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Chair: Mr. Mlynár . . . . . (Slovakia)

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19-19155 (E)

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

Agenda item 79: Report of the International Law Commission on the work of its seventy-first session (*continued*) (A/74/10)

1. **The Chair** invited the Committee to continue its consideration of chapters VII and IX of the report of the International Law Commission on the work of its seventy-first session (A/74/10).

2. **Ms. Meh** (Malaysia), referring to the topic "Succession of States in respect of State responsibility", said that her delegation agreed with the general view expressed by the Special Rapporteur in paragraph 20 of his third report (A/CN.4/731) that: "the question of separate or joint treatment of responsibility obligations and rights in the context of succession depends on an analysis of all relevant elements. Such analysis should precede the decision on the structure of draft articles, which is mostly a technical or drafting issue". It also agreed with him that the draft articles were subsidiary in nature and that priority should be given to agreements between the States concerned.

3. In relation to the draft articles proposed by the Special Rapporteur in his report, her delegation was of the view that there was no need to define the term "States concerned", as set forth in draft article 2, paragraph (f), given that, thus far, the term appeared in only draft article 13, paragraph 2, as well as in draft article 10, paragraph 3, proposed in his second report (A/CN.4/719). For the sake of clarity, the definition could be inserted in the commentaries to those draft articles. The wording of draft articles X and Y was generally acceptable and both draft articles could therefore be given consideration. Draft article 12 could also be accepted, but the phrase "special circumstances" in paragraph 2 was vague and should be clarified further by the Special Rapporteur. Her delegation supported the inclusion of draft article 13, as the right to reparation of States uniting in one successor State and the priority given to agreements between the States concerned were set forth clearly therein.

4. In general, her delegation could support the inclusion of draft article 14. However, it should be approached with caution, given that the cases cited in the Special Rapporteur's report concerned the succession of States resulting from agreements between the interested parties rather than from the international law principle of succession of States in respect of State responsibility. Although the title of the draft article was "Dissolution of States", paragraph 1 contained a reference to the separation of parts of a State. The initial wording of the paragraph should be amended to read: "When a State dissolves and ceases to exist and the parts of its territory form two or more successor States", for the sake of clarity and consistency with draft article 11, paragraph 1. There was a disparity between paragraphs 1 and 2 of draft article 14. The latter contained the wording "such claims and agreements", but the former contained no reference to "claims and agreements". The term "nexus" and the phrase "other relevant factors" in paragraph 2 were ambiguous and required further clarification.

5. The expression "may request reparation", employed in draft articles 12, 13 and 14, denoted the discretion of the predecessor State or the successor State to request reparation, but not their legal right to do so. The Special Rapporteur should further clarify that ambiguity.

6. Draft article 15 (Diplomatic protection) was in line with article 5, paragraph 2, of the articles on diplomatic protection and thus could be supported. Care should be taken, however, to ensure that the draft article did not conflict with any of the articles on diplomatic protection, which had been drafted on the basis of the fundamental principle that the exercise of diplomatic protection remained the sovereign prerogative of States. Her delegation would like clarification as to whether, in paragraph 1, the reference to "person" was intended to cover both natural and legal persons, since both "a person" and "the person or the corporation" were used in the paragraph. Furthermore, a clear distinction should be made in paragraphs 1 and 2 between situations in which the predecessor State continued to exist after the date of succession and those in which it ceased to exist.

7. The Commission faced a range of challenges with regard to the topic, including the complexity of the subject of succession of States under international law, the fact that cases of State succession were infrequent, and the diverse, context-specific and politically sensitive nature of State practice in the area. The Commission and the Special Rapporteur should consult States more proactively on the topic and take into consideration more geographically diverse sources of State practice for the purposes of codification and progressive development of international law relating to succession of States in respect of State responsibility. Her delegation was of the view that, when the programme of work on the topic had been completed, the draft articles should be considered holistically, to better enable all States to advance their views on the topic.

8. Inclusion of the topic "General principles of law" in the Commission's long-term programme of work was crucial for the progressive development of international

law and would have a substantial effect as a source of international law. It therefore required Member States to analyse it in detail in order to reach an acceptable international consensus. Judging by the wording of Article 38, paragraph 1, of the Statute of the International Court of Justice and the *travaux préparatoires* of the Statute, it appeared that the primary intention of the drafters of the Statute had been to refer to principles of national legal systems that could be used to fill gaps in international law and to avoid findings of *non liquet*.

9. Her delegation wished to underline, in particular with regard to draft conclusion 3 of the draft conclusions proposed by the Special Rapporteur in his first report (A/CN.4/732), the considerable difference between the role played by general principles of law in national legal systems and their role in the international legal system. When deriving general principles of law from national legal systems, it would be prudent to take into account differences in political ideologies and the structure of States, as well as their dualist or monist character. The Commission and the Special Rapporteur should address the view that the references to and the application of Article 38, paragraph 1 (c), of the Statute by the Court mainly concerned issues of procedure or evidence, rather than the role of that paragraph as a direct source of rights and obligations.

10. **Ms. Green** (Australia) said that general principles of law had been largely neglected as a source of international law. Past considerations of those principles had often been discrete and limited to particular principles. Just as in the case of the work on identification of customary international law, a comprehensive examination of the development of the topic "General principles of law" would help States to draw on all sources of international law and thereby better understand their obligations and resolve their disputes peacefully.

11. Her delegation supported the methodological approach to consideration of the topic proposed by the Special Rapporteur in his first report (A/CN.4/732). The Commission should focus on elucidating the meaning of "general principles of law" as a source of law reflected in Article 38, paragraph (l) (c), of the Statute of the International Court of Justice, even though it did not believe that Article 38, paragraph 1 (c), was as a subcategory of those principles, or that the content of such principles should be determined only by reference to the Court's jurisprudence. Australia thus agreed with the Special Rapporteur that the Commission's work on general principles of law should be based primarily on the practice of States, and with his decision to limit the scope of the work and not to address the substance of general principles of law.

12. Regarding the draft conclusions proposed by the Special Rapporteur in his report, her delegation agreed with the two-step process proposed in draft conclusion 3 for identifying general principles of law derived from national legal systems. In addition to being identified as a rule that was common to the legal systems of all States, a principle of law in national legal systems must be capable of being elevated to the international legal system, to be considered a source of international law. Her delegation, therefore, looked forward to consideration by the Commission of when and how commonalities in domestic law could be "internationalized" to form a general principle of law applicable among States. Her delegation would also welcome clarification by the Commission as to how a general principle of law could be formed within the international legal system, how such principles would be identified and how they would differ from customary international law.

13. **Mr. Sharifi** (Islamic Republic of Iran), noting the preliminary and introductory nature of the first report of the Special Rapporteur on general principles of law (A/CN.4/732), said that it was too early to enter into a drafting exercise on substantive provisions on the topic, especially on the origins of those principles. That should be done only after the concept and scope of the topic had been clarified and comments and observations had been received from States.

14. His delegation was of the view that the scope of the topic should be in line with Article 38, paragraph 1 (c), of the Statute of the International Court of Justice, under which general principles of law were limited to those recognized by "civilized nations" – in other words, States. Furthermore, it could be concluded from the *travaux préparatoires* of the Statute of the Permanent Court of International Justice that the concept of general principles of law was confined to those principles that had crystalized in the light of the experiences of different legal systems. They could thus be understood as essential legal principles common to all States. International courts often applied widely accepted general principles of national legal systems and, therefore, their work and case of law should also be taken into account.

15. His delegation considered general principles of law to be an autonomous source of international law. As a result, judges on international courts should avoid acting as legislators when adjudicating cases and should rely on those principles, which made it possible to avoid findings of *non liquet*. General principles of law should not be

regarded as subsidiary to other sources of international law, namely treaties and customary international law.

