



**UNITED NATIONS
OFFICE OF LEGAL AFFAIRS**

International Law Commission

by

Miguel de Serpa Soares,
Under-Secretary-General for Legal Affairs
and United Nations Legal Counsel

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Mr. Chairman,
Distinguished members of the International Law Commission,
Ladies and Gentlemen,

I can only begin my statement by thanking you Mr. Chairman and the entire Commission for the warm welcome. This is the first time that I address the Commission since my appointment last year as the United Nations Legal Counsel. You can rest assured of the continuing support of the Office of Legal Affairs, and of me personally. The very existence of the Commission has contributed immensely to its implementation and realization of the function entrusted in the General Assembly in Article 13(1)(a) of the Charter to conduct studies in the progressive development of international law and its codification.

As the Commission looks beyond the horizons of the golden age it can be proud that it has established a firm foundation – the rules of the road – for a more secure and stable world, based on the rule of law. The international legal landscape has changed for the better and - as Elihu Lauterpacht said - international law has expanded in range, substance, depth and technique. Yet the issues remain no less daunting. No doubt, many challenges lie ahead, as the law continues to evolve and the enduring story of humankind paces ahead to explore new areas of endeavour.

My erstwhile colleagues in the present post set a pattern that I intend to follow.

It has been the established practice to offer an overview of some of

the activities of a legal nature that bear on the Office of Legal Affairs, as it provides centralized legal services to the United Nations and its Member States. In doing so, I will focus on legal developments since your session last year, which may be of particular interest to the Commission. For obvious reasons, I will dwell on activities with which the various Divisions and one Section, comprising the Office of Legal Affairs, have been engaged. I will begin with the activities of your own Secretariat, the Codification Division, which also provides servicing to the Sixth Committee, and then move on to other parts of the Office.

Mr. Chairman,

I am aware that, as part of the preparatory arrangements for the current session, you have already been provided with information that offers some detail of the activities of the Sixth Committee during the sixty-eighth session, especially on matters that relate to the annual debate on the report of the Commission, as well as items based on work concluded by the Commission. Allow me nevertheless to make a few observations. After deferring twice, the Sixth Committee was finally able to consider chapter IV of the 2011 report of the Commission dealing with the topic “Reservations to treaties” (A/66/10 and Add.1). In addition to adopting resolution 68/112 on “Report of the Commission at its sixty-fifth session”, which offers some policy guidance to your current work, the Assembly adopted a separate resolution 68/111 on “Reservations to treaties”. The resolution welcomes the successful completion of the work on the subject and the adoption of the Guide to Practice, including the guidelines and a detailed commentary thereto. Consistent with the Commission’s recommendation, the Assembly took note of the Guide to Practice, including the guidelines.

It encouraged the widest possible dissemination of the guidelines whose text is annexed to the resolution, and the Secretariat has already drawn them to the attention of Governments.

The Sixth Committee also had the occasion to revert to the consideration of items on topics completed by the Commission. These concern the “Responsibility of States for internationally wrongful acts”, “Diplomatic protection”, “Consideration of prevention of transboundary harm from hazardous activities and allocation of loss in the case of such harm”; and “The law of transboundary aquifers”. Positions of delegations on how to proceed on all the four items, particularly on the

final form, remain divided and further action has been deferred, in all four instances, for three years to the seventy first session of the General Assembly. It may be noteworthy that, with respect to the law of transboundary aquifers, the Assembly commended to the attention of Governments the draft articles on the law of transboundary aquifers as guidance for bilateral or regional agreements and arrangements for the proper management of transboundary aquifers. As part of the overall agreement, the draft articles are annexed to resolution 68/118.

The Sixth Committee also addressed other items that may be of interest to the Commission. The work on the draft comprehensive convention on international terrorism in the context of “Measures to eliminate international terrorism” has continued even though agreement has been elusive over the years. On the basis of the recommendation of the Ad Hoc Committee established pursuant to General Assembly resolution 51/210 which met in April last year, the Assembly, in resolution 68/119, decided that work on the outstanding issues shall continue in 2014 in the context of a working group of the Sixth Committee. This decision is intended to allow delegations more time for consultation on the outstanding issues and, when the working group meets, it would aim at “finalizing the process”.

