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Security Council

Sixty-first year

Provisional

5474th meeting

Thursday, 22 June 2006, 10.15 a.m.

New York

President:	Mr. Moeller/Ms. Løj	(Denmark)
Members:	Argentina	Mr. Mayoral
	China	Mr. Li Junhua
	Congo	Mr. Gayama
	France	Mr. De La Sablière
	Ghana	Nana Effah-Apenteng
	Greece	Mrs. Telalian
	Japan	Mr. Kitaoka
	Peru	Mr. Pereyra Plasencia
	Qatar	Mr. Al-Nasser
	Russian Federation	Mr. Shcherbak
	Slovakia	Mr. Burian
	United Kingdom of Great Britain and Northern Ireland	Ms. Pierce
	United Republic of Tanzania	Mr. Mahiga
	United States of America	Mr. Bolton

Agenda

Strengthening international law: rule of law and maintenance of international peace and security

Letter dated 7 June 2006 from the Permanent Representative of Denmark to the United Nations addressed to the Secretary-General (S/2006/367)

06-40028 (E)

The meeting was called to order at 10.15 a.m.

Adoption of the agenda

The agenda was adopted.

Strengthening international law: rule of law and maintenance of international peace and security

Letter dated 7 June 2006 from the Permanent Representative of Denmark to the United Nations addressed to the Secretary-General (S/2006/367)

The President: I should like to inform the Council that I have received letters from the representatives of Austria, Azerbaijan, Canada, Egypt, Guatemala, Iraq, Liechtenstein, Mexico, Nigeria, Norway, Sierra Leone, South Africa, Switzerland and the Bolivarian Republic of Venezuela in which they request to be invited to participate in the consideration of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite those representatives to participate in the consideration of the item, without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, the representatives of the aforementioned countries took the seats reserved for them at the side of the Council Chamber.

The President: In accordance with the understanding reached in the Council's prior consultations, I shall take it that the Security Council agrees to extend an invitation under rule 39 of its provisional rules of procedure to Mr. Nicolas Michel, Legal Counsel of the United Nations.

It is so decided.

I invite Mr. Michel to take a seat at the Council table.

In accordance with the understanding reached in the Council's prior consultations, I shall take it that the Security Council agrees to extend an invitation under rule 39 of its provisional rules of procedure to Judge Rosalyn Higgins, President of the International Court of Justice.

It is so decided.

I invite Judge Higgins to take a seat at the Council table.

I should like to inform the Council that I have received a letter dated 20 June 2006 from the Permanent Observer of Palestine to the United Nations, which will be issued as document S/2006/417 and which reads as follows:

> "I have the honour to request that, in accordance with its previous practice, the Security Council invite the Permanent Observer of Palestine to the United Nations to participate in the meeting of the Security Council being held on Thursday, 22 June 2006 in connection with the open debate on strengthening international law: rule of law and maintenance of international peace and security."

I propose, with the consent of the Council, to invite the Permanent Observer of Palestine to participate in the meeting in accordance with the provisional rules of procedure and the previous practice in this regard.

There being no objection, it is so decided.

At the invitation of the President, Mr. Mansour (Palestine) took the seat reserved for him at the side of the Council Chamber.

The President: The Security Council will now begin its consideration of the item on its agenda. The Council is meeting in accordance with the understanding reached in its prior consultations.

I wish to draw the attention of the members of the Council to document S/2006/367, which contains the text of a letter dated 7 June 2006 from the Permanent Representative of Denmark to the United Nations addressed to the Secretary-General.

I should now like to make some introductory remarks in my capacity as the Minister for Foreign Affairs of Denmark.

It is an honour, and indeed a pleasure, to welcome all of you to this debate. The topic of today's discussion is "Strengthening international law: rule of law and the maintenance of international peace and security" or, in short, the "Security Council and international law".

The Security Council is essentially a political body with far-reaching powers to maintain or restore international peace and security. Yet the Council operates within a legal framework set out in the United Nations Charter. The consequences for international law of the actions of the Security Council should not be underestimated. That is particularly true when the Council acts in the context of the challenges of a changing world. It is therefore, in my view, most relevant that the Council from time to time addresses the issue of international law in a more comprehensive way. That is the purpose of this debate today.

The aim of this debate is to take a step back from the daily business of the Council — to start from the well-established recognition that international law plays a critical role in fostering stability and order in international relations and, from that basis, to consider how the Council can further contribute to strengthening and developing an international order based on the rule of law.

The Council promotes the rule of law in post-conflict national societies in order to ensure the stability and legitimacy of those societies. International relations need to be governed by the rule of law in the same way. Today, more than ever before, the Council's legitimacy and credibility rest on its explicit commitment to operate within the framework — and in the furtherance —of international law.

In order to focus our debate, we have distributed a discussion paper under the symbol S/2006/367, of 7 June 2006, identifying certain issues we believe merit particular attention.

The first issue is that we must not allow a culture of impunity to prevail. Those responsible for atrocities must be brought to justice. The resolution passed last Friday on Charles Taylor and his transfer to The Hague is the latest example of the firm hand of the Council on this dossier.

Secondly, sanctions should be targeted in order to enhance their efficiency and reduce the risk of innocent third parties becoming victims of such measures. The fight against terrorism must be conducted in accordance with human rights standards. We must improve due process guarantees in our sanctions regimes, inter alia by introducing adequate mechanisms for delisting. Our sanctions will then be even more credible and efficient.

Thirdly, the promotion of the rule of law in post-conflict situations is crucial to preventing the recurrence of armed conflict. Security, development and human rights for all are mutually reinforcing elements in establishing and maintaining societies based on the rule of law.

The fourth issue is that the peaceful settlement of disputes, inter alia through resort to the International Court of Justice, is at the heart of the Charter of the United Nations.

Those are the four overriding themes of today's discussion.

I now resume my functions as President of the Council.

At this meeting the Security Council will hear briefings by Mr. Nicolas Michel and Judge Rosalyn Higgins.

I now give the floor to Mr. Michel, Legal Counsel of the United Nations.

Mr. Michel (*spoke in French*): I would like to thank you, Mr. President, for kindly giving me the floor in order to speak on behalf of the Secretary-General at this public debate devoted to the theme "Strengthening international law: rule of law and maintenance of international peace and security". Had the Secretary-General not been on a mission abroad today, he would have very much liked to welcome you personally, Mr. Minister, to thank you warmly for your presence and to commend you both for the way in which your country is presiding over the Council and for having organized today's debate on the topic you have chosen. It is also an honour and a pleasure for me to welcome and warmly greet the President of the International Court of Justice.

It is quite easy for me to speak on behalf of the Secretary-General today, for his convictions and positions with regard to international law and the rule of law are well known. I will just refer to the memorable statement he made on 21 September 2004 during the opening of the general debate of the fifty-ninth session of the General Assembly (see A/59/PV.3). In fact, his attitude represents a contemporary expression of the values and resolve that inspired the founders of the United Nations.

The Preamble to the Charter in fact expresses the resolve "to establish conditions under which justice

and respect for the obligations arising from treaties and other sources of international law can be maintained". The founders wanted to see an international community grounded in law. For them the law was not an instrument, but a culture. Justice and law were the fundamental conditions for international peace and security. At the same time, the founders also reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person.

The presence of the President of the International Court of Justice prompts us to recall the fundamental principle requiring States to settle their international differences through peaceful means, as well as the specific role entrusted by the Charter to the main judicial organ of the United Nations. The judgements of the Court have made a valuable contribution to the cause of peace. To cite a recent example, I am pleased to note the conclusion of the agreement between Cameroon and Nigeria to effectively implement a decision of the Court. In addition, the Court has clarified key points of international law through its advisory opinions. It is true that, with some exceptions, those opinions are not in and of themselves legally binding. But the rules of law that they interpret, and whose scope they clarify, fully exercise their legal effects vis-à-vis the legal subjects on which they are binding.

The excellent discussion paper provided by the presidency of the Council to stimulate and guide today's debate sets out numerous interesting and important questions. The necessary limitation on speaking time compels me to make a difficult choice among them that is not necessarily a faithful reflection of the legitimate concerns of all participants in the debate.

In addressing first the issue of promoting the rule of law in conflict or post-conflict situations, I should like to begin by recalling the report that the Secretary-General sent to the General Assembly on that subject in August 2004. I would also join in welcoming the meeting to take place tomorrow to establish the Organizational Committee of the new Peacebuilding Commission. In that context, the Secretariat is tasked with identifying more precisely the means it already possesses to support actions to promote the rule of law, those that it will require in the future, and the best way of organizing those resources in order effectively and competently to meet its needs.

In that respect, the proposals that have been made by some Member States are extremely useful. The measures to be taken should take into account the needs of the Commission and of those that may arise in all the other many situations that will require assistance without figuring on the Commission's agenda. The promotion of the rule of law, including the promotion of human rights, cannot be limited to situations associated with an ongoing or recent conflict.

The second topic proposed for discussion is that of impunity. In recent years, the Security Council has taken a number of decisions that reflect its resolve to put an end to the impunity of perpetrators of international crimes. The recently adopted resolution concerning the transfer of former Liberian President Charles Taylor is the most recent example of that resolve. By taking such action, the Council is keeping pace with one of the major evolutions of the culture of the international community and international law over the past 15 years. Allow me if I may to note three aspects of that evolution.

First, justice and peace must be regarded as complementary requirements. There can be no lasting peace without justice. The problem is one not of choosing between peace and justice, but of the best way to interlink the one with the other, in the light of specific circumstances, without ever sacrificing the duty of justice.

Secondly, amnesty for international crimes has been regarded as unacceptable in international practice. Today, its rejection must be enshrined as a standard to be enforced.

Lastly, the system of international penal jurisdictions, which has steadily progressed towards greater universality, is a primary responsibility of States and, within the constraints of the Rome Statute, a complementary responsibility of the International Criminal Court. If the system is to function efficiently, it will be essential to heed the appeals of States that require assistance in their efforts to build the necessary domestic capacities, provided that they are prepared to take international standards into account.

As regards the third topic suggested for our consideration — enhancing the efficiency and credibility of United Nations sanctions regimes — I wish to refer to the letter recently addressed by the Secretary-General to the presidency of the Security

Council, which I would request to be distributed to all Council members. Largely on the basis of the outcome document of the 2005 world summit, the Secretary-General, in a non-paper annexed to his letter, sets out his views concerning the listing and delisting of individuals and entities on sanctions lists. According to the non-paper, the minimum standards required to ensure that the procedures are fair and transparent would include the following four basic elements. Since the paper has been distributed in English, I will now state them in that language.

(*spoke in English*)

First, a person against whom measures have been taken by the Council has the right to be informed of those measures and to know the case against him or her as soon as and to the extent possible. The notification should include a statement of the case and information as to how requests for review and exemptions may be made. An adequate statement of the case requires the prior determination of clear criteria for listing.

Secondly, such a person has the right to be heard, via submissions in writing, within a reasonable time by the relevant decision-making body. That right should include the ability to directly access the decision-making body, possibly through a focal point in the Secretariat, as well as the right to be assisted or represented by counsel. Time limits should be set for the consideration of the case.

Thirdly, such a person has the right to review by an effective review mechanism. The effectiveness of that mechanism will depend on its impartiality, degree of independence and ability to provide an effective remedy, including the lifting of the measure and/or, under specific conditions to be determined, compensation.

Fourthly, the Security Council should, possibly through its Committees, periodically review on its own initiative targeted individual sanctions, especially the freezing of assets, in order to mitigate the risk of violating the right to property and related human rights. The frequency of such review should be proportionate to the rights and interests involved.

The non-paper indicates also that those elements would apply mutatis mutandis in respect of entities.

(*spoke in French*)

In conclusion, I should like to note one of the key points referred to early and most relevantly in the discussion paper submitted by the presidency.

Noting that the purpose of today's thematic debate is to consider the Security Council's special role in promoting international law, the document states that the Council "operates within the framework of international law in all its functions" (*S/2006/367, annex, p. 2*). That is both an objective and a rule enshrined by the Charter.

Your initiative, Sir, therefore deserves to be approved and supported, and I thank you for it on behalf of the Secretary-General.

The President: I thank Mr. Michel for his briefing.

It now gives me great pleasure once again to welcome the President of the International Court of Justice to our debate and to ask her to take the lead in our discussion.

Judge Higgins: I greatly appreciate your invitation, Sir, to participate in this debate and the welcome that you and the Legal Counsel have so kindly extended.

The International Court of Justice is pleased to make a contribution to this important day's reflective work in the Security Council.

The theme of the Council's debate is "Strengthening international law", and let me begin with a few general observations on that concept.

International law is, of course, the law that governs relations between States and between States and international organizations. It is the law of each and every one of us. In a world often divided by politics, it is our common language.

What do we mean by "strengthening international law"? Two meanings come to mind: first, the widening and deepening of the content of international law; and secondly, the fortifying of the mechanisms for securing compliance with or enforcement of international law. In fact, the discussion outline prepared by the presidency touches on both elements.

In terms of the first meaning, the reach of international law has expanded to an extraordinary extent. The already known broad outlines of the law of peace — title to territory, jurisdiction, immunities, maritime spaces, the law of treaties, State responsibility — have all been shaped by very detailed provisions. And many other topics that were simply unheard of when the Security Council began its work are now established as part of the fabric of international law; space, environment, trade law and human rights are examples.

