

*Extract from:*

# UNITED NATIONS JURIDICAL YEARBOOK

1976

Part Two. Legal activities of the United Nations and related intergovernmental organizations

Chapter III. General review of the legal activities of the United Nations and related intergovernmental organizations



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## Chapter III

### GENERAL REVIEW OF THE LEGAL ACTIVITIES OF THE UNITED NATIONS AND RELATED INTERGOVERNMENTAL ORGANIZATIONS

#### A. General review of the legal activities of the United Nations

##### I. DISARMAMENT AND RELATED MATTERS<sup>1</sup>

###### 1. DISARMAMENT IN GENERAL

###### (1) *General and complete disarmament*

###### *Consideration by the Conference of the Committee on Disarmament*

During the 1976 meetings of the Conference of the Committee on Disarmament at Geneva,<sup>2</sup> the discussion on general and complete disarmament took place mostly within the framework of consideration of the question of mid-term review of the Disarmament Decade and, to a lesser degree, within the question of the convening of a world disarmament conference.

###### *Consideration by the General Assembly<sup>3</sup>*

At the thirty-first session of the General Assembly, four resolutions were adopted under the item "General and complete disarmament". The first concerned Strategic Arms Limitation Talks (SALT) and is dealt with in Section 2 (4) below. The second concerned the convening of a special session of the General Assembly devoted to disarmament and is examined in Section (3) below. A third one dealt with safeguards relating to the peaceful uses of nuclear energy by non-nuclear-weapon States and will be dealt with in Section 2 (3) below. In the fourth resolution (31/189 C of 21 December 1976) relating to security guarantees to non-nuclear-weapon States, the General Assembly *inter alia* expressed its conviction that only nuclear disarmament resulting in the complete elimination of nuclear weapons would assure perfect security in the nuclear era and requested the nuclear-weapon States, as a first step towards a complete ban on the use or threat of use of nuclear weapons, to consider undertaking, without prejudice to their obligations arising from treaties establishing nuclear-weapon-free zones, not to use or threaten to use nuclear weapons against non-nuclear-weapon States not parties to the nuclear security arrangements of some nuclear-weapon Powers.

###### (2) *Effective measures to implement the purposes and objectives of the Disarmament Decade*

###### *Consideration by the Conference of the Committee on Disarmament*

During the 1976 summer meetings of the Conference of the Committee on Disarmament,<sup>4</sup> three plenary meetings were devoted to a discussion of the mid-term

<sup>1</sup> The above summary has been prepared on the basis of the *United Nations Disarmament Yearbook*, vol. I: 1976 (United Nations publication, Sales No. E.77.IX.2).

<sup>2</sup> See *Official Records of the General Assembly, Thirty-first Session, Supplement No. 27 (A/31/27)*, paras. 214-220.

<sup>3</sup> *Ibid.*, Annexes, agenda item 49.

<sup>4</sup> *Ibid.*, Supplement No. 27 (A/31/27), paras. 227-246.

review of the Disarmament Decade. Most speakers generally welcomed and stressed the importance of the arms control agreements achieved during the first half of the Disarmament Decade but also expressed concern over the lack of tangible progress in halting the arms race, particularly the nuclear arms race, and achieving nuclear disarmament.

*Consideration by the General Assembly*<sup>5</sup>

By its resolution 31/68 of 10 December 1976, the General Assembly *inter alia* expressed deep concern that, despite repeated requests by the General Assembly for the implementation of effective measures aimed at its cessation, the arms race, particularly of nuclear armaments, had continued to increase at an alarming speed, absorbing enormous material and human resources from the economic and social development of all countries and constituting a grave danger for world peace and security; stressed that the ever spiralling arms race was not compatible with the efforts aimed at promoting international peace and security as well as establishing a new international economic order, as defined in the Declaration and the Programme of Action on the Establishment of a New International Economic Order, contained in its resolutions 3201 (S-VI)<sup>6</sup> and 3202 (S-VI) of 1 May 1974 and in the Charter of Economic Rights and Duties of States<sup>7</sup> contained in its resolution 3281 (XXIX) of 12 December 1974; deplored the meagre achievements of the Disarmament Decade in terms of truly effective disarmament and arms limitation agreement, and the detrimental effects on world peace and economy of the continuing unproductive and wasteful arms race, particularly the nuclear-arms race; and called again upon all States, as well as the organs concerned with disarmament issues, to place at the centre of their preoccupations the adoption of effective measures for the cessation of the arms race, especially in the nuclear field and for the reduction of military expenditures and to make sustained efforts with a view to achieving progress towards general and complete disarmament.

(3) *World Disarmament Conference*

*Ad Hoc Committee on the World Disarmament Conference*

In accordance with General Assembly resolution 3469 (XXX), the *Ad Hoc* Committee held eight meetings at United Nations Headquarters between 1 March and 14 July 1976. The Working Group of the Committee which had been established in 1974 continued to function.

The third report of the Committee to the General Assembly,<sup>8</sup> which was adopted unanimously on 14 July, provided a general outline of the prevailing viewpoints of Member States with respect to the convening of a world disarmament conference as well as the views expressed during the thirtieth session of the General Assembly and in the *Ad Hoc* Committee during its 1976 session.

*Consideration by the General Assembly*<sup>9</sup>

In its consideration of the question, the First Committee had before it the report of the *Ad Hoc* Committee.<sup>10</sup>

By its resolution 31/190 of 21 December 1976, the General Assembly *inter alia* stressed anew its belief that a world disarmament conference, adequately prepared

<sup>5</sup> *Ibid.*, Annexes, agenda item 41.

<sup>6</sup> Reproduced in the *Juridical Yearbook*, 1974, p. 52.

<sup>7</sup> *Ibid.*, p. 44.

<sup>8</sup> See *Official Records of the General Assembly, Thirty-first Session, Supplement No. 28 (A/31/28)*.

<sup>9</sup> *Ibid.*, Annexes, agenda item 40.

<sup>10</sup> In the Conference of the Committee on Disarmament, the question of a world disarmament conference was only briefly discussed (see *ibid.*, Supplement No. 27 (A/31/27), paras. 221-226).

and convened at an appropriate time, could promote the success of disarmament negotiations and that the co-operation of all nuclear-weapon Powers would considerably facilitate this attainment; and requested the *Ad Hoc* Committee to maintain close contacts with the representatives of the States possessing nuclear weapons in order to remain currently informed of their respective attitudes, as well as to consider any relevant comments and observations which might be made to the Committee and, for this purpose to meet briefly and submit a report to the General Assembly at its thirty-second session, in accordance with its established procedure.

(4) *Special session of the General Assembly devoted to disarmament*<sup>11</sup>

By its resolution 31/189 B of 21 December 1976, the General Assembly, bearing in mind that the Fifth Conference of Heads of State or Government of Non-Aligned Countries, held at Colombo from 16 to 19 August 1976, called for a special session of the General Assembly devoted to disarmament<sup>12</sup> decided to convene a special session of the General Assembly devoted to disarmament, to be held in New York in May/June 1978 and decided to establish a Preparatory Committee for the Special Session, with the mandate of examining all relevant questions relating to the special session, including its agenda, and to submit to the Assembly at its thirty-second session appropriate recommendations thereon.

(5) *Strengthening of the role of the United Nations in the field of disarmament*

The *Ad Hoc* Committee on the Review of the Role of the United Nations in the Field of Disarmament established pursuant to paragraph 5 of General Assembly resolution 3484 B (XXX) of 12 December 1975, met at United Nations Headquarters for an organizational session, from 26 to 29 January 1976, and for substantive sessions from 14 to 24 June and from 7 to 10 December 1976. In its report to the General Assembly,<sup>13</sup> it submitted for the consideration of the Assembly a set of agreed proposals under two distinct headings, reading, respectively, "Possible new approaches for achieving more effective procedures and organization of work in the field of disarmament, thereby enabling the United Nations to exercise its full role in multilateral disarmament efforts" and "Ways and means to enable the United Nations Secretariat to assist, on request, States parties to multilateral disarmament agreements in their duty to ensure the effective functioning of such agreements, including appropriate reviews".

By its resolution 31/90 of 14 December 1976, the General Assembly, having considered the report of the *Ad Hoc* Committee, endorsed the agreed proposals made by the Committee as a step towards the strengthening of the role of the United Nations in the field of disarmament; decided to keep the question of the strengthening of the role of the United Nations in the field of disarmament under continued review; and urged Member States to make every effort to realize the objectives set out in the report of the *Ad Hoc* Committee.

## 2. NUCLEAR DISARMAMENT

(1) *Comprehensive study of the question of nuclear-weapon-free zones in all its aspects*<sup>14</sup>

This item was included in the agenda of the thirty-first session of the General Assembly on the basis of resolution 3472 A (XXX) of 11 December 1975, in

<sup>11</sup> See *Official Records of the General Assembly, Thirty-first Session, Annexes*, agenda item 49.

<sup>12</sup> See document A/31/197, annex I.

<sup>13</sup> *Official Records of the General Assembly, Thirty-first Session, Supplement No. 36 (A/31/36)*. For other relevant documents see *ibid.*, *Annexes*, agenda item 50.

<sup>14</sup> In connexion with the question of nuclear-weapon-free zones, mention may also be made of General Assembly resolutions 31/67, 31/69, 31/71 and 31/73 of 10 December

pursuance of which the Secretary-General submitted a report<sup>15</sup> reproducing the substantive parts of the replies received from 36 Member States as well as from the IAEA and the OPANAL.

By its resolution 31/70 of 10 December 1976, the General Assembly *inter alia* expressed its appreciation to the *Ad Hoc* Group of Qualified Governmental Experts for the Study of the Question of Nuclear-Weapon-Free Zones for the preparation of the study<sup>16</sup> transmitted to the Assembly at its thirtieth session by the Conference on the Committee on Disarmament pursuant to General Assembly resolution 3261 F (XXIX) of 9 December 1974; and reiterated its conviction that the establishment of nuclear-weapon-free zones could contribute to the security of members of such zones, to the prevention of proliferation of nuclear weapons and to the goals of general and complete disarmament.

## (2) *Cessation of nuclear-weapon tests*

At the thirty-first session of the General Assembly, the question of the cessation of nuclear-weapon tests appeared, for the second year, under two separate agenda items: item 37 entitled "Urgent need for the cessation of nuclear and thermonuclear tests and conclusion of a treaty designed to achieve a comprehensive test ban", concerning the negotiation of a comprehensive test ban in the Conference of the Committee on Disarmament; and item 47 entitled "Conclusion of a treaty on the complete and general prohibition of nuclear-weapon tests", concerning negotiation of a treaty on the matter by a special negotiating group, which was included in the agenda as a result of the Soviet initiative of the previous year (resolution 3478 (XXX)).

Under item 37,<sup>17</sup> the General Assembly adopted resolution 31/66 of 10 December 1976 in which it *inter alia* recalled the stated aim of the parties to the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in the Outer Space and under Water<sup>18</sup> and the Treaty on the Non-Proliferation of Nuclear Weapons<sup>19</sup> to seek to achieve the discontinuance of all test explosions of nuclear weapons for all time; noted the information concerning agreements concluded by two nuclear-weapon States limiting the scope of underground nuclear-weapon tests and making provisions in this connexion for the control and supervision of peaceful nuclear explosions including, in certain cases, arrangements for on-site verification;<sup>20</sup> condemned all nuclear tests, in whatever environment they may be conducted; declared its profound concern that substantive negotiations towards a comprehensive test ban agreement had not yet begun and re-emphasized the urgency of concluding a comprehensive and effective agreement; called once again upon all nuclear-weapon States to suspend the testing of nuclear weapons by agreement, subject to review after a specified period, as an interim step towards the conclusion of a formal and comprehensive test ban agreement; emphasized in this regard the particular responsibility of the nuclear-weapon States which are parties to international agreements in which they have declared their

1976, entitled, respectively "Implementation of General Assembly resolution 3467 (XXX) concerning the signature and ratification of Additional Protocol II of the Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco)", "Implementation of the Declaration on the Denuclearization of Africa", "Establishment of a nuclear-weapon-free zone in the region of the Middle East" and "Establishment of a nuclear-weapon-free zone in South Asia".

<sup>15</sup> A/31/189 and Add.1 and 2.

<sup>16</sup> *Official Records of the General Assembly, Thirtieth Session, Supplement No. 27A* (A/10027/Add.1). For other relevant documents, see *ibid.*, *Annexes*, agenda item 43.

<sup>17</sup> For relevant documents, see *Official Records of the General Assembly, Thirty-first Session, Annexes*, agenda item 37.

<sup>18</sup> Reproduced in the *Juridical Yearbook*, 1963, p. 107.

<sup>19</sup> Reproduced in the *Juridical Yearbook*, 1968, p. 156.

<sup>20</sup> See A/31/125, Annex.

intention to achieve at the earliest possible date the cessation of the nuclear arms race; and called upon all States not yet parties to the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water to adhere to it forthwith.

Under item 47,<sup>21</sup> the General Assembly adopted resolution 31/89 of 14 December 1976, in which it *inter alia* deplored the fact that the negotiations called for in its resolution 3478 (XXX) had not yet begun; expressed the belief that the conclusion between the USSR and the United States of treaties on the limitation of underground nuclear weapon tests and of underground nuclear explosions for peaceful purposes contributed to the creation of favourable conditions for the cessation of all nuclear weapon tests; and again called upon all nuclear-weapon States, in accordance with General Assembly resolution 3478 (XXX), to proceed as soon as possible with negotiations on the conclusion of a treaty on the complete and general prohibition of nuclear weapon tests with the participation of non-nuclear-weapon States.

### (3) *Treaty on the Non-Proliferation of Nuclear Weapons*

An item entitled "Implementation of the conclusions of the first Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons" was included in the agenda of the General Assembly at its thirty-first session at the request of the representative of Sweden, responding to an invitation addressed by the Review Conference to States Parties to the Treaty.<sup>22</sup>

By its resolution 31/75 of 10 December 1976, the General Assembly, after recognizing that the danger of nuclear warfare remained a grave threat to the survival of mankind, and expressing its conviction that the prevention of any further proliferation of nuclear weapons and other nuclear explosive devices remained a vital element in efforts to avert nuclear warfare, urgently called for determined efforts by all nuclear-weapon States (a) to bring about the cessation of the nuclear arms race; (b) to undertake effective measures in the direction of nuclear disarmament; (c) to find an early solution to the difficulties in reaching agreement to discontinue all test explosions of nuclear weapons for all time as a step towards the realization of those objectives. The Assembly emphasized the particular responsibility of the two major nuclear-weapon States in this regard and recognized that States accepting effective non-proliferation restraints has a right to full access to the peaceful uses of nuclear energy, and underlined the importance of all efforts to increase the availability of energy, particularly for the needs of the developing countries of the world.

The Treaty on the Non-Proliferation of Nuclear Weapons was the subject of another General Assembly resolution (31/189 D of 21 December 1976), in which the Assembly, noting that one hundred States were parties to the Treaty and that the non-nuclear-weapon States parties to the Treaty had accepted the principle of safeguards on all their peaceful nuclear activities, *inter alia* recognized that States accepting effective non-proliferation restraints had a right to enjoy fully the benefits of the peaceful uses of nuclear energy and underlined the importance of increased efforts in this field, particularly for the needs of the developing areas of the world and requested the International Atomic Energy Agency to give special attention to its programme of work in the non-proliferation area.<sup>23</sup>

### (4) *Strategic Arms Limitation Talks (SALT)*

#### *Discussion in the Conference of the Committee on Disarmament*

During the 1976 meetings of the Conference of the Committee on Disarmament, discussion of the SALT negotiations was limited in recognition of efforts being made

<sup>21</sup> For relevant documents, see *Official Records of the General Assembly, Thirty-first Session, Annexes*, agenda item 47.

<sup>22</sup> *Ibid.*, agenda item 116.

<sup>23</sup> *Ibid.*, agenda item 49.

by the two parties to overcome the existing impasse and most references to the negotiations were made in the general context of nuclear disarmament.<sup>24</sup>

#### *Discussion in the General Assembly*

At the thirty-first session, the subject of the SALT negotiations occupied a significant place in the disarmament debate.<sup>25</sup> By its resolution 31/189 A of 21 December 1976, the General Assembly, after reiterating its opinion that disarmament negotiations moved very slowly in comparison to the obvious perils posed by the enormous arsenals of nuclear weapons, *inter alia* urged anew the USSR and the United States to broaden the scope and accelerate the pace of their strategic nuclear arms limitation talks, and stressed once again the necessity and urgency of reaching agreement on important qualitative limitations and substantial reductions of their strategic nuclear-weapon systems as a positive step towards nuclear disarmament.

### 3. MEASURES RELATING TO NON-NUCLEAR WEAPONS<sup>26</sup>

#### (1) *Prohibition of chemical weapons*

##### *Consideration by the Conference of the Committee on Disarmament*

The Conference of the Committee on Disarmament continued its efforts towards a prohibition of chemical weapons in pursuance of General Assembly resolution 3465 (XXX). It devoted the major part of its substantive consideration of the subject<sup>27</sup> to issues relating to the scope of a possible ban, the definition of agents to be included and the question of verification. Several informal meetings with the participation of technical experts were also held on the subject. Those meetings were generally regarded as very constructive and helpful in evolving a more precise definition of the substances to be covered by a convention.

##### *Consideration by the General Assembly<sup>28</sup>*

On 10 December 1976, the General Assembly adopted resolution 31/65 in which it *inter alia* reaffirmed the objective of reaching early agreement on the effective prohibition of the development, production and stockpiling of all chemical weapons and on their elimination from the arsenals of all States; urged all States to make every effort to facilitate such agreement; requested the Conference of the Committee on Disarmament to continue negotiations as a matter of high priority, taking account of the existing proposals, with a view to reaching early agreement on the question; invited all States that had not already done so to accede to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction;<sup>29</sup> invited all States that had not already done so to accede to or ratify the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on 17 June 1925;<sup>30</sup> and called again for strict observance by all States of the principles and objectives contained therein.

<sup>24</sup> See *Official Records of the General Assembly, Thirty-first Session, Supplement No. 27 (A/31/27)*, paras. 26-31.

<sup>25</sup> *Ibid.*, *Plenary Meetings*; and *ibid.*, First Committee (A/C.1/31/PV.20-52). For other relevant documents, see *Annexes*, agenda item 49.