Also before the Sixth Committee is the item “The Scope and application of the principle of universal jurisdiction” included in the agenda of the General Assembly in 2008. For the third successive year, a Working Group was constituted to continue work on the subject. By the end of the 2013 session, the Working Group was able to complete an initial discussion of all the issues identified without consideration of a normative text, the final form still being an open question. General Assembly resolution 68/117 on the item envisages continuation of discussions in the same framework during the sixty-ninth session of the Assembly.

The Sixth Committee considers the “Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law” annually and it is a programme for which it has expressed strong support and recognizes the need to provide adequate funding to ensure its sustainability. The Programme, for nearly fifty years, has provided the foundation for the efforts of the United Nations to promote a better knowledge of international law as a means of strengthening international peace and security and promoting friendly relations and cooperation among States. Since the beginning of the present Century, the programme has faced new challenges due to the

increasing demand for training and dissemination of international law. As a response, the Codification Division has in recent years undertaken various efforts aimed at strengthening its face-to-face training programmes, including instituting cost-saving measures to increase the number of fellowships available for the International Law Fellowship Programme in The Hague and conducting Regional Courses in International Law for Africa, for Asia-Pacific and for Latin American and the Caribbean. Unfortunately, however, the Programme continues to face a difficult financial situation and we had to cancel the Regional Course for Asia-Pacific last year as well as the Regional Courses for Asia-Pacific and Latin America and the Caribbean this year.

We were able to conduct the Regional Course for Africa for the fourth consecutive year at the Economic Commission for Africa in Addis Ababa and we hope to be able to conduct another course again next year.

With regard to another component of the Programme, the Audiovisual Library of International Law, the news regarding its usage is very encouraging. Since last year, the number of users of the Audiovisual Library has more than doubled and it has now been accessed by more than 1,200,000 users in 193 Member States. It truly is a major contribution to the teaching, study and wider dissemination of international law. I am particularly pleased to inform you that a new more user-friendly website of the Audiovisual Library was launched in October last year, which facilitates access to materials in the various official languages of the Organization as well as viewing on mobile devices.

Another important aspect of the Programme of Assistance is the preparation and dissemination of legal publications and other international legal materials, including hard copies which are essential for lawyers in developing countries with limited access to the internet.

Let me now touch briefly on the item concerning the Administration of Justice at the United Nations before moving on into the next segment. This matter concerns both the Codification Division, since it services the Sixth Committee, and the General Legal Division, which continues to play an essential advisory role in the policies of the United Nations in matters of administration and management. The UN Dispute Tribunal and the UN Appeals Tribunal, established on 1 July 2009, will be completing their fifth year of operation. As of 28 March 2014, the UN Dispute Tribunal had issued 957 judgments, and the UN Appeals Tribunal 395 judgments. The jurisprudence of the Tribunals continues to enrich international administrative law.

Recent judgments of the UN Appeals Tribunal have ruled that staff members must be given full and fair consideration for permanent appointments, even if they are employed in an entity that is downsizing.¹ In a recent judgment on the dismissal of a staff member for sexual harassment, the UN Appeals Tribunal held that a signed witness statement had probative value even if the staff member was unable to confront the witness before the UN Dispute Tribunal.² The Appeals Tribunal has also ruled that, where a breach of a staff member's substantive or procedural entitlements is of a fundamental nature, the breach may of itself give rise to an award of compensation for moral damages.³

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This next segment concerns some activities of the Office of the Legal Counsel, which continues to provide legal support to the Secretary-General and other key Secretariat departments and offices on a range of matters concerning in particular international peace and security.

Allow me to begin with a few remarks on new developments in the field of peacekeeping. UN Peacekeeping has been part of the UN's mandated activities since its earliest years. In the last two decades it has rapidly evolved, from what had come to be regarded — perhaps not entirely accurately — as the traditional model of troops or military observers monitoring ceasefires and borders following inter-State wars, to operations that combine interdependent military, police and civilian components with complex mandates primarily responding to situations of intra-State conflict — conflicts that have just ceased, conflicts that are thought to be imminent or even that are ongoing.

Since 1999, the Security Council has increasingly authorized peacekeeping operations to use force beyond self-defence, in particular, for the protection of civilians facing imminent threat of physical violence.

Perhaps the most noteworthy example of these developments involves our activities in the Congo.

¹ UNAT Judgment Nos. 2013-UNAT-357 (Malmström et al.); 2013-UNAT-358 (Longone); 2013-UNAT-359 (Ademagic et al.); 2013-UNAT-360 (McIlwraith).

² UNAT Judgment No. 2013-UNAT-302 (Applicant).