There is now a well developed international legal framework for combating international terrorism. There are currently 13 universal instruments and seven regional instruments relating to the prevention and suppression of terrorism. There are treaties on the methods used by terrorists — bombings, hijackings, hostage-takings, nuclear material; on places likely to be targeted — aeroplanes, ships, fixed platforms; and on preventing the financing of terrorism.

In a broader sense, there has been a profound deepening of the law as it relates to jus ad bellum and jus in bello, with the Covenant of the League of Nations, the Kellogg-Briand Pact and the United Nations Charter being important catalysts for the former and the Hague Peace Conferences, the 1949 Geneva Conventions and other more recent instruments relevant to the establishment of new judicial bodies having hugely important roles as regards the latter.

The term “strengthening” in the discussion document clearly envisages the idea of embedding international law into many of the contemporary activities overseen by the Security Council. Sometimes, the content of those activities is notably different from the world of neat inter-State relations in which international law has classically operated.

But strengthening may also mean increasing the level of compliance with the rules of international law, and also ensuring compliance with decisions of international judicial bodies. There is a general day-to-day compliance with international law: our routine life depends upon treaties being honoured and normative customs being adhered to. Usually, all States find such compliance to be to their advantage. At the same time, we are all aware that when the stakes are very high there are eruptions of behaviour that clearly challenge the legal requirements laid down in the Charter.

It can readily be seen that the first three themes highlighted for debate are of critical importance. If I may say so, they seem very well chosen and I look forward to hearing what Member States have to say on each of them. Each of the three themes is different, presenting distinctive issues, but there is within them a common theme. The problem of the rule of law vacuum matched by the collapse of communal justice systems, and the place of law vis-à-vis non-State actors are interrelated elements that clearly present challenges for the Security Council in its desire to fulfil its Charter functions, but acting always within the framework of international law.

Those are extremely pertinent challenges, but I cannot but notice that they each relate to conflict or post-conflict situations. The Charter system, of course, envisages a system of settling disputes peacefully before intractable conflict and post-conflict situations arise. The General Assembly, the Security Council and the International Court each have a responsibility to contribute to that phase of international relations. But a very particular responsibility has been assigned to the International Court. It is my purpose today to remind Member States that at least some of today’s discussion problems may be resolved by an early recourse to third-party settlement.

The prime objective of the United Nations must be to prevent those conflicts and post-conflict situations that raise the key rule of law questions with which the Council is grappling. It is unlawful behaviour that so often requires the contemplation of sanctions, whose efficacy and credibility is the subject of the third theme. The second theme, which addresses the range of issues that have arisen in relation to institutions to insure there is no impunity for international crimes, only becomes necessary if such large-scale crimes have indeed occurred.

Peacekeeping, international criminal structures and procedures and sanctions regimes are all important mechanisms for the maintenance of international peace and security within a rule-of-law framework. But sight must not be lost of the fact that if problems can be solved peacefully, these intractable contemporary problems could present themselves less frequently. There perhaps deserves to be more attention to the a priori, rather than to the post hoc alone. All said and done, we are speaking of disputes that threaten international peace.

The Charter requires that disputes must be settled, without specifying required means, although it is clear that legal disputes should normally be referred to the International Court. Time has shown that very many disputes are, in fact, claims about perceived legal rights, even if those are both politically charged and diplomatically sensitive. The International Court has always been prepared to deal with legal issues arising in the wider context of highly political controversy.

Those who do not know the work of the International Court may think that what we do is to settle boundaries and allocate maritime spaces, but that our judicial work is far from the world of military conflict and human misery. The truth is otherwise. The Court has been entrusted with many cases in which political passions have run high, and in which, indeed, some conflict is already occurring. All the evidence suggests that the Court's contribution in such disputes, once entrusted to them, has been both effective and significant.

Further, it should not be thought that territorial and boundary disputes are one category and disputes relating to the use of force another. Disputes about entitlement to territory are, alas, not always peaceful. They can and do spill over into violence. Sometimes the Court can, in providing an impartial pronouncement on the underlying claims, stop high tensions from developing into military action. Its resolution of the *Qatar v. Bahrain* dispute has allowed the resumption of friendly relations between those countries and has assisted stability in the Gulf more generally.

In the Chamber case of *Burkina Faso v. Mali*, eruptions of fighting were brought to an end by the decision of the Court. The judgment of the Court in the *Chad v. Libya* case marked the conclusion of years of military activity and the same has been true of the *Cameroon v. Nigeria* case, to which Mr. Michel has already alluded.

Sometimes, the cases come to the Court too late for it to assist in preventing the fighting. But here too, a judicial role can still play its part in conflict resolution. The very detailed and objective findings of the Court in the recent case brought by the Congo against Uganda, for example, resolves at least some of the intractable issues of fact and law in the Great Lakes region.

The Security Council, faced with the massive problems in its agenda, might be forgiven for wondering whether judgments by a Court with no enforcement powers of its own — indeed, the Charter provides that the enforcement of Court judgments lies ultimately with the Security Council — will, in fact, be complied with. The answer, surprising to many, is that out of nearly 100 contentious cases the Court has dealt with, no more than a handful have presented problems of compliance. Of this handful, the problems of compliance have mostly turned out to be temporary. The success in compliance has been as much true in cases hard fought by political adversaries as in cases brought jointly by States.

Sometimes compliance is instantly achieved. That was the case in the hard-fought litigation of *Qatar v. Bahrain*, where the parties accepted that the Court's judgment would provide a new framework for peace in the Gulf. Sometimes some short-term assistance from the Security Council has assisted. Both parties requested the assistance of the United Nations Aouzou Strip Observer Group, established by the Security Council to oversee the Court's judgment in that case, and the withdrawal of the Libyan forces from the territory declared by the Court to belong to Chad followed very soon after.

Some judgments take longer to implement. Indeed, the possible need to take care of things on the ground may be foreseen in the judgment itself. Only last week, an agreement was announced on the remaining elements needed to implement the Court's judgment of 2002 in the *Cameroon v. Nigeria* case. What has been at stake for the States concerned is far from trivial, politically and economically. This negotiated outcome to the painstaking commitment to implement the Court's judgment has been a tribute to the skills of the Secretary-General and the dedication of the two countries.

The Security Council will wish to know why the question of compliance with the Court's judgments is a relatively rare problem. The reasons, I think, are various. First, the Court is the embodiment of the United Nations, being a major organ thereof. The potency of that factor should not be underestimated. Thus it is not for States to rewrite, challenge or approve of the way the Court functions. That is a given in the Statute, itself a component part of the Charter.

Secondly, the Court is stated in the Charter to be the primary judicial organ of the United Nations. This authority accorded to the Court has served the United Nations well over the years. Then there is the fact that the Court is indeed the Court of all the Members, in the sense that it is composed of 15 judges elected by the entire United Nations membership — that is to say, by the Security Council and the General Assembly — judges of high expertise in international law who represent the different legal systems of the world. The decision-making process of the Court is such that all of the judges are engaged in all of the cases, save in those occasional circumstances where the parties themselves request a reduced Bench, which we term a "chamber". It is not the Court of any region or any personalities. It is the Court of the United Nations.

The bringing of individual criminals to accountability is very important. The creation of new tribunals and courts dedicated to this end is to be welcomed. Their work has my admiration. At the same time, the fundamentals of peace maintenance are not to be forgotten.

The International Court of Justice is a principal organ of the United Nations and, as such, is part of the general system for the maintenance of international peace and security. Its role is thus not minor, nor is it at the margin. It is at the very heart of the general system for the maintenance of peace and security through its specific contribution to the peaceful settlement of disputes.

What then can the Security Council do to mobilize this potential? Of course, there have been important special efforts to this end, and I might appropriately mention in particular the recent resolution adopted by the Special Committee on the Charter upon the Court's sixtieth anniversary.

But the jurisdiction of the Court is based on consent. Thus, the bottom line is the will of States to use what is on offer. This is not the occasion for me to speak about the politico-legal issues associated with the various ways of establishing that jurisdiction. In the context of today's debate, I limit myself to saying the following.

The first discussion point which asks how the Council should develop a policy on certain peacekeeping matters, that the Council might like to consider whether it should develop a policy whereby, in all political disputes that threaten peace and security and where claims of legal entitlement are made, the Council would strongly indicate to the parties that they are expected to have recourse to the Court. Article 33 of the Charter provides that the Security Council may inform parties to settle their disputes by means which include judicial settlement, and Article 36, paragraph 3, states that in making recommendations for the settlement of disputes, "the Security Council should also take into consideration that legal disputes should as a general rule be referred by the parties to the International Court of Justice".

I am obliged to say that the Security Council has failed to make use of this provision for many years. This tool needs to be brought to life and made a central policy of the Security Council.

Litigation before the Court is not a hostile act. This fact can be testified by the many friendly States that have been wise enough to know that the best way to avoid deterioration in their good relations, if that cannot be done by negotiations, is to have a dispute between them resolved by the Court. I could mention *Slovakia v. Hungary*, *Indonesia v. Malaysia*, *Namibia v. Botswana*, *Malaysia v. Singapore* and many other recent examples. These cases happen to have come to us by their joint agreement. But it is no more a hostile act even to come to us unilaterally. Recourse to the Court is one of the methods of dispute settlement envisaged by the Charter in Article 33. How can use of an envisaged Charter provision be unfriendly, any more than mediation or conciliation might be? I would mention also — and any State that has been before us would testify as to this — that our proceedings are always conducted in the Court in a manner conducive to the calming of passions and the discouragement of postures of enmity.

I have so much appreciated that Denmark should have used this occasion to emphasize the need to strengthen international law. The fearful problems of today can be methodically addressed only by Member States acting with great restraint and by each United Nations organ fulfilling its respective responsibilities. We are all partners in the same magnificent enterprise — the enterprise spelled out in the Purposes and Principles in the United Nations Charter. The International Court of Justice stands ready to work alongside the Security Council in the fulfilment of these goals.

The President: I thank Judge Higgins for her briefing, which has been most informative and encouraging, and which has provided us with a lot of food for thought.

Before opening the floor, I wish to remind all speakers to limit their statements to no more than five minutes in order to enable the Council to carry out its work expeditiously. Delegations with lengthy statements are kindly requested to circulate their texts in writing and to deliver a condensed version when speaking in the Chamber.

Ms. Pierce (United Kingdom): I would like to begin by thanking you, Sir, for bringing this important issue to the Council for debate during the Danish presidency. The United Kingdom is proud and pleased to strongly support your initiative. Our thanks go as well to Judge Higgins, President of the International Court of Justice (ICJ), and to Mr. Michel, Under-Secretary-General for Legal Affairs. Their valuable and insightful contributions are informing today's debate.

I would like to cover three issues: the rule of law, international crimes and sanctions. But before I do so, I would like to pick up on what both Judge Higgins and Mr. Michel said about the recent agreement between Cameroon and Nigeria. I had the honour, along with other United Nations delegates, of witnessing this under the auspices of the Secretary-General. I would like to take the opportunity to pay a tribute to the leaders of both countries, but also to the Secretary-General and his Special Representative, for the decision to seek and implement the ICJ's judgment as well as to lay down a very important template for success for the rule of law. I would also like to express the hope that other countries will be able to follow that example.

First, the rule of law. The United Kingdom is fully committed both to the rule of international law and to the Purposes and Principles in the United Nations Charter. The peaceful settlement of disputes is at the heart of the Charter. And, as we have heard from Judge Higgins, the International Court of Justice is the principal United Nations judicial organ charged with settling disputes between States; it has an absolutely central role in maintaining international peace and security. The United Kingdom is a strong supporter of the ICJ, as demonstrated by our acceptance of the compulsory jurisdiction under Article 36, paragraph 2, of the ICJ Statute. We urge other States that have not done so to also accept the compulsory jurisdiction.

Like you, Mr. President, we hope that this debate will generate new momentum on the rule of law and transitional justice in post-conflict situations. Sustainable peace cannot be based on anarchy, impunity or dictatorship. As the Secretary-General stated, "It is by reintroducing the rule of law, and confidence in its impartial application, that we can hope to resuscitate societies shattered by conflict." (*A/59/PV.3, p. 3*)

Some progress has been made since the Secretary-General's landmark report on the rule of law and transitional justice, of August 2004 (S/2004/616). The rule of law now routinely features in the mandates of new peacekeeping and peacebuilding missions. We have been pleased to support the development of lessons-learned studies and training for United Nations rule-of-law personnel. That is all very welcome. But some key recommendations in the August 2004 report remain unimplemented. Notably, the Security Council still awaits proposals from the Secretariat for enhancing the United Nations system.

The United Kingdom warmly welcomed the Secretary-General's idea of a rule of law assistance unit, as endorsed in the World Summit Outcome (resolution 60/1). We await a decision on the unit's establishment, remit and location within the Secretariat. Our view remains that the Unit's focus must be on countries at risk of or emerging from conflict, and we hope it will work closely with the Peacebuilding Commission. We hope, too, that the Peacebuilding Commission will devote considerable attention to rule-of-law and transitional justice needs in the countries on its agenda.

Increased and better coordinated rule-of-law capacity is also needed in the field. What, for example, can a single prison official do in a country the size of the Democratic Republic of the Congo? If the Secretary-General's planning reports provide more detail about how many rule-of-law personnel will be needed in a particular mission and what they will do, the Council should be prepared to agree on this and to provide the greater clarity and specificity on the rule of law in peacekeeping mandates that the Committee of Thirty-Four has rightly called for.