<sup>26</sup> See also in this connexion the text of the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques reproduced on p. 125 of this *Yearbook*.

<sup>27</sup> See *Official Records of the General Assembly, Thirty-first Session, Supplement No. 27 (A/31/27)*, paras. 133-177.

<sup>28</sup> For relevant documents, see *ibid.*, *Annexes*, agenda item 36.

<sup>29</sup> Resolution 2826 (XXVI), Annex. Also reproduced in the *Juridical Yearbook*, 1971, p. 118.

<sup>30</sup> League of Nations, *Treaty Series*, vol. XCIV, p. 65.



(2) *Question of prohibiting the use of napalm and certain other specific conventional weapons*

In its consideration of this question at its thirty-first session,<sup>31</sup> the General Assembly referred to the discussion held at the sessions of the Conference of Government Experts on the Use of Certain Conventional Weapons convened under the auspices of the International Committee of the Red Cross at Lucerne in 1974 and at Lugano from 28 January to 26 February 1976<sup>32</sup> as well as at three sessions of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts<sup>33</sup> and in the General Assembly in 1971.

By its resolution 31/64 of 10 December 1976, the Assembly *inter alia* invited the Diplomatic Conference at its fourth session to be held at Geneva from 17 March to 10 June 1977 to accelerate its consideration of the use of specific conventional weapons, including any which may be deemed to be excessively injurious or to have indiscriminate effects, and to do its utmost to agree for humanitarian reasons on possible rules prohibiting or restricting the use of such weapons.

(3) *Prohibition of new weapons of mass destruction*

*Consideration by the Conference of the Committee on Disarmament*

At its 1976 session, the Conference of the Committee on Disarmament discussed the question pursuant to resolution 3479 (XXX) and, on the initiative of the Soviet Union, held two series of informal meetings on the subject.<sup>34</sup>

*Consideration by the General Assembly*<sup>35</sup>

On 10 December 1976, the General Assembly adopted resolution 31/74 by which it *inter alia* requested the Conference of the Committee on Disarmament to continue the negotiations aimed at working out the text of an agreement on the prohibition of the development and manufacture of new types of weapons of mass destruction and new systems of such weapons.

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## II. OTHER POLITICAL AND SECURITY QUESTIONS

### 1. STRENGTHENING OF INTERNATIONAL SECURITY

On 14 December 1976, the General Assembly adopted two resolutions in connexion with the item entitled "Implementation of the Declaration on International Security".<sup>36</sup>

By resolution 31/91, entitled "Non-interference in the internal affairs of States", the General Assembly *inter alia* reaffirmed the inalienable sovereign right of every

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<sup>31</sup> For relevant documents, see *Official Records of the General Assembly, Thirty-first Session, Annexes*, agenda item 33.

<sup>32</sup> See *Conference of Government Experts on the Use of Certain Conventional Weapons* (International Committee of the Red Cross, Geneva, 1976).

<sup>33</sup> For the report of the Secretary-General describing the work of the third (1976) session of the Conference on the disarmament aspects of the question, see document A/31/146. The legal aspects of the question are dealt with in section VIII, 3 below.

<sup>34</sup> *Official Records of the General Assembly, Thirty-first Session, Supplement No. 27 (A/31/27)*, paras. 178-198.

<sup>35</sup> *Ibid.*, *Annexes*, agenda item 43.

<sup>36</sup> For relevant documents, see *Official Record of the General Assembly, Thirty-first session, Annexes*, agenda item 33.

State to determine freely, and without any form of foreign interference, its political, social and economic system and its relations with other States and international organizations; declared that the use of force to deprive peoples of their national identity constitutes a violation of their inalienable rights and of the principle of non-intervention; denounced any form of interference, overt or covert, direct or indirect, including recruiting and sending mercenaries, by one State or group of States and any act of military, political, economic or other forms of intervention in the internal or external affairs of other States, regardless of the character of their mutual relations or their social and economic systems; accordingly condemned all forms of overt, subtle and highly sophisticated techniques of coercion, subversion and defamation aimed at disrupting the political, social or economic order of other States or destabilizing the Governments seeking to free their economies from external control or manipulation; and called upon all States, in accordance with the purposes and principles of the Charter of the United Nations, to undertake necessary measures in order to prevent any hostile act or activity taking place within their territory and directed against the sovereignty, territorial integrity and political independence of another State.

By resolution 31/92 entitled "Implementation of the Declaration on the Strengthening of International Security", the General Assembly solemnly called upon all States to seek strict and consistent implementation of all the purposes and principles of the Charter of the United Nations and of all the provisions of the Declaration on the Strengthening of International Security,<sup>37</sup> reaffirmed the legitimacy of the struggle of peoples under colonial and alien domination to achieve self-determination and independence; also called upon all States to extend the process of relaxation of tensions to all regions of the world; reaffirmed that any measure or pressure directed against any State while exercising its sovereign right freely to dispose of its national resources constituted a flagrant violation of the right of self-determination of peoples and the principle of non-intervention, as set forth in the Charter, which, if pursued, could constitute a threat to international peace and security; reaffirmed its opposition to any threats or uses of force, intervention, aggression, foreign occupation and measures of political and economic coercion attempting to violate the sovereignty, territorial integrity, independence and security of States; and recommended urgent measures to stop the arms race and promote disarmament.

## 2. PEACEFUL USES OF OUTER SPACE

During 1976 the Committee on the Peaceful Uses of Outer Space and its Legal Sub-Committee continued their work on the three priority items: a draft treaty relating to the moon; elaboration of principles governing the use by States of artificial earth satellites for direct television broadcasting; and detailed legal consideration of remote sensing of the earth from space. They also briefly discussed the item on definition and/or delimitation of outer space and outer space activities.<sup>38</sup>

On 12 November 1976, the General Assembly unanimously adopted resolution 31/8, by which it noted with satisfaction that the Committee on the Peaceful Uses of Outer Space and its Legal Sub-Committee had: (a) achieved considerable progress by: (i) formulating nine draft principles governing the use by States of artificial earth satellites for direct television broadcasting with a view to concluding an international agreement or agreements; (ii) formulating five draft principles and identifying three new common elements in the drafts submitted and the views expressed by Member States relating to the legal implications of remote sensing of the earth from space; (b) continued its work on the draft treaty relating to the moon, giving priority

<sup>37</sup> Resolution 2734 (XXV). Also reproduced in the *Juridical Yearbook*, 1970, p. 62.

<sup>38</sup> See *Official Records of the General Assembly, Thirty-first Session, Supplement No. 20* (A/31/20). For other relevant documents see *ibid.*, *Annexes*, agenda items 31 and 32.

to the question of natural resources of the moon; (c) discussed questions relating to the definition and/or delimitation of outer space and outer space activities.

By the same resolution, the General Assembly, among other things, invited States which had not yet become parties to the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and other Celestial Bodies,<sup>39</sup> the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space,<sup>40</sup> the Convention on International Liability for Damage Caused by Space Objects<sup>41</sup> and the Convention on Registration of Objects Launched into Outer Space<sup>42</sup> to give early consideration to ratifying or acceding to those international agreements.

The Assembly recommended that the Legal Sub-Committee at its sixteenth session should continue, as matters of high priority: to consider the draft treaty relating to the moon; to consider completing the elaboration of draft principles governing the use by States of artificial earth satellites for direct television broadcasting with a view to concluding international agreement or agreements; and to give detailed consideration to the legal implications of remote sensing of the earth from space, with the particular aim of formulating draft principles on the basis of common elements identified by it.

The Assembly also recommended that the Legal Sub-Committee should pursue its work on questions relating to the definition and/or delimitation of outer space and outer space activities in the remaining time available.

### 3. CONCLUSION OF A WORLD TREATY ON THE NON-USE OF FORCE IN INTERNATIONAL RELATIONS

This question was included by the General Assembly in the agenda of its thirty-first session at the request of the Union of Soviet Socialist Republics (A/31/243).<sup>43</sup>

The General Assembly decided to allocate the item to the First Committee and to refer it, at the appropriate stage, to the Sixth Committee for examination of its legal implications. By its resolution 31/9 of 8 November 1976, the General Assembly, after recalling the principle proclaimed in the Charter that States shall refrain in their international relations from the threat or use of force and noting with satisfaction that the principle of the non-use of force or the threat of force had been incorporated into a number of bilateral and multilateral international instruments, *inter alia* invited Member States to examine further the draft World Treaty on the Non-Use of Force in International Relations,<sup>44</sup> submitted by the Union of Soviet Socialist Republics and decided to include the item in the provisional agenda of its thirty-second session.

At its 97th plenary meeting, on 13 December 1976, the General Assembly approved the following decision of the Sixth Committee as set forth in its report:<sup>45</sup>

“The Sixth Committee has noted the adoption by the General Assembly of resolution 31/9 entitled ‘Conclusion of a world treaty on the non-use of force in international relations’. In this connexion the Sixth Committee requests the General Assembly to recommend that Member States, in their consideration of statements and proposals on this item to be reported to the Secretary-General, should give due weight to the important legal issues involved. The Sixth Com-

<sup>39</sup> Reproduced in the *Juridical Yearbook*, 1966, p. 166.

<sup>40</sup> Reproduced in the *Juridical Yearbook*, 1967, p. 269.

<sup>41</sup> Reproduced in the *Juridical Yearbook*, 1971, p. 111.

<sup>42</sup> Reproduced in the *Juridical Yearbook*, 1974, p. 89.

<sup>43</sup> For other relevant documents, see *Official Records of the General Assembly, Thirty-first session, Annexes*, agenda item 124.

<sup>44</sup> See *ibid.*, document A/31/243, annex.

<sup>45</sup> *Ibid.*, document A/31/360, para. 4.

mittee recalls the role it played in elaborating the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations<sup>46</sup> and the Definition of Aggression.<sup>47</sup> The legal issues which the item under discussion involves have been, and will need to be, examined in the current and future deliberations on this subject which any further consideration of this item by the General Assembly will entail.”

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### III. ECONOMIC, SOCIAL AND HUMANITARIAN ACTIVITIES

#### 1. HUMAN RIGHTS QUESTIONS<sup>48</sup>

##### STATUS AND IMPLEMENTATION OF INTERNATIONAL INSTRUMENTS

##### (1) *International Covenants on Human Rights*

1. The International Covenant on Economic, Social and Cultural Rights, adopted by the General Assembly in resolution 2200 A (XXI) of 16 December 1966,<sup>49</sup> entered into force on 3 January 1976. As at 31 December 1976, the Covenant had been ratified or acceded to by 42 States.<sup>50</sup>

2. The International Covenant on Civil and Political Rights, also adopted by the General Assembly in resolution 2200 A (XXI), entered into force on 23 March 1976. The Optional Protocol to the International Covenant on Civil and Political Rights, which had already received the minimum of 10 ratifications or accessions required, entered into force simultaneously. As at 31 December 1976, the Covenant had been ratified or accepted to by 40 States.<sup>51</sup> The Optional Protocol had been ratified or acceded to by 15 States.<sup>52</sup>

On 11 May 1976, the Economic and Social Council adopted resolution 1988 (LX) by which it, *inter alia*, established, in accordance with article 17 of the International Covenant on Economic, Social and Cultural Rights, the following programme under which the States parties would furnish in biennial stages the reports referred to in article 16 thereof: first stage, rights covered by articles 6 to 9, second stage, rights covered by articles 10 to 12, and third stage, rights covered by articles 13 to 15 of the Covenant; invited the States parties to submit to the Secretary-General reports on the measures that they had adopted and the progress made in achieving the observance of the rights recognized in the Covenant, and to indicate factors and difficulties affecting the degree of fulfilment of their obligations under the Covenant; and decided that a sessional Working Group of the Council should be established by the Council for the purpose of assisting it in the consideration of such reports.

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<sup>46</sup> General Assembly resolution 2625 (XXV). Also reproduced in the *Juridical Yearbook*, 1970, p. 104.

<sup>47</sup> General Assembly resolution 3314 (XXIX). Also reproduced in the *Juridical Yearbook*, 1974, p. 59.

<sup>48</sup> For detailed information see the report of the Commission on Human Rights on its thirty-second session (*Official Records of the Economic and Social Council, Sixtieth Session, Supplement No. 3* (E/5768)) and the report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its twenty-ninth session (E/CN.4/1218).

<sup>49</sup> Reproduced in the *Juridical Yearbook*, 1966, p. 170.

<sup>50</sup> For the list of States parties to the Covenant as at 31 December 1976, see *Multilateral Treaties in respect of which the Secretary-General Performs Depositary Functions* (ST/LEG/SER.D/10—United Nations publication, Sales No. E.77.V.7), p. 95.

<sup>51</sup> *Ibid.*, p. 101.

<sup>52</sup> *Ibid.*, p. 107.

On 13 December 1976, the General Assembly adopted resolution 31/86 in which it *inter alia* welcomed with deep satisfaction the entry into force of the Covenants, recognized that appropriate arrangements should be made to enable the Human Rights Committee to carry out in an efficient manner the functions entrusted to it under the International Covenant on Civil and Political Rights and invited once again all States to become parties to the Covenants and to the Optional Protocol.

(2) *International Convention on the Suppression and Punishment of the Crime of Apartheid*

The International Convention on the Suppression and Punishment of the Crime of *Apartheid*, adopted by the General Assembly in resolution 3068 (XXVIII) of 30 November 1973 entered into force on 18 July 1976. As at 31 December 1976, it had been ratified or acceded to by 23 States.<sup>53</sup>

On 13 December 1976, the General Assembly adopted resolution 31/80 in which it *inter alia* welcomed the entry into force of the Convention; appealed to all States which had not yet become parties to the Convention to accede thereto; invited the Chairman of the twenty-third session of the Commission on Human Rights to appoint a Group consisting of three members of the Commission as provided for by article IX of the Convention; and invited the Commission on Human Rights to undertake the functions set out in article X of the Convention.

(3) *International Convention on the Elimination of All Forms of Racial Discrimination*

In its resolution 31/79 of 13 December 1976, the General Assembly *inter alia* reiterated the appeals contained in its resolution 3381 (XXX).<sup>54</sup> In its resolution 31/81 of the same date it *inter alia* took note with appreciation of the reports of the Committee on the Elimination of Racial Discrimination on the sixth and seventh years of its activities;<sup>55</sup> called upon the States parties to the Convention to observe fully the provisions of the Convention and other international instruments and agreements to which they are parties concerning the elimination of all forms of discrimination based on race, colour, descent or national or ethnic origin; and reminded the States parties to the Convention of their obligations, under the Convention, as recommended by the Committee in its decision 4 (XI) of 14 April 1975, to adopt appropriate legislation, judicial, administrative or other measures with a view to putting an end to racism and to the vestiges or manifestations of such ideologies wherever they exist.

(4) *Human rights of migrant workers*

By its resolution 31/127 of 16 December 1976, the General Assembly, considering *inter alia* the Vienna Convention on Diplomatic Relations of 1961,<sup>56</sup> the Vienna Convention on Consular Relations of 1963,<sup>57</sup> the Migrant Workers (Supplementary Provisions) Convention 1975<sup>58</sup> and the Recommendation Concerning Migrant Workers<sup>59</sup> adopted by the General Conference of the International Labour Organisation, noted that the problem of migrant workers continued to be of major importance to many

<sup>53</sup> *Ibid.*, p. 110. For the text of the Convention, see *Juridical Yearbook*, 1973, p. 70.

<sup>54</sup> See *Juridical Yearbook*, 1975, p. 47. For the text of the Convention, see *ibid.*, 1965, p. 63.

<sup>55</sup> *Official Records of the General Assembly, Thirtieth Session, Supplement No. 18*, (A/10018); and *ibid.*, *Thirty-first Session, Supplement No. 18* (A/31/18 and Corr.1).

<sup>56</sup> United Nations, *Treaty Series*, vol. 500, p. 95.

<sup>57</sup> *Ibid.*, vol. 596, p. 261. Also reproduced in the *Juridical Yearbook*, 1963, p. 109.

<sup>58</sup> International Labour Office, *Official Bulletin*, vol. LVIII, 1975, Series A, No. 1, Convention No. 143.

<sup>59</sup> *Ibid.*, Recommendation No. 151.

States despite the existence of international instruments and despite efforts exerted by certain States, including the adoption of bilateral agreements, and expressed concern at the *de facto* discrimination frequently suffered by alien workers in some countries despite the legislative and other efforts exerted to prevent and punish it. The Assembly thus invited all States (a) to extend to migrant workers having regular status in their territories treatment equal to that enjoyed by their own nationals with regard to the protection of human rights and to the provisions of their labour legislation and their social legislation; (b) to promote and facilitate by all means in their power the implementation of the relevant international instruments and the adoption of bilateral agreements designed *inter alia* to eliminate the illicit traffic in alien workers and (c) to adopt, pending the conclusion of such agreements, the appropriate measures to ensure that the fundamental human rights of all migrant workers, irrespective of their immigration status, are fully respected under their national legislation. The Assembly also called upon all States to give consideration to ratifying the Migrant Workers (Supplementary Provisions) Convention, 1975.

## 2. STATUS OF WOMEN<sup>60</sup>

At its resumed twenty-sixth session held in Geneva from 6 to 17 December 1976, the Commission on the Status of Women adopted a draft convention on the elimination of discrimination against women<sup>61</sup> and recommended that the Economic and Social Council submit the draft to the General Assembly.

## 3. ECONOMIC AND SOCIAL QUESTIONS

### *Crime prevention and criminal justice*

#### *Prevention of crime and treatment of offenders*

At its fourth session,<sup>62</sup> held in New York from 21 June to 2 July 1976, the Committee on Crime Prevention and Control considered a report<sup>63</sup> on the methods and ways likely to be more effective in preventing crime and improving the treatment of offenders. This report drew attention to the growing seriousness of certain crimes especially those of a transnational character, and to the fact that the new forms and dimensions of such crimes required strengthened national and international action. It concentrated on the elaboration of guidelines and standards for the administration of criminal justice, including law enforcement, judicial procedures and correctional practices. The Committee, after certain amendments, approved the report as the basis of further United Nations activities.

#### *Draft code of conduct for law enforcement officials*

The Committee elaborated and approved a draft code of conduct for law enforcement officials.

It also recommended that the code be transmitted to the General Assembly for adoption. The code deals with the rights and duties of law enforcement officials in the performance of their duties, stressing in particular the obligation to respect and protect human dignity and human rights, the prohibition of torture or other cruel, inhuman or degrading treatment or punishment and the inadmissibility of all acts of corruption.