³ UNAT Judgment No. 2013-UNAT-309 (Asariotis).

The Organization's peacekeeping operation in the Democratic Republic of the Congo - MONUSCO - has been the subject of a great deal of political and legal discussion over the past twelve months. To explain: in the spring of 2012, a large number of soldiers deserted from the Congolese army and joined a rebellion mounted by the so-called M23 movement. In November 2012, the M23 even took Goma, the main city in the Kivus, close to the border with Rwanda.

In the light of this development, the Security Council took the step of establishing, within MONUSCO's military component, a special unit — the Force Intervention Brigade — specifically tasked with mounting “targeted offensive operations”, either unilaterally or jointly with the Congolese army,

- “to prevent the expansion of all armed groups [in the eastern DRC],
- to neutralize these armed groups,
- and to disarm them”.

This is far from being the first time that the Organization has fielded an operation that has been authorized to take the initiative in the use of armed force. Indeed, the operation in the DRC itself has had a mandate that has allowed it to do this for certain purposes and in certain circumstances for a number of years now. However, it is certainly the first time that the Security Council has specifically and expressly tasked a United Nations peace operation with carrying out “offensive” operations.

As a result of this development, my Office has had to deal with a wide and extremely interesting range of legal questions over the past year.

In what circumstances would the United Nations operation, MONUSCO, become a party to the armed conflicts that are ongoing between the Government of the DRC and the many various illegal armed groups that are operating in the eastern DRC? What would be the consequences in law if and when it did?

How should MONUSCO treat any members of armed groups that it might capture in the course of its operations? How should MONUSCO deal with any allegations or suspicions that its members may have committed violations of international humanitarian law, or even war crimes?

It would be incorrect to say that none of these questions has ever been considered before. Our archives show that many of them were

examined as long ago as 1961, when Secretary-General Hammarskjöld was wrestling with the first United Nations Operation in the Congo, ONUC.

But international humanitarian law, the international law of human rights and international criminal law have all undergone major changes since that time, particularly with respect to situations of non-international armed conflict, which is the domain in which we are operating.

We have had to carefully research these fields of international law and — what is not always so easy for a lawyer — to find ways to communicate our conclusions in terms that non-lawyers can easily understand and apply. Thus, my Office has prepared practical guidance for military commanders in how to apply certain fundamental principles of international humanitarian law when launching attacks against armed groups. And we have developed what I believe to be a “state-of-the-art” set of procedures for the handling members of armed groups who are captured during offensive operations.

The Congolese army, with the support of our peace operation, succeeded last fall in putting an end to the M23 rebellion. Attention is now focused on two other armed groups — the FDLR, a group whose leaders and members include perpetrators of the 1994 Rwandan genocide, and the ADF, a Ugandan rebel movement with alleged links to Al-Shabaab in Somalia.

Finally, I would like to mention a few words about MONUSCO, the peacekeeping operation in the Democratic Republic of the Congo, since my Office is constantly being asked to provide legal advice with respect to that mission. The Council, in March 2013, authorized MONUSCO to carry out targeted offensive operations to “prevent the expansion of all armed groups, neutralize these groups, and to disarm them” through a newly created military unit within MONUSCO called the “Intervention Brigade”.

One of the questions immediately raised by the mission was the possibility of MONUSCO capturing some members of armed groups during its military operations. As far as possible, these persons will be encouraged to disarm, be demobilized, reintegrate into the normal life, or repatriated to their home country, or handed over to the DRC authorities for appropriate action, so that MONUSCO’s role will be minimized.

However, there may be cases where none of these options is

possible, either for practical or for legal reasons. In such a situation, releasing those persons who pose an imperative threat to civilians, to the UN or to the DRC authorities would be inconsistent with MONUSCO's mandate to neutralize armed groups. At the same time, if MONUSCO does not have a proper procedure in place to handle captured persons, there is a risk of non-compliance with the United Nations' obligations under international law.

Therefore, my Office, in consultation with relevant experts, has prepared a set of standing operating procedures that would ensure that any members of armed groups that are captured by MONUSCO will be handled in accordance with international humanitarian law and international human rights law.

The situation in the South Sudan since the end of 2013 has posed a number of challenges for the United Nations, in particular the United Nations peacekeeping operation in South Sudan — UNMISS.

