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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

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

1. DISARMAMENT AND RELATED MATTERS[1]

(*a*) Comprehensive approaches to disarmament

(*i*) *Role of the United Nations in the field of disarmament*

In 1989, both the First Committee of the United Nations General Assembly and the Disarmament Commission devoted their attention to numerous aspects of the question of the United Nations role in disarmament. The Conference on Disarmament, for its part, focused mainly on its own role and functioning and on the relation between multilateralism and bilateralism in disarmament negotiations.

The Disarmament Commission continued the consideration of its agenda item entitled "Review of the role of the United Nations in the field of disarmament" as a matter of priority. It was not able, however, to complete the elaboration of concrete recommendations and proposals, in spite of intense deliberations within the relevant working group and in informal negotiations.

On the whole, the 1989 deliberations on the role of the United Nations in the field of disarmament presented many positive aspects and reflected major changes in attitudes and perceptions. In this much improved situation, many found it easier to view disarmament and the role of the United Nations as components of a credible strategy for international peace and security.

On 15 December 1989, the General Assembly adopted a number of resolutions in this area: resolution 44/116 Q[2] on the review of the role of the United Nations in the field of disarmament; resolutions 44/119 C[3] and D[4] on the reports of the Disarmament Commission and Conference on Disarmament, respectively; and resolution 44/119 A[5] on the Declaration of the 1990s as the Third Disarmament Decade.

Regarding the United Nations regional centres for peace and disarmament in Africa, in Asia and the Pacific, and in Latin America and the Caribbean, the General Assembly on 15 December 1989 adopted resolution 44/117 F[6] wherein it appealed to Member States, as well as international governmental and non-governmental organizations, to make voluntary contributions in order to strengthen the effective operational activities of the centres. In its resolution 44/117 E,[7] on the United Nations disarmament fellowship, training and advisory services programme, also adopted on 15 December 1989, the Assembly expressed its appreciation to the Governments of the German Democratic Republic, the

Federal Republic of Germany, Japan, Sweden, the Union of Soviet Socialist Republics and the United States of America for inviting the 1989 fellows to study selected activities in the field of disarmament, thereby contributing to the fulfilment of the overall objectives of the programme; and also expressed gratitude to the Government of Nigeria for serving as host to the United Nations Regional Disarmament Workshop for Africa, which examined African security perceptions and requirements including related regional issues, and to the Government of Norway for making financial contributions to the Workshop.

Finally, the General Assembly also adopted on 15 December 1989 resolution 44/122[8] on compliance with arms limitation and disarmament agreements; resolution 44/116 G[9] on implementation of General Assembly resolutions in the field of disarmament; and resolution 44/118 B[10] on science and technology for disarmament.

(*ii*) *Question of general and complete disarmament: the comprehensive programme of disarmament*

On 15 December 1989, the General Assembly adopted resolution 44/119 A,[11] in which it called upon the Conference on Disarmament to consider, at the beginning of its 1991 session, the resumption of the work of the Ad Hoc Committee on the Comprehensive Programme of Disarmament with the aim of resolving the outstanding issues in order to conclude the elaboration of the programme.

(*iii*) *Confidence— and security-building measures*

In 1989, a major set of negotiations concerning confidence- and security-building measures in Europe began in Vienna within the framework of the Conference on Security and Cooperation in Europe process. The prospects for its successful conclusion seemed to be favourable, as there was more common ground in the positions of the participating States, particularly those of Eastern European and North Atlantic Treaty Organization (NATO) States, than at the beginning of the Stockholm Conference on Confidence- and Security-building Measures and Disarmament in Europe.

In the course of its 1989 session, the Disarmament Commission addressed the question of naval armaments and disarmament, including maritime confidence-building measures, in a consultation group, as it had done at its three previous sessions. A number of proposals on the subject were made and there was some progress in its substantive consideration, but the United States of America once again chose not to participate in this aspect of the work of the Commission.

The considerable support for a confidence- and security-building approach evinced by Member States was reflected in the four resolutions in the subject area that the General Assembly adopted at its forty-fourth session, two of them by consensus: resolutions 44/116 I, 44/116 U, 44/116 M and 44/116 P. Three of the resolutions dealt with matters covered in earlier resolutions: the Vienna negotiations and naval disarmament. The fourth dealt with defensive security concepts and policies, an aspect of security to which attention is increasingly being drawn. There were also indications of growing interest in the applicability of the confidence-building approach to regions other than Europe.

(*b*) Nuclear disarmament

(*i*) *Nuclear-arms limitation and disarmament*

In 1989, the two major Powers continued to make progress towards the conclusion of a treaty on the 50 per cent. reduction of their strategic nuclear weapons. At their Malta meeting, in December, their leaders agreed to resolve the remaining issues by the time of their summit meeting in June 1990 and to sign the treaty before the end of that year.

Within the multilateral framework, in the Conference on Disarmament, there was again a lack of agreement on an appropriate organizational arrangement for dealing with the item and there were no changes in well-known positions. In a plenary meeting early in August, the heads of the delegations of the United States and the Union of Soviet Socialist Republics to the bilateral talks on nuclear and space arms made detailed presentations on the status of their negotiations.

The subsequent resolutions of the General Assembly on nuclear disarmament underlined once again the special responsibility of the two major Powers for nuclear disarmament and at the same time reflected the conviction of a majority of States Members of the United Nations that the Conference on Disarmament should continue to be entrusted with the consideration of a number of global questions requiring urgent multilateral attention, among them the issues of nuclear disarmament, the cessation of nuclear tests and the prevention of an arms race in outer space.