16. His delegation concurred with the Special Rapporteur that, in the context of the fundamental principle of sovereign equality of States, the term "civilized nations" in Article 38, paragraph 1 (c), was inappropriate and that the preferred formula should be "general principles of law recognized by States". It was crucial that the process of identifying and recognizing such principles be inclusive and that States representing all legal systems contribute to it in a balanced manner.

17. With regard to draft conclusion 3 (b), his delegation was not convinced that general principles of law formed within the international legal system constituted a category under Article 38, paragraph l (c). Moreover, such principles generally came into existence through the development of customary international law. In that regard, the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations already provided States with general principles formed within the international legal system.

18. The Special Rapporteur should proceed with caution and avoid any unintended consequences that might ensue from broadening the scope of the topic or confusing general principles of law with customary international law. Additionally, different types of general principles of law could not be determined before the criteria for recognition and the rules for identification of such principles had been defined.

19. Turning to the topic "Succession of States in respect of State responsibility" and the draft articles proposed by the Special Rapporteur in his third report (A/CN.4/731), he said that his delegation agreed with the Special Rapporteur on the subsidiary nature of the draft articles and on the priority to be given to agreements between the States concerned, as indicated in draft article 1, paragraph 2, provisionally adopted by the Drafting Committee. At the same time, his delegation was of the view that the proposed *lex ferenda* in the draft articles should be based on solid grounds and not on policy preferences, and that only agreements concluded between States under the applicable rules of the law of treaties and after the date of succession could be addressed for the purposes of the topic. Moreover, the draft articles should be compatible with the articles on responsibility of States for internationally wrongful acts.

20. The draft articles did not apply to the specific situation of creation of States in territories under foreign occupation. The situation of those States was comparable to that of States to which the "clean slate" rule applied, unless the new States decided otherwise. In the case of protracted illegal foreign occupation, and in line with the principle of *ex injuria jus non oritur*, any responsibility arising from wrongful acts committed by the Occupying Power remained with that Power and did not fall to the successor State, even after the end of the occupation.

21. With regard to the possibility to claim reparation for injury resulting from internationally wrongful acts, his delegation agreed with the Special Rapporteur on the broad distinction between situations where the predecessor State continued to exist and situations where it ceased to exist. The possibility of merging some categories of succession of States in draft article 12 in order to avoid unnecessary repetitions of identical substantive provisions should not change the substance of provisions concerning specific categories of succession. The Special Rapporteur should not rely overly on the 2015 resolution of the Institute of International Law on State succession in matters of State responsibility and should not be afraid to adopt a different approach from the Institute, if doing so would serve the purpose of the topic.

22. While his delegation was of the view that draft article 15 was in conformity with the articles on diplomatic protection, it believed that the Special Rapporteur's approach to allow an exception to the principle of continuous nationality in cases of succession of States to avoid situations in which an individual lacked protection should be allowed only in situations in which nationality was imposed. His delegation therefore agreed with members of the Commission that draft article 15 should include the safeguards which were intended to avoid abuses and prevent "nationality shopping" if the rule of continuous nationality was lifted.

23. Bearing in mind the earlier work of the Commission on related areas, including on succession of States in respect of treaties and in respect of State property, archives and debts, as reflected in the Vienna Convention on Succession of States in respect of Treaties of 1978 and the Vienna Convention on Succession of States in respect of State Property, Archives and Debts of 1983, it appeared that its work on the current topic had not yet received widespread endorsement by States, which to date had preferred to settle their disputes regarding succession through bilateral agreements. The outcome of its work on the topic might therefore best take the form of guidelines.

24. **Mr. Simonoff** (United States of America), referring to the topic "Succession of States in respect of

State responsibility", said that, given that the 1978 Vienna Convention on Succession of States in respect of Treaties had not enjoyed widespread acceptance, his delegation questioned the value of the current project if it remained in draft article form. While the United States appreciated that, in his third report (A/CN.4/731), the Special Rapporteur had acknowledged that the draft articles he had proposed would constitute progressive development of international law, it respectfully suggested that an outcome in the form of draft guidelines or principles might be more useful, given the prospects for success of a convention and the substance of the initial draft articles. For example, while his delegation did not yet have a position on draft article 9 (Transfer of part of the territory of a State), proposed by the Special Rapporteur in his second report (A/CN.4/719), practice in that area was uneven and determinations by predecessor or successor States to deny or accept liability were likely driven more by diplomatic and political, rather than legal, considerations. His delegation therefore queried whether that draft article was appropriate for something that would, in theory, be considered for a convention. It might therefore be more appropriate to prepare draft guidelines or principles to which States could refer in their diplomatic and legal negotiations regarding responsibility following a succession.

25. His delegation's views on the topic "General principles of law" would be general in nature, considering the preliminary nature of the first report of the Special Rapporteur (A/CN.4/732). The focus of the Commission's work on the topic should be on the concept of general principles of law and on developing a clear methodology by which States, courts and tribunals could apply that concept. His delegation agreed with the Special Rapporteur that an illustrative list of general principles of law would be impractical, incomplete and would divert attention away from the central aspects of the topic, and that any examples of such principles that might be referred to in the work of the Commission must be illustrative only and confined to the commentaries.

26. His delegation also agreed that the element of "recognition" was essential to the identification of general principles of law. The relevant determination was whether a legal principle was recognized by States – in other words, the community of nations. In that regard, the United States agreed with the Commission's unanimous view that the term "civilized nations" was outdated and should be abandoned. His delegation was also of the view that regional or bilateral principles of law were not sufficiently "general" to fall within the scope of the topic.

27. The United States questioned whether there was support for the existence of a category of general principles of law formed within the international legal system, and whether there was sufficient State practice in that system to determine whether a particular principle could be considered a general principle of law.

28. Certain portions of the Special Rapporteur's report seemed to rely solely on references to academic literature or unsupported prior assertions by the Commission. In future reports, the Special Rapporteur should indicate clearly whether particular assertions were supported by State practice or were intended to be understood as proposals for the progressive development of the law. His delegation also questioned whether there was sufficient State practice on the more granular questions of the functions of general principles of law, their relationship with other sources of international law and the rules for identifying them. In the absence of significant State practice in those areas, there would be no basis for drawing meaningful conclusions about them.

29. **Ms. Bailey** (Jamaica) said that the Commission was to be commended for its continuing contribution to the codification and progressive development of international law, particularly in relation to the topic "Succession of States in respect of State responsibility".

30. The Commission's previous projects on succession of States and responsibility of States for internationally wrongful acts did not specifically address the substantive issues relating to succession of States in respect of State responsibility. Those projects and the Commission's decision to address those substantive issues at a later date reflected the complexity and sensitivity of the topic, which required careful attention in view of the limited, diverse and case-specific nature of existing relevant practice. In that connection, her delegation shared the view of other Member States that work on the topic must be consistent with the Commission's previous work, with regard to both solutions for substantive issues and terminology. For example, the Special Rapporteur had indicated that the terms "injury" and "injured State" were intended to be consistent with Parts Two and Three of the articles on responsibility of States for internationally wrongful acts, and that the notion of the responsibility of States reflected the understanding of that concept articulated in those articles.

31. The Special Rapporteur's approach had been to exclude the automatic extinction of responsibility and the automatic transfer of responsibility in cases of succession of States, together referred to as the general rule of non-succession, on the basis that that rule could

lead to unfair and inequitable results: the automatic extinction of responsibility would enable States to avoid consequences of internationally wrongful acts, while the automatic transfer of responsibility would result in a situation in which nationals or States which had suffered legitimate injury would be left without legal remedies. Her delegation believed that the determination of responsibility in cases of State succession should be based on the facts of the case, as indicated in the *Lighthouses Arbitration* case between France and Greece, in which the arbitral tribunal had stated that the responsibility of a State might be transferred to a successor if the facts were such as to make the successor State responsible for the former's wrongdoing. That position was also supported by the dissenting opinion of Judge Van Eysinga in the *Panevezys-Saldutiskis Railway* case of the Permanent Court of International Justice, where he had reasoned that the crystallization of unwritten rules of law, such as the non-succession principle, whereby a territory was not entitled to bring a claim on behalf of a national who had suffered an injury, would lead to inequitable results.