By way of background, on the advent of South Sudan's independence in 2011, the Security Council established UNMISS, with a very broad mandate given under Chapter VII of the UN Charter. UNMISS was authorized to assist the new State with respect to institution and capacity building, peace consolidation, rule of law and democratic governance, to facilitate the delivery of humanitarian relief, as well as to assist the Government in exercising its responsibility with respect to the protection of civilians, in compliance with international humanitarian, human rights and refugee law.

At the time Security Council resolution 1996 (2011) was adopted, the greatest risk of a return to war seemed to be a failure on the part of Sudan or of South Sudan to live up to their commitments under the Comprehensive Peace Agreement, which ended the conflict between the Government of Sudan and the Sudan People's Liberation Movement that had lasted more than 30 years.

However, it turned out that a return to war has been ignited, not by differences between Sudan and South Sudan, but by an internal split within the South Sudanese army. From the onset of this new conflict, large numbers of civilians were displaced from their homes and areas of habitual residence. As many as 85,000 people have sought refuge in UNMISS compounds at six locations, including the capital, Juba.

Although UNMISS had previously conducted a risk assessment regarding the potential threats against civilians that could materialize, the influx of civilians in such large numbers and their settlement in UNMISS compounds constitutes an unprecedented development, which has presented a huge challenge to the United Nations and placed a major strain on the Mission's resources.

Under Security Council resolution 1996, UNMISS is authorised to use all necessary means, within the limits of its capacity and in the areas where its units are deployed, to carry out its mandated tasks related to the protection of civilians.

The interpretation of this mandate in relation to persons who have sought refuge in UNMISS compounds has raised a number of complex questions. Some of these are:

- What can the UN do to maintain order among such a large number of civilians, not all of the same political sympathies, crammed in a limited space?
- What can the UN properly do to ensure the security of its own personnel and property?
- How does the UN handle cases of individuals who may be wanted by local law-enforcement agencies for offences committed outside the UN compound?
- And how should it handle those who are wanted for crimes committed within UN compounds?

These issues are even more acute where, as is the case in South Sudan, the institutions of government are weak and have limited capacity to conduct criminal investigations and to deliver criminal justice pursuant to international standards of due process, yet have the power to impose the death penalty.

I cannot pretend that we have found all the answers to these challenges, but I would like to outline the approach we have taken to address these questions.

In addressing the questions I have just outlined, we have to take into account the delicate balance between the necessity for UNMISS to carry out its mandate, while at the same time ensuring that the UN will respect the primary responsibility of South Sudan to maintain law and

order.

However, in cooperating with South Sudanese authorities, the UN should make sure that it is not, directly or indirectly, implicated in any violation of international human rights, humanitarian law and refugee law that those authorities may commit.

The United Nations is always under an obligation to cooperate with relevant national authorities to ensure the proper administration of justice. This is set out in the Convention on the Privileges and Immunities of the United Nations of 1946. In the case of UNMISS, it is also set out in its status-of-forces agreement.

Pursuant to these guiding principles, UNMISS will, to the extent possible, seek to co-operate with the national law-enforcement authorities of South Sudan in connection with offences that may have been committed in UNMISS compounds.

However, the extent of such cooperation is subject to a number of conditions.

First, in considering what type of cooperation should be extended to the host country authorities in connection with any individual case, the safety of innocent civilians who have sought safe haven on UNMISS premises, and the security and safety of United Nations personnel and equipment and other assets, have been paramount in our approach.

Secondly, any individual accused of having committed a criminal offence who finds him- or herself on UN premises must be treated in accordance with international human rights standards, including the right to due process in the investigation and prosecution of that offence.

Accordingly, persons would not be handed over to national authorities of the Government if there were substantial grounds for believing that there was a real risk that, if handed over, they would face serious harm such as summary execution, torture or the death penalty. And, in any case in which an individual was handed over to national law-enforcement authorities, legally binding assurances would first need to be obtained that that person's human rights would be respected and the UN would ensure that any subsequent detention or trial was monitored by its human rights and rule of law units.

It is clear from what I have said above that there may well be

situations in which the conditions for the hand-over of persons alleged to have committed offences in UNMISS sites will not be satisfied. If, on the other hand, those persons continue to pose threats to civilians on UNMISS premises or to UNMISS personnel, it would be difficult for UNMISS to leave them at large. So there may be cases where UNMISS will have to take such persons into its custody.

By its resolution 1996, the Security Council has authorised UNMISS to “use all necessary means” to protect civilians and UN personnel. This authorisation would extend to holding persons in UNMISS custody so long as such they constitute a risk to the safety of other civilians on UN premises and to UN personnel.

