

REPERTORY OF PRACTICE OF UNITED NATIONS ORGANS
SUPPLEMENT NO. 9 (1995 – 1999)
VOLUME VI

ARTICLE 98

(Advanced version, to be issued in volume VI of Supplement No. 9 (forthcoming) of the
Repertory of Practice of United Nations Organs)

Table of Contents

Text of Article 98

Introductory Note

Paragraphs

I.	General Survey.....	2-5
II.	Analytical Summary of Practice	6-106
A.	General administrative functions of the Secretary-General	6-37
1.	Functions of the Secretary-General in connection with meetings of United Nations Organs	6-10
(a)	Drawing up of the agenda	6
(b)	Convening of sessions and meetings	7
(c)	Examination of credentials	8
(d)	Provision of staff, experts and services	9-10
2.	Transmission of communications	11
3.	Integration of activities	12-19
(a)	Calendar of meetings	12
(b)	Planning of work programmes and priorities	13-15
(c)	Integration of activities relating to operational programmes.....	16-17
(d)	Coordination of services to United Nations organs	18-19
4.	Coordination with specialized agencies and other intergovernmental organizations.....	20
5.	Functions of the Secretary-General with regard to the preparation of work and implementation of decisions	21

6.	Functions of the Secretary-General in connection with international treaties, conventions and agreements	22-36
7.	Functions of the Secretary-General in respect of the submission of the annual report	37
B.	Technical functions of the Secretary-General	38-57
1.	Functions of the Secretary-General with regard to the collection of information and the undertaking of studies	38
(a)	Reports submitted by the Secretary-General pursuant to requests by United Nations Organs	38
2.	Operational functions of the Secretary-General	39-48
(a)	Functions undertaken by the Secretary-General pursuant to requests made by United Nations organs	39-42
(b)	Functions initiated by the Secretary-General	43
(c)	Functions of the Secretary-General in matters of a humanitarian nature and human rights	44-48
3.	Functions of the Secretary-General in connection with assistance in procedural problems	49
4.	Functions of the Secretary-General in connection with the drafting of documents and legal assistance	50-57
C.	Financial functions of the Secretary-General.....	58-64
1.	Authority to enter into commitments to meet unforeseen and extraordinary expenses.....	58-59
2.	Authority to borrow from special funds and accounts or from governmental sources	60
3.	Authority relating to special accounts and funds.....	61-62
4.	Authority to accept voluntary contributions.....	63
5.	Functions exercised in connection with the financial crisis of the United Nations.....	64
D.	Functions of the Secretary-General with respect to political and security matters.....	65-101
1.	Functions exercised in connection with the situation in Kosovo	65-71

2.	Functions exercised in connection with the situation in East Timor.....	72-80
3.	Functions envisaged regarding the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC).....	81-84
4.	Functions performed in relation to the situation in the Central African Republic.....	85-92
5.	Functions performed in connection with the establishment of an International Commission of Inquiry to establish facts relating to the assassination of the president of Burundi on 21 October 1993 and the massacre that followed	93-96
6.	Functions performed regarding the establishment of an International Commission of Inquiry in connection with sale or supply of arms and related materiel to former Rwandan government forces	97-101
E.	Representational functions of the Secretary-General	102-106
1.	Functions of the Secretary-General with regard to the negotiation and conclusion of agreements	102
2.	Functions of the Secretary-General with regard to the United Nations Headquarters	103
3.	Other representational functions of the Secretary-General	104-105
(a)	Functions of the Secretary-General with regard to privileges and immunities	104
(b)	Representation by the Secretary-General at conferences and meetings of other agencies	105
4.	Functions of the Secretary-General in the field of public information	106

TEXT OF ARTICLE 98

The Secretary-General shall act in that capacity in all meetings of the General Assembly, of the Security Council, of the Economic and Social Council, and of the Trusteeship Council, and shall perform such other functions as are entrusted to him by these organs. The Secretary-General shall make an annual report to the General Assembly on the work of the Organization.

INTRODUCTORY NOTE

1. Except as indicated below, the organization of the present study generally follows that of the previous studies of Article 98 in the *Repertory* and its *Supplements Nos. 1 to 8*. In the analytical summary of practice illustrated by various relevant examples, several subsections and/or their titles have been deleted or modified, due to the evolving nature of the work of the Organization and for the purpose of streamlining the presentation of the study.

I. General Survey

2. During the period under review, the functions of the Secretary-General with respect to political and security matters, in particular in the area of peace-keeping, continued to expand. In this period, the Secretary-General took on additional functions in relations to a number of new peace-keeping operations which he deployed at the request of the Security Council. He deployed the Peace-keeping Operations in Angola (UNAVEM III), to assist the parties in restoring peace and achieving national reconciliation in Angola on the basis of the "Acordos de Paz";¹ the United Nations Confidence Restoration Operation in Croatia (UNCRO);² the United Nations Preventive Deployment Force (UNPREDEP) for the former Yugoslav Republic of Macedonia;³ the International Police Task Force (IPTF) and a United Nations civilian office for the implementation of the Peace Agreement for Bosnia and Herzegovina;⁴ the United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium" (UNTAES);⁵ the United Nations Support Mission in Haiti (UNSMIH), to assist the Government of Haiti in the professionalization of the police;⁶ the United Nations Observer Mission in Sierra Leone (UNOMSIL),⁷ to monitor the military and security situation in the country, including the disarmament and demobilization of former combatants; the United Nations Mission in Sierra Leone (UNAMSIL), to cooperate with the Government of Sierra Leone in the implementation of the Lomé Peace Agreement,⁸ and in the implementation of the disarmament, demobilization and reintegration plan;⁹ the United Nations Mission in the Democratic Republic of the Congo (MONUC),¹⁰ to plan for the observation of the Lusaka Ceasefire Agreement,¹¹ and the United Nations Office in Angola (UNOA).¹²

3. The Secretary-General continued to discharge other responsibilities pursuant to an increased number of specific mandates covering a wide range of activities in the political

¹ S C resolution 976 (1995), para. 1.

² S C resolution 981 (1995), para. 2.

³ S C resolution 983 (1995), para. 2.

⁴ S C resolution 1035 (1995), para.2.

⁵ S C resolution 1037 (1996), para. 1.

⁶ S C resolution 1063 (1996), para. 2.

⁷ S C resolution 1181 (1998), para. 6.

⁸ Lomé Peace Agreement signed on 7 July 1999, the text of which is contained in the United Nations document S/1999/777.

⁹ S C resolution 1270 (1999), para. 8.

¹⁰ S C resolution 1258 (1999), para. 8.

¹¹ Signed in July 1999 between the Democratic Republic of the Congo (DRC) and five regional States.

¹² S C resolution 1268 (1999), para. 1.

field. The Security Council requested the Secretary-General to establish, in consultation with relevant international organizations, the United Nations Interim Administration Mission in Kosovo (UNMIK);¹³ to set up the United Mission in East Timor (UNAMET);¹⁴ to appoint in consultation with the Security Council the Executive Chairman and Commissioners of the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC);¹⁵ to establish the United Nations Mission in the Central African Republic (MINURCA),¹⁶ to assist primarily in maintaining and enhancing security and stability in Bangui and its immediate vicinity and to support national elections; to set up the International Commission of Inquiry to establish the facts relating to the assassination of the President of Burundi on 21 October 1993,¹⁷ to form an International Commission of Inquiry to collect information and investigate reports relating to the sale or supply of arms and related matériel to former Rwandan Government forces in the Great Lakes region.¹⁸

4. During the period under review, the Secretary-General's depository functions in respect of multilateral treaties and the Charter of the United Nations continued to increase. His activities in this area included reporting to the General Assembly on the status of treaties deposited with him; publishing the document *Multilateral Treaties Deposited with the Secretary-General*;¹⁹ notifying States of the entry into force of treaties deposited with him and all treaty actions, e.g., ratifications, acceptances, approvals, accessions and successions, communicating to States the texts of declarations, reservations and all other treaty actions; providing advice on treaty matters, *inter alia*, in respect of succession to treaties by new States and treaty-making capacity of international organizations and entities other than States; accepting the depository functions in respect of multilateral treaties including those not concluded under the United Nations auspices; dealing with the issue of name changes of States and their impact on the depository practice and notifying the signatories and contracting parties of errors in authentic texts and communicating proposals to correct them.

5. Furthermore, the Secretary-General continued to exercise his administrative, technical and representational functions. These functions continued to expand together with the expansion of his various mandates and new tasks.

I. Analytical Summary of Practice

A. General administrative functions of the Secretary-General

¹³ S C resolution 1244 (1999), para. 10.

¹⁴ S C resolution 1246 (1999), para. 1.

¹⁵ S C resolution 1284 (1999), para. 5.

¹⁶ S C resolution 1159 (1998), Para. 8.

¹⁷ S C resolution 1012 (1995), para. 1.

¹⁸ S C resolution 1013 (1995), para. 1.

¹⁹ United Nations, *Multilateral Treaties Deposited with the Secretary General*, ST/LEG/SER.E/14-18.

1. FUNCTIONS OF THE SECRETARY-GENERAL IN CONNECTION WITH MEETINGS OF UNITED NATIONS ORGANS

(a) *Drawing up of the agenda*

6. During the period under review, the Secretary-General continued to perform his functions with respect to the drawing up of the agenda of the General Assembly and other United Nations bodies as in the previous period.

(b) *Convening of sessions and meetings*

7. During the period under review, the Secretary-General continued to receive requests from the General Assembly and other bodies to convene and make arrangements for conferences and meetings. For example, by resolution 53/77 E of 4 December 1998, the General Assembly decided to convene an international conference on the illicit arms trade and requested the Secretary-General to propose on the objective, scope, agenda, dates, venue of and preparatory committee of such a conference.²⁰ Similar requests were also made by other United Nations bodies.²¹

(c) *Examination of credentials*

8. During the period under review, the Secretary-General continued to examine credentials of representatives received from Member States for each session of the General Assembly and submitted memoranda to the Credential Committee for consideration.

(d) *Provision of staff, experts and services*

9. During the period under review, the Secretary-General continued to provide staff, experts and services to the organs of the Organization and to make necessary administrative arrangements for the meetings. These services and arrangements included, *inter alia*, conference service, translation and interpretation service, and document control. For example, in its resolution 54/56 A of 1 December 1999, the General Assembly requested the Secretary-General to provide the Disarmament Commission with interpretation and translation facilities in the official languages of the United Nations and to assign all the necessary resources and services to that end.