32. Referring to the topic "Protection of the environment in relation to armed conflicts", she said that the environmental damage caused by armed conflict extended far beyond the period of conflict, and beyond national boundaries and the current generation. The deleterious effects of such conflict included significant harm to human health, pollution, a loss of biodiversity, a loss or scarcity of natural resources, including clean water, and the degradation of ecosystems, which resulted in human displacement. Such effects had been acknowledged by many international bodies, including the United Nations Environment Programme, which, in its report entitled "Protecting the Environment During Armed Conflict: An Inventory and Analysis of International Law", had identified lacunae in the relevant international legal regime.

33. In paragraph 2 of its commentary to draft principle 1 (Scope) of the draft principles it had adopted on first reading, the Commission had indicated that it had divided the draft principles into temporal phases, and had decided to address the topic from a temporal perspective rather than from the perspective of various areas of international law, such as international environmental law, the law of armed conflict and international human rights law. While Jamaica did not object to that approach, it recommended that, in its future work, the Commission consider some of the gaps identified by the United Nations Environment Programme in its aforementioned report.

34. In its resolution 56/4, the General Assembly had not only declared 6 November of each year as the International Day for Preventing the Exploitation of the Environment in War and Armed Conflict but had also emphasized the necessity of safeguarding nature for the sake of future generations. In so doing, it had upheld the intergenerational equity principle, a tenet widely recognized by many legal traditions and legal systems, which called for the preservation of natural resources and the environment for the benefit of future generations. Her delegation therefore submitted that that principle should be specifically highlighted in draft principle 21 [20] (Sustainable use of natural resources).

35. Her delegation noted that the international humanitarian law principle of usufruct, whereby an Occupying Power was required to use the natural resources in an occupied territory for the benefit of the population, had been established prior to the principle of sustainable use/development, and that draft principle 21 [20] sought to bring the rules of usufruct into line with modern realities and developments in international environmental law. Accordingly, her delegation believed that the draft principle should be redrafted to mandate the Occupying Power to use the relevant natural resources not only in a sustainable manner and with a view to minimizing environmental harm, but also in a way that was not prejudicial to the interests of future generations of the relevant population. Alternatively, the commentary to that draft principle could be revised to clarify that the term "population" should be interpreted as encompassing both present and future generations.

36. Those recommendations were consistent with the dictum of the International Court of Justice in its advisory opinion on the *Legality of the Threat or Use of Nuclear Weapons* that "the environment is not an abstraction but represents the living space, the quality of life and the very health of human beings, including generations unborn". The recommendations were also in line with paragraph 1 of draft principle 20 [19] (General obligations of an Occupying Power) and with principles 3 and 24 of the Rio Declaration on Environment and Development.

37. Her delegation also recommended the inclusion of a separate draft principle providing for the prevention of the pollution of rivers and water resources with harmful substances as a result of armed conflict. Alternatively, the prevention of such pollution could be highlighted in draft principle 2 (Purpose) as a "preventive measure", which should be taken throughout each temporal phase of conflict. In that connection, while the Commission had explained what it meant by "remedial measures" in the commentary to the draft principle, it had not done the same for "preventive measures". Her delegation therefore recommended that the Commission explain the meaning of the term "preventive measures" in the

commentary, instead of merely indicating the phases in which such measures could be taken. While an exhaustive list of preventive measures might not be possible or practical, guidance in that regard would be helpful. In addition, in paragraph 2 of the commentary, the Commission had stated that "preventive measures for minimizing damage" related primarily to the situation before and during armed conflict, while the draft principle itself only addressed the situation during armed conflict. The word "before" should therefore be added to the draft principle for clarity and consistency.

38. There appeared to be a contradiction between the scope and purpose of the draft principles: while "protection of the environment" was referred to in the title of the draft principles, it was indicated in draft principle 2 that the draft principles were aimed at "enhancing the protection of the environment". Her delegation questioned the rationale for the inclusion of the word "enhancing" in that draft principle, as there was no explanation in the commentary. Specifically, it wondered whether that term was designed to demonstrate a recognition of existing principles providing for the protection of the environment in armed conflict and to expand thereon, as suggested in draft principle 1, in which it was stated that the draft principles applied to the protection of the environment before, during or after an armed conflict. If so, an explanation to that effect should be included in the relevant commentary.

39. With regard to draft principle 15 [II-3, 11] (Environmental considerations), her delegation noted that, in its advisory opinion on the *Legality of the Threat or Use of Nuclear Weapons*, the International Court of Justice had stated that "States must take environmental considerations into account when assessing what is necessary and proportionate in the pursuit of legitimate military objectives. Respect for the environment is one of the elements that go to assessing whether an action is in conformity with the principles of necessity and proportionality". In the discussion surrounding that paragraph, it had been noted that the Court had considered whether obligations stemming from treaties relating to the protection of the environment were intended to be obligations of total restraint during military conflict. In response, the Court had found that "the treaties in question could have intended to deprive a State of the exercise of its right to self-defence under international law because of its obligations to protect the environment". Bearing in mind the Court's discussion and paragraph 5 of the commentary to draft principle 15, the Commission should clarify the parameters of the term "environmental considerations" and why it had been included in the draft principles.

40. Lastly, the phrase "significant harm," used in draft principles 20 [19] (General obligations of an Occupying Power) and 22 [21] (Due diligence), should be revised or deleted. Her delegation recommended that the phrase be replaced with positive wording that would be less susceptible to abusive application, such as that found in paragraph 5 of the resolution of the United Nations Environment Assembly on pollution mitigation and control in areas affected by armed conflict or terrorism (UNEP/EA.3/Res.1), which referred to "preventing, minimizing and mitigating" the impact of armed conflict on the environment.

41. **Mr. Ugarelli** (Peru), referring to the topic "General principles of law," said that the first report of the Special Rapporteur (A/CN.4/732) was a valuable contribution to consideration of the third source of international law listed in Article 38, paragraph 1, of the Statute of the International Court of Justice, following the Commission's work on treaties and international customary law.

42. Given the complementarity between the topic and the Commission's previous work in other areas, it was appropriate that the Special Rapporteur referred to the reports on identification of customary international law and peremptory norms of general international law (*jus cogens*) in discussing the specificity of general principles of law as a separate source of international customary law. It was also appropriate that he had indicated that the expression "general international law" included general principles of law, and that those principles could serve as the basis for peremptory norms of general international law.

43. Peru was of the view that a general principle of law could arise both from national legal systems, through the transposition of principles from those systems into international law, and from the international legal system itself. As the term "civilized nations" was outdated and incompatible with the sovereign equality of States, it could be replaced with the term "community of nations", used in article 15, paragraph 2, of the International Covenant on Civil and Political Rights.

44. Peru agreed with the draft conclusions proposed by the Special Rapporteur in his first report (A/CN.4/732), but would prefer that, in draft conclusion 2 (Requirement of recognition), the term "States" be replaced with "international community," in order to leave open the possibility of considering other subjects of international law, such as international organizations. In its future work, the Commission should focus on the identification of general principles of law. In that regard, the development of an indicative list of general principles of law would be inappropriate and would

require considerable effort, given the broad range of those principles. The Special Rapporteur should therefore provide illustrative examples of those principles in the commentaries to the relevant draft conclusions.

45. The Commission contributed significantly to the progressive development and codification of international law. Coordination between the Commission and the Sixth Committee should be strengthened. For instance, the Committee could be authorized to propose new topics or refer specific issues to the Commission. The conclusion of the consideration of a number of topics by the Commission within the current quinquennium provided an opportunity to determine whether issues such as those that had recently been included in its long-term programme of work could be moved to its current programme of work. It would also be useful to determine the appropriateness, in certain cases, of combining the appointment of special rapporteurs with the establishment of study groups on specific topics, as had been decided in the case of topics of particular contemporary relevance, such as "Sea-level rise in relation to international law".