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<sup>60</sup> For detailed information see the report of the Commission on the Status of Women on the twenty-sixth and resumed twenty-sixth sessions (*Official Records of the Economic and Social Council, Sixty second Session, Supplement No. 3* (E/5909)).

<sup>61</sup> For the text of the draft, see *ibid.*, p. 2.

<sup>62</sup> For the report of the Committee, see E/CN.5/536.

<sup>63</sup> *Ibid.*, annex IV.

On 13 December 1976, the General Assembly adopted resolution 31/85 prohibiting torture and other cruel, inhuman or degrading treatment or punishment, and invited the Economic and Social Council to give due priority to the examination of the draft code of conduct, so that the Council at its sixty-second session could take further steps with a view to its adoption.

#### *Standard Minimum Rules for the Treatment of Prisoners*

The Economic and Social Council, in its resolution 1993 (LX) of 12 May 1976, reiterated the recommendation by the General Assembly in resolution 3144 B (XXVIII) that Member States make all possible efforts to implement the Standard Minimum Rules for the Treatment of Prisoners<sup>64</sup> and take the Rules into account in the framing of national legislation. It requested the Committee on Crime Prevention and Control to study the range of application of the Rules and to formulate a set of implementing procedures.

At its fourth session the Committee considered the question of the range of application and the implementation of the Standard Minimum Rules and approved a draft resolution calling for the addition of a new rule 95 regarding persons arrested or imprisoned without charge and urging the full application of the proposed implementing procedures. It recommended that the Commission for Social Development transmit the resolution to the Economic and Social Council for adoption.

At its thirty-first session, the General Assembly, again under its resolution 31/85 prohibiting torture, invited the Economic and Social Council to consider with due priority the recommendations of the Committee relating to the extension of the Rules to all persons arrested or imprisoned with or without charge and conviction, as well as the draft procedures for their effective implementation.

#### *Other questions examined by the Committee on Crime Prevention and Control*

The Committee discussed ways of accelerating the pace of implementation of existing standards for ensuring human rights in the administration of justice, as well as the possibility of extending the network of standards. It recommended the formulation of new standards, giving priority to (a) the development of standards that would ensure just, humane and effective judicial proceedings; (b) the elaboration of standard minimum rules for the treatment of offenders in the community; (c) the strengthening of inmate grievance procedures; (d) the facilitating of the return of persons convicted of crime abroad to their domicile to serve their sentences; and (e) the improvement of the situation of persons detained before trial.

The Committee discussed its role and possible courses of action which might be pursued in order to maximize its contribution to international action. It also recommended urgent consideration of certain items in the future work programme of the United Nations, including trends in prison population and the extent and consequences of economic criminality.

## 4. HUMANITARIAN ACTIVITIES

### *Office of the United Nations High Commissioner for Refugees<sup>65</sup>*

In providing international protection to refugees coming within the competence of UNHCR, the High Commissioner acts under specific authority conferred by the General Assembly in resolution 428 (V) and the Statute of his Office annexed thereto.

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<sup>64</sup> *Ibid.*, para. 95.

<sup>65</sup> For detailed information, see *Official Records of the General Assembly, Thirty-first Session, Supplement No. 12, 12A and 12B* (A/31/12 and Add.1 and 2), and *ibid.*, *Thirty-second Session, Supplement No. 12 and 12A* (A/31/12 and Add.1).

Pursuant to Article 8 of the Statute, the High Commissioner actively pursues the promotion of accessions to international legal instruments directly or indirectly affecting refugees, notably the 1951 Convention relating to the Status of Refugees<sup>66</sup> and its 1967 Protocol.<sup>67</sup> During the period under review, additional States became parties to those two instruments as well as to the 1954 Convention relating to the Status of Stateless Persons,<sup>68, 69</sup> and to the 1973 Protocol to the 1957 Agreement Relating to Refugee Seamen. Pursuant to General Assembly resolutions 3274 (XXIX) and 31/36 of 30 November 1976, the High Commissioner continued to discharge the functions envisaged in Article 11 of the 1961 Convention on the Reduction of Statelessness<sup>70</sup> and has followed up on measures undertaken to ensure its effective implementation.

Pursuant to resolution 3456 (XXX) adopted by the General Assembly in December 1975, a Conference of Plenipotentiaries was convened by the Secretary-General in Geneva from 10 January to 4 February 1977 to consider a Convention on Territorial Asylum.<sup>71</sup>

UNHCR continued to co-operate with governments with a view to the determination of refugee status in accordance with the definition contained in the 1951 Convention and 1967 Protocol.

Efforts to secure the reunion of refugee families were intensified in view of the importance of such reunion for the members of the family. In some cases, reunion is achieved by voluntary repatriation, in others by helping relatives of refugees to receive authorization to leave their country of origin, and in many others by helping relatives of refugees to leave the country of asylum and gain admission to a country of resettlement.

UNHCR efforts under the 1951 Convention to promote durable solutions to the problems of refugees were aided by legislative and administrative changes facilitating refugee settlement in various countries.

UNHCR continued its efforts under the 1951 Convention to promote the facilitation of naturalization procedures with some success, not only in traditional immigration receiving countries but also in other countries, where residential qualification periods as well as administrative charges were reduced. In Europe, at least 5,000 refugees acquired the nationality of their country of residence, and in Africa significant results were also obtained.

## 5. INTERNATIONAL DRUG CONTROL

In 1976, the United Nations, within the framework of the international treaties, continued to carry out, through its organs and its Secretariat, the work entrusted to it in the field of international drug control aimed at restricting the supply and use of narcotic drugs and psychotropic substances to medical and scientific purposes.

<sup>66</sup> United Nations, *Treaty Series*, vol. 189, p. 137.

<sup>67</sup> *Ibid.*, vol. 606, p. 267. Also reproduced in the *Juridical Yearbook*, 1967, p. 285.

<sup>68</sup> *Ibid.*, vol. 330, p. 130.

<sup>69</sup> For the list of the States parties to these instruments, see *Multilateral Treaties in respect of which the Secretary-General Performs Depositary Functions* (ST/LEG/SER.D/10), p. 115, 138 and 128 respectively.

<sup>70</sup> This Convention, which entered into force in December 1975, provides for the acquisition of the nationality of the Contracting States by children born in its territory who would otherwise be stateless, and thus contributes towards ending the perpetuation of refugee status. For the list of the States parties to the Convention, see *Multilateral Treaties in respect of which the Secretary-General Performs Depositary Functions* (ST/LEG/SER.D/10), p. 136.

<sup>71</sup> For the report of the Conference, see A/CONF.78/12.



The importance of the international drug control system increased and was strengthened by new adherences to the most recent international treaties in this field namely the Single Convention on Narcotic Drugs, 1961,<sup>72</sup> the 1972 Protocol amending the Single Convention, 1961<sup>73</sup> and the Single Convention, 1961, as amended by the 1972 Protocol.<sup>74</sup> A landmark in 1976 was the entry into force of the 1971 Convention on Psychotropic Substances,<sup>75</sup> thus bringing those substances for the first time under international control and completing the system so far.<sup>76</sup>

The Convention, which had been adopted by a United Nations plenipotentiary conference and had so far not become effective, entered into force on 16 August 1976, in accordance with paragraph 1 of its article 26, after the deposit of the required number (40) of instruments of ratification or accession.

By its resolution 31/125 of 16 December 1976, the General Assembly, noting with satisfaction the entry into force of the Convention but recognizing that complete and effective control required universal accession to the Convention and, in particular, the accession of countries in which psychotropic substances are manufactured, reiterated its appeal to all States not yet parties to the 1971 Convention on Psychotropic Substances promptly to take the necessary steps to accede to it, and appealed to all parties to the Convention and to the international drug control bodies to implement its provisions by adopting suitable legislative and administrative measures as provided for in the Convention.

During 1976, two legal Commentaries were published under the responsibility of the United Nations Office of Legal Affairs: the first one<sup>77</sup> on the 1972 Protocol Amending the Single Convention on Narcotic Drugs, 1961, which had entered into force on 8 August 1975 and the second one<sup>78</sup> on the 1971 Convention on Psychotropic Substances.

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#### IV. THIRD UNITED NATIONS CONFERENCE ON THE LAW OF THE SEA

By a letter dated 19 May 1975 (A/10121),<sup>79</sup> the President of the Third United Nations Conference on the Law of the Sea informed the President of the General Assembly that, at the closing meeting of its third session held at Geneva from 17 March to 9 May 1975, the Conference had decided that its next session should be held in New York from 29 March to 21 May 1976 and that a decision regarding a fifth session in 1976 should be left to its fourth session. He also informed the President of the Assembly that the Conference had further decided to request the Assembly to accord priority to the Conference in relation to other United Nations activities and requested that arrangements be made accordingly.

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<sup>72</sup> United Nations, *Treaty Series*, vol. 520, p. 151.

<sup>73</sup> For the text see A/CONF.63/9.

<sup>74</sup> *Ibid.*

<sup>75</sup> For the text see A/CONF.58/6.

<sup>76</sup> For a list of States parties to the four above-mentioned treaties as of 31 December 1976, see *Multilateral Treaties in respect of which the Secretary-General Performs Depositary Functions* (ST/LEG/SER.D/10), p. 177, 190, 193 and 185 respectively.

<sup>77</sup> United Nations publication, Sales No. E.76.XI.6.

<sup>78</sup> United Nations publication, Sales No. E.76.XI.5.

<sup>79</sup> For the letter and other relevant documents, see *Official Records of the General Assembly, Thirtieth Session, Annexes*, agenda item 30.

In resolution 3483 (XXX) of 12 December 1975, the General Assembly, *inter alia*, approved the convening of the fourth session of the Conference from 15 March to 7 May 1976 in New York and the convening of a fifth session in 1976 if such decision was taken by the Conference. The Assembly also decided to accord priority to the Conference in relation to other United Nations activities, except those of organs established by the Charter of the United Nations.

At the beginning of its fourth session, the Conference had before it the informal single negotiating texts prepared by the Chairmen of the three Main Committees (A/CONF.62/WP.8/Parts I, II and III) at the request of the Conference at its third session, together with an informal single negotiating text prepared by the President of the Conference on the subject of settlement of disputes (A/CONF.62/WP.9 and Add.1),<sup>80</sup> having the same status as parts I, II and III of document A/CONF.62/WP.8.

At the opening meeting of its fourth session, on 15 March, the Conference agreed to a number of procedural arrangements suggested by the President (see A/CONF.62/SR.57).<sup>81</sup>

On 12 April, following the conclusion of the general debate on the item, the Conference decided that the President should prepare an informal single negotiating text on the settlement of disputes on the same conditions as those relating to the texts prepared by the Chairmen of the three Main Committees and taking into consideration existing relevant provisions in those texts as well as the proposals put forward and the opinions expressed in the plenary debate and giving informal groups time to present their proposals to him (see A/CONF.62/SR.65).<sup>82</sup>

A general debate on peaceful uses of ocean space: zones of peace and security was held on 19, 23 and 26 April (see A/CONF.62/SR.66-68).<sup>83</sup>

The revised single negotiating texts prepared by the Chairman of each Main Committee (A/CONF.62/WP.8/Rev.1/Parts I, II and III)<sup>84</sup> and the informal single negotiating text prepared by the President of the Conference (A/CONF.62/WP.9/Rev.1 and Corr.1)<sup>85</sup> were circulated on 6 May 1976. A note by the President was attached to document A/CONF.62/WP.8/Rev.1/Part I, in which, *inter alia*, he explained that the texts had been prepared entirely on the responsibility of the Chairmen and would have no other status than to serve as a basis for continued negotiation without prejudice to the right of any delegation to move amendments or to introduce new proposals. The texts were not to be regarded as committing any delegation or delegations to any of their provisions, and in accordance with the procedure already established, there would be no general discussion of the texts. Like the other texts, a new part IV dealing with the item entitled "Settlement of disputes" (A/CONF.62/WP.9/Rev.1 and Corr.1) was being presented on the responsibility of the President following the general debate on the item. Like the other texts, it would only serve as a basis of negotiation and would not affect the right of any delegation to introduce amendments or new proposals. The President explained also that he was presenting these texts to the Conference as a procedural device to carry forward the process of negotiating in the expectation and hope that the future negotiations would help towards the attainment of general agreement in keeping with the letter and spirit of

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<sup>80</sup> *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. V (United Nations publication, Sales No. E.76.V.8), p. 111.

<sup>81</sup> *Ibid.*, p. 3.

<sup>82</sup> *Ibid.*, p. 49.

<sup>83</sup> *Ibid.*, p. 54.

<sup>84</sup> *Ibid.*, p. 125.

<sup>85</sup> *Ibid.*, p. 185.

the "gentleman's agreement" regarding the conclusion of a treaty or convention by consensus.

On 7 May, the Conference decided to hold a fifth session in New York from 2 August to 17 September 1976, in accordance with the provision in paragraph 1 of General Assembly resolution 3483 (XXX) (see A/CONF.62/SR.69).<sup>86</sup>

On the same day, the Conference decided to request the Secretariat to prepare an annotated directory of all global and regional organizations with competence in ocean affairs. The Conference also agreed that the President should prepare proposals on procedures to be discussed during the first two days of the following session and decided to request the Secretary-General to collect historical material pertinent to final clauses which would be examined in plenary at the following session, after which the texts would be referred to the Chairman of the Drafting Committee (see A/CONF.62/SR.70).<sup>87</sup>

At its fifth session, the conference had before it the revised single negotiating text prepared by the Chairmen of the three Main Committees and circulated on 6 May 1976, and the informal single negotiating text on settlement of disputes prepared by the President of the Conference, on which bases the Conference was to pursue its negotiations. Also before the Conference was a note by the President (A/CONF.62/L.12/Rev.1)<sup>88</sup> which outlined the key issues on which negotiations should concentrate.

Pursuant to requests made by the Conference at its fourth session, two documents prepared by the Secretary-General were submitted: "Draft alternative texts of the preamble and final clauses" (A/CONF.62/L.13)<sup>89</sup> and "Annotated directory of inter-governmental organizations concerned with ocean affairs" (A/CONF.62/L.14 and Add.1 and 2). For the First Committee of the Conference a preliminary note on financing of the Enterprise was prepared by the Secretary-General (A/CONF.62/C.1/L.17);<sup>90</sup> more comprehensive and detailed information is contained in the report on financing of the Authority, including the Enterprise, which was requested at the fifth session (A/CONF.62/C.1/L.19).<sup>91</sup>

At the fifth session negotiations were pursued almost exclusively in informal meetings of the three Main Committees and through informal plenary meetings on the subject of settlement of disputes.

As with previous sessions of the Conference, no official reports were prepared by the Conference. However, on the closing day of the session extensive personal reports (A/CONF.62/L.16, L.17 and L.18)<sup>92</sup> were made by the three Chairmen on the progress of work in the Main Committees and a report was made by the President on the informal plenary meetings on settlement of disputes (A/CONF.62/SR.76).<sup>93</sup> Since the Conference had experienced particular difficulties with respect to negotiations in the First Committee it was generally agreed that the first two or three weeks of the sixth session should be devoted to First Committee matters to enable that Committee to reach the same stage of progress as the Second and Third Committees, and that those negotiations should be held at the level of Heads of delegation.

Since the need for inter-sessional work was clearly indicated, particularly on First Committee matters, the Chairmen of Committees were left to request such

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<sup>86</sup> *Ibid.*, p. 68.

<sup>87</sup> *Ibid.*, p. 71.

<sup>88</sup> *Ibid.*, vol. VI (United Nations publication, Sales No. E.77.V.2), p. 122.

<sup>89</sup> *Ibid.*, p. 125.

<sup>90</sup> *Ibid.*, p. 156.

<sup>91</sup> *Ibid.*, vol. VII (United Nations publication, Sales No. E.78.V.3), p. 52.

<sup>92</sup> *Ibid.*, vol. VI, p. 130, 135 and 139.

<sup>93</sup> *Ibid.*, p. 21.

meetings of interested parties, and similar initiatives, taken by any participant in the Conference, were to be welcomed. However, it was understood that any proposal for inter-sessional consultations would be communicated to the Secretariat, which would then inform all States participating in the Conference of the proposed arrangements and subsequently communicate to all participants the results of such negotiations. In the light of this decision consultations on some First Committee matters were held in Geneva from 28 February to 11 March 1977 under the chairmanship of Minister Jens Evensen, Chairman of the Norwegian delegation.

The Conference decided to hold the sixth session of the Conference in New York from 23 May to 8 or 15 July 1977, depending on its decision at that time. This decision was conveyed by the President of the Conference to the President of the General Assembly in his letter of 20 September 1976<sup>94</sup> together with the information to provide the necessary facilities for private consultations among Governments and delegations. General Assembly resolution 31/63 of 10 December 1976 convened the sixth session at the dates requested and authorized the Secretary-General to provide the facilities requested.

The President of the Conference had been authorized on 2 August 1976 to prepare a revised single negotiating text, Part IV, on the subject of settlement of disputes which would have the same status as Parts I to III of the revised single negotiating text (A/CONF.62/WP.9/Rev.2).<sup>95</sup> That document, issued on 23 November 1976, took account of discussions in informal sessions of plenary during the fifth session and formal and informal negotiations and proposals submitted by delegations and groups. It should be recalled that the revised single negotiating text had no other status than that of serving as a basis for continued negotiation and was without prejudice to the right of any delegation to move any amendment or introduce any new proposals. Rather, it was a procedural device to carry forward the process of negotiation.

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## V. INTERNATIONAL COURT OF JUSTICE<sup>96, 97</sup>

### Case submitted to the Court<sup>98</sup>

#### AEGEAN SEA CONTINENTAL SHELF (GREECE V. TURKEY)

On 10 August 1976 Greece filed in the Registry of the International Court of Justice an application instituting proceedings against Turkey in a dispute concerning the *Aegean Sea Continental Shelf*. The Greek Government asked the Court to adjudge and declare: (i) that certain specified Greek islands, as part of territory of Greece, were entitled to the portion of the continental shelf which appertained to them according to the applicable principles and rules of international law; (ii) what was the course of the boundary (or boundaries) between the portions of the continental shelf appertaining to Greece and Turkey in the Aegean Sea in accordance with the

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<sup>94</sup> *Official Records of the General Assembly, Thirty-first Session, Annexes*, agenda item 30, document A/31/225.