Specific resolutions in this area adopted by the General Assembly, on 15 December 1989, included resolutions 44/116 B and 44/116 K,[12] on bilateral arms negotiations; resolution 44/116 D[13] on nuclear disarmament; resolution 44/116 H[14] on the prohibition of the production of fissionable material for weapons purposes; and resolution 44/117 D[15] on a nuclear-arms freeze.

(*ii*) *Prevention of nuclear war*

In 1989, the question of the prevention of nuclear war remained on the agenda of the Disarmament Commission, the Conference on Disarmament and the General Assembly. It continued to be the object of active consideration in those bodies. The General Assembly adopted, as it has each year since the early 1980s, three initiatives of Socialist and non-aligned members calling for the Conference on Disarmament to conduct negotiations concerning the obligation of non-first use, practical measures for the prevention of nuclear war and a convention prohibiting the use of nuclear weapons: resolutions 44/119 B, 44/119 E and 44/117 C.[16]

The two major Powers, for their part, continued to make progress in their efforts to put United States-Soviet relations on a more productive and sustainable basis and to reduce further the risk of any conflict which might lead to nuclear war.

(*iii*) *Cessation of all nuclear-test explosions*

The most noteworthy activity on the question of nuclear testing took place in the bilateral negotiations between the Soviet Union and the United States.

Regarding the work of the Conference on Disarmament, for the sixth successive year, it was unable to reach consensus on a mandate for a subsidiary body to deal with the question of a nuclear-test ban. Elsewhere in the United Nations, the Secretary-General conveyed to the General Assembly the second annual register of information provided to him on nuclear test explosions; and, once again, as in 1987 and 1988, the General Assembly adopted two traditional resolutions: resolutions 44/105 and 44/107.[17] One, sponsored mainly by non-aligned States, focused on the establishment, within the Conference on Disarmament, of a subsidiary body with a mandate to negotiate a multilateral treaty on the complete cessation of nuclear-test explosions. The other, chiefly sponsored by Australia and New Zealand but enjoying diverse co-sponsorship, focused on the initiation of substantive work in the Conference on the various issues involved in working out such a treaty.

Both of those initiatives drew very wide support, but the negative votes of all three Western nuclear-weapon States on the former initiative and the negative votes of two of the three (France and United States) and the abstention of the third (United Kingdom of Great Britain and Northern Ireland) on the latter suggested that there was still some distance to go. Furthermore, the United Kingdom and the United States, while affirming that they would continue to fulfil their duties as depositaries, voted against the resolution on the partial-test-ban Treaty Amendment Conference,[18] and France and China, as nuclear-weapon States non-parties to the Treaty, did not participate in the voting process.

(*iv*) *Nuclear non-proliferation*

The Treaty on the Non-proliferation of Nuclear Weapons[19] forms the cornerstone of an international non-proliferation regime which has grown to embrace the overwhelming majority of countries in the world in the period since the Treaty, upon ratification by 40 non-nuclear-weapon States, entered into force on 5 March 1970.[20] The other elements of the regime include, first of all, the safeguards system of IAEA, which operates to prevent the diversion of nuclear materials to military or other prohibited activities and must be accepted by all non-nuclear-weapon parties to the Treaty; and secondly, the Antarctic Treaty,[21] the Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco)[22] and the South Pacific Nuclear Free Zone Treaty (Treaty of Rarotonga)[23] which serve to extend the regime geographically. The last two Treaties require safeguards agreements with IAEA (articles 7-16 of the Treaty of Tlatelolco and article 8 of the Treaty of Rarotonga). In addition, the Treaty of Tlatelolco contains provisions establishing the Agency for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (OPANAL) to ensure compliance.

Furthermore, there are two major treaties designed to keep nuclear weapons out of particular environments, namely, the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies,[24] and the Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-Bed and the Ocean Floor and in the Subsoil Thereof.[25] Finally, a large number of Safeguards Agreements of various types existing outside the context of treaties broaden the scope of IAEA activities in support of the regime.

As of 31 December 1989, 141 States were parties to the Non-Proliferation Treaty, including the three nuclear-weapon States depositaries of the Treaty: the Soviet Union, the United Kingdom and the United States.

The other two nuclear-weapon States, China and France, have not signed the Non-Proliferation Treaty. In 1984, China affirmed that it neither advocated nor encouraged nuclear proliferation, nor did it help other States to develop nuclear weapons.[26] Subsequently, China stated that, when exporting nuclear materials and equipment, it requested the receiving country to place them under IAEA safeguards.[27] France stated in 1968, when the Non-Proliferation Treaty was concluded, that it would behave in the future exactly as did States adhering to the Treaty.[28]

Several other States not party to the Treaty, among them Argentina, Brazil, India, Israel, Pakistan and South Africa, have extensive peaceful nuclear programmes and facilities, the great majority of them, however, subject to non-treaty Safeguards Agreements with IAEA and with States supplying them with nuclear materials and technology. India's Minister of External Affairs announced on 21 May 1974, after his country had carried out a nuclear explosion, that India had no intention of developing nuclear weapons and that, in performing its peaceful scientific test, it had not violated any international obligations.[29] India has reaffirmed that position several times.

One source of criticism of the Treaty by some countries has been that it provides for two categories of parties, nuclear-weapon and non-nuclear-weapon States, each with specific obligations, and is accordingly discriminatory. The nuclear-weapon parties (defined as those which had manufactured and exploded a nuclear weapon or other nuclear explosive device prior to January 1967) commit themselves not to transfer nuclear weapons or any other nuclear explosive devices to any recipient, either directly or indirectly. The non-nuclear-weapon parties commit themselves not to receive or manufacture nuclear weapons or other nuclear explosive devices and to accept mandatory international safeguards on all their peaceful nuclear activities.

