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INTERVENTO DEL CAPO DELEGAZIONE DELLA SANTA SEDE AL VI COMITATO DELLA 62a SESSIONE DELL'ASSEMBLEA GENERALE DELLE NAZIONI UNITE SULLO STATO DI DIRITTO

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Il 26 ottobre 2007, S.E. Mons. Celestino Migliore, Osservatore Permanente della Santa Sede presso le Nazioni Unite e Capo Delegazione alla 62a sessione dell'Assemblea Generale dell'ONU, ha ribadito, nell'intervento che pubblichiamo qui di seguito, l'importanza della legalità e dello stato di diritto per assicurare la pace e il rispetto della dignità delle persone:

● S.E. MONS. CELESTINO MIGLIORE

Mr Chairman,

The mutually re-enforcing values of peace, development and human rights are both the guiding principles and the goals of this Organization. Their nexus and effectiveness is guaranteed by the proper implementation of the rule of law. It is the rule of law that creates the mechanisms to promote justice and peace, ensures predictability and security to allow for the foundation of a stable economy, and protects the dignity of every person regardless of one's social, economic, or political status.

In an increasingly globalized society, where people from different cultures meet more frequently, migration occurs on a global scale and international trade propels rapid global development, regulating the relations between and among States is of utmost importance to ensure peaceful coexistence.

At the international level, the rule of law guarantees respect for even the smallest of nations. It safeguards the ability of all States to voice their legitimate concerns as equals in a forum of equals. Its rule restrains powerful nations from lording it over the weaker ones. These principles are very relevant to the ongoing reform of the Security Council and the revitalization of the General Assembly.

The role of the United Nations in the creation and implementation of international treaties is vital. By ensuring that the principles of free consent, good faith and *pacta sunt servanda* are respected, this Organization

guarantees that relations between States are regulated by applicable international treaties and governed by reason, justice and fair negotiations, rather than by fear, force or manipulation.

In enforcing these treaties, the United Nations must be a neutral arbitrator and must respect the contracting intent and desire of the Parties. A treaty body system that becomes opaque and unaccountable to States Parties runs the risk of undermining the basic tenants of the rule of law and diminishes the credibility and legitimacy of the United Nations as a promoter and guarantor of international law.

Surely States have a primary duty to ensure that treaties are respected. Selective enforcement and selective observance of treaties are antithetical to the rule of law. It would be preposterous to claim observance of the rule of law at a national level if international treaties and international law are not observed.

Moreover, the benefits and value of faithful treaty implementation go beyond the rule of law. Respect for treaties is also an excellent confidence-building measure, as it promotes trust among Parties. This is particularly true in the area of disarmament, in which the fear of treaty non compliance on the part of even just one State Party paralyzes the disarmament and non-proliferation agenda. In fact, it is easier to make others comply with their commitments if one complies with one's own.

However, not all States have the technical capacity to cope with all their international obligations. There is a growing gap between the development of international law and the capacity of individual States to incorporate it into national legislation and implement it. Thus technical assistance to these countries is of utmost importance if observance of international law and treaties is to be had. To this end, we note with interest the establishment of the Rule of Law Coordination and Resource Group and we look forward to following its work in promoting the rule of law.

Mr Chairman,

The struggle against terrorism is necessary, but at the same time it must be established through the drafting, adoption, and effective enforcement of juridical instruments designed to tackle this violent menace with right reason. The rule of law at times is difficult to apply to terrorists who have little or no respect for it. However, States must not engage in measures antithetical to the very principles that give them legitimacy through the rule of law.

The last few years have seen a greater focus on the rule of law at all levels. Though this focus has not always been accompanied by action, some progress has been achieved, particularly in the area of international criminal justice. Individuals and peoples whose rights have been violated, such as in cases of crimes against humanity, are given access to a justice system that serves the truth and banishes fear, revenge, impunity and inequality before the law.

In the same vein, further progress has also been made in the World Summit Outcome Document by which, among others, all Member States affirmed the collective international responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity, and their willingness to take timely and decisive collective action for this purpose, through the Security Council, when peaceful means prove inadequate and national authorities are manifestly failing to do it. My delegation believes there is need to pursue the debate and juridical codification along this very line, wherein sovereignty is not understood as an absolute right and used as a shield against outside involvement, but as a responsibility not merely to protect citizens, but also to promote their welfare. Through the creation of legal norms, arbitration of legal disputes and the establishment of safeguards, especially when States fail in their responsibility to protect, the United Nations is called to be the propulsive forum for the rule of law in all corners of the globe.

Thank you, Mr Chairman.