Within United Nations missions there should be maximum cooperation among judicial, corrections,

human rights and policing units, the combined efforts of which are critical. All of those elements, we suggest, should operate within the same pillar and be answerable to a single Deputy Special Representative of the Secretary-General responsible for the rule of law. Together with United Nations agencies on the ground, they should adopt a single, "one United Nations" approach.

Post-conflict States also need access to more and earlier funding. We hope that the Peacebuilding Fund will pay particular attention to this.

The Danish presidency has also asked us to consider the important issue of rule-of-law vacuums, where national justice and security sectors have collapsed. The best possible response to this, in our view, would be the early deployment of international police, justice and corrections personnel and an early start to the process of rebuilding the domestic justice system.

We strongly support the establishment of the standing police capacity and urge that equivalent efforts be made on the judicial and corrections side. In general, we believe that the work of the policing components in United Nations missions would benefit from a detailed discussion by the Council.

Where a rule-of-law vacuum exists, security considerations will often mean that military peacekeepers will inevitably retain a role for some time in ensuring law and order. A recent study for the Department of Peacekeeping Operations urged that planning missions consider what law-and-order functions the military needs to take on. That recommendation warrants careful consideration, in our view.

Secondly, I would like to turn to the subject of international crimes. It is important that the Security Council take the lead in combating impunity for those who have perpetrated genocide, crimes against humanity and war crimes. It is also important that the international community assist States in their efforts to strengthen the capacity of their legal systems so that they can hold such perpetrators to account.

The international community and the Security Council have a range of mechanisms at their disposal for combating impunity, including the International Criminal Court (ICC), national, international and mixed courts and tribunals and truth and reconciliation commissions. The adoption of Security Council resolution 1593 (2005), referring the situation in Darfur to the ICC Prosecutor, was a landmark step in the Council's efforts to combat impunity. The United Kingdom is a strong supporter, in principle and in practice, of the ICC. We urge States that have not yet done so to become parties to the Rome Statute.

The United Kingdom is also a firm supporter of the work of the International Criminal Tribunals for the Former Yugoslavia and Rwanda, the Special Court for Sierra Leone and other existing mixed tribunals. We call on all States to cooperate with and provide support to those tribunals, as the Security Council has mandated.

We welcome the adoption of Security Council resolution 1688 (2006) at the end of last week and the transfer, on Tuesday this week, of President Charles Taylor to face trial before the Special Court for Sierra Leone, sitting in the ICC at The Hague. That is a timely demonstration of the Council's commitment to ensuring that those accused of serious international crimes face justice, no matter how wealthy or powerful they may be. The United Kingdom was pleased to have been able to help in this endeavour through our undertaking to take former President Taylor if he is convicted.

Thirdly, I would like to turn to the issue of sanctions. As set out in the World Summit Outcome, we all support the need for fair and clear procedures for placing individuals and entities on sanctions lists, for delisting and for granting humanitarian exemptions; the question is how we achieve that. It is in all our interests that the Security Council's targeted sanctions be both effective and fair. We are pleased that the 1267 sanctions Committee has now started its consideration of these issues. We believe that any improved procedures agreed in the 1267 Committee should also be reflected in the practice of the other sanctions committees. It would be wrong, in our view, to see this issue in isolation. The United Kingdom is committed to strengthening fair and clear procedures across the various committees as soon as possible.

The United Kingdom supports a pragmatic approach to these issues. We welcome the paper produced by the Watson Institute in March this year with the sponsorship of the Governments of Sweden, Switzerland and Germany. This paper provides a good quarry for practical and sensible improvements to

existing procedures, and we believe that it addresses all the key issues. We trust that the 1267 Committee and other relevant sanctions committees will use the paper to inform their discussions.

Mr. Burian (Slovakia): First of all, I would like to express my thanks to the Danish presidency for organizing this very important, timely and thought-provoking discussion. This is the right opportunity to reaffirm our commitment to the purposes and principles of the Charter of the United Nations and international law as the indispensable foundation of a more peaceful, prosperous and just world. We also thank Mr. Michel and Judge Higgins for their valuable and inspiring statements and observations.

Slovakia fully associates itself with the statement to be made later this morning by the representative of Austria on behalf of the European Union. For that reason, I will limit my statement to several points we wish to underline.

We all can agree that justice and the rule of law, including respect for human rights at the national and international levels, are of key importance to the promotion and maintenance of international peace, stability and development. The focus of today's discussion is the role of the Security Council in the promotion and strengthening of international law. That role should be viewed from the perspective of the functions of the United Nations body primarily responsible for the maintenance of international peace and security and of its competencies under the Charter.

In past years the Council has had to face many new challenges, especially in the fight against terrorism and the proliferation of weapons of mass destruction to non-State actors. We commend and support the significant emphasis that the Council has placed on setting out and strengthening the international legal framework and norms for addressing those issues in an effective and comprehensive manner. We believe that the Council must continue to define the best ways and means of helping and encouraging Member States to secure full implementation of such norms and obligations.

In that regard, we believe that it is also necessary to evaluate the tools that the Security Council has at its disposal to secure the full implementation of all its resolutions and decisions in a more efficient manner so as to further strengthen its credibility and effectiveness. We hope that the ongoing discussions on reform and on the improvement of working methods, including revision of the mandate of the Security Council, will be a good opportunity to address those issues.

Last but not least, the emphasis that the Council places on the full implementation of and universal participation in international treaties is an important step towards promoting the universality of fundamental international conventions, including anti-terrorist and human rights conventions.

One of the important areas in which international law should be strengthened is the promotion of the rule of law in post-conflict situations. The Council should take advantage of the lessons already learned and consider further improvements in the promotion of the rule of law. The Security Council must include the necessary rule of law provisions in the mandates of particular United Nations operations. It is also indispensable that peacekeeping and peacebuilding operations be regularly mandated to address transitional justice and rule of law activities. The creation and development of a trusted, legitimate legal system, based on generally accepted legal principles and human rights norms, is crucial for the establishment of a truly democratic and stable State.

The new Peacebuilding Commission will have important prerogatives in the field of integrating elements related to the rule of law and transitional justice into proposed strategies for post-conflict peacebuilding and recovery, and in developing best practices on issues that will require extensive collaboration among various peacebuilding actors.

Commitment to a strengthened emphasis on international law issues in the work and functions of the United Nations goes hand in hand with a recognition of the importance of ensuring sufficient capacity within the United Nations itself, including in the Secretariat. Due consideration should be given to the establishment of a rule of law assistance unit within the Secretariat.

Ending impunity is another essential issue on which the Council should focus its efforts. Coming to terms with past abuses is the only way of preventing future ones. The main challenge in ending impunity is to ensure a balance between lasting peace and the creation of an effective justice system. We agree with Mr. Michel that there is an interdependence between peace and justice. To achieve one without the other

would leave the issue of post-conflict reconciliation unresolved.

The fight against impunity should be an essential part of any post-conflict reconciliation process. The bringing to justice of those responsible for the most serious crimes and violations of human rights committed during a conflict should form part of the overall considerations of the Council in its discussions or decisions on conflict resolution or post-conflict arrangements.

In that regard, I should like to emphasize the fact that the International Criminal Court (ICC) is the only permanent criminal tribunal that is competent and able to handle the prosecution of the most serious crimes, such as genocide, war crimes and crimes against humanity, where national judicial institutions have failed or are unable or unwilling to bring the perpetrators to justice.

The adoption of resolution 1593 (2005) has shown, for the first time, the potential of cooperation between the Security Council and the ICC in the quest to end impunity. We encourage all Member States that are not yet parties to the ICC to sign and ratify the Rome Statute.

In that context, we should not forget the role of other international, regional and national criminal tribunals or of truth and reconciliation commissions, which have already contributed enormously to preventing impunity and ensuring just, lasting and peaceful solutions, and succeeded in bringing to justice the perpetrators of international crimes and other widespread, systematic violations of human rights.

Sanctions under the United Nations Charter are an efficient tool at the Council's disposal in conflict management and in addressing and preventing violations of international law. Such coercive measures can affect not only the parties to a conflict but also large segments of the civilian population or even whole societies. Therefore it is of the utmost importance that sanctions be adopted in accordance with the provisions of the Charter and have a high degree of legitimacy. The Council must improve the efficiency and credibility of sanctions regimes. The way to achieve that goal is to focus on targeted sanctions.

The transparency and effectiveness of listing and delisting procedures are becoming a yardstick for the work of numerous sanctions committees. We note with satisfaction that several proposals made by individual Member States provide an opportunity to enhance trust and overall satisfaction regarding due process. It would seem reasonable for individuals and entities to be able to address their applications to not only one Member State but to any member of the Security Council.

The role of the focal point should be discussed in depth. In that context, there is a need for increased communication, and additional Secretariat assistance would be vital. An external review process might be another tool to ensure that the right decisions are made by sanctions committees.

We would like to emphasize the complexity of the issues involved in sanctions regimes. Ongoing attention to all related aspects is imperative, keeping in mind the financial support necessary for monitoring and expert teams, along with support for developing countries to enable them to build up their own capacities to implement sanctions regimes within their territory.

Let me conclude by underlining once again the fact that the promotion of the rule of law and the strengthening of international law in the maintenance of international peace and security is an important part of the Council's agenda. Today's discussion shows the many challenges in this regard that can be resolved only through concerted efforts, bearing in mind the rules and principles of international law together with the purposes and principles of the United Nations Charter.

Finally, my delegation fully supports the draft presidential statement prepared and submitted by the presidency.

Mr. Kitaoka (Japan): International law is the basis for the Security Council's efforts to maintain international peace and security. We welcome today's open debate to discuss the role of the Security Council in strengthening this foundation.

I would like to express my thanks to Mr. Per Stig Moeller, Minister for Foreign Affairs of Denmark, for convening and presiding over this important meeting. My thanks go also to Judge Rosalyn Higgins, President of the International Court of Justice, and to Mr. Nicolas Michel, Under-Secretary-General for Legal Affairs, for their thoughtful and enlightening statements.

Mr. President, you have focused our debate on four aspects of the role of the Security Council, namely

the promotion of the rule of law in conflict and post-conflict situations, ending impunity for international crimes, enhancing the efficiency and credibility of United Nations sanctions regimes and the peaceful settlement of conflicts. These are all important issues in which the Security Council has been directly involved and which have seen major development over the past decade. We agree that the Security Council needs to address the way forward on those issues.

Promoting justice and the rule of law means enabling a fragile post-conflict society to avoid further damage from the conflict and to reconstruct its society and build sustainable peace. In considering assistance to promote the rule of law in conflict and post-conflict situations, it is essential to secure the support and participation of the people in those situations. To that end, it is necessary that laws be applied in an impartial manner with regard to those who are socially vulnerable, especially minority groups, women and children. Nor should we overlook the importance of public relations and educational activities.

There is more than one prescription for promoting the rule of law. We believe that a United Nations compilation of best practices would be of great use in helping the new leaders concerned, and their supporters, make judgements regarding the best path to establishing the rule of law.

Ending impunity for international crimes is an indispensable step for constructing a new nation and society. It is particularly crucial that perpetrators of serious crimes be punished and that respect for law and order be strengthened. Bearing in mind that the International Criminal Court is conducting full-scale activities, it will be necessary for the Security Council to consider seriously the exit strategies for the tribunals regarding whose establishment the Council has taken decisions, such as the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda. In determining assistance to post-conflict societies, and in the discussions of the newly established Peacebuilding Commission, we hope that rule of law issues, including ways to end impunity, will be given due regard.

The efficiency of sanctions has increased since the Security Council has adopted targeted sanctions. However, with a greater focus on particular individuals and entities as the targets of sanctions, questions have been raised as to transparency, efficiency and credibility. Some of those targeted have been placed on a sanctions list by mistake and the names of some no longer eligible for sanctions have yet to be removed from the list. My Government considers that sanctions can be an effective tool for the maintenance of international peace and security. From that standpoint, we consider that many of the concerns raised can be resolved through conscientious efforts to clarify further the procedures for sanctions, reduce the possibility of evasion of sanctions by those who are true targets and allow the voices of those who have concerns over their inclusion in a sanctions list to reach the relevant sanctions committees. If those elements are achieved, we believe the credibility of sanctions regimes implemented by Member States can be improved.

As political, economic, cultural and other contacts between States and societies continue to grow, it is inevitable that the number of conflicts will increase. What is important, however, is to prevent the escalation of these conflicts and to try, as far as possible, to resolve conflicts following appropriate legal procedures. That is exactly what the United Nations, and the Security Council in particular, in close cooperation with the International Court of Justice and other judicial bodies, have to strive for. From that point of view, it is vital to ensure that law-abiding culture prevails and that international law is equitably applied, no matter what the size of the States concerned.

The Security Council has exerted efforts to establish the rule of law in societies in which peace has been restored. The Security Council has a mission to continue to pursue that goal. The formulation and application of the international legal order must be strongly supported by the international community. It is important for the Security Council to move forward by making necessary improvements in that regard. My Government will also exert its utmost efforts to that end.

Mr. Bolton (United States of America): We welcome today's discussion on the Security Council and international law, as you have entitled it, Mr. President, and we salute the efforts of Denmark in holding this debate in the Council during its presidency.

