



**UNITED NATIONS
OFFICE OF LEGAL AFFAIRS**

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

Opening remarks

by

Mr. Stephen Mathias,

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21 October 2024, 03:00 pm

Trusteeship Council Chamber

Distinguished delegates,

Colleagues and friends,

Welcome back to New York!

I am very pleased to see you all and to address you as Acting Legal Counsel and on behalf of the Office of Legal Affairs on this traditional Informal Meeting of the Legal Advisers from the capitals.

I wish to express my gratitude to the delegation of Sweden for coordinating the preparation of this year's meeting. I am very grateful to Ambassador Hammarskjöld for leading our discussions this year and to Julia Fielding, Legal



Adviser in the Permanent Mission of Sweden here in New York. We thank you for the committed work in the organization for this meeting.

This year, a special thank you goes to Ambassador Hammarskjöld for dedicating a part of this meeting to the celebration of the seventy-fifth anniversary of the International Law Commission.

And indeed, how fitting is to continue the celebration of the Commission's anniversary during International Law Week, which started in the context of the presence of legal advisers from capital to express their views on the work of the Commission. This tradition is now the most visible symbol of the power of international law to bring the international community together.

The commemoration today complements the one held in Geneva during the first part of the Commission's session, organized with the support of the Graduate Institute of International and Development Studies and the Federal Department of Foreign Affairs of Switzerland.

For seventy-five years, the Commission has played a pivotal role in the progressive development of international law and its codification. The Commission has many foundational achievements to celebrate, for example in the areas of the law of treaties, diplomatic and consular relations, the law of the sea, international





environmental law, international criminal law and the law of State responsibility. The fruits of its labour are well known to any student of international law.

Since the first session of the Commission, held not far from here in Lake Success in 1949, OLA and particularly the Codification Division, has been proud to serve as the secretariat of the Commission and provide substantive support, including through extensive research on topics under consideration by the Commission, and has also served as the steward of its practices and institutional memory. Let me state that OLA undertakes to support the Commission, in the years to come with the same commitment and enthusiasm.

Dear colleagues,

In keeping with our tradition, I would like to make a few observations on topics that recently have attracted the attention of the legal community during this year, and that were reflected in the activities of the Office of Legal Affairs.

With respect to the Occupied Palestinian Territory, the International Court of Justice, on 19 July 2024, gave its advisory opinion on the legal consequences arising from the policies and practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, pursuant to a request by the General Assembly.





The General Assembly subsequently, on 18 September 2024, adopted resolution ES-10/24 concerning the advisory opinion. This resolution contains a few operative paragraphs specifically addressed to the United Nations.

One of them “[c]alls upon the United Nations, and its bodies and organs, to respect and act in a manner consistent with the determinations made by the International Court of Justice, including in relation to all relevant maps, statements and reports, as well as in their respective programmes and actions”.

In view of the determinations made by the Court in this advisory opinion, the various elements pertaining to the operative paragraph will need to be considered on a case-by-case basis. OLA is engaging with different actors in the UN system to promote a consistent approach in this regard.

Since 7 October 2023, the Office of the Legal Counsel has provided advice on several matters arising during the conflict in Gaza and the intensified exchanges of fire across the Blue Line in Lebanon.

The questions have ranged widely, spanning the status of Palestine, international humanitarian law, the provision of humanitarian assistance, the safety and security of peacekeepers, the mandates and rules of engagement of peacekeeping operations, and the inviolability of UN premises at times of armed conflict.

Much of the advice provided has addressed the legal implications of possible public statements by the UN senior officials on these matters. These events also





prompted further reflection on the precise scope of inviolability of United Nations premises in times of armed conflict.

For more than fifty years, the position of this Office has consistently been that the inviolability of United Nations premises applies both in times of war and in times of peace. This is because there are no stated qualifications to, or limitations on, the inviolability of premises in the Convention on the Privileges and Immunities of the United Nations.

There is no reference there to situations of armed conflict, civil unrest or other emergency situations as constituting possible limitations on such inviolability. In our analysis, no elements of practice or *opinio juris* support the idea that the inviolability of the United Nations ceases in times of armed conflict.

A review of the practice of the General Assembly and the Security Council, including most recently, indicates that intergovernmental organs also share this view. Inviolability applies in situations of armed conflict, whether non-international or international, and it applies just as much to damaging premises as it does to entering them or otherwise physically penetrating them.

In the context of broader UN efforts, OLA has provided legal support to UNRWA, including with a view to ensuring respect for the privileges and immunities of UNRWA and its personnel.

UNRWA has been facing tremendous challenges at every level, including operational. We are closely following with great concern the current consideration of draft legislation that targets UNRWA and its personnel and that could jeopardize its activities.





For OLA, it remains a priority that the relevant privileges and immunities of the UN are respected in any jurisdiction, and that Member States abide by the obligations under international law including by giving effect to the Convention on the Privileges and Immunities of the United Nations and other applicable agreements.

With respect to international criminal accountability, in the past year, we have seen two entities close—first, the Special Tribunal for Lebanon which closed on 31 December 2023 and then the United Nations Investigative Team to Promote Accountability for Crimes Committed by Da’esh/ISL (UNITAD) on 17 September 2024.

OLA played an important role in the establishment of both bodies—negotiating the Agreement and Statute for the Special Tribunal and engaging in complex negotiations with the Government of Iraq on UNITAD’s Terms of Reference.

In both cases, the closure of the entities involved OLA’s advice on the management and preservation of archives of the institutions, which was a complex and challenging issue as the Special Tribunal was the first tribunal to fully close and UNITAD was also the first accountability mechanism to close.

Based on those experiences, we expect this will continue to be a challenging issue for the remaining tribunals and accountability mechanisms and an issue that should be considered in the future at the outset when establishing such entities.

Dear colleagues,





Even in a challenging time, we witness examples of how the architecture of the Charter to “[e]stablish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained” is as relevant in our times as it was in 1945.

Member States chose to follow the path of international law and dialogue, with all the challenges attached to it, or not.

For instance, Mauritius and the United Kingdom have proven their commitment to the peaceful resolution of disputes and the rule of law as they reached an historic political agreement on the exercise of sovereignty over the Chagos Archipelago. Various UN institutions played a major role on the discussion of this issue, supporting the relevant negotiations amongst the parties.

Last year, 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 (BBNJ Agreement) was adopted. The Agreement, now with 105 signatories and 13 ratifications, is an historic feat of multilateralism, of which the international legal community and other negotiators can be really proud. It is also a reminder of the vital role that the Convention and its implementing Agreements, including this one, play by providing a robust legal framework for the Ocean governance.





And just recently, the World leaders meeting at the Summit of the Future reaffirmed their unwavering commitment to act in accordance with international law, including the Charter of the United Nations and its purposes and principles. They also reflected in the Pact for the Future that, to live up to our foundational promise to protect succeeding generations from the scourge of war, we must abide by international law, including the Charter, and make full use of all the instruments and mechanisms set out in it.

The Pact for the Future places international law at the centre, and states that every commitment in the Pact is fully consistent and aligned with international law.

It is in that same spirit that I invite you to continue to honour this traditional space for legal dialogue, using this opportunity to actively engage in the collegial discussions for which these days are known.

As always, you can count on the Office of Legal Affairs to support you and accompany those discussions and endeavours during this week and throughout this session.

Dear friends,

I wish you all a very fruitful and productive stay in New York.

Thank you for your attention