The main provisions of the Treaty seek: (*a*) to prevent the dissemination of nuclear weapons or other explosive devices; (*b*) to provide guarantees, through international safeguards, to ensure that the peaceful nuclear activities of non-nuclear-weapon States are not diverted to the production of such weapons; (*c*) to promote the peaceful uses of nuclear energy and make available to non-nuclear-weapon States any potential benefits from the peaceful application of nuclear explosions; (*d*) to ensure that the Treaty is conducive to progress on measures relating to cessation of the nuclear-arms race at an early date and to nuclear disarmament and disarmament in general; and (*e*) to avoid affecting the right of groups of States to conclude regional treaties establishing nuclear-weapon-free zones. The Treaty also contains provisions for periodic reviews of its operation.

The most difficult area of operation, as has been evident at the three Review Conferences held so far[30] — particularly at the first two, in 1975 and 1980, but also at the third, in 1985 — was the absence of adequate progress towards nuclear disarmament under article VI. In the view of many non-nuclear-weapon States parties, the nuclear parties have not lived up to their Treaty obligations. For their part, the three nuclear-weapon States have emphasized their many proposals and extensive attempts to reach agreement in the relevant issue areas and have individually denied responsibility for the lack of progress.

Two other questions — the establishment of reliable security guarantees to non-nuclear-weapon States for foregoing the nuclear option and the adequacy of technical and other assistance to them for research and development and for the production and use of nuclear energy for peaceful purposes, which is their inalienable right under article IV — have, in addition, given rise to controversy.

The Final Declaration of the Third Review Conference contained a recommendation to the effect that a fourth conference to review the operation of the Treaty should be convened in 1990.

(*v*) *Strengthening the security of non-nuclear-weapon States*

Differences in the perception of security interests of the nuclear-weapon and the non-nuclear-weapon States were still pronounced throughout 1989 and thus agreement on effective arrangements to grant negative security assurances to non-nuclear-weapon States once again eluded the Ad Hoc Committee of the Conference on Disarmament. All delegations were ready to continue the search for a common approach to the issue, but the exact form of that approach remained the subject of debate. In the General Assembly, two draft resolutions initiated by Bulgaria and by Pakistan respectively, were adopted on 15 December 1989 as resolutions 44/110 and 44/111 with, in each instance, a large majority of affirmative votes and, for the first time in the case of the Bulgarian initiative, no negative votes. The very widespread support for the former resolution and the marked increase in support for the latter raised hopes that at the next session it might be possible to achieve a single resolution on this complex issue, which was regarded as significant for efforts to strengthen nuclear non-proliferation.

(*vi*) *Nuclear-weapon-free zones and zones of peace*

The question of the establishment of nuclear-weapon-free zones and zones of peace in general and in various regions of the world continued to draw support in the Disarmament Commission and at the forty-fourth session of the General Assembly. Member States reiterated their belief that the establishment of nuclear-weapon-free zones could, in principle, contribute to the prevention of the proliferation of nuclear weapons, to the strengthening of the security of the countries concerned and to confidence-building among them.

Debate in the General Assembly focused primarily on the desirability and feasibility of setting up nuclear-weapon-free zones in Africa,[31] the Middle East[32] and South Asia.[33] The discussion on the denuclearization of Africa and on the proposed zone in the Middle East was dominated, as at previous sessions, by concerns about the alleged nuclear-weapon capability of South Africa and Israel. It was also clear that there was no agreement and prior commitment of all the States of South Asia to the creation of a nuclear-weapon-free zone in that region. The two existing nuclear-free zones, in Latin America[34] and the South Pacific,[35] were generally acknowledged to be valuable measures of regional arms control. The majority of Member States were also in favour of the establishment of zones of peace such as those in the South Pacific and the Indian Ocean.[36] However, despite a decision taken in 1988 to convene the Conference on the Indian Ocean in 1990, at its forty-fourth session the General Assembly adopted by vote a resolution that called for a postponement of the Conference to 1991.

Although there were no significant developments regarding nuclear-weapon-free zones and zones of peace in 1989, the improved political atmosphere, the various sets of ongoing negotiations on disarmament and the steps that have been taken or are being taken to solve some regional crises and conflicts might contribute to more tangible progress in this area in the future.

(*vii*) *Peaceful uses of nuclear energy and IAEA safeguards and related activities*

Safeguarding the non-proliferation regime and promoting cooperation in the peaceful use of nuclear energy continued to be dominant concerns of the international community in 1989. In various forums, there was marked interest in the contribution that nuclear energy and nuclear techniques could make to sustainable development and serious concern for the safe operation of nuclear power plants and for the safe disposal of radioactive wastes. Developments during the year included: conclusion of a Safeguards Agreement between Viet Nam and IAEA; accession by China to the Convention on the Physical Protection of Nuclear Material;[37] approval by the Board of Governors of IAEA of international criteria for the safe disposal of high-level radioactive wastes.

All five nuclear-weapon States now have agreements in force to submit some of their nuclear activities to IAEA safeguards. About 95 per cent. of the fissile material and 95 per cent. of the nuclear installations in non-nuclear-weapon States are at present covered by safeguards. For 1988 (the most recent full year for which data have been reported), the Agency considered it reasonable to conclude that nuclear material under its safeguards system remained in peaceful nuclear activities or was otherwise adequately accounted for.

