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SOCIÉTÉ FRANÇAISE POUR LE DROIT INTERNATIONAL SEMINAR

"International law and the time factor"

Paris, 25, 26 and 27 May 2000

Memorandum
by the Directorate General of Legal Affairs

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The annual meeting of the Société française pour le droit international was held in Paris. The subject was “International law and the time factor”, with papers from academics and specialists including Professor Joe Verhoeven (Catholic University of Louvain), Professor Martti Koskenniemi (Law Faculty, Helsinki), Professor Serge Sur (Panthéon-Assas University - Paris II), Professor Jean Combacau (Panthéon-Assas University - Paris II), Professor Jean-Marc Thouvenin (Amiens University), Professor Marcelo Kohen (Institut Universitaire de Hautes Etudes Internationales, Geneva), Professor Philippe Weckel (Nice University), Professor Emmanuel Rocounas (Athens University), Mr Ronny Abraham (Director of Legal Affairs, French Ministry for Foreign Affairs), Professor Alain Pellet (University of Paris X-Nanterre), Judge Francisco Rezek (International Court of Justice), Professor Brigitte Stern (University of Paris I - Panthéon-Sorbonne) and Professor Paul Tavernier (University of Paris-Sceaux). Participants in the discussions also included Mr Yves Daudet, Vice-President of Paris University I (Panthéon-Sorbonne), Mr Gilles Cottereau, President of Maine University, and Mr Gilbert Guillaume, President of the International Court of Justice.

The meeting was divided into three parts:

1. International law and the time factor: general
2. International law and duration
3. International law and the present moment,

and ended with the adoption of a set of conclusions.

The following is a summary.

1. International law and the time factor: general

In his introduction Professor Verhoeven spoke on the relationship of law and time. This was arousing fresh interest. Philosophers and psychologists had never completely lost interest in it and it should come as no surprise that the question was again in the forefront of legal theory.

Before looking at international law’s conception of time, it is as well to agree a definition or broad view of time: in western societies time is regarded as an unbroken straight line but other societies see it rather as circular. The difference is important but, in international law, the tendency is no doubt to take a linear view as a result of the domination of western thinking.

The law is not a problem for time, but the converse is not true. Broadly, the problems are of two kinds: the first have to do with what might be termed “objective” time, involving the law’s attitude to duration, the passage of time. Under this heading come, for instance, adoption of provisional measures to meet urgent situations and the setting of time limits for acquisition or extinction of rights. The second type of problem has to do with more “subjective” time, relating to how the law, and its connections with time and space, are perceived.

Objective time is of interest only to lawyers, whereas subjective time is the preserve of philosophers and anthropologists. The notion of time is linked to changes of situation, but such changes take two forms: spatial movement, which is the concern of private international law, and the temporal perspective. But is there such a thing as a legal conception of time? Ost argues that there are a specifically legal timeframe and “particular forms of time in relation to the various legal phenomena”. But to suggest that there is a peculiarly legal conception of time is going rather far.

In international law, customary usages are ever rarer but agreements, with the help of simplified models, have greatly increased, and to these must be added a huge number of resolutions, declarations and legal instruments of one kind or another. Does that mean that time is speeding up? The phenomenon has to be seen in its true light. What we have here

is social change, which is faster and faster, and such change is much more radical in the international community than in national societies.

Whether or not we subscribe to the idea of a legal conception of time, we need to agree on its implications for the operation of legal systems. One's instinctive approach is to divide the discussion into past, present and future, even though these are not totally separate categories.

Every legal rule is primarily future-oriented and it is immaterial whether the rule is a written one or a customary one, a law or a convention/agreement. True, a customary rule derives from actual practice - that is, the past - but there is more to it than that: usage cannot become a rule without legal intention (*opinio iuris*), without a plan or future. The particular feature of customary law is that it needs permanentising. Although the future is to some extent the law's temporal natural element, what is the past's contribution to law? Origin as such is not of great legal import; it is merely the first stage in the formation of legal patrimony, the first stage in a past. Giving retroactive effect to a rule is something quite different, amounting to an alteration of legal patrimony. It is a question, however, of only marginal relevance to international law since retroactiveness has not greatly impinged on the family of nations, though it does play a part in the practice of some courts (eg the Court of Justice of the European Communities and the European Court of Human Rights).