Secretary of State Rice has noted that one of the pillars of our diplomacy is "our strong belief that international law is a vital and powerful force in the search for freedom". As part of our commitment, the

United States has worked actively to expand our dialogue with other countries on international law issues. Commitment to international law does not mean that every treaty or every dispute-resolution mechanism will serve to advance our interests. Nor does it mean that we will always agree with every interpretation of our obligations offered by others. But international law often provides a useful foundation for achieving common objectives and understandings with other countries, and, where the United States agrees to be bound through such mechanisms, we will honour our legal obligations.

We have strongly supported international legal institutions. The United States supports the work of the International Court of Justice, and we welcome the presence of President Higgins in the Council Chamber for this debate. We look forward to working with her and others in the international community to promote the Court's effectiveness.

We have also supported the Security Council's use of legal mechanisms and institutions as important parts of its efforts to promote international peace and security. As one example, the Council has addressed international criminal justice issues through a number of mechanisms in order to promote accountability for perpetrators of serious crimes and to help societies torn apart by such crimes to reconcile and to avoid further conflict. In that regard, the Council has: created the International Criminal Tribunals for the Former Yugoslavia and for Rwanda to investigate and prosecute serious crimes committed in the conflicts in those countries; worked with the Government of Sierra Leone to establish the Special Court for Sierra Leone and given a mandate to United Nations peacekeepers to facilitate the arrest and transfer to the Court of former Liberian President Charles Taylor; and created the International Independent Investigation Commission to assist the Government of Lebanon in investigating the assassination of former Prime Minister Rafik Hariri and begun work on establishing a tribunal of an international character. The United States has strongly supported those efforts and believes that each has made, and will continue to make, meaningful contributions to the restoration of international peace and security in the affected regions.

The Council has also taken important steps to deter conduct by individuals and entities that may contribute to threats to international peace and security. In that regard, the Council has established a number of targeted sanctions regimes. Those regimes play a critical role in combating international terrorism and in efforts to end violence and establish stability in countries including the Sudan, Côte d'Ivoire, Liberia and the Democratic Republic of the Congo.

There has been a good deal of recent discussion about whether steps may be taken to increase fairness and transparency in the implementation of targeted sanctions. It is a priority of the United States to make the list of individuals and entities that the Security Council targets for sanctions as accurate as possible and to make the process as fair and transparent as practicable. The 1267 Committee has recently begun consideration of several interesting proposals aimed at increasing the fairness and transparency of the Committee's work. We were one of the countries that submitted a proposal. We look forward to working with Council members in the context of those discussions in the 1267 Committee to consider those proposals and to ensure that the United Nations system of targeted sanctions remains a robust tool for combating threats to international peace and security.

In sum, we again commend Denmark for having provided the opportunity for this discussion. The United States will continue to recognize the importance of international law, and we look forward to cooperating with other members of the international community in these matters.

Mr. Pereyra Plasencia (Peru) (*spoke in Spanish*): We welcome your presence here today, Sir, to guide our debate, and we commend Denmark for the excellent job that it has been doing in presiding over the work of the Security Council. We also welcome your initiative to convene this open debate on the rule of law and the maintenance of international peace and security. We also welcome the participation of Judge Rosalyn Higgins, President of the International Court of Justice, and thank her for her valuable statement. We would also like to thank the Under-Secretary-General for Legal Affairs, Mr. Nicolas Michel, for his contribution to the debate.

The rule of law must prevail both nationally and internationally. At the international level, the rule of law means respect for international law, in particular, respect for the Charter of the United Nations. Ensuring that States behave in accordance with international standards guarantees stability and predictability in the international system and is a fundamental element in

the maintenance of international peace and security. For that reason, the Security Council should always act within the framework of international law when it takes decisions.

The presence here today of the President of the International Court of Justice reminds us of the pivotal role that that principal organ of the United Nations plays in the maintenance of international peace and security and of its contribution to the achievement of the fundamental purposes of the United Nations by means of the peaceful settlement of legal disputes among States. It is extremely important that the jurisdiction of the International Court of Justice be universally accepted if it is to continue to carry out its vital work.

With regard to societies that have experienced civil conflict, the international community has fully recognized the importance of restoring the rule of law as a vital basis for lasting peace and sustainable development and for ensuring their economic and social viability and stability. In such cases, above and beyond the urgent need to re-establish the full power of the State, far-reaching changes are required. These should be reflected in legal, judicial, police and prison reforms, and, above all, in the dissemination of a culture of respect for human rights and of tolerance.

The challenge is enormous. It means leading towards tolerance and the rule of law those societies in which social exclusion is deeply ingrained and in which the social compact has not been respected or has been destroyed by political, ethnic or religious conflict. Such work requires a long-term, sustained commitment on the part of national authorities and their societies, ownership of the process by those societies and effective cooperation on the part of the international community.

As regards the tasks of the Security Council, in particular concerning the mandates of peacekeeping operations, we support the recommendations made by the Secretary-General in paragraph 64 of his report on the rule of law and transitional justice in conflict and post-conflict societies (S/2004/616).

One particular aspect that we wish to highlight is the need to combat impunity. That is essential, because it is not possible to establish the foundations for lasting peace and a democratic society where impunity exists. It is vital that we punish those who committed crimes, promote national reconciliation and help to prevent the resurgence of conflict in the future through deterrence. Until such a time as the national system for the administration of justice is re-established, or in cases where that system is facing serious difficulties, other mechanisms should carry out those tasks. The Security Council has recognized the need for legal mechanisms to contribute to the achievement of international peace and security. It created the International Criminal Tribunals for the former Yugoslavia and for Rwanda, it referred the Darfur situation to the Prosecutor of the International Criminal Court, and it recently approved the transfer of the former President of Liberia, Charles Taylor, to The Hague, where the Special Court for Sierra Leone will be making use of the premises of the International Criminal Court (ICC).

Peru is firmly committed to combating impunity, and it recognizes the important work being done by the ICC in this regard. The Security Council must continue to support the Prosecutor in the investigation under way concerning the crimes committed in Darfur and ensure that the Sudan cooperates promptly and properly, in keeping with the Council's relevant resolutions.

Likewise, the Security Council should provide the firmest possible support on the ground for the apprehension of the five leaders of the Lord's Resistance Army for whom an arrest warrant has been issued by the ICC. Their arrest and subsequent trial at the ICC will help the Council in fulfilling its task of re-establishing international security and peace in the region.

In order to ensure the efficient functioning and credibility of the Security Council's sanctions regimes, it is essential to address the concerns that have been expressed concerning their application in the case of individuals and the need to have more consistent procedures with respect to human rights and, in particular, respect for due process.

The sanctions Committee created pursuant resolution 1267 (1999) is currently carrying out a review of its procedures for placing individuals and entities on its consolidated list and for removing them from it. We commend the efforts being made in this process by the current Chairman of the Committee, Ambassador César Mayoral, Permanent Representative of Argentina, in order to ensure that our deliberations are productive.

Mr. Shcherbak (Russian Federation) (*spoke in Russian*): I would like to thank you, Mr. President, for having taken the initiative to convene a debate on this issue in the Council today. We are also very grateful to Judge Higgins and Mr. Michel for their informative briefings. There can be no doubt that today's theme is extremely relevant in the context of the work of the Security Council, as well as for the Organization as a whole. We are convinced that promoting the rule of law in international relations is the cornerstone of any lasting system of collective security, in which the United Nations, the General Assembly and the Security Council play a key role.

Nor must we forget the role of the International Court of Justice and the International Law Commission in establishing, compiling and developing modern legal norms at the international level. International law is civilization's unique achievement. It must always prevail over the selfish aims and interests of individual States.

Today we have an opportunity to consider the interrelationship between the rule of law and international peace and security from the perspective of the Security Council's role in that process. I do not know what legal experts would say as to whether the Security Council can create law, but it is obvious that in the recent past its legislative activities have influenced the establishment and interpretation of international legal norms. In that regard, suffice it to point to Security Council decisions on the establishment of ad hoc international criminal tribunals, its adoption of resolutions reasserting the right of States to self-defence in the event of terrorist attacks against them, and the universally mandatory character of decisions concerning measures to counteract terrorism and the proliferation of weapons of mass destruction. We believe that those innovations in the work of the body with the primary responsibility for the maintenance of international peace and security merit the attention of legal experts.

The Charter of the United Nations confers upon the Security Council the primary responsibility for the maintenance of international peace and security. It also gives it the necessary powers to do so, from making recommendations with regard to the peaceful settlement of disputes, including support for regional agreements, to the use of coercive measures. The Council is also unique in that it is the only body in the United Nations system endowed with the power to enforce the implementation of its own decisions.

In the course of the last decade and a half, we have seen the Security Council play an increased role and make greater use of its potential. It faces more difficult tasks in meeting old and new threats and challenges, primarily those posed by international terrorism. In line with that trend, the means at its disposal are also evolving. It is for that very reason of considerably increased responsibility that the Security Council should pay particular attention to reasserting the principle of the rule of law, in both its own work and its relations with other United Nations bodies, organizations and States.

As we are all aware, in the early stages of establishing the rule of law in post-conflict situations, we have established expensive international tribunals whose work, as experience has shown, has not been effective enough. Most important, such tribunals have been cut off from the realities of the societies with regard to which they operate. The international community has placed great hopes in the International Criminal Court to counteract the culture of impunity. The Russian Federation has consistently upheld its belief that we cannot successfully combat impunity unless we take account of local conditions and traditions.

The United Nations should not be a substitute for national measures to establish a legal system for bringing the guilty to justice; rather, it should provide an impetus for doing so. Extinguishing the flames of conflict between warring parties is not enough. The United Nations must be closely involved in the complex task of establishing peaceful conditions. The Peacebuilding Commission will become an important instrument for the international community to support countries emerging from hot crises. It will work at the nexus between the efforts of the Security Council, the Economic and Social Council, representatives of international financial institutions and the donor community. The Security Council will no doubt have a central interest in the work of the Peacebuilding Commission, and it is important that the Commission's advice be in line with existing mechanisms for the management and coordination of integrated United Nations peacekeeping missions.

We welcome the various processes launched by the Council to share experiences and best practices in

updating the procedures of its subsidiary bodies. We consider the work done by the Committee established pursuant to resolution 1267 (1999) to improve the sanctions regime to be particularly important. Sanctions are an important tool in the maintenance of international peace and security, and they are utilized by the Security Council under the powers conferred upon it by Chapter VII of the Charter. It is important that sanctions regimes adhere to fair and clear procedures, without impinging upon the Council's powers or detracting from the primary goal of improving the effectiveness of sanctions.

Here too, we believe that priority should be given to improving national laws in this area. We are convinced that the proper resolution of many problems at the national level would keep those problems for exploding on the international scene. The international community must encourage States to take effective steps in this area.

In conclusion, I would like to touch upon an important issue, namely, the Security Council's recourse to Chapter VII. We believe that debating this matter is particularly relevant in the context of discussing the rule of law and the maintenance of international peace and security. Unfortunately, we have recently noted a trend towards increased recourse by the Council to Chapter VII of the Charter. In that connection, I would like to stress that employing Chapter VII is justified only in situations where the Security Council determines that there is a threat to peace or a violation of international law in a given region. Discussion of enforcement measures and use of force can take place only once all other avenues of ensuring international peace and security have been exhausted. The outcome document of the 2005 summit of heads of State and Government (General Assembly resolution 60/1) stated that peaceful coexistence and cooperation among States requires a commitment to the purposes and principles of the Charter and international law. The Russian Federation fully shares that belief, which we think can be realized. That would serve as a guarantee for a peaceful, prosperous and just future.

Mr. De La Sablière (France) (*spoke in French*): First of all, I too would like to say how much we appreciate the fact that Denmark has taken the initiative to organize today's consideration of the Security Council's contribution to strengthening international law.

As set out in the Preamble to the Charter, our Organization was born out of the desire to save succeeding generations from the scourge of war, protect fundamental human rights and ensure justice and respect for international law. Each of the organs of the Organization must play its role. We have had the honour to hear from the President of the principal legal organ of the United Nations, who emphasized the relevance of the work of the International Court of Justice. The number of inter-State disputes submitted to it and of requests for opinions by United Nations organs testifies to the Court's vitality. To dispense justice is a crucial responsibility in terms of defining the structure of the international system. Applying justice is also vital.

The Secretary-General, on whose behalf Mr. Nicolas Michel, Under-Secretary-General for Legal Affairs, has just spoken, also plays a significant role in that regard, as demonstrated by the recent signing of the agreement on implementation of the International Court of Justice judgment concerning the Bakassi Peninsula.

The Council's essential contribution in ensuring respect for international law in situations where there is a threat to international peace and security is well known. I would therefore like to address myself to the most recent changes in the practices of the Security Council, as well as to set out a few guidelines for future undertakings.

First of all, with regard to ensuring the responsibility to protect, at the September 2005 summit heads of State or Government solemnly acknowledged the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. That represented significant progress and was the outcome of a long process — undoubtedly launched by the Council when it acknowledged, in resolution 688 (1991), the impact of the repression of the Iraqi civilian population on peace and security in the region. The Security Council must always bear that responsibility in mind, and act when a State is clearly not protecting its own people from such serious crimes. The international community must take timely action.

The second development pertains to combating impunity. When we have been unable to avert tragedy, we must prevent it from being repeated. One way of doing that is by identifying and punishing those principally responsible.

In creating the international criminal tribunals for the former Yugoslavia and Rwanda, the Council has made the fight against impunity an essential element in the restoration of peace in societies that have experienced large-scale atrocities. In so doing, it has promoted the expansion of international justice, culminating in the creation of the International Criminal Court.

