstandings to which the topic had given rise.

For some, the concept of a juridical act necessarily implied an express manifestation of a will to be bound on the part of the author State, whereas, for others, any unilateral conduct by the State producing international legal effects could be categorized as a unilateral act.

The Rapporteur said that the result of the work needed not be final. The Commission could take up the topic again and perhaps cast it in the form of a work of codification and progressive development. The set of non-binding guiding principles might be useful to States in their international legal relations.

On 4 August, the Commission considered the Working Group’s report and adopted 10 Guiding Principles, together with commentaries applicable to unilateral declarations of States capable of creating legal obligations, which it commended to the attention of the General Assembly.

Expulsion of aliens

ILC had before it the second report of Special Rapporteur Maurice Kamto (Cameroon) [A/CN.4/573] on the expulsion of aliens, containing two draft articles on the scope of the topic and definitions on alien, expulsion, territory, frontier and expulsion, and constituent elements of expulsion. It also had before it a study [A/CN.4/565] prepared by the Secretariat, as requested by the Commission in 2005 [YUN 2005, p. 1410]. The study provided a comprehensive analysis of possible issues requiring consideration, offered an analytical summary of legal materials contained in treaty law, international jurisprudence, other international documents, national legislation and national jurisprudence, and surveyed material adopted at the international, regional and national levels. The scope of the topic raised a number of issues, such as whether the Commission should consider special rules that might apply to specific categories of aliens; similar measures that might be taken by States to compel the departure of aliens; the expulsion of aliens in time of armed conflict; and the collective and mass expulsion of aliens.

The Commission decided to consider the Special Rapporteur’s report at its 2007 session.

Extradition

ILC had before it the preliminary report of Special Rapporteur Zdzislaw Galicki on the obligation to extradite or prosecute (aut dedere aut judicare) [A/CN.4/571]. The report contained observations on the substance of the topic, highlighting the most important points for further consideration, and included a preliminary plan of action for future work. A key question for the Commission’s consideration was whether the obligation derived exclusively from the relevant treaty or whether it also reflected a general obligation under customary international law, at least in respect to specific international offences. Although there was no consensus on the doctrine, there was growing support for the concept of an international legal obligation. It was suggested that an analysis of the link between the principle of universal jurisdiction in criminal matters and the principle of aut dedere aut judicare should be undertaken. The Special Rapporteur stated his intention to formulate draft rules concerning the concept, structure and operation of the obligation, undertake a thorough analysis of the practice of States, and compile a complete list of relevant treaty provisions reflecting the obligation. The Special Rapporteur recalled that, while the obligation was traditionally formulated as an alternative, there was the possibility of a “triple alternative”, which contemplated the exercise of a jurisdictional competence by an international criminal court. He proposed that the Commission ask Member States for information concerning their practice.

The Commission welcomed the preliminary report, including the proposed plan of action. The Special Rapporteur supported the general consensus during the debate in the Commission that the scope of the topic be limited. He agreed that the focus of the exercise should be on the elaboration of secondary rules and that both international and national judicial decisions should be considered.

Fragmentation of international law

ILC considered the report [A/CN.4/L.682 & Corr. 1] of the study group on fragmentation of interna-
International law: difficulties arising from the diversification and expansion of international law. The report and its draft conclusions were prepared on the basis of an analytical study finalized by the study group Chairman, which summarized and analysed the phenomenon, taking account of studies prepared by various members of the study group. An addendum to the report [A/CN.4/L.682/Add.1] incorporated the draft conclusions of the work done by the group between 2002 and 2005, as well as additional draft conclusions.

The Commission took note of the study group's conclusions, which it commended to the attention of the General Assembly. It also requested that the analytical study be made available on its web site and be published in its Yearbook.

Effects of armed conflicts on treaties

In July, ILC considered the second report of Special Rapporteur Ian Brownlie (United Kingdom) on the effects of armed conflicts on treaties [A/CN.4/570], which contained the first seven draft articles. The report focused on: consideration of specific elements of the debate in the Commission and the substantial points made by various Governments in the debate in the Sixth Committee at the General Assembly's sixtieth (2005) session; and implementation of the first report [YUN 2005, p. 1410] by asking the Commission to consider the first seven draft articles, with a view to referring them to the Drafting Committee or to a working group. He noted that there was general support for his view that the topic was generally part of the law of treaties and not on the use of force. The Special Rapporteur was of the view that, given the nature of the debate in the Commission and the substantial difference of opinion on important aspects of the subject, it would be premature to send the matter to a working group. Accordingly, a third report should be prepared, which could, together with the first two reports, form the basis for consideration by such a group in the future.

International State relations and international law

Jurisdictional immunities of States and their property


International terrorism

Convention on international terrorism

Ad Hoc Committee. In accordance with General Assembly resolution 60/43 [YUN 2005, p. 1417], the Ad Hoc Committee established by Assembly resolution 51/210 [YUN 1996, p. 1208] held its tenth session (New York, 27 February–3 March) to continue, within the framework of a working group of the Sixth Committee, the elaboration of a draft comprehensive convention on international terrorism, including consideration of outstanding issues.

The Ad Hoc Committee held informal contacts regarding the draft comprehensive convention and informal consultations on whether to convene a high-level conference under UN auspices to formulate a joint international response to terrorism in all its forms. Delegations agreed on the importance of preserving the integrity of the bulk of the text on which there seemed to be substantial agreement. Discussions were held on various aspects of the draft convention, including the possible development of fresh proposals to narrow the gap between the various viewpoints and the refinement of the language of some of the proposals that had been submitted for discussion. While suggestions were made on some elements of the draft convention, no concrete proposals were submitted in respect of draft article 18 dealing with the scope and application of such a convention. A written proposal was submitted by Argentina to amend the preambular paragraph, which, it was suggested, should also emphasize that the utilization of Interpol mechanisms and expertise would facilitate the efforts of States in the prevention and suppression of acts of international terrorism.

Regarding the convening of a high-level conference, Egypt renewed its proposal for such a conference to the Secretary-General [A/60/329] and submitted a working paper for discussion [A/C.660/2, annex]. Some delegations supported the proposal, noting that the convening of the conference would facilitate finding a solution to outstanding issues on the draft convention. Other delegations felt that the conference should be convened only after the completion of the convention, and the work on the draft convention should not be hindered by the discussion on the conference. Egypt said that the conference and the conclusion of the draft convention were not mutually exclusive, as the conference would address broader issues than the convention.
As a way forward, Egypt remained open to alternative approaches, including the convening of a high-level meeting of the General Assembly during its sixty-second (2007) session and any proposals that might be submitted regarding a work plan of the conference.

On 3 March, the Ad Hoc Committee adopted its report [A/61/210], to which were annexed the Chairman’s informal summary of the general discussions and amendments and proposals submitted to the Committee in connection with the elaboration of a draft comprehensive convention on international terrorism—namely, a proposal by Argentina regarding a preambular paragraph on the right of peoples to self-determination.

Measures to eliminate international terrorism

In accordance with General Assembly resolution 50/53 (YUN 1995, p. 1330), the Secretary-General, in August, issued his annual report [A/61/210] on measures taken by 22 States, five UN system entities and six intergovernmental organizations to implement the 1994 Declaration on Measures to Eliminate International Terrorism, approved by Assembly resolution 49/60 (YUN 1994, p. 1293) and Security Council resolution 1269(1999) (YUN 1999, p. 1240). It listed 30 international instruments pertaining to terrorism, indicating the status of State participation in each, and provided information on workshops and training courses on combating terrorism by two UN bodies. Two later addenda to the report [A/61/210/Add.1, 2] summarized information submitted by five other countries.

GENERAL ASSEMBLY ACTION

On 4 December [meeting 64], the General Assembly, on the recommendation of the Sixth Committee [A/61/457], adopted resolution 61/40 without vote [agenda item 100].

Measures to eliminate international terrorism

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations,

Reaffirming the United Nations Global Counter-Terrorism Strategy in all its aspects adopted on 8 September 2006, enhancing the overall framework for the efforts of the international community to effectively counter the scourge of terrorism in all its forms and manifestations,

Recalling the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations,

Recalling also the United Nations Millennium Declaration,

Recalling further the 2005 World Summit Outcome, and reaffirming in particular the section on terrorism,

Recalling the Declaration on Measures to Eliminate International Terrorism, contained in the annex to General Assembly resolution 49/60 of 9 December 1994, and the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism, contained in the annex to resolution 51/210 of 17 December 1996,

Recalling also all General Assembly resolutions on measures to eliminate international terrorism, and Security Council resolutions on threats to international peace and security caused by terrorist acts,

Convinced of the importance of the consideration of measures to eliminate international terrorism by the General Assembly as the universal organ having competence to do so,

Deeply disturbed by the persistence of terrorist acts, which have been carried out worldwide,

Reaffirming its strong condemnation of the heinous acts of terrorism that have caused enormous loss of human life, destruction and damage, including those which prompted the adoption of General Assembly resolution 56/1 of 12 September 2001, as well as Security Council resolutions 1368(2001) of 12 September 2001, 1373(2001) of 28 September 2001 and 1377(2001) of 12 November 2001, and those that have occurred since the adoption of the latter resolution,

Recalling the strong condemnation of the atrocious and deliberate attack against the headquarters of the United Nations Assistance Mission for Iraq in Baghdad on 19 August 2003 in General Assembly resolution 57/338 of 15 September 2003 and Security Council resolution 1502(2003) of 26 August 2003,

Affirming that States must ensure that any measure taken to combat terrorism complies with all their obligations under international law and adopt such measures in accordance with international law, in particular international human rights, refugee and humanitarian law,

Stressing the need to strengthen further international cooperation among States and among international organizations and agencies, regional organizations and arrangements and the United Nations in order to prevent, combat and eliminate terrorism in all its forms and manifestations, wherever and by whomever committed, in accordance with the principles of the Charter, international law and the relevant international conventions,

Noting the role of the Security Council Committee established pursuant to resolution 1373(2001) concerning counter-terrorism in monitoring the implementation of that resolution, including the taking of the necessary financial, legal and technical measures by States and the ratification or acceptance of the relevant international conventions and protocols,

Mindful of the need to enhance the role of the United Nations and the relevant specialized agencies in combating international terrorism, and of the proposals of the Secretary-General to enhance the role of the Organization in this respect,

Mindful also of the essential need to strengthen international, regional and subregional cooperation aimed at enhancing the national capacity of States to prevent and
suppress effectively international terrorism in all its forms and manifestations,

Reiterating its call upon States to review urgently the scope of the existing international legal provisions on the prevention, repression and elimination of terrorism in all its forms and manifestations, with the aim of ensuring that there is a comprehensive legal framework covering all aspects of the matter,

Emphasizing that tolerance and dialogue among civilizations, and enhancing interfaith and intercultural understanding, are among the most important elements in promoting cooperation and success in combating terrorism, and welcoming the various initiatives to this end,

Reaffirming that no terrorist act can be justified in any circumstances,

Recalling Security Council resolution 1624(2005) of 14 September 2005, and bearing in mind that States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights, refugee and humanitarian law,

Taking note of the recent developments and initiatives at the international, regional and subregional levels to prevent and suppress international terrorism, including those of, inter alia, the African Union, the ASEAN Regional Forum, the Asia-Pacific Economic Cooperation, the Association of Southeast Asian Nations, the Bali Counter-Terrorism Process, the Central American Integration System, the Collective Security Treaty Organization, the Common Market for Eastern and Southern Africa, the Cooperation Council for the Arab States of the Gulf, the Council of Europe, the Economic Community of West African States, the Euro-Mediterranean Partnership, the European Free Trade Association, the European Union, the Group of Eight, the Intergovernmental Authority on Development, the International Maritime Organization, the International Civil Aviation Organization, the League of Arab States, the Movement of Non-Aligned Countries, the North Atlantic Treaty Organization, the Organization for Economic Cooperation and Development, the Organization for Security and Cooperation in Europe, the Organization of American States, the Organization of the Islamic Conference, the Pacific Islands Forum, the Shanghai Cooperation Organization, the Southern African Development Community and the World Customs Organization,