<sup>95</sup> *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. VI, p. 144.

<sup>96</sup> For the composition of the Court, see *Official Records of the General Assembly, Thirtieth Session, Supplement No. 34 (A/10034)*, p. xiv.

<sup>97</sup> As of 31 December 1976, the number of States accepting the compulsory jurisdiction of the Court under Article 36, paragraph 2 of its Statute stood at 45.

<sup>98</sup> For detailed information, see *I.C.J. Reports 1976*, p. 3 and 42; *I.C.J. Yearbook 1975-1976*, No. 30; and *I.C.J. Yearbook 1976-1977*, No. 31.

principles and rules of international law which the Court should determine to be applicable to the delimitation of the continental shelf in aforesaid areas of the Aegean Sea; (iii) that Greece was entitled to exercise over its continental shelf sovereign and exclusive rights for the purpose of researching and exploring it and exploiting its natural resources; (iv) that Turkey was not entitled to undertake any activities on the Greek continental shelf, whether by exploration, exploitation, research or otherwise, without the consent of Greece; (v) that certain specified activities of Turkey constituted infringements of the sovereign and exclusive rights of Greece to explore and exploit its continental shelf or to authorize scientific research respecting the continental shelf; (vi) that Turkey should not continue any further activities as described in sub-paragraph (iv) within the areas of the continental shelf which the Court should adjudge to appertain to Greece.

The Greek Government founded the jurisdiction of the Court on Article 17 of the General Act for the Pacific Settlement of International Disputes (Geneva, 1928) read together with Articles 36, paragraph 1, and 37 of the Statute of the Court, and on a joint Greco-Turkish communiqué issued at Brussels on 31 May 1975.

At the same time as the application the Greek Government filed in the Registry of the Court a request for the indication of provisional measures of protection requesting the Court to direct that the Governments of both Greece and Turkey should: (1) unless with the consent of each other and pending the final judgement of the Court in this case, refrain from all exploration activity or any scientific research, with respect to the continental shelf areas within which Turkey had granted such licences or permits or adjacent to the islands, or otherwise in dispute in the present case; (2) refrain from taking further military measures or actions which might endanger their peaceful relations. The Greek Government stated that it submitted this request in conformity with article 33 of the aforesaid General Act for the Pacific Settlement of International Disputes, Article 41 of the Statute of the Court and Article 66 of the Rules of Court.

At public hearings on 25, 26 and 27 August 1976 the Court heard observations presented by the Agent and Counsel of Greece on the request for the indication of interim measures of protection.

On 26 August the Turkish Government, which had not appointed an agent and was not represented at the hearings, communicated to the Registry of the Court certain written observations in which it submitted in particular that the Court had no jurisdiction to entertain the dispute and suggested that the request for interim measures be dismissed and the case removed from the list.

On 11 September 1976, the Court made an Order finding, by twelve votes to one, that the circumstances, as they presented themselves to the Court, were not such as to require the exercise of its power under Article 41 of its Statute to indicate interim measures of protection.

In its Order the Court recalled that, in justification of its request for interim measures, Greece had alleged: (a) that certain acts on the part of Turkey (the granting of petroleum exploration permits and the explorations of the vessel *MTA Sismik I*) constituted infringements of its exclusive sovereign rights to the exploration and exploitation of its continental shelf, and that the breach of the right of a coastal State to exclusivity of knowledge of its continental shelf constituted irreparable prejudice; (b) that the activities complained of would, if continued, aggravate the dispute. Turkey had contended: (a) that those activities could not be regarded as involving any prejudice to the existence of any rights of Greece over the disputed area and that, even if they could, there would be no reason why such prejudice

could not be compensated; (b) that Turkey had no intention of taking the initiative in the use of force.

So far as (a) was concerned, the Court, viewing the matter in the context of Article 41 of its Statute, was unable to find in the alleged breach of Greece's rights such a risk of irreparable prejudice to rights in issue as might require the exercise of the power to indicate interim measures of protection. With regard to (b) the Court considered that it was not to be presumed that either Government would fail to heed its obligations under the United Nations Charter or fail to heed Security Council resolution 395 (1976) of 25 August 1976, wherein the two Governments had been urged "to do everything in their power to reduce the present tensions in the area" and called upon "to resume direct negotiations over their differences".

The Court observed that, in order to pronounce on the request for interim measures, it was not called upon to decide any question of its jurisdiction to entertain the dispute, and that its decision in no way prejudged any question relating to its jurisdiction or the merits of the case. It was unable, at that stage of the proceedings, to accede to Turkey's request that the case be removed from the list, but it would be necessary to resolve as the next step the question of its jurisdiction with respect to the case. It directed that the written pleadings should first be addressed to that question. By an Order of 14 October 1976, the President of the Court, having consulted the representatives of Greece and Turkey, at a meeting which had been postponed at their request to 12 October, fixed the following time-limits for the written proceedings on the question of jurisdiction: for the Memorial of Greece: 18 April 1977; for the Counter-Memorial of Turkey: 24 October 1977.

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## VI. INTERNATIONAL LAW COMMISSION<sup>99</sup>

### TWENTY-EIGHTH SESSION OF THE COMMISSION<sup>100</sup>

The International Law Commission held its twenty-eighth session at Geneva from 3 May to 23 July 1976. The major part of the session was devoted to concluding the first reading of draft articles on the most-favoured-nation clause. The Commission also adopted in first reading further draft articles on State responsibility and on succession of States in respect of matters other than treaties and started consideration of the law of the non-navigational uses of waters.

The Commission decided to start at its 1977 session consideration of the second part of the topic "Relations between States and international organizations" relating to the status, privileges and immunities of international organizations, their officials, experts and other persons engaged in their activities not being representatives of States.<sup>101</sup>

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<sup>99</sup> At its 68th plenary meeting, on 17 November 1976, the General Assembly elected twenty-five persons members of the Commission for a five-year term beginning on 1 January 1977. For the membership of the Commission prior to that date, see *Official Records of the General Assembly, Thirty-first Session, Supplement No. 10 (A/31/10)*, Chap. I, Sect. A; for the current membership of the Commission, see *ibid.*, *Thirty-second Session, Supplement No. 10 (A/32/10)*, Chap. I, Sect. A.

<sup>100</sup> For detailed information, see *Yearbook of the International Law Commission*, 1976, vol. I and vol. II, Parts One and Two (United Nations publication, Sales No. E.77.V.4, E.77.V.5 (Part One), and E.77.V.5 (Part Two)).

<sup>101</sup> The work of the Commission on the first part of the topic, concerning the status, privileges and immunities of representatives of States to international organizations, was

As in 1975, the Commission established a Planning Group for the 1976 session entrusted with formulating recommendations concerning the organization and methods best suited for achieving the goals required by the Commission's programme. The Group made various proposals consideration of which was deferred to the 1977 session owing to lack of time.

#### CONSIDERATION BY THE GENERAL ASSEMBLY

On 15 December 1976, the General Assembly adopted resolution 31/97 concerning the report of the International Law Commission on the work of its twenty-eighth session.<sup>102</sup> In the resolution, the Assembly *inter alia* recommended that the Commission should complete at its thirtieth [1978] session the second reading of the draft articles on the most-favoured-nation clause; continue on a high priority basis its work on State responsibility with a view to completing the preparation of a first set of draft articles on responsibility of States for internationally wrongful acts and take up at the earliest possible time the separate topic of international liability for injurious consequences arising out of acts not prohibited by international law; proceed with the preparation, on a priority basis, of draft articles on succession of States in respect of matters other than treaties and on treaties concluded between States and international organizations, or between international organizations; and continue its study of the law of the non-navigational uses of international watercourses.

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## VII. UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW<sup>103</sup>

### NINTH SESSION OF THE COMMISSION<sup>104</sup>

The Commission held its ninth session at United Nations Headquarters, New York, from 12 April to 7 May 1976. In the course of that session, it considered and approved a draft Convention on the Carriage of Goods by Sea which had been prepared by its Working Group on International Legislation on Shipping. The Commission recommended that the General Assembly convene an international conference of plenipotentiaries, as early as practicable, to conclude, on the basis of this draft, a Convention on the Carriage of Goods by Sea. The draft was circulated at the request of the Commission to the UNCTAD Working Group on International Shipping Legislation, which took the view, in its resolution 2 (V) of 30 July 1976 subsequently endorsed by the UNCTAD Trade and Development Board, that the draft, taken as a whole, was generally acceptable and met with the wishes for the revision and amplification of the rules on international carriage of goods by sea. The action taken by the General Assembly with respect to the draft is described under "Consideration by the General Assembly" below.

Also at its ninth session, the Commission considered and approved the UNCITRAL Arbitration Rules on the basis of a revised set of arbitration rules for

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concluded with the adoption in 1975 of the Vienna Convention on the Representation of States in their Relations with International Organizations of a Universal Character (See *Juridical Yearbook*, 1975, p. 87).

<sup>102</sup> *Official Records of the General Assembly, Thirty-first Session, Supplement No. 10* (A/31/10). For other relevant documents, see *ibid.*, Annexes, agenda item 106.

<sup>103</sup> For the membership of the Commission, see *Official Records of the General Assembly, Thirty-first Session, Supplement No. 39* (A/31/39), p. 192.

<sup>104</sup> For detailed information, see *Yearbook of the United Nations Commission on International Trade Law*, vol. VII, 1976 (United Nations publication, Sales No. E.77.V.1).

optional use in *ad hoc* arbitration relating to international trade, prepared by the Secretary-General in the light of the deliberations and decisions of the Commission at its eighth (1975) session on an earlier draft. It also considered the report of the Working Group on the International Sale of Goods containing a draft convention on this topic, as well as the report of the Working Group on International Negotiable Instruments.

#### CONSIDERATION BY THE GENERAL ASSEMBLY

On 15 December 1976, the General Assembly adopted three resolutions in connexion with the report of the United Nations Commission on International Trade Law on the work of its ninth session.<sup>105</sup> By resolution 31/100, the Assembly *inter alia* expressed its conviction that the adoption of a convention on the carriage of goods by sea would remove such uncertainties and ambiguities as exist in the rules and practices relating to bills of lading and would establish a balanced allocation of risks between the cargo owner and the carrier, and consequently decided that an international conference of plenipotentiaries would be convened in 1978 to consider the question of the carriage of goods by sea and to embody the results of its work in an international convention and such other instrument as it might deem appropriate.<sup>106</sup>

By its resolution 31/98, the Assembly *inter alia* expressed its conviction that the establishment of rules for *ad hoc* arbitration would significantly contribute to the development of harmonious international economic relations and recommended the use of UNCITRAL Arbitration Rules in the settlement of disputes arising in the context of international commercial relations, particularly by reference to the Rules in commercial contracts.

Finally, by its resolution 31/99, the General Assembly *inter alia* recommended that the Commission continue its work on the topics included in its programme of work; welcomed the decision of the Commission to review in the near future its programme of work and called upon the Commission to continue to take account of the relevant provisions of the resolutions of the sixth and seventh special sessions of the General Assembly that laid down the foundations of the new international economic order, bearing in mind the need for United Nations organs to participate in the implementation of these resolutions.

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### VIII. OTHER LEGAL QUESTIONS

#### 1. UNITED NATIONS CONFERENCE ON SUCCESSION OF STATES IN RESPECT OF TREATIES

By resolution 31/18 of 24 November 1976, the General Assembly decided that the Conference would be held in Vienna from 4 April to 6 May 1977 and referred to the Conference as the basic proposal for its consideration the draft articles on succession of States in respect of treaties adopted by the International Law Commission at its twenty-sixth session.<sup>107, 108</sup>

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<sup>105</sup> *Official Records of the General Assembly, Thirty-first Session, Supplement No. 17 (A/31/17)*. For other relevant documents, see *ibid.*, *Annexes*, agenda item 108.

<sup>106</sup> The Conference is to meet in Hamburg, Federal Republic of Germany, from 6 to 31 March 1978.

<sup>107</sup> *Official Records of the General Assembly, Twenty-ninth Session, Supplement No. 10 (A/10010)*. For other relevant documents see *ibid.*, *Thirtieth Session, Annexes*, agenda item 107.

<sup>108</sup> The Conference met as scheduled. It was however unable to complete its work and recommended that the General Assembly should decide to reconvene the Conference in



## 2. SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION

Pursuant to General Assembly resolution 3499 (XXX) of 15 December 1975, the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization<sup>109</sup> met at the United Nations Headquarters from 17 February to 12 March 1976 and submitted a report on its work<sup>110</sup> to the Assembly at its thirty-first session.

By resolution 31/28 of 29 November 1976, the General Assembly *inter alia* reaffirmed its support for the purposes and principles of the Charter, decided that the Special Committee should continue its work in accordance with paragraphs 1 and 2 of General Assembly resolution 3499 (XXX) and requested the Special Committee to submit a report on its work to the General Assembly at its thirty-second session.

## 3. RESPECT FOR HUMAN RIGHTS IN ARMED CONFLICTS<sup>111</sup>

In considering this question at its thirty-first session, the General Assembly had before it a report of the Secretary-General (A/31/163 and Add.1)<sup>112</sup> containing a summary of the proceedings and results of the third session of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, convened by the Swiss Federal Council at Geneva from 21 April to 11 June 1976, as well as information on relevant activities of certain intergovernmental bodies.

On 24 November 1976, the General Assembly adopted resolution 31/19 in which it *inter alia* noted that the Diplomatic Conference would continue, at its fourth session to be held in 1977, its consideration of the use of specific conventional weapons, including any which may be deemed to be excessively injurious or to have indiscriminate effects and its search for agreement, for humanitarian reasons, on possible rules prohibiting or restricting the use of such weapons; called upon all parties to armed conflicts to acknowledge and to comply with their obligations under the humanitarian instruments and to observe the international humanitarian rules which are applicable, in particular The Hague Convention of 1899 and 1907,<sup>113</sup> the Geneva Protocol of 1925<sup>114</sup> and the Geneva Conventions of 1949;<sup>115</sup> called the attention of the Conference and of participating Governments and organizations to the need for measures to promote on a universal basis the dissemination of and instruction in the rules of international humanitarian law applicable in armed conflicts; and urged all participants in the Conference to do their utmost to reach agreement on additional rules which may help to alleviate the suffering brought about by armed conflicts and to respect and protect non-combatants and civilian objects, and to bring the Conference during its final session in 1977 to a successful conclusion.<sup>116</sup>

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1978 for a final session. The recommendation is to be found in the report of the Conference (A/CONF.80/15). It was approved by the General Assembly in its resolution 32/47 of 8 December 1977.

<sup>109</sup> For the membership of the Committee, see *Official Records of the General Assembly, Thirtieth Session, Supplement No. 33* (A/10033), para. 2.

<sup>110</sup> *Official Records of the General Assembly, Thirty-first Session, Supplement No. 33* (A/31/33). For other relevant documents, see *ibid.*, Annexes, agenda item 110.

<sup>111</sup> See also Section I, 3(2) above.

<sup>112</sup> For other relevant documents, see *Official Records of the General Assembly, Thirty-first Session, Annexes*, agenda item 111.

<sup>113</sup> Carnegie Endowment for International Peace, *The Hague Conventions and Declarations of 1899 and 1907* (New York, Oxford University Press, 1915).

<sup>114</sup> League of Nations, *Treaty Series*, vol. XCIV, p. 65.

<sup>115</sup> United Nations, *Treaty Series*, vol. 75.

<sup>116</sup> For the report of the Secretary-General on the fourth and final session of the Conference, see document A/32/144.

#### 4. IMPLEMENTATION BY STATES OF THE PROVISIONS OF THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS OF 1961

By its resolution 31/76 of 13 December 1976, the General Assembly *inter alia* reaffirmed the need for strict implementation by States of the Vienna Convention of 1961 in the interest of maintaining normal relations between them, strengthening international security and developing international cooperation; requested the International Law Commission at the appropriate time to study the proposals on the elaboration of a protocol concerning the status of the diplomatic courier and the diplomatic bag not accompanied by the diplomatic courier; and requested the Secretary-General to submit to the General Assembly at its thirty-third session an analytical report on ways and means to ensure the implementation of the Convention on the basis of comments and observations received from Member States and also taking into account the results of the study by the International Law Commission.<sup>117</sup>

#### 5. MEASURES TO PREVENT INTERNATIONAL TERRORISM

On 24 September 1976, the General Assembly decided to include in the agenda of its thirty-first session and to allocate to the Sixth Committee the item entitled "Measures to prevent international terrorism which endangers or takes innocent human lives or jeopardizes fundamental freedoms, and study of the underlying causes of those forms of terrorism and acts of violence which lie in misery, frustration, grievance and despair and which cause some people to sacrifice human lives, including their own, in an attempt to effect radical changes". In considering the item, the Assembly had before it the report of the *Ad Hoc* Committee on International Terrorism on the session which it held in 1973.<sup>118</sup>

By resolution 31/102 of 15 December 1976, the General Assembly *inter alia* expressed deep concern over increasing acts of international terrorism which endanger or take innocent human lives or jeopardize fundamental freedoms; urged States to continue to seek just and peaceful solutions to the underlying causes which give rise to such acts; reaffirmed the inalienable right to self-determination and independence of all peoples under colonial and racist régimes and other forms of alien domination; condemned the continuation of repressive and terrorist acts by colonial, racist and alien régimes; invited States to become parties to the existing international conventions relating to the various aspects of the problem of international terrorism; invited States to take all appropriate measures at the national level; and invited the *Ad Hoc* Committee on International Terrorism to continue its work in accordance with the mandate entrusted to it under General Assembly resolution 3034 (XXVII).

#### 6. DRAFTING OF AN INTERNATIONAL CONVENTION AGAINST THE TAKING OF HOSTAGES

This question was included in the agenda of the thirty-first session of the General Assembly at the request of the Federal Republic of Germany (A/31/142).<sup>119</sup> On 15 December 1976, the General Assembly adopted resolution 31/103 by which it *inter alia* recognized that the taking of hostages was an act endangering human lives and violating human dignity; expressed grave concern at the increase of such acts; and recalled the prohibition of the taking of hostages in articles 3 and 34 of the

<sup>117</sup> For relevant documents, see *Official Records of the General Assembly, Thirty-first Session, Annexes*, agenda item 112.

