

Statement by Mr. Stephen Mathias
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Thank you, Mr. Chairman, for giving me the floor.

I would like to congratulate you, Mr. Chairman, and the other members of the Bureau, for assuming the leadership of the Sixth Committee for the seventieth session. On behalf of the Legal Counsel, who would have been delighted to be present today, I wish to convey to you all the best wishes for a successful and productive session.

I also have the pleasure of representing the Deputy Secretary-General who chairs the Rule of Law Coordination and Resource Group, in introducing the Secretary-General's report on the rule of law which is before you.

Anniversaries, as we all know, are opportunities to reflect – to consider what has been achieved, assess challenges and engage in new efforts to meet future objectives. This is as valid for institutions as it is for human beings.

Seventy years into its existence, the United Nations has a strong legacy to which this Committee has actively contributed. It also faces many challenges in supporting Member States' efforts to strengthen the rule of law at the international and national levels.

Discussions begin this morning on this very topic, which has now been the subject of deliberations in the work of the Sixth Committee since 2006.

In his report on Strengthening and coordinating United Nations rule of law activities, which is contained in document **A/70/206**, the Secretary-General has highlighted the broad range of work carried out by the various United Nations entities that are members of the Rule of Law Coordination and Resource Group (RoLCRG). As in recent years, this report covers developments during the year in relation to, first, the promotion of the rule of law at the international level, second, the United Nations support for the rule of law at the national level, and third, efforts undertaken to strengthen system-wide coordination and coherence. In follow up to the request of the General Assembly, in resolution 69/123, it also includes an analytical summary of the thematic debates on the rule of law held from the sixty-first to the sixty-eight sessions of the General Assembly.

As one of the Rule of Law Coordination and Resource Group entities, the Office of Legal Affairs contributes to the important collaborative endeavor led by the Deputy Secretary-General to build a safer, more secure and united world through the promotion of the rule of law at the international and national levels, following the lead set by Member States at the milestone 2005 World Summit and the High Level Meeting on the Rule of Law in 2012. This endeavor brings together 20 UN entities all active in the different aspects of the rule of law at the national and international levels.

This year's discussion is dedicated to "the role of multilateral treaty processes in promoting and advancing the rule of law" – a subtopic of particular relevance to

the Office of Legal Affairs, given the remit of its activities since the establishment of the Organization.

I would thus like to seize this opportunity to highlight a few aspects of the way in which OLA supports, through the discharge of its various mandates, the development of a robust, open and transparent multilateral treaty framework – a commitment reflected in the Preamble of the Charter, which underlines the collective resolve of Member States “to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained”.

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As early as in 1946, the Office of Legal Affairs – as a Legal Department then – was already involved when this Committee contributed to the adoption of the Convention on the Privileges and Immunities of the United Nations.

Since then, further achievements have ranged from the adoption of the (1948) Genocide Convention to the (1961 and 1963) Vienna Conventions on Diplomatic and Consular Relations, the (1969) Vienna Convention on the Law of Treaties, the (1998) Statute of the International Criminal Court, and most recently, the (2015) United Nations Convention on Transparency in Treaty-based Investor-State Arbitration.

The Office of Legal Affairs has now grown to comprise six substantive units, under the leadership of the Legal Counsel, underlining the multifaceted and expanding nature of its mission:

- OLA aims, first, to provide a unified central legal service for the Secretariat and the principal organs and other bodies of the United Nations on both public international law questions – a responsibility discharged by the Office of the Legal Counsel, and on private and administrative law issues – which fall primarily to the General Legal Division;
 - It also contributes to the progressive development of international law and its codification, on the one hand, and progressive harmonization and unification of international trade law, on the other hand, these tasks are discharged predominantly by the Codification Division and the International Trade Law Division, respectively, the latter being located in Vienna;
 - The Division for Ocean Affairs and the Law of the Sea promotes the strengthening and development, as well as the effective implementation of, the international legal order for the seas and oceans;
- and
- The Treaty Section is responsible for the registration and publication of treaties. It also performs the depositary functions of the Secretary-General. My colleague, Santiago Villalpando, the Chief of the Treaty Section, will be talking to you about this in a few minutes.