Noting regional efforts to prevent, combat and eliminate terrorism in all its forms and manifestations, wherever and by whomsoever committed, including through the elaboration of and adherence to regional conventions,

Recalling its decision in resolutions 54/110 of 9 December 1999, 55/158 of 12 December 2000, 56/88 of 12 December 2001, 57/27 of 19 November 2002, 58/81 of 9 December 2003, 59/46 of 2 December 2004 and 60/43 of 8 December 2005 that the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996 should address, and keep on its agenda, the question of convening a high-level conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations,

Recalling also the Final Document of the Fourteenth Conference of Heads of State or Government of Non-Aligned Countries, adopted in Havana on 16 September 2006, which reiterated the collective position of the Movement of Non-Aligned Countries on terrorism and reaffirmed its previous initiative calling for an international summit conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations, as well as other relevant initiatives,


Having examined the report of the Secretary-General, the report of the Ad Hoc Committee established by resolution 51/210 and the oral report presented by the Chairman of the Working Group established by the Sixth Committee during the sixty-first session of the General Assembly,

1. Strongly condemns all acts, methods and practices of terrorism in all its forms and manifestations as criminal and unjustifiable, wherever and by whomsoever committed;

2. Calls upon all Member States, the United Nations and other appropriate international, regional and subregional organizations to implement the United Nations Global Counter-Terrorism Strategy in all its aspects at the international, regional, subregional and national levels without delay, including through mobilizing resources and expertise;

3. Recalls the pivotal role of the General Assembly in following up the implementation and updating of the Strategy, and in this regard also recalls its invitation to the Secretary-General to contribute to the future deliberations of the General Assembly, and requests the Secretary-General when doing so to provide information on relevant activities within the Secretariat to ensure overall coordination and coherence in the counter-terrorism efforts of the United Nations system;

4. Reiterates that criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes are in any circumstances unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or other nature that may be invoked to justify them;

5. Reiterates its call upon all States to adopt further measures in accordance with the Charter of the United Nations and the relevant provisions of international law, including international standards of human rights, to prevent terrorism and to strengthen international cooperation in combating terrorism, and, to that end, to consider in particular the implementation of the measures set out in paragraphs 3(a) to (f) of resolution 51/210;

6. Also reiterates its call upon all States, with the aim of enhancing the efficient implementation of relevant legal instruments, to intensify, as and where appropriate, the exchange of information on facts related to terrorism and,
in so doing, to avoid the dissemination of inaccurate or unverified information;

7. **Reiterates its call upon** States to refrain from financing, encouraging, providing training for or otherwise supporting terrorist activities;

8. **Urges** States to ensure that their nationals or other persons and entities within their territory that wilfully provide or collect funds for the benefit of persons or entities who commit, or attempt to commit, facilitate or participate in the commission of terrorist acts are punished by penalties consistent with the grave nature of such acts;

9. **Reminds** States of their obligations under relevant international conventions and protocols and Security Council resolutions, including Security Council resolution 1373(2001), to ensure that perpetrators of terrorist acts are brought to justice;

10. **Reaffirms** that international cooperation as well as actions by States to combat terrorism should be conducted in conformity with the principles of the Charter, international law and relevant international conventions;

11. **Recalls** the adoption of the International Convention for the Suppression of Acts of Nuclear Terrorism, the Amendment to the Convention on the Physical Protection of Nuclear Material, the Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and the Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, and urges all States to consider, as a matter of priority, becoming parties to these instruments;

12. **Urges** all States that have not yet done so to consider, as a matter of priority, and in accordance with Security Council resolution 1373(2001), and Council resolution 1566(2004) of 8 October 2004, becoming parties to the relevant conventions and protocols as referred to in paragraph 6 of General Assembly resolution 51/210, as well as the International Convention for the Suppression of Terrorist Bombings, the International Convention for the Suppression of the Financing of Terrorism, the International Convention for the Suppression of Acts of Nuclear Terrorism, and the Amendment to the Convention on the Physical Protection of Nuclear Material, and calls upon all States to enact, as appropriate, the domestic legislation necessary to implement the provisions of those conventions and protocols, to ensure that the jurisdiction of their courts enables them to bring to trial the perpetrators of terrorist acts, and to cooperate with and provide support and assistance to other States and relevant international and regional organizations to that end;

13. **Urges** States to cooperate with the Secretary-General and with one another, as well as with interested intergovernmental organizations, with a view to ensuring, where appropriate within existing mandates, that technical and other expert advice is provided to those States requiring and requesting assistance in becoming parties to and implementing the conventions and protocols referred to in paragraph 12 above;

14. **Notes with appreciation and satisfaction** that, consistent with the call contained in paragraphs 9 and 10 of resolution 60/43, a number of States became parties to the relevant conventions and protocols referred to therein, thereby realizing the objective of wider acceptance and implementation of those conventions;

15. **Reaffirms** the Declaration on Measures to Eliminate International Terrorism and the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism, and calls upon all States to implement them;

16. **Calls upon** all States to cooperate to prevent and suppress terrorist acts;

17. **Urges** all States and the Secretary-General, in their efforts to prevent international terrorism, to make the best use of the existing institutions of the United Nations;

18. **Requests** the Terrorism Prevention Branch of the United Nations Office on Drugs and Crime in Vienna to continue its efforts to enhance, through its mandate, the capabilities of the United Nations in the prevention of terrorism, and recognizes, in the context of the United Nations Global Counter-Terrorism Strategy and Security Council resolution 1373(2001), its role in assisting States in becoming parties to and implementing the relevant international conventions and protocols relating to terrorism, including the most recent among them, and in strengthening international cooperation mechanisms in criminal matters related to terrorism, including through national capacity-building;

19. **Welcomes** the publication by the Secretariat of the second edition of International Instruments related to the Prevention and Suppression of International Terrorism, prepared by the Codification Division of the Office of Legal Affairs of the Secretariat pursuant to paragraph 10 (a) of the Declaration on Measures to Eliminate International Terrorism, in English and French, and considers it useful to examine the possibility of having future editions issued in all official languages;

20. **Invites** regional intergovernmental organizations to submit to the Secretary-General information on the measures they have adopted at the regional level to eliminate international terrorism, as well as on intergovernmental meetings held by those organizations;

21. **Notes** the progress attained in the elaboration of the draft comprehensive convention on international terrorism during the meetings of the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996 and the Working Group established by the Sixth Committee during the sixty-first session of the General Assembly, and welcomes continuing efforts to that end;

22. **Decides** that the Ad Hoc Committee shall, on an expedited basis, continue to elaborate the draft comprehensive convention on international terrorism, and shall continue to discuss the item included in its agenda by General Assembly resolution 54/110 concerning the question of convening a high-level conference under the auspices of the United Nations;
23. Decides also that the Ad Hoc Committee shall meet on 5, 6 and 15 February 2007 in order to fulfil the mandate referred to in paragraph 22 above;

24. Requests the Secretary-General to continue to provide the Ad Hoc Committee with the necessary facilities for the performance of its work;

25. Requests the Ad Hoc Committee to report to the General Assembly at its sixty-first session in the event of the completion of the draft comprehensive convention on international terrorism;

26. Also requests the Ad Hoc Committee to report to the General Assembly at its sixty-second session on progress made in the implementation of its mandate;

27. Decides to include in the provisional agenda of its sixty-second session the item entitled “Measures to eliminate international terrorism”.

On 22 December (decision 61/552) the General Assembly decided that the item on measures to eliminate international terrorism would remain for consideration during its resumed sixty-first (2007) session.

Additional Protocols I and II to the 1949 Geneva Conventions

In response to General Assembly resolution 59/36 [YUN 2004, p. 1313], the Secretary-General submitted an August report [A/61/222] on the status of the two 1977 Protocols Additional to the Geneva Conventions of 12 August 1949 relating to the protection of victims of armed conflicts [YUN 1977, p. 706], as well as on measures taken to strengthen the existing body of international humanitarian law with respect to, among other things, its dissemination and implementation at the national level, based on information received from 25 States and the International Committee of the Red Cross (ICRC). Annexed to the report was a list of 166 States parties to one or both Protocols, as at 20 July 2006. Two later addenda [A/61/222/Add.1,2] summarized information received from four States and ICRC.

GENERAL ASSEMBLY ACTION

On 4 December [meeting 64], the General Assembly, on the recommendation of the Sixth Committee [A/61/451], adopted resolution 61/30 without vote [agenda item 75].

Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts

The General Assembly,


Having considered the report of the Secretary-General,

Thanking Member States and the International Committee of the Red Cross for their contribution to the report of the Secretary-General,

Reaffirming the continuing value of established humanitarian rules relating to armed conflicts and the need to respect and ensure respect for those rules in all circumstances within the scope of the relevant international instruments, pending the earliest possible termination of such conflicts,

Stressing the possibility of making use of the International Humanitarian Fact-Finding Commission in relation to an armed conflict, pursuant to article 90 of Protocol I to the Geneva Conventions of 1949,

Stressing also the possibility for the International Humanitarian Fact-Finding Commission to facilitate, through its good offices, the restoration of an attitude of respect for the Geneva Conventions and Protocol I,

Stressing further the need to consolidate the existing body of international humanitarian law through its universal acceptance and the need for wide dissemination and full implementation of such law at the national level, and expressing concern about all violations of the Geneva Conventions and the Additional Protocols,

Noting with satisfaction the increasing number of national commissions and other bodies involved in advising authorities at the national level on the implementation, dissemination and development of international humanitarian law,

Noting with appreciation the meetings of representatives of those bodies organized by the International Committee of the Red Cross to facilitate the sharing of concrete experience and the exchange of views on their roles and on the challenges they face,

Mindful of the role of the International Committee of the Red Cross in offering protection to the victims of armed conflicts,

Noting with appreciation the continuing efforts of the International Committee of the Red Cross to promote and disseminate knowledge of international humanitarian law, in particular the Geneva Conventions and the Additional Protocols,

Recalling that the Twenty-eighth International Conference of the Red Cross and Red Crescent stressed the need to reinforce the implementation of and respect for international humanitarian law,

Welcoming the entry into force of the Protocol on Explosive Remnants of War to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects (Protocol V),

Noting the adoption, on 8 December 2005, of the Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III),
Welcoming the significant debate generated by the recent publication of the study on Customary International Humanitarian Law by the International Committee of the Red Cross, and looking forward to further constructive discussion on the subject,

Calling upon Member States to disseminate knowledge of international humanitarian law as widely as possible, and calling upon all parties to armed conflict to apply international humanitarian law,

Recalling the entry into force, on 9 March 2004, of the second Protocol to the 1954 Hague Convention, and appreciating the ratifications received so far,

Acknowledging the fact that the Rome Statute of the International Criminal Court, which entered into force on 1 July 2002, includes the most serious crimes of international concern under international humanitarian law, and that the Statute, while recalling that it is the duty of every State to exercise its criminal jurisdiction over those responsible for such crimes, shows the determination of the international community to put an end to impunity for the perpetrators of such crimes and thus to contribute to their prevention,

Acknowledging also the usefulness of discussing in the General Assembly the status of instruments of international humanitarian law relevant to the protection of victims of armed conflicts,

1. Welcomes the universal acceptance of the Geneva Conventions of 1949, and notes the trend towards a similarly wide acceptance of the two Additional Protocols of 1977;

2. Calls upon all States parties to the Geneva Conventions that have not yet done so to consider becoming parties to the Additional Protocols at the earliest possible date;

3. Calls upon all States that are already parties to Protocol I, or those States not parties, on becoming parties to Protocol I, to make the declaration provided for under article 90 of that Protocol and to consider making use, where appropriate, of the services of the International Humanitarian Fact-Finding Commission in accordance with the provisions of article 90 of Protocol I;

4. Calls upon all States that have not yet done so to consider becoming parties to the Convention for the Protection of Cultural Property in the Event of Armed Conflict and the two Protocols thereto, and to other relevant treaties on international humanitarian law relating to the protection of victims of armed conflict;

5. Calls upon all States parties to the Protocols Additional to the Geneva Conventions to ensure their wide dissemination and full implementation;

6. Notes with appreciation the Declaration and Agenda for Humanitarian Action adopted by the Twenty-eighth International Conference of the Red Cross and Red Crescent, which noted that all States must take national measures to implement international humanitarian law, including training of the armed forces and making this law known among the general public, as well as the adoption of legislation to punish war crimes in accordance with their international obligations;

7. Affirms the necessity of making the implementation of international humanitarian law more effective;

8. Welcomes the advisory service activities of the International Committee of the Red Cross in supporting efforts made by Member States to take legislative and administrative action to implement international humanitarian law and in promoting the exchange of information on those efforts between Governments;

9. Also welcomes the increasing number of national commissions or committees for the implementation of international humanitarian law and for promoting the incorporation of treaties on international humanitarian law into national law and disseminating the rules of international humanitarian law;

10. Calls upon States to consider becoming parties to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict;

11. Requests the Secretary-General to submit to the General Assembly at its sixty-third session a report on the status of the Additional Protocols relating to the protection of victims of armed conflicts, as well as on measures taken to strengthen the existing body of international humanitarian law, inter alia, with respect to its dissemination and full implementation at the national level, based on information received from Member States and the International Committee of the Red Cross;

12. Decides to include in the provisional agenda of its sixty-third session the item entitled “Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts”.

