Provisional

For participants only

29 May 2026

Original: English

International Law Commission

Seventy-seventh session (first part)

Provisional summary record of the 3733rd meeting

Held at the Palais des Nations, Geneva, on Friday, 1 May 2026, at 10 a.m.

Contents

Statement by the Under-Secretary-General for Legal Affairs and United Nations Legal Counsel

Settlement of disputes to which international organizations are parties (*continued*)

Corrections to this record should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within two weeks of the date of the present document* to the English Translation Section (trad_sec_eng@un.org).

Please recycle

Present:

Chair:	Mr. Mavroyiannis
Members:	Mr. Akande
	Mr. Argüello Gómez
	Mr. Fathalla
	Mr. Fife
	Mr. Forteau
	Mr. Galindo
	Ms. Galvão Teles
	Mr. Grossman Guiloff
	Mr. Jalloh
	Mr. Laraba
	Mr. Lee
	Mr. Ma
	Ms. Mangklatanakul
	Mr. Mingashang
	Mr. Nesi
	Mr. Nguyen
	Ms. Oral
	Ms. Orosan
	Mr. Ouazzani Chahdi
	Mr. Oyarzábal
	Mr. Paparinskis
	Mr. Patel
	Mr. Reinisch
	Ms. Ridings
	Mr. Ruda Santolaria
	Mr. Sall
	Mr. Savadogo
	Mr. Vázquez-Bermúdez
	Mr. Zagaynov

Secretariat:

Mr. Pronto	Secretary to the Commission

The meeting was called to order at 10.05 a.m.

Statement by the Under-Secretary-General for Legal Affairs and United Nations Legal Counsel

Ms. Hammarskjöld (United Nations Legal Counsel) said she welcomed the fact that the Commission would be holding a full 11-week session in 2026, as the Office of Legal Affairs, like all parts of the United Nations system, continued to face significant financial constraints. The UN80 Initiative, launched by the Secretary-General in 2025, had given rise to a number of decisions on internal efficiency. One important track of the reform concerned mandates. On 31 March 2026, the General Assembly had adopted resolution 80/251 on mandate creation, implementation and review for an efficient and effective United Nations, setting out principles for the creation of mandates by Member States and expectations as to how the Secretariat and the Secretary-General should support such efforts in future. Work was under way on a number of initiatives for possible structural change, aimed at improving delivery and strengthening the Organization's ability to respond to the significant challenges facing it. Her Office had contributed throughout those efforts, not least to ensure that all proposals put to Member States were legally correct. The Office recognized the importance of ongoing efforts to streamline the Commission's working methods. With a full session for the Commission in 2026 now secured, work on the budget for 2027 had already begun, with a view to ensuring that any mandates from Member States could be fulfilled. Member States in the General Assembly had expressed strong support for the Commission's work and for the provision of the resources required for that work.

The current period was a challenging one for multilateralism and international law. Institutions that had contributed to achievements in international law in recent decades were being undermined and threatened, and international humanitarian law was being violated in all too many conflicts. Against that background, it was more important than ever to continue to develop and uphold international law. The United Nations remained a unique forum in which to reflect on and address the international legal needs of tomorrow; the Commission's role in that regard remained key. While the seriousness of current challenges had to be recognized, it was equally important to acknowledge the momentum in the negotiation of multilateral instruments addressing key issues, a number of which were based on the Commission's important work.

In 2025, the Sixth Committee had completed its consideration of the agenda items allocated to it and had maintained its tradition of adopting its resolutions and decisions without a vote. It had considered the Commission's 2025 annual report (A/80/10); the participation of members of the Commission in that debate had played an important role in sustaining the dialogue between the two bodies, which remained one of the principal engines of the progressive development of international law and its codification within the United Nations. The General Assembly had welcomed the Commission's work, taken note of the inclusion of new topics in its programme of work and long-term programme of work and once again stressed that the Commission should take into account the comments and observations of Governments. Notably, the Sixth Committee had considered the agenda items "Responsibility of States for internationally wrongful acts", "Diplomatic protection", "Protection of persons in the event of disasters" and "Crimes against humanity", on the basis of the draft articles elaborated by the Commission between 2001 and 2019. Particular progress had been made on "Crimes against humanity" and "Protection of persons in the event of disasters"; the General Assembly had decided to convene diplomatic conferences to conclude legally binding instruments on those two topics. Negotiations would proceed on the basis of the draft articles elaborated by the Commission, together with textual amendments proposed by States.

A notable feature of those processes was the participation of the Commission's Special Rapporteurs as experts, reviving a practice that dated back to the negotiation of the Vienna Convention on the Law of Treaties in the 1960s. In January 2026, former Commission member Sean Murphy, who had served as Special Rapporteur on the topic of crimes against humanity, had participated in the work of the first session of the Preparatory Committee for the United Nations Diplomatic Conference of Plenipotentiaries on Prevention and Punishment of Crimes against Humanity. Delegations had appreciated his participation,

which had enabled them better to understand the reasoning underlying the Commission's draft articles. The Preparatory Committees for the two Conferences were responsible for the preparation of negotiating texts and for the organization, methods of work and rules of procedure of the Conferences. Her Office had drafted the rules of procedure, methods of work and final act of the United Nations Diplomatic Conference of Plenipotentiaries on Protection of Persons in the Event of Disasters. The General Assembly had decided that the Conferences and their Preparatory Committees would be open to all Member States, members of the specialized agencies and relevant observers, including intergovernmental organizations and non-governmental organizations (NGOs) in consultative status with the Economic and Social Council. With regard to the prevention and punishment of crimes against humanity, it had been decided that representatives of relevant NGOs other than those in consultative status with the Economic and Social Council, civil society organizations, academic institutions and the private sector could also submit requests to participate in the Conference.

International law remained at the core of the Organization's approach to global crises. Marking the eightieth anniversary of the inaugural sitting of the International Court of Justice, the Secretary-General had stressed that adherence to international law mattered more than ever precisely because the international system was under such strain. The Office of Legal Affairs continued to provide advice on issues arising from political crises and conflicts, including those in the Middle East, notably concerning the Strait of Hormuz, the continuing serious situation in the Occupied Palestinian Territory and the situations in Yemen, Ukraine, the Sudan, the Bolivarian Republic of Venezuela and elsewhere. The Secretary-General had repeatedly urged States to comply with their obligations under international law, including the prohibition, enshrined in the Charter, of the use of force against the territorial integrity or political independence of any State, consistently reiterating that international disputes must be settled by peaceful means and that Member States had a choice to pursue the path of compliance with international law.

The current conflict in the Middle East, including events in the Strait of Hormuz, raised numerous issues of international law. The Secretary-General had condemned the strikes and noted the suffering caused by all the unlawful attacks that had taken place. He had highlighted the humanitarian and economic consequences of the disruption of shipping through the Strait and had emphasized that navigational rights and freedoms must be respected, as reaffirmed by the Security Council in resolution 2817 (2026). He had also stressed that all sides must comply with international humanitarian law; that civilians and civilian infrastructure must be respected and protected; and that the destruction of objects indispensable to the survival of the civilian population, including energy infrastructure, was prohibited.