OLA's contribution to the development of a robust multilateral framework

As you know, contrary to the position prevailing at the time of the creation of the United Nations, seventy years later we find ourselves in the presence of a

relatively mature system of international law, anchored in a web of treaties, at the core of which lies a series of law-making international conventions.

A number of General Assembly bodies have significantly contributed over the years to this transformation, including – indeed – this Committee – the Legal Committee – which is primarily tasked in assisting the General Assembly with the progressive development of international law and its codification under Article 13 (1) (a) of the UN Charter. It is needless to say that the framework for the elaboration of multilateral instruments in the United Nations, system-wide, is particularly broad in number as well as in scope. Not only are the other main Committees of the General Assembly involved in this process, so are the specialised agencies and the IAEA, as well as the funds and programmes.

As far as the Sixth Committee is concerned, it discharges the Assembly's Charter function with the support of a number of other bodies, in particular the International Law Commission, Ad Hoc committees established to consider particular issues, the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, and the United Nations Commission on International Trade Law ("UNCITRAL"). Further, when it has been deemed appropriate, diplomatic conferences have also been convened to elaborate instruments.

I would wish to distinguish two phases in relation to which the Office of Legal Affairs assists in the fulfilment of the various mandates entrusted to these bodies.

First, at the pre-conclusion phase of the multilateral treaty process, most of these bodies are supported through substantive servicing, advice and research, by the Codification Division of the Office of Legal Affairs – represented before you

today, while UNCITRAL is supported by the International Trade Law Division, in Vienna. In addition, the Division for Ocean Affairs and the Law of the Sea provides substantive services to ad hoc bodies established to strengthen the law of the sea regime, while the Treaty Section provides assistance in relation to the drafting of final clauses. At that stage, the advice of the Office of the Legal Counsel and the General Legal Division may also be sought on the rules of procedures governing the negotiations, or the institutional or other implications of any mechanisms contemplated in the draft instrument.

The post-conclusion phase of multilateral treaties is equally notable for mandates discharged by all units of OLA: the Office of the Legal Counsel and the Codification Division, in relation to requests for clarification on the context within which certain instruments or provisions thereof may have been adopted or on legal issues arising therefrom, the General Legal Division, which remains engaged to advise on any institutional arrangements or procedures; the Division for Ocean Affairs and the Law of the Sea, with respect to a range of services relating to the application of the UN Convention on the Law of the Sea and related instruments; the International Trade Law Division, in its effort, e.g., to ensure a uniform interpretation and application of international conventions, and the Treaty Section, as far as the exercise of the depositary functions under multilateral treaties and the registration and publication of treaties under Article 102 of the Charter are concerned.

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Capacity development, training and education activities in international law

All these functions that I have just referred to, which are aimed at promoting the rule of law at the international level, involve a broader underlying cross cutting element transcending the two phases, namely training and awareness activities in international law. The General Assembly has long recognised that the promotion of international law is crucial for friendly relations and cooperation among States and that a good understanding of the relevant multilateral treaties and treaty processes is paramount for States to be able to fulfil their obligations in good faith. The teaching, study, dissemination and wider appreciation of international law help to foster friendly relations among States. In this regard, the Codification Division is charged – as you well know – with implementing the Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law, which commemorates its fiftieth anniversary this year, to provide direct assistance in the field of international law. The Programme of Assistance is operationalized through the International Law Fellowship Programme, held annually in The Hague, the Regional Courses in International Law, the Audiovisual Library of International Law and the preparation and dissemination of various international legal publications, the foundation of which was laid down by the International Law Commission as early as 1950, in its consideration of ways and means of making international law readily available. The Division for Ocean Affairs and the Law of the Sea also provides opportunities for advanced education and research in its field of expertise through the execution of various fellowship programmes and training. The Trade Law Division also organizes training and capacity-building seminars in its own field of work. It further assists States with the drafting of national legislation on international commercial matters. And, last but not least, the Treaty Section organizes

programmes at UN Headquarters and at the regional level in relation to the depositary, registration and publication functions it discharges.