However, if such cases arise, UNMISS would have to put in place a procedure to regularly review any threat posed by a particular person. As soon as the person ceases to pose a threat, the person must be released immediately.

For as long as the individual remains in the custody of UNMISS, the UN would also have to ensure that such person is treated humanely in accordance with human rights law and instruments.

At the same time, UNMISS would work closely with the national authorities with a view to creating conditions that would allow UNMISS to hand over any such person to the South Sudanese authorities.

The situation currently facing UNMISS is ample demonstration that the mandate to protect civilians can present, not only legal, but also operational, challenges.

The situation in South Sudan is extremely dangerous for civilians, even those seeking safe haven on our premises. Only last Thursday, we were reminded of this fact by an assault on UNMISS protection of civilian premises at Bor in Jonglei State which resulted in over 50 casualties.

One of the measures already taken by the Security Council is to temporarily increase the overall force levels of UNMISS to support the protection of civilians and provision of humanitarian assistance.

More recently, my Office has also provided legal advice on an ongoing basis in connection with the challenges arising from the crisis that broke out in South Sudan towards the end of last year. As you know,

the internal split in the Sudan People's Liberation Army (SPLA) resulted in an outbreak of hostilities that have resulted in many civilians being killed and thousands being displaced. Approximately 80,000 affected civilians have taken refuge on UNMISS base camps, in what are now referred to as protection of civilians (POC) sites or "POC sites", and are living under UNMISS protection.

Among the many legal issues that have arisen, one of the most pressing ones is how UNMISS should respond to requests from the national authorities for hand-over of individuals among the IDP population in the POC sites who are wanted for investigation and possible prosecution for crimes they have allegedly committed. OLA has reaffirmed advice that it has given in similar instances in the past: that is to say persons may only be handed over only if receives sufficient assurances on how such person will be treated after being handed over.

Those assurances must include a written undertaking by the national authorities that:

- (i) the persons handed over will not be tortured, be subjected to threats to his or her life or freedom, or be arbitrarily deprived of life;
- (ii) if charged, such persons will be given a fair trial;
- (iii) if convicted, they will not be sentenced to death; and
- (vi) if in any event they are sentenced to death, the sentence of death will not be carried out.

While we understand that the death penalty remains a sensitive issue for some member States, I am pleased to note that until now, the host country authorities have provided the required assurances in all cases involving the hand-over of persons that have come to the attention of my office.

At the beginning of this year a new institution, the Residual Special Court for Sierra Leone ("RSCSL"), entered the international legal landscape. Following a series of landmark cases during over a decade of work, the Special Court for Sierra Leone concluded its substantive judicial work in September 2013 with the appeal judgment in the case against former Liberian President Charles Taylor. His convictions and sentences of 50 years were upheld, following which he was transferred to the United Kingdom to serve his sentence. On 31 December 2013, the Special Court officially closed its doors by agreement between the Government of Sierra Leone and the United Nations.

On 1 January 2014, the RSCSL commenced operations. This is the

first occasion in the modern era of international criminal justice where a legacy institution fully commenced independent operation following the closure of its predecessor institution, in contrast with the parallel phasing process of the ICTY and ICTR and as they transition to the International Residual Mechanism for Criminal Tribunals.

The first quarter of 2014 has been very busy for the RSCSL, and my Office, the Office of the Legal Counsel, has been extensively involved in the transition. As you will be aware, the residual, ongoing functions of international criminal tribunals are of enormous importance; indeed, the legacy of international criminal justice depends on them. The staff of the RSCSL are already engaged in the essential work of witness protection, archive management and preservation, and sentence enforcement. We will continue to work closely with the RSCSL Registry and Oversight Committee to support the RSCSL, and I hope that the international community will echo this support, particularly in ensuring that the RSCSL has a secure financial footing to continue its vital work.

In November 2013 I travelled to Tanzania to sign the Headquarters Agreement for the Arusha branch of the International Residual Mechanism for Criminal Tribunals (the "Mechanism"), marking the ongoing commitment of the United Nations and the Government of Tanzania to ensuring the long-term success of the Mechanism. The Headquarters Agreement provides the legal foundation for the Mechanism to operate and discharge its mandate in the host country.

Early this year, I was pleased to visit the Extraordinary Chambers in the Courts of Cambodia (ECCC), presently seized with its landmark case 002: the joint trial of senior Khmer Rouge leaders Khieu Samphan and Nuon Chea.