Privileges and Immunities

In accordance with articles 35 and 36 of the 1947 Convention on the Privileges and Immunities of the Specialized Agencies of the United Nations, adopted by General Assembly resolution 179 (II) [YUN 1947-1948, p. 190], the Secretary-General, by a June note [E/2006/70], transmitted the request of the World Tourism Organization (UNWTO) that the Economic and Social Council note resolution 489 (XVI) of the UNWTO General Assembly accepting that the Convention be applied to itself, and the draft annex outlining the privileges and immunities of UNWTO.

On 27 July (decision 2006/245) and 15 December (decision 2006/263), respectively, the Council deferred consideration of the draft annex until its 2006 resumed substantive session, and to its organizational session for 2007.

Diplomatic relations

Protection of diplomatic and consular missions and representatives

As at 31 December, the States parties to the following conventions relating to the protection of
diplomatic and consular relations numbered: 185 States parties to the 1961 Vienna Convention on Diplomatic Relations [YUN 1961, p. 512], 51 parties to the Optional Protocol concerning the acquisition of nationality [ibid., p. 516] and 65 parties to the Optional Protocol concerning the compulsory settlement of disputes [ibid.].


Report of Secretary-General. In a July report [A/61/119], with later addenda [A/61/119/Add.1, 2], the Secretary-General summarized information received from 24 States and the Holy See, pursuant to General Assembly resolution 59/37 [YUN 2004, p. 1318] on instances of serious violations of the protection, security and safety of diplomatic and consular missions and representatives.

GENERAL ASSEMBLY ACTION

On 4 December [meeting 64], the General Assembly, on the recommendation of the Sixth Committee [A/61/452], adopted resolution 61/31 without vote [agenda item 76].

Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives

The General Assembly,

Having considered the report of the Secretary-General,

Conscious of the need to develop and strengthen friendly relations and cooperation among States,

Convinced that respect for the principles and rules of international law governing diplomatic and consular relations is a basic prerequisite for the normal conduct of relations among States and for the fulfillment of the purposes and principles of the Charter of the United Nations,

Alarmed by the recent acts of violence against diplomatic and consular representatives, as well as against representatives of international intergovernmental organizations and officials of such organizations, which have endangered or taken innocent lives and seriously impeded the normal work of such representatives and officials,

Expressing sympathy for the victims of such illegal acts,

Concerned at the failure to respect the inviolability of diplomatic and consular missions and representatives,

Recalling that, without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the receiving State,

Recalling also that diplomatic and consular premises must not be used in any manner incompatible with the functions of diplomatic and consular missions,

Emphasizing the duty of States to take all appropriate measures as required by international law, including measures of a preventive nature, and to bring offenders to justice,

Welcoming measures already taken by States to this end in conformity with their international obligations,

Convinced that the role of the United Nations, which includes the reporting procedures established pursuant to General Assembly resolution 35/168 of 15 December 1980 and further elaborated in subsequent Assembly resolutions, is important in promoting efforts to enhance the protection, security and safety of diplomatic and consular missions and representatives,

1. Takes note of the report of the Secretary-General;

2. Strongly condemns acts of violence against diplomatic and consular missions and representatives, as well as against missions and representatives of international intergovernmental organizations and officials of such organizations, and emphasizes that such acts can never be justified;

3. Urges States to strictly observe, implement and enforce the applicable principles and rules of international law governing diplomatic and consular relations, including during a period of armed conflict, and, in particular, to ensure, in conformity with their international obligations, the protection, security and safety of the missions, representatives and officials mentioned in paragraph 2 above officially present in territories under their jurisdiction, including practical measures to prohibit in their territories illegal activities of persons, groups and organizations that encourage, instigate, organize or engage in the perpetration of acts against the security and safety of such missions, representatives and officials;

4. Also urges States to take all appropriate measures at the national and international levels to prevent any acts of violence against the missions, representatives and officials mentioned in paragraph 2 above, including during a period of armed conflict, and to ensure, with the participation of the United Nations where appropriate, that such acts are fully investigated with a view to bringing offenders to justice;

5. Recommends that States cooperate closely through, inter alia, contacts between the diplomatic and consular missions and the receiving State with regard to practical measures designed to enhance the protection, security and safety of diplomatic and consular missions and representatives and with regard to the exchange of information on the circumstances of all serious violations thereof;

6. Urges States to take all appropriate measures, in accordance with international law, at the national and international levels, to prevent any abuse of diplomatic or consular privileges and immunities, in particular serious abuses, including those involving acts of violence;
7. **Recommend**s that States cooperate closely with the State in whose territory abuses of diplomatic and consular privileges and immunities may have occurred, including by exchanging information and providing assistance to its judicial authorities in order to bring offenders to justice;

8. **Calls upon** States that have not yet done so to consider becoming parties to the instruments relevant to the protection, security and safety of diplomatic and consular missions and representatives;

9. **Calls upon** States, in cases where a dispute arises in connection with a violation of their international obligations concerning the protection of the missions or the security of the representatives and officials mentioned in paragraph 2 above, to make use of the means available for peaceful settlement of disputes, including the good offices of the Secretary-General, and requests the Secretary-General, when he deems it appropriate, to offer his good offices to the States directly concerned;

10. **Requests**:
   (a) All States to report to the Secretary-General as promptly as possible serious violations of the protection, security and safety of diplomatic and consular missions and representatives as well as missions and representatives with diplomatic status to international intergovernmental organizations;
   (b) The State in which the violation took place—and, to the extent possible, the State where the alleged offender is present—to report to the Secretary-General as promptly as possible on measures taken to bring the offender to justice and eventually to communicate, in accordance with its laws, the final outcome of the proceedings against the offender, and to report on measures adopted with a view to preventing a repetition of such violations;
   (c) The States so reporting to consider using or taking into account the guidelines prepared by the Secretary-General;

11. **Requests** the Secretary-General:
   (a) To send, without delay, a circular note to all States reminding them of the request contained in paragraph 10 above;
   (b) To circulate to all States, upon receipt, the reports received by him pursuant to paragraph 10 above, unless the reporting State requests otherwise;
   (c) To draw the attention, when appropriate, of the States directly concerned to the reporting procedures provided for in paragraph 10 above, when a serious violation has been reported pursuant to subparagraph 10 (a) above;
   (d) To address reminders to States where such violations have occurred if reports pursuant to subparagraph 10 (a) above or follow-up reports pursuant to subparagraph 10 (b) above have not been made within a reasonable period of time;

12. **Also requests** the Secretary-General to invite States, in the circular note referred to in paragraph 11 (a) above, to inform him of their views with respect to any measures needed or already taken to enhance the protection, security and safety of diplomatic and consular missions and representatives as well as missions and representatives with diplomatic status to international intergovernmental organizations;

13. **Further requests** the Secretary-General to submit to the General Assembly at its sixty-third session a report containing:
   (a) Information on the state of ratification of, and accessions to, the instruments referred to in paragraph 8 above;
   (b) A summary of the reports received and views expressed pursuant to paragraphs 10 and 12 above;

14. **Invites** the Secretary-General to include in his report to the General Assembly any views he may wish to express on the matters referred to in paragraph 13 above.

15. **Decides** to include in the provisional agenda of its sixty-third session the item entitled “Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives”.

**ILC consideration.** ILC, at its fifty-eighth session [A/61/10], had before it the seventh report of Special Rapporteur Christopher John R. Dugard (South Africa) on diplomatic protection [A/CN.4/567] containing proposals for the consideration of draft articles 1 to 19 on diplomatic protection on second reading, as well as a proposal for an additional draft article in the light of the comments and observations received from Governments. The Commission also had before it comments and observations from Governments [A/CN.4/561 & Add. 1, 2; A/CN.4/575]. The Commission instructed the Drafting Committee to commence the second drafting of the draft articles, taking into account the comments provided by Governments and the debate in the plenary. On 30 May, the Commission considered the Drafting Committee’s report and adopted the entire set of draft articles on second reading. In August, the Commission adopted the commentaries on the draft articles and submitted them to the General Assembly, with the recommendation to elaborate a convention on the basis of those articles.

**GENERAL ASSEMBLY ACTION**

On 4 December [meeting 64], the General Assembly, on the recommendation of the Sixth Committee [A/61/454], adopted resolution 61/35 without vote [agenda item 78].

**Diplomatic protection**

The General Assembly,

Having considered chapter IV of the report of the International Law Commission on the work of its fifty-eighth session, which contains the draft articles on diplomatic protection,

Noting that the Commission decided to recommend to the General Assembly the elaboration of a convention on the basis of the draft articles on diplomatic protection,
Emphasizing the continuing importance of the codification and progressive development of international law, as referred to in Article 13, paragraph 1 (a), of the Charter of the United Nations,

Noting that the subject of diplomatic protection is of major importance in the relations of States,

Taking into account views and comments expressed in the Sixth Committee on chapter IV on diplomatic protection of the report of the Commission,

1. Expresses its appreciation to the International Law Commission for its continuing contribution to the codification and progressive development of international law;

2. Takes note of the draft articles on diplomatic protection, presented by the Commission, and invites Governments to submit comments concerning the recommendation by the Commission to elaborate a convention on the basis of these articles;

3. Decides to include in the provisional agenda of its sixty-second session an item entitled “Diplomatic protection”.

Treaties and agreements

Reservation to treaties

ILC, at its fifty-eighth session [A/61/10], considered the second part of the tenth report of Special Rapporteur Alain Pellet (France) [YUN 2005, p. 1422] on validity of reservations and the concept of the object and purpose of the treaty, and a note [A/CN.4/572 & Corr.1] relating to draft guideline 3.1.5 on the definition of the object and purpose of the treaty. He also presented a new version of the guideline, including two alternative texts.

The Commission provisionally adopted, together with commentaries thereto, draft guidelines 3.1 (permissible reservations), 3.1.1 (reservations expressly prohibited by the treaty), 3.1.2 (definition of specified reservations), 3.1.3 (permissibility of reservations not prohibited by the treaty) and 3.1.4 (permissibility of specified reservations). In addition, the Commission reconsidered, in the light of new terminology, two previously adopted draft guidelines dealing with the scope of definitions and the procedure in case of manifestly invalid reservations.


Treaties involving international organizations

The 1986 Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations [YUN 1986, p. 1006], which had not yet entered into force, had 40 States parties as at 31 December 2006.

Registration and publication of treaties by the United Nations

During 2006, 1,626 treaties were received and 2,284 subsequent actions were registered or filed and recorded by the Secretariat. In addition, 1,458 treaty actions (signatures, ratifications, acceptances, approvals, accessions, and other formalities) were undertaken and deposited with the Secretary-General, in his capacity as depository of multilateral treaties. Twelve issues of the Monthly Statement of Treaties and International Agreements were published.