A substantial amount of resources within the Office of Legal Affairs is thus dedicated to training and education activities, within existing resources, and your support is indeed welcome to allow us to continue, and hopefully build on, these important tasks.

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Establishing and promoting international mechanisms open to the States for the peaceful resolution of their disputes

Allow me to turn, now, to the contribution of OLA to the promotion of international mechanisms open to States for the peaceful resolution of their disputes, which is another area through which the Office of the Legal Counsel is actively supporting a cornerstone of the rule of law at the international level, i.e., international dispute settlement mechanisms, including – but not limited to – treaty related disputes: as we all know, once multilateral and bilateral treaties are concluded, the parties may disagree as to their implementation, application and interpretation.

At the outset, I would note that the question of the settlement of disputes has been discussed on a regular basis in this Committee and related bodies – including in the ILC – typically, in connection with specific provisions in texts under consideration, or in order to enhance awareness of the choice of means provided for under Article

33 of the Charter. Accordingly, the divisions of OLA performing substantive servicing for these bodies may be called upon to provide assistance in this regard.

Further, the International Court of Justice, the principal judicial organ of the United Nations, plays a specific role within the United Nations framework. The Court has settled various disputes related to the application of treaties of a bilateral and multilateral nature, including the United Nations Charter. It is the Office of the Legal Counsel that supports the ICJ's activities.

The Secretary-General has long supported the efforts of the Court, to increase the acceptance by States of the compulsory jurisdiction of the Court and continues to bring attention to the special role of the Court in international dispute resolution. OLA further administers the Secretary-General's Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice.

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Establishing or helping to establish international and hybrid criminal courts and tribunals to prosecute those responsible for international crimes

Among the different areas of international law relevant to the strengthening of the international rule of law, international criminal law plays a particularly important role. As we are all aware, impunity is the very antithesis of the rule of law. The normative effect of law across societies quickly weakens when flagrant instances of unlawful conduct remain unaddressed.

To address a major concern of the international community, OLA has, over the past decades, helped to establish international and hybrid criminal courts and tribunals to prosecute those responsible for international crimes.

OLA has provided advice on the establishment, functioning and completion processes, as the case may be, of *ad hoc* international and hybrid criminal tribunals as well as other accountability mechanisms. Operationally, the Office of the Legal Counsel supports the UN and UN-assisted criminal tribunals and relevant governance structures under the tribunals' constitutive instruments, the Secretary-General's functions thereunder, the relevant rules of procedure and evidence, and related legal and administrative matters concerning the effective functioning or closure of the tribunals, and the transition to their residual phase.

Importantly, the work of the *ad hoc* criminal tribunals for the former Yugoslavia and Rwanda, whose establishment OLA was closely involved in support of the Security Council, paved the way for, and provided useful lessons-learned in relation to, the adoption of the Statute of the International Criminal Court. The latter is one of the most important multilateral treaty processes in which OLA has participated in recent memory. And, indeed, since the entry into force of the Relationship Agreement between the United Nations and the ICC in 2004, the Office plays a central role in facilitating cooperation between the Organization and the world's only permanent international criminal court.

Along with these major developments, recent years have witnessed an increased recourse to commissions of inquiry, which are also prominent components of responses by the international community to allegations of violations of international human rights law and international humanitarian law.

The Office provides the necessary assistance whenever such commissions are established to investigate these violations, which sadly remain a common feature in today's international life.

To conclude, I would like to underline that this overview of the various aspects of the pre- and post-conclusion phases of the multilateral treaty processes, as well as other rule of law related-activities of OLA, is by no means intended to be exhaustive. As stated by way of introduction, its purpose is, rather, to reflect the importance accorded by the Legal Counsel and by OLA over the past decades to assisting in developing and supporting a robust, open and transparent multilateral treaty framework, as well as to strengthening other pillars of the rule of law at the international level. At a time when the international community faces multiple crises, respect for the rule of law constitutes not only a necessary condition for the sustainability of our international system but also a premise for the cohesion of our societies. I would like to take this opportunity to renew the commitment of the Office of Legal Affairs to providing you with the excellent support you deserve in further strengthening the international legal order.

I wish you a productive debate.

Thank you for your attention.