As you may recall, proceedings against two further accused were terminated due to ill health and death. We anticipate delivery of the judgment in Phase 1 of Case 002 this summer, and with the scope of Phase 2 now having been determined, trial proceedings are expected to resume later this year. Cases 003 and 004 remain in the judicial investigation phase, with important allegations of sexual and gender-based violence recently added to the scope of the latter case.

Of course, international criminal justice continues to face many challenges. Among the most significant issues, and one with which my Office deals on a regular basis, are the operational challenges facing those

tribunals which rely upon voluntary contributions. In this regard, the ECCC has faced grave difficulties, as it has operated on an insecure financial footing for a number of years. Last month, however, the General Assembly took an innovative step in agreeing to confer upon the Secretary-General authority to commit funds in 2014 the event that voluntary funding fell short of the approved budget. This approach provides important financial stability to the ECCC allowing focus on the cases before it. While the availability of the subvention accords a degree of security to the operations of the international component, it does not resolve the challenges faced by the national component. Nor does it change the fundamental character of the ECCC as funded by voluntary contributions. The onus therefore remains upon the international community, which established the ECCC on the basis of voluntary contributions, to ensure that it has sufficient funds to complete its judicial mandate, according to law.

The ECCC is conducting the trial of the most senior surviving members of the Khmer Rouge regime. Many commentators consider this the most significant international criminal trial in the world at the moment. Our conclusion, therefore, is that we must do our utmost to ensure that the ECCC will be allowed to complete its judicial mandate.

A premature collapse of the ECCC because of lack of funding or lack of support would be a tragedy, in particular for the victims and the people of Cambodia. All of us must also continue to speak out and to speak positively about the ECCC. The ECCC already contributed enormously to the development of international criminal justice, for example through the civil party participation scheme, which gives the victims a voice and does not degrade them to mere numbers. Further, the ECCC is a Cambodian national court with a mix of international and national judges and prosecutors that has real potential to leave a lasting legacy of increased judicial capacity and greater respect for the rule of law. The struggle for the funding and support for the ECCC will continue to be a challenge for the next several years. Nevertheless, we must remain committed to facing this challenge because the ECCC is an indispensable element of our system of international criminal justice. It must be allowed to complete its work.

The trial at the Special Tribunal for Lebanon (“STL”) in the Ayyash et al case opened on 16 January 2014. That case relates to the 14 February 2005 attack which killed 22 individuals, including the former Lebanese Prime Minister Rafiq Hariri, and injured 226 others. The proceedings against the accused are being held in absentia. A fifth

accused was joined to the proceedings in February. Last week I visited the STL and saw first-hand the enormous work being done by all organs of the tribunal in trial preparation.

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Let me now turn to the activities of the Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs, which continues to play an important role in a subject whose progressive development and codification the Commission's earlier work contributed: The Law of the Sea.

Subsequent developments of course culminated in the adoption of the United Nations Convention on the Law of the Sea ("UNCLOS"), which codifies the law of the sea and provides for its progressive development through, in particular, the establishment of general principles governing all activities in the oceans. Since its adoption in 1982, the Convention has provided stability and certainty in the international law of the sea. At the same time, the law has developed within the framework of the Convention to adjust to new developments and evolving circumstances.

This year, my Office will be organizing some activities to celebrate the anniversary of UNCLOS, which entered into force twenty years ago, on 16 November 1994. To date, with 166 parties including the European Union, UNCLOS has almost reached the desirable goal of universal participation. In its most recent resolution 68/70, on Oceans and the law of the sea, the General Assembly once again called upon all States to become parties to UNCLOS and its Implementing Agreements.

During its deliberations, the General Assembly, in plenary, working groups and informal consultations, has continued to address a number of issues requiring the attention of the world community, including in relation to the conservation and sustainable use of marine biological resources beyond national jurisdiction, the establishment of a regular process for global reporting and assessment of the state of the marine environment, including socio-economic aspects, and to sustainable fisheries.

It may also be mentioned, more generally, that within the context of the Millennium Development Goals and the ongoing discussions on the post-2015 development agenda, the next meeting of the General

Assembly's Informal Consultative Process on Oceans and the Law of the Sea, will discuss "the role of seafood in global food security".

The international legal and policy framework relevant to the role of seafood in global food security is drawn from a variety of binding and non-binding instruments. In particular, UNCLOS contains detailed rights and obligations of States, including regarding the equitable and efficient utilization of their resources, the conservation of living resources and the study, protection and preservation of the marine environment.