Legal patrimony apart, the past supplies the raw material of history, but in the case of international law there is a paradox in that its relatively unintensive law-making and the gaps in its institutional machinery make it more dependent than other forms of law on (political) events over which it has little control. The origin sets the ball rolling and subsequent development is perceptible only to someone looking back over time; hence study of past development is essentially a matter for the legal theorist, but there ought to be lessons which legal theory can draw for the future of law. In fact there are very few. Legal theory is a branch of theory which does not age very well in that writings on yesterday's present quickly date, and proposals for the future tend to be few and far between. Noteworthily, in 1916 A Alvarez published "Droit international de l'avenir" (international law for the future) and in 1949 "Droit international nouveau" (new international law), but on the whole legal theorists are not very comfortable with *lege ferenda*. Understandably, given that, even though the law is future-oriented, it is not for lawyers to decide which of the many possibilities to pursue. Between present and future, the links are fundamental, however "shortsighted" lawyers usually are, but between past and present the connections are not of the same importance, however necessary.

"The present is a manifestation of relative stability in the constant evolutionary process", according to Chemillier-Gendreau. That is the law's concern: to steady the pace of change in the interests of harmonious development, and in international law the resolutions of the United Nations General Assembly are among the tools for bringing about indirect change where direct change is not possible. That said, it would be mistaken to suppose that it is procedures and institutions which the international community mainly lacks for adapting to change; on the other hand, any number of national societies have stood still despite being excellently equipped to make progress. The law's function is to arrange matters, in the present, so as to ensure a degree of continuity in which change if not too chaotic. Continuity of law is also the continuity of legal rules, but why are the rules often so sketchy? The main reason is no doubt that the members of the international community lack shared values, which undermines the past, and common objectives, which compromises the future.

And this faces us with another question: are there any restrictions on the content of the law? The dominant tendency holds that there are, restoring some kind of idealism to a discipline which seemed to have largely given up on it. The problem is that the values concerned are not always totally clear: justice, solidarity and observance of certain democratic requirements are the main ones nowadays. There is something of a timelessness to them.

Extensive convergence of interests, shared beliefs in many areas and marked cultural closeness were the reasons why members of the "family of nations" were able to agree on priorities and how to implement them. The fact of being a family did not preclude all kinds of rivalry and competition. History has amply demonstrated that, as have the tribulations of *ius cogens*.

That said, things are changing. Time has not suddenly come to a halt with an unhappy realisation of the international community's inability to take its destiny in hand, and new approaches are being worked out. The only thing is that international law has been in transition for several decades, and there is still no real knowing what the outcome will be.

With regard to doctrine, Professor Koskenniemi drew a distinction (but acknowledged the connection) between practice and doctrine and said that nowadays teachers had lost faith in doctrine (Daillier and Pellet). He sketched a history of the theory of international law, which began in his view, in the meetings, in the 1860s, of an international association for progress in the social sciences. Through the association, three young lawyers - Rolin, Westlake and Asser – became friends and decided in 1867 to found a learned journal of international law and comparative law.

After the 1870-71 Franco-Prussian war several activists (Lieber, Meunier, Bluntschli) contacted Rolin to suggest setting up an academic institution to reinforce international law: the result was the Institut de droit international, whose first meeting was in Ghent. Modern international law was brought about not by academics but by practitioners and political activists. Doctrine in international law derives from what, in late 19th century Germany, was known as *Innerlichkeit,* a genuine philosophical doctrine. Jellinek stated the philosophical justification for the present-day community of states: law was based on will, but will was not unfettered, since what was willed was dictated by actual circumstances and by economic, social and intellectual interdependence. Of course there were those who disagreed: Wehberg and Schücking, who sought closer consensus between lawyers and pacifists, Kelsen, with his objectivist side and his subjectivist side, or Kaufmann, who wrote in 1911 that the social ideal was war.

In the view of some legal specialists (eg Comte and Durkheim) the *Innerlichkeit* "method" was merely an illustration of lawyers' arrogance. After the Franco-Prussian war there was only one chair of international law, held by Renault. His students tried to establish international law as a respectable science with a basis of interdependence (Pillet) or solidarity (Bourgeois, Alvarez, Politis). Fur and Scelle, whatever their disagreements, both supported federalist ideas, and saw the League of Nations as an inevitable stage in international society's progress towards supranationalism. Jean Monnet drew up the Schuman plan without consulting any academic theorists. Bureaucratic pragmatism produced the European Union.