The establishment of that first permanent and universal Court is a cause for great hope. No perpetrator of the most serious violations of international humanitarian law and human rights today can hope to go unpunished. The Council must not hesitate to submit situations to the Prosecutor of the Court, as it has done in the case of Darfur. The Council must provide determined and tireless assistance to the institutions it has established, referred to or supported. While Charles Taylor is being sent to The Hague, with our support, it is unacceptable that, so many years after the tragedies that led to the creation of the ad hoc tribunals, high-level indictees remain at large. States must cooperate fully with the International Criminal Court and with the mixed or international tribunes.

The Council must also ensure that, in matters with which it is seized, States' requests to the Secretary-General for assistance in the field of justice are satisfied. That is the case for both Burundi and Lebanon. The Council must continue to help the latter country and its people as they seek the truth and in their resolve to bring to justice all those who participated in the terrorist attack on Rafik Hariri by creating an international tribunal. The Council has given the Secretary-General a mandate to that end, and we look forward to the early completion of discussions with the Lebanese authorities.

Thirdly, as to promoting the rule of law, it is by supporting the establishment of political institutions that respect the rule of law and human rights, and by encouraging the creation of effective national measures to counteract terrorism and impunity, that the Council can ensure the durability of peace and security. The Secretary-General's 2004 report on re-establishing the rule of law — a remarkable document that remains relevant today — has lessons to teach that should be heeded by the Peacebuilding Commission, which will hold its inaugural meeting tomorrow.

The assistance to be provided by the international community to countries emerging from conflict should be based on an in-depth analysis of local capacities and needs, and not on external models. Such an analysis should be made by recognized experts who understand the local environment and based on international norms for the protection of the individual. It should also be part of a comprehensive approach and — a point that my country wishes to highlight — take greatest account of the victims, who must be recognized, rehabilitated and compensated.

I turn now to the issue of the effectiveness of sanctions, which must be strengthened. Sanctions are an absolutely essential political instrument for applying pressure. The Council has gradually improved its sanctions regimes by targeting individuals who have violated embargoes, hindered peace processes, been linked to Al-Qaida, perpetrated crimes or incited hatred. We must improve that instrument.

The Council's effectiveness depends in part on its capacity to persuade States resolutely to implement the measures that it has established. That is particularly clear in the field of counter-terrorism. Recently, however, we have seen a sudden loss of confidence in some countries with regard to the delisting mechanisms of the sanctions committees. Some States, believing that, once listed, an individual cannot practically be delisted, hesitate to add new names to the list of the Al-Qaida/Taliban committee. The Council must correct that view by creating an effective mechanism.

To that end, France has proposed the creation within the Secretariat of a focal point for receiving delisting and exemption requests directly from the individuals listed. The creation of such a focal point, to be shared by all the sanctions committees, would allow the procedure to be more accessible, transparent and standardized and ensure that all requests are considered. We deeply hope that our proposal will enjoy broad support and be implemented as soon as possible.

Exercising the responsibility to protect, fighting impunity, establishing the rule of law and improving the sanctions system are goals that my country hopes to see implemented and pursued by the Council with greater resolve.

Mr. Mayoral (Argentina) (*spoke in Spanish*): We would like at the outset to thank the Danish presidency of the Security Council for convening this open debate. We are honoured by the presence here today of Mr. Moeller, the Foreign Minister of Denmark.

We also welcome the statement and the presence of Judge Rosalyn Higgins, President of the International Court of Justice. We learned a great deal from her briefing. Argentina believes that the International Court of Justice is our Organization's basic pillar of international law.

Our country attaches the greatest importance to the affirmation of the rule of law as a requisite for achieving peace and security at the national level, and especially within the framework of the action of the Security Council.

Argentina's history in recent times allows us to appreciate even more deeply the importance of democracy and the rule of law. The socio-economic and political crises that we have experienced, and which were resolved in accordance with the Constitution and the law, strengthened the attachment of Argentine society to those basic values of coexistence, which must be defended and preserved. The rule of law is a system in which the law treats all individuals equally.

The Security Council's mandate under the United Nations Charter to secure international peace and security gives its action a key leading role in the formulation and application of the rules of international law. We believe that the global interest is part and parcel of each of the national interests that we defend, since the Security Council is the international institution entrusted with the greatest responsibility. We also believe that human rights law falls within that category of inalienable global values.

Legitimacy, democracy and justice are values in the building and maintenance of peace that must guide the action of the Council in conflict management and post-conflict situations. We must continue effectively to apply the criteria and recommendations proposed by the Secretary-General in 2004. To that end, we believe that it is most necessary that we receive the report that was requested at that time, and that a rule of law assistance unit be established within the Secretariat, as requested in the outcome document of last year's summit of heads of State and Government. At the institutional level, we must promptly and effectively create that unit vis-à-vis the Security Council and the Peacebuilding Commission.

The link between peace and justice is essential and was the impulse behind the Council's creation of the international tribunals. We must continue to work together and to support politically and financially the international tribunals for the former Yugoslavia, Rwanda and Sierra Leone.

Here, I wish again to emphasize Argentina's support for the work of the International Criminal Court. In recent months, the objectives for which the Court was created are beginning to be attained. We note, inter alia, the investigations under way, the transfer to The Hague of Thomas Lubanga and Charles Taylor, the arrest warrants issued for the leaders of the militia known as the Lord's Resistance Army in Uganda and the endeavours to meet the objective of referral of the Darfur case.

In that context, we urge the Sudanese authorities to cooperate fully with the Office of the Prosecutor of the Court so that the investigation may be carried out, while providing security for the witnesses. We encourage the Security Council to continue to cooperate with the Court to put an end to impunity, thereby continuing towards a universal system of justice which will prevent future crimes and will ensure that perpetrators do not go unpunished. For that reason, we urge all States that have not yet signed or ratified the Rome Statute to do so as early as possible. The international community wants an International Criminal Court with truly universal jurisdiction and competence.

Combating impunity and promoting the rule of law should be a firm policy of the Security Council. Effective implementation of human rights reduces the conditions that lead to threats to, and violations of, international peace and security, which, as we all know, are for the most part intra-State conflicts.

As a result of our painful historical experience, Argentineans know that justice may be secured only through knowledge of the truth, and that all flagrant human rights violations should be brought before the courts. Impunity cannot be tolerated. Thus, Argentina along with other Governments, is actively participating in the preparation of an international convention for the protection of all persons from enforced disappearance. Here, we urge all States Members of the Organization to adopt the draft convention during the first session of the Human Rights Council, which began this week in Geneva.

Lastly, I would like to refer to the Security Council Committee established pursuant to resolution 1267 (1999), the Al-Qaida and Taliban sanctions

committee, which is chaired by Argentina. As regards the Council's application of sanctions, we believe that the 1267 Committee may suggest a productive way of fulfilling the mandate issued by heads of State at the 2005 summit, in order to ensure that the procedures used for listing and delisting individuals and entities on the sanctions list, as well as for granting humanitarian exceptions, are clear and fair.

As Chair of the Committee, my delegation has sought to maintain impartiality in the negotiations on reviewing the Committee guidelines, a process that has just begun. But we believe we must do our utmost to include and respect the basic elements and standards of due process. We need to arrive at a consensus and strike the proper balance between security and intelligence imperatives and respect for human rights.

While we know the Council acts on behalf of all United Nations Members pursuant to Article 24 of the Charter, we must also be aware of the perceptions that exist outside of the Council — among Members, in national courts and in parliaments — that the Council has decided at times to act as a global judge and legislature.

However, the Charter also states that the Council has duties and we must also take jus cogens into consideration. Therefore, we appeal to Council members to make every effort to achieve consensus in the review of the guidelines of the 1267 Committee and thus improve its legality and legitimacy. Political responsibility, common sense and the strengthening of international law should impel us to achieve those objectives. We are certain that we shall achieve them if we make the effort.

Mr. Al-Nasser (Qatar) (*spoke in Arabic*): Qatar commends the Danish delegation for convening the debate on this important issue. We welcome Judge Rosalyn Higgins, President of the International Court of Justice, and Under-Secretary-General Michel for their participation in today's important debate.

International law and norms play an important role in the maintenance of international peace and security. Strengthening international law and norms is a prerequisite for living in peace and security. However, the effectiveness of the international legal system depends on the degree of commitment shown, in particular, by the powerful States that play a primary role in the system. Thus, one question must be answered: Do those Powers want an effective international legal system that leaves its mark on international relations — whose main features are decided by the politics of particular international legal contexts?

Accordingly, if we are to evaluate the performance of States, acting either individually or through their participation in international organizations such as the United Nations and its main organs, including the Security Council — or indeed if we are to evaluate the performance of those organizations and organs — we must consider their commitment to the provisions of international law and norms. We have all come to realize that the more effective and robust international law is, the more it irritates such Powers.

Legal norms and the rule of law form a system that cannot be brought to full, sustainable fruition overnight, either locally or internationally. The benefits we derive from that system are long-term, but only people with vision realize that. The international community thrives when the rule of law and political power act seamlessly in tandem, not when they collide. With power comes responsibility; even the shortsighted realize that the absence of the rule of law leads to anarchy, fragmentation and loss.

The rule and norms of international law translate into a source of stability, security and safety for all the peoples of the world and thus, for the international community. No Power, no matter how strong, and no international organization or organ such as the Security Council — whatever its mandate — can achieve international peace and security without scrupulously observing the provisions of international law and strengthening the rule of law. Commitments by world leaders to uphold the principles and purposes of the Charter and the norms of international law, as a precondition for prosperity and peace for the world's peoples, will not be enough unless they are translated into action.

The peoples of the world have been vocal in calling on the United Nations and, in particular, the Security Council to strengthen international law and promote the rule of law. That honourable course must be pursued if international peace and security are to be maintained. Regrettably, however, armed conflicts continue to rage mercilessly, killing constituent members of the international community in full view of the relevant international organizations.

In post-conflict situations, neglect, political mayhem and discriminatory practices undermine international human rights standards. Impunity is rampant for reasons well known to us all. Foremost among them is the absence of genuine political will on the part of some influential Member States which manipulate the international decision-making process. Another reason is the failure to bring the perpetrators of such crimes to justice, in either international or national courts.

Current policies which target individuals for sanctions do not take into account due process when listing and delisting individuals on sanctions lists. Moreover, failure to provide an effective mechanism to review those decisions could undermine the credibility of the Security Council and its effectiveness in maintaining international peace and security.

Similarly, the Security Council's policies for combating terrorism may face a credibility gap. Indeed, these policies have reached a turning point of sorts. Individuals listed on sanctions lists by committees established pursuant to Security Council resolutions have challenged such resolutions and sanctions regimes, particularly those regarding Al-Qaida and the Taliban, by taking their cases to regional and national courts and arguing that their basic rights, including property rights, the principle of proportionality and due process, have been violated. One of the most prominent regional courts has ruled that courts can review Security Council resolutions to verify that they are consistent with internationally recognized standards of human rights, and that no State Member of the United Nations — nor the United Nations itself, nor the Security Council — can ignore, violate or bypass those standards.

This legal and judicial impasse can be overcome, because we now live in a time when it has become taboo to sacrifice human rights for any reason. Judges and other honourable men and women spend long hours trying to protect the rule of law regardless of the circumstances. Those individuals will uphold the truth because they are committed to the implementation of the law.

Here in the United Nations, and in the Security Council and its committees, we have made, and will continue to make, contributions to address and improve the situation and to strengthen international law and the rule of law, together with all other peace-loving countries that respect and defend the rule of law. We cannot delay working together to restore security, human rights and the rule of law. We all must stand united in order to achieve our noble objective, namely, that international peace and security be a reality for all peoples of the world.

Mr. Mahiga (United Republic of Tanzania): We thank you, Madam President, for organizing this debate to revisit the important issue of the rule of law. We also acknowledge the presence of your Minister for Foreign Affairs; this is the second time he has been with us, which demonstrates Denmark's principled position on the United Nations, and on the Security Council in particular. We also thank Judge Rosalyn Higgins, President of the International Court of Justice (ICJ), for her seminal presentation this morning. Equally, we thank Mr. Nicolas Michel, Under-Secretary-General for Legal Affairs, for his contextual presentation for this debate.

Under the Charter, the Security Council has a major role to play in implementing international law with regard to the peaceful resolution of disputes and the maintenance of international peace and security. This forum provides us yet another opportunity to reflect and to engage in a constructive dialogue on how we apply the legal tools in our day-to-day responsibility of maintaining international peace and security.

Working within the purview of international law, the Council has a legal obligation to contribute to the development and interpretation of international law. In that context, one cannot but appreciate the progressive evolution of numerous international legal mechanisms that have been instrumental in carrying out the Security Council's responsibilities. The establishment of the International Criminal Tribunal for the Former Yugoslavia, the International Criminal Tribunal for Rwanda, the Special Court for Sierra Leone and the International Criminal Court (ICC) are among the major innovations that have come about in recognition of the need to address international law.

The challenge to the rule of law and international law posed by non-State actors can be daunting, but it is not impossible to deal with. The indictments issued by the ICC against non-State actors, such as the Lord's Resistance Army, demonstrate the growing determination of the international community to address international criminality and impunity.

