UNITED NATIONS
OFFICE OF LEGAL AFFAIRS

International Law Commission

Statement

by

Mr. Miguel de Serpa Soares

Under-Secretary-General for Legal Affairs and
United Nations Legal Counsel,

wishes for a successful session, the first of this present quinquenn

It is a pleasure to be here with you as you begin an importa progressive development of international law and its codificatio

I extend my congratulations to new members on your elect this esteemed body. For almost 75 years, the Commission has pla in the progressive development of international law, and its achievements in this field are widely r

***

[COD]

Madam Chair,

Over decades, the Division has been the silent force behind your Commission and the Sixth (Legal) Committee of the General Assembly and has served as repository of their functioning.

In 2022, the Sixth Committee was convened in the context of the seventy-seventh session of the General Assembly from 3 October to 18 November 2022. The Sixth Committee successfully concluded the consideration of the agenda items allocated to it and maintained its tradition of adopting its resolutions and decisions, without a vote. Upon the recommendation of the Sixth Committee, the General Assembly adopted, also without a vote, 21 resolution and 10 decisions.

In relation to the work of the Commission, the Committee considered your 2022 report. The participation of the Commission members, including the Chair and the Special Rapporteurs, in the debate was important in ensuring the dialogue between the two bodies. The dialogue betwe

environment in relation to armed conflicts, as well as of the first reading of the draft articles on immunity of State officials from foreign criminal jurisdiction.

The General Assembly welcomed conclusion of the work on the topic "Protection of the environment in relation to armed conflicts" in resolution 77/104 and decided to continue its consideration of the draft conclusions on identification and legal consequences of peremptory norms of general international law (

on 22 and 23 February 2023, during which it adopted resolution ES-11/6 entitled "Principles of the Charter of the United Nations underlying a comprehensive, just and lasting peace in Ukraine".

[Privileges and immunities]

I also wish to offer a few observations based on our work on the Organization's status, privileges and immunities.

While we generally see that the Organization is granted the privileges and immunities necessary for the United Nations and its personnel to effectively fulfil its purposes, in some areas we continue to face challenges in securing the full respect for the privileges and immunities of the Organization and its

immunity from legal process in accordance with the obligations provided for under the United Nations Charter and the Convention on the Privileges and Immunities of the United Nations.

Since my last statement, my office has continued to deal with a wide range of issues relating to privileges and immunities above and beyond questions around the immunity from legal process. Some of these issues are a reflection of the impact of ongoing armed conflicts. For example, the exemption of United Nations officials from national service obligations, including military obligations, has been an important issue in a number of contexts, including with respect to the situation in Ukraine.

Host country agreements are an important tool for the United Nations to ensure that the full range of privileges and immunities, and related facilities, are granted to the Organization and its personnel. The Organization routinely enters into such agreements for United Nations presences and conferences and events held away from headquarters. A significant portion of the work of my office is dedicated to making sure that the necessary provisions are included in such agreements and all legal requirements are met. As the presence of United Nations offices has grown, so has the number of corresponding host country agreements, in some contexts leading to dozens of host country agreements being applicable to members of the UN family at the same location. The benefits of replacing this web of agreements with one UN agreement are evident. But putting this into reality has proven a difficult task. I am pleased to report that in September 2022, the United Nations and the Kingdom of Denmark entered into an overarching agreement concerning the status of the offices of the United Nations family in Copenhagen - the first of its kind.

[Accountability]

Let me know turn to the area of accountability. As you know, my Office provides legal support to a number of international criminal courts and tribunals that

Alongside the judicial caseload, the Mechanism has also made important strides in relation to the accounting of fugitives of the International Criminal Tribunal for Rwanda. With the termination of proceedings against Protais Mpiranya in September last year, following the confirmation of his death, only four fugitives now remain at large, all of whom are expected to be tried in Rwanda.

With these developments in mind, President Gatti, who was appointed last year, has indicated that one of her core priorities is to lead efforts in developing a comprehensive strategy to guide the Mechanism's continuing transition from an operational court to a truly residual institution.

Other tribunals have also reached defining stages of their work.