46. **Mr. Šturma** (Chair of the International Law Commission) said that the meetings at which the Committee had discussed the report of the Commission had been attended by 12 members of the Commission, including 5 Special Rapporteurs and 3 Co-Chairs of the Study Group on sea-level rise in relation to international law. It should be noted that no financial support was available for their attendance; they performed their functions on a purely voluntary and pro bono basis.

47. The Commission took into account the comments of Member States in its work on the codification, clarification and progressive development of international law. He hoped that, in its resolution on the draft articles on prevention and punishment of crimes against humanity, the General Assembly would convoke a diplomatic conference on the draft articles, as requested by the Commission.

Agenda item 165: Report of the Committee on Relations with the Host Country (A/74/26)

48. **Mr. Mavroyiannis** (Cyprus), speaking as Chair of the Committee on Relations with the Host Country and introducing the report of the Committee (A/74/26), said that, during the reporting period, concerns had been raised 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, and the question of privileges and immunities, particularly in connection with entry visas and travel restrictions. The Committee would continue its efforts to address all issues under its mandate in a spirit of cooperation and in accordance with international law.

49. The recommendations and conclusions contained in the report feature new formulations concerning, inter alia, the issuance of entry visas to representatives of Member States and Secretariat staff, travel regulations adopted by the host country that affected mission staff from certain States, and the role of the Secretary-General in the work of the Committee and in connection with the implementation of the Headquarters Agreement.

50. He stood ready to help address all issues raised in the Committee, in a spirit of compromise and with full regard for the interests of the Organization.

51. **Mr. Alehabib** (Islamic Republic of Iran), speaking on behalf of the Movement of Non-Aligned Countries, said that the host countries of United Nations Headquarters and headquarters duty stations played a critical role in preserving multilateralism and facilitating multilateral diplomacy and intergovernmental norm-making processes. The Non-Aligned Movement called upon all such countries to facilitate the presence of the representatives of Member States in the relevant meetings of the United Nations, in accordance with their respective headquarters agreements and the Vienna Convention on Diplomatic Relations. It also recalled that the provisions of the agreements applied irrespective of the bilateral relations between the Governments and the host countries.

52. The Movement was deeply concerned about the denial of, or delay in, the issuance of entry visas to the representatives of its States members by the host country of the United Nations Headquarters, and reiterated that political considerations should not interfere with the provision of facilities required under the Headquarters Agreement for Member States to participate in United Nations activities. The Movement also opposed the arbitrary movement restrictions imposed on the diplomatic officials of some missions of its member States by the host country, as they constituted flagrant violations of the Vienna Convention on Diplomatic Relations, the Headquarters Agreement and international law. The Movement thus urged the host country to expeditiously take all necessary measures to remove them.

53. In line with the decisions taken by their Heads of State and Government at their eighteenth Summit, held in Baku in October 2019, the States members of the Movement had announced their resolve to present to the General Assembly a short, action-oriented draft

resolution demanding the fulfilment by the host country of its responsibilities, pursuant to the Headquarters Agreement and the Vienna Convention on Diplomatic Relations, including the timely issuance of entry visas and the removal of arbitrary movement restrictions, in order to ensure that delegations could fully exercise their right to participate in multilateral meetings and could properly discharge their diplomatic duties and official responsibilities.

54. **Mr. Chaboureau** (Observer for the European Union) speaking also on behalf of the candidate countries Albania, Montenegro, North Macedonia and Serbia; the stabilization and association process country Bosnia and Herzegovina; and, in addition, Liechtenstein and the Republic of Moldova, said that the observance of the privileges and immunities of diplomatic personnel was important and based on solid legal principles. It was therefore necessary to safeguard the integrity of the relevant body of international law, in particular the Headquarters Agreement, the Vienna Convention on Diplomatic Relations and the Convention on the Privileges and Immunities of the United Nations. The Committee on Relations with the Host Country played a vital role in addressing issues that arose in the context of the relationship between the host country and the United Nations community, ensuring that all aspects of that relationship were in compliance with the aforementioned instruments.

55. During the reporting period, the Committee on Relations with the Host Country had continued to serve as a valuable forum for dealing with issues concerning the activities of permanent and observer missions to the United Nations and their staff. In a number of meetings, several delegations had raised matters of concern relating to the implementation of the Headquarters Agreement, in particular in connection with the issuance of entry visas and the imposition of travel restrictions on the staff of certain diplomatic missions, issues that had also been discussed at the emergency, 295th meeting of the Committee on Relations with the Host Country, held on 15 October 2019.

56. The European Union and its member States stressed the importance of the Secretary-General's continued active engagement in the work of the Committee on Relations with the Host Country and took note of the statement delivered by the United Nations Legal Counsel to the Committee at that meeting, set out in document A/AC.154/415, in which he had confirmed that the legal position of the United Nations regarding the host country's obligations with respect to the issuance of visas to persons covered by the Headquarters Agreement remained unchanged from that provided by the then Legal Counsel to the Committee in 1988, set out in document A/C.6/43/7.

57. The members of the Committee on Relations with the Host Country were to be commended for the constructive spirit in which they had conducted their discussions, which had led them to approve the Committee's report (A/74/26) by consensus, in accordance with its usual practice. Multilateralism enabled Member States to work together in a spirit of mutual understanding and cooperation in order to improve transparency and build trust. At the same time, the maintenance of appropriate conditions for the delegations and missions accredited to the United Nations was in the interest of the Organization and all Member States. In that connection, the European Union and its member States recalled the obligations under the Headquarters Agreement and the need to ensure that all delegations could fully perform their functions. The European Union and its member States fully endorsed the recommendations and conclusions contained in the Committee's report and encouraged it to continue its work in a spirit of cooperation and in accordance with international law.

58. **Mr. Nasimfar** (Islamic Republic of Iran) said that a broad range of issues concerning the relationship between the host country and the United Nations could be discussed in the Committee on Relations with the Host Country. However, the increasing number of unresolved issues before the Committee made it clear that its mandate and powers were not suited to its objectives.

59. The legal framework under which the United Nations operated was unambiguous and left no room for arbitrary interpretation. Article 105 of the Charter of the United Nations provided that the Organization was to enjoy, in the territory of each of its Members, such privileges and immunities as were necessary for the fulfilment of its purposes. It also provided that the representatives of Members and officials of the Organization were to enjoy such privileges and immunities as were necessary for the independent exercise of their functions in connection with the Organization. The Convention on the Privileges and Immunities of the United Nations gave effect to Article 105, providing for the entitlement of representatives of Member States accredited to the United Nations, including those on temporary assignments, to full diplomatic privileges and immunities. However, instead of providing the facilities and respecting the privileges needed for the normal functioning of the United Nations and its Member States, the host country had imposed restrictions on representatives of certain Member States and Secretariat staff of certain nationalities, in flagrant

violation of its obligations under Articles 100 and 105 of the Charter, the Convention on the Privileges and Immunities of the United Nations, the Headquarters Agreement and the Vienna Convention on Diplomatic Relations. Moreover, the host country had recently expanded its restrictions on the Permanent Mission of the Islamic Republic of Iran, affecting its normal functioning and the basic human rights of its staff and their families.

60. His delegation was generally unsatisfied with the recommendations and conclusions of the Committee on Relations with the Host Country, as they did not address most of the serious concerns that it had raised during Committee meetings. In paragraph 165 (k) of its report (A/74/26), the Committee indicated that it took seriously the more stringent travel restrictions imposed on two missions and the statements by affected delegations that travel restrictions impeded their ability to carry out their functions and negatively affected their families, and urged the host country to remove all remaining travel restrictions. In addition, in his statement to the Committee at its 295th meeting, the United Nations Legal Counsel had reiterated the Organization's long-standing position that there was no room for the application of measures based on reciprocity in the treatment of permanent missions accredited to the United Nations.