<sup>118</sup> *Official Records of the General Assembly, Twenty-eighth Session, Supplement No. 28* (A/9028). For the membership of the Committee, see *ibid.*, para. 2. For other relevant documents, see *ibid.*, *Thirty-first Session, Annexes*, agenda item 113.

<sup>119</sup> For other relevant documents, see *Official Records of the General Assembly, Thirty-first Session, Annexes*, agenda item 123.

Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949,<sup>120</sup> The Hague Convention of 1970 for the Suppression of Unlawful Seizure of Aircraft,<sup>121</sup> the Montreal Convention of 1971 for the Suppression of Unlawful Acts against the Safety of Civil Aviation,<sup>122</sup> the Convention of 1973 on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents,<sup>123</sup> as well as General Assembly resolution 2645 (XXV) of 25 November 1970<sup>124</sup> condemning aerial hijacking or interference with civil air travel. Mindful of the need to conclude under the auspices of the United Nations an international convention against the taking of hostages, the Assembly decided to establish an *Ad Hoc* Committee on the Drafting of an International Convention against the Taking of Hostages composed of thirty-five Member States.<sup>125, 126</sup>

## IX. UNITED NATIONS INSTITUTE FOR TRAINING AND RESEARCH<sup>127</sup>

As in previous years, UNITAR assumed responsibility for the major part of the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law established under General Assembly resolution 2099 (XX) of 20 December 1965. A number of fellowships were awarded to legal advisers to Governments and teachers of international law, mostly from developing countries. The programme included participation in the courses on international law at The Hague Academy of International Law and in the special courses and seminars organized by UNITAR during this period.

UNITAR also organized, jointly with the Office of Legal Affairs, a regional training and refresher course in international law for member countries of the Economic Commission for Western Asia in Qatar, and for members of the Economic and Social Commission for Asia and the Pacific in Bangladesh.

UNITAR continued research in the peace and security areas, in particular on the implementation of decisions of the United Nations in the area of peace and security. Draft studies were also completed on the settlement of disputes in ocean resources and the environment.

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<sup>120</sup> United Nations, *Treaty Series*, vol. 75, p. 287.

<sup>121</sup> Reproduced in the *Juridical Yearbook*, 1970, p. 131.

<sup>122</sup> Reproduced in the *Juridical Yearbook*, 1971, p. 143.

<sup>123</sup> Reproduced in the *Juridical Yearbook*, 1973, p. 74.

<sup>124</sup> Reproduced in the *Juridical Yearbook*, 1970, p. 114.

<sup>125</sup> For the membership of the Committee, see *Official Records of the General Assembly, Thirty-first Session, Supplement No. 34 (A/31/39)*, p. 186.

<sup>126</sup> Consideration of two other questions of legal interest which were on the agenda of the thirty-first session of the General Assembly was postponed to the thirty-second session. One of those questions related to the consolidation and progressive evolution of the norms and principles of international economic law (for relevant documents, see *Official Records of the General Assembly, Thirty-first Session, Annexes*, agenda item 115) and the other to two resolutions adopted by the United Nations Conference on the Representation of States in Their Relations with International Organizations (Vienna, 4 February-14 March 1975) on the observer status of national liberation movements and on the application of the Convention in future activities of international organizations; both resolutions are reproduced in the *Juridical Yearbook*, 1975, p. 114 (for other relevant documents, see *Official Records of the General Assembly, Thirty-first Session, Annexes*, agenda item 114). In the course of its thirty-first session, the General Assembly also considered the report of the Committee on Relations with the Host Country (*Official Records of the General Assembly, Thirty-first Session, Supplement No. 26 (A/31/26)*) in connexion with which it adopted resolution 31/101 of 15 December 1976).

<sup>127</sup> For detailed information, see *Official Records of the General Assembly, Thirty-first Session, Supplement No. 14 (A/31/14)* and *ibid.*, *Thirty-second Session, Supplement No. 14 (A/32/14)*.

Among the studies that were published in 1976 mention may be made of a study entitled *The Last Chance: Nuclear Proliferation and Arms Control*<sup>128</sup> which analyses the Treaty on the Non-Proliferation of Nuclear Weapons, the major problems facing the non-proliferation treaty system and confidence building between nuclear and non-nuclear States.

## B. General review of the activities of intergovernmental organizations related to the United Nations

### 1. INTERNATIONAL LABOUR ORGANISATION<sup>129</sup>

1. The International Labour Conference (ILC) which held its 61st Session in Geneva in June 1976, adopted the following instruments: a Convention concerning tripartite consultations to promote the implementation of international labour standards, 1976, and a Recommendation concerning tripartite consultations to promote the implementation of international labour standards and national action relating to the activities of the International Labour Organisation, 1976.<sup>130</sup>

2. The International Labour Conference (ILC), which also held its 62nd (Maritime) Session at Geneva in October 1976, adopted a Convention and a Recommendation concerning continuity of employment of seafarers, 1976;<sup>131</sup> a Recommendation concerning the protection of young seafarers, 1976;<sup>132</sup> a Convention concerning annual leave with pay for seafarers, 1976,<sup>133</sup> a Convention concerning minimum stand-

<sup>128</sup> William Epstein, *The Last Chance: Nuclear Proliferation and Arms Control* (New York, MacMillan Free Press, 1976).

<sup>129</sup> In regard to the adoption of instruments, the preparatory work which, by virtue of the double-discussion procedure normally covers a period of two years, is indicated, in order to facilitate reference work, according to the year during which the instrument was adopted.

<sup>130</sup> *Official Bulletin*, Vol. LIX, 1976, Series A, No. 2, pp. 83-86; and 87-89; English, French, Spanish. Regarding preparatory work, see: *First Discussion*—Establishment of National Tripartite Machinery to Improve the Implementation of ILO Standards, ILC, 60th Session (1975), Report VII (1) (this report contains *inter alia* details of the action which led to the placing of the question on the agenda of the Conference), and Report VII (2), 29 and 47 pages respectively; English, French, Spanish, German and Russian. See also ILC, 60th Session (1975) *Record of Proceedings*, pp. 491-500; 735-738; English, French, Spanish. *Second Discussion*—Establishment of Tripartite Machinery to Promote the Implementation of International Labour Standards, ILC, 61st Session (1976), Report IV(1) and Report IV(2), 32 and 49 pages respectively; English, French, Spanish, German, Russian. See also ILC, 61st Session (1976), *Record of Proceedings*, pp. 115-123; 136-144; 284-289; English, French, Spanish.

<sup>131</sup> *Official Bulletin*, Vol. LX, 1977, Series A, No. 1, pp. 4-7 and 23-25; English, French, Spanish. Regarding preparatory work, see: *Continuity of Employment of Seafarers*, ILC, 62nd (Maritime) Session, 1976, Report IV (this report contains, *inter alia*, details of the action which led to the placing of the question on the agenda of the Conference), 29 pages; English, French, Spanish, German, Russian. See also, ILC, 62nd (Maritime) Session, 1976, *Record of Proceedings* (scheduled for publication).

<sup>132</sup> *Official Bulletin*, Vol. LX, 1977, Series A, No. 1, pp. 18-22, English, French, Spanish. Regarding preparatory work, see: *The Protection of Young Seafarers*, ILC, 62nd (Maritime) Session, 1976, Report III (this report contains, *inter alia*, details of the action which led to the placing of the question on the agenda of the Conference), 33 pages; French, English, Spanish, German, Russian. See also, ILC, 62nd (Maritime) Session, 1976, *Record of Proceedings* (scheduled for publication).

<sup>133</sup> *Official Bulletin*, Vol. LX, 1977, Series A, No. 1, pp. 8-13, English, French, Spanish. Regarding preparatory work, see: *Holidays with Pay for Seafarers*, ILC, 62nd (Maritime) Session, 1976, Report II (this report contains, *inter alia*, details of the action which led to the placing of the question on the agenda of the Conference), 45 pages; English, French, Spanish, German, Russian. See also, ILC, 62nd (Maritime) Session, 1976, *Record of Proceedings* (scheduled for publication).

ards in merchant ships, 1976,<sup>134</sup> and a Recommendation concerning the improvement of standards in merchant ships, 1976.<sup>134</sup>

3. The International Labour Conference (ILC) also adopted certain regulatory amendments:

- (i) Article 48 of the Standing Orders of the International Labour Conference was modified in order to specify the time when a newly elected Governing Body takes up its new functions.<sup>135</sup>
- (ii) Articles 5 and 11 of the Rules concerning the Powers, Functions and Procedure of Regional Conferences, convened by the International Labour Organisation were modified, the first mentioned article so as to facilitate election procedures for the President and the three Vice-Presidents; and the second so as to draw a distinction between points of order and motions as to procedure.

4. The Committee of Experts on the Application of Conventions and Recommendations met in Geneva from 18 to 31 March 1976 and presented its report.<sup>136</sup>

5. The Governing Body Committee on Freedom of Association met in Geneva and adopted Reports No. 157<sup>137</sup> (199th Session of the Governing Body, February 1976); Reports Nos. 158<sup>138</sup> and 159<sup>138</sup> (200th Session of the Governing Body, May 1976) and Reports Nos. 160,<sup>139</sup> 161,<sup>139</sup> 162,<sup>139</sup> 163,<sup>139</sup> (201st Session of the Governing Body, November 1976).

6. Among the agreements which were entered into by the International Labour Organisation in 1976, mention may be made of an agreement between ILO and the Arab Labour Organisation<sup>140</sup> which came into force on the date of its signature, 15 June 1976.

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## 2. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

### I. OFFICE OF THE LEGAL COUNSEL<sup>141</sup>

#### 1. *Constitutional matters*

In addition to current legal advice and services provided to the Director-General and various departments within the Organization, the Office of the Legal Counsel

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<sup>134</sup> *Official Bulletin*, Vol. LX, 1977, Series A, No. 1, pp. 13-18, 25-27; French, English, Spanish. Regarding preparatory work, see: *Substandard Vessels, Particularly Those Registered under Flags of Convenience*, ILC, 62nd (Maritime) Session, 1976, Report V(1) (this report contains, *inter alia*, details of the action which led to the placing of the question on the agenda of the Conference), and Report V(2), 34 and 63 pages respectively; English, French, Spanish, German, Russian. See also, ILC, 62nd (Maritime) Session, 1976, *Record of Proceedings* (scheduled for publication).

<sup>135</sup> ILC, 61st Session, 1976, *Record of Proceedings*, pp. 7-8; 67-68; 280.

<sup>136</sup> This report has been published as Report III (Part 4) to the 61st Session of the Conference and comprises two volumes: Vol. A: "General Report and Observations concerning Particular Countries" (Report III (Part 4 A)), 237 pages; English, French, Spanish. Vol. B: "General Survey of the Reports relating to the Consultation (Industrial and National Levels) Recommendation, 1960 (No. 113)" (Report III (Part 4 B)), 53 pages; English, French, Spanish.

<sup>137</sup> *Official Bulletin*, Vol. LIX, 1976, Series B, No. 2.

<sup>138</sup> *Ibid.*, Vol. LIX, 1976, Series B, No. 3.

<sup>139</sup> *Ibid.*, Vol. LV, 1977, Series B, No. 1.

<sup>140</sup> *Official Bulletin*, Vol. LIX, 1976, Series A, No. 3, pp. 158-160.

<sup>141</sup> For general information on the organization and functions of the Office of the Legal Counsel, see *Juridical Yearbook*, 1972, page 60.

provided legal services to the Committee on Constitutional and Legal Matters, the Council and other bodies of FAO.

The Council, at its sixty-ninth and seventieth sessions (held in July and November-December 1976, respectively), took certain decisions involving legal questions; some of these questions had been examined, in the first instance, by the Committee on Constitutional and Legal Matters (CCLM) at its thirty-second and thirty-third sessions, held in May and November respectively. Thus, the Council:

- authorized the Director-General to invite Angola and Mozambique<sup>142</sup> and the Democratic Republic of São Tomé and Príncipe, the Democratic People's Republic of Korea, and the Comoros,<sup>143</sup> to participate in an observer capacity at appropriate Council Meetings, as well as at regional and technical meetings of the Organization of interest to them, in accordance with Rule XXV-11 of the General Rules of the Organization (GRO) and paragraphs B-1, B-2 and B-5 of the "Statement of Principles Relating to the Granting of Observer Status to Nations", pending a decision by the Conference on the membership applications submitted by the aforementioned countries;
- accepted the conclusion of the CCLM that FAO should recognize the Socialist Republic of Vietnam as succeeding the Republic of South Viet-nam with respect to membership in FAO;<sup>144</sup>
- adopted a Resolution approving amendments to the Agreement for the Establishment of a General Fisheries Council for the Mediterranean;<sup>145</sup>
- decided to recommend to the Conference for adoption an amendment to Financial Regulation 4.3, relating to carry-over of funds, and Financial Regulation 10.1;<sup>146</sup>
- authorized the Director-General to amend the Statutes of bodies established pursuant to Article VI of the Constitution to extend participation at meetings of these bodies to States that were members of any Specialized Agency or the International Atomic Energy Agency in accordance with Conference Resolution 10/73;<sup>147</sup>
- decided to refer to its Working Party on the Composition and Terms of Reference of the Council, the Programme Committee, the Finance Committee, and the CCLM, and to the CCLM the task of preparing such rules as may be appropriate with respect to the participation in Regional Conferences of Member Nations whose territories were predominantly situated outside the particular region;<sup>148</sup>
- adopted a resolution establishing a Commission for Inland Fisheries of Latin America under Article VI of the FAO Constitution.<sup>149</sup>

The Office of the Legal Counsel provided advice to the third session of the Meeting of Interested Countries on the Establishment of an International Fund for Agricultural Development (Rome, 28 January-6 February) and the United Nations Conference on the Establishment of an International Fund for Agricultural Development (10-13 June). In addition, the Office of the Legal Counsel provided advice to

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<sup>142</sup> CL 69/REP, paras. 82-83; CL 69/PV/1.

<sup>143</sup> CL 70/REP, paras. 179-180; CL 70/PV/1, CL 70/PV/5; CL 70/PV/12.

<sup>144</sup> CL 70/REP, paras. 166-169; CL 70/5(a); CL 70/PV/9.

<sup>145</sup> CL 70/REP, paras. 164-165; CL 70/5, CL 70/PV/9.

<sup>146</sup> CL 70/REP, para. 170; CL 70/5(a); CL 69/4, paras. 3-22.

<sup>147</sup> CL 70/REP, paras. 173-175; CL 70/5(a), paras. 13-20.

<sup>148</sup> CL 70/REP, paras. 181-189; CL 70/24; CL 70/PV/11; CL 70/PV/17.

<sup>149</sup> CL 70/REP, paras. 190-192; CL 70/33; CL 70/PV/12; CL 70/PV/17.

the Second Session of the World Food Council (14-17 June 1976) and the Preparatory Meeting held from 10 to 15 May 1976, and assisted in the revision of the Rules of Procedure for the newly-constituted Committee on Food Aid Policies and Programmes (CFA) which succeeded the Intergovernmental Committee of the World Food Programme (IGC).<sup>150</sup>

The following reference documents of legal interest were published during the course of the year:

- (i) Provisional issue of the 1976 edition of the FAO Basic Texts, Vols. I and II;<sup>151</sup>
- (ii) Directory of FAO Statutory Bodies and Panels of Experts, 1976.

## *2. Law of the sea and international fisheries*

FAO participated in the fourth and fifth sessions of the United Nations Conference on the Law of the Sea held in New York from 15 March to 7 May and from 2 August to 17 September 1976. It cooperated with the secretariat of the Conference in preparing the Annotated Directory of Intergovernmental Organizations Concerned with Ocean Affairs that was submitted to the Fifth Session of the Conference.<sup>152</sup>

As requested by the FAO Committee on Fisheries at its tenth session in June 1975, one of its sub-committees, the Sub-Committee on the Development of Co-operation with International Organizations Concerned with Fisheries, met in Lisbon in March 1976 to assess the future role of FAO in fisheries, of the Committee itself and of regional fishery bodies in the context of any new legal order that may govern fisheries. The report of the Sub-Committee<sup>153</sup> will be considered by the Committee on Fisheries at its eleventh session in April 1977.

At its thirteenth session in July 1976, the General Fisheries Council for the Mediterranean (GFCM) adopted various amendments to the 1949 Agreement under which it had been established. The main objective of these amendments,<sup>154</sup> which were approved by the Council of FAO at its seventieth session in November/December 1976,<sup>155</sup> is to make the GFCM more effective as regards the formulation, adoption and enforcement of fishery management measures.

At its seventeenth session held in November 1976, the Indo-Pacific Fisheries Council (IPFC) also adopted amendments to the 1948 Agreement under which it had been established. These amendments,<sup>156</sup> which will be submitted to the Council of FAO for approval in 1977, are designed to increase the effectiveness of the IPFC in dealing with fishery management and development problems.

## *3. Environment law*

The Legal Office provided secretariat services and documentation, jointly with the United Nations Environment Programme, for the Conference of Plenipotentiaries of the Coastal States of the Mediterranean Sea held in Barcelona in February 1976, which adopted a "Convention for the Protection of the Mediterranean Sea against Pollution" based on draft texts prepared by FAO.<sup>157</sup> Legal Office staff contributed papers

<sup>150</sup> WFP/CFA: 2/13.

<sup>151</sup> Issued in English, French, Spanish and Arabic.

<sup>152</sup> A/CONF.62/L.14.

<sup>153</sup> COFI/77/14.

<sup>154</sup> COFI/77/Inf.3.

<sup>155</sup> CL 70/REP, paras. 164-165, Resolution 3/70.

<sup>156</sup> COFI/77/Inf.4.

<sup>157</sup> Draft Convention for the Protection of the Marine Environment against Pollution in the Mediterranean, UNEP/CONF.1/3; Existing and Proposed International Conventions for the Control of Marine Pollution and their Relevance to the Mediterranean, FAO Legal

to, and participated in, the meeting of the OECD Environment Committee's Trans-frontier Pollution Group held in Paris in June 1976;<sup>158</sup> the FAO Expert Consultation on Environment and Development in Latin America held in Bogotá in July 1976;<sup>159</sup> and the UNEP Task Force Meeting on Legal Instruments for Marine Regions held in Nairobi in November 1976.<sup>160</sup>

FAO published translations and summaries of environmental legislation of various countries and references to other current national legislation in this field,<sup>161</sup> and initiated in April 1976 a Joint Project with the United Nations Environment Programme to prepare a machine-readable index of the FAO Catalogue of Legislation on Environment and Natural Resources (FP/1302-75-02), in the context of the UNEP International Referral System.