With regard to the situation in the Occupied Palestinian Territory, including Gaza, the United Nations continued to emphasize the need to respect international law, including international humanitarian law and international human rights law. On 22 October 2025, the International Court of Justice had rendered its most recent advisory opinion, on the *Obligations of Israel in relation to the Presence and Activities of the United Nations, Other International Organizations and Third States in and in relation to the Occupied Palestinian Territory*, confirming key aspects of the legal positions expressed by the Secretary-General in his submission to the Court. In particular, the Court had reaffirmed the obligation of Israel to cooperate in good faith with the United Nations and to respect fully its privileges and immunities; upheld the inviolability of United Nations premises; and underscored the indispensable role of the United Nations, including the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), in providing humanitarian relief in Gaza and supporting the right of the Palestinian people to self-determination. The Court had made clear that, where a population was inadequately supplied, as in Gaza, Israel was under an obligation to agree to and facilitate appropriate impartial relief schemes, including those provided by the United Nations.

On the fourth anniversary of the full-scale invasion of Ukraine by the Russian Federation, the Secretary-General had reiterated his position that the invasion violated the Charter of the United Nations and international law. He had again emphasized that a just, lasting and comprehensive peace must be consistent with the Charter, international law and

the relevant United Nations resolutions and must respect the independence, sovereignty and territorial integrity of Ukraine.

Regarding the protection of United Nations personnel in the field, a large number of personnel remained arbitrarily detained in Yemen by the Houthis. The Secretary-General had recalled that United Nations personnel enjoyed immunity from legal process in respect of all acts performed by them in their official capacity.

In 2025 the International Court of Justice had also issued an advisory opinion on the *Obligations of States in respect of Climate Change*, in which it referred several times to the work and products of the Commission, notably in its reasoning concerning sea-level rise. Those references showed that the Commission's work was also important for the Organization's principal judicial organ.

The Office of Legal Affairs had continued to work to uphold the status, privileges and immunities of the Organization in accordance with the Charter and the 1946 Convention on the Privileges and Immunities of the United Nations (General Convention). The ultimate purpose of that work was to protect the Organization's ability to carry out its functions. Regrettably, that legal framework was facing increasing challenges. For example, her Office was supporting UNRWA in addressing civil cases brought against it in courts in the United States of America and Israel that directly called into question the immunities of the Organization and its officials in relation to their official functions. Her Office had consistently maintained, on behalf of the United Nations, that UNRWA was a subsidiary organ of the United Nations entitled to the privileges and immunities set out in the Charter and the General Convention. The International Court of Justice had confirmed that position in its 2025 advisory opinion on the *Obligations of Israel*.

In the field of criminal accountability for international crimes, progress had been made towards the completion of the work of international and hybrid tribunals. The Security Council was about to consider the possible transfer and completion of the residual functions of the International Residual Mechanism for Criminal Tribunals. A review of the Mechanism would take place in June 2026, a process in which the Office of Legal Affairs was extensively engaged. The trend towards establishing non-judicial accountability mechanisms continued, the Human Rights Council having recently established a mechanism for Afghanistan focusing in particular on crimes against women and girls.

Over the previous 10 years, the landscape of United Nations peacekeeping operations had changed significantly, with the closure of several "traditional" operations. In August 2025, the Security Council had decided that the United Nations Interim Force in Lebanon (UNIFIL) would begin its drawdown and withdrawal on 31 December 2026. The Security Council had requested the Secretary-General to explore options for the future of the implementation of its resolution 1701 (2006), on full cessation of hostilities in Lebanon and on extending and strengthening the mandate of UNIFIL to monitor the ceasefire, after the Force's withdrawal. The Office of the Legal Counsel continued to advise on the complex legal issues raised by those options.

A novel development in that area had been the adoption of Security Council resolution 2793 (2025) on Haiti. Acting under Chapter VII of the Charter, the Council had authorized Member States to establish the Gang Suppression Force – a non-United Nations force comprising military, police and civilian components – and had established the United Nations Support Office in Haiti (UNSOH) to provide support primarily to the Force but also to the Haitian authorities. Participating Member States had been authorized to conduct operations to neutralize, isolate and deter gangs that continued to threaten the civilian population, abuse human rights and undermine Haitian institutions, specifying that such operations must be in strict compliance with international law, including international human rights law, and with the human rights due diligence policy on United Nations support to non-United Nations security forces. That multi-layered approach to peace support carried legal implications on which the Office of Legal Affairs was advising, including the modalities of United Nations support to the Force, the status, privileges and immunities of UNSOH and its personnel and other aspects of the legal framework.

The Office of Legal Affairs continued to support efforts to ensure the criminal accountability of United Nations officials and experts on mission by referring credible

allegations of criminal conduct to the relevant national authorities. In 2024/25, 27 such referrals had been made, covering allegations of sexual exploitation and abuse, corruption and fraud. The Office also represented the Secretary-General before the United Nations Appeals Tribunal. In 2025, the Appeals Tribunal had rendered 78 judgments in cases to which the Secretary-General had been a party. In addition, the Office supported the Organization's efforts to ensure the highest standards of staff conduct. In 18 judgments rendered that same year, the Tribunal had upheld disciplinary measures imposed by the Secretariat and the separately administered funds and programmes for a range of misconduct.

The Office continued to follow with great interest the Commission's work on the topic "Settlement of disputes to which international organizations are parties". In that connection, she wished to inform the Commission that the Office had revised the dispute settlement clause in the standard form of contract between the Organization and consultants and individual contractors to provide for an expedited and simplified arbitration procedure, which would shortly enter into force. That development was important both for improving access to justice for non-staff personnel and for addressing a point of tension affecting respect for the Organization's privileges and immunities: a perceived lack of access to effective remedies, which had underlain decisions of national courts in certain jurisdictions not to uphold those privileges and immunities against claims by such individuals. The new procedure, conducted with the support of the Permanent Court of Arbitration, would be faster and less expensive than ordinary arbitration. Arbitration proceedings involving the Organization had steadily increased, with more than 50 initiated over the previous 10 years and a peak of over 20 active proceedings in 2025. Those had arisen primarily from commercial contracts; none involved tortious claims; and five had been brought by non-staff personnel.

Regarding developments in international trade law, work on investor-State dispute settlement had begun in 2017 with a broad mandate conferred on Working Group III (Investor-State Dispute Settlement Reform) of the United Nations Commission on International Trade Law (UNCITRAL). It was hoped that the statute of the Advisory Centre on International Investment Dispute Resolution, together with supplementary provisions on the conduct of investment dispute proceedings, would be finalized by UNCITRAL at its July 2026 session. Of particular interest to the Commission might be the ongoing work to develop a treaty provision and guidelines on the calculation of damages and compensation in investor-State dispute settlement cases. Working Group III had recently decided to establish two separate tribunals: a first-tier permanent tribunal and a permanent appellate tribunal. In that regard, the International Trade Law Division, as the secretariat of UNCITRAL, was working closely with the secretariat of the International Centre for Settlement of Investment Disputes on a possible modification of the Convention on the Settlement of Investment Disputes between States and Nationals of Other States.