The Council has been taking appropriate steps in accordance with the requirements of the relevant provisions of the Charter with respect to conflict and post-conflict situations. The focus has been on discharging its responsibilities on the issues of the rule of law, human rights, transitional justice and international humanitarian law. We commend, in particular, the efforts taken through peacekeeping missions to restore law and order in conflict and post-conflict situations. While appreciating the positive efforts that have been made so far, we are conscious of the remaining gaps in the implementation of the existing legal framework. In order to address those gaps, the Council must strengthen mechanisms for the protection of civilians in armed conflict and post-conflict situations.

In that context, we recognize and underline the role of the International Court of Justice in complementing the role of the Security Council in the maintenance of international peace and security.

The United Republic of Tanzania attaches great importance to the responsibility of States in ending impunity and prosecuting those responsible for war crimes, genocide, crimes against humanity and serious violations of international humanitarian law. In that respect, we would like to reaffirm our commitment to and support of the International Criminal Court and the principle that States and the international community as a whole have a responsibility to protect.

In the same context, we applaud the establishment of the Peacebuilding Commission. We strongly believe that it will play a pivotal role in establishing judicial systems, the rule of law, reconciliation and the institutionalization of human rights in post-conflict situations as part of good governance.

It is on the basis of that conviction that we support the establishment of a rule of law assistance unit in the Secretariat. We believe that following its establishment, the unit will be able to work hard, and hand in hand with the Peacebuilding Commission, to ensure that the rule of law prevails in post-conflict situations, and that it will play a significant role in preventing conflict as well.

Progressively, sanctions have become one of the major policy tools of the Security Council. They have become an indispensable instrument in the Council's effort towards addressing the most rampant violations of human rights and international humanitarian law in conflict situations and beyond. However, by their very nature, sanctions, whatever form they take, are punitive. In their application, we should never lose sight of their intended primary objective, that is, to elicit compliance and cooperation from the parties in ending conflicts, and not simply to punish the targets. Sanctions should be applied in order to exert pressure on those parties which fail to cooperate in peace efforts or to prevent human rights violations, war crimes, crimes against humanity and violations of international law.

Understood and applied in that way, sanctions regimes should be temporary rather than permanent in nature. This understanding is important in determining the credibility and effectiveness of sanctions. Based on this perception, discussion of a systemic and standardized approach to, and procedures for, listing and delisting becomes essential.

In conclusion, we welcome the ongoing efforts directed towards addressing the difficulties Member States are facing in implementing United Nations sanctions regimes. It is important to strike a balance between enhancing the efficiency of sanctions against targeted individuals and respect for the rule of law and the human rights of the individuals concerned.

Mrs. Telalian (Greece): I would like to begin by expressing our appreciation to you, Madam President, for organizing this important debate on an issue that is, in our view, a critical component for lasting peace and security. We also thank Judge Rosalyn Higgins, President of the International Court of Justice (ICJ), and Mr. Nicolas Michel, Under-Secretary-General for Legal Affairs, for their important contributions earlier today.

Greece would like to associate itself with the statement to be delivered later by the Austrian Presidency of the European Union.

The importance of international law and the rule of law is reflected in various United Nations conferences and summits, including the Millennium Summit and the September 2005 summit, where world leaders reaffirmed their commitment to the United Nations Charter and to international law and recognized them as the indispensable foundations of a more peaceful, prosperous and just world. World leaders also recognized the rule of law and human rights as principal values of the United Nations system

and emphasized the important role of the International Court of Justice in the prevention and resolution of disputes among States. We are strongly committed to those principles. With respect to the ICJ, we urge States that have not yet accepted the compulsory jurisdiction of the Court to do so and to make more frequent resort to the Court.

The Security Council, which has the primary responsibility for the maintenance of international peace and security, should do more to promote the pacific settlement of disputes. In that respect, we would like to underline that full implementation of the judgments and advisory opinions of the ICJ would further enhance its role in promoting legality and the primacy of international law in international relations. The Council could also consider recommending — by virtue of Article 36, paragraph 3, of the Charter — that the parties refer a case to the ICJ. We are pleased that Judge Higgins mentioned the need for that tool to be brought to life. We fully agree.

The United Nations has been actively engaged in issues related to the promotion of the rule of law and transitional justice in war-torn societies. The Security Council, for its part, has been supportive of the principles of the rule of law and accountability for international crimes in conflict and post-conflict societies. The creation of the two International Criminal Tribunals was a remarkable development that can help those societies overcome past abuses and achieve peace and national reconciliation.

The Security Council has also supported the establishment of mixed international-national hybrid tribunals to try the perpetrators of serious crimes. The establishment of United Nations commissions of inquiry to report on serious human rights violations in specific countries is another means used by the Council to address impunity, as, for example, in the case of Côte d'Ivoire. It is important, however, that the findings and recommendations of those commissions be discussed by the Council and that the reports be made public.

In addition, the referral of the situation in Darfur to the International Criminal Court (ICC) was a bold step in the direction of combating impunity through international justice, since the ICC is, in our view, a symbol for a new world order based on the rule of international law. The Security Council should now provide the Court with the support it needs to accomplish its difficult mission to investigate, prosecute and bring to justice those who bear the greatest responsibility for war crimes committed in Darfur. A major concern in that regard is the need to protect witnesses.

Likewise, resolution 1688 (2006), on the transfer of Charles Taylor to The Hague to be tried by the Special Court for Sierra Leone on the premises of the ICC, and resolution 1674 (2006), on the protection of civilians in armed conflict, reaffirm the Council's commitment that justice and peace are mutually reinforcing.

The Council should, however, take further steps to ensure fair and expedient justice when serious violations of humanitarian law have taken place. In that regard, the recommendations of the Secretary-General contained in his report on the rule of law and transitional justice in conflict and post-conflict societies (S/2004/616) could be of great help. We urge the Secretariat to prepare a report containing proposals concerning the implementation of those recommendations, as requested by the Council in 2004.

In recent years, the United Nations has moved progressively from a culture of reaction to a culture of prevention. An integrated approach to conflict prevention, conflict management and peacebuilding has been developed to deal with the new and expanded agenda of peace and security. The protection of human rights — especially those of children and women in armed conflict, as well as of refugees and internally displaced persons — has assumed a prominent place on that agenda.

The Security Council, breaking with its tradition of dealing with individual crises, has adopted a number of resolutions to reinforce these issues. Resolution 1674 (2006), on the protection of civilians, contains important elements to promote respect for international humanitarian law, to pursue justice and the rule of law and to protect civilians against human rights abuses in conflict and post-conflict situations. The Council should now implement these elements consistently in its future mandates for peacekeeping operations.

Post-conflict peacebuilding is a major priority for the United Nations system. The establishment of the Peacebuilding Commission will promote important aspects of the rule of law in conflict-affected countries, such as respect for human rights, constitution-making,

transitional justice mechanisms and legal and penal reform, and will help alleviate many ethnic tensions.

On many occasions, the Security Council has used targeted sanctions as a tool to modify the behaviour of specific actors whose actions have been identified by the Council as threats to international peace and security. Targeted sanctions are also currently used against those who commit serious violations of human rights and international humanitarian law, incite hatred and impede the peace process.

There are, however, serious concerns about the lack of fair and clear procedures for placing individuals and entities on — and removing them from — sanctions lists and for granting humanitarian exceptions. Those concerns were also expressed at the September 2005 world summit. In our view, the Security Council should address this problem as soon as possible. The sanctions committees should amend their guidelines to bring them in line with procedural fairness and effective remedy requirements. In that respect, we would like to emphasize the important contributions of Council members France and Denmark, as well as of various processes. The recent report published by the Watson Institute, "Strengthening Targeted Sanctions through Fair and Clear Procedures", which was sponsored by the Governments of Switzerland, Germany and Sweden, provides many useful options to that effect, and we urge the sanctions committees to take those options into consideration. I would like to add that we listened with great interest to the comments made earlier by the Under-Secretary-General for Legal Affairs on that issue. We fully subscribe to his statement.

I would like to conclude by quoting Mrs. Louise Arbour, United Nations High Commissioner for Human Rights, who, in a recent address at Chatham House, stated:

> "With the continuing threat of terrorism, and indeed with persistent armed conflicts and the ever more perverse effects of extreme poverty, as we experience this prolonged exposure to real and perceived threats to our security, we are also faced with an extraordinary opportunity to forge a worldwide jurisprudence capable of protecting fundamental human rights when it matters most."

That is, indeed, the challenge of our time.

Nana Effah-Apenteng (Ghana): At the outset, on behalf of my delegation, I wish to commend you, Mr. President, for organizing this debate, which has given us yet another opportunity to examine and reaffirm time-honoured values and principles that have enabled us to avoid the fate of those who experienced the horrors of the First and Second World Wars. The world is showing less and less tolerance for impunity and egregious violations of human rights, ethnic cleansing and genocide, and wars of aggression that threaten the independence and right to self-determination of sovereign States.

The enduring lesson of the Second World War is that the continued maintenance of international peace and security is inextricably linked to the observance of the rule of law in the conduct of international relations. In that regard, the 2005 World Summit Outcome document was clear when it affirmed, in part 1, paragraph 6,

> "the … importance of a … multilateral system, in accordance with international law, in order to better address the multifaceted and interconnected challenges and threats confronting our world". *(General Assembly resolution 60/1)*

That proclamation is in consonance with our firm conviction that multilateralism should drive our approach to international issues and that the foundation of that multilateralism should be the international rule of law. Today, as we confront the threat to human survival posed by the proliferation of weapons of mass destruction, terrorism, authoritarianism, poverty and armed conflicts, we need to insist with even greater vigour that the rule of law must underpin our approach to multilateralism. In saying this, I am all too mindful of the enormous challenges faced by the United Nations as it embarks on profound reforms, in order to become more effective and credible as the pre-eminent tool of multilateralism in the twenty-first century.

On the promotion of the rule of law in conflict and post-conflict situations, it is clear that a great deal more of the attention, resources and focus of the international community must be redirected towards addressing the root causes of conflicts. While well-tested mechanisms and procedures such as peacekeeping have been in place for years to handle conflict and post-conflict situations, there is a need to correct this lopsided emphasis, tilting it more towards pre-conflict situations. Extreme poverty, ethnic tension

and racial, cultural and religious intolerance, set against a background of poor governance and human rights abuses, have been known to ignite conflict.

The responsibility of the United Nations and of the international community at large is to note such danger signals and take appropriate action to ameliorate the situation before it degenerates into conflict. This is a critical area that has often been overlooked. It is more cost-effective to troubleshoot when warning signals are evident than to contain a conflagration, with the attendant toll in human lives and huge peacekeeping costs. An effective system of early warning could greatly reduce the incidence of conflicts. Such an early-warning system could trigger action by the international community, using a wide array of tools and mechanisms, such as fact-finding missions, mediation and conciliatory efforts, arbitration and sanctions. Such measures may be necessary to restore the rule of law and justice in societies that are on a trajectory to conflict.

As stated by the Secretary-General in his report on the rule of law and transitional justice in conflict and post-conflict societies, prevention is the first imperative of justice. Post-conflict situations require the building of institutions of governance and justice, while at the same time gradually rebuilding the trust and confidence of a traumatized population in those institutions.

Transitional justice systems will therefore have to take into account the victims of past abuses and fashion a mechanism of national reconciliation by which the perpetrators of such abuses can at least atone for the wrongs done, if not brought to justice. There is a vital need for the international community to support this fragile process with the necessary political commitment and financial resources, if vested interests that feel threatened do not derail the peace and transitional processes.

We believe that the newly established Peacebuilding Commission will address effectively such post-conflict issues. We call on the international community to show the necessary political will and commitment to the Peacebuilding Commission by providing appropriate resources to enable it to play the role envisaged for it.

The need to end impunity for egregious violations of human rights, crimes against humanity, genocide and wars of aggression is necessary for the maintenance of the rule of law and international peace and security. On this point, we are happy to note that the International Criminal Court (ICC), whose creation was a landmark in the development of international humanitarian law, is now fully operational and has commenced investigations in a number of cases. The referral by the Council of the Darfur situation to the ICC is an important milestone in the Court's development. We also note with satisfaction the achievements of the International Criminal Tribunal for the former Yugoslavia and of the International Criminal Tribunal for Rwanda. My delegation hopes that the Council will be flexible on the question of the completion strategy of those two tribunals so as to enable them handle the most serious cases successfully.

We also recognize the role of the International Court of Justice in adjudicating disputes between States. We believe that recourse to the Court has been very effective in reducing tensions between parties to international disputes. The facilities of the Court will be needed more than ever for the rule of law to prevail in international relations.

The question of enhancing the efficiency and credibility of United Nations sanctions regimes is one of the major challenges of our times. Sanctions, properly calibrated and applied, remain one of the most important tools for the maintenance of international peace and security and for fighting terrorism. In moving from a system of general sanctions to targeted sanctions, the challenge is to make targeted sanctions "smarter" by limiting or, ideally, eliminating the effects on the general population, without compromising their effectiveness.

The 2005 World Summit Outcome document called on the Security Council to ensure fairness and clarity in the placing and removal of individuals and entities on sanctions lists.

Issues of transparency, accountability and fairness have been raised with regard to the listing and delisting process under Security Council resolution 1267 (1999). While commending the 1267 Committee for its efforts to review its guidelines to address these problems, we are concerned about growing court challenges to the listing decisions of the Committee. To pre-empt such challenges, which have the potential to undermine the credibility not only of the 1267 Committee but of United Nations sanctions regimes as a whole, we support the creation of an appeal or review

mechanism. Our preference would be for a review mechanism distinct from the 1267 Committee. In that regard, we will examine favourably the recent French initiative for the establishment of a focal point in the United Nations for this proposal.