The Office of Legal Affairs also continues to discharge the responsibilities entrusted to the Secretary-General for the implementation of UNCLOS. These include depositary functions, including those with regard to the deposit of charts or list of geographical coordinates of points, specifying the geodetic datum, in relation to straight baselines and archipelagic baselines, as well as the outer limits of the territorial sea, the Exclusive Economic Zone and the continental shelf.

Furthermore, my Office has continued to provide substantive servicing to the Meeting of States Parties to UNCLOS and the Commission on the Limits of the Continental Shelf (CLCS). The forthcoming 24th Meeting of States Parties in June will among other things elect seven judges for the International Tribunal for the Law of the Sea and one member of the CLCS.

The workload of the CLCS has continued to grow and its work is generating increasing interest among States Parties and civil society. The work of the CLCS, though of a technical nature, contributes to the implementation of UNCLOS, and to legal certainty regarding the establishment of the outer limits of the continental shelf.

In the past twelve months, the CLCS has received six new submissions pertaining to the delineation of the outer limit of the continental shelf beyond 200 nautical miles from the baselines, bringing the total number of submissions to 71. It has adopted 20 recommendations thus far.

Let me conclude this segment by making a couple of observations on maritime security, in particular on piracy. The number of reported incidents of piracy off the coast of Somalia has declined sharply over the past few years.

Although the number of attempted attacks has also gone down considerably, piracy and armed robbery at sea off the coast of Somalia continues to pose a threat to the lives and livelihoods of seafarers and fishers, the safety and security of international navigation, humanitarian aid, and the stability of the region. In this connection, the Security Council decided, in November 2013 to renew the authorizations previously granted to States and regional organizations cooperating with Somali authorities in the fight against piracy and armed robbery at sea off the coast of Somalia (S/RES/2125 (2013)).

In order to address some of the root causes of insecurity in the region and enable Somalia to strengthen the legal basis for enforcement rights in areas under its national jurisdiction, the Secretary-General has encouraged the Federal Government of Somalia to adopt implementing legislation for an exclusive economic zone in accordance with UNCLOS.

The gains in the fight against piracy off the coast of Somalia demonstrate that the international community can effectively address complex challenges with transnational aspects by working together with a creative and dynamic problem-solving approach. For these gains to be sustainable, efforts should continue to be made to improve information-sharing, strengthening prosecution capacity and building the effective maritime security capabilities (of Somalia and the region).

The Security Council is more than aware of the need to remain vigilant. In its Presidential Statement of August 2013 (S/PRST/2013/13), it expressed its deep concern at the reported number of incidents and level of violence of acts of piracy and armed robbery at sea occurring in the Gulf of Guinea.

The Heads of States and Governments of the Gulf of Guinea at a Summit on maritime safety and security which took place in Yaoundé, Cameroon on 24 and 25 June 2013 adopted the Code of Conduct concerning the Prevention and Repression of Piracy, Armed Robbery against Ships, and Illegal Maritime Activities in West and Central Africa. This Code of Conduct defines the regional maritime security strategy and paves the way for a legally binding instrument. The Security Council encouraged all States of the region to sign and implement the Code of Conduct as soon as possible, and called upon them to undertake further effective measures at the national level to combat piracy and armed robbery at sea in the Gulf of Guinea.

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I shall now turn to the activities of the International Trade Law Division (ITLD), in Vienna, which provides substantive servicing to the United Nations Commission on International Trade Law (UNCITRAL). The year 2013 was a productive one for UNCITRAL, in particular in the fields of arbitration, security interests and insolvency law:

- It adopted the UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration, together with the amended UNCITRAL Arbitration Rules. The work on this subject has been undertaken in recognition of the need for provisions on transparency in the settlement of treaty-based investor-State disputes to take account of the public interest involved in such arbitrations.
- It also adopted the UNCITRAL Guide on the Implementation of a Security Rights Registry aimed at assisting States to establish an efficient, publicly accessible security rights registry where information about the potential existence of a security right in movable assets may be registered.
- Furthermore, UNCITRAL adopted the Guide to Enactment and Interpretation of the UNCITRAL Model Law on Cross-Border Insolvency which revises the old Guide. UNCITRAL also adopted Part Four of the UNCITRAL Legislative Guide on Insolvency Law, addressing the obligations of directors of an enterprise in the period approaching its insolvency. Moreover, UNCITRAL took note of the updates to the UNCITRAL Model Law on Cross-Border Insolvency: The Judicial Perspective.

