



**UNITED NATIONS
OFFICE OF LEGAL AFFAIRS**

**Informal Meeting of the Legal Advisers
of the Ministries of Foreign Affairs**

Remarks

By

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Thank you, Mr. Chairman, dear Max, for giving me the floor.

Mr. Chairman,
Ladies and Gentlemen Legal Advisers from capitals and from the missions,
Excellencies,
Dear colleagues and friends,

[Introduction]

I am very pleased to see all of you gathered again here at UN Headquarters for your traditional annual informal meeting. As Max Diener so eloquently noted this year marks the 25th anniversary of your meetings. Without any exaggeration I think that we can call this meeting historic.

Tradition has it that I am accorded the privilege of briefing the meeting on some current legal issues that we are facing at the United Nations. I wish to express my sincere gratitude to the organizing State this year, Mexico, for honouring this tradition and giving me the floor.

I think that I can speak on behalf of the entire meeting when I congratulate Mr. Max Alberto Diener Sala, Legal Adviser of Mexico, and his team in the

Mission of Mexico in New York – in particular Alejandro Sousa Bravo - for having done an outstanding job in putting together the programme for the anniversary meeting.

The past year has seen an unprecedented number of crises and almost always my Office was called upon to provide legal advice. I could not possibly brief you on all the issues we were dealing with but the selection I have made for this briefing will demonstrate the wide range of topics we were facing.

[Oceans and the Law of the Sea]

Let me start with the topic of oceans and the law of the sea. I would like to recall that the Division for Ocean Affairs and the Law of the Sea of my Office oversees a field of international law which, for years, has been characterized by a continuous increase of interest and activities on the part of Member States, as reflected in the two resolutions under the agenda item Oceans and the law of the sea.

This year marks the twentieth anniversary of the entry into force of the United Nations Convention on the Law of the Sea. The anniversary was commemorated last June during the Meeting of States Parties to the Convention.

Another highlight relates to UN-Oceans – the inter-agency mechanism that seeks to enhance the coordination, coherence and effectiveness of competent organizations of the United Nations system and the International Seabed Authority in the area of coastal and ocean activities.

Last year, in its resolution 68/70 on oceans and the law of the sea, the General Assembly approved new terms of reference for UN-Oceans. The United Nations Legal Counsel was identified as the Focal Point of UN-Oceans. Since then, UN-Oceans has adopted its biennial work programme which includes the development of an inventory of mandates and activities related to ocean and coastal areas for the purpose of identifying possible areas of collaboration among members. In my capacity as UN-Oceans Focal Point, I participated in the Third United Nations Conference on Small Island Developing States in Samoa in the South Pacific. In my statement, I emphasized that the United Nations system is well placed to play an effective role in assisting small island developing States in advancing sustainable ocean-related development activities.

Allow me in this connection to express my sincere appreciation for the support received from many of you who play an active role not only during the negotiations but also as Coordinators or Chairs and Co-Chairs, as well as members of Bureaus, of the various meetings and processes devoted to the work on oceans and the law of the sea.

[Ebola]

Let me now turn to an issue that currently dominates the headlines like no other issue – the fight against Ebola. In this context, we advised on the recent establishment and deployment of UNMEER, the United Nations Mission for Ebola Emergency Response. UNMEER is the first health emergency mission and, while it is led by the UN, it is the first UN system-wide mission. OLA assisted with the establishment of UNMEER by the Secretary-General following the unanimous approval of the General Assembly in its resolution 69/1 on 19 September 2014. OLA also prepared the Status-of-Mission Agreements (SOMAs) with the Governments of Ghana, Guinea, Liberia and Sierra Leone as well as the necessary transit arrangements with relevant neighbouring States. By virtue of the SOMA's liability provisions, the Governments of the three affected countries "shall be responsible for dealing with, and hold the United Nations, its funds and programmes and the United Nations Systems Organizations harmless in respect of any claims, including third-party claims, relating to the Ebola virus disease".

We feel that such provisions are necessary as we are operating at the request of these three Governments in an extremely high risk situation. It should be noted that the "hold harmless" clause also applies to the United Nations Systems Organizations. In addition to expanding the standard SOMA provisions to include the United Nations Systems Organizations, the SOMAs also provide certain exemptions and facilities for States and organizations contributing personnel and/or assets to or for purposes of the mission.

In addition, OLA provides legal advice on a wide range of UNMEER operational and support activities, including the procedures for the medical screening of UN personnel travelling to/from the affected countries, the access of members of the international diplomatic community to UN medical facilities, the

modalities for the staffing of Ebola treatment centres, as well as various administrative and financial arrangements for UNMEER and UNMEER personnel.

