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STATEMENT MADE BY THE SECRETARY-GENERAL AT THE 1795TH MEETING
OF THE INTERNATIONAL LAW COMMISSION ON 4 JULY 1983

His Excellency, Mr. Javier Pérez de Cuellar, Secretary-General of the United Nations, paid a visit to the International Law Commission and addressed it at its 1795th meeting, held on 4 July 1983. The Commission, at its 1813th meeting, held on 22 July 1983, decided to issue, as a separate document, the text of the statement made by the Secretary-General on the occasion of his visit to the Commission.

Statement by the Secretary-General.

Mr. Chairman, Members of the International Law Commission,

May I thank you, Mr. Chairman, for your warm words of welcome on behalf of the International Law Commission. As a lawyer myself, it is a particular pleasure for me to be in your company.

On this, our first meeting, I would like to mention some of my own preoccupations concerning the vital importance of the codification and progressive development of international law. As we all know, a basic aim of the United Nations, spelt out in the Preamble to the Charter, is the establishment of conditions under which justice and respect for the obligations arising from treaties and the other sources of international law can be maintained. Principal among the purposes of the Organization - as enunciated in Article 1, paragraph 1, of the Charter - is the maintenance of international peace and security. The same paragraph enumerates to this end the bringing about by peaceful means, and in conformity with the principles of justice and international law, of the adjustment or settlement of international disputes or situations which might lead to a breach of the peace. The concept of a coherent and generally accepted body of international law thus lies at the heart of the Charter. Not only is such a body of law essential for solving existing disputes without violence, but also for the day-to-day coexistence and co-operation of the many States which today constitute the international community.

You may ask whether it is not perhaps ironic to stress the importance of the role of international law in the present state of international relations, when there are constant claims made about the violation of the basic principles that make up that corpus of law. On the contrary, in my view, time has never been more critical than now, when substantial confusion reigns about the international norms of conduct, for restating and formulating the very foundation of international relationships and legal order. Human history has demonstrated that without a clear formulation of legal principles, providing guidelines for the conduct of States in the common interest, the world would face even greater difficulties in searching for an ordered direction of international affairs. States, regardless of their ideology and socio-economic systems and of their size and relative military and economic strength, should acknowledge that there is no viable long-term alternative to a policy of development and peaceful coexistence except within a framework of international law.

The continuing role which the United Nations is expected to play in the growth and development of a coherent and generally acceptable body of international law finds expression in Article 13, paragraph 1 (a) of the Charter according to which "the General Assembly shall initiate studies and make recommendations for the purpose of promoting international co-operation in the political field and encouraging the progressive development of international law and its codification". The adoption by the San Francisco Conference of this provision marks the beginning of a new era in the process of progressively developing and codifying international law, without equal in its history. The framers of the Charter conceived of the work of progressive development and codification of international law as a political objective of the United Nations to the realization of which, Member States have, politically and legally, committed themselves to collaborate and co-operate.

The process of developing and codifying international law now takes place primarily in the forums of the universal international organization, in which the participants seek to update, mould and even transform the criteria for conducting their relations so as to make these norms more responsive and effective in the context of new situations. The process relies on multilateral diplomacy, producing treaties and codifying conventions, rather than upon the process of the evolution of customary international law through practice, acceptance or acquiescence. Its aim is the fulfilment of the political aspirations, interests and needs of States and of the organized international community with a view to facilitating international co-operation and contributing to the maintenance of international peace and security through the certainty of law.

Besides the underlying concern with the need to maintain international peace and security, there have been other major factors which have led States to attach growing importance to the progressive development and codification of international law. It is generally recognized that, in the past 40 years, international society has undergone a substantial transformation which constantly calls for the progressive development of international law and its codification, in the interest of contemporary requirements. As has been emphasized time and again, what was adequate and appropriate at the turn of the century when 60 per cent of the world's land and 70 per cent of its total population was formed of colonies, dominions and protectorates of empires, or even in 1945 when 51 States were signatories to the United Nations Charter, cannot be expected to meet the demands of an international community of 157 States faced with a whole range of new issues and problems. These issues and problems have also arisen from the scientific and technological developments which have materially affected the global structure and the global economy, producing a need for legal regulation of activities which were, by the middle of this century, still beyond man's capacities. Ours is a civilization, largely guided by the benefits and demands of science, where limited resources are coupled with an increasing need for their more rational and equitable distribution and where our interdependency, brought about by the ease of modern communications and the necessities of progress, has grown so much that national economic and industrial activities substantially affect not only our immediate neighbours but also States on the other side of the planet. The international flow of goods and services in today's world has been so amply documented that its mention alone will suffice to confirm that interdependence. The point is that sustained global interaction has rendered the life and the stable existence of States dependent upon numerous factors operating beyond their national boundaries: the contemporary effective pursuit by States of development and coexistence is dependent, in ever greater degree, upon their ability to identify these factors and to devise feasible methods of effecting them. At the same time, States have remained jealous of their independence and territorial sovereignty.