In the area of transport law, on the recommendation of UNCITRAL, the General Assembly had adopted, in December 2025, the United Nations Convention on Negotiable Cargo Documents, which allowed goods carried by road, rail, air or sea to be represented by a single negotiable document. A signing ceremony for the new Convention was scheduled to be held in Ghana in the second half of 2026.

A common theme could be discerned in those two developments, namely the use of electronic means in the pursuit of trade relations. That was not in itself new; what was new was the sophistication of the technologies deployed and the capabilities they offered through the availability and processability of data. In 2026, UNCITRAL would celebrate six decades of contributions to the progressive harmonization and modernization of international trade law.

The law of the sea continued to lie at the centre of the attention of the international legal community. A significant milestone had been reached on 17 January 2026 with the entry into force of the Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction. That event had triggered the countdown to the first meeting of the Conference of the Parties, scheduled for 11 to 22 January 2027. The Preparatory Commission established to prepare for the entry into force of the Agreement and for the first meeting of the Conference of the Parties had concluded its work at its recent third and final session,

adopting a range of documents for consideration by the Conference of the Parties, including rules of procedure, arrangements for the functioning of the secretariat and financial rules. Those documents were all critical to laying solid foundations for the effective implementation of the Agreement. It was hoped that the significant political momentum that had resulted in the Agreement's entry into force would also carry it to fruition as the remaining decisions of States Parties moved towards completion. The Agreement currently had 89 States Parties, with the hope of more to come.

There was broad recognition that sea-level rise was a complex and consequential challenge for international law. The General Assembly had requested a comprehensive report from the Secretary-General, which she and colleagues in the Secretariat were currently preparing. The report would provide information on the challenges of sea-level rise and on ways and approaches to address them, including their legal aspects. The General Assembly had also requested the convening of a high-level plenary meeting at its eighty-first session to adopt a concise, action-oriented declaration, which was currently under negotiation. That work was being informed by the final report of the Study Group on sea-level rise in relation to international law, which the General Assembly had welcomed in 2025. The General Assembly had also decided, without setting a precedent, to continue its consideration of the topic's legal aspects at its eighty-first session.

She also wished to mention the continuing work of the Commission on the Limits of the Continental Shelf, which was assisting coastal States in the largest peaceful expansion of maritime areas under national jurisdiction. The Commission, which was serviced by her Office's Division for Ocean Affairs and the Law of the Sea, had recently adopted its forty-fourth set of recommendations, on the submission made by the Cook Islands.

With regard to the discharge of the Secretary-General's depositary functions and the mandate for the registration and publication of treaties under Article 102 of the Charter, the United Nations Convention against Cybercrime, adopted in 2024, had been signed by 71 States and the European Union at its opening for signature ceremony, held in Hanoi in October 2025. The next annual treaty event would be convened in September 2026 during the high-level week of the General Assembly's eighty-first session. The previous year's event had seen treaty action on instruments in a range of areas, including the law of the sea, human rights, disarmament, penal matters, the environment and outer space. Notably, two States had used the occasion to accede to the Vienna Convention on the Law of Treaties, a landmark achievement of the Commission.

In closing, she wished to highlight the priority that the Office of Legal Affairs gave to capacity-building across the different areas of its responsibility, with the aim of increasing knowledge of and competence in international law, and to thank those members of the Commission who continued to contribute to such efforts. One key initiative was the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law, which comprised three Regional Courses in International Law and the International Law Fellowship Programme in The Hague. Cuts to the Programme had been proposed in the previous year's budget owing to the financial crisis, but Member States had clearly expressed their unwillingness to hold activities under the Programme on a biennial rather than annual basis. In response to that clear mandate, the four courses would be held in 2026. Nevertheless, the financial situation for 2027 gave rise to concerns, and considerable effort would be required to find solutions.

In addition to those courses, the Office had significant programmes contributing to capacity-building in the law of the sea at the regional and subregional levels, including some run in cooperation with partners on the Agreement on Marine Biological Diversity of Areas beyond National Jurisdiction and its implementation. Among the Office's most popular courses were those on treaty law, whose practical impact for Member States was readily apparent. The same was true of international trade law, on which the Office delivered courses in various parts of the world aimed at enhancing knowledge of international trade law and commercial law and at contributing to coherence in their implementation. One digital expression of capacity-building was the United Nations Audiovisual Library, which featured contributions by members of the Commission and their predecessors and served as an important means of reaching international lawyers and other interested persons worldwide.

Mr. Fife said that the Commission was grateful to the Legal Counsel and the Office of Legal Affairs, whose behind-the-scenes efforts to ensure that sufficient priority was given to the Commission, despite financial conditions that were far from optimal, had enhanced predictability and helped ensure that the Commission could carry out its mandate at the current session. The high-quality services provided by the Codification Division were key to the Commission's efficiency, which was one of the aims of the broader reform processes under way within the United Nations.

Many international organizations were unfortunately under the same strain as the United Nations. The Legal Counsel's statement had highlighted the need for the Commission to take account of both the internal and external realities under which international organizations had to operate. Those realities had a bearing on one of the topics being considered by the Commission, "Settlement of disputes to which international organizations are parties". The Legal Counsel's statement had highlighted the importance of the immunities of international organizations. The solution was not simply to waive those immunities and rush into arbitral or judicial proceedings. The question was whether effective remedies that protected the rights of external parties could be identified. The expedited and simplified arbitration procedure being rolled out by the United Nations was an example of such a solution.

Mr. Paparinskis, expressing his full agreement with the remarks made by Mr. Fife, said that, while there could be reasonable disagreement about some of the choices made in the current challenging circumstances, there could be no doubt that the Legal Counsel always had the Commission's interests at heart, as shown by the crucial role she had played during International Law Week. He hoped that the mandate expressed in Article 13 (1) (*a*) of the Charter of the United Nations would be upheld as effectively for the Commission's seventy-eighth session as it had been for the seventy-seventh.

Mr. Lee said that he had had the pleasure of meeting the Legal Counsel in January 2026 at the first session of the Preparatory Committee for the United Nations Diplomatic Conference of Plenipotentiaries on Prevention and Punishment of Crimes against Humanity. He had been thrilled to participate in that session, as no diplomatic conference had been convened on the basis of draft articles prepared by the Commission since 1998. The Preparatory Committee for the United Nations Diplomatic Conference of Plenipotentiaries on Protection of Persons in the Event of Disasters would meet later in 2026. He hoped that the two Conferences would be successful and that the two sets of draft articles would be converted into binding conventions, thereby enhancing the role of the Commission, whose mandate was the progressive development of international law and its codification.