10. Furthermore, the Secretary-General was also requested by the General Assembly to provide interpretation services for meetings of regional and other major groupings of Member States upon request by those groupings.²²

2. TRANSMISSION OF COMMUNICATIONS

²⁰ See paras. 1 and 2.

²¹ See, e.g. E S C resolution 1999/25.

²² See G A resolution 50/206A.

11. During the period under review, the Secretary-General continued to be routinely requested to transmit communications of varied sort and to a diverse range of addressees, including Member States,²³ United Nations organs and bodies,²⁴ and governing bodies of specialized agencies.²⁵

3. INTEGRATION OF ACTIVITIES

(a) *Calendar of meetings*

12. During the period under review, the Secretary-General continued to report to the Committee on Conferences on the calendar of conferences and meetings. The Committee on Conference also authorized the Secretary-General to deal with the proposed changes to the calendar that did not have programme budget implications in consultation with the Bureau of the Committee.²⁶

(b) *Planning of work programmes and priorities*

13. During the period under review, the Secretary-General continued to perform functions with regard to programmes planning and priority setting. The Secretary-General was in charge of proposing and amending the medium-term plan which served as the principal policy directive of the Organization and as a framework for the formulation of biennial programme budgets for improving the programme planning.²⁷ In 1995, the General Assembly authorised the Secretary-General to prepare the medium-term plan according to a prototype of new format, introduced by the Secretary-General himself in 1994, which contained a concise forward-looking perspectives containing an analysis of persistent problems and emerging trends that needed to be addressed within the next four to six years and the role of the Organizations in that undertaking.²⁸

14. During the period under review, the Secretary-General also submitted reports to the Committee for Programme Coordination (CPC) on the proposed revisions to the Regulations and Rules Governing Programme Planning, the Programme Aspects of the Budget, the Monitoring of Implementation and the Methods of Evaluation.²⁹

15. With regard to priority-setting, the Secretary-General submitted a report in 1998 pursuant to General Assembly resolution 51/219 of 18 December 1996, on the analysis of priority-setting within the medium-term plan for the period 1998-2000.³⁰

²³ See, e.g. G A resolution 53/139.

²⁴ See, e.g. G A resolution 52/40.

²⁵ See, e.g. G A resolution 52/73.

²⁶ See, e.g., *Yearbook of the United Nations 1995*, pp. 1448.

²⁷ See A/51/6 and A/53/6.

²⁸ See G A decision 50/452.

²⁹ See A/53/133 and A/54/125.

³⁰ See A/53/134.

(c) *Integration of activities relating to operational programmes*³¹

16. During the period under review, the Secretary-General continued to receive requests to take actions with respect to the coordination of United Nations operational programmes.³² For example, in General Assembly resolution 52/90 of 12 December 1997, the Assembly requested the Secretary-General to assist the Commission on Crime Prevention and Criminal Justice in performing its activities, including cooperation and coordination with other relevant bodies such as the Commission on Narcotic Drugs, the Commission on Human Rights and the Commission on the Status of Women.

17. Furthermore, in 1996, the Secretary-General submitted a report on enhancing the internal oversight mechanisms in operational funds and programmes, and made recommendations on, *inter alia*, monitoring functions, cooperation among the heads of the oversight units, and periodic reporting to governing bodies.³³

(d) *Coordination of services to United Nations organs*

18. During the period under review, the Secretary-General reported annually to the Committee on Conference on the utilization of conference-servicing resources and the meeting statistics of United Nations organs.³⁴ In 1996, pursuant to General Assembly resolution 50/206 A of 23 December 1995, the Secretary-General reported to the General Assembly on the results of consultations held between the Office of Conference and Support Services and the substantive secretariats of intergovernmental bodies on measures to enhance the utilization of conference services under the critical financial situation of the Organization.³⁵

19. Furthermore, by resolution 49/237 of 31 March 1995, the Secretary-General was requested by the General Assembly to establish a unified conference-servicing facility at the Vienna International Centre under the management of the United Nations.

4. COORDINATION WITH SPECIALIZED AGENCIES AND OTHER INTERGOVERNMENTAL ORGANIZATIONS

20. During the period under review, the Secretary-General continued to exercise functions as the Chairman of the Administrative Committee on Coordination (ACC), which brought him together with corresponding officers of the United Nations specialized agencies, for the purpose of ensuring the fullest and most effective implementation of the agreements entered into between the Organization and specialized

³¹ Note that this section refers to the Secretary-General's functions with relation to the integration of the activities of *programmes*. For discussion of the Secretary-General's functions with respect to coordination with the activities of *specialized agencies and other intergovernmental organizations* (which, unlike programmes, are usually created through an independent legal instrument), see section A.4 below.

³² See, e.g., E S C decision 1993/313.

³³ See DP/1996/16.

³⁴ A/AC.172/1996/3, A/AC.172/1997/3, A/AC.172/1998/3 and A/AC.172/1999/3.

³⁵ A/51/253.

agencies.³⁶ The annual overview reports of the ACC addressed operational, administrative and financial matters.³⁷ During the period under review, under the Chairmanship of the Secretary-General, the ACC focused on issues including, *inter alia*, measures for system-wide cooperation for drug abuse control, coherent and coordinated system-wide follow-up to international conferences, African economic recovery and development and United Nations System-wide Special Initiative on Africa, assessment of the reforms under way in organizations of the United Nations system and their implications for system-wide coherence.

5. FUNCTIONS OF THE SECRETARY-GENERAL WITH REGARD TO THE PREPARATION OF WORK AND IMPLEMENTATION OF DECISIONS

21. During the period under review, the Secretary-General continued to receive requests from organs of the United Nations with regard to the preparation of work and implementation of decisions. The Secretary-General was requested, *inter alia*, to take measures necessary to implement,³⁸ to report on the implementation of,³⁹ or to provide facilities and services for certain bodies to implement,⁴⁰ resolutions and decisions. The functions of the Secretary-General with regard to preparation of work and implementation of decisions also included, for example, convening certain committees, conferences and meetings,⁴¹ making recommendations and suggestions,⁴² providing special personnel with all necessary assistance in their discharge of mandates,⁴³ and carrying out discussions with Governments.⁴⁴

6. FUNCTIONS OF THE SECRETARY-GENERAL IN CONNECTION WITH INTERNATIONAL TREATIES, CONVENTIONS AND AGREEMENTS

22. By resolutions adopted at each of the regular sessions that took place during the period, the General Assembly requested the Secretary-General to submit to it, at the next or following regular session, reports on the status and developments related to the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights and the Optional Protocols thereto,⁴⁵ the International Convention on the Protection of the Rights of All Migrant Workers and Members of their families,⁴⁶ the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects⁴⁷ and its Protocols, and the Additional Protocols to the

³⁶ See E S C resolution 13 (III).

³⁷ See E/1996/18, E/1997/54, E/1998/21, E/1999/48, E/1996/18/Add.1, and E/1999/48.

³⁸ See e.g. G A resolution 50/58 G.

³⁹ See e.g. G A resolution 50/18.

⁴⁰ See e.g. G A resolution 50/39.

⁴¹ See e.g. G A resolution 53/105.

⁴² See e.g. G A resolution 51/45.

⁴³ See e.g. G A resolution 52/140.

⁴⁴ See e.g. G A resolution 53/162.

⁴⁵ G A resolution 50/171 (A/52/446 of 3 October 1997).

⁴⁶ G A resolution 50/169 (A/51/415 of 26 September 1996).

⁴⁷ G A resolution 50/74 (A/51/254 of 25 July 1996).

Geneva Conventions of 1949.⁴⁸ In addition, the Secretary-General was requested to submit reports to the General Assembly in respect of the following instruments:

- Comprehensive Nuclear-Test-Ban Treaty⁴⁹
- Law of the Sea Convention⁵⁰
- Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks⁵¹
- Convention on the Elimination of All Forms of Discrimination against Women⁵²
- Convention on the Elimination of All Forms of Racial Discrimination⁵³
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment⁵⁴
- Additional Protocols to the Geneva Conventions of 1949⁵⁵

⁴⁸ G A resolution 51/155 (A/53/287 of 26 August 1998).

⁴⁹ G A resolution 50/245 adopted the Comprehensive Nuclear-Test-Ban Treaty. The General Assembly requested the Secretary-General, as depositary of the Treaty, to report to the General Assembly at its fifty-second session on the status of signature and ratifications of the Treaty (A/52/545 of 30 October 1997).

⁵⁰ G A resolution 50/23 requested the Secretary-General to report to the General Assembly at its fifty-first session on the implementation of the present resolution, in connection with his annual comprehensive report on the law of the sea (A/51/404 of 25 September 1996).

⁵¹ G A resolution 50/24 requested the Secretary-General to report the General Assembly at its fifty-first session on developments relating to Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (A/51/383 of 4 October 1996).

⁵² G A resolution 51/68 requested the Secretary-General to submit to the General Assembly at its fifty-third session a report on the status of the Convention and on the implementation of the resolution (A/53/318 of 26 August 1998). G A resolution 54/137 requested the Secretary-General to submit to the General Assembly at its fifty-fifth session a report on the status of the Convention and on the implementation of the resolution (A/55/308 of 18 August 2000).

⁵³ G A resolution 51/80 requested the Secretary-General to submit to the General Assembly at its fifty-third session a report concerning the status of the Convention, in accordance with resolution 2106 A (XX) of 21 December 1965 (A/53/256 12 August 1998).

⁵⁴ G A resolution 54/156 requested the Secretary-General to submit to the Commission on Human Rights at its fifty-sixth session a report on the status of the Convention (A/56/603 of 5 November 2001). G A resolution 54/156 requested the Secretary-General to submit to the General Assembly at its fifty-fifth session a report on the status of the Convention (A/55/208 of 28 July 2000). Resolution 54/156 requested the Secretary-General to submit a report on the operations of the United Nations Voluntary Fund for the Victims of Torture (A/55/178 of 26 July 2000).

⁵⁵ G A resolution 53/96 requested the Secretary-General to submit to the General Assembly at its fifty-fifth session a report on the status of the Convention as well as measures taken to strengthen the existing body of international humanitarian law, *inter alia*, with respect to its dissemination and full implementation at the national level, based on information received from Member States and the International Committee of the

- Convention on the Rights of the Child⁵⁶

23. In keeping with established practice, the Secretary-General continued to publish the yearly publication *Multilateral Treaties Deposited with the Secretary General*⁵⁷ providing the participation status and other relevant information on treaties deposited with him.