During the year, IAEA expanded its technical cooperation programmes. A number of developing countries acquired the capability to carry out substantial parts of their nuclear programmes, and the initiation of several joint projects among them indicated increased cooperation among this group of States.

In the United Nations, recognition by Member States of the importance of IAEA programmes and their support for its activities were reflected in the adoption by consensus of resolution 44/13, on the report of IAEA,[38] by which the General Assembly urged all States to strive for effective and harmonious cooperation in carrying out the work of the Agency.

(*c*) Prohibition or restriction of use of other weapons

(*i*) *Chemical and bacteriological* (*biological*) *weapons*

Intensive international attention was focused on the question of chemical weapons in 1989. Early in the year, the Paris Conference on the prohibition of chemical weapons adopted a Final Declaration which reaffirmed the authority of the 1925 Geneva Protocol and called upon the Conference on Disarmament to redouble its efforts to conclude a chemical weapons convention. In September, a conference in Canberra affirmed the commitment of Governments and the world's chemical industry to work together to promote that objective.

In response to the recommendation of the Paris Conference, the Conference on Disarmament intensified its work towards the conclusion of a ban on

chemical weapons. This was reflected in, among other things, the unprecedented number of meetings and greatly increased participation by States non-members of the Conference. Progress was achieved in the elaboration of several draft provisions of the rolling text, including those concerning institutional and technical aspects. Further clarification of verification problems was facilitated by a series of national trial inspections undertaken and reported on in the course of the year.

Prospects for progress in the multilateral negotiations on chemical weapons were also improved by the advances made in the bilateral negotiations between the Soviet Union and the United States. It was recognized, however, that the 1989 session of the Conference on Disarmament did not witness a breakthrough in this area.

An expert group appointed by the Secretary-General submitted its report concerning technical guidelines and procedures for the timely and efficient investigation of reports of the possible use of chemical or biological weapons.

The convergence of views continued in the General Assembly, which again adopted by consensus two resolutions on chemical weapons and one on biological weapons: resolution 44/115 A, entitled "Chemical and bacteriological (biological) weapons", adopted on 15 December 1989; resolution 44/115 B, entitled "Chemical and bacteriological (biological) weapons: measures to uphold the authority of the 1925 Geneva Protocol and to support the conclusion of a chemical weapons convention", adopted on 15 December 1989; and resolution 44/115 C, entitled "Implementation of the recommendations of the Second Review Conference of the Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction",[39] adopted on 15 December 1989.

(*ii*) *New weapons of mass destruction; radiological weapons*

The question of the prohibition of the development and manufacture of new types of weapons of mass destruction and new systems of such weapons attracted little attention in the deliberations of the disarmament bodies in 1989, although differences of view concerning the imminence of the emergence of such weapons persisted. For the first time since 1975, the General Assembly did not adopt a resolution on the subject.

The prohibition of radiological weapons was again addressed in the Conference on Disarmament and in the General Assembly. The Conference re-established the relevant Ad Hoc Committee, which dealt with the subject in two contact groups: one on the prohibition of radiological weapons in the traditional sense, and the other on the prohibition of attacks against nuclear facilities. No new developments were evident during the session and no substantive progress was made in drafting the texts on the two aspects of the question. At its forty-fourth session, the General Assembly adopted its two traditional resolutions: by resolution 44/116 A,[40] it requested the Conference on Disarmament to intensify further its efforts to reach an agreement prohibiting armed attacks against nuclear facilities; and by resolution 44/116 T,[41] it requested the Conference to continue its substantive negotiation on the prohibition of radiological weapons with a view to the prompt conclusion of its work.

The problem of the prohibition of the dumping of radioactive wastes figured in the deliberations of the Conference on Disarmament and in the General Assembly at its regular session, and references were made to the report of the Secretary-General on the subject. The Group of African States submitted a text that was supported by the Group as a whole, and the Assembly adopted it as resolution 44/116 R with no negative votes and only four abstentions. By the resolution, the Assembly requested the Conference on Disarmament to continue to take into account, in the ongoing negotiations for a convention on the prohibition of radiological weapons, the deliberate employment of nuclear wastes to cause destruction, damage or injury by means of radiation.

(*iii*) *Third Review Conference of the Parties to the Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-Bed and the Ocean Floor and in the Subsoil Thereof*[42]

A high level of understanding and a relative absence of serious differences of view characterized the Third Review Conference. In general, the Final Document confirmed the positions taken at the Second Review Conference. However, a significant change occurred in connection with discussion of the possible extension of the geographical scope of the Treaty, in that all parties stated that they had not emplaced any nuclear weapons or other weapons of mass destruction on the seabed outside the zone of application and had no intention of doing so. Although the statement did not constitute a legally binding modification of the Treaty, it did imply a de facto extension of the scope of the Treaty to territorial waters for the time being.

The question of technological developments, in particular those having both civilian and military applications, received a great deal of attention, as it had in the past. The importance of the subject was reflected in the decision of the Conference to expand the role of the Secretary-General by requesting him to report at three-year intervals on developments relevant to the Treaty and to verification of compliance with its provisions, drawing on official sources, contributions of States parties and appropriate expertise. The Conference again requested the Conference on Disarmament, as it had at the two earlier Review Conferences, to proceed promptly with consideration of further measures to prevent an arms race in the seabed environment and to report to the General Assembly at its forty-seventh session.[43]

(*iv*) *Prevention of an arms race in outer space*

The question of the prevention of an arms race in outer space drew considerable attention in 1989 within the United Nations. Although the majority of States considered that bilateral and multilateral efforts were complementary and urged the immediate commencement of negotiations in the Conference on Disarmament, the United States maintained its position that a fundamental framework in which to identify measures must first be established on a bilateral basis.