However, this does not answer a fundamental question which is now confronting us: Is a decision of a Security Council sanctions committee subject to judicial review in Member States? That also raises the issue of which system has primacy — the United Nations or the judicial norms of Member States. Until this conflict is resolved, the problem may persist.

In resolving this conflict, we may need to amend the critical sanctions resolutions to the extent that they request Member States to incorporate them into their domestic legislations and compel the courts to enforce and implement them.

Finally, I wish to stress the collective responsibility of all States Members of the United Nations to work towards the strengthening of international law, the rule of law and the maintenance of international peace and security, both within the domestic sphere and on the international plane, by practicing good governance and accountability and observing and implementing all international conventions and instruments.

Mr. Li Junhua (China) (*spoke in Chinese*): At the outset, Sir, I would like to thank you for personally presiding over this meeting. I would also like to thank Under-Secretary-General Nicolas Michel and Judge Rosalyn Higgins for their statements.

At the United Nations summit last year, world leaders reaffirmed their commitment to the purposes and principles of the Charter of the United Nations and to other norms of international relations as the indispensable foundations of a more peaceful, prosperous and just world. The establishment of fair, democratic and harmonious international relations based on international law is the aspiration of the people of the world and the trend of our times. Building a foundation based on the rule of law is of significant importance to ending conflict and to realizing stability and post-conflict reconstruction.

As the major United Nations organ responsible for the maintenance of international peace and security, the Security Council not only performs its functions within the framework of international law, but also plays an important role in strengthening international law. From that perspective, there is no doubt that today's meeting is timely and helpful.

Here I would like to stress the following points. First, strengthening the rule of law during and after conflicts is both a necessary prerequisite for peaceful transition in the context of a conflict situation and a fundamental guarantee for the consolidation of lasting peace in the long run. In the absence of the rule of law, there can be no genuine and lasting peace. At the same time, we must also realize that strengthening the rule of law is not merely a legal matter but is closely related to political, economic and social factors. The various aspects of post-conflict reconstruction should not be dealt with separately, in isolation. Instead, they should be integrated as a whole, with systematic coordination and mutual enhancement, so as to ensure a successful transition and the elimination of potential causes of the recurrence of conflicts.

Secondly, the support and assistance of the international community are indispensable to strengthening the rule of law in conflict areas. One important way of eliminating the root causes of armed conflict and preventing any recurrence of conflict is to strengthen the rule of law and transitional justice.

In that respect, the United Nations should mobilize global resources in a timely manner, and the international community, especially donors, should respond positively. In providing assistance, it is necessary for the United Nations to take full account of local historical customs, cultural traditions and legal systems, respect the autonomy and right of decision of the local people and provide guidance on the basis of actual situations and needs, with particular emphasis on assisting local capacity-building in the area of the rule of law.

Thirdly, organs of the United Nations system should strengthen their coordination, exchange experiences and adopt multiple ways to improve rule of law. It is also necessary to enhance capacity-building in the sphere of the rule of law within peacebuilding operations. The Security Council should engage in close communication and coordination with the Peacebuilding Commission in a joint effort to enhance capacity-building in the area of the rule of law in conflict areas, including by establishing and improving transitional justice mechanisms, effectively putting an end to impunity and bringing about reconciliation, thus

creating a sound peacebuilding environment in terms of the rule of law.

Fourthly, it is necessary to improve the efficiency and credibility of United Nations sanctions measures. Over the past decade, the Security Council has increasingly resorted to sanctions as a means of deterrence or punishment. It is therefore only natural that attention has been focused on the effectiveness of sanctions and on their negative impact. On sanctions, China has always advocated caution. We believe that it is necessary to set strict standards and time lines for sanctions in order to mitigate their negative humanitarian effects. Currently, the Secretariat, the Security Council and the academic community are all engaged in studying the question of how to improve the fairness, transparency and effectiveness of current procedures of listing, delisting and granting humanitarian exemptions.

China supports the improvement of United Nations sanctions regimes and believes that the following principles should be adhered to: sanctions should be based on the relevant Security Council resolutions and applied with caution after extensive consultations; we should base ourselves on facts and evidence and should avoid double standards; full account should be taken of the practical situation of the countries concerned and the nature of the work of the sanctions committees; and it is necessary to improve internal mechanisms and enhance efficiency.

Finally, I wish to reiterate that international law is important as the foundation of the Security Council's work in the maintenance of international peace and security. Strengthening the rule of law in conflict areas is conducive to the realization of the overall objective of peacebuilding. When becoming involved in reconstruction on the ground, including by providing assistance in capacity-building in the field of the rule of law, the Security Council should bear in mind the fundamental interests of the people concerned and the need for overall social stability and should respect the sovereignty of the country concerned. Only in that way can we win the trust and acceptance of the recipient country, truly strengthen the rule of law and give full play to the Security Council's proper role in the maintenance of peace and security.

Mr. Gayama (Congo) (*spoke in French*): My delegation is pleased, Sir, to see you, as Minister for Foreign Affairs of Denmark, presiding over today's meeting. I congratulate the Danish presidency of the Council and thank it for having organized this debate on a subject of such great importance for the international community. My thanks go also to Judge Rosalyn Higgins, President of the International Court of Justice, and to Mr. Nicolas Michel, Under-Secretary-General for Legal Affairs, for their statements, which provided insights that will prove most useful in our discussions. I wish further to thank the delegation of Argentina for having organized an Arria-formula briefing, at which significant observations were made on this matter.

Justice and the rule of law have always been intimately linked with the harmonious functioning of States. In international relations, they are viewed not merely as essential for enhanced security but also as vital to the maintenance of peace. We live in an extremely interdependent world, and that demands greater unity. The role of the United Nations and the Security Council in adapting to this situation has thus changed considerably, as the new challenges we face have changed.

As the High-level Panel on Threats, Challenges and Change observed in its 2 December 2004 report (A/59/565), a collective response is required to the new and old threats that face us. That is particularly true because States are today moving towards societies based on common interests. Hence, the theme of today's meeting is of fundamental importance. It gives us the opportunity — beyond affirming the central role of international law in the activities of the Security Council — to consider how the Security Council can make better use of the legal architecture at its disposal so that it can take more effective action.

One approach focuses on streamlining the legal machinery through which the Council seeks to promote the rule of law, ensure respect for international law and work to end impunity, consistent with the needs of peace, justice and human rights. By creating ad hoc courts, such as the International Criminal Tribunal for the Former Yugoslavia, the International Criminal Tribunal for Rwanda and the Special Court for Sierra Leone, the Council has given substance to the ideal of justice as a prerequisite for the restoration of lasting peace. International criminal justice provides invaluable support for national reconciliation and peacebuilding processes; it sends the message that the perpetrators of crimes and other similar acts must know that they will sooner or later pay for their deeds.

Yet we know that such courts do not always possess the means to complete their tasks; they do not always enjoy the cooperation they need to arrest fugitives and alleged perpetrators. This explains the delay that we have witnessed in carrying out the ad hoc tribunals' completion strategies, in spite of their considerable progress in streamlining their own rules of procedure. Cooperation by States is now critical not only to meet the expectations of victims but also — for instance in the case of the International Criminal Court — to promote the complementarity of the jurisdiction of the Court and national jurisdictions.

The establishment of the International Criminal Court was widely seen as a major step forward in the promotion of law and justice. But we need to further operationalize it and ensure its universality by calling upon States not party to the Rome Statute to ratify it. Clearly, recourse to a standing international court gives the international community and societies in conflict or post-conflict situations greater certainty that justice will be done. States that have ratified the Rome Statute, especially developing countries, need international assistance to enable them to take ownership of justice in their own countries by creating national or regional judicial systems able to meet the challenges before them.

In the ongoing quest for justice and the rule of law in the service of peace, another legal institution has demonstrated its capacity to determine the law, establish the facts and define legal situations: the International Court of Justice. Along with the President of the Court, we might regret that there is a certain hesitancy in recourse to the judges at The Hague — including on the part of the Security Council and others — to assess the international legality of given actions. But we must all acknowledge the Court's contribution to building an international order based on law, even though it does not possess the obligatory jurisdiction that would enable it more systematically to fill the justice gap that is often at the origin of international crises and tensions.

Sanctions are a significant tool at the disposal of the Security Council in the exercise of its responsibility for the maintenance of international peace and security; they can enhance Council's authority and help it to attain its goal of achieving peace only to the extent that they are efficient and effective. But it should be noted that the Council's decisions have not always led to the desired change in the conduct of the States concerned. In certain cases, such decisions have been contested by the States or by civil society, which often claim that there is a lack of transparency in the procedures relating to the establishment of the targeted sanctions lists, a lack of recourse or material error.

The outcome document of the September 2005 world summit (General Assembly resolution 60/1) reflected that concern and called for a review of the methods and procedures so as to ensure that they are both effective and credible. In this regard, we have high hopes for the outcome of the deliberations of the Council's Informal Working Group on General Issues of Sanctions.

Promoting and strengthening the rule of law also means that we must adapt the legal tools at our disposal so that they can support our duty to act. That is what the Council has been able to do by skilfully adapting its powers under the Charter. In this regard, we must highlight the importance of conflict prevention, because in too many cases international action has focused on the effects of conflict. Africa — a region dealing with conflict and post-conflict situations — is in a position to benefit from preventive action geared to the nature of African conflicts, most of which, it should be noted, are not direct conflicts between States, but internal struggles resulting from economic or sociopolitical problems. In such cases, the best way to maintain and build peace is to deal with situations before conflict breaks out.

The establishment of the Peacebuilding Commission, which is to hold its first meeting tomorrow, 23 June, represents a further major step forward, because it clearly fills a number of gaps at the international level in terms of conflict prevention and emergence from crisis, in particular by ensuring that all parties involved harmonize their actions with a view to sustainably resolving crises.

In conclusion, I would like to express my satisfaction that this debate has enabled us to renew our commitment to promoting and strengthening the rule of law, respect for which is the only means of bringing about the collective security that we all wish to achieve, in accordance with the Charter. My delegation will fully support the outcome of this debate, and in this context, we would like once again to warmly thank the Danish presidency.

The President: The next speaker is the representative of Mexico, to whom I give the floor.

Mr. Gómez Robledo (Mexico) (*spoke in Spanish*): Introducing his report on the work of the Organization in 2004 (A/59/1), the Secretary-General stated that "Those who seek to bestow legitimacy must themselves embody it; and those who invoke international law must themselves submit to it" (*A/59/PV.3, p. 3*).

Mexico hopes that the debate that has brought us together today will enable us to renew our belief in international law as the best instrument for ensuring peace, the rule of law and development. My delegation therefore fully supports Denmark's purpose in convening this debate, "to consider the Security Council's particular role in promoting international law" and, in particular, "the legal tools applied by the Security Council in its endeavours to maintain international peace and security" (*S/2006/367, annex*).

It is a serious matter that, as the Secretary-General pointed out on the occasion to which I have referred, "Where enforcement capacity does exist, as in the Security Council, many feel it is not always used fairly or effectively". Mexico believes that that is the issue that needs to be addressed today.

Mexico is in no doubt about the primary responsibility entrusted to the Council by the Charter regarding the maintenance of international peace and security. In this regard, Mexico does not customarily distinguish between decisions that the Council may take under Chapter VII of the Charter and those that it may take on the basis of Chapter VI. All of its decisions are governed by Article 25 of the Charter and, given their substantive content, have a binding character for those to whom they are directed.

For that reason, we welcome Denmark's emphasis on the question of the peaceful settlement of disputes and agree that the Council can "take steps to ensure compliance with international law", provided that it "operates within the framework of international law in all its functions" (*S/2006/367, annex*).

The Council must develop its institutional capacity to prevent the outbreak of situations that threaten peace and, in particular, strive to help the parties to a dispute to resolve it in keeping with the procedures set out in the Charter, emphasizing the recommendation that legal disputes should be referred to the International Court of Justice.

As a former Legal Counsel of the United Nations — one of Mr. Michel's predecessors — said, experience proves that almost all international disputes have a legal component. That is something that the President of the International Court of Justice also recalled today. Generally speaking, therefore, all disputes between States stem from differences concerning the interpretation of some rule of international law.

If — as has often occurred — such disputes give rise to a situation that constitutes a threat to the peace, a breach of the peace or an act of aggression, it is logical to suppose that the determination made by the Council pursuant to Article 39 of the Charter and the actions that it decides to take would be grounded in and motivated by international law. The Security Council is bound to discharge its duties in accordance with the purposes and principles of the United Nations, as set out in Article 24, paragraph 2, of the Charter.

Mexico does not question the Council's discretion to make determinations under Article 39 or to change the list of acts that constitute aggression — discretion that the General Assembly recognized in its resolution 3314 (XXIX). Nonetheless, the Council is bound by the purposes and principles set out in Articles 1 and 2.

I should like to clarify my delegation's thinking in this regard. When the Security Council has sought to influence the interpretation of international law, it has done so in a forthright manner. The principle of non-intervention in affairs that are essentially a matter for the internal jurisdiction of States has been the subject of extensive interpretation in terms of substantive content and the legal regime that governs it, even running counter to what the Council itself had determined at other times. This can be seen in particular from the Council's expansion since the 1990s of the very concept of a threat to the peace, determining that grave breaches of human rights and international humanitarian law constitute a threat to the peace. Through such measures, the Council has undoubtedly assumed the role of guarantor of compliance with international humanitarian law, as provided for in Protocol I Additional to the Geneva Conventions. The same can be said of the measures taken by the Council in combating terrorism, particularly since the adoption of resolution 1373 (2001).