The great question was the relationship between law and politics, and two doctrines tackled it, Lauterpacht's and Morgenthau's. Lauterpacht sought to show that the sources of international law lay in national law and that it was possible to find an answer to questions of international law by means of analogy. In addition he contended that there were no purely political questions. After the war he adopted a different position, arguing that interpretation was all, that the law had not been saved by philosophy and sociology, and that only professional lawyers could introduce the rule of law into international affairs. Morgenthau divided the international world into two - the law, an area in which there were no important interests, and politics, which had no boundaries and was ever ready to invade all spheres for reasons of power or prestige. The law was the underling of power. Lauterpacht and Morgenthau came to pragmatic, if seemingly contradictory conclusions, and more importantly arrived at a realistic view of power which ensured maintenance of order and scope for political change internationally.

Now, doctrine is a thing of the past, and all we are left with is legal specialists' intuitions and historical experience. All theoretical justification is pointless. In Koskenniemi's

view, lawyers were faced with a dilemma: the choice was between a calling with no rational basis on the one hand and worldly cynicism on the other.

Professor Sur closed the day with a paper on fashion in international law. He began by suggesting that nowadays international law was in fashion, but also a slave to fashions: it was not a learned or technical field. This was illustrated by the ideological reversal that had taken place in the last 30 years: from international social law, development law, the common heritage of humanity, compensatory inequality and national sovereignty there has been a move towards international criminal law and protection of the individual and of civil societies, protecting them against the state where appropriate.

The suggestion that a new system of international law is emerging is based on a number of developments involving wider, stricter, more effective international obligations on the one hand and arrangements for their recognition and enforcement on the other. Developments of the first kind include laying down universal rules, some of which take precedence, extending international law into new fields and requiring states to display transparency in their international conduct, while developments of the second kind include diversification of standard-setting methods, jurisdictionalisation of international law, the current shift towards criminally-oriented international law, and the increasing role of individuals and private groups.

When viewed objectively, however, all of this is fairly hypothetical: universality of standards is, in most cases, a merely potential development (as is clear in the human rights field), precedence of certain rules is mainly theoretical, and compulsory precedence is still embryonic; the new fields in which rules are developing are seeing the emergence of bureaucratic machinery, transparency being in no way a legal obligation. The growing penetration of domestic law by international standards depends on the policy adopted by the particular domestic system, and only the most developed systems incorporate them. As regards methods of recognition and enforcement, similar conclusions have to be drawn, for diversification of standard-setting methods reflects a weakening of legal obligations; the proliferation of tribunals stems from the growing number of states and legal instruments, underlining the absence of an international judicial system and bringing a risk of case-law conflicts; and international criminalisation may result in domestic decriminalisation. When all is said and done, though, these developments do not challenge the classical scheme of international law because states cling to their monopolies and the basic unity of international law is not seriously affected by its functional diversification.

“Global governance” is one of the fashionable expressions at the moment and is based on the idea that, in many matters, states are unable, or unwilling, to bring in the necessary international regulation, which nonetheless takes shape by a variety of informal means, so that the states are circumvented or replaced. Fashion is becoming a genuine source of law, a kind of invisible component of Article 38 or a factor for creative interpretation of all the other methods of law creation. However, underlying this analysis is the classic confusion between formal sources and technical law-creating procedures. It was a case, said Professor Sur, of nothing new under the sun: states and their agreement to be bound remained central to these law-creation processes even though basic unity was sometimes obscured by the diversification of legal fields.

The “south wind” was the conception of international law which grew dominant in the 1960s and 1970s. Its key feature was the establishment of a new international order whose components included the concept of common heritage of humanity, the concept of people, the principle of compensatory inequality, promotion of *ius cogens*, and attachment of particular importance to General Assembly resolutions. Ultimately, what this mainly reinforced was national sovereignty, demonstrating both the power and transience of fashion.

The “north wind” has been blowing since the end of east-west confrontation and is testimony to the ideological upheaval which accompanied it. The major concern has

become management of crises and conflicts, taking emergency and often improvisatory measures instead of looking ahead and planning for the future; in this context the individual and the victim take centre stage, and the call is for punishment, for international criminal-law enforcement and for tribunals.

The abiding impression is of the northern countries lecturing the southern ones and unilaterally applying standards to them which the southern countries have not assimilated, of an attempt to universalise a legal system in which the European Union is setting up as the standard-setter for the weaker countries, claiming universality for its message but without succeeding in getting international law to endorse the intrusive approach developed by Community law. Promotion of these European values involves appeal to international tribunals, which solves at a stroke the problem both of law creation and law enforcement, and in this context we are seeing the re-emergence of *ius cogens* as an alleged vehicle of human rights and humanitarian law of which international tribunals can make use.