24. During the period under review, the question arose whether it would be legally possible to deposit an instrument of accession to an agreement in respect of which the withdrawal had not yet become effective.⁵⁸ A State Party to a human rights agreement submitted a notification relating to its denunciation. On the same date it submitted a new instrument of accession to the same agreement which included a reservation. There were no similar precedents. The Secretary-General acknowledged that in general it would be questionable whether it would be possible to accede to an agreement while a State was still a party to it. However, the Secretary-General decided to accept the instrument of re-accession since in this particular case it would be justified in view of the fact that the withdrawal (which in this case would only take effect three months after the deposit) had become effective before the re-accession did. To refuse the deposit of the instrument of re-accession until the denunciation took effect would imply the inapplicability of all the provisions of the agreement during a period of three months. Such a gap in applicability did not appear to be the intention of the State concerned. Furthermore, even if such situation would have no major implications for certain conventions, it would be contrary to the United Nations approach to human rights instruments where continuous coverage was the desired objective.

25. During the period under review, the question of accepting in deposit objection(s) to a reservation submitted after the expiration of the time limit for objections was considered.⁵⁹ The Secretary-General upheld previous practice of accepting objections to a reservation after the 12 month period provided by article 20, paragraph 5, of the Vienna Convention on the Law of Treaties, 1969. In accordance with the established practice, the Secretary-General accepted in deposit objections made even after the time lapse provided for in the Convention. However, taking into account the indicative value of this provision in the Vienna Convention on the Law of Treaties, 1969, the Secretary-General, when

Red Cross (A/55/173 of 24 July 2000 & A/55/173/Add.1 of 20 September 2000 & A/55/173/Corr.1 of 6 September 2000 & A/55/173/Corr.2 of 6 November 2000).

⁵⁶ G A resolution 54/149 requested the Secretary-General to submit to the General Assembly at its fifty-fifth session a report on the rights of the child containing information on the status of the Convention and the problems addressed in the present resolution (A/55/201 of 19 July 2000). Resolution 54/263 requested the Secretary-General to include information on the status of the two optional protocols in his report to the General Assembly on the status of the Convention (E/CN.4/2001/74 of 5 December 2000).

⁵⁷ ST/LEG/SER.E/14-18.

⁵⁸ Denunciation by Trinidad and Tobago on 26 May 1998 with effect from 26 May 1998 of the Optional Protocol of 16 December 1966 to the International Covenant on Civil and Political Rights followed by a re-accession with a reservation to this Optional Protocol, see ST/LEG/SER.E/18 (Vol. I), p.176.

⁵⁹ Objection made by Guatemala on 24 February 1998 to a statement (“objection”) made by the United Kingdom upon signature and ratification of the Vienna Convention on the Law of Treaties, see ST/LEG/SER.E/18 (Vol. II), p.276.

receiving an objection after the expiry of the time lapse, would call it a “communication” when informing the parties concerned of the deposit of the objection. Communications would not be registered under Article 102 of the Charter, nor would they be published in the United Nations *Treaty Series* (UNTS).

26. During the period under review, the practice of the Secretary-General as depositary in handling communications from contracting States which sought to modify their existing reservations or which might be understood to do so came under scrutiny. An existing reservation might be modified so as to result in a partial withdrawal or to create new exemptions from, or modifications of, the legal effects of certain provisions of a treaty. A modification of the latter kind would have the nature of a new reservation. The Secretary-General, as depositary, would circulate such modifications and grant the States concerned a specific period within which to object to them. In the absence of objections, the Secretary-General would accept the modification in deposit. In the past, the Secretary-General's practice as depositary had been to stipulate 90 days as the period within which the States concerned could object to such a modification. However, since the modification of a reservation could involve complex issues of law and policy, the Secretary-General decided that this time period was inadequate. Therefore, the Secretary-General advised that the time provided for objections to modifications would be 12 months from the date of the depositary notification containing the modification.⁶⁰

27. During the period under review the Secretary-General considered an issue of withdrawal by a State from a multilateral convention deposited with him which contained no provision on withdrawals. On 25 August 1997, the Secretary-General received from the Government of the Democratic People's Republic of Korea a notification of withdrawal from the Covenant on Civil and Political Rights, 1966, dated 23 August 1997. As the Covenant did not contain a withdrawal provision, the Secretary-General forwarded on 23 September 1997 an aide-mémoire to the Government of the Democratic People's Republic of Korea explaining the legal position arising from the above notification. In particular, attention was drawn to the absence of a withdrawal provision in the Covenant and the inapplicability to the Covenant of the general provisions of international law permitting unilateral withdrawal from treaties, including the provisions codified in the Vienna Convention on the Law of Treaties, 1969. The depositary expressed an opinion that a withdrawal from the Covenant would not appear possible unless all States Parties to the Covenant would agree with such a withdrawal. Consequently, The Secretary-General circulated the notification of withdrawal as well as the exchange of written communications between the Member State concerned and him as the depositary to all States Parties under the cover of the depositary notification from the Secretary-General.⁶¹

28. During the period under review, the Secretary-General's depositary practice relating to the Federal Republic of Yugoslavia was furthermore discussed. A special difficulty arose in connection with the participation of Yugoslavia in the United Nations Framework Convention on Climate Change, 1992. The Federal Republic of Yugoslavia signed this Convention on 8 June 1992, before the adoption of General Assembly

⁶⁰ LA 41 TR/221 (23-1) (See also: <http://untreaty.un.org/English/NV/NV.asp>).

⁶¹ See C.N.467.1997. TREATIES-10 of 12 November 1997.

resolution 47/1.⁶² Since the Secretary-General, as depositary, was guided in matters of representation and status of States and other entities by the decisions of competent United Nations organs, in view of the absence of such a decision until the adoption of resolution 47/1, he maintained the *status quo* with respect to Yugoslavia in the United Nations and its participation in United Nations activities. On this basis, during the Rio Conference on Environment and Development, the signature of Yugoslavia was accepted, consistent with article 20 of the Convention.⁶³ The acceptance on 3 September 1997 in the deposit by Yugoslavia of an instrument of ratification of the United Nations Framework Convention on Climate Change was based on the interpretation of General Assembly resolution 47/1. Accordingly, in light of the Legal Counsel's view that General Assembly resolution 47/1 had not terminated or suspended Yugoslavia's membership in the United Nations, the Secretary-General, as depositary, accepted in deposit this instrument of ratification pursuant to article 22 of the United Nations Framework Convention on Climate Change.⁶⁴

29. During the period under review, the Secretary-General considered the change in the status of Hong Kong in relation to the application to Hong Kong of multilateral treaties deposited with him. In accordance with the Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Question of Hong Kong, signed on 19 December 1984 (hereinafter referred to as the Joint Declaration), the People's Republic of China resumed the exercise of sovereignty over Hong Kong with effect from 1 July 1997. Hong Kong had, with effect from that date, become a Special Administrative Region of the People's Republic of China.⁶⁵ On 10 June 1997, the Government of the United Kingdom of Great Britain and Northern Ireland notified the Secretary-General of the following:

“In accordance with the Joint Declaration of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Question of Hong Kong signed on 19 December 1984, the Government of the United Kingdom will restore Hong Kong to the People's Republic of China with effect from 1 July 1997. The Government of the United Kingdom will continue to have international responsibility for Hong Kong until that date. Therefore, from that date the Government of the United Kingdom will cease to be responsible for the international rights and obligations arising from the application of [Conventions] to Hong Kong.”

⁶² Resolution 47/1 of 22 September 1992, by which the General Assembly considered that the Federal Republic of Yugoslavia (Serbia and Montenegro) could not continue automatically the membership of the former Socialist Federal Republic of Yugoslavia in the United Nations and therefore decided that the Federal Republic of Yugoslavia (Serbia and Montenegro) should apply for membership in the United Nations and that it should not participate in the work of the General Assembly.

⁶³ Several participants in the Conference reserved their positions as to the status of Yugoslavia and its participation in the Conference.

⁶⁴ See ST/LEG/SER.E/18 (Vol. II), p.371.

⁶⁵ For the full text of the Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Question of Hong Kong, 19 December 1984, see United Nations *Treaty Series* volume No. 1399, p. 61 (registration number I-23391).

30. Section XI of annex I to the Joint Declaration and article 153 of the Basic Law (Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, which was adopted on 4 April 1990 by the National People's Congress of the People's Republic of China (hereinafter referred to as the Basic Law) provided that international agreements to which the People's Republic of China was not a party but which were implemented in Hong Kong might continue to be implemented in the Hong Kong Special Administrative Region.

31. By a notification on 20 June 1997, the Government of the People's Republic of China informed the Secretary-General as follows:

“I. The treaties listed in Annex I to this Note [herein under], to which the People's Republic of China is a party, will be applied to the Hong Kong Special Administrative Region with effect from 1 July 1997 as they:

(i) are applied to Hong Kong before 1 July 1997; or

(ii) fall within the category of foreign affairs or defence or, owing to their nature and provisions, must apply to the entire territory of a State; or

(iii) are not applied to Hong Kong before 1 July 1997 but with respect to which it has been decided to apply them to Hong Kong with effect from that date (denoted by an asterisk in Annex I).

II. The treaties listed in Annex II to this Note [herein under], to which the People's Republic of China is not yet a party and which apply to Hong Kong before 1 July 1997, will continue to apply to the Hong Kong Special Administrative Region with effect from 1 July 1997.

The provisions of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights as applied to Hong Kong shall remain in force beginning from 1 July 1997.

III. The Government of the People's Republic of China has already carried out separately the formalities required for the application of the treaties listed in the aforesaid Annexes, including all the related amendments, protocols, reservations and declarations, to the Hong Kong Special Administrative Region with effect from 1 July 1997.

IV. With respect to any other treaty not listed in the Annexes to this Note, to which the People's Republic of China is or will become a party, in the event that it is decided to apply such treaty to the Hong Kong Special Administrative Region, the Government of the People's Republic of China will carry out separately the formalities for such application. For the avoidance of doubt, no separate formalities will need to be carried out by the Government of the People's Republic of China with respect to treaties

which fall within the category of foreign affairs or defence or which, owing to their nature and provisions, must apply to the entire territory of a State.”⁶⁶

32. The Secretary-General in a note verbale, dated 7 October 1999, addressed to the Permanent Representative of the People's Republic of China to the United Nations, observed that none of the treaty formalities effected by the People's Republic of China after 1 July 1997 in respect of multilateral treaties deposited with the Secretary-General were accompanied by a declaration of territorial application to the Hong Kong Special Administrative Region. He noted that, as the result, it was unclear whether the Government of People's Republic of China intended to consider such treaties as falling within the scope of the expression "foreign affairs or defence which, owing to their nature and provisions, must apply to the entire territory of a State". The Secretary-General further noted that the Vienna Convention on the Law of Treaties, 1969, which entered into force on 27 January 1980, provided in its article 29 that “Unless a different intention appears from the treaty or is otherwise established, a treaty is binding upon each party in respect of its entire territory”.