In addition, 60 volumes of the UN Treaty Series (UNT S) were published, incorporating the texts of treaties registered or filed and recorded and related subsequent actions in the original languages, with translations into English and French where necessary, reflecting the registration period September 2003 through February 2005. The United Nations Treaty Collection on the Internet (UNT C), which contained published UNT S volumes up to 2005, the League of Nations Treaty Series, the Treaty Handbook, Multilateral Treaties Deposited with the Secretary-General, the Summary of Practice of the Secretary-General as Depositary of Multilateral Treaties, the Treaty Event Booklets, information on training and a range of materials on treaty law and practice, received an average of over 2 million hits and over 400,000 page views per month in 2006.

The Treaty Event “Focus 2006: Crossing Borders” (New York, 13-15 September) resulted in 86 treaty actions undertaken by 46 States with respect to 40 treaties deposited with the Secretary-General. Those treaties related to refugees and stateless persons, migrant workers and human rights, human security and trafficking in persons and firearms, sustainable development, disarmament, health and other areas.

Advice and capacity-building in treaty law and practice

Advice and assistance on treaty law and practice, in particular on final clauses, were provided to Member States, specialized agencies, regional commissions, other UN bodies and other entities. Five seminars on treaty law and practice were conducted at UN Headquarters for legal advisers from Member States and other officials. Four training courses were held at UN Headquarters and one in Monrovia, Liberia, hosted by the Liberian Ministry
Legal questions

Multilateral treaties

The UN Treaty Series and the regularly updated status of multilateral treaties deposited with the Secretary-General were available on the Internet at the UN Treaty Collection website.

New multilateral treaties concluded under UN auspices

The following new treaties, concluded under UN auspices, were deposited with the Secretary-General during 2006:

- International Tropical Timber Agreement, adopted in Geneva on 27 January 2006
- International Convention for the Protection of All Persons from Enforced Disappearance, adopted in New York on 20 December 2006
- Intergovernmental Agreement on the Trans-Asian Railway Network, adopted in Jakarta, Indonesia, on 12 April 2006
- Regulations No. 121 and No. 122 to the Agreement concerning the Adoption of Uniform Technical Prescriptions for Wheeled Vehicles, Equipment and Parts, which can be fitted and/or be used on Wheeled Vehicles and the Conditions for Reciprocal Recognition of Approvals Granted on the Basis of These Prescriptions, adopted in Geneva on 18 January 2006

Multilateral treaties deposited with the Secretary-General

At the end of 2006, the Secretary-General performed depositary functions for 534 multilateral treaties. During the year, 101 signatures were affixed to treaties for which he performed depositary functions and approximately 1,300 instruments of ratification, accession, acceptance and approval were deposited.

The following multilateral treaties, among others, deposited with the Secretary-General, came into force in 2006:

- Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted in New York on 18 December 2002
- Regulations No. 121 and No. 122 to the Agreement concerning the Adoption of Uniform Technical

Prescriptions for Wheeled Vehicles, Equipment and Parts, which can be fitted and/or be used on Wheeled Vehicles and the Conditions for Reciprocal Recognition of Approvals Granted on the Basis of These Prescriptions, adopted in Geneva on 18 January 2006

Memorandum of Understanding on Maritime Transport Cooperation in the Arab Mashreq, adopted in Damascus, Syria, on 9 May 2005


Information for 2006 regarding all multilateral treaties deposited with the Secretary-General was contained in Multilateral Treaties Deposited with the Secretary-General: Status as at 31 December 2006, vols. I & II [ST/LEG/SER.E/25].

Other international legal questions

Rule of law at national and international levels

Communication. On 11 May [A/61/142], Liechtenstein and Mexico requested the inclusion in the provisional agenda of the General Assembly’s sixty-first session of an item entitled “The rule of law at the national and international levels”. In an explanatory memorandum, the two countries recalled the political support expressed at the 2005 World Summit [YUN 2005, p. 47] for strengthening the rule of law worldwide, especially the need for universal adherence to and implementation of the rule of law at national and international levels, complemented by concrete commitments aimed at its strengthening. While the United Nations had in recent years greatly improved its tools for strengthening the rule of law at the national level, in particular in post-conflict situations, it still lacked the appropriate tools to promote the rule of law in a coherent manner, especially with regard to its international dimension. It had paid much attention to the development and codification of international law in a number of areas, but those efforts were not within a coherent global framework. The General Assembly should therefore consider the issue in a comprehensive and coherent manner, as it was uniquely positioned to fill that gap and promote universal adherence to the concept of the rule of law.
Sixth Committee consideration. On 13 September [A/61/456], the Assembly decided to include the item in its agenda and allocate it to the Sixth Committee, which considered it on 16 and 17 October and on 6 and 16 November. The Committee Chairman, on 16 November, introduced a draft resolution [A/C.6/61/L.18] that was adopted, as orally revised.

GENERAL ASSEMBLY ACTION

On 4 December [meeting 64], the General Assembly, on the recommendation of the Sixth Committee [A/61/456], adopted resolution 61/39 without vote [agenda item 80].

The rule of law at the national and international levels

The General Assembly,

Reaffirming its commitment to the purposes and principles of the Charter of the United Nations and international law, which are indispensable foundations of a more peaceful, prosperous and just world, and reiterating its determination to foster strict respect for them and to establish a just and lasting peace all over the world,

Reaffirming also that human rights, the rule of law and democracy are interlinked and mutually reinforcing and that they belong to the universal and indivisible core values and principles of the United Nations,

Reaffirming further the need for universal adherence to and implementation of the rule of law at both the national and international levels and its solemn commitment to an international order based on the rule of law and international law, which together with the principles of justice, is essential for peaceful coexistence and cooperation among States,

Convinced that the advancement of the rule of law at the national and international levels is essential for the realization of sustained economic growth, sustainable development, the eradication of poverty and hunger and the protection of all human rights and fundamental freedoms, and acknowledging that collective security depends on effective cooperation, in accordance with the Charter and international law, against transnational threats,

Reaffirming the duty of all States to refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes and principles of the United Nations and to settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered, and calling upon States that have not yet done so to consider accepting the jurisdiction of the International Court of Justice in accordance with its Statute,

Convinced that the promotion of and respect for the rule of law at the national and international levels, as well as justice and good governance, should guide the activities of the United Nations and of its Member States,

1. Requests the Secretary-General to seek the views of Member States on matters pertaining to the issues addressed in the present resolution and to submit a report thereon at its sixty-second session;
2. Also requests the Secretary-General to prepare an inventory of the current activities of the various organs, bodies, offices, departments, funds and programmes within the United Nations system devoted to the promotion of the rule of law at the national and international levels for submission at its sixty-third session, and to submit an interim report thereon to the General Assembly for its consideration at its sixty-second session;
3. Further requests the Secretary-General, after having sought the views of Member States, to prepare and submit, at its sixty-third session, a report identifying ways and means for strengthening and coordinating the activities listed in the inventory to be prepared pursuant to paragraph 2 above, with special regard to the effectiveness of assistance that may be requested by States in building capacity for the promotion of the rule of law at the national and international levels;
4. Urges the Secretary-General, as a matter of priority, to submit the report on the establishment of a rule of law assistance unit within the Secretariat, in conformity with paragraph 134(e) of the 2005 World Summit Outcome;
5. Decides to include in the provisional agenda of its sixty-second session the item entitled “The rule of law at the national and international levels”, and recommends that, as from the sixty-second session and after consultations among Member States, the Sixth Committee annually choose one or two sub-topics to facilitate a focused discussion for the subsequent session, without prejudice to the consideration of the item as a whole.

International economic law

In 2006, legal aspects of international economic law continued to be considered by the United Nations Commission on International Trade Law (Uncitral) and by the Sixth Committee of the General Assembly.

International trade law

At its thirty-ninth session (New York, 19 June–7 July), Uncitral finalized and adopted revised articles of the Uncitral Model Law on International Commercial Arbitration, annexed to the report of its thirty-ninth session, and the recommendation regarding the interpretation of articles II, paragraph 2, and VII, paragraph 1, of the 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards [YUN 1958, p. 390], also annexed to its report.

It continued its work on public procurement, arbitration, transport law, electronic commerce, insolvency law and security interests. It also reviewed the implementation of the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention), the
work on the collection and dissemination of case law on UNCITRAL texts (clout), and training and technical assistance activities.

The report of the session [A/61/17] described actions taken on those topics. (For details, see below.)

**GENERAL ASSEMBLY ACTION**

On 4 December [meeting 64], the General Assembly, on the recommendation of the Sixth Committee [A/61/453], adopted resolution 61/32 without vote [agenda item 77].


*The General Assembly,*

Recalling its resolution 2205 (XXI) of 17 December 1966, by which it established the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

Reaffirming its belief that the progressive modernization and harmonization of international trade law, in reducing or removing legal obstacles to the flow of international trade, especially those affecting the developing countries, would contribute significantly to universal economic cooperation among all States on a basis of equality, equity and common interest and to the elimination of discrimination in international trade and, thereby, to the well-being of all peoples,

Having considered the report of the Commission on the work of its thirty-ninth session,

Reiterating its concern that activities undertaken by other bodies in the field of international trade law without adequate coordination with the Commission might lead to undesirable duplication of efforts and would not be in keeping with the aim of promoting efficiency, consistency and coherence in the unification and harmonization of international trade law,

Reaffirming the mandate of the Commission, as the core legal body within the United Nations system in the field of international trade law, to coordinate legal activities in this field, in particular to avoid duplication of efforts, including among organizations formulating rules of international trade, and to promote efficiency, consistency and coherence in the modernization and harmonization of international trade law, and to continue, through its secretariat, to maintain close cooperation with other international organs and organizations, including regional organizations, active in the field of international trade law,


2. Commends the Commission for the finalization and adoption of revised articles of the Model Law on International Commercial Arbitration of the United Nations Commission on International Trade Law on the form of the arbitration agreement and interim measures, and of the recommendation regarding the interpretation of article II, paragraph 2, and article VII, paragraph 1, of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York, 10 June 1958;

3. Also commends the Commission for the approval of the substance of the recommendations of the draft legislative guide on secured transactions, which has been designed to facilitate secured financing, thus promoting increased access to low-cost credit and enhancing national and international trade;

4. Welcomes the progress made by the Commission in its work on a revision of its Model Law on Procurement of Goods, Construction and Services, and on a draft instrument on transport law, and endorses the decision of the Commission to take up new topics in the areas of arbitration and insolvency law;

5. Endorses the efforts and initiatives of the Commission, as the core legal body within the United Nations system in the field of international trade law, aimed at increasing coordination of and cooperation on legal activities of international and regional organizations active in the field of international trade law, as well as promoting the rule of law at the national and international levels in this field, and in this regard appeals to relevant international and regional organizations to coordinate their legal activities with those of the Commission, to avoid duplication of efforts and to promote efficiency, consistency and coherence in the modernization and harmonization of international trade law;

6. Reaffirms the importance, in particular for developing countries, of the work of the Commission concerned with technical assistance and cooperation in the field of international trade law reform and development, and in this connection:

(a) Welcomes the initiatives of the Commission towards expanding, through its secretariat, its technical assistance and cooperation programme;

(b) Expresses its appreciation to the Commission for carrying out technical assistance and cooperation activities in Belarus, Benin (for the United Nations Conference on Trade and Development/World Trade Organization International Trade Centre seminar), Colombia, Egypt, the Republic of Korea, Singapore, Slovakia and Switzerland (for the United Nations Conference on Trade and Development/World Trade Organization International Trade Centre symposium on multilateral trade treaties and developing countries) and for providing assistance with legislative drafting in the field of international trade law to China, Georgia, Greece, Malaysia, Peru, Rwanda (through the joint project with the International Law Institute), Serbia, Slovenia and The former Yugoslav Republic of Macedonia, and to the Commonwealth Telecommunications Organisation;
(c) Expresses its appreciation to the Governments whose contributions enabled the technical assistance and cooperation activities to take place, and appeals to Governments, the relevant bodies of the United Nations system, organizations, institutions and individuals to make voluntary contributions to the United Nations Commission on International Trade Law Trust Fund for Symposia and, where appropriate, to the financing of special projects, and otherwise to assist the secretariat of the Commission in carrying out technical assistance activities, in particular in developing countries;