The subsequent wide participation in those conventions would also be important. While the decision on whether to participate lay ultimately with Member States, he would appreciate the Legal Counsel's reflections on the role that the Commission and the Office of Legal Affairs could play in facilitating the widest possible participation. He also wondered whether she could enlighten the Commission regarding the discussions in the Sixth Committee on the future of the articles on responsibility of States for internationally wrongful acts, which had remained in limbo for a quarter century since their adoption.

Ms. Hammarskjöld (United Nations Legal Counsel) said that efforts to secure resources for the Commission's next session had already begun. She appreciated the importance of predictability for enabling the Commission to plan its work. The fact that the Commission had succeeded in producing a report on the work of its previous session and had engaged with the Sixth Committee had maintained the dialogue between the Commission and Member States on the key work being done by the Commission. The impact of the United Nations liquidity crisis on the Commission's work in terms of the conference services available to it and the resources of the Office of Legal Affairs, which had suffered post reductions, was nonetheless evident. The Office was, however, committed to providing continued support for the work of the Commission.

The issues relating to the settlement of disputes and the question of remedies were a priority for her Office and were relevant to the protection of the Organization's ability to do its work. Often, attempts were made to use dialogue as a means of resolving the problems that arose in implementing the privileges and immunities to which the Organization was

entitled. There was a broader, problematic trend in the area of privileges and immunities, in which a number of Member States were pushing back on matters that had traditionally been generally accepted as part of the privileges and immunities package. The Office of Legal Affairs had worked hard to engage with Member States, including through capacity-building and engagement with members of the judiciary in countries where questions about privileges and immunities had been raised, to explain why the relevant norms existed. In addition, the Office was responsive to situations where its procedures were not perceived as sufficiently accessible or simple. The simplified procedure that she had mentioned was a part of that response.

As Mr. Lee had correctly highlighted, it had been a long time since one of the Commission's outputs had been the subject of an intergovernmental negotiation and conference. Both of the upcoming Diplomatic Conferences were therefore very important, and servicing them was a priority for her Office. Former Commission member Eduardo Valencia-Ospina would play a role in the preparations for the Diplomatic Conference on protection of persons in the event of disasters that would be similar to the one that Mr. Murphy had played in the preparations for the Diplomatic Conference on prevention and punishment of crimes against humanity. Such participation by special rapporteurs helped to strengthen the link between the Commission's work in drafting provisions and the subsequent intergovernmental negotiations on those provisions.

With respect to the articles on State responsibility, more than 100 Governments were in favour of work on a possible treaty, but there were also voices against such a step. There was interest in seeing what progress would be made in the processes relating to the draft articles on prevention and punishment of crimes against humanity and the draft articles on the protection of persons in the event of disasters before a decision was taken on the future of the articles on State responsibility. In the meantime, those articles were widely cited and very well recognized.

Mr. Zagaynov, expressing his appreciation for the support that the Commission received from the Legal Counsel and the Office of Legal Affairs, in particular the Codification Division, said that there were indeed some very serious challenges to international law. In his view, one of the factors fuelling the crisis in international law was the rise of double standards, including the selective approaches taken to the observance or non-observance of international law. In fact, an event on such double standards had been hosted by the Geneva Graduate Institute the previous year. As he saw it, there were double standards and inconsistencies not only among States involved in international conflicts, but also in the approach taken by the United Nations to those conflicts. Such practices were not limited to armed conflicts; in recent months, the world had witnessed extrajudicial killings of foreign officials and foreign nationals, the use of force on the high seas, the abduction of Heads of State, the detention of ships on the high seas and other similar incidents. He wished to hear the Legal Counsel's views on those matters and on those approaches to international law.

Ms. Oral said that she sincerely appreciated the efforts of the Legal Counsel, the Office of Legal Affairs and the current and previous Chairs of the Commission to ensure that the Commission could hold an 11-week session in Geneva. Perhaps the one silver lining to have come from a very difficult seventy-sixth session had been the Member States' expressions of appreciation for the Commission's work.

It was a paradoxical time for international law: on the one hand, it was being violated every day and was perhaps approached using double standards; on the other, there were positive developments such as the work of the Preparatory Committees for the forthcoming Diplomatic Conferences addressing the Commission's outputs, the entry into force of the Agreement on Marine Biological Diversity of Areas beyond National Jurisdiction and the collective efforts of States to address the pressing problem of sea-level rise. She would be interested to hear the Legal Counsel's views on what the Commission members could do, either collectively or individually, to address the very negative narrative that had arisen regarding international law, as the situation was not entirely negative.

Mr. Jalloh said that he wished to echo the expressions of gratitude to the Legal Counsel and the Office of Legal Affairs for their support for the Commission's work. He also

wished to underline a key point that the Legal Counsel had made regarding the current challenges facing international law and to highlight the significant symbiosis between the work of the Commission and the Sixth Committee in giving effect to the mandate of the General Assembly under Article 13 (1) (*a*) of the Charter. In that regard, he shared Mr. Lee's appreciation of the decision by States to take forward the two sets of draft articles, one on prevention and punishment of crimes against humanity and the other on the protection of persons in the event of disasters, and thereby reopen the door between the Commission, as a body of independent experts, and the Sixth Committee.

Like Ms. Oral and Mr. Zagaynov, he was concerned about the current direction of international law and the paradox whereby graphic instances of non-compliance with international law, including developments relating to the Bolivarian Republic of Venezuela and the Islamic Republic of Iran, which raised fundamental questions about the system's possible collapse, coexisted with promising developments such as those relating to the Agreement on Marine Biological Diversity of Areas beyond National Jurisdiction and the two Commission outputs. However, in his view, nowhere was the lack of compliance with international law more significant or more stark than with respect to the Palestinian people's right to self-determination, which, as the Legal Counsel had highlighted, had been underscored in several advisory opinions of the International Court of Justice and many resolutions of the General Assembly. He therefore wished to ask how the Legal Counsel assessed the prospects for achieving greater compliance with the norms of international law through the efforts of the General Assembly to give effect to the right of all peoples to self-determination, including the Palestinian people, and whether she considered the ongoing initiatives by a group of States to strengthen the role of the Security Council, including through concepts such as the responsibility not to veto, to be promising in terms of their potential to enhance compliance with international law.

Ms. Hammarskjöld (United Nations Legal Counsel) said that the question of double standards and the ability to be consistent was one for all actors in the field of international law. The intention of the Secretary-General was to be consistent, and he spoke out on many issues with that aim. The Secretariat was guided by the decisions taken by the relevant intergovernmental bodies, including the Security Council and the General Assembly. There were, however, real challenges to the norms that States had elaborated and undertaken to respect, not only in terms of violations of those norms, but also a broader disregard for international law and a questioning of its relevance and applicability. The response to that, for those who had a voice in international law, was to stand up for the norms that States had chosen to adopt and accept and to try to be as consistent as possible.