The discussion that followed the paper added one or two ideas. Leben drew attention to the distinction between secondary legal rules, which altered the law, and other legal rules which validated existent law; where fashion held sway, whatever was new invalidated whatever was old. Dupuy said that the concept of humanity remained linked to that of a common heritage. Stern said that although the north wind was European, that applied only to a part of international law: Professor Sur's paper had not referred to the Internet, the NGOs or United States economic liberalism.

2. International law and the longer term

Professor Combacau began by looking at passage of time: from the duration standpoint the ingredients of international law had a special character which was lost sight of if the time factor was left out of account. It was also necessary to decide whether the main thing was the long term or the present moment.

Any legally relevant fact or legal measure must be seen in the light of the juncture from which it emerges in order to determine whether there is any significant change in facts or decisions as a result of the time factor, whether the change is of any legal importance and whether it has any legal implications.

It is important to bear in mind time's effects on the law and the law's effects on time. By way of example Professor Combacau cited time's effects on the law of treaties, the creation of customary rules, questions of how long customary rules had been in force, the advent of new treaties, etc.

A further point is that time strengthens the law, that a legal rule's age gives it added force, whether the rule be a customary or a consensual one, this question being closely related to that of values which have formed over a lengthy period of time and to that of fashionableness, with which Professor Sur had already dealt.

Professor Thouvenin's paper went into the question of reasonable time in international law: in international law, the concept is not confined to the human-rights field although there is no doubt whatever that the ECHR has often been cited in connection with it - so much so that it raises questions about the effectiveness of the ECHR system. Other international courts and tribunals likewise find the concept attractive.

The concept of reasonable time is clearly less rigorous than a specified time limit, which is why states and legislators favour it when it is difficult to specify a length of time in advance. But although the word "reasonable" is non-specific, that does not mean that it is undefinable, and this raises the question of who has authority to specify its meaning, a matter which, in practice, is resolved by regarding that authority as vested in each state concerned or jointly in all the states parties to a treaty. Interpretation may also be entrusted to a third party, although this entails some risk for states if reasonable time is regarded as the shortest time possible (as happens at the ECHR, the ICJ or the CJEC).

At all events, lawyers generally use the concept of lapse of time to measure the length of time between two different legal situations which are connected; the period of time can therefore have two functions:

- a time-gaining function (reasonable time for "taking cognisance" is an oddity in international convention law, though that cannot be said of the "adaptation" period, which can be a period of notice or negotiation time and is frequently met with in treaties) or

- a timespan function (which comes into two categories, time for exercise of rights and reasonable time for performance of obligations; the latter category includes reasonable time as used in Articles 5.3 and 6.1 ECHR, where there is an obligation on states to give people a hearing within a reasonable time).

In practice, the reasonable time concept is applied according to its precise context.

In general international law, although some indication can be found as to how reasonable time is demarcated, precise details generally cannot except in the *Clyde Dyches* case and the *Zones franches de la Haute-Savoie et du Pays de Gex* case. In WTO law, in contrast, precision is the rule, as seen in Article 21.3.c of the memorandum of agreement on rules and procedure for WTO settlement of disputes, under which a member can apply to an arbitration body for a ruling on what the reasonable time will be for implementing a recommendation or decision of the dispute-settlement body which is adverse to the member.

A comparison of WTO and ECHR practice reveals the elasticity of the concept, for while, in WTO practice, the period of time can be decided beforehand and with binding force, the Strasbourg body performs a subsequent assessment of the period of time. We find two different evaluation methods being used, one of which defers to the legal system of the defendant state under Article 5.3 (see *Debboub alias Husseini Ali v. France*, *Application No. 37786/97, 9 November 1999) while the other, under Article 6.1, does not (see Comingersoll S.A. v. Portugal*, Application No. 35382/97, 6 July 2000).

Lastly, application of the reasonable-time rule in Community law has no particular distinguishing features when compared with ECHR practice since the CJEC takes its line from the ECHR. The concept of reasonable time has been judicially enshrined in Community law. It was initially to the Commission that the Court of Justice applied it. In the last few years, however, the Tribunal of First Instance has also been required to comply with the rule.