In all forums dealing with the question, concern was expressed about the danger of the militarization of outer space, and the importance and urgency of preventing an arms race in that environment was stressed. Many affirmed that

outer space, as the common heritage of mankind, should be used exclusively for peaceful purposes, to promote the scientific, economic and social development of all countries. In the context of identifying measures that might be feasible and desirable as the basis for negotiating further multilateral arms control agreements applicable to outer space, the issues of verification and confidence-building measures were raised. In addition, a majority of States emphasized the need to strengthen and further elaborate the existing legal regime applicable to outer space.

The Ad Hoc Committee of the Conference on Disarmament continued to examine the question of the prevention of an arms race in outer space, to identify various relevant issues and to deepen its understanding of a number of the problems involved and of the positions of various Member States. At the forty-fourth session of the General Assembly, a single resolution, resolution 44/112,[44] was adopted in which the Assembly, while urging the Soviet Union and the United States to pursue intensively their bilateral negotiations, requested the Conference on Disarmament to intensify its consideration of the question of the prevention of an arms race in outer space and to reestablish an ad hoc committee with an adequate mandate at the beginning of its 1990 session.

(*d*) *Consideration of conventional weapons and other approaches*

(*i*) *Conventional weapons*

The trend since the mid-1980s towards increased emphasis on the conventional aspect of the arms race and conventional disarmament continued in 1989, mostly in European forums.

However, the work of the United Nations Disarmament Commission in the area of conventional disarmament could not be brought to a conclusion. A further effort would be made in 1990 to achieve a consensus text to guide the international community in its efforts towards conventional arms reductions globally and regionally and towards curbs on conventional arms transfers. Worthwhile initiatives were forthcoming on these and other questions of conventional disarmament, however, and the need for conclusion of the work of the Commission and for subsequent tangible action was universally acknowledged. The problem that remained was evidently one of minimizing divergent viewpoints on how best to move to enhanced security at lower levels of conventional armaments.

The General Assembly on 15 December 1989 adopted five resolutions and a decision pertaining to conventional disarmament.[45] Three of the resolutions were adopted without a vote, while the resolution on arms transfers and one of the two on regional disarmament were voted upon and drew a number of explanations of vote. The decision, regarding the existing Convention on inhumane weapons, was adopted without a vote.

(*ii*) *Reduction of military expenditures*

As in previous years, delegations in various disarmament bodies considered the question of the reduction of military expenditures, often relating the issue to reductions in conventional armed forces and armaments; the reallocation of resources released through reduced military spending to development;

and the building of confidence through transparency and openness in military matters. Although some progress had been achieved, in particular as regards positions on transparency and comparability of military data, disagreement remained with regard to the extent to which the international standardized reporting instrument should be used for providing data. The Disarmament Commission was not able to finalize its work on the agenda item and to adopt the text it had been elaborating, which was entitled "Principles which should govern further actions of States in the field of freezing and reduction of military budgets". By its resolution 44/114 A of December 1989, the General Assembly by majority vote took note of the set of principles annexed to the resolution. Another issue which figured continuously in the discussion was that of objective information on military matters. Pursuant to resolution 44/116 E of the same date, the agenda of the Disarmament Commission for 1990 will include that item.[46]

2. OTHER POLITICAL AND SECURITY QUESTIONS

(*a*) Membership in the United Nations

During 1989, no State was admitted to membership in the United Nations. The number of Member States remained at 106.

(*b*) Question of Antarctica

The General Assembly, by its resolution 44/124 A of 15 December 1989,[47] adopted on the recommendation of the First Committee,[48] appealed once again to the Antarctic Treaty Consultative Parties to take urgent measures to exclude the racist apartheid regime of South Africa from participation in the meeting of the Consultative Parties at the earliest possible date. By its resolution 44/124 B of the same date,[49] the General Assembly expressed its regret that, despite the numerous resolutions in which it had called upon the Antarctic Treaty Consultative Parties to invite the Secretary-General or his representative to their meetings, the Secretary-General had not been invited to the Preparatory Meeting of the XVth Antarctic Treaty Consultative Meeting or to the XVth Consultative Meeting, held in Paris in May and October 1989, respectively. The Assembly further expressed the conviction that, in view of the significant impact that Antarctica exerted on the global environment and ecosystems, any regime to be established for the protection and conservation of the Antarctic environment and its dependent and associated ecosystems, in order to be for the benefit of mankind as a whole and in order to gain the universal acceptability necessary to ensure full compliance and enforcement, must be negotiated with the full participation of all members of the international community.

(*c*) Comprehensive review of the whole question of peacekeeping operations in all their respects

The General Assembly, by its resolution 44/49 of 8 December 1989,[50] adopted on the recommendation of the Special Political Committee,[51] took note of the report of the Special Committee on Peacekeeping Operations;[52] considered that

status-of-forces agreements should be concluded between host countries of any United Nations peacekeeping operation and the United Nations and, to that end, urged host countries of any United Nations peacekeeping operation to conclude status-of-forces agreements with the United Nations as soon as possible after the establishment of the operation and furthermore requested the Secretary-General to prepare a model status-of-forces agreement between the United Nations and host countries, while maintaining the flexibility needed to encompass different possible operations, and to make the model agreement available to Member States.