(d) Reiterates its appeal to the United Nations Development Programme and other bodies responsible for development assistance, such as the World Bank and regional development banks, as well as to Governments in their bilateral aid programmes, to support the technical assistance programme of the Commission and to cooperate and coordinate their activities with those of the Commission, in the light of the relevance and importance of the work and programmes of the Commission to the implementation of the United Nations development agenda, including the achievement of the Millennium Development Goals;

7. Takes note with regret that, since the thirty-sixth session of the Commission, no contributions have been made to the trust fund established to provide travel assistance to developing countries that are members of the Commission, at their request and in consultation with the Secretary-General, stresses the need for contributions to the trust fund in order to increase expert representation from developing countries at sessions of the Commission and its working groups, necessary to build local expertise and capacities in the field of international trade law in those countries to facilitate the development of international trade and the promotion of foreign investment, and reiterates its appeal to Governments, the relevant bodies of the United Nations system, organizations, institutions and individuals to make voluntary contributions to the trust fund;

8. Decides, in order to ensure full participation by all Member States in the sessions of the Commission and its working groups, to continue, in the competent Main Committee during the sixty-first session of the General Assembly, its consideration of granting travel assistance to the least developed countries that are members of the Commission, at their request and in consultation with the Secretary-General;

9. Recalls that the responsibility for the work of the Commission lies with the meetings of the Commission and its intergovernmental working groups, and stresses in this regard that information should be provided regarding meetings of experts, which bring an essential contribution to the work of the Commission;

10. Recalls its resolutions on partnerships between the United Nations and non-State actors, in particular the private sector, and in this regard encourages the Commission to further explore different approaches to the use of partnerships with non-State actors in the implementation of its mandate, in particular in the area of technical assistance, in accordance with the applicable principles and guidelines and in cooperation and coordination with other relevant offices of the Secretariat, including the Global Compact Office;

11. Reiterates its request to the Secretary-General, in conformity with the General Assembly resolutions on documentation-related matters, which, in particular, emphasize that any reduction in the length of documents should not adversely affect either the quality of the presentation or the substance of the documents, to bear in mind the particular characteristics of the mandate and work of the Commission in implementing page limits with respect to the documentation of the Commission;

12. Requests the Secretary-General to continue providing summary records of the meetings of the Commission relating to the formulation of normative texts;

13. Recalls its resolution approving the establishment of the Yearbook of the United Nations Commission on International Trade Law, with the aim of making the work of the Commission more widely known and readily available, expresses its concern regarding the timeliness of the publication of the Yearbook, and requests the Secretary-General to explore options to facilitate the timely publication of the Yearbook;

14. Stresses the importance of bringing into effect the conventions emanating from the work of the Commission for the global unification and harmonization of international trade law, and to this end urges States that have not yet done so to consider signing, ratifying or acceding to those conventions;

15. Welcomes the preparation of digests of case law relating to the texts of the Commission, such as a digest of case law relating to the United Nations Convention on Contracts for the International Sale of Goods and a digest of case law relating to the Model Law on International Commercial Arbitration of the United Nations Commission on International Trade Law, with the aim of assisting in dissemination of information on those texts and promoting their use, enactment and uniform interpretation;

16. Welcomes also the decision of the Commission to hold, in the context of its fortieth session in 2007, a congress on international trade law in Vienna, with a view to reviewing the results of the past work of the Commission as well as related work of other organizations active in the field of international trade law, assessing current work programmes and considering topics and areas for future work, and acknowledges the importance of holding such a congress for the coordination and promotion of activities aimed at the modernization and harmonization of international trade law;

17. Recalls its resolutions affirming the importance of high-quality, user-friendly and cost-effective United Nations websites and the need for their multilingual development, maintenance and enrichment, commends the restructured website of the Commission in the six official languages of the United Nations, and welcomes the continuous efforts of the Commission to maintain and improve its website in accordance with the applicable guidelines.
Procurement

UNCITRAL [A/61/17] took note of the reports of Working Group I (Procurement) on its eighth (Vienna, 7-11 November 2005) [A/CN.9/590] and ninth (New York, 24-28 April 2006) [A/CN.9/595] sessions relating to the revision of the UNCITRAL Model Law on Procurement of Goods, Constructions and Services, in response to the Commission's 2004 request [YUN 2004, p. 1356]. UNCITRAL was informed that, at those sessions, the Group had continued to consider topics related to the use of electronic communications and technologies in the procurement process. At its ninth session, the Group came to preliminary agreement on draft revisions of the Model Law and the Guide on the use of electronic communications and technology, including electronic reverse auctions and the investigation of abnormally low tenders, as well as the topics of framework agreements and suppliers' lists.

Commending the Group for the progress made, UNCITRAL recommended that the Group, in considering the topics of coordination and cooperation, take into account conflict of interest issues, and consider whether any specific provisions addressing those issues were warranted.

International commercial arbitration

UNCITRAL [A/61/17] considered the revised version of the draft legislative provisions on interim measures and the form of arbitration agreement adopted by Working Group II (Arbitration and Conciliation) at its forty-fourth session (New York, 23–27 January) [A/CN.9/592]. On 7 July, UNCITRAL adopted the revised articles of the UNCITRAL Model Law on International Commercial Arbitration, as annexed to its report, and recommended that States give favourable consideration to the revised articles when enacting or revising their laws, in view of the desirability of uniformity of the law of dispute settlement procedures and the specific needs of international commercial arbitration practice.

With respect to future work, UNCITRAL agreed that the Working Group should give priority to the revision of the UNCITRAL Arbitration Rules, and consideration of the arbitrability of intra-corporate disputes and the implications of electronic communications.

Implementation of the 1958 New York Convention

UNCITRAL [A/61/17] considered the revised version of a draft declaration regarding the interpretation of articles II (2) and VII (1) of the 1958 New York Convention [YUN 1958, p. 390], adopted by Working Group II (Arbitration and Conciliation) at its forty-fourth session (New York, 23–27 January) [A/CN.9/592]. On 7 July, UNCITRAL agreed that the most appropriate form of such a document was that of a recommendation, instead of a declaration, which could be misrepresented as to its nature. Accordingly, it adopted a recommendation regarding the interpretation of those articles, as annexed to its report, which it felt would promote the uniform interpretation and application of the Convention.

GENERAL ASSEMBLY ACTION

On 4 December [meeting 64], the General Assembly, on the recommendation of the Sixth Committee [A/61/453], adopted resolution 61/33 without vote [agenda item 77].


The General Assembly,
Recognizing the value of arbitration as a method of settling disputes arising in the context of international commercial relations,
Recalling its resolution 40/72 of 11 December 1985 regarding the Model Law on International Commercial Arbitration,
Recognizing the need for provisions in the Model Law to conform to current practices in international trade and modern means of contracting with regard to the form of the arbitration agreement and the granting of interim measures,
Believing that revised articles of the Model Law on the form of the arbitration agreement and interim measures reflecting those current practices will significantly enhance the operation of the Model Law,
Noting that the preparation of the revised articles of the Model Law on the form of the arbitration agreement and interim measures was the subject of due deliberation and extensive consultations with Governments and interested circles and would contribute significantly to the establishment of a harmonized legal framework for a fair and efficient settlement of international commercial disputes,
Believing that, in connection with the modernization of articles of the Model Law, the promotion of a uniform interpretation and application of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York, 10 June 1958, is particularly timely,
1. **Expresses its appreciation** to the United Nations Commission on International Trade Law for formulating and adopting the revised articles of its Model Law on International Commercial Arbitration on the form of the arbitration agreement and interim measures, the text of which is contained in annex I to the report of the United Nations Commission on International Trade Law on the work of its thirty-ninth session, and recommends that all States give favourable consideration to the enactment of the revised articles of the Model Law, or the revised Model Law on International Commercial Arbitration of the United Nations Commission on International Trade Law, when they enact or revise their laws, in view of the desirability of uniformity of the law of arbitral procedures and the specific needs of international commercial arbitration practice;

2. **Also expresses its appreciation** to the United Nations Commission on International Trade Law for formulating and adopting the recommendation regarding the interpretation of article II, paragraph 2, and article VII, paragraph 1, of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York, 10 June 1958, the text of which is contained in annex II to the report of the United Nations Commission on International Trade Law on the work of its thirty-ninth session;

3. **Requests** the Secretary-General to make all efforts to ensure that the revised articles of the Model Law and the recommendation become generally known and available.

**Transport law**

**Uncitral** [A/61/17] considered the reports of Working Group III (Transport Law) on its sixteenth (Vienna, 28 November–9 December 2005) [A/CN.9/591 & Corr.1] and seventeenth (New York, 3-13 April 2006) [A/CN.9/594] sessions describing its continuing work on a draft instrument on the carriage of goods wholly or partly by sea. Uncitral was informed that the Working Group had proceeded with its second reading of the draft convention and had made good progress regarding a number of difficult issues, including jurisdiction, arbitration obligations of the shipper, delivery of goods, especially the period of responsibility of the carrier, the right of control, delivery to the consignee, scope of application and freedom of contract, and transport documents and electronic transport records. The Working Group also considered the transfer of rights and the issue of whether any of the substantive topics currently included in the draft convention should be deferred for consideration in a possible future instrument. The Working Group planned to complete its second reading of the draft at the end of 2006 and the final reading at the end of 2007, with a view to presenting the draft convention for finalization by Uncitral in 2008. While agreeing that 2008 would be a desirable goal for completing the project, Uncitral was of the view that at the current stage it was not desirable to establish a firm deadline.

**Electronic commerce**

In 2005 [YUN 2005, p. 1464], Uncitral considered undertaking work in the area of electronic commerce and requested the Secretariat to prepare a study, with proposals on the form and nature of a comprehensive reference document, which Uncitral might consider preparing to assist legislators and policymakers around the world. In a note [A/CN.9/604], the Secretariat identified possible components of such a document: authentication and cross-border recognition of electronic signatures; liability and standards of conduct for information-services providers; electronic invoicing and legal issues related to supply chains; transfer of rights in tangible goods and other rights through electronic communications; unfair competition and deceptive trade practices; and privacy and data protection. Other issues identified for possible inclusion were: protection of intellectual property rights, unsolicited electronic communications (spam) and cyber crime.

Given the variety of issues involved, it was agreed that Member States might need more time to consider the desirability and scope of future legislative work on those issues, and the Commission should postpone a decision on the topics to be covered until 2007. The Commission therefore requested the Secretariat to prepare a document dealing specifically with issues related to authentication and cross-border recognition of electronic signatures for review at its 2007 session.

**Insolvency law**

After considering proposals by the Secretariat [A/CN.9/596] for possible future work on insolvency law, especially the treatment of corporate groups, cross-border insolvency protocols in transnational cases, post-commencement financing in international reorganization, directors' and officers' responsibilities and liabilities and commercial fraud and insolvency, Uncitral [A/61/17] agreed that Working Group V (Insolvency Law) should consider, in 2006, the treatment of corporate groups in insolvency, including post-commencement finance, with a view to making recommendations. Initial work to promote practical experience on negotiating and using cross-border protocols in transnational insolvency cases should be developed informally in consultation with judges and insolvency practitioners, with
a view to submitting a preliminary progress report to UNCITRAL in 2007.

Commercial fraud

UNCITRAL considered a Secretariat note [A/CN.9/600], which reported on ongoing and possible future work in commercial fraud. It heard a progress report by the Secretariat on materials listing common features in typical fraudulent schemes and took note of the suggested format for the preparation of such features set out in the Secretariat note.

The Commission concluded that its secretariat should, in conjunction with experts and other interested organizations, identify common features of fraudulent schemes, and present interim or final materials for its future consideration. The secretariat should continue to cooperate with the United Nations Office on Drugs and Crime in its study on fraud, the criminal misuse and falsification of identity and related crimes and keep the Commission informed on progress made.