Members of the Commission, for example, could use the strong voice that they had individually and collectively to engage in the debate on the relevance of international law and explain why international law was still necessary, relevant and alive. Currently, in her view, that argument on the relevance of international law and the need to comply with it should address not the minute details of international law, but the fundamentals of the Charter, the prohibition of the threat or use of force, the need to allow the United Nations to do its job and the need to respect international humanitarian law. It was important to explain to the broader public why international law mattered and how international lawyers, including the members of the Commission, were addressing the challenges of the future. Her earlier remarks about the use of digital instruments in the trade sector were part of a much broader discussion about the future of international law in relation to digital instruments and artificial intelligence. Addressing the negative narrative was an ongoing task for all those willing and able to champion the future of international law.

With respect to Mr. Jalloh's questions, one of the important dimensions of the recent advisory opinion of the International Court of Justice was that it addressed the issue of self-determination and its applicability to the Palestinian people. There was a lively debate on how the General Assembly could best support respect for international law, both through resolutions and through initiatives on issues of principle such as the procedure for General Assembly follow-up to vetoes in the Security Council.

Mr. Patel said that the lack of capacity-building in international law had contributed to some of the challenges mentioned. With regard to treaty law and practice and the amendment of the regulations to give effect to Article 102 of the Charter, one positive

development had been the organization of training initiatives with the support of Argentina and Singapore; several African and Asian nations had contributed to that initiative.

The Commission and the United Nations as a whole had benefited from the work of the Asian-African Legal Consultative Organization (AALCO), which would celebrate its seventieth anniversary in 2026. He hoped that the anniversary would be an opportunity to recognize the contribution of AALCO, to motivate African and Asian scholars and to promote the study of international law. In that regard, he noted that the Hague Academy of International Law had hitherto been among the most sought-after law academies for young professionals; however, schools in other parts of the world, such as Xiamen Academy of International Law, were becoming increasingly relevant. Rashtriya Raksha University in India had inaugurated two important academies: Mahasagar Academy, which focused on the law of the sea and maritime law, and the Centre for International Law. He invited the Office of Legal Affairs to provide whatever support it could for those and other important initiatives in Asia.

Mr. Reinisch said that he had been interested to hear about the introduction of an expedited and simplified arbitration procedure for non-staff personnel, who represented the largest group of private parties who might be involved in disputes with the United Nations and other international organizations. In his experience, it was a myth that arbitration was always lengthy and expensive; as shown by the replies of the Permanent Court of Arbitration to the questionnaire circulated by the Office of Legal Affairs (A/CN.4/764), a number of mechanisms had been implemented to control the cost and duration of arbitration. In addition, he had observed that the Court did not charge any registration or administration fees, while arbitrators either agreed not to charge a fee or charged only a nominal fee. Arbitration could therefore be considered a means of providing affordable and effective access to justice.

Having noted with interest the Legal Counsel's remarks on upholding the immunity of United Nations personnel, he wished to point out that the Commission was currently discussing draft guidelines that clearly supported the upholding of the jurisdictional immunity of international organizations. He would be interested to hear how the Office of Legal Affairs engaged with the judiciary in countries that had pushed back against privileges and immunities, particularly since international organizations' traditional approach of relying on the national authorities to convey their position to the judiciary might no longer be effective in certain jurisdictions.

Ms. Ridings said that she had been interested to hear how the Commission's work on several topics was being taken forward by the General Assembly, which, in its resolution 80/167 on the rule of law at the national and international levels, had invited Member States to discuss the subtopic "Enhancing the rule of law by strengthening the cooperation between the Sixth Committee of the General Assembly and the International Law Commission". The Commission had already begun to prepare its input for that discussion. As it seemed that there had been a shift in the Sixth Committee's approach to the work of the Commission, she wondered what the reasons for that shift might be. For instance, did the new approach represent an effort to address the current challenges facing international law by promoting greater recognition of the importance of international law and of treaties as a means of facilitating cooperation between States, or was it focused more directly on enhancing the relationship between the Committee and the Commission? What were the Legal Counsel's views on the future of that relationship?

Ms. Hammarskjöld (United Nations Legal Counsel) said that the Office of Legal Affairs recognized the importance of global capacity-building and engagement on international law. The Office's capacity-building efforts, including the Regional Courses in International Law, were geared towards and available to all Member States. In the spirit of multilingualism, courses were conducted in both English and French. Capacity-building initiatives were funded from regular budget resources and, to some extent, voluntary contributions. Although the Office would undoubtedly need to secure additional resources in view of the increasing demand for courses, that should be seen as a welcome challenge. Many course participants were working-level legal professionals who, it was hoped, would go on to become senior international lawyers. Her Office stood ready to discuss potential future cooperation with bodies such as AALCO.

The Office undertook various efforts in defence of the norms that protected the privileges and immunities of the United Nations, including direct engagement with Member States regarding their obligations. Some Member States had expressed an interest in having the Office work with members of the judiciary in order to explain the international legal obligation framework. The Office responded positively to such requests, which gave it an opportunity to explain the interaction between international law and domestic law, while fully respecting the independence of the judiciary.

In cases where legal proceedings were brought against the United Nations and the Member State concerned did not fulfil its obligation to inform the judicial authorities of the immunities to which the United Nations and its entities were entitled, the Office's initial response was to engage directly with the authorities of that State. However, Governments were sometimes unwilling to intervene in order to protect the immunity of international organizations. As she had previously noted, the Government of the United States had changed its position on the immunity from judicial process that applied to UNRWA as a subsidiary organ of the United Nations. In September 2025, the United States District Court for the Southern District of New York had dismissed a lawsuit against UNRWA and some of its staff, upholding their immunity in full. The Office of Legal Affairs engaged in such court cases through outside legal counsel.

The Office also pursued efforts to find simplified and affordable means of providing access to justice, including through *pro bono* or low-cost arbitration proceedings. Non-staff personnel included consultants and individual contractors who worked with the United Nations in many areas of operations. Simplified proceedings were a good step forward that responded to the needs of such personnel.

The Commission, through its work on sea-level rise in relation to international law, had made an important contribution to the development of international law. The Commission's Study Group had presented Member States with choices that were the subject of ongoing discussions. Member States retained significant interest in maintaining a dialogue with the Commission on a topic that raised fundamental and urgent legal issues.

The question of how to improve the dialogue between the Sixth Committee and the Commission had been under discussion for many years. In 2025, Member States had expressed significant support for the Commission's work and appreciation of its contributions to international law. Input and comments from Member States on the topics that the Commission wished to address would continue to be a key part of the dialogue. The Office of Legal Affairs would continue to encourage Member States to respond to the Commission so that their comments provided, insofar as possible, a substantive basis for its work. The Commission, which continued to address the challenges of the future, could take pride in the results it had achieved, some of which had been translated into legal instruments and other positive outcomes for Member States.

Settlement of disputes to which international organizations are parties (agenda item 6) (*continued*) (A/CN.4/782)

Mr. Akande said that he wished to congratulate the Special Rapporteur for his third report on the topic "Settlement of disputes to which international organizations are parties" (A/CN.4/782). The wealth of practice identified in the report provided an excellent basis for the development of draft guidelines on the settlement of disputes between international organizations and private parties. As the Commission was approaching the end of its first reading of the draft guidelines, by which time it should have a complete overview of the topic, he wished to make some general observations about the direction of the Commission's work.