61. The host country, which was itself a member of the Committee and had agreed to the adoption of those limited recommendations, had not yet withdrawn the illegal notes that it had issued, in which it had set out illegal restrictions which had had serious effects on the personnel of the Permanent Mission of the Islamic Republic of Iran and their families. The implication was that, despite always claiming to take its responsibilities seriously, the host country joined the consensus on the decisions of the Committee with the prior intention of disregarding them. The host country seemed to believe that those decisions did not entail any legal or ethical obligations and were therefore non-binding, which would explain why previous General Assembly resolutions endorsing them had yet to be implemented. It was nevertheless abundantly clear that the obligations being violated by the United States were, in fact, binding. Indeed, the Headquarters Agreement and the Convention on the Privileges and Immunities of the United Nations provided for their enforcement, including through binding decisions of the International Court of Justice.

62. The negotiations on the recommendations of the Committee on Relations with the Host Country had lacked transparency, as the affected States had not been invited to participate. It was therefore unsurprising that those recommendations did not address the practical issues faced by representatives of the Islamic Republic of Iran to the United Nations, including the problems encountered by visiting Iranian diplomats, the denial of waivers to access hospitals and universities, the issuance of single-entry visas and the imposition of secondary screening procedures. The recommendations also failed to address the General Assembly's repeated requests to improve the working methods of the Committee on Relations with the Host Country, which did not have the mandate or authority to resolve problems. Although the Committee had dedicated at least one full meeting to exploring such structural reforms, none of the proposals put forward had been included in its recommendations.

63. The unprecedented restrictions imposed on the representatives of the Islamic Republic of Iran seriously violated their rights as State representatives; deprived them and their families of their human rights; impeded their ability to effectively represent their country; and were illegal, inhumane and insulting, representing the abuse of United Nations Headquarters for political leverage against the Islamic Republic of Iran. While his delegation appreciated the efforts of United Nations officials to follow up on the matter and was grateful to those delegations that had expressed sympathy and solidarity with his delegation, the lack of tangible progress was disappointing. Representatives of the Islamic Republic of Iran on temporary assignments were confined to just three buildings in New York and could not access hospitals when needed, as there were none in the area to which they were restricted. Hence, even in the event of an emergency, they were required to obtain prior permission to access a hospital which, if granted, could take more than five business days, according to one of the notes issued by the Permanent Mission of the United States. Diplomats had a right to a free choice of a place of residence under the Headquarters Agreement. The host country had violated that right by requiring visiting diplomats to seek approval of their accommodations from the Office of Foreign Missions of the United States Department of State. Moreover, no distinction had been made in Article 105 of the Charter between temporary and permanent representatives.

64. By denying the freedom of movement of the representatives of the Islamic Republic of Iran, the host country had deprived them of access to basic services, as most of the general doctors to whom they were referred were located outside the designated area. The provision of facilities and the establishment of normal conditions for the personnel of that country's Permanent Mission were neither favours nor optional endeavours. The 25-mile radius to which the Mission's personnel had been previously confined had been reduced to a radius

of less than 3 miles in Manhattan and Queens, a large portion of which was not residential and lacked the facilities required for a decent life. During the transition to the new restrictions, such personnel could only travel within a three-mile radius of their residential addresses and would be moved to a new designated area within several months, in what amounted to enforced displacement. Such displacement placed tremendous pressure on their children, who had grown accustomed to their schools, friends and environment, and ran counter to the right to a free choice of a place of residence under the Headquarters Agreement.

65. The host country had referred to the possibility of issuing waivers. Although that procedure was illegal and violated the right to privacy, the host country had, in practice, refused to issue a single waiver for visitors from the Islamic Republic of Iran, including students. The relevant legal and ethical question was whether the United States Department of State could deprive students of education and access to universities when the host country had the obligation to grant them full diplomatic privileges. It was clear that the restrictions placed on the members of the Permanent Mission of the Islamic Republic of Iran were solely intended to subject them to harassment and psychological pressure and, ultimately, to put the Mission out of existence, in violation of the foundational principle of the United Nations, namely, the sovereign equality of its Member States, and of the letter and spirit of the Headquarters Agreement.

66. Given that the Government of the United States had insisted on acting lawlessly, the United Nations had few options for seeking justice and preserving the rule of law, other than pursuing a private case in United States courts. In view of the violations committed by the host country, the existence of a dispute between it and the United Nations was unquestionable. After four months of attempting to settle that dispute through negotiation, the parties had reached a deadlock. The only solution was for the Secretary-General to refer the matter to an arbitral tribunal, or to the International Court of Justice for an advisory opinion, as indicated in section 21 of the Headquarters Agreement. His delegation urged the Secretary-General to enforce that section of the Headquarters Agreement.

67. The Islamic Republic of Iran recognized the outcome of the eighteenth summit of the Heads of State and Government of the Movement of Non-Aligned Countries, in which the latter had resolved to present to the General Assembly an action-oriented draft resolution in order to ensure that delegations could fully exercise their right to participate in multilateral meetings and could properly discharge their diplomatic duties and official responsibilities. Every Member State had a moral imperative to oppose the lawless actions of the host country in order to defend the United Nations and preserve the rule of law. If the Organization did not respond appropriately, the host country would continue to misuse its position and infringe the rights of representatives of Member States to further its political agenda.

68. **Mr. Al Arsan** (Syrian Arab Republic) said that his delegation welcomed the new recommendations contained in the report of the Committee on Relations with the Host Country (A/74/26) and the statement made by the United Nations Legal Counsel before that Committee at its 295th meeting, on 15 October 2019 (A/AC.154/415). The Secretary-General and the Secretariat had now taken the step, which his delegation had long advocated, of raising with the Government of the host country the issue of restrictions imposed on the representatives of certain States. In particular, the statement made by the Legal Counsel referred to section 21 of the Headquarters Agreement, pursuant to which, in the event of any dispute concerning the interpretation or application of the Agreement, the Secretary-General had a duty to refer the dispute either to arbitration or to the International Court of Justice for an advisory opinion.

69. His delegation commended the work of the Chair of the Committee on Relations with the Home Country, which had been characterized by professionalism and transparency. However, it hoped that all members of the Committee would respond more earnestly and effectively to the concerns of certain Member States, which had been subjected to restrictions and discriminatory treatment. It encouraged all Member States to attend the meetings of the Committee on Relations with the Host Country as observers with a view to ensuring that its recommendations were implemented. Over the previous few years, the host country had persisted in imposing unlawful restrictions on the representatives of certain States, yet no recourse had been had to the legal measures set forth in the Headquarters Agreement.

70. His delegation was grateful to the authorities and personnel of the City of New York for helping the staff of the Permanent Mission of the Syrian Arab Republic and their families to live a normal and stable life in the city without restrictions or discrimination. It also appreciated the efforts of the officials at the United States Mission to the United Nations to address its concerns and discuss them in a direct, clear and professional manner. The problem did not originate in New York; it resulted from politicized decisions adopted in the capital, which were intended to harass certain

permanent missions and United Nations staff members who were citizens of countries that had political disagreements with the Government of the host country.

71. Members of the Sixth Committee were well aware that the States subjected to restrictions had adopted a different approach as compared with previous years. The unprecedented and unacceptable extent of the restrictions had left them with no choice. Responsibility for hindering the work of the Committee lay not with those delegations, but with the Government of the host country, which mistakenly believed that hosting the United Nations Headquarters was a privilege that entitled it to impose punitive and discriminatory measures for political purposes. His delegation did not seek confrontation; it merely wanted to uphold the Headquarters Agreement and ensure fair and equal representation in accordance with sections 11, 12, 13, 27 and 28 thereof. It was confident that, by acting together, members of the Committee could avoid recourse to the legal options set out in section 21, provided that the Government of the host country absolutely and unconditionally rescinded all the restrictive, punitive and discriminatory measures imposed on Cuba, the Democratic People's Republic of Korea, the Islamic Republic of Iran, the Russian Federation, the Syrian Arab Republic and the Bolivarian Republic of Venezuela or any other State.

