

Summary record of the 33rd meeting – A/C.6/73/SR.33

Agenda item 87

A/C.6/73/SR.33

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Sixth Committee

Summary record of the 33rd meeting

Held at Headquarters, New York, on Monday, 5 November 2018, at 10 a.m.

Chair: Mr. Biang (Gabon)

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The meeting was called to order at 10.20 a.m.

Agenda item 111: (...)¹

Agenda item 79: (...)

Agenda item 87: The scope and application of the principle of universal jurisdiction (*continued*)

Oral report by the Chair of the working group on the scope and application of the principle of universal jurisdiction

19. **Ms. Duncan Villalobos** (Costa Rica), Chair of the working group, recalling that, pursuant to General Assembly resolution 72/120, the Sixth Committee had decided again to establish a working group, open to all Member States and relevant observers to the General Assembly, to continue to undertake a thorough discussion of the scope and application of universal jurisdiction, said that the working group had had before it the reports of the Secre-

1 For the purpose of this journal the Summary Record of this meeting has been reduced to only include Agenda item 87, paragraphs 19-23.

tary-General on the scope and application of the principle of universal jurisdiction issued since 2010 (A/73/123, A/72/112, A/71/111, A/70/125, A/69/174, A/68/113, A/67/116, A/66/93, A/66/93/Add.1 and A/65/181), the records of the oral reports of the Chair on the work of the working group in 2017 (A/C.6/72/SR.28), 2016 (A/C.6/71/SR.31), 2015 (A/C.6/70/SR.27), 2014 (A/C.6/69/SR.28), 2013 (A/C.6/68/SR.23) and 2012 (A/C.6/67/SR.24), and an informal paper of the working group (A/C.6/66/WG.3/1), commonly referred to as the “road map”, containing agreements on methodology and a list of issues for discussion. The working group had also had before it the informal working paper that had been discussed in previous sessions of the working group.

20. The working group had held two meetings, on 11 and 17 October 2018. It had conducted its work in the framework of informal consultations. At its first meeting, the Chair had presented an overview of past proceedings, including the discussions that had led to the drawing up and refinement of the informal working paper; the points listed in the working paper were for illustration purposes only and without prejudice to future written or oral proposals made by delegations or to the positions of delegations. The Chair had also recalled that no changes had been made to the informal working paper since 2016 and stressed that input from delegations would be required to determine the way forward for the working group. In response to questions circulated by the Chair prior to the meeting, a number of delegations had shared information concerning the crimes to which universal jurisdiction would apply under the laws of their countries and, in some cases, the conditions attached to such application. Delegations had also been asked to share any examples of universal jurisdiction serving as the basis of jurisdiction for the prosecution of crimes in their countries, but no such instances had been mentioned. The discussion had revealed a diversity of views but also possible areas of convergence. One delegation had questioned the relevance of the discussion, given that, in its view, the concept of universal jurisdiction did not enjoy a consensus.

21. At the second meeting, some delegations had shared their views on the decision taken by the International Law Commission to include the topic “Universal criminal jurisdiction” in its long-term programme of work, and the potential implications of that decision on the consideration of the scope and application of the principle of universal jurisdiction by the Sixth Committee and the working group. At previous sessions, the working group had discussed whether the item, in whole or in part, should be referred to the Commission. At the most recent session, some delegations had noted that the inclusion of a new topic in the Commission’s long-term programme of work did not necessarily mean that the Commission would take it up. One delegation had pointed out a possible distinction between the topic as formulated by the Commission and the item under consideration by the working group. Some delegations had voiced support for the decision taken by the Commission and expressed a hope that the Commission would work on the item. Others had suggested that the Commission’s work could be limited to

the consideration of certain technical questions relevant to the scope and application of the principle of universal jurisdiction, with a view to contributing to the work of the Sixth Committee. Still others had maintained that consideration of the topic by the Commission would be premature and that the working group remained the proper and, for some delegations, the exclusive forum for discussion of the item. Opinions had remained divided throughout the discussion, and the working group had not reached a consensus.

22. The working group had also considered the related question of how to proceed with the item in the Sixth Committee. Some support had been expressed for the rationalization of the work of the General Assembly, which would lead to the consideration by the Sixth Committee of the item on a biennial basis and/or the biennial establishment of the working group. However, a number of delegations had stated that the annual consideration of the item and yearly establishment of the working group should be maintained. Some delegations had also reiterated that they considered the dialogue within the working group to be useful, as it was part of the confidence-building exercise that was central to the working group's work on the item.

23. There was a certain impasse in the work of the working group partly due to the lack of a consensus on the intended output of the working group. The impasse might be unavoidable, given the lack of agreement on the issues that had informed the road map. That said, there was no doubt that the item encompassed issues that were important to Member States, and the function of the Sixth Committee was to provide the necessary guidance on such issues. She urged interested delegations to use the intersessional period to consult with each other with the aim of identifying the potential outcome of the working group that would not only represent a wise use of the working group's time but also be appropriate, given the nature of the topic.

Agenda item 85: (...)

The meeting rose at 11.15 a.m.