Looking ahead, UNCITRAL will convene in New York this July, to finalize, approve and transmit for adoption by the General Assembly a draft convention on transparency in treaty-based investor-State arbitration. The draft convention provides for an efficient mechanism to States that wish to make the UNCITRAL Rules on Transparency adopted in 2013 applicable to their existing investment treaties. The Transparency Rules, as adopted by UNCITRAL in 2013, intend to apply to future investment treaties.

UNCITRAL will also hear progress reports of its working groups in the areas of regulation of micro-, small- and medium-sized enterprises (added to UNCITRAL's work program in 2013), commercial arbitration and conciliation, online dispute resolution, e-commerce, insolvency law

and security interests. Moreover, it will consider the results of the UNCITRAL colloquium on public-private partnerships held this March to assess the need for its work in that area.

UNCITRAL will consider progress reports of its Secretariat on the implementation of programmes of technical assistance, promotion of uniform interpretation and application and effective implementation of UNCITRAL standards, and coordination and cooperation of UNCITRAL with other relevant bodies, including in the rule of law and post-2015 development agenda contexts.

Besides the above-mentioned areas of the current legislative work by UNCITRAL, these programmes cover such areas as public procurement, international contract law, transport law and commercial fraud.

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The last segment addresses the activities of the Treaty Section. The Secretary-General is depositary of over 560 multilateral treaties. In the past year, two additional treaties have been deposited with the Secretary-General, namely (a) the Minamata Convention on Mercury, adopted at Kumamoto on 10 October 2013; and (b) the Intergovernmental Agreement on Dry Ports, adopted at Bangkok on 1 May 2013. It is the Treaty Section which performs the depositary functions on behalf of the Secretary-General, as well as the registration and publication of treaties and international agreements in accordance with Article 102 of the Charter of the United Nations.

At last year's Treaty Event, 59 States undertook 113 treaty actions, including 60 signatures and 49 consents to be bound by treaties. This year, the Treaty Event, which will highlight forty treaties covering the areas of human rights, trade, commercial arbitration, transport, terrorism, criminal law matters, law of the sea, disarmament, environment, and privileges and immunities and the safety of United Nations personnel, will take place from 23 to 25 September and from 30 September to 1 October 2014, in conjunction with the general debate of the sixty-ninth session of the General Assembly.

Over the years, a considerable amount of treaty practice has developed and the Section routinely responds to requests from States and international organizations, including on matters concerning final clauses of treaties or draft final clauses to intergovernmental processes convened to draw up new treaties or amend existing treaties.

The Section also promotes better knowledge of treaty law and practice, as well as wider dissemination of treaty-related information, through the provision of advice and assistance to States, specialized agencies, United Nations offices, treaty bodies and other entities; its United Nations Treaty Collection website and capacity-development activities. It organizes training seminars on treaty law and practice at Headquarters bi-annually, together with UNITAR, and workshops at the regional level. It also gives presentations on treaty law and practice in intergovernmental meetings, notably in the context of the negotiation of new multilateral agreements. This year, a regional seminar on treaty law and practice was organized in Maseru, together with the Government of Lesotho, for the States Members of the Southern African Development Community

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As many of you are aware, in my previous capacity I served as Legal Adviser in the Ministry for Foreign Affairs of Portugal. The work of the International Law Commission remains of particular interest in Foreign Ministries in capitals all over the globe and in the academic world. Heading the Office of Legal Affairs, where I am surrounded by staff members who continue to serve, as always, with the highest standards of professionalism, competence, integrity and dedication, I am reminded each day of, and appreciate even more, the continuing relevance of your work and the Commission's contribution to the entire field of international law. The work is as rigorous as it is thorough. It is laudable to see that the Commission, at the beginning of each quinquennium plans, ahead to reach certain goals at its conclusion. As the United Nations continues to be challenged to do more with less, this can only be encouraged. What should be the appropriate focus for the Commission's work is a question that should remain under discussion – both within the Commission, with the assistance of its Secretariat, and in dialogue with Member States.

The statutory mission of the Commission remains a noble one, yet its working methods have continued to evolve to assist it to deliver productively, efficiently and effectively. You have in my office a friend and an advocate. I can also assure you that your substantive Secretariat, the Codification Division, will continue to do its utmost to perform its tasks professionally and with dedication.

I look forward to hearing from you and exchanging views.

Thank you very much.

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