33. For those of the treaties which had been registered with the Secretariat and listed in annex II of the Note, the Secretary-General informed the parties concerned by the way of depository notifications of China's communication without comment. However, no action was taken by the Secretariat in relation to treaties where the People's Republic of China had not yet become party but which applied to Hong Kong before 1 July 1997. Even though questions may be raised regarding the application of a treaty to a part of a State's territory when the State itself had not become a party in accordance with the treaty's provisions, the Secretary-General did not pass judgment on whether such application was possible or as to the legal consequences of such an act. It had been left to the relevant parties to determine the rights and obligations that would flow from China's voluntary compliance with these treaties in the case of Hong Kong. No comment had been received from relevant State Parties on China's application of these treaties to Hong Kong.

34. During the period under review, the Secretary-General considered the treaty formalities relating to the multilateral treaties deposited with him by the People's Republic of China subsequent to 1 July 1997, i.e., the date on which the People's Republic of China resumed the exercise of sovereignty over Hong Kong in accordance with the Joint Declaration. The Secretary-General took into consideration the view of the Chinese Government that it would clearly specify in instruments of ratification/accession the scope of territorial application of each treaty in China and whether Hong Kong would be covered by China's participation in a treaty.

35. During the period under review, the Secretary-General considered the change in the status of Macao in relation to the application to Macao of multilateral treaties deposited with him. Pursuant to the Joint Declaration of the Government of the Republic of Portugal and the Government of the People's Republic of China on the question of Macao signed on 13 April 1987, Portugal transferred the sovereignty over Macao to the

⁶⁶ *Ibid.*

People's Republic of China on 20 December 1999. By a notification dated 18 November 1999, the Government of Portugal informed the Secretary-General of the following:

“In accordance with the Joint Declaration of the Government of the Portuguese Republic and the Government of the People's Republic of China on the Question of Macau signed on 13 April 1987, the Portuguese Republic will continue to have international responsibility for Macau until 19 December 1999 and from that date onwards the People's Republic of China will resume the exercise of sovereignty over Macau with effect from 20 December 1999. From 20 December 1999 onwards the Portuguese Republic will cease to be responsible for the international rights and obligations arising from the application of [Conventions] to Macau.”⁶⁷

36. By a notification dated 13 December 1999, the Government of the People's Republic of China informed the Secretary-General of the status of Macao in relation to treaties deposited with him and application of treaties registered with the Secretariat to Macao. In this connection, a question of a deposit with the Secretary-General of a declaration by Portugal of 13 September 1999 extending to the territory of Macao of the provisions of the Convention on Psychotropic Substances, 1971, was considered. On 20 April 1979, upon accession to the Convention on Psychotropic Substances, 1971, Portugal did not make any declaration of territorial application. However, article 27 of the Convention provides for consent to be obtained from a territory concerned by a Party responsible for its international relations as a condition for its territorial application. The Secretary-General held the view that the deposit of such declaration and its subsequent *ex officio* registration with the Secretariat could be effected in light of the subsequent Presidential Decree which had secured the Macao's requisite consent under article 27 of the Convention to apply it to Macao. The relevant depositary notification specified that the declaration would take effect from the date of its receipt.

7. FUNCTIONS OF THE SECRETARY-GENERAL IN RESPECT OF THE SUBMISSION OF THE ANNUAL REPORT

37. As stated in the *Repertory* and previous *Supplements*, the Secretary-General continued to submit to the General Assembly an annual report on the work of the Organization.⁶⁸ Notwithstanding varied structures and styles, the annual reports dealt with the following subjects: peace and security, preventive diplomacy, human rights, humanitarian actions, peace-keeping actions, economic and social development, legal affairs, and administrative and management. During the period under review, the length of the reports had been considerably shortened from 1997 onwards.

⁶⁷ *Ibid.*

⁶⁸ See A/50/1, A/51/1, A/52/1, A/53/1 and A/54/1.

B. Technical functions of the Secretary-General*

1. FUNCTIONS OF THE SECRETARY-GENERAL WITH REGARD TO THE COLLECTION OF INFORMATION AND THE UNDERTAKING OF STUDIES

(a) *Reports submitted by the Secretary-General pursuant to requests by United Nations Organs*

38. The Secretary-General's functions in this field continued to be extensive and multifarious.⁶⁹ As in previous years, the Secretary-General continued to be requested to ascertain the views of or to consult with Governments.⁷⁰ He was also requested to seek the views not only of States,⁷¹ but also of appropriate international bodies⁷² and experts, for example, in the context of international assistance available to third States affected by the implementation of sanctions,⁷³ as well as non-governmental organizations,⁷⁴ for instance, in connection with the report on human rights and cultural diversity.⁷⁵ He was also requested to draw upon relevant external expertise from the private and public sectors and the academic community⁷⁶ and to collect information and legislative and regulatory texts from States and relevant intergovernmental organizations, for instance, in the context of his continuing study of the problem of corruption.⁷⁷

2. OPERATIONAL FUNCTIONS OF THE SECRETARY-GENERAL

(a) *Functions undertaken by the Secretary-General pursuant to requests made by United Nations organs*

39. During the period under review, numerous resolutions adopted by the General Assembly or the Economic and Social Council contained requests to the Secretary-General with regard to various operational programmes.

* Various functions performed by the Secretary-General, due to a complex nature of many United Nations programmes and tasks, may also acquire a complex nature which predetermines their integral character. Thus, they may be closely related to each other, which makes it difficult to separate them from each other, including such cases when, for example, technical functions may have a political significance and political and other functions may contain very important technical elements inseparable from their "substantive" elements. Various groups of technical functions may also be difficult to separate from each other or to list them under distinctly different categories.

⁶⁹ See this *Supplement* under Articles 13(1)(a), 13(1)(b), 13(2), and 62(1) for the range of reports, studies and information the General Assembly requested from the Secretary-General during the period under review.

⁷⁰ See e.g. G A resolutions 50/55, paras.1 and 2; 50/45, para. 10; and 54/107, para. 5. See e.g. E S C resolution 1996/29, II, para.11.

⁷¹ See, for example, G A resolutions 54/123, para.7; 54/164, para.8.

⁷² See G A resolution 54/123, para.7; E S C resolution 1996/12, para.15; E S C resolution 1996/28, paras.4 and 6.

⁷³ G A resolution 54/107, para. 5.

⁷⁴ G A resolution 54/24, para.15; E S C resolution 1996/12, para.15.

⁷⁵ G A resolution 54/160, para. 5.

⁷⁶ E S C resolution 1996/48, para.5.

⁷⁷ E S C resolution 1996/8, para.4.

40. The Secretary-General was requested to perform a wide variety of functions. For example, he was requested to submit to the General Assembly for consideration at its fifty-fifth session, through the Economic and Social Council, a draft text of an international development strategy for the first decade of the new millennium, with the aim of giving further impetus to international cooperation for development and of monitoring long-term trends in the global economy as well as the attainment of internationally agreed targets;⁷⁸ to take all necessary action to ensure that the United Nations Mission in Sierra Leone, Haiti and Mission in East Timor were administered with the maximum of efficiency and economy;⁷⁹ to ensure “that new technologies in the area of conference services are introduced in all official languages”;⁸⁰ “to lend his assistance to the States resorting to conciliation”;⁸¹ to provide increased advisory services and technical assistance to requesting Member States, particularly in the elaboration of national strategies, the elaboration or improvement of legislative and regulatory measures and the establishment or strengthening of national capacities to prevent and control corruption, as well as in training and upgrading the skills of relevant personnel;⁸² to undertake technical cooperation activities to combat corruption, in consultation with Member States that may be able to provide assistance;⁸³ and to continue to provide to Member States, upon request, technical cooperation, advisory services and other forms of assistance in the field of crime prevention and criminal justice, including in the area of prevention and control of transnational organized crime;⁸⁴ to remain actively engaged in all aspects of the relations of the United Nations with the host country;⁸⁵ to continue to assist the specialized agencies and other organizations of the United Nations system in working out appropriate measures for implementing the relevant resolutions of the United Nations and to prepare for submission to the relevant bodies, with the assistance of those agencies and organizations, a report on the action taken in implementation of the relevant resolutions.⁸⁶

41. In addition, the Secretary-General continued to be asked to provide, promote or coordinate necessary assistance to specific countries or regions. He was asked, for instance, to continue to ensure that the regional commissions provide technical assistance to Member States, including through their respective regional organizations;⁸⁷ to continue to provide the States members of the United Nations Standing Advisory Committee on Security Questions in Central Africa with assistance to ensure that they would be able to carry on their efforts;⁸⁸ to support the establishment of a network of parliamentarians with

⁷⁸ G A resolution 54/206, para.4.

⁷⁹ G A resolutions 50/90, para.5; 54/241, para.11; and 54/20, para.7.

⁸⁰ G A resolution 50/206 D, para.4.

⁸¹ G A resolution 50/50, para.3.

⁸² E S C resolution 1996/8, para.9.

⁸³ G A resolution 54/128, para. 9.

⁸⁴ G A resolution 54/126, para. 14..

⁸⁵ G A resolution 50/49, para.7.

⁸⁶ G A resolution 54/85, para. 16.

⁸⁷ G A resolution 54/249, para. 118.