Security interests

UNCITRAL [A/61/17] had before it the reports of its Working Group VI (Security Interests) at its ninth (New York, 30 January–3 February) [A/CN.9/593] and tenth (New York, 1–5 May) [A/CN.9/603] sessions on progress in the preparation of a legislative guide on secured transactions. UNCITRAL expressed satisfaction with the progress achieved by the Working Group in developing the draft guide and noted that the views and suggestions made would be taken into account in the next version of the guide. It referred the issue of terminology of the draft guide to the Working Group.

UNCITRAL approved the substance of the Working Group’s recommendations on: key objectives and scope of application; basic approaches to security; creation of the security right; effectiveness of the security right against third parties and registration; priority of the security right over the rights of competing claimants; pre-default rights and obligations of the parties; rights and obligations of third-party obligors; default and enforcement; insolvency; acquisition financing devices; conflict of laws; and transitional arrangements.

The Working Group was expected to hold one session in Vienna in December and another in New York in February 2007 and submit the draft guide for approval at UNCITRAL next session in 2007.

As to future work, UNCITRAL requested the Secretariat to prepare a note on intellectual property financing and organize a colloquium on the topic.

Case law on UNCITRAL texts

UNCITRAL [A/61/17] noted the continuing work under the system for the collection and dissemination of case law on UNCITRAL texts (CLOUT), consisting of the preparation of case abstracts and research aids and analytical tools, such as thesauri and indices, and the compilation of full texts of decisions. A total of 54 issues of CLOUT had been prepared for publication dealing with 604 cases.

It was widely agreed that CLOUT continued to be an important aspect of UNCITRAL technical assistance activities, and that its broad dissemination promoted the uniform interpretation and application of UNCITRAL texts. UNCITRAL expressed its appreciation to national correspondents for their work in selecting decisions and preparing case abstracts. It noted that the digest of case law on the United Nations Sales Convention, published in 2004 [YUN 2004, p. 1356], was being reviewed and edited, and that the first draft of a digest of case law relating to the Arbitration Model Law was being finalized for publication.

Training and technical assistance

UNCITRAL [A/61/17] had before it a note by the Secretariat [A/CN.9/599] describing technical assistance activities undertaken since 2005 and the direction of future activities. Among the activities reported were 59 briefing missions, seminars and conferences to familiarize participants with UNCITRAL texts and their use; law reform assessments to assist Governments, legislative organs and other authorities in reviewing legislation and assessing their need for law reform in the commercial field; assistance in drafting national legislation to implement UNCITRAL texts; advice and assistance to international organizations, professional associations, organizations of attorneys, chambers of commerce and arbitration centres on the use of UNCITRAL texts; and group training activities to facilitate the implementation and interpretation by judiciaries and legal practitioners of commercial legislation based on UNCITRAL texts.

UNCITRAL reiterated its appeal to States, international organizations and other entities to contribute to its trust fund for symposia, so as to help the Secretariat meet the increasing requests for training, and to its trust fund established to provide travel assistance to developing countries that were UNCITRAL members.

Future work

Following its 2005 decision [YUN 2005, p. 1464] to hold an UNCITRAL Congress on Uniform Com-
International legal questions

International organizations and international law

Strengthening the role of the United Nations

Special Committee on United Nations Charter

In accordance with General Assembly resolution 60/20 [YUN 2004, p. 1448], the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, at its sixty-first session (New York, 3-13 April) [A/61/33], continued to consider proposals relating to: the maintenance of international peace and security; the peaceful settlement of disputes between States; proposals concerning the Trusteeship Council; the improvement of the Committee’s working methods; and the status of the publications: Repertory of Practice of United Nations Organs and Repertoire of the Practice of the Security Council.

With regard to the first item, the Committee discussed a revised working paper submitted by Belarus and the Russian Federation, which recommended that an advisory opinion be requested from the International Court of Justice (icj) as to the legal consequences of the resort to the use of force by States without prior Security Council authorization, except in case of self-defence. Some delegations expressed support for the proposal, as it would strengthen the Charter principle of the non-use of force or threat of force. Concern was expressed over attempts to justify the unilateral use of force without Council authorization, which was seen as a violation of the Charter. The question was raised, however, as to whether the current wording of the proposal, in view of recent developments, took sufficient account of the many variables that the Court would have to consider when forming an opinion. The Committee also discussed a revised Libyan Arab Jamahiriya proposal on strengthening the UN role in the maintenance of international peace and security and a Russian Federation working paper on fundamentals of the legal basis for UN peacekeeping operations in the context of Chapter VI of the Charter.

After discussing a working paper on strengthening the role of the Organization and enhancing its effectiveness, submitted by Cuba at its 1997 session, the Committee recognized the value of considering measures within the United Nations, with a view to ensuring the revitalization of the General Assembly, in order to effectively and efficiently exercise the functions assigned to it under the Charter.

During the exchange of views on the peaceful settlement of disputes, delegations expressed support for the use of existing mechanisms at early stages to peacefully settle disputes, as well as the Charter principle of free choice of means. Strong support was also expressed for icj as the principal judicial organ of the United Nations. The promotion of a culture of prevention and the strengthening of the UN conflict prevention capacity, including the role of the Secretary-General, were emphasized. On a proposal by Egypt, the Working Group of the Whole recommended by consensus to the Committee the draft resolution entitled “Commemoration of the sixtieth anniversary of the International Court of Justice” for adoption by the General Assembly (see p. 1483).

On the future of the Trusteeship Council, references were made to the 2005 World Summit Outcome in General Assembly resolution 60/1 [YUN 2005, p. 48], in which the Assembly recommended that, considering that the Trusteeship Council “no longer meets and has no remaining functions”, Chapter XIII of the Charter and references to the Council in Chapter XII be deleted. While support was expressed for such a deletion, the point was also made that amendments to the Charter should be considered in the overall context of the reform of the Organization.

The Committee recommended that the Assembly commend the Secretary-General for the progress made in the preparation of studies of the Repertory of Practice of United Nations Organs, including the increased use of UN interns and the wider cooperation with academic institutions, as well as the progress made towards updating the Repertoire of the Practice of the Security Council. The Committee called again for voluntary contributions to the trust funds for updating the Repertoire and for eliminating the backlog in the Repertory, as well as for sponsoring, at no cost to the United Nations, associate experts to assist in updating the two publications.
The Committee adopted a working paper submitted by Japan and other co-sponsors in 2005 [YUN 2005, p. 1447] on improving the Committee’s working methods and increasing its efficiency. The working paper encouraged delegations submitting new proposals to do so as far in advance as possible and to ensure that they did not duplicate the work being done by other bodies. Delegations should request the Committee to conduct a preliminary exchange of views on a proposal’s usefulness, assess its priority in comparison with other proposals, or consider postponing its consideration. Delegations should also look into the usefulness of further discussing the proposal, taking into account the likelihood of reaching a consensus. For its part, the Special Committee should ensure that meetings accorded priority to the consideration of those areas on which general agreement was possible and reviewed ways of improving the procedure for the adoption of its report.

Concerning the identification of new subjects, Guyana, on behalf of the Rio Group, suggested the addition of two items to the Special Committee’s agenda: “Review of the rules of procedures of the General Assembly” and “Consideration of the legal aspects of the reform of the United Nations”. Guyana indicated that it would provide further details on those proposals.

**Report of Secretary-General.** In response to General Assembly resolution 60/23 [YUN 2005, p. 1447], the Secretary-General submitted a July report [A/61/153] outlining progress made in updating the Repertoire of Practice of United Nations Organs and the Repertoire of the Practice of the Security Council. With respect to the Repertoire, the Secretary-General remarked that the Assembly might wish to note the progress made in the preparation of Repertory studies and their posting on the Internet in English, French and Spanish; and consider the Special Committee’s recommendations (see above). With regard to the Repertoire, the Secretary-General concluded that the Assembly might wish to note the progress made towards its updating, and the desirability of continuing to make it available on the Internet; call for voluntary contributions to the trust fund for updating the Repertory; note the contributions made by Japan, Nigeria, Qatar, the Republic of Korea, the Russian Federation, Turkey and the United Kingdom, as well as the support of Germany and Italy for associate experts; and encourage other States to consider providing such assistance.

**GENERAL ASSEMBLY ACTION**

On 4 December [meeting 64], the General Assembly, on the recommendation of the Sixth Committee [A/61/455], adopted **resolution 61/38** without vote [agenda item 79].


The General Assembly,
Recalling its resolution 3499 (XXX) of 15 December 1975, by which it established the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, and its relevant resolutions adopted at subsequent sessions,
Recalling also its resolution 47/233 of 17 August 1993 on the revitalization of the work of the General Assembly,
Recalling further its resolution 47/62 of 11 December 1992 on the question of equitable representation on and increase in the membership of the Security Council,
Taking note of the report of the Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters related to the Security Council,
Recalling the elements relevant to the work of the Special Committee contained in its resolution 47/120 B of 20 September 1993,
Recalling also its resolution 51/241 of 31 July 1997 on the strengthening of the United Nations system and its resolution 51/242 of 15 September 1997, entitled “Supplement to an Agenda for Peace”, by which it adopted the texts on coordination and the question of sanctions imposed by the United Nations, which are annexed to that resolution,
Concerned about the special economic problems confronting certain States arising from the carrying out of preventive or enforcement measures taken by the Security Council against other States, and taking into account the obligation of Members of the United Nations under Article 49 of the Charter of the United Nations to join in affording mutual assistance in carrying out the measures decided upon by the Council,
Recalling the right of third States confronted with special economic problems of that nature to consult the Security Council with regard to a solution of those problems, in accordance with Article 50 of the Charter,
Recalling also that the International Court of Justice is the principal judicial organ of the United Nations, and reaffirming its authority and independence,
Noting the adoption of the revised working papers on the working methods of the Special Committee,
Taking note of the report of the Secretary-General on the Repertoire of Practice of United Nations Organs and the Repertoire of the Practice of the Security Council,
Taking note also of paragraphs 106 to 110, 176 and 177 of the 2005 World Summit Outcome,
Mindful of the decision of the Special Committee, in which it expressed its readiness to engage, as appropriate, in the implementation of any decisions that may be taken at the High-level Plenary Meeting of the sixtieth session of the General Assembly in September 2005 that concern the Charter and any amendments thereto,

Having considered the report of the Special Committee on the work of its session held in 2006,

Noting with appreciation the work done by the Special Committee to encourage States to focus on the need to prevent and to settle peacefully their disputes which are likely to endanger the maintenance of international peace and security,