First, he recalled the objectives that the Commission had set for itself upon commencing its consideration of the topic. Paragraph (8) of the commentary to draft guideline 1, adopted by the Commission at its seventy-fourth session, indicated that the aim was to "restate the existing practices of international organizations concerning the settlement of their disputes and to develop recommendations for the most appropriate way of handling them". Paragraph (9) of the same commentary stated that "[f]or this purpose, the elaboration of a set of draft guidelines appears to be the most suitable form for the Commission's output,

which is intended to direct States, international organizations and other users to answers that are consistent with existing rules or that seem most appropriate for contemporary practice". The mandate was thus to capture and restate practice and to develop recommendations, with the common goal of providing guidance. Although the report succeeded in capturing practice in tremendous detail, his overall impression was that the draft guidelines did not yet reflect that rich practice in a manner that provided sufficient guidance for those who might need it. He was therefore of the view that the draft guidelines should provide more granularity than they currently offered. As Mr. Forteau had observed, if the draft guidelines were too general, they might not provide real added value for States and practitioners.

Second, the Commission should bear in mind the full range of addressees of the draft guidelines and, for each provision, try to be as clear as possible with regard to its addressee. The intended users of the draft guidelines were existing and future international organizations and the diverse parties to disputes involving such organizations. The draft guidelines should also be useful to States acting in different capacities: as parties to disputes; as forum States; as members of international organizations; or as creators of international organizations, when negotiating constituent instruments and headquarters agreements. In some of the draft guidelines, the addressee was unclear. For instance, draft guideline 10 provided that dispute settlement "shall be made more widely accessible", without specifying whether that was to be done by the international organization or the States that had created it. By comparison, section 29 of the General Convention clearly placed the obligation on the international organization – the United Nations – to make provisions for appropriate modes of settlement.

Third, as several members had noted, many of the draft guidelines as currently worded were rather generic. A single set of draft guidelines in Part Three, covering all disputes between international organizations and private parties, might not adequately serve the needs of those called upon to deal with those disputes. In his report, the Special Rapporteur helpfully indicated the types of disputes that fell within the general category of Part Three. As disputes of different types would, in some cases, call for different guidance, he proposed that Part Three should usefully provide at least some examples of disputes that might arise between international organizations and private parties, and then propose specific draft guidelines of particular application to those categories. Such categories might include: (a) contractual disputes with service providers and suppliers stemming from lease agreements and other commercial arrangements; (b) tortious or delictual claims; (c) employment disputes, an area where existing practice overwhelmingly supported some form of adjudicatory settlement and where, if it restated existing practice, the Commission should acknowledge that international organizations had generally created or used standing administrative tribunals to deal with employment claims; and (d) disputes seeking to vindicate human rights, a category that would require further reflection, particularly as to its boundaries. The typology did not need to be comprehensive, but should allow the Commission to tailor specific recommendations to the particular categories. It might also solve some of the problems that members had identified with the current structure. For example, it had been suggested that the Commission should not overemphasize arbitration in draft guideline 10, as it created an impression of hierarchy. If the Commission established more specific categories, it could make special reference to arbitration within the context of contractual disputes, obviating concerns about hierarchy.

Turning to the draft guidelines proposed in the report, he said that, with respect to draft guideline 7, he agreed with several members that it was necessary to provide a definition of "private parties". In particular, he agreed with Mr. Paparinskis that "private parties" should be defined as "any person or entity other than a State or an international organization". In substance, that definition would meet the needs of the topic and would indicate that disputes not falling within Part Two would fall within Part Three. One question that merited further reflection was how to deal with State-owned corporations, which might in some contexts act as private parties.

In respect of draft guideline 9, he was concerned about the use of the word "jurisdictional", considering that the draft guideline should not be limited to "jurisdictional" immunities. The provision was directed at national courts dealing with disputes to which international organizations were parties, a context in which immunity from enforcement and execution was equally relevant. For example, when bringing a case, a private party might ask

for a freezing of assets, a matter that fell under immunity from enforcement. He was therefore in favour of removing the word "jurisdictional" and referring simply to the "immunity" of international organizations, thus covering both immunity from jurisdiction and immunity from enforcement.

Also with reference to draft guideline 9, he shared the concern that the phrase "serving the purpose of ensuring their independent functioning" could be read as restricting the circumstances in which immunity should be respected, and would prefer to remove it, at least from the draft guidelines. He agreed with other members on the advisability of replacing the word "should" with "shall", which better reflected the obligatory character of the draft guideline. Regarding the proposal by several members that the Commission should address waivers of immunity, he took the view that the issue merited inclusion in the draft guidelines themselves. For example, the Commission could include a draft guideline based on sections 14 and 20 of the General Convention, under which international organizations had a duty to consider a waiver in cases where immunity would impede the course of justice. While those sections dealt with the immunity of officials of organizations and the immunity of representatives of their member States, there was no reason not to consider the possibility that the immunity of organizations themselves could be waived.

As draft guideline 10 did not specify by whom dispute settlement must be "made more widely accessible", he supported the additional draft guidelines proposed by Mr. Oyarzábal, which provided more concrete guidance on the relationship between immunity and access to justice and clarified which aspects of the guidance were addressed to international organizations and which were addressed to States.

He agreed in principle with draft guideline 11, which provided that the means of adjudicatory settlement "shall conform to procedural rule of law as well as human rights requirements". However, before specifying the requirements that adjudicatory mechanisms must satisfy, the draft guideline should specify the circumstances in which adjudicatory settlement should or must be available. In his view, there were at least two categories of disputes in which adjudicatory settlement should be recommended: employment disputes and disputes seeking to vindicate human rights. For employment disputes, that was a reflection of existing practice, as the vast majority of international organizations had established administrative tribunals. For disputes involving human rights, the appropriateness of adjudicatory settlement flowed from the nature of the rights at stake.

In conclusion, he commended the Special Rapporteur for the richness of his report, which provided a useful basis on which to develop guidance that would be of practical value to those concerned with the topic. He supported the referral of the draft guidelines to the Drafting Committee.

Ms. Mangklatanakul said that the Special Rapporteur's third report provided a well-researched and structured analysis of existing practice on disputes between international organizations and private parties. Given the principle that the Commission's work should be aimed at providing meaningful and practical guidance to States and international organizations by responding to the realities and challenges encountered in practice, she welcomed the Special Rapporteur's decision to devote the entirety of Part Three of the draft guidelines to that type of dispute as a separate category. That approach duly recognized that there were significant practical differences between disputes with private parties, on the one hand, and disputes with States and other international organizations, on the other, that warranted their being given different treatment. As the report illustrated, and practice confirmed, disputes with private parties were among the most frequently occurring type of dispute involving international organizations, and their inclusion in the draft guidelines was an important step towards ensuring the practical usefulness of the Commission's work.

