

**Statement by Mr. Nicolas Michel  
Under-Secretary-General for Legal Affairs  
The Legal Counsel**

**60<sup>th</sup> anniversary of the  
International Law Commission**

**Palais des Nations  
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**Check against delivery**

Mesdames et Messieurs les membres de la Commission,  
Anciens membres de la Commission,  
Excellences,  
Mesdames et Messieurs,

En ce jour heureux où la Commission du droit international célèbre son soixantième anniversaire, le Secrétaire général m'a chargé de transmettre à la Commission ses compliments pour le service éminent qu'elle a rendu au droit international.

La Commission a accompli un parcours remarquable depuis qu'elle a été conçue par la Commission pour le développement progressif du droit international et sa codification, autrement appelée « Commission des Dix-Sept ». A l'évidence, les conditions et le contexte dans lesquels la Commission accomplit son œuvre ont changé depuis la première réunion des Dix-Sept à Lake Success en mai 1947 ; il n'y a donc rien de surprenant à ce que les méthodes de travail de la Commission et les buts qui lui sont assignés aient connu une évolution concomitante. Pourtant, deux postulats fondamentaux sur lesquels la Commission a été conçue ont résisté à l'épreuve du temps.

Le premier de ces postulats a trait à la composition de la Commission. Celle-ci réunit en son sein des membres à la compétence reconnue en droit international, siégeant à titre individuel et non en tant que représentants de gouvernements. Depuis la création de la Commission, ce sont 190 personnalités éminentes venues d'horizons très divers ont contribué individuellement et collectivement au projet de codification.

Le second des postulats ayant accompagné la Commission jusqu'à ce jour tient au fait que l'œuvre qu'elle accomplit doit être fermement ancrée dans la réalité, tant il est vrai que le droit constitue l'un des facteurs essentiels de stabilité dans la société internationale. C'est dans cet esprit que la Commission s'est abstenue, au fil de ses projets, d'établir une distinction stricte entre le développement progressif du droit

international et sa codification. A ce jour, elle a entrepris l'étude de plus de 35 sujets couvrant l'ensemble du champ normatif international, des questions classiques que sont le droit des traités ou la succession d'États aux problèmes contemporains que soulèvent le partage des ressources naturelles ou la protection des personnes en cas de catastrophe. Lors de la réunion qui se tiendra à l'issue de cette séance solennelle, l'un des thèmes abordés a trait aux sujets futurs de la Commission. Sans vouloir anticiper sur la teneur des débats qui auront lieu sur ce point, il est manifeste que les sujets choisis par la Commission reflètent l'importance de la fonction que remplit le droit international dans l'apaisement des tensions de notre monde et l'amélioration de la coopération entre les acteurs de la société internationale.

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The evolution of international relations places additional challenges before the Commission which it did not face at its inception. The contemporary codification process is marked by a growing complexity, given the scarcity of available practice, the difficulty in identifying clear expressions of international customary law or the lack of incentive among Governments, in some instances, to build consensus. Finding common legal ground on such multifaceted issues as, for example, the responsibility of international organizations, reservations to treaties or expulsion of aliens is certainly a demanding task.

The process may be slow and painstaking, as exemplified by the effort regarding the progressive determination of the regime of responsibility of States for internationally wrongful acts. But, the Commission's regular interaction with, and feedback from, Governments brings a unique value to its work. For Governments, the interaction provides opportunities for an acceptance of their ownership of international law as a common language for promoting international cooperation. In an era of absence of significant State practice, government views and interaction with the Commission become even more essential. Nothing can replace the considered views of governments on the proposals of the Commission. This, in turn, requires that States pay careful attention to the work of the Commission, clarify their views on topics on the agenda and,

more generally, reflect on possible scenarios for the future of the Commission, and for the issues it may have to address in the years to come.

Obviously, this interaction does not end with the adoption by the Commission of a series of draft articles on a specific topic which are then submitted to the Sixth Committee. The work of the Commission can no longer be considered as completed once it is commended to the attention of Governments. As the number of resolutions adopted this session by the General Assembly demonstrates, the possible outcomes of the work of the Commission are also an issue of major interest. In some instances, it may seem obvious that the conclusion of a treaty would constitute the only viable solution. Alongside this classical option however, other possibilities emerge, which could provide legal guidance to Governments while allowing for some flexibility. This diversity of outcomes is a development, which should not be considered as preventing the law from further consolidation.

As important as it is, this interaction cannot be limited to a dialogue between the Commission and Governments. As recent international judicial practice illustrates, litigants as well as international courts and arbitral tribunals increasingly tend to articulate their arguments and reasoning on instruments adopted by the Commission. This brings another challenge, especially as some of the draft articles relied upon have only provisionally been considered by the Commission. This trend, however, affects consolidating the law even in the absence of treaty and is another sign of the continued relevance of the work which is patiently and carefully achieved here in Geneva.

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The Office which I lead – the Office of Legal Affairs of the United Nations – has faithfully served the Commission from the very beginning. I need not reiterate the dedication of the staff of the Office and, more specifically, of members of the Codification Division and their Director, who acts as Secretary to the Commission. But I wish to emphasize the importance of the functions assumed by the Codification Division

as repository of the Commission's work and its institutional memory. The fact that the Division also assists the Sixth Committee provides an indispensable vehicle for regular and fruitful communication between the two organs.

The United Nations appreciates the invaluable role of the Commission in the codification and development of international law. As the preamble of the United Nations reminds us, the peoples of the United Nations set out to establish conditions under which justice and respect for obligations arising from international law can be maintained. The contribution of the Commission towards these efforts is significant. Today's solemn meeting gives us the opportunity to review such achievements and thank the Commission, present and former members, for its efforts and wish it the best for the future!