(*d*) Scientific and technological developments and their impact on international security

The General Assembly, by its resolutions 44/118 A and B of 15 December 1989,[53] adopted on the recommendation of the First Committee,[54] having examined the report of the Secretary-General on the question,[55] took note of the preliminary work of the Secretary-General to follow future scientific and technological developments, especially those which had potential military applications, and to evaluate their impact on international security, and requested the Secretary-General to conclude the work so that the report could be submitted to the General Assembly at its forty-fifth session.

(*e*) Legal aspects of the peaceful uses of outer space

The Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space held its twenty-eighth session at United Nations Headquarters in New York from 20 March to 7 April 1989,[56] wherein discussions were held on: (*a*) the elaboration of draft principles relevant to the use of nuclear power sources in outer space; (*b*) matters relating to the definition and delimitation of outer space and to the character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of the International Telecommunication Union; and (*c*) consideration of the legal aspects related to the application of the principle that the exploration and utilization of outer space should be carried out for the benefit and in the interests of all States, taking into particular account the needs of developing countries.

Subsequently, the Committee on the Peaceful Uses of Outer Space held its thirty-second session at United Nations Headquarters in New York from 5 to 15 June 1989,[57] wherein it took note of the report of the Legal Subcommittee and recommended that the Subcommittee continue consideration of the above-mentioned items.

At its forty-fourth session, the General Assembly, by its resolution 44/46 of 8 December 1989,[58] adopted on the recommendation of the Special Political Committee,[59] endorsed the report of the Committee on the Peaceful Uses of Outer Space. The Assembly took note that the Legal Subcommittee had continued its work as mandated by the General Assembly in resolution 43/56 of 6 December 1988, and further endorsed the recommendations of the Committee that the Legal Subcommittee should continue consideration of its agenda items. The Assembly also invited States that had not yet become parties to the international treaties governing the uses of outer space[60] to give consideration to ratifying or acceding to those treaties.

(*f*) Review of the implementation of the Declaration on the Strengthening of International Security

The General Assembly, by its resolution 44/126 of 15 December 1989,[61] adopted on the recommendation of the First Committee,[62] reaffirmed the validity of the Declaration[63] and called upon all States to contribute effectively to its implementation; further called upon all States to refrain from the use or threat of use of force, intervention, interference, aggression, foreign occupation and colonial domination or measures of political and economical coercion which violated the sovereignty, territory integrity, independence and security of other States, as well as the permanent sovereignty of peoples over their natural resources; and stressed that there was a need further to enhance the effectiveness of the Security Council in discharging its principal responsibility of maintaining international peace and security and to enhance the preventive role, authority and enforcement capacity of the Council in accordance with the Charter of the United Nations.

3. ENVIRONMENTAL, ECONOMIC, SOCIAL, HUMANITARIAN AND CULTURAL QUESTIONS

(*a*) Environmental questions

The fifteenth session of the Governing Council of the United Nations Environment Programme was held at UNEP headquarters, Nairobi, from 15 to 26 May 1989.[64] At the session, the Governing Council adopted a number of decisions, including those on the economic crisis; foreign debt and the environment; desertification; the environmental situation in the occupied Palestinian and other Arab territories; oil pollution in the Red Sea; shared natural resources and legal aspects of offshore mining and drilling; industrial accidents; the International Register of Potentially Toxic Chemicals; international legal instruments in the field of the environment; preparation of an international legal instrument on the biological diversity of the planet; promotion of the transfer of environmental protection technology; and progress on the protection of the ozone layer.

The General Assembly, at its forty-fourth session, adopted a number of resolutions in this area, including resolution 44/228 of 22 December 1989,[65] adopted on the recommendation of the Second Committee,[66] on the convening of the United Nations Conference on Environment and Development in 1992; and resolution 44/229 of the same date,[67] adopted on the recommendation of the Second Committee,[68] on international cooperation in the field of the environment. At the same session, the Assembly also adopted resolution 44/224 of 22 December 1989,[69] adopted on the recommendation of the Second Committee,[70] concerning international cooperation in the monitoring, assessment and anticipation of environmental threats and in assistance in cases of environmental emergency; and resolution 44/226 of the same date,[71] adopted on the recommendation of the Second Committee,[72] regarding traffic in and disposal, control and transboundary movements of toxic and dangerous products and wastes.

(*b*) Economic questions

(*i*) *Charter of Economic Rights and Duties of States*

The General Assembly, by its resolution 44/170 of 19 December 1989,[73] adopted on the recommendºation of the Second Committee,[74] recalling its resolutions 3201 (S-V1) and 3202 (S-V1) of 1 May 1974, containing the Declaration and the Programme of Action on the Establishment of a New International Economic Order, resolution 3281 (XXIX) of 12 December 1974, containing the Charter of Economic Rights and Duties of States, and resolution 3362 (S-VII) of 16 September 1975, on development and international economic cooperation, which laid the foundations of the new international economic order, took note of the report of the Secretary-General on the implementation of the Charter of the Economic Rights and Duties of States.[75]

(*ii*) *Towards a durable solution of external debt problems*

The General Assembly, by its resolution 44/205 of 22 December 1989,[76] adopted on the recommendation of the Second Committee,[77] took note of the report of the Secretary-General on the external debt crisis and development[78] and welcomed the contributions of the United Nations Conference on Trade and Development to the international search for a solution to the external debt crisis of developing countries and, in that regard, recalled Trade and Development Board resolutions 165 (S-IX) and 375 (XXXVI) on debt and development problems of developing countries. In the same resolution, the Assembly emphasized that for the reactivation of economic growth and sustained development in developing countries a number of measures were required, including the need for creditor Governments to review tax, regulatory and accounting practices in order to remove unnecessary obstacles with respect to new lending to developing countries and to debt reduction and debt-service reduction in order to ensure that a supportive policy environment might be achieved and maintained.