In that connection, she wished to highlight some fundamental differences between the disputes covered in Part Two and those covered in Part Three of the draft guidelines. First, as indicated in paragraph 14 of the Special Rapporteur's second report (A/CN.4/766), disputes involving States and international organizations arose primarily out of treaty relationships under international law, as evidenced by the cases referred to in the statement by the Legal Counsel. By contrast, as noted in paragraph 12 of the third report, typical disputes between international organizations and private parties arose not from treaties but

from contracts, including procurement contracts, service agreements, leases, employment arrangements and other commercial or administrative relationships. Second, it was noteworthy that the vast majority of contracts between international organizations and private parties already incorporated pre-agreed dispute settlement mechanisms. In such cases, the principle of party autonomy must be respected. On the other hand, in cases where no such agreement existed, the draft guidelines should assist users by identifying, in detail, appropriate mechanisms for different types of disputes, taking into account the disputes' legal nature and context and avoiding a uniform approach that might not adequately reflect the diversity of disputes in practice. Third, she agreed with other members that private parties to such disputes, unlike States, were in many instances not on an equal footing with international organizations. As the Special Rapporteur rightly acknowledged, private parties, including individuals, companies and non-governmental entities, were often in a weaker position. It might therefore be beneficial to consider whether certain aspects of the comprehensive analysis and detailed examination contained in the report could, where appropriate, be further reflected in the draft guidelines themselves.

Taken together, those considerations showed that disputes between international organizations and private parties were often more complex than those between international organizations and States. They encompassed a broader spectrum of claims and legal bases, including international law, particularly treaties; internal rules and regulations of international organizations; and domestic laws, and might engage multiple levels of dispute settlement, from national courts to international judicial and arbitral forums. She was firmly of the view that the Commission should address those differences more explicitly in the draft guidelines, thereby enhancing their practical relevance and utility. She agreed with other members, including Mr. Oyarzábal, that consideration should be given to developing additional guidelines to address all those issues in greater detail.

With regard to draft guideline 7, she noted that its current formulation mirrored the structure of draft guideline 3, which had been discussed extensively at the Commission's seventy-fifth session and had been provisionally adopted. She also noted that draft guideline 7 was intended to be a "scope" provision rather than a definitional provision. In accordance with the broad understanding of the notion of "private parties", she agreed that the term should encompass any person or entity other than a State or an international organization; that should be made clear in the commentary. That understanding was analytically sound and consistent with existing instruments, including the Commission's articles on the responsibility of international organizations. At the same time, in the interests of clarity, coherence and user-friendliness, it might be preferable to consider incorporating a concise definition of "private parties", as other members had suggested. Such a definition could appropriately be incorporated into draft guideline 2, "Use of terms", and the precise formulation could be further discussed in the Drafting Committee.

Second, although the Special Rapporteur had already referred to regional international organizations in the draft commentary, she wished to repeat the suggestion she had made at the seventy-fourth session (A/CN.4/SR.3617) that he should provide greater clarity as to whether the draft guidelines extended to certain regional entities and cooperation forums such as the Asia-Pacific Economic Cooperation forum, the Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation and the Colombo Plan for Cooperative Economic and Social Development in Asia and the Pacific. Although those bodies might not possess international legal personality in the same manner as international organizations, they were often accorded comparable legal personality or legal capacity under domestic laws and host country agreements, including privileges and immunities, by virtue of which they were empowered to conclude contracts and other agreements that might in turn lead to their involvement in disputes with States or private parties. It might be useful for the guidelines to provide greater clarity as to whether disputes involving such entities fell within the scope of the topic and, if so, how such disputes should appropriately be addressed.

Third, she noted with considerable interest the Special Rapporteur's recognition, in his second report, of the complexity inherent in the distinction between international and non-international disputes. That complexity had also been highlighted by several delegations in the Sixth Committee. While she agreed to the Special Rapporteur's proposed approach of classifying disputes on the basis of the identity of the parties rather than the legal basis of the

dispute, she remained to be persuaded that a focus on the parties alone necessarily provided a less complex framework, particularly given the diversity and evolving nature of disputes encountered in practice. Disputes were not always clearly and neatly classified as either disputes between international organizations and States, on the one hand, or disputes between international organizations and private parties, on the other. The mere involvement of a private party did not, in itself, render a dispute inherently private in character. As Mr. Nesi had pointed out, a dispute could involve multiple parties and arise from numerous interconnected legal bases. In particular, a single factual scenario could simultaneously give rise to multiple legal claims, such as a breach of treaty obligations and a breach of contractual arrangements concluded between the parties. That complexity was particularly pronounced in situations involving immunity, diplomatic protection and the espousal of claims, where disputes could escalate from the national to the international level and encompass both private and public dimensions. Making such distinctions involved practical challenges, but those difficulties should not dissuade the Commission from examining more closely the elements that might define non-international disputes. It remained her firm belief that the Commission's work on that issue would benefit from efforts to devote due attention to the legal basis from which disputes arose, since it was difficult to address those particular types of disputes without analysing the foundations on which their classification rested. That element was, in her view, critical for a robust and comprehensive analysis of draft guideline 7.

With regard to draft guideline 8, she agreed with the Special Rapporteur that international organizations and private parties were generally free to choose the means of dispute settlement, both before and after a dispute arose, in line with the principle of party autonomy. As underlined by the draft commentary and confirmed by the practice surveyed in the third report, the majority of disputes between international organizations and private parties arose from contractual relations and were resolved through mechanisms agreed upon in advance. The long-standing United Nations practice of including arbitration clauses in its contracts, typically under the UNCITRAL Arbitration Rules, was a well-known illustration of such preparation for the possibility of disputes. At the same time, where no prior agreement on dispute settlement mechanisms existed, certain disputes – particularly tortious claims – could arise. That was precisely the legal gap that the Commission should strive to close or, at the very least, to clarify. A more explicit distinction should be drawn between cases where the parties had agreed to a mechanism in advance, in which party autonomy should be fully respected, and cases where no such agreement existed and it became necessary to identify mechanisms that were appropriate in the light of the nature of the dispute. In that connection, the Commission could consider structuring the draft guideline to address different types of disputes. First, for contractual disputes, which were the most common, agreed mechanisms should be given priority. Second, for non-contractual disputes, especially those involving persons in a structurally weaker position relative to the organization, such as tort claimants or individuals raising accountability concerns, access to independent third-party mechanisms should be encouraged. Third, domestic courts could also play a role in appropriate circumstances, such as when the international organization was itself the claimant or when immunity had been waived. Fourth, as mentioned in paragraph 28 of the third report, non-adjudicatory methods were the most frequently used and preferred methods in cases involving private parties. Such methods remained valuable and should be recognized as independent options rather than merely preliminary steps.