The Legal Office collaborated with the International Association of Legal Science [Association internationale des sciences juridiques] in the preparation of a project on guidelines for environmental legislation in developing countries, and prepared draft project documents for the United Nations Environment Fund on improvement of legal and institutional instruments for renewable natural resources and environment protection in Latin America and on development of legislation for renewable natural resources and environment protection in Indonesia.

## II. LEGISLATION BRANCH<sup>162</sup>

### (a) *Activities connected with international meetings*

A paper on legal and institutional criteria for rational water resources management was prepared by the Legislation Branch and presented by the FAO delegation to the Second International Conference on Water Law and Administration (AIDA II) organized by the International Conference for Water Law at Caracas, Venezuela, 8-14 February 1976, as one of the preparatory meetings for the 1977 United Nations Water Conference. FAO participated at the 57th Conference of the International Law Association (ILA), held in Madrid, Spain, 29 August-4 September 1976, at which the ILA adopted articles on "International Water Resources Administration" as a contribution to the 1977 United Nations Water Conference. In April 1976, a Workshop on Legal and Institutional Aspects of Fisheries Resources Management and Development was organized in Manila under the sponsorship of the South China Sea Fishery Development and Coordination Programme. Work continued during the year on the preparation of a draft Convention for the Control of the Spread of Major Communicable Fish Diseases, and a revised draft Convention was circulated to Governments for consideration at an intergovernmental consultation which was to be convened jointly by FAO and OIE in January 1977.

### (b) *Legislative assistance and expert advice in the field*

The principal activities in this area included:

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Office Background Paper No. 8, reproduced as UNEP/CONF.1/INF.6; Comparative Table of Texts Relating to the Draft Convention for the Protection of the Marine Environment against Pollution in the Mediterranean, FAO Legal Office Background Paper No. 9, reproduced as UNEP/CONF.1/INF.7.

<sup>158</sup> P. H. Sand, The Role of Domestic Procedures in Transnational Environmental Disputes, OECD Working Paper ENV/TFP (29 May 1976).

<sup>159</sup> P. H. Sand, Environmental Legislation and Technical Assistance (RLAT 801/76/23E).

<sup>160</sup> P. H. Sand, Drafting of Regional Legal Instruments for Marine Environment Protection: The Case of the Mediterranean (UNEP/TFLIRS Inf. 4).

<sup>161</sup> Food and Agricultural Legislation, Volume XXV, Nos. 1 and 2.

<sup>162</sup> For general information on the organization and functions of the Legislation Branch, see *Juridical Yearbook*, 1972, page 62, note 59.



- a course on agrarian law for legal officers of the agricultural public sector in Santo Domingo, Dominican Republic, 22 February-26 March 1976;
- direct assistance to Governments on the drafting of fisheries legislation and other aspects of fisheries law and joint ventures in Malaysia, Mexico, the Philippines and the Gambia, and on legal and institutional aspects of the use and development of water for irrigation in Chile.

(c) *Legal assistance and advice not involving field missions*

The following draft documents and instruments were drafted, reviewed or commented upon, at the request of the Government, agency, project or technical department concerned:

- Bill for the establishment of the Agricultural Development Bank in the Republic of Liberia;
- Progress Report of the Center for Agricultural Marketing Development in Iran;
- Report on the Basic Data System for Area Project Planning in the context of Agrarian Reform and Human Ecosystem in the Philippines;
- Draft Constitution of Asian Regional Agricultural Credit Association;
- Draft wildlife legislation in the Central African Empire and in Somalia;
- Draft international convention for the conservation of migratory species of wild fauna;
- Draft convention on conservation in the South Pacific Region.

(d) *Legislative research and publications*

Research was conducted, *inter alia*, on land ceilings in agrarian reform; agricultural credit legislation; agrarian reform legislation; legislation on investments in agriculture; including country studies (Brazil, Mexico, Jordan, Philippines) and on the role of the central bank in agricultural credit. Studies and other research documents were published on agrarian reform; agricultural marketing; water law and administration; legal aspects of international water resources basins.<sup>163</sup>

(e) *Collection, translation and dissemination of legislative information*

FAO published, semi-annually, the *Food and Agricultural Legislation*. Annotated lists of relevant laws and regulations appear regularly in *Land Reform*, a semi-annual FAO publication. Similar lists are also published in the quarterly *Food and Nutrition Review* and in *Unasylva, An international journal of forestry and forest industries*.

### 3. UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

#### 1. CONSTITUTIONAL AND PROCEDURAL QUESTIONS

##### (a) *Membership of the Organization*

In the course of the period covered by this review, the Constitution of UNESCO was signed and instruments of its acceptance were deposited on behalf of the following States:

<sup>163</sup> See the bibliography appearing at the end of this *Yearbook*.

<i>State</i>	<i>Date of signature</i>	<i>Date of deposit of the instrument of acceptance</i>
Republic of Surinam .....	16 July 1976	8 April 1976
Papua New Guinea .....	21 September 1976	4 October 1976
People's Republic of Mozambique	11 October 1976	16 August 1976
Republic of Seychelles .....	18 October 1976	18 October 1976

Under the terms of the relevant provisions of the Constitution<sup>164</sup> each of the aforementioned States became a member of the Organization on the respective date its acceptance took effect.

## (b) *Executive Board*

### (i) *Membership*

At its nineteenth session, the General Conference, after having considered two alternative proposals<sup>165</sup> on the matter, amended Article V, paragraph 1, of the Constitution in order to have membership of the Executive Board increased from 40 to 45.<sup>166</sup>

### (ii) *Replacement of members during their term of office*

The General Conference, at its nineteenth session, adopted resolution 17.2 by which Article V, paragraph 4, of the Constitution was amended to provide that when "exceptional circumstances arise, which, in the considered opinion of the represented State, make it indispensable for its representative to be replaced, even when he does not tender his resignation, measures shall be taken in accordance with subparagraph (a)" of Article V, paragraph 4 of the Constitution.<sup>167</sup> By the same resolution, the General Conference amended Rule 98 of its Rules of Procedure to take account of this amendment to the Constitution.<sup>168</sup>

## (c) *Financing of unforeseen and unavoidable expenses*

At its nineteenth session, the General Conference, after examining the question of the financing of unforeseen and unavoidable expenses, amended Article 3.9 of the Organization's Financial Regulations to increase from a total of 5 percent to 7.5 percent of the appropriation for the financial period, supplementary estimates which may be approved provisionally by the Executive Board, after it is satisfied that all possibilities of savings and of transfers within Parts I to VI of the Budget have been exhausted. This action shall be reported to the General Conference for final approval. Also, according to this amendment, supplementary estimates in excess of 7.5 percent of the appropriation for the financial period shall be reviewed by the Executive Board and submitted to the General Conference with such recommendations as the Board may consider desirable.<sup>169</sup>

## 2. INTERNATIONAL REGULATIONS

During 1976, the standard-setting instruments mentioned below were adopted by the General Conference or under the auspices of the Organization.

<sup>164</sup> See Articles II and XV of the Constitution.

<sup>165</sup> See documents 19C/70, 1 July 1976, 19C/105, 13 October 1976, and 19C/117, 5 November 1976, English, French, Russian, Spanish.

<sup>166</sup> See Resolution 19C/17.1, 8 November 1976, and Decision 101 EX/4, 1-2 December 1976.

<sup>167</sup> See documents 19C/17, 1 July 1976, 19C/32, 1 July 1976, 19C/104, 15 September 1976 and 19C/118, 5 November 1976, English, French, Russian, Spanish.

<sup>168</sup> See also Decision 101 EX/4, 1-2 December 1976.

<sup>169</sup> See Resolution 19C/22.1, 20 November 1976.

(a) *Instruments adopted by the General Conference at its nineteenth session*<sup>170</sup>

- Protocol to the Agreement on the Importation of Educational, Scientific and Cultural Materials (adopted on 26 November 1976)<sup>171</sup>
- Recommendation on the development of adult education (adopted on 26 November 1976)<sup>172</sup>
- Recommendation concerning the international exchange of cultural property (adopted on 26 November 1976)<sup>173</sup>
- Recommendation concerning the safeguarding and contemporary role of historic areas (adopted on 26 November 1976)<sup>174</sup>
- Recommendation on participation by the people at large in cultural life and their contribution to it (adopted on 26 November 1976)<sup>175</sup>
- Recommendation on the legal protection of translators and translations and the practical means to improve the status of translators (adopted on 22 November 1976)<sup>176</sup>
- Recommendation concerning the international standardization of statistics on radio and television (adopted on 22 November 1976)<sup>177</sup>

(b) *Instrument adopted by an International Conference of States convened by UNESCO and held from 13 to 17 December 1976*<sup>178</sup> at Nice, France

- International Convention on the Recognition of Studies, Diplomas and Degrees in Higher Education in the Arab and European States bordering on the Mediterranean (adopted on 17 December 1976)

### 3. INITIAL SPECIAL REPORTS BY MEMBER STATES

(a) *Reports submitted to the nineteenth session of the General Conference*

At its nineteenth session, the General Conference, after considering the initial special reports<sup>179</sup> submitted by Member States on the action taken by them on the Recommendation concerning Education for International Understanding, Co-operation and Peace and Education Relating to Human Rights and Fundamental Freedoms, the Revised Recommendation concerning Technical and Vocational Educational and the Recommendation on the Status of Scientific Researchers, adopted by the General Conference at its eighteenth session, adopted<sup>180</sup> a General Report embodying its comments on the aforesaid action taken by Member States decided that the General Report be transmitted to Member States, to the United Nations, and to National Commissions, in accordance with Article 19 of the Rules of Procedure concerning

<sup>170</sup> For the text of these instruments, see Records of the General Conference, Vol. 1 (Resolutions), Annex I.

<sup>171</sup> See document 19C/28, 1 July 1976, English, French, Russian, Spanish.

<sup>172</sup> See document 19C/24, 16 August 1976, English, French, Russian, Spanish.

<sup>173</sup> See document 19C/25, 6 August 1976, English, French, Russian, Spanish.

<sup>174</sup> See document 19C/26, 1 July 1976, English, French, Russian, Spanish.

<sup>175</sup> See document 19C/27, 6 August 1976, English, French, Russian, Spanish.

<sup>176</sup> See document 19C/30, 16 August 1976, English, French, Russian, Spanish.

<sup>177</sup> See document 19C/29, 13 August 1976, English, French, Russian, Spanish.

<sup>178</sup> For the Final Report of the Conference see document ED-76/CONF.202/4, 27 February 1977, English, French, Spanish.

<sup>179</sup> See documents 19C/19, 30 September 1976, 19C/19 Add., 25 October 1976, 19C/20, 30 September 1976, 19C/20 Add., 14 October 1976, 19C/20 Add.2, 25 October 1976, 19C/21, 30 September 1976, 19C/21 Add., 15 October 1976, 19C/21 Add.2, 10 November 1976 and 19C/128, 25 November 1976, English, French, Russian, Spanish.

<sup>180</sup> See Resolution 19C/34.1, 26 November 1976, English, French, Russian, Spanish.

Recommendations to Member States and International Conventions covered by the terms of Article IV, paragraph 4, of the Constitution.

(b) *Reports to be submitted to the twentieth session of the General Conference*

The General Conference, at its nineteenth session, reminded Member States of their obligation to transmit to it, at least two months before the opening of its twentieth session, initial special reports on the action taken by them upon the six Recommendations<sup>181</sup> adopted at its said nineteenth session, and to include in these reports the information on the matters specified in paragraph 4 of resolution 50 adopted at its tenth session.<sup>182</sup>

(c) *Procedure concerning initial special reports submitted by Member States on action taken by them in pursuance of conventions and recommendations adopted by the General Conference*

On the basis of a request made by the Legal Committee at the eighteenth session of the General Conference,<sup>183</sup> the Director-General carried out a study of the means of ensuring that an increasingly large number of initial special reports on the action taken by Member States would be transmitted to the General Conference and could be considered by the Legal Committee. This study,<sup>184</sup> submitted to the General Conference at its nineteenth session, was put before the Legal Committee for consideration.

The Legal Committee decided<sup>185</sup> to defer consideration of the study until a future session of the General Conference. Meanwhile, it is expected that the study will be taken into account by the Executive Board and the Director-General in the more general examination of UNESCO's standard-setting activities they are required to make in conformity with Resolution 19C/6.112.

#### 4. COPYRIGHT AND NEIGHBOURING RIGHTS

(a) *Intergovernmental Copyright Committee*

At their December 1975 sessions, the Intergovernmental Copyright Committee and the Executive Committee of the Berne Union requested inquiries concerning the legal problems arising from the use of audio-visual cassettes and discs and the problems posed by the distribution of television programmes by cable.<sup>186</sup> Inquiries on these subjects were carried out in 1976. The results were analysed and submitted in 1977 to Working Groups, whose conclusions will be transmitted to the aforementioned Committees at their December 1977 sessions.

(b) *Intergovernmental Committee established under article 32 of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention)*<sup>187</sup>

At its December 1975 session, this Committee requested an inquiry concerning the experience in the various countries in the administration of rights under the Rome

<sup>181</sup> For the titles of these Recommendations, see paragraph above entitled "International regulations".

<sup>182</sup> See Resolution 19C/6.114, 22 November 1976.

<sup>183</sup> See paragraph 17 of document 18C/127, 15 November 1974, English, French, Russian, Spanish.

<sup>184</sup> See document 19C/99, 3 September 1976, English, French, Russian, Spanish.

<sup>185</sup> See paragraph 7 of document 19C/128, 25 November 1976, English, French, Russian, Spanish.

<sup>186</sup> Report of the First Extraordinary Session of the Intergovernmental Copyright Committee, IGC/XR.1 (1971)/17.

<sup>187</sup> United Nations, *Treaty Series*, vol. 496, p. 43.

Convention and the relevant court decisions.<sup>188</sup> This inquiry was carried out in 1976. Its results will be submitted to the next session of the Committee, in December 1977.

(c) *Recommendation on the legal protection of translators and translations and the practical means to improve the status of translators*<sup>189</sup>

The General Conference of UNESCO, at its nineteenth session, held in Nairobi from 26 October to 30 November 1976, adopted the aforementioned Recommendation, which sets forth a number of measures to ensure the application in practice of protection afforded translators under international conventions and in national laws relating to copyright. The Recommendation applies to salaried translators as well as to independent translators and in addition to the aforementioned measures sets forth certain standards concerning the social and fiscal situation of translators and their training and working conditions.

(d) *Reprographic reproduction of works protected by copyright*

The General Conference of UNESCO, at its nineteenth session,<sup>190</sup> took note of the report submitted to it by the Director-General on the results of the work done pursuant to Resolution 6.14 on the photographic reproduction of works protected by copyright, which it had adopted at its eighteenth session.<sup>191</sup> In that resolution, the General Conference authorized the Director-General to take account of the results of the work done in that field by the Committees of the copyright Conventions and, if feasible, to prepare a draft recommendation on that subject. Since that work had led to the conclusion that a uniform solution at the international level could not be reached for the time being, the Executive Board of UNESCO authorized the Director-General not to prepare the envisaged draft recommendation and invited him to submit the aforementioned report to the General Conference.

(e) *Tunis Model Law on Copyright for Developing Countries*<sup>192</sup>

Following the revision in Paris in July 1971 of the two major international copyright conventions (the Universal Convention<sup>193</sup> and the Berne Convention) in order to take into account the special needs of the developing countries, it appeared useful to make available to States a model law on copyright which they could take as a pattern for bringing their domestic legislation into line with the convention rules if they wished to adhere to the aforementioned revised conventions.

A Committee of Governmental Experts convened by the Tunisian Government with the assistance of UNESCO and WIPO met in Tunis from 23 February to 2 March 1976 and adopted the aforementioned Model Law, whose basic features are the following: it is adapted to the needs of the developing countries, and its provisions are compatible with the revised texts of the two Conventions and allow for the Anglo-Saxon or the Roman legal approach of the countries for which it is intended.

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<sup>188</sup> Report of the Fifth Ordinary Session of the Committee, OIT/UNESCO/OMPI/ICR.5/8.

<sup>189</sup> Records of the General Conference—Nineteenth Session—vol. I—Resolution—Annex I, p. 39.

<sup>190</sup> General Conference, Twenty-seventh Plenary Meeting, Verbatim Record, document VR/27 prov., paras. 28.27 and 28.28.

<sup>191</sup> Document 15C/31.

<sup>192</sup> Tunis Model Law on Copyright for Developing Countries, published in 1976 by UNESCO and WIPO.

<sup>193</sup> See *Juridical Yearbook*, 1971, p. 123.

(f) *International Copyright Information Centre—Double Taxation of Copyright Royalties*

A Second Committee of Governmental Experts was convened by the Director-General of UNESCO and the Director-General of WIPO from 8 to 17 December 1976 with a view to preparing a draft international agreement for the prevention of double taxation of copyright royalties remitted from one country to another. To that end, the Committee considered a preliminary draft of a multilateral convention as well as the possibility of preparing a model bilateral agreement on the subject. At the end of its discussion, the Committee adopted a resolution<sup>194</sup> in which it expressed its belief that the solution of the problems in question might be found in the adoption of a multilateral instrument accompanied for its implementation by a model bilateral agreement, and recommended, among other things, that the UNESCO secretariat and the International Bureau of WIPO should prepare such texts and that a Third Committee of Governmental Experts should be convened during the 1977-1978 period to prepare proposals for submission to an international conference of States for adoption.

(g) *Guidelines for the Creation of National and Regional Copyright Information Centres*<sup>195</sup>

Pursuant to Resolution 6.122, adopted at the nineteenth session of the General Conference of UNESCO, the secretariat proceeded to establish standards with a view to facilitating, at the level of both States and regions, the creation, where they do not yet exist, of national or regional copyright information centres designed to give developing countries easy access to protected works.