Professor Kohen closed the day with a paper on the influence of time on territorial settlements. Territorial sovereignty is one of the most fertile areas for considering the time factor in international law. Here, there are two aspects: the territorial subject matter of the dispute and the time considerations which have a bearing on determination of the dispute.

In territorial disputes there are various time-related questions: when sovereign jurisdiction was established, when the dispute arose, at what point the matter came before a court, and so on. But all the methods of establishing sovereignty are subject to certain requirements, all of which have to be met at a given point in time or for a specified period. The time factor therefore comes into courts' or arbitrators' decisions, but which decisions are to prevail? The oldest or the most recent? Any answer which claimed validity in all circumstances would prove to be wrong, but it is fair to say that there are two main schools of thought on the significance of time in territorial disputes: on the one hand are those who consider passage of time to be capable of creating or ending title (ie regard time as a legally relevant fact) and those who argue that, in this sphere, time is a neutral consideration.

At all events, legal theorists have considered the matter from the standpoint of the length of the factual situation, looking at such factors as immemorial possession, continuous, peaceful exercise of sovereignty, acquisitive prescription, historical title and acquiescence. Regard must also be had, however, to length of valid claim. Here, Professor Kohen pointed

out that international law had adopted two rules which were firmly on the side of title: *uti possidetis* and the principle of stable, definitive boundaries.

When the parties to a territorial dispute find that they are unable to settle it, either they agree how the law will apply to future facts, acts or situations, or - wishing to avoid further disputes - they agree limits to their future conduct vis-à-vis the disputed territory.

Professor Kohen wondered whether time could be a tool for obscuring the choice between the opposite poles of title and actual occupation. International law did not encourage protracted territorial disputes; it was not in the interests of legal certainty for long-closed disputes or situations to be resurrected or for disputes to be allowed to drag on. The proper course was to protect legal certainty, and this meant that the question whether a factual situation was lawful was of no small importance. An example of a factual situation which clashed with legitimate title is where a state wins its case in a territorial dispute referred to a tribunal but is then faced with the occupying state's refusal to withdraw from the territory. If an ICJ judgment is involved, the state can apply to the Security Council, which can take measures to enforce the judgment, but this will not work if the recalcitrant party is a permanent member of the Security Council. That is why - contrary to early-20th century case law (which took the line that an existent state of affairs of long standing should be tampered with as little as possible) - an unlawful state of affairs should not be allowed to continue even if it has been going on a long time. It is not always true that a long-lasting situation will win official recognition in the end.

To conclude, it is always the facts which have occurred, and not mere passage of time, that alter the relationship between things, or rather between persons. Time in itself does not create sovereignty, and the important thing, in settlement of territorial disputes, is the parties' conduct and developments in the law. In the temporal domain, therefore, there are two extremes: to treat time as creative of title and to take no account of time whatever in the settlement of territorial disputes. However there is nothing new in all this. Grotius said it all: "Time has no productive power and accomplishes nothing even though everything we do is within the frame of time".

In the discussion, one or two speakers pointed out that there had not been any reference to the Falklands conflict or to recent ICJ judgments concerning reasonable time. One speaker referred to use of time by international players.

3. International law and the ultra-short term

The last day was organised around papers by Professor Weckel and Professor Roucounas. It was not possible to consider international law and the present moment in the abstract, without reference to examples of international practice and to specific areas of relations between states, international organisations and so on. Who classifies circumstances as exceptional? Firstly, the state concerned or the competent international institution. At present the international community has a whole arsenal of rapidly expanding provisions governing legitimate response to emergencies by states and international organisations. The bulk of the provisions fall under various major questions governed by international law:

- maintenance or restoration of peace and international security;
- human rights;
- international environment law and the law of the sea;
- provisional measures;
- international responsibility.

Implementing Chapter VII of the Charter of the United Nations presupposes the existence of an emergency situation, and the Security Council uses the word "emergency" in its resolutions. Since its inception, the United Nations has set up a large number of

peacekeeping operations some of which were conducted under a "United Nations emergency force". The United Nations mobilises its resources in response to other kinds of crisis with remarkable regularity.