1. Takes note of the report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization;
2. Decides that the Special Committee shall hold its next session from 7 to 14 and 16 February 2007;
3. Notes with appreciation the adoption, as a decision, of the working methods of the Special Committee, contained in paragraph 72 of its 2006 report;
4. Requests the Special Committee, at its session in 2007, in accordance with paragraph 5 of General Assembly resolution 50/52 of 11 December 1995:
   (a) To continue its consideration of all proposals concerning the question of the maintenance of international peace and security in all its aspects in order to strengthen the role of the United Nations, and, in this context, to consider other proposals relating to the maintenance of international peace and security already submitted or which may be submitted to the Special Committee at its session in 2007;
   (b) To continue to consider, on a priority basis and in an appropriate substantive manner and framework, the question of the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter based on all of the related reports of the Secretary-General and the proposals submitted on the question;
   (c) To keep on its agenda the question of the peaceful settlement of disputes between States;
   (d) To consider, as appropriate, any proposal referred to it by the General Assembly in the implementation of the decisions of the High-level Plenary Meeting of the sixtieth session of the Assembly in September 2005 that concern the Charter and any amendments thereto;
   (e) To continue to consider, on a priority basis, ways and means of improving its working methods and enhancing its efficiency with a view to identifying widely acceptable measures for future implementation;
5. Invites the Special Committee at its session in 2007 to continue to identify new subjects for consideration in its future work with a view to contributing to the revitalization of the work of the United Nations;
6. Notes the readiness of the Special Committee to provide, within its mandate, such assistance as may be sought at the request of other subsidiary bodies of the General Assembly in relation to any issues before them;
7. Requests the Special Committee to submit a report on its work to the General Assembly at its sixty-second session;
8. Recognizes the important role of the International Court of Justice, the principal judicial organ of the United Nations, in adjudicating disputes among States and the value of its work, as well as the importance of having recourse to the Court in the peaceful settlement of disputes, and requests the Secretary-General to distribute, in due course, the advisory opinions requested by the principal organs of the United Nations as official documents of the United Nations;
9. Commends the Secretary-General for the progress made in the preparation of studies of the Repertoire of Practice of United Nations Organs, including the increased use of the internship programme of the United Nations and the wider cooperation with academic institutions for this purpose, as well as the progress made towards updating the Repertoire of the Practice of the Security Council;
10. Calls upon the Secretary-General to continue his efforts towards updating the two publications;
11. Reiterates the responsibility of the Secretary-General for the quality of the Repertoire of Practice of United Nations Organs and the Repertoire of the Practice of the Security Council and, in particular, with regard to the Repertoire of the Practice of the Security Council, requests the Secretary-General to continue to follow the modalities outlined in paragraphs 102 to 106 of his report of 18 September 1952;
12. Recognizes the desirability of making available electronically the Repertoire of Practice of United Nations Organs and the Repertoire of the Practice of the Security Council in all their respective language versions;
13. Reiterates its call for voluntary contributions to the trust fund for the updating of the Repertoire of the Practice of the Security Council, as well as the trust fund for the elimination of the backlog in the Repertoire of Practice of United Nations Organs, and the sponsoring, on a voluntary basis, and at no cost to the United Nations, of associate experts to assist in the updating of the two publications;
14. Requests the Secretary-General to submit a report on both the Repertoire of Practice of United Nations Organs and the Repertoire of the Practice of the Security Council to the General Assembly at its sixty-second session;
15. Also requests the Secretary-General to submit to the Special Committee for its consideration the information referred to in paragraph 12 of his report on implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions, on modalities, technical procedures and guidelines on coordination of technical assistance available to third States affected by the implementation of sanctions, as well as a possible methodology for assessing the adverse consequences actually incurred by third States, in the report mentioned in paragraph 16 below;
16. **Further requests** the Secretary-General to submit a report on the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions to the General Assembly at its sixty-second session, under the item entitled “Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization”;

17. **Decides** to include in the provisional agenda of its sixty-second session the item entitled “Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization”.

Also on the same date, the Assembly adopted **resolution 61/37** (see p. 1483) on the commemoration of the sixtieth anniversary of the International Court of Justice.

The Security Council, in presidential statement **SPRST/2006/28** (see p. 46), reaffirmed its commitment to the Charter and international law and to actively supporting the peaceful settlement of disputes.

Charter provisions relating to sanctions

**Special Committee consideration.** During the Special Committee’s [A/61/33] consideration of the implementation of the Charter provisions related to assistance to third States affected by sanctions, support was expressed for continuing consideration of the issue within the Committee and through a working group of the Sixth Committee. The view was expressed that attention should be paid to discussions of the subject in other UN forums, such as the Security Council’s informal working group on general issues of sanctions and the Analytical Support and Sanctions Monitoring Team. Some delegations called attention to the negative consequences of sanctions on civilian populations and third States and stressed the importance of minimizing them. Other delegations pointed out that assistance to third States affected by sanctions would contribute to the effectiveness of the sanctions regime. A view was expressed that the Security Council’s primary responsibility in applying sanctions was accompanied by a parallel responsibility towards affected third States. Concerning possible measures, a view was expressed in favour of devising a system to assess the impact of preventive or enforcement measures on third States and of exploring ways to assist those States, including through financial arrangements and economic assistance. Some delegations felt that sanctions had been effectively applied against States, entities and groups threatening international peace and security, and remained an important tool to maintain peace and security without resorting to force. Sanctions should be carefully targeted in support of clear objectives, and their implementation should balance effectiveness with care to minimize harm to populations and third States.

The Committee discussed the revised working paper by the Russian Federation on “Declaration on the basic conditions and standard criteria for the introduction and implementation of sanctions and other coercive measures”. Many delegations supported the adoption of the revised working paper by the Committee and favoured the format of a General Assembly declaration. However, other delegations did not support the working paper on the grounds that the Special Committee should not duplicate the work of other UN organs. The Russian Federation said that it would hold further consultations aimed at reaching a consensus. The Committee also addressed the Libyan Arab Jamahiriya revised working paper on the strengthening of certain principles concerning the impact and application of sanctions.

**Report of Secretary-General.** In response to General Assembly resolution 60/23 [YUN 2005, p. 1447], the Secretary-General submitted an August report [A/61/304] highlighting measures taken to further improve the procedures and working methods of the Security Council and its sanctions committees relating to assistance to third States affected by the application of sanctions. It also reviewed developments concerning the activities of the Assembly and the Economic and Social Council in the area of assistance to such States, and the Secretariat’s arrangements relating to such assistance.

**Improving the effectiveness of UN sanctions**

**Report of Working Group.** In December, the Security Council President transmitted to the Council the report [S/2006/997] submitted by the Chairman of the informal working group of the Security Council on general issues of sanctions. The report recommended best practices with respect to sanctions design, implementation, evaluation and follow-up, sanctions committee working methods, monitoring and enforcement, and methodological standards and reporting format for expert groups.

The working group had been established in 2000 [YUN 2000, p. 1270] to develop general recommendations on how to improve the effectiveness of UN sanctions. Extending the group’s mandate for one year in 2005 [YUN 2005, p. 1449], the Council tasked it with addressing several other issues, including the assessment of the unintended impact of sanctions and ways to assist affected untargeted States; the enforcement of targeted sanctions, especially asset...
freezes or travel bans targeting individuals or entities; and de-listing procedures in relation to targeted sanctions.

In January [S/2006/66], the Council’s President announced the Council’s agreement that Adamantios Th. Vassilakis (Greece) would serve as the working group Chairman until 31 December 2006.

During the year, the Council adopted several recommendations aimed at improving the effectiveness of its sanctions (see below).

Communication. On 14 June [A/60/887-S/2006/331], Germany, Sweden and Switzerland transmitted to the Presidents of the General Assembly and the Security Council a white paper prepared by the Watson Institute Targeted Sanctions Project of Brown University entitled “Strengthening targeted sanctions through fair and clear procedures”. The paper, which was commissioned by those Governments, was intended to analyse current practices and recommend proposals for strengthening UN target sanctions procedures. The paper noted that recent challenges before various courts had raised important questions regarding targeted sanctions imposed under Chapter VII of the Charter. While no national court had invalidated those measures, the legal challenges could potentially affect the efficacy of targeted sanctions. Beyond procedural improvements, there was a need for some form of review mechanism to which individuals and entities might appeal decisions regarding their designation or listing for such sanctions. Mechanisms proposed included a review mechanism under the authority of the Council, such as a monitoring team, Ombudsman or Panel of Experts; an independent arbitral panel to consider delisting proposals; or judicial review of delisting decisions.

SECURITY COUNCIL ACTION


The Security Council,

Welcomes the report of the Informal Working Group on General Issues of Sanctions, established pursuant to paragraph 3 of the note by the President of the Security Council dated 17 April 2000,

Decides that the Working Group has fulfilled its mandate as contained in the note by the President of the Security Council dated 29 December 2005, to develop general recommendations on how to improve the effectiveness of United Nations sanctions;

Takes note with interest of the best practices and methods contained in the report of the Working Group, and requests its subsidiary bodies to take note as well.

Other sanctions measures

The Security Council, in presidential statement S/PRST/2006/28 of 22 June (see p. 46), considered sanctions an important tool in the maintenance and restoration of peace and security and resolved to ensure that they were carefully targeted in support of clear objectives and were implemented in ways that balanced effectiveness against possible adverse consequences.

On 8 August [meeting 5507], the Security Council unanimously adopted resolution 1699(2006). The draft [S/2006/616] was submitted by Argentina, Denmark, France, Japan, Slovakia, the United Kingdom and the United States.

The Security Council,

Recalling its resolution 1617(2005) requesting increased cooperation between the International Criminal Police Organization (Interpol) and the Committee established pursuant to resolution 1267(1999) (the “1267 Committee”),

Recalling also the cooperation agreement of 8 July 1997 between the United Nations and Interpol, and the exchange of letters of 8 December 2005 and 5 January 2006 supplementing the agreement,

Welcoming the constructive role that Interpol has played to help the 1267 Committee fulfil its mandate, inter alia, through the creation of the Interpol-United Nations Security Council Special Notices,

Noting that such cooperation with Interpol could also benefit the other sanctions committees established by the Security Council (the “Committees”), further noting that each committee might come up with its own conclusion in this regard,

Stressing that Security Council sanctions measures are often implemented under national law, including criminal law where applicable, and that enhanced cooperation between the United Nations and Interpol would enhance States’ enforcement of those laws,

Emphasizing the obligations placed upon all Member States to implement, in full, the mandatory measures adopted by the Security Council,

1. Requests the Secretary-General to take the necessary steps to increase cooperation between the United Nations and Interpol in order to provide the Committees with better tools, to fulfil their mandates more effectively, and to give Member States better optional tools to implement those measures adopted by the Security Council and monitored by the Committees, as well as similar measures that may be adopted by the Security Council in the future, particularly the freezing of assets, travel bans, and arms embargoes;

2. Encourages Member States to use the tools offered by Interpol, particularly the I-24/7 global police communications system, to reinforce the implementation of such measures and similar measures that may be adopted by the Security Council in the future;

3. Decides to remain seized of the matter.
On 19 December [meeting 5599], the Security Council unanimously adopted resolution 1730(2006). The draft [S/2006/996] was submitted by Argentina, Denmark, France, Greece, Japan, Peru, the Russian Federation, Slovakia, the United Kingdom and the United States.

The Security Council,
Recalling the statement of its President of 22 June 2006,
Emphasizing that sanctions are an important tool in the maintenance and restoration of international peace and security,
Further emphasizing the obligations placed upon all Member States to implement, in full, the mandatory measures adopted by the Security Council,
Continuing in its resolve to ensure that sanctions are carefully targeted in support of clear objectives and implemented in ways that balance effectiveness against possible adverse consequences,
Committed to ensuring that fair and clear procedures exist for placing individuals and entities on sanctions lists and for removing them, as well as for granting humanitarian exemptions,

Adopts the de-listing procedure set forth in the annex to the present resolution and requests the Secretary-General to establish within the Secretariat (Security Council Subsidiary Organs Branch), a focal point to receive de-listing requests and to perform the tasks described in the attached annex;

Directs the sanctions committees established by the Security Council, including those established pursuant to resolution 751(1992), 918(1994), 1132(1997), 1267(1999), 1518(2003), 1521(2005), 1533(2004), 1572(2004), 1591(2005), 1636(2005), and 1718(2006), to revise their guidelines accordingly;

Decides to remain seized of the matter.

Annex
De-listing procedure

The Security Council requests the Secretary-General to establish, within the Secretariat (Security Council Subsidiary Organs Branch), a focal point to receive de-listing requests. Petitioners seeking to submit a request for de-listing can do so either through the focal point process outlined below or through their State of residence or citizenship.

The focal point will perform the following tasks:

1. Receive de-listing requests from a petitioner (individual(s), groups, undertakings, and/or entities on the Sanctions Committee’s lists).

2. Verify if the request is new or is a repeated request.

3. If it is a repeated request and if it does not contain any additional information, return it to the petitioner.

4. Acknowledge receipt of the request to the petitioner and inform the petitioner on the general procedure for processing that request.

5. Forward the request, for their information and possible comments to the designating government(s) and to the government(s) of citizenship and residence. Those governments are encouraged to consult with the designating government(s) before recommending de-listing. To this end, they may approach the focal point, which, if the designating state(s) so agree(s), will put them in contact with the designating state(s).