In July 2022, following the completion of judicial proceedings in the main *Ayyash* case, the Special Tribunal for Lebanon entered its residual phase. In view of the limited scope of the Tribunal's residual functions, and being mindful of the financial difficulties facing the Tribunal, the United Nations and Lebanon agreed on a completion plan under which the Tribunal would perform limited residual functions from 1 Jul-8.3(nh(te(d53 -0Tj 0.004)8.5(he)-8.wEhJ 081c 0 Tw 2.889l)8.5( )]TJ

assist their investigations, following a review by the Organization against the standard criteria.

In 2019, my Office received a request from the Specialist Prosecutor's Office, seeking the authorization by the United Nations for selected current and former personnel of UNMIK to provide signed written statements to the Specialist Prosecutor's Office for use in criminal proceedings before the Kosovo Specialist Chambers, to testify in criminal proceedings before the Kosovo Specialist Chambers, and for the release of United Nations documents for disclosure and use in criminal proceedings before the Kosovo Specialist Chambers. A similar request was sent to the Organization for Security and Cooperation in Europe in respect of former Mission in Kosovo (OMIK) personnel and documents generated by Mission in Kosovo (OMIK). The 2019 request specified that the Specialist Prosecutor's Office had determined that a number of former officials of UNMIK or Mission in Kosovo (OMIK), with whom Specialist Prosecutor's Office had conducted informal interviews under the 2014 framework, were in a position to give relevant and necessary evidence that the Specialist Prosecutor's Office wishes to rely upon, as the prosecuting authority, to pursue criminal charges.

Through close coordination between the Department of Peace Operations, UNMIK, other relevant United Nations entities as well as the Organization for Security and Cooperation in Europe, as appropriate, and with the legal guidance and support of my Office, the Organization has made an extensive number of United Nations documents, as well as a number of current and former UNMIK and Mission in Kosovo (OMIK) personnel available for the purpose of criminal proceedings before the Kosovo Specialist Chambers, subject to appropriate conditions.

Proceedings before the Kosovo Specialist Chambers have now reached the stage where the Kosovo Specialist Chambers has charged certain persons and these persons are now accordingly preparing their defence. In this regard, as of 2022, my Office is also responding to a number of requests for cooperation from Specialist Counsel for the Defence [, particularly in connection with the cases of *Specialist Prosecutor v. Hashim Thaçi, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi* (Case No. KSC-BC-2020-06).]

In line with the desire of the Organization to ensure that, where appropriate, our cooperation should be afforded equally to the prosecution and the defence, I communicated to the Kosovo Specialist Chambers Registry that the United Nations will consider the requests from the Specialist Counsel for access to United Nations information and/or to current or former United Nations personnel within the legal frameworks that govern the status, privileges and immunities of the United Nations and of its personnel. In practice, the same procedures that were implemented for our cooperation with the Special Investigative Task Force/ Specialist Prosecutor's Office are being followed and adjusted as required, to the cooperation we afford to defendants in Kosovo Specialist Chambers proceedings. In this regard, my Office also works closely with the Office of the Registrar of the Kosovo Specialist Chambers.

[International Court of Justice and requests for advisory opinions by the General Assembly]

Turning now to the area of peaceful resolution of disputes. The year has seen a number of significant developments before the International Court of Justice,

which remains busy with a full docket involving a wide range of legal issues. I will highlight two recent developments. As you know, the General Assembly has recently

cases involved alleged entitlement fraud, and a few cases involved allegations of sexual exploitation and abuse.

I also wish to report that one of our previous referrals of allegations of sexual assault resulted in criminal accountability in 2022. In October 2022, Karim Elkorany, a former UNDP and UNICEF staff member, was sentenced to 15 years in prison in the United States, after pleading guilty to the sexual assault of one person and lying to the FBI to cover up another sexual assault. As part of his guilty plea he admitted to having drugged 20 women, sexually assaulting at least 13 of them, many of them during the time of his employment with the United Nations.

This is a case that shows that with the courage of victims, effective cooperation from the United Nations, and a willingness from national authorities to pursue cases involving United Nations personnel, criminal accountability is possible.