⁸⁸ G A resolution 54/55, A, para. 16.

a view to the creation of a subregional parliament in Central Africa,⁸⁹ as well as to continue to provide increased assistance to the countries of Central Africa for coping with the problems of refugees in their territories;⁹⁰ to include in his report to the Assembly at its fifty-sixth session an assessment of the efficiency and effectiveness of the contribution made by the United Nations system to advancing human resources development in developing countries through its operational activities, and to make recommendations to enhance further its impact.⁹¹

42. The General Assembly, *inter alia*, recognized the efforts made by the Secretary-General, his representatives, the Organization of American States and its Secretary-General and the group of Friends of the Secretary-General on Haiti and their constant support and contribution to the continuing consolidation of the political, economic and social institutions in Haiti, and supporting fully the efforts already undertaken by the Civilian Mission and the Civilian Police Mission.⁹²

(b) *Functions initiated by the Secretary-General*

43. The General Assembly, *inter alia*, expressed its appreciation to the Secretary-General for his intention to organize international and regional symposia and training seminars in the coming biennium, and noted his intention to encourage, *inter alia*, the United Nations regional centres for peace and disarmament in Africa, in Asia and the Pacific, and in Latin America and the Caribbean, to assist Member States in their regions in enhancing their knowledge of the standardized reporting system;⁹³ welcomed the initiative by the Secretary-General, taking into account the suggestions of the Human Rights Committee, to take determined steps, in particular through the Department of Public Information of the Secretariat, to give more publicity to the work of that Committee and, similarly, to the work of the Committee on Economic, Social and Cultural Rights;⁹⁴ and requested him to include in his annual comprehensive report on oceans and the law of the sea, suggestions on initiatives that could be undertaken to improve coordination and cooperation and achieve better integration of ocean affairs.⁹⁵

(c) *Functions of the Secretary-General in matters of a humanitarian nature and human rights*

44. During the period under review, the General Assembly, *inter alia*, requested the Secretary-General to report on the strengthening of the coordination of emergency humanitarian assistance of the United Nations;⁹⁶ to take further steps to support States which request assistance to support democratization activities related to human rights concerns, including training and education, assistance for legislative reform,

⁸⁹ G A resolution 54/55, A, para. 11.

⁹⁰ G A resolution 54/55, A, para. 12.

⁹¹ G A resolution 54/211, para. 12.

⁹² G A resolution 54/193, preambular para. 8.

⁹³ G A resolution 54/43, para. 3.

⁹⁴ G A resolution 54/157, para. 21.

⁹⁵ G A resolution 54/33, para. 7.

⁹⁶ G A resolution 54/95, para. 6.

strengthening and reform of the judiciary, assistance to human rights institutions and advisory services on treaty accession, reporting and international obligations as related to human rights;⁹⁷ to provide financial and technical assistance for the organization of the regional preparatory meetings planned in the context of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance;⁹⁸ encouraged the Secretary-General, through the Electoral Assistance Division, to respond to the evolving nature of requests for assistance and the growing need for specific types of medium-term expert assistance aimed at supporting and strengthening the existing capacity of the requesting Government, in particular through enhancing the capacity of national electoral institutions.⁹⁹

45. The General Assembly, *inter alia*, expressed its thanks for his efforts in favour of the consolidation of democratic institutions in Haiti and the respect for human rights in that country.¹⁰⁰ The Assembly invited the Secretary-General and the Government of Haiti to contribute to the strengthening of the Office for the Protection of Citizens through the establishment of a programme of technical cooperation, in close collaboration with the United Nations High Commissioner for Human Rights;¹⁰¹ and invited the Secretary-General and the United Nations High Commissioner for Human Rights to proceed without delay to investigate fully reports of mass killings of prisoners of war and civilians, rape and cruel treatment in Afghanistan.¹⁰²

46. The Assembly requested the Secretary-General to continue to seek ways and means to establish an adequate international monitoring presence in Kosovo;¹⁰³ to pursue his humanitarian efforts in Kosovo through the Office of the United Nations High Commissioner for Refugees, the World Food Programme, the United Nations Children's Fund, other appropriate humanitarian organizations and the Office of the United Nations High Commissioner for Human Rights and to continue to take the urgent practical steps to meet the critical needs of the people in Kosovo and to assist in the voluntary return of displaced persons to their homes in conditions of safety and dignity.¹⁰⁴ The Assembly welcomed the appointment by the Secretary-General of a special envoy for the peace process for the Democratic Republic of the Congo and the appointment by the Secretary-General of a special representative for the Democratic Republic of the Congo;¹⁰⁵ requested the Secretary-General, through his Special Representative for human rights in Cambodia, in collaboration with the office in Cambodia of the United Nations High Commissioner for Human Rights, to assist the Government of Cambodia in ensuring the protection of the human rights of all people in Cambodia and to ensure adequate resources for the continued functioning of the operational presence in Cambodia of the Office of the High Commissioner and to enable the Special Representative to continue to

⁹⁷ G A resolution 50/185, para. 6.

⁹⁸ G A resolution 54/154, para. 29.

⁹⁹ G A resolution 54/173, para. 12.

¹⁰⁰ G A resolution 50/196, para. 1.

¹⁰¹ G A resolution 54/187, para. 11.

¹⁰² G A resolution 54/185, para. 13.

¹⁰³ G A resolution 50/190, para. 8.

¹⁰⁴ G A resolution 54/183, para. 14.

¹⁰⁵ G A resolution 54/179, para. 1.

fulfil his tasks expeditiously;¹⁰⁶ to lend support to the establishment of a subregional centre for human rights and democracy in Central Africa;¹⁰⁷ and to continue to mobilize international humanitarian assistance for Somalia,¹⁰⁸ the Federal Republic of Yugoslavia¹⁰⁹ and Venezuela.¹¹⁰

47. The Assembly noted the progress made by his representative in developing a legal framework, studying the causes and manifestations of internal displacement and analysing institutional arrangements, undertaking dialogue with Governments, issuing a series of reports on particular country situations together with proposals for remedial measures, and raising the level of awareness, at both national and international levels, concerning the problem of internal displacement.¹¹¹

48. The General Assembly endorsed the proposals put forward in the report of the Secretary-General to ensure the swift establishment of future arrangements for disaster reduction as well as functional continuity for the effective implementation of the international strategy for disaster reduction; and his proposal to establish an inter-agency task force and inter-agency secretariat for disaster reduction.¹¹² The Assembly requested the Secretary-General to optimize further and disseminate through all available channels, including handbooks, the information necessary to guide the international community at large in the effective management of international cooperation in the fields of disaster prevention, early warning, response, mitigation, rehabilitation and reconstruction.¹¹³

3. FUNCTIONS OF THE SECRETARY-GENERAL IN CONNECTION WITH ASSISTANCE IN PROCEDURAL PROBLEMS

49. The General Assembly, *inter alia*, requested the Secretary-General to prepare “the feasibility study on procedures for the valuation and transfer of costs of assets redeployed from a peace-keeping operation in liquidation to other operations of United Nations bodies”.¹¹⁴ The Economic and Social Council, for instance, requested him to submit a report on the legal procedure necessary to bring the Committee on Economic, Social and Cultural Rights in line with other similar human rights treaty bodies.¹¹⁵

4. FUNCTIONS OF THE SECRETARY-GENERAL IN CONNECTION WITH THE DRAFTING OF DOCUMENTS AND LEGAL ASSISTANCE

¹⁰⁶ G A resolution 54/171, para. 1.

¹⁰⁷ G A resolution 54/55 A, para. 9.

¹⁰⁸ G A resolution 54/96 D, para.10.

¹⁰⁹ G A resolution 54/96 F, para.3.

¹¹⁰ G A resolution 54/96 K, para.5.

¹¹¹ G A resolution 50/195, preambular para. 7.

¹¹² G A resolution 54/219, paras. 3 and 4. See also A/54/136-E/1999/89 and A/54/497, paras. 11–14.

¹¹³ G A resolution 54/219, para. 9.

¹¹⁴ See, for instance, G A resolution 50/204 C, para.1.

¹¹⁵ E S C resolution 1996/38.

50. The Secretary-General continued to assist United Nations organs in the drafting of conventions and other documents and to prepare studies on legal subjects and to provide assistance to States in the implementation of various conventions, rules and legal principles.¹¹⁶

51. The General Assembly, *inter alia*, requested the Secretary-General to continue to render the necessary assistance to the depositary Governments of the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction and to provide such services as may be required for the implementation of the decisions and recommendations of the Review Conferences, as well as the decisions contained in the final report of the Special Conference, including all necessary assistance to the *Ad Hoc* Group and the special conference that was to consider the report of the *Ad Hoc* Group, in accordance with its mandate, as confirmed by the Fourth Review Conference.¹¹⁷

52. The General Assembly requested the Secretary-General to render the necessary assistance and to provide such services, including summary records, as might be required for the second Review Conference of the States Parties to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects and the preparatory committee for the Review Conference.¹¹⁸

53. The General Assembly expressed its appreciation to the Secretary-General for his constructive efforts to promote training and assistance in international law within the framework of the Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law¹¹⁹ and requested him to continue to publicize the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law.¹²⁰

54. The Assembly invited the Secretary-General to continue the dissemination of information on the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities and the promotion of understanding thereof, including through activities within the framework of the United Nations Decade for Human Rights Education.¹²¹

55. The General Assembly commended the Secretary-General for the successful organization of the 1995 United Nations Congress on Public International Law.¹²²

¹¹⁶ See *Repertory, Supplement No. 7*, vol. VI, under Article 98, paras. 75-82; and *Repertory, Supplement No. 8*, vol. VI, under Article 98, paras. [48-58].

¹¹⁷ G A resolution 54/61, para. 5.

¹¹⁸ G A resolution 54/58,III, para. 2.

¹¹⁹ G A resolution 50/43, para. 3.

¹²⁰ See, for example, G A resolution 50/ 43, para. 13.

¹²¹ G A resolution 50/180, para. 11.

¹²² G A resolution 50/44, para.3.

56. The Assembly requested the Secretary-General to provide all the facilities and assistance necessary for the promotion of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families through the World Public Information Campaign on Human Rights and the programme of advisory services in the field of human rights;¹²³ and encouraged the Secretary-General to continue to assist States parties to the International Covenants on Human Rights in the preparation of their reports, including by convening seminars or workshops at the national level for the purpose of training government officials engaged in the preparation of such reports, and by exploring other possibilities available under the regular programme of advisory services in the field of human rights.¹²⁴

57. The General Assembly noted the oral report of the Secretary-General and the advice on the continuation of the institutional linkage of the secretariat of the United Nations Framework Convention on Climate Change to the United Nations.¹²⁵ The Economic and Social Council, *inter alia*, invited him to strengthen system-wide coordination of technical assistance projects in the field of juvenile delinquency prevention and the establishment of improvement of juvenile justice systems;¹²⁶ to provide advisory services and technical cooperation to Member States in criminal justice and law reform, organization of training for law enforcement and criminal justice personnel and support to the administration and management of penal and penitentiary systems;¹²⁷ to initiate the process of requesting the views of Member States on the elaboration of an international convention on the illicit traffic in children;¹²⁸ and “to make a thorough analysis of the views of Governments on the possibility of elaborating a convention or conventions against organized transnational crime”.¹²⁹

C. Financial functions of the Secretary-General

1. AUTHORITY TO ENTER INTO COMMITMENTS TO MEET UNFORESEEN AND EXTRAORDINARY EXPENSES

58. During the period under review, the biennial budget cycle continued and at each regular session held in an odd year, the General Assembly maintained its practice of renewing, for the following biennium, the authority of the Secretary-General to enter into commitments to meet unforeseen and extraordinary expenses for the following biennium.¹³⁰

¹²³ G A resolution 54/158, para. 4.