Human rights is the field in which emergency measures are markedly spreading and developing: at the universal level, the Commission on Human Rights, the Secretary General of the United Nations, the General Assembly, and the Security Council take action when there is an urgent threat to human rights, not just in cases of massive violation but also where there is immediate threat to life; regionally and within Europe, immediate intervention is a matter for the Council of Europe Commissioner for Human Rights and the OSCE Commissioner for the Protection of National Minorities. A further point is that, within the human-rights protection system, there are provisions under which exceptions can be made to a strictly specified number of rights in cases of imminent or serious danger, war and so on which threaten the life of the nation, but only for the duration of the emergency, and international human-rights protection instruments also specify the rights which are emergency-proof (ie those rights from which no derogation is possible). The odd thing, in international law, is that the relevant international instruments do not all emergency-proof the same rights. Exceptions are subject to the principles of notification, temporality, exceptional threat, proportionality and non-discrimination and to international political review.

In the field of international environment protection, only four of forty international instruments in force contain provisions on cross-border measures in emergencies. A possible explanation for governments' hesitancy is uncertainty about regulation in a field which has not yet been sufficiently explored, plus some governments' persistent wariness of joint action. Ocean-going shipping is the field in which mention of emergency is commonest, because navigation is a high-risk business on account of accidents at sea and the consequences they can have, and because the rules differ according to where the accident occurs. As international law stands at present, each set of regulations for dealing with emergencies is specific to a particular type of situation, although there are increasing efforts to develop an overall approach to environment protection.

Debate continues as to whether provisional measures have compulsory force but everyone is agreed that they are a basic judicial instrument. Within the Council of Europe, when Protocol No. 11 to the ECHR was being drawn up the government experts noted that only the Court's Rules of Procedure provided for provisional measures. In the inter-American human-rights system the court is competent to order provisional measures where necessary in cases of extreme gravity or urgency; in the integrated European Union system the CJEC not only itself orders provisional measures but in addition has stated that, in some circumstances, other bodies should do likewise (the Commission and courts in member states). Whether or not an emergency exists, the key factor in action by an international tribunal is jurisdiction; however urgent a situation may be, the ICJ will not order provisional measures unless certain that it has jurisdiction in the case referred to it (the situation with the ECHR is somewhat different in that there, all states parties to the Convention are bound to observe the right of individual petition).

Emergency must always be present if self-defence measures or counter-measures are countenanced or where *force majeure*, unforeseeable accidents or necessity are invoked. But even extreme urgency is not a sufficient consideration, on its own, in determining the lawfulness of reaction to an illegal factual situation or an unlawful act.

Finally, it can be said that, in present international relations, urgency or emergency is a starting point that leads off in two opposite directions: on the one hand it galvanises the international lawmaker and equips us with procedures and substantive rules that strengthen international co-operation and solidarity. From this standpoint, the concept of urgency/emergency contributes to finding lasting solutions to problems. On the other hand, though, urgency/emergency can be used as a pretext for breaking international law and for rendering some institutions ineffective.

CONCLUSIONS

The use of time: international negotiation, international action and international proceedings

Professors, Stern, Tavernier, Abraham, Pellet and Rezek drew up conclusions non-consensually. The principle of non-retroactiveness means there is no turning the clock back, and this applies both in international law and to the rights of the individual. International criminal law defines international crime in such a way as to apply a number of values to all as a matter of natural law. However, the precise time of a crime needs to be known to see whether there was general awareness of the seriousness of the violation.

The concepts of limitation and non-limitation cancel out the time factor. The law lays down whether time is to be an important consideration or not. In the human rights field, crimes against humanity are not subject to limitation.

Protocol No. 11 to the ECHR deals with use of time by courts and administrators: what is needed is ways of allowing the Court (without altering the Convention) to adopt a fast-track system for applications when it orders provisional measures, so that there is minimum delay in considering the merits. Other experts pointed out that provisional measures were aimed at governments, whereas, in human rights, the action required in some cases depended on the domestic courts, over which governments had no authority. Articles 5 and 6 of Protocol No. 11, which were intertemporal clauses, must therefore be taken into account.

Questions of multilateral treaties were discussed from the standpoint of the need for a given number of ratifications, introducing a time factor for entry into force of the treaty and bringing non-signatory or non-ratifying countries under a degree of pressure from bodies created by the treaty, courts applying the treaty and states parties. This is why, whenever a treaty comes into existence, states need to review their position internationally.

Finally, discussion turned to lawyers' advisory rule in international law. Here, lawyers were interpreting the law, provisions on matters of time, procedural rules and so on within a given time frame so that their clients derived maximum benefit. It had to be borne in mind that the client's time was not the same as the advisor's time, and that the client's interests likewise differed from the advisor's.

Mr Gilbert Guillaume closed the meeting.