We are going through a period when more emphasis is put on what separates us than what brings us together. Furthermore, there is no question that in a world with limited resources and severe economic depression, one's larger share is at the expense of another's smaller share. This is the stage where we face the danger of losing sight of common interests and of the consensus as to what the direction should be. The codification of legal principles against such a background of interdependency has proven to be an enormous task, but all the more important for that reason.

Next November, 36 years will have passed since the General Assembly, by resolution 174 (II), established the International Law Commission as a means of exercising one of the principal functions entrusted to it by Article 13 of the

Charter. With the establishment of the Commission, the General Assembly acquired a permanent subsidiary organ of the highest scientific and technical quality to carry out the essential preparatory work of all codifications namely the elaboration of basic drafts. The community of States has always taken care to ensure the election to the Commission of jurists of the highest qualifications and standing. The Commission has been constituted as a body capable of formulating legal rules, simultaneously, on a variety of complex subjects. Besides, the Commission's membership adds a unique feature to its character: individual experts drawn from academia, the diplomatic life and the practising bar provide an invaluable combination of talents, and experience for analysing from both the theoretical and practical points of view, State practice, judicial decisions and doctrine in order to ascertain what the content should be of the legal rules to be formulated. Nevertheless, since diplomatic codification cannot be carried out in a political vacuum the General Assembly has integrated the International Law Commission in the political system of the United Nations and has also associated the Member States, individually and collectively, to all the main stages of the codification process. This amalgam of legal objectivity and political subjectivity constitutes without doubt one of the most characteristic features of the Commission and of the codifying method adopted by the United Nations. It is certainly at the basis of its flexibility and effectiveness in the elaboration of drafts that have proven viable when submitted to the final scrutiny of States.

The International Law Commission has become, in the 35 years of its existence, the most respected international institution in the field of the codification and progressive development of international law. It has responded to the call of the international community at large, expressed through the General Assembly, and has produced over the years a series of Conventions, certain of which form the principal landmarks in current international law such as the 1961 Convention on Diplomatic Relations, the 1963 Convention on Consular Relations and the 1969 Convention on the Law of Treaties.

The achievements of the Commission have been due not only to the enhancement of the process of co-ordinating its study of a given topic with the opinions expressed by Governments, but to the flexibility of approach that has been shown. The Commission's practice in this regard has served to demonstrate that there is a range of possibilities available in furtherance of the Commission's object and that which may fit the needs of a particular topic and of the international community in one context may not be equally suitable in another. As the Commission's work continues in the future, it will no doubt further extend the repertoire of the techniques which are available, within the framework of the Statute, for the successful codification and progressive development of international law in different spheres. This will be particularly important as the Commission moves, as it certainly will, into those new areas of international law where advances of science and technology require the development of legal rules necessary to regulate the immensely valuable, but sometimes potentially dangerous, instruments which science and technology have given to us.

Mr. Chairman, members of the Commission, in my first Report on the Work of the Organization, I emphasized that an important first step towards the full realization of the role and capacity of the United Nations would be a conscious recommitment by Governments to the Charter. I believe that such a recommitment is particularly appropriate today as regards the objective enshrined in the article of our constitutive instrument that I quoted earlier. Clearly, the progressive development

and codification of any legal rules susceptible of universal acceptance is no simple task. More than ever there is need for legal minds to search for accommodation of so many conflicting demands and relationships and to design coherent legal rules that will provide guidance in meeting the challenges of peaceful coexistence and development. I am convinced that the International Law Commission will prove again to be responsive to the winds of change and will continue to meet the growing expectations of mankind. I wish you all success in your important tasks.