Seventieth session
Sixth Committee
Agenda item 86

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The scope and application of the principle of universal jurisdiction

Oral report of the Chairman of the Working Group

Chair: Ms. Georgina Guillen-Grillo (Costa Rica)

I. Introduction

1. Pursuant to General Assembly resolution 69/124 of 10 December 2014, the Sixth Committee decided, at its 1st meeting, on 12 October 2015, to re-establish a working group to continue to undertake a thorough discussion of the scope and application of universal jurisdiction. Pursuant to the same resolution, the Assembly decided that the Working Group should be open to all Member States and that relevant observers to the General Assembly would be invited to participate in the work of the Working Group.

2. At the same meeting, the Sixth Committee re-elected Ms.
Georgina Guillen-Grillo (Costa Rica) as Chair of the Working Group.

3. The Working Group had before it the 2015, 2014, 2013, 2012,
2011 and 2010 reports of the Secretary-General on the scope and
application of the principle of universal jurisdiction (A/70/125,
A/69/174, A/68/113, A/67/116, A/66/93 and Add.I and A/65/1.33 177.85 Tm 7 129 12 0 0 141

Paper of the Working Group (A/C.6/66/WG.3/l), which contains agreements on the methodology, as well as an enumeration of is·sues for discussion, commonly referred to as the "Roadmap" by the Working Group. The Working Group also had before it (a) an informal compilation of "Multilateral and other instruments", and (b) an informal compilation containing "Excerpts from decisions of international tribunals" which may be relevant in relation to the work of the Working Group, both prepared by the Secretariat, pursuant to an understanding reflected in the 2010 report of the Sixth Committee on the item (A/65/474, para. 4). Finally, the Working Group had before it the Chairperson's Informal Working Paper that had been distributed and discussed in previous sessions of the Working Group. This Informal Working Paper served as a basis for our discussions.

II. Proceedings of the Working Group

4. The Working Group held three meetings, on 21, 23 and 29 October 2015. It conducted its work in the framework of informal consultations. The Working Group was convened against the backdrop
of the plenary debate at the 12th and 13th meetings of the Sixth Committee, held on 20 October 2015.

5. This summary is for reference purposes only and is not an official record of the proceedings. At its first meeting, on 21 October, in my capacity as Chairperson, I presented an overview of past proceedings, including the discussions that had led to the drawing up and refinement of the Informal Working Paper. As is both customary and important, I stressed that it was understood that the issues raised in the Informal Working Paper were illustrative and without prejudice to future

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written or oral proposals made by delegations. Furthermore, the document was without prejudice to the positions of delegations; did not reflect consensus among delegations; and was expected to be subject to further deliberation.

6. The Working Group proceeded to discuss for the third consecutive session each section of the Informal Working Paper and the concepts set out within each section. It first considered the section on Application; then the section on the Definition of the concept; and, finally the section on Scope. In the consideration of the various elements in each section, a number of delegations stressed the usefulness of sharing national practices that come into play, as these may assist the Working Group to have insights and understand potential obstacles that have arisen, especially in the context of the application of the principle of universal jurisdiction. A discussion also occurred concerning the basis of the principle of universal jurisdiction within different sources of international law. The view was also expressed that it would be through the implementation of elements set out or to be set out under the "Application" section that would ensure that misuse or abuse of the principle did not occur or would be minimized.

7. A number of additions were made to the Inf6athl wWorkng

of concern to the international community as a whole". Under section 2 of the Informal Working Paper, on Scope, the accompanying explanatory footnote was expanded to reflect comments by delegations related to a focus on determining the parameters by which those crimes that may be subject to universal jurisdiction may be enumerated.

8. At the conclusion of the second meeting of the Working Group, the Chairperson proposed that a further set of points to inspire discussion could be of use. These points would flow from the Roadmap and the elements set out in the Informal Working Paper. Given that it appeared to the Chairperson that the greatest amount of convergence among delegations revolved around section 3 on Application, the first presentation of these points - a third column to be added to the Informal. Working Paper - would just focus on Application. This revised Informal Working Paper, with an additional third column, was distributed prior to the third meeting of the Working Group.

9. The third column flows directly from the Roadmap and the elements set out in column 2 of the Informal Working Paper. It sought to present points for further discussion, intended to advance the work of the Working Group, taking into account the previous written submissions as well as oral contributions delegations have made over several previous sessions. The caveats that the Working Group has attached to all previous informal papers apply equally to this third column. Indeed, it has to be noted that these proposed points of discussion take into account the various sources set out in the

"Agreements on methodology" section of the Informal Paper of the Working Group (A/C.6/66/WG.3/DP.1). In particular, they bear in mind the informal papers prepared by the Chairman of the Working Group

for discussion and considered in the Working Group; the vanous resolutions of the General Assembly on the item; the compilations of all written observations provided by Governments and relevant observers, included in the reports of the Secretary-General on this topic (A/65/181, A/66/93 and Add.1, A/67 /116, A/68/113, A/69/17 4 and A/70/125); and statements made by delegations in the Sixth Committee and comments in its Working Group on the topic, together with the informal compilations prepared by the Secretariat (A/C.6/66/WG.3/INF.1 and INF.2). It is understood that the issues raised in the points of discussion ·are without prejudice to future written or oral proposals made by delegations. These points are without prejudice to positions of delegations; do not reflect consensus among delegations; and are expected to be subject to further discussion at a later stage. During the discussions in the third meeting, some delegations raised specific questions and concerns over aspects of the third column, and the

10. There is no doubt that progress has been made through the
Working Group over five years of work. The elaboration of a number
of useful documents - from the Roadmap (document1Tc 12s) p 0.05 Tc 137lm