6. (a) If, after these consultations, any of these governments recommend de-listing, that government will forward its recommendation, either through the focal point or directly to the Chairman of the Sanctions Committee, accompanied by that government’s explanation. The Chairman will then place the de-listing request on the Committee’s agenda.

(b) If any of the governments, which were consulted on the de-listing request under paragraph 5 above oppose the request, the focal point will so inform the Committee and provide copies of the de-listing request. Any member of the Committee, which possesses information in support of the de-listing request, is encouraged to share such information with the governments that reviewed the de-listing request under paragraph 5 above.

(c) If, after a reasonable time (3 months), none of the governments which reviewed the de-listing request under paragraph 5 above comment, or indicate that they are working on the de-listing request to the Committee and require an additional definite period of time, the focal point will so notify all members of the Committee and provide copies of the de-listing request. Any member of the Committee may, after consultation with the designating government(s), recommend de-listing by forwarding the request to the Chairman of the Sanctions Committee, accompanied by an explanation. (Only one member of the Committee needs to recommend de-listing in order to place the issue on the Committee’s agenda.) If after one month, no Committee member recommends de-listing, then it shall be deemed rejected and the Chairman of the Committee shall inform the focal point accordingly.

7. The focal point shall convey all communications, which it receives from Member States, to the Committee for its information.

8. Inform the petitioner:
(a) Of the decision of the Sanctions Committee to grant the de-listing petition; or
(b) That the process of consideration of the de-listing request within the Committee has been completed and that the petitioner remains on the list of the Committee.

Cooperation with Asian-African Legal Consultative Organization

Pursuant to General Assembly resolution 59/3 [YUN 2004, p. 1349], the Secretary-General, in his report on cooperation between the United Nations and other organizations [A/61/256/Add.1], provided information on cooperation between the United Nations and the Asian-African Legal Consultative Organization (AALCO) from June 2004 to May 2006. In line with the cooperative framework agreed upon by the two organizations,
both routinely consulted and exchanged information and documentation on matters of common interest in the area of international law, including the law of the sea, international trade law, international environmental law, human rights law, refugee law, humanitarian law and peaceful settlement of disputes. AALCO continued to orient its work programme in order to accord priority to matters of concern to the United Nations and to initiate action aimed at strengthening its role.

The report provided details on AALCO representation at UN meetings and conferences and UN representation at AALCO sessions; measures taken by AALCO to further the work of the General Assembly’s Sixth Committee, to monitor progress in the work of the United Nations Commission on International Trade Law and to promote the ratification and implementation of the 1982 United Nations Convention on the Law of the Sea [YUN 1982, p. 181]; and AALCO ongoing study of refugee law and work, in close cooperation with the Office of the United Nations High Commissioner for Refugees. Also described were activities relating to issues on AALCO agenda, including environment and sustainable development; extraterritorial application of national legislation; deportation of Palestinians and other Israeli practices; cooperation against trafficking in women and children; international terrorism; recent developments related to the work of the International Criminal Court; and elaboration of an international legal instrument against corruption. The report also covered the activities of the AALCO Centre for Research and Training and its annual publications.

In its statement before the Assembly on 20 October [meeting 39], India, as AALCO President for the year, encouraged the organization to expand its activities, citing in particular, the promotion of teaching and expertise in advising on international law issues; the offering of fellowships to Asian and African students for higher studies in international law; and the publication of books devoted to international law.

GENERAL ASSEMBLY ACTION

On 20 October [meeting 39], the General Assembly adopted resolution 61/5 [draft: A/61/L.5 & Add.1] without vote [agenda item 108(b)].


The General Assembly,


Having considered the report of the Secretary-General on cooperation between the United Nations and the Asian-African Legal Consultative Organization,

Having heard the statement made by the Secretary-General of the Asian-African Legal Consultative Organization on the steps taken by the Consultative Organization to ensure continuing, close and effective cooperation between the two organizations,

Acknowledging in particular the close interaction between the Consultative Organization and the Sixth Committee,

1. Takes note with appreciation of the report of the Secretary-General;
2. Recognizes the continuing efforts of the Asian-African Legal Consultative Organization towards strengthening the role and function of the United Nations and its various organs in enhancing the rule of law and wider adherence to related international instruments;
3. Notes with satisfaction the commendable progress achieved towards enhancing cooperation between the United Nations, its agencies, other international organizations and the Consultative Organization;
4. Notes with appreciation the work of the Consultative Organization aimed at strengthening the efforts of the United Nations in respect of issues such as combating corruption, international terrorism and trafficking in women and children, as well as human rights issues;
5. Also notes with appreciation the initiative and efforts the Consultative Organization has undertaken to promote the objectives and principles set out in the United Nations Millennium Declaration, including wider acceptance of treaties deposited with the Secretary-General;
6. Recommends that, with a view to promoting close interaction between the Consultative Organization and the Sixth Committee, the consideration of the sub-item entitled “Cooperation between the United Nations and the Asian-African Legal Consultative Organization” should be scheduled to coincide with the deliberations of the Committee on the work of the International Law Commission;
7. Requests the Secretary-General to submit to the General Assembly at its sixty-third session a report on cooperation between the United Nations and the Consultative Organization;
8. Decides to include in the provisional agenda of its sixty-third session the sub-item entitled “Cooperation between the United Nations and the Asian-African Legal Consultative Organization”.

Host country relations

At five meetings held in New York (18 January, 17 May, 2 August, 29 September and 30 October), the Committee on Relations with the Host
Country considered the following aspects of relations between the UN diplomatic community and the United States, the host country: transportation, including use of motor vehicles, parking and related matters; acceleration of immigration and customs procedures; entry visas issued by the host country; host country travel regulations; and the question of privileges and immunities.

The recommendations and conclusions on those items, approved by the Committee at its October meeting, were incorporated in its report [A/61/26]. The Committee expressed appreciation for the host country’s efforts to maintain appropriate conditions for delegations and permanent missions accredited to the United Nations and anticipated that all issues raised at its meetings would be duly settled in a spirit of cooperation and in accordance with international law. Stressing the importance of the observance of privileges and immunities, the Committee emphasized the need to solve, through negotiations, problems that might arise in that regard for the normal functioning of accredited delegations and missions.

It urged the host country to continue to take appropriate action, such as the training of police, security, customs and border control officers, with a view to maintaining respect for diplomatic privileges and immunities. In case of violations, the Committee urged the host country to ensure that such cases were properly investigated and remedied, in accordance with applicable law. Considering that the security of missions and the safety of their personnel were indispensable for their effective functioning, the Committee appreciated the host country’s efforts to that end and anticipated that all measures to prevent any interference with the missions’ functioning would continue to be taken.

Noting the problems experienced by some missions in connection with the implementation of the Parking Programme for Diplomatic Vehicles, in force since 2002 [YUN 2002, p. 1338], the Committee decided to conduct another review of the Programme’s implementation during the General Assembly’s sixty-first session and proceed in line with its outcome. The Committee noted the host country’s comments on efforts made to improve the implementation of the Programme, as well as participation of the representatives of the City of New York in its meetings.

The Committee requested the host country to continue to bring to the attention of New York City officials reports about other problems experienced by permanent missions or their staff, in order to improve the conditions for their functioning and to promote compliance with international norms concerning diplomatic privileges and immunities.

It anticipated that the host country would enhance its efforts to ensure the issuance, in a timely manner, of entry visas to representatives of Member States, pursuant to the Headquarters Agreement, to travel to New York on official UN business, and noted that a number of delegations had requested shortening the time frame applied by the host country for issuance of entry visas since the current time frame posed difficulties for the full-fledged participation of Member States in UN meetings.

Concerning travel regulations issued by the host country with regard to personnel of certain missions and staff members of the Secretariat of certain nationalities, the Committee noted the removal of some travel restrictions during the past year and urged the host country to remove all restrictions.

The Committee stressed the importance of permanent missions, their personnel and Secretariat personnel meeting their financial obligations. Finally, the Committee reiterated its appreciation to the representative of the United States Mission in charge of host country affairs and to the Host Country Affairs Section of the United States Mission to the United Nations, Consular Corps and Protocol, that contributed to its efforts to help accommodate the needs, interests and requirements of the diplomatic community and to promote mutual understanding between the diplomatic community and the people of the City of New York.

Communications. Letters were submitted to the Committee by Cuba [A/AC.154/367, A/AC.154/368] concerning the denial of the requests of its officials to travel to New York, and from Venezuela [A/61/474] protesting action taken by the United States Immigration Service.

GENERAL ASSEMBLY ACTION

On 4 December [meeting 64], the General Assembly, on the recommendation of the Sixth Committee [A/61/461], adopted resolution 61/41 without vote [agenda item 148].

Report of the Committee on Relations with the Host Country

The General Assembly,

Having considered the report of the Committee on Relations with the Host Country,

Recalling Article 105 of the Charter of the United Nations, the Convention on the Privileges and Immunities of the United Nations, the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations and the responsibilities of the host country,
Recalling also that, in accordance with paragraph 7 of General Assembly resolution 2819 (XXVI) of 15 December 1971, the Committee should consider, and advise the host country on, issues arising in connection with the implementation of the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations,

Recognizing that effective measures should continue to be taken by the competent authorities of the host country, in particular to prevent any acts violating the security of missions and the safety of their personnel,

1. Endorses the recommendations and conclusions of the Committee on Relations with the Host Country contained in paragraph 86 of its report;

2. Considers that the maintenance of appropriate conditions for the normal work of the delegations and the missions accredited to the United Nations and the observance of their privileges and immunities, which is an issue of great importance, are in the interest of the United Nations and all Member States, and requests the host country to continue to solve, through negotiations, problems that might arise and to take all measures necessary to prevent any interference with the functioning of missions; and urges the host country to continue to take appropriate action, such as training of police, security, customs and border control officers, with a view to maintaining respect for diplomatic privileges and immunities and if violations occur to ensure that such cases are properly investigated and remedied, in accordance with applicable law;

3. Notes the problems experienced by some permanent missions in connection with the implementation of the Parking Programme for Diplomatic Vehicles and shall remain seized of the matter, with a view to continuing to maintain the proper implementation of the Parking Programme in a manner that is fair, non-discriminatory, effective and therefore consistent with international law, and also notes the decision of the Committee to conduct another review of the implementation of the Programme during the sixty-first session of the General Assembly and, subject to its outcome, will proceed accordingly;

4. Requests the host country to consider removing the remaining travel restrictions, notes that during the reporting period some travel restrictions previously imposed by the host country on staff of certain missions and staff members of the Secretariat of certain nationalities were removed, and, in this regard, notes the positions of affected States as reflected in the report of the Committee, of the Secretary-General and of the host country;

5. Notes that the Committee anticipates that the host country will enhance its efforts to ensure the issuance, in a timely manner, of entry visas to representatives of Member States, pursuant to article IV, section 11, of the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations to travel to New York on United Nations business; and notes that the Committee anticipates that the host country will enhance efforts to facilitate participation, including visa issuance, of representatives of Member States in other United Nations meetings as appropriate;

6. Notes also that a number of delegations have requested shortening the time frame applied by the host country for issuance of entry visas to representatives of Member States, since this time frame poses difficulties for the full-fledged participation of Member States in United Nations meetings;

7. Expresses its appreciation for the efforts made by the host country, and hopes that the issues raised at the meetings of the Committee will continue to be resolved in a spirit of cooperation and in accordance with international law;

8. Affirms the importance of the Committee being in a position to fulfil its mandate and meet on short notice to deal with urgent and important matters concerning the relations between the United Nations and the host country, and in that connection requests the Secretariat and the Committee on Conferences to accord priority to requests from the Committee on Relations with the Host Country for conference-servicing facilities for meetings of that Committee that must be held while the General Assembly and its Main Committees are meeting, without prejudice to the requirements of those bodies and on an “as available” basis;

9. Requests the Secretary-General to remain actively engaged in all aspects of the relations of the United Nations with the host country;

10. Requests the Committee to continue its work in conformity with General Assembly resolution 2819 (XXVI);

11. Decides to include in the provisional agenda of its sixty-second session the item entitled “Report of the Committee on Relations with the Host Country”.