¹²⁴ G A resolution 54/157, para. 19.

¹²⁵ G A resolution 54/222, preambular para. 10.

¹²⁶ E S C resolution 1996/13, para.8.

¹²⁷ E S C resolution 1996/16, para.9.

¹²⁸ E S C resolution 1995/27, para.17.

¹²⁹ E S C resolution 1996/27, para. 9 (a).

¹³⁰ See G A resolutions 50/217, 52/223 and 54/252.

59. The conditions under which the authority was to be exercised remained, in substance, as described in *Supplement No. 8*, except that: (a) the Secretary-General's authority to enter into financial commitments without the concurrence of the Advisory Committee on Administrative and Budgetary Questions (Advisory Committee) relating to the maintenance of peace and security was increased from five million to eight million for the biennium 2000-2001; and (b) some of the ceilings on the expenses relating to the International Court of Justice were raised or lowered.¹³¹

2. AUTHORITY TO BORROW FROM SPECIAL FUNDS AND ACCOUNTS OR FROM GOVERNMENTAL SOURCES

60. During the period under review, the General Assembly maintained its practice of renewing, for the following biennium, the Secretary-General's authority to utilize cash from special funds and accounts in his custody, or the proceeds of loans authorized by the Assembly, to meet the purpose normally related to the Working Capital Fund.¹³²

3. AUTHORITY RELATING TO SPECIAL ACCOUNTS AND FUNDS

61. During the period under review, the Secretary-General continued to be requested to establish special accounts for operations activities of the Organization by the General Assembly.¹³³ For example, the General Assembly adopted resolution 50/241 of 7 June 1996, where it requested the Secretary-General to establish a special account for the Mission in Bosnia and Herzegovina. The Security Council also requested the Secretary-General to take necessary steps to establish a Trust Fund for the Central African Republic which would assist in supporting the troops of States participating in the Inter-African Mission to Monitor the Implementation of the Bangui Agreements, and in providing logistical support to them.¹³⁴

62. Furthermore, the Secretary-General continued to be authorised to establish and monitor other funds during the period under review. For example, the General Assembly adopted resolution 51/207, in which it requested the Secretary-General to establish a special fund for the participation of the least developed countries in the work of the Preparatory Committee on the Establishment of an International Criminal Court and in the diplomatic conference of plenipotentiaries. In resolution 52/160, the Assembly further requested the Secretary-General to establish a trust fund for voluntary contributions towards meeting the cost of participation in the work of the Preparatory Committee and the Conference of those developing countries not covered by the aforementioned special fund.¹³⁵

¹³¹ See G A resolution 54/252.

¹³² See G A resolutions 50/218, 52/224 and 54/252.

¹³³ See e.g. G A resolutions 51/228, 52/249, 53/241 and 54/246.

¹³⁴ S C resolution 1136 (1997).

¹³⁵ See para. 7.

4. AUTHORITY TO ACCEPT VOLUNTARY CONTRIBUTIONS

63. During the period under review, the Secretary-General continued to be requested to seek voluntary contributions to defray the costs of operational activities of the Organization. For example, in resolution 52/241 of 26 June 1998, the General Assembly requested the Secretary-General to appeal for voluntary contributions to the Special Account for the United Nations Peacekeeping Force in Cyprus. The Assembly made similar request to the Secretary-General for the Trust Fund for the International Decade for Natural Disaster Reduction in resolution 51/185.¹³⁶

5. FUNCTIONS EXERCISED IN CONNECTION WITH THE FINANCIAL CRISIS OF THE UNITED NATIONS

64. During the period under review, the financial crisis continued as total unpaid contribution to the regular budget remained at perilously high level. The Secretary-General continued to report on the financial situation of the Organization, and to propose measures to alleviate the crisis. For example, in 1997, the Secretary-General proposed the establishment of a revolving credit fund capitalized up to one billion dollars and funded through voluntary contributions, as a means of providing liquidity as an advance on Member States' contributions.¹³⁷ The Secretary-General also continued to borrow from peace-keeping operations to cover regular budget expenses from 1995 to 1998.

D. Functions of the Secretary-General with respect to political and security matters

1. FUNCTIONS EXERCISED IN CONNECTION WITH THE SITUATION IN KOSOVO

65. The Security Council, by its resolution 1244 (1999), authorized the Secretary-General to establish, with the assistance of the relevant international organizations, an international civil presence in Kosovo to provide an interim administration in Kosovo.¹³⁸ The interim administration was mandated to promote, pending the final settlement, a sustainable autonomy and self-government in Kosovo,¹³⁹ taking into full account of the *Rambouillet* accords.¹⁴⁰ The Council also requested the Secretary-General to appoint a Special Representative to control the implementation of international civil presence, in coordination with the international security presence.¹⁴¹

66. In his reports to the Security Council,¹⁴² the Secretary-General elaborated on operational aspects of the United Nations Interim Administration Mission in Kosovo

¹³⁶ See para. 13.

¹³⁷ See A/51/90.

¹³⁸ S C resolution 1244 (1999), para. 10.

¹³⁹ *Ibid.*, para. 11.

¹⁴⁰ *Ibid.*, annex.

¹⁴¹ *Ibid.*, para. 6.

¹⁴² S/1999/672, dated 12 June 1999 and S/1999/779, dated 12 July 1999.

(UNMIK), and spelled out the structure of the Mission and its relationship with the relevant international organizations.

67. Concerning the authority of the UNMIK, the Secretary-General's reports clarified the following points:

- That all legislative and executive powers in the territory of Kosovo, including the administration of the judiciary, had been vested in the UNMIK;¹⁴³
- That the UNMIK in implementing its mandate would respect the laws of the Federal Republic of Yugoslavia and of the Republic of Serbia insofar as they did not conflict with internationally recognized human rights standards or with regulations issued by the Special Representative of the Secretary-General;¹⁴⁴
- That the Special Representative would be empowered to regulate, within the areas of his responsibilities, and he would have the power to change, repeal or suspend existing laws;¹⁴⁵
- That the UNMIK would respect the existing institutions to the extent that they were compatible with its mandate;¹⁴⁶
- That the Special Representative would also have the authority to appoint any person to perform functions in the interim civil administration in Kosovo, including the judiciary, and to remove such persons if their service was found to be incompatible with the mandate and the purposes of the interim civil administration.¹⁴⁷

68. Under the operational plan of the Secretary-General, the Special Representative would be assisted by four Deputy Special Representatives; each would be responsible for one of the following major components of the Mission: (a) interim civil administration; (b) humanitarian affairs; (c) institution-building; and (d) reconstruction. Also under these arrangements, the United Nations, the Office of the United Nations High Commissioner for Refugees (UNHCR), the Organization for Security and Cooperation in Europe (OSCE) and the European Union would, respectively, be assigned to lead the components of the Mission, with a view to ensure that the institutional capacities of the agencies cooperating with the United Nations were pooled for optimal effectiveness on the ground.¹⁴⁸

69. During the period under review, the Secretary-General presented two reports,¹⁴⁹ covering the activities carried out by the UNMIK in the implementation of the Security Council resolution 1244 (1999). In particular, the UNMIK had managed to establish the Kosovo Transitional Council (KTC), in which all major political parties and ethnic groups of Kosovo were represented. The establishment of the Council, under the

¹⁴³ S/1999/779, para. 35.

¹⁴⁴ *Ibid.*, para. 36.

¹⁴⁵ *Ibid.*, para. 39.

¹⁴⁶ *Ibid.*, para 36.

¹⁴⁷ *Ibid.*, para. 40.

¹⁴⁸ *Ibid.*, para. 44.

¹⁴⁹ S/1999/987, 16 September 1999; S/1999/987/Add.1, 26 October 1999; S/1999/1250, 23 December 1999; S/1999/1250/Add. 1, 23 December 1999.

Chairmanship of the Special Representative, was aimed at providing Kosovo residents the opportunity to have a direct input into the UNMIK decision-making process.¹⁵⁰

70. In his last report during the period under review, the Secretary-General informed the Council that the leaders of political parties of Kosovo had agreed to participate in the establishment of a Kosovo-UNMIK Joint Interim Administrative Structure. The Council was composed of an Interim Administrative Council which would make recommendations for amendments to the applicable laws and for new regulations. The Administrative Departments would perform the administrative tasks and would implement policy guidelines to be formulated by the Interim Administrative Council.¹⁵¹

71. The Secretary-General circulated as official documents of the United Nations the texts of sixteen regulations that had been issued by the Special Representative during the period under review.¹⁵²

2. FUNCTIONS EXERCISED IN CONNECTION WITH THE SITUATION IN EAST TIMOR

72. The Secretary-General in his report of 5 May 1999, presented to the General Assembly and the Security Council, informed these Organs that the Governments of Indonesia and Portugal, through his good offices, had concluded an overall agreement concerning the question of East Timor (the Agreement).¹⁵³ Under the terms of the Agreement, the Secretary-General had been requested to “organize and conduct a popular consultation” with a view to “ascertaining whether the East Timorese people accept or reject a special autonomy for East Timor,” within the unitary of Republic of Indonesia. The Secretary-General had also been requested to immediately establish a United Nations Mission in East Timor for the purpose of conducting the popular consultations.¹⁵⁴ Under article 7 of the Agreement, the United Nations had been requested to maintain an adequate presence in East Timor during the interim period between the conclusion of the

¹⁵⁰ S/1999/987, para. 2.

¹⁵¹ S/1999/1250, para. 5.

¹⁵² The Regulations covered several areas, such as the Authority of the Interim Administration in Kosovo; the Establishment of the Custom and other Related Services in Kosovo; Currency to be Issued in Kosovo; the Establishment of an *Ad Hoc* Court of Final Appeal and an *Ad Hoc* Office of the Public Prosecutor; Recommendations for the Establishment and Administration of the Judiciary and Prosecution Services; Appointment of and Removal from Office of Judges and Prosecutors; the Establishment of the Kosovo Protection Force; the Importation, Transport, Distribution and Sale of Petroleum Products; the Repeal of Discriminatory Legislation Affecting Housing and Rights in Property; the Provision of Postal and Telecommunication Services in Kosovo; the Licensing of Non-bank Micro-finance Institutions in Kosovo; the Appointment of Regional and Municipal Administrators; the Establishment of the Central Fiscal Authority of Kosovo; and the Approval of the Kosovo Consolidated Budget. The texts of the Regulations were circulated in documents S/1999/987, annex; and in S/1999/1250/Add. 1.