However, when making a determination under Article 39 as a prerequisite to the adoption of measures to maintain or restore peace, the Council generally takes an empirical attitude and settles for a general reference to Chapter VII in the preambular part of its resolutions as the legal foundation for its actions. Experience has shown that, as an essentially political body, the Council does not seem to want to define a breach of the peace or an act of aggression from the standpoint of the commission of an internationally wrongful act. It prefers to have recourse to the broader notion of a threat to peace or to a general reference to Chapter VII.

In the view of some, there is no reason at all for the Council to make determinations of a legal nature, for fear that they may have an impact on the international responsibility of States as a result of the attribution of the internationally wrongful act. We believe that to be a groundless fear and that in any case the mandate of the Security Council clearly does not presuppose taking decisions that create international responsibility of States. That falls within the purview of courts, and in particular the International Court of Justice. Nevertheless, when it has deemed it appropriate, the Council has even established that a State is liable under international law for losses and damages stemming from breaches of international law, as set out in paragraph 16 of resolution 687 (1991).

For those reasons, when determining whether there has been a breach of the peace or an act of aggression, the Council should be able to rely on the international legal rule that has been violated and base its decisions in international law. Peace as an end in itself cannot justify any action.

We therefore note with concern not only the trend towards excessive recourse to Chapter VII and certain abuses of the notion of a threat to peace, but also the way in which key criteria governing the rule of self-defence have been diluted, such as the immediacy and attribution of constitutive elements of armed attack against a State — something that no doubt began with resolutions 1368 (2001) and 1373 (2001).

As has been noted, peace does not mean just the absence of an international armed conflict. The evolution of that notion makes international peace and security the result of a combination of factors — such as respect for human rights and international humanitarian law, the right of peoples to self-determination, the validity of democratic institutions, the non-proliferation of all sorts of weapons and the prevention and punishment of acts of terrorism.

The 2005 World Summit adopted, in its Outcome document, a new, multidimensional concept of security that encouraged a new kind of cooperation between the Security Council and the other principal organs of the United Nations, with a view not only to the maintenance of international peace in the narrow sense but to the international order in its contemporary meaning. In that regard, the General Assembly and the International Court of Justice must play a more active role, in line with the functions conferred upon each of them by the Charter.

Mexico proposes that the Security Council consider the desirability of adopting certain measures, such as the following.

First, in proposing options to parties to a dispute, the Council should have more frequent recourse to the peaceful means available under Chapter VI, without creating any doubt as to the obligation of States to submit to the mechanisms for peaceful settlement provided for under Article 2, paragraph 3, of the Charter.

Secondly, the Council should propose to parties to a dispute that has been settled by the International Court of Justice the assistance they may need to execute and implement the judgement. In that regard, the Secretary-General should also develop his ability to advise the parties.

Thirdly, the Council should have recourse to advisory opinions of the International Court of Justice. Unlike some States, my delegation does not believe that the material scope of such opinions should be confined solely to matters pertaining to problems having to do with a conflict of competence between the organs of the United Nations system. The advisory jurisprudence of the Court has been of great service to the international community as a whole in the various issues of the growing sphere in which international law is evolving.

Fourthly, the Council should recommend to the General Assembly that it authorize the Secretary-General to seek advisory opinions from the Court. That would not entail amending the Charter, but merely the granting of a general authorization to the Secretary-General, as has been the case in specialized agencies.

If the Secretary-General had that power, he would, with the agreement of the parties to a dispute, be able to request an opinion from the Court while avoiding the need for the parties to present their points of view before political bodies, which could prejudice their respective positions concerning the merits of the dispute.

Fifthly, the Council should refrain from taking decisions of a legislative nature. That falls under the purview of the General Assembly, as provided for under Article 13 of the Charter. The way the Charter should be interpreted — as the constitutional framework that defines the activities of the Council and its obligation to act within the limits imposed upon it by the Charter — has already been determined by the International Court of Justice in an advisory opinion of 1996. Mexico believes that — since that is the sole universal supranational body, and bearing in mind the far-reaching nature of the responsibilities entrusted to it by the Charter and the fact that the Council acts on behalf of all Member States — respecting the limits imposed by the Charter is more important for the Council than for any other organ. It is for that reason that Mexico does not recognize the validity of the argument about the Security Council's residual, implicit or subsidiary powers.

Sixthly, the Security Council should instead encourage the General Assembly to codify and develop international law whenever it believes that the legal framework in force is inadequate to cope with threats to international peace and security. The General Assembly set for itself the task of negotiating the Rome Statute, which created the International Criminal Court, largely in order to put an end to the establishment of ad hoc tribunals by the Security Council. At that time, my country expressed serious objections about the power of the Council to establish jurisdictional bodies. However, that does not mean that we should not recognize the extraordinary work done by those tribunals — quite the contrary. By way of example, as the representative of France noted this morning, the responsibility to protect, referred to in the 2005 Summit Outcome, should be the subject of analysis and debate in the General Assembly — and eventually codification — instead of simply taking refuge in the resolutions of the Security Council, as was the case with resolution 1674 (2006).

Lastly, and more generally, we urge the Council to more closely involve the General Assembly in its work. A restrictive interpretation of the competency of the Security Council on the basis of Article 12 of the Charter is no longer appropriate. Both organs have concurrent competencies in all matters relating to the maintenance of international peace and security. The Court, in another historic advisory opinion, clearly established that Article 24 of the Charter confers primary "but not necessarily exclusive" responsibility on the Security Council in that regard.

My delegation hopes that its proposals will be useful to the Security Council as it discharges the very important functions that we have entrusted to it, and that they will contribute to strengthening international law and thereby the rule of law in its broadest sense.

Mexico and Liechtenstein have requested the inclusion of an agenda item entitled "The rule of law on the national and international levels" on the agenda of the sixty-first session of the General Assembly. Our initiative complements the debate taking place today in the Council and seeks to strengthen the concept of the rule of law and promote cooperation and coordination in applying it.

The President: The next speaker inscribed on my list is the representative of Austria, to whom I give the floor.

Mr. Pfanzelter (Austria): I have the honour to speak on behalf of the European Union and the countries aligning themselves with this statement.

At the outset, I would like to thank the Legal Counsel of the United Nations, Mr. Nicolas Michel, and the President of the International Court of Justice, Judge Rosalyn Higgins, for their statements.

We are very grateful to the Danish presidency of the Security Council for organizing today's open debate. We warmly welcome this initiative.

The European Union reaffirms its deep commitment to an international order based on international law, including human rights law, and the rule of law, with the United Nations at its core. We recall that one of the main founding purposes of the United Nations is to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained.

The European Union is pleased to note the special attention given to international law and the rule of law

at the 2005 world summit. We believe that international law and the rule of law are the foundations of the international system. Clear and foreseeable rules, respect for and adherence to the rules, and an effective multilateral system to prevent or sanction violations of the rules are preconditions for lasting international peace and security. It is imperative that we Member States, the United Nations and regional and subregional organizations join our efforts to strengthen the rule of law in all its dimensions at the national, international and institutional levels.

The United Nations, through its various organs, plays a pivotal role in promoting the rule of law. As we have heard this morning, the International Court of Justice, as the principal judicial organ, contributes to the strengthening of international law through the peaceful settlement of disputes among States. The General Assembly, with its Sixth Committee and the International Law Commission, plays a key role through the codification and progressive development of international law. In that context, I would like to highlight the recent initiative by Liechtenstein and Mexico to include an item on the rule of law at the national and international levels on the agenda of the next session of the General Assembly.

The Secretariat and other United Nations bodies — the Office of Legal Affairs, the Department of Peacekeeping Operations, the United Nations Office on Drugs and Crime, the United Nations Development Programme and the Office of the United Nations High Commissioner for Human Rights — contribute to the strengthening of the rule of law through their various rule-of-law activities, including programmes of technical assistance, which the European Union fully supports.

We recall the Secretary-General's pledge in his opening address to the General Assembly at its fifty-ninth session to make the strengthening of the rule of law a priority of the Organization. In order to streamline and coordinate all United Nations activities to promote the rule of law, we look forward to the establishment of a rule of law assistance unit in the Secretariat without further delay.

The Security Council, given its unique role and function of maintaining international peace and security, is promoting the international legal order through various measures, such as the establishment of international criminal tribunals, border and inquiry commissions, complementing the legal framework for countering terrorism and the proliferation of weapons of mass destruction, and enforcing compliance with rules through the imposition of sanctions. We welcome all initiatives that highlight the efforts of the Security Council in that regard. In that context, I would like to refer to the series of panel discussions launched by my own country in October 2004 on the role of the Security Council in strengthening a rules-based international system.

During the last open debate on this subject in October 2004, the promotion of the rule of law in conflict and post-conflict situations was extensively discussed. After the debate, the Security Council issued a presidential statement urging the Secretariat to make proposals for the implementation of the recommendations set out in paragraph 65 of the Secretary-General's 2004 report. The proposals are still pending to this day, and we call upon the Secretariat to follow up on the request of the Security Council without further delay. Adequate resources devoted to the rule of law need to be secured in order to be able to quickly and effectively fill the rule of law vacuum in post-conflict situations.

The European Union welcomes the establishment of the Peacebuilding Commission, which will have an important role to play in the promotion of the rule of law. The European Union believes that respect for international law and the rule of law is the cornerstone of peacebuilding. Rule of law aspects should be incorporated into the Peacebuilding Commission's country-specific strategies and recommendations in order to assist countries under consideration to achieve sustainable peace. In that context, we wish to highlight the Justice Rapid Response Initiative supported by a number of European Union countries, which is to provide, at short notice, cost-effective expertise and resources in support of genuine efforts to investigate, prosecute and bring to justice alleged perpetrators of genocide, crimes against humanity and war crimes.

Regarding the international efforts to end impunity for the most serious crimes of international concern, the European Union supports the full range of transitional justice mechanisms, such as truth commissions, international tribunals or mixed tribunals. Justice is a key element for lasting peace and reconciliation. The United Nations should continue to be at the forefront of the fight against impunity. The European Union strongly believes that the International

Criminal Court (ICC) is one of the most effective tools for buttressing the rule of law, encouraging respect for human rights and combating impunity.

The ICC is an essential instrument for the prevention of genocide, crimes against humanity and war crimes. The European Union reaffirms its determination to obtain the widest possible support for the ICC, including by promoting universal acceptance of the Rome Statute. More than half of United Nations members are now parties. We urge all other States to accede without delay. We strongly encourage the Security Council to continue to make use of its competence to refer situations to the ICC, as it has done in the case of Darfur.

The European Union remains committed to supporting the efforts of the International Criminal Tribunals for the former Yugoslavia and Rwanda to successfully accomplish their completion strategies. Yet we note with great concern that several of the key accused remain at large and urge all States to fully cooperate with the Tribunals. On the Special Court for Sierra Leone, the European Union welcomes the recent adoption of Security Council resolution 1688 (2006), which approved the transfer of the trial of the former Liberian President Charles Taylor to The Hague. Finally, the European Union welcomes the progress achieved in establishing the Extraordinary Chambers in the Courts of Cambodia for the prosecution of crimes committed during the period of Democratic Kampuchea. We hope that the Extraordinary Chambers will become fully operational in the near future.

Sanctions play an important role in conflict resolution and in the promotion of compliance with international law. They have also become an indispensable tool in the fight against terrorism. However, when targeting individuals and entities, sanctions also raise a number of questions regarding procedural guarantees. In the current debate, questions of adequate listing and delisting procedures and effective review of sanctions play an important role. In that context, we reiterate the call of the 2005 world summit on the Security Council to ensure that fair and clear procedures exist for placing individuals and entities on sanctions lists and for removing them, as well as for granting humanitarian exemptions.

The European Union stresses the importance of upholding certain minimum standards to ensure fair and clear procedures when designing and implementing sanctions. We believe that such procedures are essential to preserve the legitimacy and reinforce the efficacy of the United Nations sanctions regimes. We reiterate our call upon the 1267 Committee to continue its efforts to further improve the Al-Qaida and Taliban sanctions regime, especially the Committee guidelines regarding listing and delisting.

The European Union has extensive experience in designing, implementing, enforcing and monitoring restrictive measures in the framework of its Common Foreign and Security Policy and has elaborated specific guidelines and a best-practices paper. In that regard, we note the contributions of some Member States to the discussions in the Security Council, including initiatives by Council members such as Denmark and France to establish mechanisms which would ensure that individuals' requests for delisting or exemptions are systematically forwarded to the sanctions committees for review and an academic study on strengthening targeted sanctions through clear and fair procedures, co-sponsored by Germany, Sweden and Switzerland. We also note the recent publication of a study commissioned by the Office of Legal Affairs and posted on the United Nations website (http://www.un.org/law/counsel/Fassbender_study.pdf).

In conclusion, we would like to stress that our efforts to strengthen international law and the rule of law serve not only the abstract goal of a rules-based international order but, ultimately, the protection of the rights and interests of individuals at both the national and international levels. Given the importance of that objective, we are confident that the international community will not lose interest in the subject. The European Union will continue to make its contribution.

The President: There are still a number of speakers remaining on our list for this meeting. I intend, with the concurrence of members of the Council, to suspend the meeting until 3 p.m.

The meeting was suspended at 1.25 p.m.