## 5. HUMAN RIGHTS

(a) *Conciliation and Good Offices Commission to be responsible for seeking the settlement of any disputes which may arise between States Parties to the Convention against Discrimination in Education*<sup>196</sup>

(i) Membership

In accordance with Article 3(2) of the Protocol<sup>197</sup> instituting a Conciliation and Good Offices Commission to be responsible for seeking the settlement of any disputes which may arise between States Parties to the Convention against Discrimination in Education, and on the report of the Nominations Committee, the General Conference, at its nineteenth session, elected on 27 November 1976 the following persons to be members of the aforementioned Commission for a term of six years each: Dr. Ismael Antonio Vargas Bonilla (Costa Rica), Dr. Vincent Austin Depascuale (Malta), Mr. Halim Ibrahim Grais (Arab Republic of Egypt) and Mr. Joseph A. Lauwerys (United Kingdom).<sup>198</sup>

(ii) Report

In accordance with Article 19 of the Protocol instituting it, the Commission submitted, through the Executive Board, to the General Conference at its nineteenth session, a report on its activities since the eighteenth session of the General Conference.<sup>199</sup>

<sup>194</sup> Report of the Second Committee of Governmental Experts, UNESCO/OMPI/DT/II/9.

<sup>195</sup> Guidelines for the Creation of National and Regional Copyright Information Centres.

<sup>196</sup> United Nations, *Treaty Series*, vol. 429, p. 93.

<sup>197</sup> *Ibid.*, vol. 651, p. 362.

<sup>198</sup> See Resolution 19C/6.115, 22 November 1976.

<sup>199</sup> See document 19C/100, 8 September 1976, English, French, Russian, Spanish.

(b) *Examination of communications addressed to UNESCO in connexion with specific cases involving human rights in education, science and culture*

In the year under review, 45 communications of the nature indicated in the above title were, in conformity with the procedure provided for under decision 77 EX/8.3 adopted by the Executive Board at its seventy-seventh session, brought to the notice of the Board's Committee on Conventions and Recommendations in Education after they had been transmitted to the Governments concerned. The replies submitted by some of these Governments were also put before the Committee. The communications, together with the replies, were examined by the Committee at its meetings held in April and September 1976 in the course of the 99th and 100th sessions of the Executive Board.<sup>200</sup>

After this examination, the Committee submitted its reports to the Executive Board.<sup>201</sup>

(c) *Procedures which should be followed in the examination of cases and questions concerning human rights*

The Executive Board, at its 99th session, adopted a decision<sup>202</sup> under items 9.4 and 9.5 of its agenda by which, under paragraph 8, it "Invites the Committee on Conventions and Recommendations in Education to review its current procedure, including methods of work and of reporting to the Executive Board, with a view to making recommendations for improvement where necessary". Although not explicitly stated in this paragraph, it was clear from the context of the decision that the procedure in question was the one for handling communications addressed to UNESCO on specific cases involving human rights in education, science and culture as laid down by decision 77 EX/8.3 adopted by the Board at its 77th session.<sup>203</sup>

This review was started by the Committee at its meeting held in September 1976 in the course of the 100th session of the Executive Board.<sup>204</sup> A private report<sup>205</sup> on its work was submitted by the Committee to the Board at the same session.

At its 19th session, the General Conference adopted resolution 6.113 by which it invited the Executive Board and the Director-General "to study the procedures which should be followed in the examination of cases and questions which might be submitted to UNESCO concerning the exercise of human rights in the spheres of its competence, in order to make its action more effective."<sup>206</sup> It is expected that this study will cover, but not be limited to, the procedure currently applicable by virtue of the aforesaid decision 77 EX/8.3.

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## 4. INTERNATIONAL CIVIL AVIATION ORGANIZATION

### 1. CONSOLIDATION OF THE INSTRUMENTS OF THE "WARSAW SYSTEM" INTO A SINGLE CONVENTION

A Subcommittee of the Legal Committee met at Montreal from 17 May to 1 June 1976 to consider the item "Study of the consolidation of the instruments of

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<sup>200</sup> See documents 99 EX/CR/PRIV.1, 25 March 1976, 99 EX/CR/PRIV.1 Add., 16 April 1976, 99 EX/CR/PRIV.1 Add. 2, 16 April 1976, 99 EX/CR/PRIV.1 Add. 3, 20 April 1976, 99 EX/53, 30 April 1976, 100 EX/CR/PRIV.1, 11 August 1976, 100 EX/CR/PRIV.3, 20 August 1976 and 100 EX/CR/PRIV.4, 16 September 1976, English, French, Russian, Spanish.

<sup>201</sup> See document 100 EX/PRIV.50, 11 October 1976.

<sup>202</sup> See 99 EX/Decisions 9.4, 9.5, 26 April-26 May 1976.

<sup>203</sup> Reproduced in the *Juridical Yearbook*, 1967, p. 264.

<sup>204</sup> See document 100 EX/CR.2, 26 August 1976, English, French, Russian, Spanish.

<sup>205</sup> Document 100 EX/PRIV.50, 11 October 1976, English, French, Russian, Spanish.

<sup>206</sup> See also Resolution 19C/12.1, part II, paragraph 10(b), 29 and 30 November 1976.

the 'Warsaw System' into a single convention", which had been included by decision of the Council in the General Work Programme of the Legal Committee as a consequence of a Resolution adopted by the International Conference on Air Law (Montreal, 3 to 25 September 1975). The Subcommittee prepared a draft text of the consolidated convention in accordance with the terms of reference as understood by a majority of the members of the Subcommittee. The draft text was based on a draft prepared by the Legal Bureau and incorporated all the amendments agreed upon by vote or consensus in the Subcommittee.

The 22nd Session of the Legal Committee (Montreal, 19 October-5 November 1976) reviewed the work of the Subcommittee and reached the conclusion that due to the divergent points of view on the meaning of the Resolution of the International Conference on Air Law which gave rise to the study of the problem, and the significance of the terms of reference of the Legal Committee and the solution to be adopted, it was considered premature to attempt the consolidation under study. Accordingly, the Committee recommended to the Council that the item be referred to the Legal Bureau for further study in the light of the observations made during the Session and to prepare a "text of convenience" which would be sent to States for comment.

It was further recommended that the item be included in the Provisional Agenda of the 23rd Session of the Committee for study and working out an informal text, and that thereafter the Council, when circumstances were ripe, would take necessary measures to ensure approval of such a text. The Council on 10 December 1976 decided to refer to the Legal Bureau the task of preparing two draft "texts of convenience"—one consolidating the provisions of those instruments of the "Warsaw System" which are in force and the second consolidating all instruments of that System—and sending them to States for comments on which will be based the future action by the Council.

## 2. STUDY OF THE ROME CONVENTION (1952), NOISE AND SONIC BOOM

The 22nd Session of the Legal Committee also considered the Report of the Subcommittee of the Legal Committee on the Rome Convention (1952), Noise and Sonic Boom, and the comments received thereon from States. The Committee developed certain specific amendments to the Rome Convention, but did not take any decision on the question of the limits of liability, deciding to leave it open for a decision by the diplomatic conference to be convened to consider the amendments to that Convention approved by the Legal Committee. The Committee recommended to the Council to convene such a diplomatic conference. The Committee also recommended to the Council that in view of the urgency of the noise and sonic boom problem, a Subcommittee of the Legal Committee be charged with the task of studying, in the near future, the question of "liability for damage caused by noise and sonic boom having regard to the need to obtain all the necessary information from States and environmental and legal experts, with special reference to available ICAO reports and studies on the subject".

The Council on 10 December 1976 noted that the Secretary-General would submit recommendations for convening a diplomatic conference for revising the Rome Convention of 1952, planned to be held in September 1978, and the holding of a Subcommittee on the question of liability for damage caused by noise and sonic boom in the first half of 1978.



### 3. UNLAWFUL INTERFERENCE WITH INTERNATIONAL CIVIL AVIATION AND ITS FACILITIES

The Committee on Unlawful Interference with International Civil Aviation and its Facilities held three meetings during the year. In addition to attending to its routine tasks as enjoined by its terms of reference, the Committee recommended to the Council the adoption of some amendments to Annex 17 ("Security") and endorsed certain others to Annex 9 and Procedures for Air Navigation Services—Rules of the Air and Air Traffic Services (PANS-RAC) dealing with security matters recommended by the Air Transport Committee and the Air Navigation Commission, respectively. The Council adopted, during its 87th Session, the said amendments with certain changes in those recommended in respect of Annex 9 and PANS-RAC.

### 4. AUTHENTIC RUSSIAN TEXT OF THE CONVENTION ON INTERNATIONAL CIVIL AVIATION

To implement Assembly Resolution A21-13, the Council had established a Council Working Group on the authentic Russian text of the Chicago Convention. The Working Group held two sessions in 1975 and the final one in September 1976.

On the basis of the recommendation of the Working Group, the Council decided, on 28 November 1975, to convene a diplomatic conference in 1977 in conjunction with the 22nd Session of the Assembly. On 24 November 1976, the Council approved the draft Russian text of the Chicago Convention and amendments thereto, and the draft Protocol for the diplomatic conference, for distribution as working documents for the conference. The Council also approved the draft Assembly working paper containing a proposed amendment to the last paragraph of the Convention, making the Russian text of the Convention equally authentic with the other three languages, as well as the draft Assembly Resolution recommending a speedy ratification of that amendment, for distribution as working documents for the 22nd Session of the Assembly.

### 5. LEASE, CHARTER AND INTERCHANGE OF AIRCRAFT IN INTERNATIONAL OPERATIONS

Pursuant to Resolution A21-22, after considering the Report of a Panel of Experts established to examine the problems arising out of the lease, charter and interchange of aircraft in international operations, the Council, on 25 November 1976, agreed to request the Air Navigation Commission and the Air Transport Committee to study the specific amendments which could be made to Annexes 9, 12 and 13, and any other appropriate annexes, in order to cover the situation of an aircraft operated by a foreign operator not presently provided for in Articles 25 and 26 of the Chicago Convention.

In connection with the problems raised by Articles 12, 31 and 32 of the Chicago Convention, the Council further decided to entrust to a Special Subcommittee of the Legal Committee the task of examining the potential conflicts between the Chicago Convention and a separate multilateral convention which would include specific provisions regarding the operation of an aircraft registered in one State and operated by a foreign operator and whether preference should be given to an amendment to the Chicago Convention and/or to having a separate multilateral convention; the Subcommittee would prepare a draft amendment to the Chicago Convention and/or a draft separate convention which would solve the problems raised when an aircraft registered in one State is operated by an operator belonging to another State. Finally, the Subcommittee would formulate a draft protocol for amendment of the Rome Convention and the Tokyo Convention which would solve the problems raised under the same circumstances with regard to those two Conventions.

6. ANNEXES TO THE CONVENTION ON INTERNATIONAL CIVIL AVIATION, PROCEDURES FOR AIR NAVIGATION SERVICES (PANS) AND REGIONAL SUPPLEMENTARY PROVISIONS (SUPPS)

See "ICAO Technical Publications, Current Edition" which is published in the ICAO Bulletin.

7. DIGEST OF JUDICIAL DECISIONS

Towards implementing Assembly Resolution A21-14 in which the Council had been requested to study the feasibility of the preparation of a digest of judicial decisions relating to multilateral international private air law conventions, the Council studied the comments on the subject received from States at its invitation. During its 89th Session, the Council had for consideration a draft Assembly working paper prepared by the Secretary General containing a sample or a model of judicial decisions, with explanations provided by the Secretary General on the method adopted in selecting topics and their presentation, etc. The Council gave instructions on the preparation of the revised draft Assembly working paper to be submitted to the Council for approval at its 90th Session in 1977.

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5. WORLD HEALTH ORGANIZATION

1. Under a project started in 1975 at the request of UNEP, WHO finalized a series of legal and legislative studies to serve as the basis for the drafting of a protocol for the protection of the Mediterranean Sea against pollution from land-based sources. Drafts for such protocol, to supplement a Convention signed in Barcelona on 16 February 1976, will be considered by an intergovernmental meeting for which UNEP has requested the presence of WHO legal experts. One WHO expert also contributed, at UNEP's request, to a meeting on legal instruments for other marine regions in November 1976.

CONSTITUTIONAL AND LEGAL QUESTIONS

2. In 1976 five new Member States joined the Organization: Angola, Cape Verde, Papua New Guinea (formerly an Associate Member), Sao Tome and Principe, and Surinam, bringing the present number of Member States up to 150. On 12 July 1976 the Socialist Republic of Viet Nam informed the Director-General of the unification of the former Democratic Republic of Viet Nam and of the Republic of South Viet Nam—both WHO Members—and stated that it would continue to exercise the official membership; this communication was circulated to all Members and Associate Members, as well as the Secretary-General of the United Nations. The Twenty-ninth World Health Assembly adopted on 17 May 1976 a further amendment to Articles 24 and 25 of the Constitution, increasing to 31 the number of seats on the Executive Board last brought up to 30 by an amendment which had been adopted in 1967 and which had entered into force in 1975. The new amendment will similarly enter into force upon the deposit of instruments of acceptance by at least two-thirds of the Member States. In 1976, six such instruments were deposited.

HEALTH LEGISLATION<sup>207</sup>

3. Four issues of the *International Digest of Health Legislation* were published in 1976, as well as a review of national legislation and programmes to combat

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<sup>207</sup> With effect of 1 January 1977, the Health Legislation Unit has been transferred from the Legal Division to the Health and Biomedical Information Programme.

smoking. A reorientation of the policies of the *Digest* is in preparation. Papers on diverse health legislation issues were presented at the 4th Congress on Medical Law, the IXth International Conference on Health Education, and a meeting of the International Advisory Committee on Law and Population. Contributions were also made to meetings devoted to the development of biologicals, ethical aspects of human experimentation, and the epidemiology and registration of cancer. In cooperation with the Division of Environmental Health, a review of global trends in water pollution control legislation was prepared. The Organization was able to respond to requests for advice and information on an extremely wide range of topics in the field of health legislation.

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## 6. WORLD BANK

### 1. THIRD WINDOW

A resolution establishing the Intermediate Financing Facility, more commonly known as the Third Window, was adopted by a vote of the Executive Directors of the Bank on July 29, 1975. On December 23, 1975, this facility, designed to enable the Bank to provide development assistance on terms intermediate between those of the Bank and IDA, became effective; that was when pledges of \$100 million in contributions to the Interest Subsidy Fund for the Third Window had been received.

The resources of the Subsidy Fund are supplied by some of the Bank's members and by a non-member (Switzerland) on a voluntary basis. This Subsidy Fund supplements interest payments due to the Bank from borrowers by paying the Bank semi-annually an amount equal to 4 per cent a year of the outstanding principal of loans made on Third Window terms. The difference between the 4 per cent paid by the Subsidy Fund and the Bank's standard interest rate is paid by the borrowers.

Before the first loans on Third Window terms were approved, eligibility criteria for beneficiaries of Third Window loans were established by the Bank. It was agreed that Third Window lending would be normally (but not exclusively) extended to countries with 1972 per capita incomes of under \$375; that loans would be extended only to countries which were regarded as making reasonable development efforts in relation to their resource base and development potential; and that potential recipient countries must be judged able to repay the loans, taking account of the deterioration in their terms of trade and other factors affecting their long-run capacity to repay loans in foreign exchange.

Although repayment terms for Bank loans are being hardened, those for Third Window operations are to remain unchanged. The purpose is to ensure that all Third Window operations are financed on the same terms. Thus, in such operations, repayment schedules will continue to be of the annuity type—with a standard grace period of seven years, and final maturity of about 25 years.

### 2. INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES (ICSID)

#### *Signatures and ratifications*

As of July 1, 1977, 73 States had signed the Convention on the Settlement of Investment Disputes between States and Nationals of Other States,<sup>208</sup> Fiji being the

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<sup>208</sup> Reproduced in the *Juridical Yearbook*, 1966, p. 196.

most recent signatory and 67 States had taken the final step toward becoming Contracting States by depositing instruments of ratification.<sup>209</sup>

#### *Advance acceptance of the jurisdiction of the Centre*

An increasing number of bilateral treaties for the protection and promotion of foreign investments, and also investment laws of host countries, provide for the acceptance of the jurisdiction of the Centre as a means of settling disputes. A list of such treaties and laws is set forth in document ICSID/9.

To assist member governments and investors in setting up provisions for consent to conciliation and arbitration in such a way as to fulfill all necessary jurisdictional requirements of the Convention, the Centre has prepared a set of model clauses for use in international investment agreements (document ICSID/5). At the suggestion of one of the Contracting States, an additional model clause is being drafted which could be used by parties to an investment agreement wishing to have complex technical questions resolved by an expedited arbitral procedure.

#### *Disputes submitted to the Centre*<sup>210</sup>

In September 1976 in the case of *Holiday Inns/Occidental Petroleum vs. Government of Morocco*, the arbitrator appointed by the Claimants resigned and a successor was appointed in October. Before the proceedings could make any progress they were once again suspended in December 1976 upon the unexpected and deeply regretted death of the Tribunal's President Sture Petré. His successor accepted his nomination in April 1977 and the reconstituted Tribunal is expected to take up the proceedings shortly after the close of this fiscal year. The Tribunal, in the case of *Adriano Gardella SpA vs. Government of Ivory Coast*, met several times during the fiscal year to hear witnesses and oral argument on the question of liability, and for deliberations. A decision is expected to be rendered in September 1977. The past year also saw the termination of two arbitration proceedings between bauxite companies and the Government of Jamaica (the *Alcoa and Kaiser cases*), and the registration of a new case, the first one brought by a Government against a private party; the *Government of Gabon* instituted arbitration proceedings against *Société SERETE*, a French corporation. In the case of *Reynolds vs. Jamaica* a memorial on the merits was received by the Centre from the Claimant. September 8, 1977, has been set as the time-limit for filing of a counter-memorial by the Government of Jamaica.

#### *Investment Laws of the World*

The Centre prepared this past year two new volumes for the loose-leaf service "Investment Laws of the World—Developing Countries". The laws of 43 countries have now been published (Afghanistan, Benin, Botswana, Burundi, Cameroon, Central African Empire, Chad, Congo, Egypt, Gabon, Ghana, Greece, Guyana, Indonesia, Ivory Coast, Jamaica, Jordan, Kenya, Korea, Lesotho, Liberia, Madagascar, Malaysia, Mauritania, Morocco, Nepal, Niger, Nigeria, Pakistan, Senegal, Singapore, Somalia, Sri Lanka, Swaziland, Taiwan, Togo, Trinidad and Tobago, Tunisia, Uganda, Upper Volta, Yugoslavia, Zaire and Zambia). The service is being published and sold commercially by Oceana Publications, Inc. of Dobbs Ferry, New York. It deals on a country-by-country basis with internal law and international agreements affecting foreign investment, and consists of a compilation of constitutional, legislative, regula-

<sup>209</sup> The list of Contracting States and Other Signatories of the Convention is reproduced in document ICSID/3.