¹⁵³ The text of the Agreement between the republic of Indonesia and the Republic of Portugal on the Question of East Timor, annexed to the report of the Secretary-general A/53/951-S/1999/513, dated 5 May 1999.

¹⁵⁴ *Ibid.*, para. 1.

popular consultation and the start of the implementation of either the special autonomy or the assumption of authority by the United Nations.¹⁵⁵

73. In his report of 22 May 1999,¹⁵⁶ presented in compliance with the Security Council resolution 1236 (1999),¹⁵⁷ the Secretary-General proposed the establishment of the United Nations Mission in East Timor (UNAMET) to organize and conduct the popular consultation. The Secretary-General suggested that the proposed Mission should include political, electoral, civilian police, information and administrative/financial components and that the heads of the components should report to his Special Representative. He also emphasized that the deployment of UNAMET would enable him to discharge his responsibility regarding security, as stipulated in paragraph 3 of the Agreement.¹⁵⁸

74. By its resolution 1246 (1999),¹⁵⁹ the Security Council decided to establish the United Nations Mission in East Timor (UNAMET), to organize and conduct the popular consultation on 8 August 1999,¹⁶⁰ and approved the modalities for implementing the popular consultation process as set out in the Secretary-General's report.¹⁶¹ The Council also approved the Secretary-General's proposal that the UNAMET should be composed of the following components: a political component, an electoral component, and an information component.¹⁶²

75. The Secretary-General decided to hold the popular consultation on 30 August 1999, three weeks later than the original schedule. The result of the consultation was announced on 4 September, in which the East Timorese people expressed their clear wish to begin a process of transition under the authority of the United Nations towards independence.¹⁶³

76. In his report of 4 October 1999 to the Security Council, the Secretary-General proposed the establishment of a United Nations Transitional Administration in East Timor (UNTAET), which would be entrusted with the "overall responsibility for the administration of East Timor, and would be empowered to exercise all legislative and executive authority, including the administration of justice".¹⁶⁴ The main elements of the

¹⁵⁵ *Ibid.*, para. 3.

¹⁵⁶ S/1999/595, dated 22 May 1999.

¹⁵⁷ The Security Council, by its resolution 1236 (1999) had welcomed the intention of the Secretary-General to establish a United Nations presence in East Timor, and had requested him to keep the Council closely informed of the situation in East Timor.

¹⁵⁸ S/1999/595, dated 22 May 1999, para. 4.

¹⁵⁹ Adopted on 11 June 1999.

¹⁶⁰ S C resolution 1246 (1999), para. 2.

¹⁶¹ S/1999/595, paras. 15-18.

¹⁶² S C resolution 1246 (1999), para. 4.

¹⁶³ S C resolution 1272 (1999), the preamble. Following the announcement of the result of the popular consultation, violence was erupted, which led, *inter alia*, to the displacement of hundreds of thousands East Timorese from their homes, and the evacuation of foreign observers. The majority of UNAMET personnel, including local staff, were also evacuated to Darwin, Australia.

¹⁶⁴ S/1999/1024, para. 26.

authority of the Transitional Administration, as proposed by the Secretary-General, were as follows:

- The UNTAET would continue to apply the existing laws of East Timor, to the extent that they were compatible with its mandate and with international standards;¹⁶⁵
- The Special Representative would be empowered to enact new laws and regulations and to amend, suspend or repeal the existing laws;¹⁶⁶
- The UNTAET would be entrusted with the task of rebuilding a structure of governance and administration capable of providing basic public services and a fully functioning administration of justice;¹⁶⁷
- The United Nations would conclude such international agreements with States and international organizations as may be necessary for the performance of the functions of the UNTAET.¹⁶⁸

77. In accordance with the Secretary-General's proposal, the UNTAET would function under the overall authority of the Special Representative of the Secretary-General and would have three main components: a governance and public administration component; a humanitarian assistance and emergency rehabilitation component; and a military component.¹⁶⁹

78. The Security Council, by its resolution 1272 (1999), decided to establish the United Nations Transitional Administration in East Timor (UNTAET), along the lines proposed by the Secretary-General.¹⁷⁰ It requested the UNTAET and the multilateral forces, deployed pursuant to resolution 1264 (1999),¹⁷¹ to cooperate closely with each other, with a view to replace the multilateral forces by the military component of the UNTAET, at the earliest possible date.¹⁷²

79. The Security Council had requested the Secretary-General to submit, within three months, a progress report on the deployment of the UNTAET.

80. As at 31 December 1999, the Secretary-General had not yet presented any report to the Security Council.

¹⁶⁵ *Ibid.*, para. 32.

¹⁶⁶ *Ibid.*

¹⁶⁷ *Ibid.*, para. 33.

¹⁶⁸ *Ibid.*, para. 34.

¹⁶⁹ *Ibid.*, para. 38.

¹⁷⁰ S C resolution 1272 (1999), paras. 1, 2, and 3.

¹⁷¹ Following the outbreak of violence after the announcement of the result of the popular consultation on 4 September 1999, and acting upon request of 12 September 1999 of the Government of Indonesia, the Security Council authorized the establishment of a multinational force under a unified command structure "to restore peace and security in East Timor, to protect and support UNTAET in carrying out its tasks and, within force capabilities, to facilitate humanitarian assistance operations." See, S C resolution 1264 (1999), para. 3.

¹⁷² S C resolution 1272 (1999), para. 9.

3. FUNCTIONS ENVISAGED REGARDING THE UNITED NATIONS MONITORING, VERIFICATION AND INSPECTION COMMISSION (UNMOVIC)

81. The Security Council, by its resolution 1284 (1999), decided to establish, as its subsidiary body, the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC),¹⁷³ to verify the compliance by Iraq of its obligations under paragraphs 8, 9 and 10 of resolution 687 (1991). The UNMOVIC, which replaced the Special Commission established pursuant to paragraph 9 (b) of resolution 687 (1991), was tasked with additional responsibilities, such as addressing the ongoing and future monitoring and verification issues, unresolved disarmament issues and identifying “additional sites in Iraq to be covered by the reinforced system of ongoing monitoring and verification.”¹⁷⁴

82. The Security Council, under the same resolution, requested the Secretary-General to appoint, in consultation with the Council, an Executive Chairman of UNMOVIC within 30 days. He was also requested to appoint in consultation with the Chairman and the Council “qualified experts as a College of Commissioners for UNMOVIC” to review the implementation of resolution 1284 (1999) and other relevant resolutions and to “provide professional advice and guidance to the Executive Chairman, including on significant policy decisions and on written reports to be submitted to the Council through the Secretary-General.”¹⁷⁵

83. The Security Council requested the Executive Chairman of UNMOVIC to report to the Council through the Secretary-General every three months and also as provided in other paragraphs of the resolution.¹⁷⁶

84. As at 31 December 1999, the Secretary-General had not presented a report on the implementation of the resolution.

4. FUNCTIONS PERFORMED IN RELATION TO THE SITUATION IN THE CENTRAL AFRICAN REPUBLIC

85. The Secretary-General in his report of 23 February 1998, submitted pursuant to Security Council resolution 1152 (1998), observed that the Inter-African Mission to Monitor the Implementation of the Bangui Agreements (MISAB)¹⁷⁷ would not be able to continue its presence in Bangui, the Central African Republic, without external financial and logistical support, and that without a credible successor force, the situation in the country was likely to deteriorate rapidly. In his view, the only viable option was the establishment of a United Nations peacekeeping operation to take over from MISAB.¹⁷⁸

¹⁷³ S C resolution 1284 (1999), para. 1.

¹⁷⁴ *Ibid.*

¹⁷⁵ *Ibid.*, para. 5.

¹⁷⁶ *Ibid.*, para. 12.

¹⁷⁷ The Security Council by its resolution 1125 (1997) had authorized the deployment of the Inter-African Mission to Monitor the Implementation of the Bangui Agreements (MISAB) to facilitate the return to peace and security by monitoring the implementation of the Bangui Agreements in the Central African Republic as stipulated in the mandate of MISAB (S/1997/561, Appendix I).

¹⁷⁸ S/1998/148, paras. 20 and 21.

He presented, in the annex of his report, a framework containing the mandate, the concepts of operation and transitional arrangements from MISAB to the proposed mission.¹⁷⁹

86. Having considered the report of the Secretary-General, the Security Council decided to establish the United Nations Mission in the Central African Republic (MINURCA),¹⁸⁰ and defined its mandate.¹⁸¹ The Council authorized the Secretary-General to take the necessary measures to ensure that MINURCA was fully deployed by 15 April 1998, in order to carry out its mandate and to secure a smooth transition between MISAB and MINURCA.¹⁸²

87. In his second report to the Security Council, submitted pursuant to paragraph 6 of resolution 1182 (1999), the Secretary-General submitted his recommendations for a possible United Nations role in the legislative election process in the Central African Republic. The proposed role for the United Nations included the transport of electoral materials and equipment to and from selected sites, ensuring their security and that of the international electoral observers and conducting a limited but reliable international observation of the two rounds of elections.¹⁸³ According to the proposed plan, the monitoring of electoral process in Bangui and six selected sites would cover 25 percent of all polling stations nationwide. Based on the accumulated experience of the United Nations it was considered a representative and credible percentage, which would enable the Special Representative to make an overall assessment of the result of the legislative elections.¹⁸⁴

88. By its resolution 1201 (1998), the Security Council welcomed the announcement by the authorities of the Central African Republic to hold legislative elections on 22 November and 13 December 1998, and decided to expand the mandate of MINURCA to include “support for the conduct of legislative elections as described in section III of the Secretary-General’s report.”¹⁸⁵

89. The Secretary-General in his third and fourth reports presented the results of the first and second rounds of elections, which were held on 22 November and 13 December 1998, respectively.

90. The Security Council, by its resolution 1230 (1999), welcomed the holding of free and fair elections in the Central African Republic,¹⁸⁶ and authorized MINURCA to play “a supportive role” in the conduct of the presidential elections.¹⁸⁷

¹⁷⁹ *Ibid.*, pp. 6-10.