I know that many of your States are deeply engaged with us in the fight against the Ebola Virus Disease and I wish to take this opportunity to thank you. This fight will be tough and it will be dangerous.

[International Criminal Justice]

A recurring issue for my Office is the fight against impunity. This past year was no exception. It has seen very significant developments in the field of international criminal justice, both at the UN and UN-assisted tribunals and the International Criminal Court. In view of the time constraints, I will be very selective on this topic today.

With regard to the ad hoc tribunals as well as those assisted by the Organization, the delivery of trial judgment this summer in the Extraordinary Chambers in the Courts of Cambodia was a signal event. The Trial Chamber's conviction of senior Khmer Rouge leaders Nuon Chea and Khieu Samphan for crimes against humanity, almost 40 years after the conduct in question, was a landmark both in Cambodia and around the world. While that judgment is under appeal, its delivery has crucially shown that the reach of accountability is long.

Turning to the International Criminal Court - an institution with which the United Nations is closely aligned. In the past year the ICC's Prosecutor has opened a new situation, the second situation in the Central African Republic as well as two new preliminary examinations in relation to crimes committed in Iraq and Ukraine.

In June of this year, the judgment in the Katanga case became final; the remaining two judgments issued by the Court remain at the appeal stage.

My Office followed the cases in the Kenyan situation very closely, not least because they involve the leaders of an important Member State. I am acutely aware of the Court's independence and while my Office follows and briefs the Secretary-General on the Court's activities, we cannot comment on matters being adjudicated before it.

In relation to cooperation between the UN and the ICC, the two organizations celebrated ten years since the entry into force of their Relationship Agreement at the beginning of this month. The Organization concluded its third memorandum of understanding for cooperation between the ICC and a peacekeeping operation, in relation to MINUSMA, our peacekeeping operation in Mali.

I am proud that my office plays a central role in matters pertaining to cooperation with the ICC, the centrepiece of our international criminal justice system.

[Syria – Joint OPCW-UN Mission for the Elimination of the Syrian chemical weapons programme]

Let me now turn to the situation in Syria. As many of you may know, the Joint Mission of the OPCW and the United Nations for the Elimination of the Chemical Weapons Programme of the Syrian Arab Republic was brought to a close on 30 September 2014. Working in cooperation with the Syrian authorities, the Joint Mission had achieved, facilitated, inspected and verified the removal and the destruction of the chemical weapons and materials declared by the Syrian Arab Republic in less than a year. The OPCW will continue its verification work in respect of the destruction of the 12 production facilities originally declared by the Syrian Government as well as the four research and other facilities it has more recently declared.

The Secretary-General will continue to exercise his good offices in furtherance of the implementation of Security Council Resolution 2118 (2013), including by providing any required support to overall coordination and liaison with the Government of the Syrian Arab Republic and other relevant actors and stakeholders.

My Office played an important role both in the establishment of the Joint Mission, the conclusion of the required international agreements as well as a range of legal issues regarding operational aspects.

With more than thirty Member States and organizations mobilizing and contributing significant financial and in-kind contributions in furtherance of the implementation of Security Council resolution 2118 (2014), the Joint Mission was,

as described by the Secretary-General, an "excellent example of constructive multilateralism. It has demonstrated what can be achieved through sustained political will and unity of purpose".

Nonetheless, the UN remains very concerned by the findings presented in the second report of the OPCW fact-finding mission in Syria, in response to allegations of the use of toxic chemicals for hostile purposes in the Syrian Arab Republic. The Secretary-General has strongly condemned any such use by any party to the conflict and has called for perpetrators of any such acts to be brought to justice.

[Syria – humanitarian access]

During the first half of this year, the question of humanitarian access to Syria became the subject of discussion both within the Security Council and within the UN Secretariat: specifically, whether the consent of the Government of Syria was required for UN agencies to be able lawfully to deliver humanitarian aid to areas outside the Government's control, whether across the lines or across Syria's borders.

You will be well aware, I am sure, that the advice of Office was sought on this question. My Office has also been working on the related, but separate, question of the circumstances in which a Government may lawfully withhold its consent to the conduct of foreign relief operations on its territory, both in situations of armed conflict and out.

You will know that the International Law Commission has this year decided to refer its draft articles on the protection of persons in the event of disasters, as adopted on first reading, to Governments and others for their comments. Returning to Syria, the Security Council decided in July, in a landmark resolution, that UN humanitarian agencies are authorized to deliver assistance across conflict lines and across certain border crossings regardless of the consent, or lack thereof, of the Syrian Government.

[Conclusion]

I'm afraid that I have already exceeded my time and have to leave it at that. I look forward to seeing you in the coming days at the various events during "international law week". Thank you very much for your kind attention and I wish you an interesting and successful week.