[Administrative law]

Since I last reported to you, we were asked by the Fifth Committee of the General Assembly to assist in addressing the situation arising from recent judgments of the UN system for the Administration of Justice and of the International Labour Organization's Administrative Tribunal concerning the authority of the International Civil Service Commission in relation to the establishment of the post adjustment multiplier, which is an element of the compensation for professional and higher staff that varies by duty station. Specifically, I provided a legal opinion in response to questions relating to the proposed amendment of the Statute of the Civil Service Commission. Taking into account my advice, the General Assembly decided to amend the Statute. The amendment, which is the first change to the Statute since its approval in 1974, clarifies the role of the Commission in relation to the General Assembly and the extent of the Commission's decision-making authority.

[Accès des micro-, petites et moyennes entreprises au crédit]

Bien sûr, d’autres travaux dans le domaine du droit commercial international sont également en cours de développement. Au cours de l’été, la Commission considèrera un texte sur une procédure de rejet rapide et la décision préalable dans les procédures arbitrales. Le texte apportera aux praticiens un éclairage utile sur ce pouvoir discrétionnaire util

United Nations Convention on the Law of the Sea, contains a preamble, 76 articles and two annexes. It addresses the four elements of the package that were under negotiation

agreement in all six official languages. The General Assembly, on 18 April, requested the Secretary

[ILC work on piracy and armed robbery at sea]

Similarly, the work of the Commission on the topic "Prevention and repression of piracy and armed robbery at sea" will be of special interest to the Division, in light of the centrality of the provisions of the Convention in that regard.

[Regular Process]

Since we last met, the Division, as the secretariat of the **Regular Process for Global Reporting and Assessment of the State of the Marine Mh4(g)4(897 -186.0.008**

The Commission on the Limits of the Continental Shelf held three sessions from the second half of 2022 to the beginning of 2023. The fifty-seventh session concluded the six-year term of office of the current membership of the Commission, which was extended by 3

Assistance to Meet the Strategic Capacity Needs of Developing States funded by the Norwegian Agency for Development Cooperation (NORAD) and the partnership with the World Bank on regional ocean governance training courses, the Division recently launched a new Project of Assistance to Strengthen Participation in and Implementation of the United Nations Fish Stocks Agreement, funded by the European Commission and administered by the Food and Agriculture Organization of the United Nations. It also renewed its partnership with the United Nations Institute for Trai

polluants organiques persistants - est entré en vigueur le 26 février dernier. Ces

multilatéraux déposés auprès du Secrétaire général qui visent à promouvoir la coopération internationale en matière de protection de l'environnement et de lutte contre les changements climatiques.

L'un des efforts les plus visibles à cet égard est la Cérémonie des traités, qui a repris en 2022 pour sa vingtième édition, après une interruption de deux ans due à la pandémie de COVID-19. Organisé parallèlement au débat de haut niveau de l'Assemblée générale en septembre dernier, l'événement a été marqué par un regain d'intérêt pour la participation universelle aux traités multilatéraux déposés auprès du Secrétaire général, en particulier aux traités s'inscrivant dans le Programme de développement durable à l'horizon 2030. À cette occasion, les États ont agi à l'égard d'un large éventail de traités multilatéraux, réalisant des avancées importantes en particulier dans le domaine du désarmement. Mon Bureau est pleinement engagé dans la préparation de la prochaine Cérémonie des traités, qui se tiendra parallèlement au débat de haut niveau de la soixante-dix-huitième session de l'Assemblée générale sur le thème « Vers une participation universelle aux accords multilatéraux sur l'environnement pour une planète saine ».

Un grand nombre d'États et d'organisations internationales sont appelés à exercer les fonctions de dépositaire de traités multilatéraux, un rôle vital dans la vie du droit international, bien qu'il ne soit pas aisé. À cet égard, je tiens à appeler votre attention sur l'échange de vues technique à venir sur le thème « Pratiques exemplaires des dépositaires de traités multilatéraux » qui se tiendra en Sixième Commission lors de la prochaine session de l'Assemblée générale. Cet échange .6(.)32.7<.1<005