¹⁸⁰ S C resolution 1159 (1998), para. 9.

¹⁸¹ *Ibid.*, para. 10.

¹⁸² *Ibid.*, para. 11.

¹⁸³ S/1889/783, 21 August 1998, paras. 16-29.

¹⁸⁴ *Ibid.*, para. 33.

¹⁸⁵ S C resolution 1201 (1998), paras. 1 and 2.

¹⁸⁶ S C resolution 1230 (1999), the preamble.

¹⁸⁷ *Ibid.*, para. 9.

91. In his eighth report to the Security Council, the Secretary-General indicated that the presidential election had been conducted with the support of MINCURA, from 19 to 22 September 1999;¹⁸⁸ that the election had been conducted in a peaceful, transparent and credible atmosphere;¹⁸⁹ and that the Constitutional Court of the Central African Republic had announced President Patassé as the elected President for a six years term.¹⁹⁰

92. By its resolution 1271 (1999), the Security Council noted with satisfactions the successful conclusion of the presidential election.¹⁹¹

5. FUNCTIONS PERFORMED IN CONNECTION WITH THE ESTABLISHMENT OF AN INTERNATIONAL COMMISSION OF INQUIRY TO ESTABLISH FACTS RELATING TO THE ASSASSINATION OF THE PRESIDENT OF BURUNDI ON 21 OCTOBER 1993 AND THE MASSACRE THAT FOLLOWED

93. By its resolution 1012 (1995), the Security Council requested the Secretary-General to establish an international commission of inquiry with the following mandate:

“(a) To establish the facts relating to the assassination of the President of Burundi on 21 October 1993, the massacres and other related serious acts of violence which followed;”

“(b) To recommend measures of a legal, political or administrative nature, as appropriate, after consultation with the Government of Burundi, and measures with regard to the bringing to justice of persons responsible for those acts, to prevent any repetition of deeds similar to those investigated by the commission and, in general, to eradicate impunity and promote national reconciliation in Burundi;”¹⁹²

94. In compliance with the Security Council resolution 1012 (1995), the Secretary-General appointed five international jurists as members of the International Commission of Inquiry.¹⁹³

95. The Secretary-General presented to the Security Council the interim report of the Commission on 5 January 1995¹⁹⁴ and its final report, containing the conclusions and recommendations of the Commission, on 22 August 1996.¹⁹⁵ The Commission’s conclusions were as follows:

¹⁸⁸ S/1999/1038, 7 October 1999, para. 19.

¹⁸⁹ *Ibid.*, para. 20.

¹⁹⁰ *Ibid.*, para. 23.

¹⁹¹ S C resolution 1271 (1999), the preamble.

¹⁹² S C resolution 1012 (1995), para. 1.

¹⁹³ Letter dated 27 September 1995 from the Secretary General addressed to the President of the Security Council (S/1995/825).

¹⁹⁴ S/1996/8.

¹⁹⁵ S/1996/682.

- That “evidence was sufficient to establish that acts of genocide against the Tutsi minority took place in Burundi on 21 October 1993, and the days following, at the instigation and with the participation of certain Hutu FRODEBU functionaries and leaders up to commune level;”¹⁹⁶
- That “the evidence was insufficient to determine whether or not these acts of genocide were planned or ordered by leaders at a higher level;”¹⁹⁷
- That, “although it did not obtain, nor could it under the circumstances be expected to obtain, direct testimonial or documentary evidence to support it, circumstantial evidence was sufficient to warrant the conclusion that some highly placed members of FRODEBU had planned in advance a response to the very real eventuality of a coup by the Army, ... and that this plan had been made known in advance to certain local FRODEBU members in positions of leadership down to the level of the communes;”¹⁹⁸
- That “the evidence showed that indiscriminate killing of Hutu men, women and children was carried out by members of the Burundian Army and Gendarmerie, and by Tutsi civilians. Although no evidence was obtained to indicate that the repression was centrally planned or ordered, it is an established fact that no effort was made by the military authorities at any level of command to prevent, stop, investigate or punish such acts. The Commission considers that this failure to act engages the responsibility of those military authorities with regard to such acts;”¹⁹⁹
- That, “with the evidence at hand, it is not in a position to identify by name the persons that should be brought to justice for the acts to which these conclusions refer.”²⁰⁰

96. Concerning the assassination of the president of Burundi, the Commission recommended that “the assassination of President Ndadaye, the taking of hostages, and the indiscriminate repression of civilians, all of which fall within the internal jurisdiction of Burundi, the Commission considers it evident that there is no hope for fair and effective investigation or prosecution by the present Burundian judiciary, or while the very persons whose conduct is to be investigated share the unrestricted power of life and death throughout the country from high positions in the Government, in the Army, and in the armed rebellion. Such an investigation would require an independent and credible judicial body, endowed with all necessary powers, in conditions of reasonable order and security.”²⁰¹

¹⁹⁶ *Ibid.*, para. 483.

¹⁹⁷ *Ibid.*, para. 484.

¹⁹⁸ *Ibid.*, para. 485.

¹⁹⁹ *Ibid.*, para. 486.

²⁰⁰ *Ibid.*, para. 487.

²⁰¹ *Ibid.*, para. 500.

6. FUNCTIONS PERFORMED REGARDING THE ESTABLISHMENT OF AN INTERNATIONAL COMMISSION OF INQUIRY IN CONNECTION WITH SALE OR SUPPLY OF ARMS AND RELATED MATERIEL TO FORMER RWANDAN GOVERNMENT FORCES

97. The Security Council, by its resolution 1213 (1995), requested the Secretary-General to establish an International Commission of Inquiry to collect information and investigate reports relating to the sale or supply of arms and related matériel to former Rwandan government forces in the Great Lakes region in violation of Council resolutions 918 (1994), 997 (1995) and 1011 (1995).²⁰²

98. In compliance with the Security Council resolution 1213 (1995), the Secretary-General appointed six members of the International Commission of Inquiry on 20 October 1995.²⁰³

99. The Secretary-General presented to the Security Council the interim report of the Commission on 19 August 1998,²⁰⁴ and its final report, containing the conclusions and recommendation of the Commission, on 18 November 1998.²⁰⁵

100. The Commission, *inter alia*, had recommended that the Security Council “recall that the former Rwandan government forces and militia were responsible for the genocide in Rwanda in 1994.”²⁰⁶ In order to deal with the larger issue of uncontrolled arms flows and their harmful effects in the Great Lake region, the Commission had recommended a number of related measures to be adopted at the national, regional and international levels.²⁰⁷

101. The Security Council, taking into account of the recommendation of the International Commission of Inquiry, adopted a number of resolutions concerning restoring peace and security and combating the illicit flow of arms to the Great lake region.²⁰⁸

E. Representational functions of the Secretary-General

1. FUNCTIONS OF THE SECRETARY-GENERAL WITH REGARD TO THE NEGOTIATION AND CONCLUSION OF AGREEMENTS

²⁰² S C resolution 1013 (1995), para. 1.

²⁰³ Letter dated 16 October 1995 from the Secretary-General addressed to the President of the Security Council (S/1995/879).

²⁰⁴ S/1998/777, dated 19 August 1998.

²⁰⁵ Letter dated 18 November 1998 from the Secretary-General addressed to the President of the Security Council (S/1998/1096), pp. 82-110.

²⁰⁶ *Ibid.*, para. 96.

²⁰⁷ *Ibid.*, paras. 103-110.

²⁰⁸ See e.g. S C resolution 1209 (1998).

102. During the period under review, the Secretary-General continued to receive requests to exercise functions with regard to negotiation and conclusion of agreements concluded by the United Nations or its organs. For example, in resolution 51/16 of 11 November 1996, the General Assembly requested the Secretary-General, or his representative, to hold consultations with the Secretary-General of the Caribbean Community, or his representative, with a view to signing an agreement on cooperation between the two organizations. Furthermore, in resolution 50/15 of 15 November 1995, the Assembly requested the Secretary-General to take necessary steps to conclude an agreement on cooperation between the United Nations and the Inter-Parliamentary Union.

2. FUNCTIONS OF THE SECRETARY-GENERAL WITH REGARD TO THE UNITED NATIONS HEADQUARTERS

103. In the period under review, the General Assembly continued to request the Secretary-General to remain actively engaged in all aspects of the relations of the United Nations with the host country.²⁰⁹

3. OTHER REPRESENTATIONAL FUNCTIONS OF THE SECRETARY-GENERAL

(a) *Functions of the Secretary-General with regard to privileges and immunities*

104. During the period under review, the Secretary-General continued to monitor and promote the observance of the privileges and immunities of United Nations officials, and had drew attention to the growing threats to the security of the United Nations staff. The Secretary-General submitted reports each year on behalf of and with the approval of ACC, on the security of officials and measures taken or to be taken to improve the security of staff and respect for the privileges and immunities of officials.²¹⁰ Upon the request from the Economic and Social Council,²¹¹ the Secretary-General further reported on the situation of United Nations staff who were imprisoned, missing or held in a country against their will.²¹² The General Assembly adopted several resolutions by which it requested the Secretary-General to take necessary measures to ensure full respect for the privileges and immunities of United Nations and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation.²¹³

(b) *Representation by the Secretary-General at conferences and meetings of other agencies.*

105. During the period under review, the Secretary-General continued to represent the United Nations at international conferences and meetings, either directly or through

²⁰⁹ See, e.g., G A resolutions 50/49, 51/163, 52/159, 53/104 and 54/104.

²¹⁰ See A/C.5/50/3, A/C.5/51/3, A/C.5/52/2, and A/53/501.

²¹¹ E S C decision 1997/247.

²¹² See A/52/548 and Corr.1.

²¹³ See e.g. G A resolutions 52/126, 53/87 and 54/192.

delegation of authority. For example, the Secretary-General attended in person and addressed the Annual Assembly of Heads of State and Government of the Organization of African Unity on 2 January 1997 in Harare, Zimbabwe.

4. FUNCTIONS OF THE SECRETARY-GENERAL IN THE FIELD OF PUBLIC INFORMATION

106. During the period under review, the Secretary-General continued to receive requests from the General Assembly regarding information activities,²¹⁴ including, *inter alia*, exploring ways to improve the access of United Nations radio to airwaves worldwide, ensuring timely production and dissemination of major United Nations publications, and meeting the needs for wider dissemination of development-related information.

²¹⁴ See e.g. G A resolutions 50/31, 51/138, 52/70, 53/59 and 54/82.