She supported the use of the term "good faith" in the draft guideline, as it was a universal and fundamental legal principle that was recognized in both international law and private legal systems, and its application in the context in question would ensure harmonized interpretation and avoid conflicting outcomes. Furthermore, that principle had long been invoked by courts and arbitral tribunals, including in disputes of a private law character, and had played an important role in shaping reasoning in international commercial arbitration. However, she remained hesitant as to whether the notion of "a spirit of cooperation" could be directly transposed to the context of dispute settlement between international organizations and private parties. That phrase, which was also reflected in draft guideline 4, was based on paragraph 5 of the Manila Declaration on the Peaceful Settlement of International Disputes, which had been developed specifically in relation to disputes between States. It did not have the same degree of legal precision, conceptual clarity or normative

grounding as the principle of good faith. To her knowledge, it had not crystallized as an independent legal standard in international law and might be more naturally associated with diplomatic engagement than with disputes of a private law character. Its inclusion thus risked creating ambiguity or expectations that did not always align with the practical realities of dispute settlement.

With regard to draft guideline 9, she agreed with the Special Rapporteur that immunity was essential for safeguarding the independent functioning of international organizations and that it should be respected and applied, as was well established in practice. The 1946 Convention on the Privileges and Immunities of the United Nations and the 1947 Convention on the Privileges and Immunities of the Specialized Agencies both provided that the relevant organizations enjoyed immunity from every form of legal process, with the limitation that any waiver of immunity did not extend to enforcement measures. Most bilateral headquarters agreements reflected a similar approach; that was also the practice in Thailand, where numerous host country agreements had been concluded with organizations of the United Nations system. In that connection, it might be worth considering whether the term "jurisdictional" should be omitted from the draft guideline in favour of a broader formulation that encompassed the various forms of immunity applicable in practice, thereby avoiding an unduly restrictive wording that might require a more detailed delineation of different categories of immunity.

Second, while she agreed with the Special Rapporteur that draft guideline 9 should be read together with draft guideline 10, she wished to emphasize that draft guideline 9 appeared to focus exclusively on immunity without making explicit reference to the parallel obligation to ensure access to justice. If the Commission chose to address the issues of immunity and access to justice in separate provisions, it should ensure that each draft guideline set out, with greater clarity and specificity, the full range of questions, concerns and practical considerations identified in the third report.

With regard to draft guideline 10, she wished to reiterate her position, which was shared by a number of States in the Sixth Committee, that arbitration and judicial settlement should not be unduly prioritized over other means of dispute settlement. Non-adjudicatory dispute settlement mechanisms such as negotiation and consultation remained the most frequently used and preferred methods in practice, reflecting considerations related to cost- and time-efficiency and the degree of control that parties wished to retain over the process. She would suggest reconsidering the use of the word "shall", as its mandatory character might be more suited to treaty language than to draft guidelines that were intended to remain flexible and adaptable.

In conclusion, she wished to underline that the draft guidelines in Part Three constituted an important and forward-looking element of the current work and commended the careful and constructive manner in which they had been developed. As the Commission moved towards completing the first reading, she supported the submission of the draft guidelines to the Drafting Committee.

Mr. Fife said that the Special Rapporteur's third report offered a thorough and high-quality analysis. Although, owing to unfortunate circumstances related to the liquidity situation of the United Nations, it had been necessary to postpone consideration of the report from the previous session, it had been worth the wait. The Commission had also been assisted by the Special Rapporteur's clear introductory statement.

He accepted the structural approach taken by the Special Rapporteur, including the choices made in broadly classifying the disputes in question. The classification was based on the different main categories of subjects of law that might be involved, rather than on the legal system and legal framework concerned. While that might give rise to certain challenges, which were not limited to issues regarding the interface with the articles on the responsibility of international organizations, he was convinced that the Special Rapporteur was acutely aware of the need for clarity and coherence in that regard. He saw the practical advantages of adopting the vantage point of very different end users on either side of a potential dispute, whether an international organization or the various other parties concerned. The third report covered disputes with private parties, which were unquestionably the most frequent kind of dispute settlement. The report's content was eminently practical; it provided a thorough yet

non-exhaustive listing of dispute settlement practices. The quantity of legal materials considered, combined with the quality of their analysis, made the report stand out as a significant contribution to refining the Commission's understanding of the breadth of the international legal issues raised.

In view of the complexity of the tasks involved, the Commission should avoid oversimplifying the notions of "private parties" and "power imbalances". There could be an ocean of difference between the situations faced by, and the resources available to, the parties to such disputes. The potentially nebulous concept of "private parties" could cover very different realities and legal frameworks, depending on whether the private party was a natural person and, more precisely, a staff member, an external contractual party, the victim of an international crime or even a billionaire expressing displeasure at regulations adopted by an international organization. If the private party was a legal person, the realities involved could be very different depending on whether it was a small enterprise that had delivered equipment or provided maintenance services to the organization or was a large multinational corporation. The notion of a private party could, moreover, cover collective representation in a class action suit before particular domestic legal systems. There were many other possibilities, including, as other members had mentioned, situations in which a State decided to exercise diplomatic protection of the private party concerned.

With regard to the notion of power imbalances, the liquidity crisis at the United Nations had been discussed extensively. International institutions could face a variety of challenges, including not-infrequent funding and liquidity problems. In his previous statements, he had spoken in favour of ensuring a keen understanding of the difficult environment in which international organizations had to perform their functions, which were most often for the common good. It was necessary to ensure continued adequate protection of the functions of international organizations while at the same time promoting remedies for private parties. Legal expenses, which were just one factor, could represent a staggering challenge for international organizations, which might be compelled to set aside a large part of their financial resources in order to be prepared for litigation. All those factors had a bearing on the question of how best to respond to the necessary push for better access to justice and respect for core due process requirements, including through the identification, following appropriate guidelines, of tools for enabling an appropriate choice of means for obtaining remedies. While it would be a caricature to automatically assume that the topic amounted to a "David versus Goliath" narrative in which international organizations played the role of David, who was wrongly assumed to be the underdog, a diversified understanding of the notion of "power imbalances" might be useful.

As a result, care should be taken not to draw any sweeping conclusions from the analysis of practice, which undoubtedly showed that international organizations seldom waived jurisdictional immunities before domestic courts. As noted by several other members, such immunities must be considered in the context of the functions with which those institutions had been tasked. Many references had been made to the 2025 advisory opinion of the International Court of Justice on the *Obligations of Israel in relation to the Presence and Activities of the United Nations, Other International Organizations and Third States in and in relation to the Occupied Palestinian Territory*, the title of which showed that the opinion concerned other international organizations in addition to the United Nations. He had been struck by a number of points raised by Mr. Sall regarding remedies for bringing an unacceptable situation to an end, and also the consideration of non-jurisdictional remedies. He concurred with those who had underlined the particular importance of respect for human rights.

The Special Rapporteur had taken an even-handed and inclusive approach combining impeccable normative analysis with openness to practical guidance. The third report provided a solid basis for the referral of the draft guidelines to the Drafting Committee with a view to completing the first reading.

The meeting rose at 1 p.m.