(*iii*) *Economic measures as a means of political and economic coercion against developing countries*

By its resolution 44/215 of 22 December 1989,[79] adopted on the recommendation of the Second Committee,[80] the General Assembly took note of the report of the Secretary-General on the topic,[81] and reaffirmed that developed countries should refrain from threatening or applying trade and financial restrictions, blockades, embargoes and other economic sanctions, incompatible with the provisions of the Charter of the United Nations and in violation of undertakings contracted multilaterally and bilaterally, against developing countries as a form of political and economic coercion affecting their political, economic and social development.

(*iv*) *Economic and technical cooperation among developing countries*

The General Assembly, by its resolution 44/222 of 22 December 1989,[82] adopted on the recommendation of the Second Committee,[83] reaffirmed the continued validity of all the recommendations of the Buenos Aires Plan of Action

for Promoting and Implementing Technical Cooperation among Developing Countries and the importance of technical cooperation among developing countries, and endorsed the decisions adopted by the High-level Committee at its sixth session,[84] taking into account the intergovernmental arrangements envisaged in recommendation 37 of the Buenos Aires Plan of Action.[85]

(*v*) *International code of conduct on the transfer of technology*

By its resolution 44/216 of 22 December 1989,[86] adopted on the recommendation of the Second Committee,[87] the General Assembly took note of the report of the Secretary-General of the United Nations Conference on Trade and Development on the consultations carried out in 1989 relating to the negotiations on an international code of conduct on the transfer of technology.[88]

(*c*) Social questions

(*i*) *World social situation*

The General Assembly, by its resolution 44/56 of 8 December 1989,[89] adopted on the recommendation of the Third Committee,[90] bearing in mind the importance of the 1989 Report on the World Social Situation[91] for increasing awareness of the advances made towards the goals of social progress and better standards of living, established in the Charter of the United Nations, and of the obstacles to further progress, reaffirmed the objectives of the Declaration on Social Progress and Development[92] and called for their effective realization as a means of attaining a more equitable world social situation.

(*ii*) *International cooperation in combating organized crime*

The General Assembly, by its resolution 44/71 of 8 December 1989,[93] adopted on the recommendation of the Third Committee,[94] taking into account the decisions of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders relating to organized crime,[95] and recognizing the pivotal role of the Committee on Crime Prevention and Control in providing guidance and the coordinating role to be played by the Centre for Social Development and Humanitarian Affairs of the United Nations, especially by the Crime Prevention and Criminal Justice Branch, in strengthening international cooperation in crime prevention and criminal justice, invited the Economic and Social Council to request the Committee on Crime Prevention and Control, at its eleventh session, to give special attention in its work to promoting international cooperation in combating organized crime.

(*iii*) *Crime prevention and criminal justice*

By its resolution 44/72 of 8 December 1989,[96] adopted on the recommendation of the Third Committee,[97] the General Assembly took note of the report of the Secretary-General[98] on the implementation of its resolution 43/99 of 8 December 1988, in which, *inter alia*, the recommendations of the regional preparatory meetings for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders were summarized;[99] approved the recommendations contained in Economic and Social Council resolutions 1989/68 and

1989/69 of 24 May 1989 and requested the Secretary-General to take appropriate measures to translate them into action; welcomed the adoption of the statute of the United Nations Interregional Crime and Justice Research Institute and the formal establishment, at Kampala, of the African Institute for the Prevention of Crime and the Treatment of Offenders; and took note of the efforts made by the Secretariat towards the establishment of a global crime prevention and criminal justice information network.[100]

(*iv*) *Implementation of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances*[101]

The General Assembly, by its resolution 44/140 of 15 December 1989,[102] adopted on the recommendation of the Third Committee,[103] expressed its appreciation to the Secretary-General for his report on the conclusions of the Conference of Plenipotentiaries that adopted the Convention at Vienna,[104] and urged States to establish legislative and administrative measures so that their internal juridical regulations might be compatible with the spirit and scope of the Convention.

(*v*) *Global programme of action against illicit narcotic drugs*

By its resolution 44/141 of 15 December 1989,[105] adopted on the recommendation of the Third Committee,[106] the General Assembly resolved that action against drug abuse and illicit production and trafficking in narcotics should, as a collective responsibility, be accorded the highest possible priority by the international community and that the United Nations should be the main focus for concerted action against illicit drugs; and invited States, at the special session of the General Assembly, to consider requesting the Secretary-General to appoint a limited number of experts, representing the various aspects of the drug problem with regard to both developed and developing countries, to develop further the global programme of action as adopted at the special session.

(*vi*) *International action to combat drug abuse and illicit trafficking*

The General Assembly, by its resolution 44/142 of 15 December 1989,[107] adopted on the recommendation of the Third Committee,[108] endorsed Economic and Social Council resolution 1989/20 of 22 May 1989 and urged Governments and organizations to adhere to the principles set forth in the Declaration of the International Conference on Drug Abuse and Illicit Trafficking and to apply, as appropriate, the recommendations of the Comprehensive Multidisciplinary Outline of Future Activities in Drug Abuse Control; recognized the importance of international cooperation in facilitating trade flows in support of integrated rural development programmes leading to economically viable alternatives to illicit cultivation, taking into account factors such as access to markets for crop substitution products; and requested the Secretary-General to undertake as soon as possible, with the assistance of a group of intergovernmental experts, a study on the economic and social consequences of illicit traffic in drugs, with a view to analysing, *inter alia*, the following elements:

(*a*) The magnitude and characteristics of economic transactions related to drug trafficking in all its stages, including production of, traffic in and distribution of illicit drugs, in order to determine the impact of drug-related money transfers and conversion on national economic systems;

(*b*) Mechanisms which would prevent the use of the banking system and the international financial system in this activity.