72. Syrian diplomats and their families continued to receive single-entry visas valid for a period of six months that needed to be renewed three months before expiry. That situation created obstacles to professional and personal travel. Mission staff often could not travel to Syria, even for emergency reasons, such as attending funerals or saying farewell to their loved ones. Syrian diplomats and their families were also prevented from travelling beyond a 25-mile radius measured from Columbus Circle in New York City; the Government of the host country had gone so far as to deny travel permits for the children of Syrian diplomats to participate in school trips and activities. Moreover, with the sole exception of the United Nations Federal Credit Union, banks in New York refused to open personal or official accounts for the Permanent Mission of the Syrian Arab Republic, citing American sanctions against Syria and its citizens.

73. The delegations did not seek to lay the blame at the door of the United States Mission to the United Nations, but rather to find common ground with a view to implementing the recommendations of the Committee on Relations with the Host Country, ensuring that the parties could fulfil their functions in accordance with the Headquarters Agreement, and uphold the integrity and status of multilateral diplomacy in a spirit of cooperation and goodwill. Multilateral diplomacy should not be affected by reciprocal measures or the imposition of sanctions or restrictions for political purposes inconsistent with the Headquarters Agreement.

74. His delegation would closely monitor implementation of the recommendations set out in the Committee's report (A/74/26) and would support the work of the Committee and the mandate of the Secretary-General in that regard. In paragraph 165 (p) of the report, it was stated as follows: "The Committee considers that, if the issues raised above are not resolved in a reasonable and finite period of time, serious consideration will be given to taking steps under section 21 of the Headquarters Agreement". The concerned delegations understood the phrase "reasonable and finite period of time" as giving them both the right and the duty to contact the Secretary-General and the Committee in the very near future for an update on their interaction with the Government of the host country, before pressing for the measures set out in section 21 of the Headquarters Agreement to be taken.

75. Lastly, his delegation would not countenance any recurrence of the offensive treatment accorded to the head of the delegation of the Syrian Arab Republic during the high-level segment of the current session of the General Assembly.

76. **Mr. Proskuryakov** (Russian Federation) said that the unprecedented scale of the host country's violations of the Headquarters Agreement had been clearly documented by the Committee on Relations with the Host Country in its report. The host country's failure to issue visas to 18 members of his delegation to the current session of the General Assembly, including to some who were supposed to participate in the high-level segment, had derailed the start of deliberations in the First and Sixth Committees, and had also prevented part of the delegation from attending the eleventh Conference on Facilitating the Entry into Force of the Comprehensive Nuclear-Test-Ban Treaty.

77. In his statement delivered at the emergency, 295th meeting of the Committee on Relations with the Host Country, set out in document A/AC.154/415, the United Nations Legal Counsel had clearly articulated the position of the Secretary-General that entry visas must be issued to all representatives of Member States, without exception, to enable them to take part in all United Nations activities. Although the Chair of the Sixth Committee and the Legal Counsel had promised to address the situation, and although the Secretary-General himself had broached the matter with the host country's Secretary of State, not one of the aforementioned members of the Russian delegation had

been issued visas and the ability of the Russian Federation to exercise its right to participate fully in the work of the United Nations continued to be impeded. The privilege of hosting the United Nations Headquarters had been granted to the United States Government in exchange for assurances that it would comply with its obligations under the Headquarters Agreement. The host country's authorities therefore had no grounds to unilaterally prevent national delegations from taking part in events held under the auspices of the United Nations at its Headquarters.

78. In addition to failing to issue visas to members of his delegation, the host country had continued to impose a 25-mile travel restriction on the staff of the Permanent Mission of the Russian Federation and on United Nations staff members having Russian citizenship. The host country had continued to insist that such restrictions were legal, despite the position of the Secretary-General, articulated by the Legal Counsel at the aforementioned emergency meeting, that bilateral relations could not be used as grounds for imposing restrictions on the staff of permanent missions. Furthermore, the host country had imposed even more stringent travel restrictions on the representatives of Cuba and the Islamic Republic of Iran.

79. Lastly, it should be recalled that, in an unprecedented move, the host country had seized a portion of the premises of the Permanent Mission of the Russian Federation in Upper Brookville. In its judgment of 24 May 1980 in the case concerning *United States Diplomatic and Consular Staff in Tehran*, the International Court of Justice had indicated that there was no more fundamental prerequisite for the conduct of relations between States than the inviolability of embassies. Nonetheless, the host country authorities had seized the property, in violation of diplomatic privileges and immunities and the principle of inviolability of diplomatic property enshrined in the Vienna Convention on Diplomatic Relations. The host country had left his Government's repeated requests to be granted access to its property unanswered and had continued to insist that it had acted within its rights.

80. The time had come for the Secretary-General to intervene and ensure that any issues that affected the normal operations of the Organization and the accredited permanent missions were resolved quickly and in accordance with applicable international law and the Headquarters Agreement. In its recommendations the Committee on Relations with the Host Country had provided for the invocation of the procedure set out under section 21 of the Headquarters Agreement if the host country authorities did not comply with their obligations under the Agreement in a reasonable and finite period of time. The Committee should, at the very least, follow through on that recommendation.

81. **Ms. Guardia González** (Cuba) said that the members of the Committee on Relations with the Host Country strove to ensure that the Committee addressed, in a timely manner, all issues that arose in the context of the relationship between the United Nations, Member States and the host country.

82. Cuba believed that the host country was required to do everything in its power to fulfil its international obligations. In that regard, Cuba rejected the selective and arbitrary use of the Headquarters Agreement by the United States to prevent or limit the participation of certain delegations in the Organization's work. The continued violations by that country, which had assumed unprecedented proportions, undermined not only the functioning of certain missions but also the conduct of the work of the Main Committees, preventing the affected countries from participating in that work on equal terms and without discrimination.

83. The policy of restricting the movement of diplomats and international civil servants of certain nationalities accredited to the United Nations was unjust, selective, discriminatory and politically motivated, and constituted a blatant violation of the host country's obligations under the Headquarters Agreement and the rules of international law. Despite the recommendation by the Committee on Relations with the Host Country and the General Assembly to lift the restriction preventing diplomats from certain missions and their families from travelling beyond a 25-mile radius, the United States had increased the number of States subject to that rule and was now claiming the right to further limit that radius, which would have an impact on the living conditions of those affected. In that connection, Cuba appreciated the statement delivered by the United Nations Legal Counsel to the Committee at its 295th meeting, set out in document A/AC.154/415, in which he had said that "there is no room for the application of measures based on reciprocity in the treatment accorded to permanent missions accredited to the United Nations in New York."

84. Other issues that gave cause for concern included the impossibility of opening bank accounts in New York; discrimination in the issuance of visas; refusal to issue permits to personnel subject to movement restrictions to attend United Nations events; violations of the privileges and immunities of diplomatic property and of Ministers for Foreign Affairs; and lack of concrete action to address crimes that were detrimental to the security of diplomats accredited to the United Nations. All those problems reflected the disrespect for

sovereign Member States and open abuse of power by the United States, which used its status as host country to prevent certain States from fully discharging their functions as members of the United Nations, in pursuit of its political agenda.

85. The United States did not meet the conditions required to host the United Nations, which should serve all States without limitations, threats, conditions or restrictions on delegates. Deliberately restricting the ability of Member States to be represented at United Nations meetings was an insult to multilateralism and undermined the full and effective functioning of the Organization and its Main Committees. It was a sovereign decision and the exclusive prerogative of each State to determine the composition of its official delegation to United Nations meetings, and the United States must stop its interference and abuse of its prerogatives.

86. As stated in its section 27, the Headquarters Agreement "is to be construed in the light of its primary purpose to enable the United Nations at its headquarters in the United States, fully and efficiently, to discharge its responsibilities and fulfil its purposes." Section 12 of the Agreement provided that visas were to be granted "irrespective of the relations existing between the Governments of the persons referred to in its section 11 and the Government of the United States." In addition, article 26 of the Vienna Convention on Diplomatic Relations provided that, "subject to its laws and regulations concerning zones entry into which is prohibited or regulated for reasons of national security, the receiving State shall to ensure to all members of the mission freedom of movement and travel in its territory." The Organization, under the leadership of the Secretary-General, must continue to uphold the legitimate rights of all its members.