<sup>210</sup> Annex 6 of the 11th Annual Report of ICSID contains detailed procedural data on the six arbitration cases submitted to the Centre.

tory and treaty materials. It is periodically updated and supplemented as necessary. A brochure concerning the service is available from the publisher or the Centre on request.

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## 7. INTERNATIONAL MONETARY FUND

Most of the activities of the International Monetary Fund have legal aspects or implications. The Legal Department participates in these activities by undertaking legal research, giving legal opinions, negotiating and drafting the various elements in the Fund's *corpus juris* and documents. The Legal Department participates in the work of the various organs and committees of the Fund (the Executive Board, the Board of Governors, and its Interim, Development, and other Committees), as well as in meetings with members and with other international organizations. The Department also participates in providing technical assistance to members of the Fund.

The main activities of the Fund in 1976 are summarized below.

### AMENDMENT OF THE ARTICLES OF AGREEMENT

A comprehensive proposed amendment to the Articles of Agreement was completed after almost two years of drafting and negotiation. A resolution approving the Second Amendment was adopted by the Board of Governors on April 30, 1976, and the amendment will become effective when it has been accepted by three-fifths of the members having four-fifths of the total voting power. The Second Amendment is more extensive than the 1969 Amendment, the First Amendment, which provided for the creation of special drawing rights and a small number of changes in the original provisions of the Articles. The Second Amendment includes changes in the following areas: (1) exchange arrangements (2) a gradual reduction in the role of gold in the international monetary system, including the disposition of the Fund's own holdings of gold (3) changes in the characteristics and expansion of the possible uses of the SDR so as to assist it to become the principal reserve asset of the international monetary system (4) simplification and expansion of the types of the Fund's financial operations and transactions, particularly those conducted through the General Department (5) provision for the possible establishment of a new organ of the Fund, a Council with decision-making powers and (6) improvements in organizational aspects of the Fund.

### INCREASE OF QUOTAS

Effective 22 March 1976, the Board of Governors approved a Resolution on Increases in Quotas of Members—Sixth General Review, under which the total of the quotas amounting to approximately SDR 29.2 billion, would be raised to the equivalent of approximately SDR 39 billion, if all members consent to the full increase proposed for each of them. The increases in quotas under the Board of Governors Resolution will not become effective until the Fund determines that members having not less than three-fourths of the total of quotas on 19 February 1976 have consented to increases in their quotas. The increase in a member's quota will take effect on the latest of four relevant dates: the member's consent to the increase in quota; the payment of the increased subscription; the date on which the Second Amendment of the Articles becomes effective; and the date the Fund determines that the required degree of participation is reached.

## TRUST FUND

### *Establishment*

On 5 May 1976, the Executive Directors decided to adopt an *Instrument to Establish the Trust Fund*.<sup>211</sup> The Trust Fund created by this Instrument is to be administered by the Fund to provide special balance of payments assistance to developing members on concessional terms. The Executive Directors decided that 61 members were eligible to receive assistance when the Trustee is satisfied that the member has a need for balance of payments assistance and is making a reasonable effort to strengthen its balance of payments position. The resources of the Trust Fund have been contributed by members of the Fund. To date, this contribution has taken the form of the sale of gold to the Trust Fund at the official price by those members whose currency the Fund has replenished by the sale of gold to them under Article VII, Section 2 (ii) of the Articles of Agreement. Additional financing may become available from voluntary contributions or from loans. The balances held in the Trust Fund are held separate and distinct from the Fund's own resources.

### *Sales of gold at auction*

The resources of the Trust Fund in 1976 derived from five auctions held by the Fund as Trustee of the Trust Fund of the gold sold to it by members. The gold sales program is based on proposals of the Interim Committee in August 1975 and January 1976 that one-sixth of the Fund's gold, 25 million fine ounces, be sold for the benefit of developing countries and that "restitution" of another one-sixth of the Fund's gold be made to members. These sales are made at the official price of SDR 35 per ounce. As noted earlier, members purchasing gold included in the first of the two amounts of 25 million fine ounces have resold this gold to the Trust Fund at SDR 35 per ounce. The gold is then sold in public auctions, and the proceeds beyond the official price constitute resources of the Trust Fund.

## SUBSIDY ACCOUNT

The Subsidy Account, financed from contributions from a number of members, was established in 1975 to reduce, for the most seriously affected members, the burden of the charges payable by them on the Fund's holdings of their currency resulting from purchases under the 1975 Oil Facility.<sup>212</sup> Members eligible to receive assistance from the Subsidy Account were those members of the Fund on the list, prepared by the Secretary-General of the United Nations, of countries that had been most seriously affected by the increased prices of imports of petroleum and petroleum products. The list included 39 members of the Fund.

## USE OF THE FUND'S RESOURCES

On 20 January 1976, the Fund decided, following a review of its policies on the use of its resources, to extend temporarily the size of its credit tranches by 45 per cent. Use of the Fund's resources by member countries was based normally on four credit tranches each amounting to 25 per cent of quota. The Executive Board adopted a decision (Executive Board Decision No. 4934-(76/5), 19 January 1976), by which each credit tranche was increased to 36.25 per cent of quota.

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<sup>211</sup> Selected Decisions of the International Monetary Fund and selected documents, Eighth issue, 1976, pp. 185-195.

<sup>212</sup> Use of the Fund's resources takes the form of a transaction resembling an exchange transaction in which the member purchases with its own currency SDRs or other currencies from the Fund. The member must pay charges on the Fund's holdings of the member's currency in excess of its quota.

This Decision will be in effect until the effective date of the proposed Second Amendment of the Articles of Agreement.

Changes in the compensatory financing facility were made in a decision taken on 24 December 1975. The maximum entitlement under the facility in terms of quota was increased and changes were made in the method of calculating export shortfalls. The decision also introduced the possibility of basing export shortfalls on partially estimated data for up to six months of the shortfall year to improve the timeliness of assistance and to extend the possible use of the facility. This decision was reviewed under its terms when purchases under it reached \$1.5 billion within a twelve-month period.

#### BOARD OF GOVERNORS COMMITTEES

Decisions by the Executive Directors taken during 1976 on the matters noted above were adopted after the discussions held and the understandings reached in the meetings of the Interim Committee of the Board of Governors on the International Monetary System (the Interim Committee).

At a meeting of the Interim Committee held in Jamaica in January 1976, agreement was reached on the reform of the international monetary system, on the pending increase in quotas, sales of gold, and the temporary expansion of the Fund's credit tranches. Meeting in Manila prior to the Annual Meeting, the Interim Committee issued a Press Communiqué on 2 October 1976 noting its views on the international adjustment process, surveillance by the Fund over the exchange rate policies of members under the Proposed Second Amendment of the Articles of Agreement, use of the Funds resources and the liquidity of the Fund. (For the text of the Communiqué, see International Monetary Fund, Summary Proceedings of the thirty-first Annual Meeting of the Board of Governors, 1976, pp. 315-317).

The Joint Ministerial Committee of the Boards of Governors of the Bank and the Fund on the Transfer of Real Resources to Developing Countries (the Development Committee) held three meetings during 1976 to consider various measures to increase the flow of resources to developing members.

#### TECHNICAL ASSISTANCE

The Fund continued to provide technical assistance to members, in the form of advisory work and provision of experts, through the Central Banking Service and the Fiscal Affairs Department. Advisory services are aimed at establishing or strengthening national monetary systems and related institutions. The Legal Department has collaborated in legislative matters affecting central bank activities, commercial banking laws, and related matters. Technical assistance was provided in budgeting and fiscal administration and in the drafting of legislation in the field of taxation. The Department also has provided assistance to member countries in connection with their adaptation or amendment of legislation required by the Second Amendment.

Members of the Legal Department continued to assist the Working Group on International Negotiable Instruments, especially in its consideration of a draft uniform law on international bills of exchange and promissory notes, and the Study Group on International Payments.<sup>213</sup>

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<sup>213</sup> See in Section A of this chapter above the resolution relating to the United Nations Commission on International Trade Law.

## 8. WORLD METEOROLOGICAL ORGANIZATION

### 1. MEMBERSHIP OF THE ORGANIZATION

The following countries deposited their instruments of accession to the Convention of the World Meteorological Organization during 1976. The date of deposit and the effective date of membership are indicated in each case, in chronological order:

<i>State</i>	<i>Date of deposit of the instrument of accession</i>	<i>Date of membership</i>
Comoros	19 March 1976 (under Article 3(b) of the Convention)	18 April 1976
People's Republic of Mozambique	21 June 1976 (under Article 3(b) of the Convention)	21 July 1976
Republic of Surinam	26 July 1976 (under Article 3(b) of the Convention)	25 August 1976
Democratic Republic of Sao Tome and Principe	23 November 1976 (under Article 3(b) of the Convention)	23 December 1976
Malta	28 December 1976 (under Article 3(b) of the Convention)	27 January 1977

### 2. AGREEMENTS AND WORKING ARRANGEMENTS

(i) *Working Arrangement with the Agency for Air Safety in Africa and Madagascar (ASECNA)*

Under the authority given by the twenty-eighth session of the Executive Committee of the World Meteorological Organization working relations were established, by an exchange of letters, between the World Meteorological Organization and the Agency for Air Safety in Africa and Madagascar (ASECNA) and came into force on 11 December 1976.

The texts of the correspondence will be included in a new edition of the Publication entitled "Agreements and Working Arrangements with other international organizations" (WMO—No. 60).

(ii) *Working Arrangement with the Permanent Joint Technical Commission for Nile Waters (PJTC)*

The twenty-eighth session of the Executive Committee approved also the establishment of formal working arrangements between the World Meteorological Organization and the Permanent Joint Technical Commission for Nile Waters (PJTC), an organization of the governments of Egypt and Sudan, established in accordance with the Nile Water Agreement concluded between Egypt and Sudan in 1959 to deal with the part of the Nile basin located in Egypt and Sudan.

The working arrangements were established by an exchange of letters between WMO and PJTC and came into force on 22 January 1977.

The texts of the correspondence will be included in the new edition of the Publication entitled "Agreements and Working Arrangements with other international organizations" (WMO—No. 60).



### 3. AGREEMENT FOR JOINT FINANCING OF NORTH ATLANTIC OCEAN STATIONS

The Agreement for Joint Financing of North Atlantic Ocean Stations which was adopted on 15 November 1974 at a conference of Plenipotentiary Delegations in Geneva, entered into force on 1 December 1976.

The following 14 countries are Contracting Parties to the Agreement:

Denmark, Finland, France, Germany, Federal Republic of, Iceland, Ireland, Netherlands, Norway, Spain, Sweden, Switzerland, Tunisia, Union of the Soviet Socialist Republics, United Kingdom.

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## 9. INTER-GOVERNMENTAL MARITIME CONSULTATIVE ORGANIZATION

### (a) INTERNATIONAL CONFERENCES CONVENED BY IMCO IN 1976

#### 1. *International Conference on the Establishment of an International Maritime Satellite System*

The Conference convened in a second session from 9 to 27 February 1976 and for its third and final session from 1 to 3 September 1976. It adopted the Convention on the International Maritime Satellite Organization (INMARSAT) and the Operating Agreement on the International Maritime Satellite Organization (INMARSAT). The Conference also adopted the following:

1. Procedures for the Settlement of Disputes referred to in Article 36 of the Convention and Article XII of the Operating Agreement.
2. Investment Shares prior to the First Determination on the Basis of Utilization.
3. Establishment of a Preparatory Committee.
4. Recommendation 1. Recommendation on World-Wide Minimum Technical and Operational Equipment Standards as a Basis for Specifications for Ship Earth Stations;

Recommendation 2. Recommendation on the Need to Establish World-Wide Technical and Operating Standards to Facilitate Communication Between Ships and Subscribers on Shore;

Recommendation 3. Recommendation on the Use of Ship Earth Stations Operating in the Bands 1535-1542.5 and 1636.5-1644 MHz Within Harbour limits and Other Waters Under National Jurisdiction;

Recommendation 4. Study on the Use by INMARSAT of Multi-Purpose Satellites.

#### 2. *The International Conference on Limitation of Maritime Claims*

The Conference was held in London from 1 to 19 November 1976 and adopted the *Convention on Limitation of Liability for Maritime Claims, 1976*. This Convention is intended to replace the *International Convention relating to the Limitation of the Liability of Owners of Sea-Going Ships, 1957*.

3. Three other international conferences were held in London from 17 to 19 November 1976 in conjunction with the Conference on Limitation of Liability for Maritime Claims. The purpose of these conferences was to give consideration to

proposals to revise the unit of account provisions in the following Conventions:  
The Convention on Civil Liability for Oil Pollution Damage, 1969;<sup>214</sup>

The Convention on the Establishment of an International Fund for Oil Pollution Damage, 1971;<sup>215</sup> and

The Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974.

The Conference adopted Protocols to the respective Conventions establishing, *inter alia*, that the Unit of Account referred to in the Conventions is the Special Drawing Rights as defined by the International Monetary Fund. The Protocols, however, provide that States which are not Members of the International Monetary Fund and whose laws do not permit the application of the provisions of paragraph 9 of Article II may use a monetary unit based on gold.

#### (b) DECISIONS AND OTHER LEGAL ACTIVITIES

The Legal Committee considered, *inter alia*:

- (i) questions relating to civil liability for pollution damage from substances other than oil covered by the 1969 Convention on Civil Liability for Oil Pollution Damage;
- (ii) questions relating to wreck removal and related issues;
- (iii) questions relating to a convention on the régime of vessels in foreign ports.

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## 10. INTERNATIONAL ATOMIC ENERGY AGENCY

### 1. STATUTE AND MEMBERSHIP OF THE AGENCY. ACTIONS TAKEN BY STATES IN CONNECTION WITH THE STATUTE

#### (a) *Instruments of Acceptance deposited during 1976*

United Republic of Tanzania, 6 January.

United Arab Emirates, 15 January.

Qatar, 27 January.

#### (b) *At the end of 1976, the Agency's membership stood at 109*

### 2. LEGAL ACTIVITIES

#### (a) *Nuclear Explosions for Peaceful Purposes (PNE)*

As a sequel to the authorization given in September 1974 to the Director General to establish a separate unit within the Secretariat to deal with matters concerning peaceful nuclear explosions, and after adoption towards the end of 1974 by the General Assembly of the United Nations of two resolutions containing references to the Agency's activities connected with PNE (resolution 3213 (XXIX), para. 7 and resolution 3261 D (XXIX), para. 2), the Board of Governors of the Agency adopted on 11 June 1975 a resolution providing for the establishment of an *Ad Hoc* Advisory Group on Nuclear Explosions for Peaceful Purposes. The terms of reference of this resolution provide, *inter alia*,

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<sup>214</sup> See *Juridical Yearbook*, 1969, p. 174.

<sup>215</sup> See *Juridical Yearbook*, 1972, p. 103.

“To examine the aspects of nuclear explosions for peaceful purposes (PNE) coming within the Agency’s sphere of competence, with particular reference to:

“(i) . . . .

“(ii) Legal aspects and treaty obligations; . . . .”

In 1975 the *Ad Hoc* Advisory Group on Nuclear Explosions for Peaceful Purposes was established. It deals with all aspects of PNE within the Agency’s competence.

On the basis of a study prepared by the secretariat of the IAEA, the *Ad Hoc* Advisory Group examined the present legal position relating to nuclear explosions for peaceful purposes, principles or matters to be considered in formulating legal instruments as well as analysed possible structure and content of legal instruments.

Because of the complexity of the problems the *Ad Hoc* Group could not finish its work and will continue it in 1977.

(b) *Agreements concluded by the Agency in 1976*

Aside from the agreements mentioned in paragraph 2 (a), (b) and (c) of the subsection of Chapter II B relating to the Agency (see pps. 70, 71 above), the following agreements were concluded by the Agency in 1976:

- (i) Co-operation Agreement between the European Atomic Energy Community and the International Atomic Energy Agency. Entered into force pursuant to Article VIII thereof on 1 January 1976 (INFCIRC/25/Add.5).
- (ii) Regional Co-operative Agreement for Research, Development and Training Related to Nuclear Science and Technology between the Agency and Member States. On 9 March 1976, the Government of Sri Lanka notified the Agency of its acceptance, pursuant to Section 10; the Agreement entered into force with respect to that Government on that date (INFCIRC/167/Add.7).

(c) *Safeguards Agreements outside the framework of the Non-Proliferation Treaty*<sup>216</sup>

Work has been going on for the framing of a model safeguards agreement covering all nuclear activities of States, to be considered possibly with such States which are not parties to the Treaty on the Non-Proliferation of Nuclear Weapons and/or the Treaty on the Prohibition of Nuclear Weapons in Latin America.<sup>217</sup>

(d) *Regional Nuclear Fuel Cycle Centres. Study Project*

Consultant meetings were held on subjects pertinent to the Study Project, such as legal and institutional arrangements for multi-national ventures, non-proliferation and safeguards, spent fuel storage, fuel reprocessing, waste management, mixed oxide fuel fabrication, transport, physical protection, health, safety and environmental aspects, financing, organization and administration, nuclear material control and analytical methodology and economic evolution. In July 1976, a report entitled “Institutional Legal Framework Aspects” was issued, regarding the preliminary exploratory phase of the Study, that identified possible solutions to problems that could be envisaged in establishing a substantial project under multi-national ownership and management.

(e) *Training Courses and Advisory Services on Regulatory Matters*

Advisory services on nuclear legislation and regulatory matters with respect to radiation protection, licensing and control of nuclear installations and liability for

<sup>216</sup> See *Juridical Yearbook*, 1968, p. 156.

<sup>217</sup> See *Juridical Yearbook*, 1967, p. 272.

nuclear damage were provided to the Governments of Algeria, Kuwait, Malaysia and Yugoslavia in 1976.

Lectures on enabling legislation, liability provisions and regulatory determinations for the implementation of a nuclear power programme were contributed for the holding of nuclear power project training courses by the IAEA in France, the Federal Republic of Germany and the United States of America respectively during 1976.

In connexion with the responsibilities entrusted to the IAEA under the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, the IAEA Secretariat took part in the elaboration of a multinational consultation and surveillance mechanism for sea dumping of radioactive waste, proposed to be established by the Council of the Organization for Economic Cooperation and Development between Member countries of that Organization.

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