87. If there were differences in the interpretation and application of the Headquarters Agreement, the Vienna Convention on Diplomatic Relations, the Convention on the Privileges and Immunities of the United Nations, and any other relevant international instrument, the mechanisms for the peaceful resolution of such differences should be activated. Her delegation welcomed the efforts of the Secretariat to find a just solution to the issues identified in the Committee's report (A/74/26), noting in particular the need to carefully comply with the recommendation contained in its paragraph 165 (p), in which the Committee stated that it "considers that, if the issues raised above are not resolved in a reasonable and finite period of time, serious consideration will be given to taking steps under section 21 of the Headquarters Agreement." Her delegation would pay particular attention to the "reasonable and finite" nature of the time frame in which the relevant violations were to be addressed, because it would not consider it at all reasonable if those matters had not been resolved by the seventy-fifth session of the General Assembly, either through cooperation or through established legal procedures. International law, including the Headquarters Agreement, provided for sufficient legal means to resolve any difference in the application and interpretation of their relevant rules.

88. Cuba stood ready to work with all delegations to achieve a fair formula which, within the rules of international law, served the interests of the affected States. Dialogue, cooperation and respect for international law were necessary to enhance the development of the diplomatic relations of Member States, within a framework of security and strict compliance with the relevant legal instruments. Cuba was not prepared to accept the repeated and increasingly disproportionate breaches by the host country. The Committee on Relations with the Host Country must make its decisions and recommendations transparently and with respect for Member States, without discrimination or selectivity and with full respect for the sovereignty of States and the Organization. Her delegation was committed to enhancing the Committee's work through discussion, negotiation and collaboration among its members and the active involvement of other States.

89. **Mr. Bukoree** (Mauritius) said that Mauritius hoped that all provisions of the Headquarters Agreement would be strictly adhered to and that the concerns raised by Member States would be addressed expeditiously, in a spirit of cooperation and to the satisfaction of all involved. Mauritius also appreciated the statement delivered by the United Nations Legal Counsel to the Committee on Relations with the Host Country at its 295th meeting, as well as the commitment of the Secretary-General and the Secretariat to addressing delegations' concerns.

90. At the seventy-third session of the General Assembly, his delegation had noted that, during the high-level segment, several diplomatic vehicles had been towed from certain parts of Manhattan during the security-sweeping exercise conducted in United Nations parking facilities. His delegation was pleased to note that, thanks to effective collaboration among the New York Police Department, the United Nations Department of Safety and Security, the United Nations Protocol and Liaison Service and other United Nations departments, that situation had been avoided at the current session. His delegation called for the continued cooperation of all stakeholders, in particular

the New York Police Department Traffic Enforcement District, which sometimes failed to coordinate effectively with the others. It would also be appreciated if the Traffic Enforcement District paid more attention to the danger posed by cyclists who failed to stop when required to do so, causing accidents with pedestrians, including schoolchildren and the elderly.

91. His delegation requested the Office of Foreign Missions of the United States Department of State to continue reaching out to businesses to explain to them the importance of accepting diplomatic tax-exemption cards, and to ensure that taxes were waived accordingly, because certain business in New York City and across the United States refused to recognize those cards. The diplomatic community also needed to have easier access to rental accommodations throughout New York City. Some diplomats applying to rent apartments had had their applications rejected on the basis of their diplomatic status, while others had been requested to relinquish their diplomatic immunity before signing lease agreements. It would be particularly helpful if the Office of Foreign Missions could inform property owners and managers of the need to be welcoming towards diplomats and their families so that they could find housing in a timely manner. Concerted efforts must be made to ensure that New York City remained the epicentre of diplomatic negotiations and that representatives of all Member States felt at home there.

92. **Mr. Suárez Moreno** (Bolivarian Republic of Venezuela) said that the host country continued to violate its obligations under the Charter, General Assembly resolutions and other international agreements, and to ignore the recommendations of the Committee on Relations with the Host Country by bringing its bilateral political differences with certain Member States within the forum of the United Nations. The host country had refused to grant visas, had restricted the movement of and expelled accredited diplomats, had violated the immunities of diplomatic missions, had closed bank accounts, and had attempted to violate diplomatic pouch privileges. Respect for diplomatic missions and their staff was essential to the effective functioning of the United Nations, as enshrined in the Headquarters Agreement, the Vienna Convention on Diplomatic Relations and the Convention on the Privileges and Immunities of the United Nations. More and more countries were being affected by the arbitrary actions of the host country, which were aimed at hindering the work of the targeted delegations.

93. The host country had demonstrated contempt for international law by undermining the rights of States with which it had bilateral differences, and which were subjected to unilateral measures extending to their civil servants. His delegation particularly condemned the efforts by the Government of the United States to impede the work of civil servants attending official United Nations activities. On 28 October 2019, the Ministry of Foreign Affairs of the Bolivarian Republic of Venezuela had submitted to the consular section of the Embassy of the United States in Colombia an official request for the issuance of a diplomatic visa for the Minister for Foreign Affairs of the Bolivarian Republic of Venezuela in order to enable him to attend official activities at United Nations Headquarters, including a bilateral meeting with the Secretary-General. That visa had only been issued on 6 November 2019. Moreover, owing to the unilateral coercive measures imposed on the Bolivarian Republic of Venezuela, financial institutions in the United States, including the United Nations Federal Credit Union, had refrained from opening a bank account for its Permanent Mission for fear of being punished by the Office of Foreign Assets Control of the United States Department of the Treasury. That impeded the normal functioning of the Mission, preventing it from receiving regular funds transfers and from paying for services rendered by local providers, including health insurance payments for staff. The movement of Mission staff was also restricted.

94. His delegation rejected such measures, which were unfounded, discriminatory, politically motivated, unilateral, lacking in legal justification and contrary to all legal instruments, in particular the Headquarters Agreement. At no time had the diplomatic personnel of the Bolivarian Republic of Venezuela violated international laws, treaties or agreements, or the domestic laws of the United States. On the contrary, they had fully complied with their obligation, entrusted to them by their Government, to protect their country's interests at the United Nations.

95. His delegation demanded that the United Nations require the Government of the United States to comply with its international obligations and remove all punitive measures against diplomatic staff of permanent missions in order to preserve the balance between the Organization and the host country and to ensure equal treatment of delegations. The Bolivarian Republic of Venezuela welcomed the recommendation contained in paragraph 165 (p) of the Committee's report (A/74/26), in which the Committee encouraged the Secretary-General, in accordance with General Assembly resolution 2819 (XXVI), to participate more actively in its work in order to ensure the representation of the interests concerned, and indicated that, should the issues raised by Member States not be resolved in a reasonable and finite period of time, serious consideration would be

given to taking steps under section 21 of the Headquarters Agreement. Only by fulfilling that recommendation could the Organization demonstrate the significance of the Agreement and prevent the Government of the United States from continuing to flagrantly violate it.

96. **Mr. Kim** In Ryong (Democratic People's Republic of Korea) said that the host country must fulfil its obligations under the Headquarters Agreement and other international legal instruments, including the Vienna Convention on Diplomatic Relations.

97. At the 293rd and 294th meetings of the Committee on Relations with the Host Country, held on 13 June 2019 and 2 October 2019, respectively, his delegation had strongly urged the United States to carry out a thorough investigation into the provocative acts committed against a senior official of the Permanent Mission of the Democratic People's Republic of Korea on 29 April 2019 and to prevent the recurrence of such acts. On 11 September 2019, the Permanent Mission of the United States had notified his Mission, through a written communication, that the New York Police Department and the Federal Bureau of Investigation of the United States had determined that there had been no current threat from the incident. However, in that communication, the United States had demonstrated no evidence that a sincere investigation had been carried out. Hence, despite the host country's reported pride in its high-tech information-gathering and investigation skills, it had failed to shed light on the case, and its notice of the investigation's findings had been tantamount to nothing, an outcome that raised suspicion that the United States was behind the incident. His delegation called on the host country's Permanent Mission, in collaboration with relevant law-enforcement agencies, to track down the suspect, perform a rigorous investigation and communicate the results, and prevent the recurrence of such incidents.

98. Instead of merely recommending that the host country fulfil its obligations to ensure the personal security and privileges and immunities of diplomats accredited to the United Nations, the Committee on Relations with the Host Country should take firm and concrete action to compel the host country to adhere to the Headquarters Agreement and other international legal instruments relating to diplomatic relations. In particular, it should hold the United States accountable for the consequences of the incident committed against the senior official of the Permanent Mission of the Democratic People's Republic of Korea.

99. **Mr. Koba** (Indonesia) said that his delegation took note of the issues discussed in the Committee on Relations with the Host Country in connection with the implementation of the Headquarters Agreement, in particular in connection with the non-issuance of entry visas and the imposition of travel restrictions. The implementation of that Agreement and of the Vienna Convention on Diplomatic Relations was critical. Article 47 of the Convention provided that, in applying its provisions, the receiving State was not to discriminate as between States. In addition, section 11 of the Headquarters Agreement provided that the federal, state or local authorities of the host country were not to impose any impediments to transit to or from the United Nations Headquarters district of, inter alia, representatives of Member States or officials of the United Nations or of specialized agencies. A discriminatory approach would detract from collective efforts to foster friendly relations among nations and would run counter to the letter and spirit of the Charter. Such challenges should be addressed swiftly, constructively and in accordance with international law. Indonesia supported the engagement of the Secretary-General, through the Office of Legal Affairs, to address the relevant issues, and encouraged him, the host country and the affected countries to continue their efforts to find a solution.

100. **Mr. Tang** (Singapore) said that, since its establishment, the United Nations had embodied a rules-based multilateral system. It was therefore essential to examine every issue at the Organization from the perspective of international law, and to respect the Charter and the Headquarters Agreement.

101. The issues raised by a number of delegations in relation to entry visas and travel restrictions should be resolved in accordance with international law, including the Charter, the Headquarters Agreement and the Convention on the Privileges and Immunities of the United Nations. Under a rules-based, multilateral system, equal treatment of all countries was required. In addition, under the Charter, every country had the sovereign right to choose its representatives to the United Nations, and those representatives had the right to such privileges and immunities as were necessary for the independent exercise of their functions. It was in the interest of the United Nations and all Member States to observe those privileges and immunities, and to maintain appropriate conditions for delegations and missions. Member States must remain committed to fulfilling the purposes of the Organization and to addressing all issues in a spirit of cooperation and in accordance with international law.

102. It was a matter of concern that, in recent months, the issuance of visas for diplomats attending United Nations meetings had become a political matter that

might adversely affect the work of its Main Committees. That issue could not be allowed to undermine the Organization's substantive work. In that regard, Singapore took note of the statement delivered by the United Nations Legal Counsel to the Committee at its 295th meeting, in which he had confirmed that the legal position of the United Nations regarding the host country's obligations with respect to the issuance of visas to persons covered by the Headquarters Agreement had remained unchanged from that provided by the then Legal Counsel to the Committee in 1988. The host country and other Member States should cooperate seriously to resolve the relevant issues in accordance with the Headquarters Agreement and the Charter. The Secretary-General should also engage meaningfully with the host country and the relevant Member States to ensure the implementation of that Agreement. The regular contact between the Office of Legal Affairs and the authorities of the host country was welcome in that regard. Lastly, his delegation endorsed the recommendation of the Committee on Relations with the Host Country that the Secretary-General participate more actively in the Committee's work in order to ensure the representation of the interests concerned.

103. **Mr. Simonoff** (United States of America) said that, while the Permanent Mission of the United States made every effort to fulfil that country's obligations under the Headquarters Agreement, his delegation was aware that, in the view of some Member States, the United States had fallen short in that regard. The views of the United States regarding the complaints lodged against it were reflected in the report of the Committee on Relations with the Host Country (A/74/26) and in statements delivered by representatives of his delegation at earlier meetings of the Sixth Committee at the current session, in connection with the consideration of that Committee's programme of work. The United States had taken those complaints seriously. It welcomed the consensus reached by the Committee on Relations with the Host Country on the recommendations appearing at the end of its report (A/74/26), and would continue to engage actively on all relevant matters. It hoped that the Sixth Committee would continue its practice of incorporating the recommendations of the Committee on Relations with the Host Country into its draft resolution, and of adopting that draft resolution by consensus. The United States was honoured to have the privilege of hosting the Organization and was cognizant of its special responsibility to all international civil servants at the United Nations.

Agenda item 77: Report of the United Nations Commission on International Trade Law on the work of its fifty-second session (*continued*) (A/C.6/74/L.7, A/C.6/74/L.8 and A/C.6/74/L.9)

Draft resolution A/C.6/74/L.7: Report of the United Nations Commission on International Trade Law on the work of its fifty-second session

Draft resolution A/C.6/74/L.8: Model Legislative Provisions on Public-Private Partnerships of the United Nations Commission on International Trade Law

Draft resolution A/C.6/74/L.9: Model Law on Enterprise Group Insolvency of the United Nations Commission on International Trade Law

104. **Ms. Katholnig** (Austria), introducing draft resolution A/C.6/74/L.7 on behalf of the sponsors, said that Malta, Singapore and Ukraine had also become sponsors. In the resolution, the text of which largely reiterated General Assembly resolution 73/197, with some changes and additions, the General Assembly would stress the importance of international trade law and recall the mandate, work and coordinating role of the United Nations Commission on International Trade Law. In paragraphs 2 and 3, the Assembly would highlight the progress made by the Commission in finalizing and adopting the Model Legislative Provisions on Public-Private Partnerships and the Model Law on Enterprise Group Insolvency. In paragraph 8, it would note decisions taken by the Commission with regard to priorities for its future work. In paragraph 12, it would note improvements in the organization of the Commission's sessions, as well as the Commission's understanding that the duration of those sessions would generally be two weeks, unless the expected workload justified a longer duration.

105. Introducing draft resolution A/C.6/74/L.8 on behalf of the Bureau, she said that, in the resolution, the General Assembly would commend the Commission for finalizing and adopting the Model Legislative Provisions on Public-Private Partnerships, and would recommend that States give due consideration to those Provisions and to the Legislative Guide on Public-Private Partnerships.

106. Introducing draft resolution A/C.6/74/L.9 on behalf of the Bureau, she said that, in the resolution, the General Assembly would express its appreciation to the Commission for finalizing and adopting the Model Law on Enterprise Group Insolvency and its guide to enactment and would recommend that States give favourable consideration to the Model Law when revising or adopting relevant laws.

Agenda item 81: Consideration of prevention of transboundary harm from hazardous activities and allocation of loss in the case of such harm (*continued*) (A/C.6/74/L.10)

Draft resolution A/C.6/74/L.10: Consideration of prevention of transboundary harm from hazardous activities and allocation of loss in the case of such harm

107. **Ms. Pelkiö** (Czechia), introducing the draft resolution on behalf of the Bureau, said that the text largely reiterated General Assembly resolution 71/143, with some technical updates, and had been prepared on the basis of the Sixth Committee's debate at its 21st meeting of the current session. The preambular paragraphs had been updated to include references to the most recent reports of the Secretary-General (A/74/131, A/74/131/Add.1 and A/74/132) and to the summary record of the Committee's 21st meeting (A/C.6/74/SR.21). In paragraph 5, the General Assembly would decide to include in the provisional agenda of its seventy-seventh session the item entitled "Consideration of prevention of transboundary harm from hazardous activities and allocation of loss in the case of such harm."

The meeting rose at 5.55 p.m.