(*d*) Office of the United Nations High Commissioner for Refugees

The General Assembly, by its resolution 44/137 of 15 December 1989,[109] adopted on the recommendation of the Third Committee,[110] having considered the report of the United Nations High Commissioner for Refugees on the activities of his Office,[111] as well as the report of the Executive Committee of the Programme of the High Commissioner on the work of its fortieth Session,[112] and having heard the statements made by the Officer-in-Charge of the Office of the High Commissioner on 15 and 17 November 1989,[113] strongly reaffirmed the fundamental nature of the function of the United Nations High Commissioner for Refugees to provide international protection and the need for States to cooperate fully with his Office in the fulfilment of this function, in particular, by acceding to and fully and effectively implementing the relevant international and regional refugee instruments; endorsed the conclusions on the implementation of the 1951 Convention relating to the Status of Refugees[114] and the 1967 Protocol relating thereto,[115] adopted by the Executive Committee of the Programme of the High Commissioner at its fortieth session; called upon all States to refrain from measures jeopardizing the institution of asylum, in particular the return or expulsion of refugees and asylum-seekers contrary to fundamental prohibitions against those practices, and urged States to continue to admit and receive refugees pending identification of their status and appropriate solutions to their plight; further endorsed the conclusions on refugee children adopted by the Executive Committee of the Programme of the High Commissioner at its fortieth session, in particular on the development and dissemination of the "Guidelines on Refugee Children" and the implementation of a work plan concerning refugee children requiring the active cooperation and collaboration of Governments, United Nations bodies, among them the United Nations Children's Fund, and non-governmental organizations with the Office of the High Commissioner; also endorsed the conclusions on refugee women adopted by the Executive Committee of the Programme of the High Commissioner at its fortieth session, in which the Executive Committee recognized the need to facilitate the participatory role of refugee women and the need for a policy framework and organizational work plan for the implementation of the next stages of bringing issues concerning refugee women into the mainstream of the activities of the Office of the High Commissioner; and further endorsed the conclusions on durable solutions and refugee protection adopted by the Executive Committee of the Programme of the High Commissioner at its fortieth session, in which the Executive Committee recognized the need for the active promotion of solutions by the international community and by countries of origin, asylum and resettlement, in accordance with their respective obligations and responsibilities and the desirability of prevention through, *inter alia*, the observance of human rights, as the best solution.

By the same resolution, the General Assembly noted with appreciation the ongoing work being done by the Office of the High Commissioner to put into practice the concept of development-oriented assistance to refugees and returnees, as initiated at the Second International Conference on Assistance to Refugees in Africa[116] and reaffirmed in the Oslo Declaration and Plan of Action adopted by the International Conference on the Plight of Refugees, Returnees and Displaced Persons in Southern Africa, as well as in the Declaration and Concerted Plan of Action in favour of Central American Refugees, Returnees and Displaced Persons adopted by the International Conference on Central American Refugees, held at Guatemala City from 29 to 31 May 1989,[117] urged the Office to continue that process wherever appropriate, in full cooperation with appropriate international agencies, and urged Governments to support those efforts, being fully aware of the catalytic role of the Office of the High Commissioner; and recognized the importance of the International Conference on Indo-Chinese Refugees, held at Geneva on 13 and 14 June 1989, and the Comprehensive Plan of Action adopted at the Conference,[118] as well as the International Conference on Central American Refugees and the Concerted Plan of Action in favour of Central American Refugees, Returnees and Displaced Persons.

(*e*) Human rights questions

(1) Status and implementation of international instruments

(*i*) *International Covenants on Human Rights*

In 1989, two States became parties to the International Covenant on Economic, Social and Cultural Rights (1966),[119] bringing the total number of States parties to 92; two States became parties to the International Covenant on Civil and Political Rights (1966),[120] bringing the total number of States parties to 87; and five more States became parties to the Optional Protocol to the International Covenant on Civil and Political Rights (1966),[121] bringing the total to 48.

The General Assembly, by its resolution 44/128 of 15 December 1989,[122] adopted on the recommendation of the Third Committee,[123] adopted and opened for signature, ratification and accession the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, which reads as follows:

Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty

The States Parties to the present Protocol,

Believing that abolition of the death penalty contributes to enhancement of human dignity and progressive development of human rights,

Recalling article 3 of the Universal Declaration of Human Rights,[124] adopted on 10 December 1948, and article 6 of the International Covenant on Civil and Political Rights, adopted on 16 December 1966,

Noting that article 6 of the International Covenant on Civil and Political Rights refers to the abolition of the death penalty in terms that strongly suggest that abolition is desirable,

Convinced that all measures of abolition of the death penalty should be considered as progress in the enjoyment of the right to life,

Desirous to undertake hereby an international commitment to abolish the death penalty,

Have agreed as follows:

Article 1

1. No one within the jurisdiction of a State Party to the present Protocol shall be executed.

2. Each State Party shall take all necessary measures to abolish the death penalty within its jurisdiction.

Article 2

1. No reservation admissible to the present Protocol, except for a reservation made at the time of ratification or accession that provides for the application of the death penalty in time of war pursuant to a conviction for a most serious crime of a military nature committed during wartime.

2. The State Party making such a reservation shall at the time of ratification or accession communicate to the Secretary-General of the United Nations the relevant provisions of its national legislation applicable during wartime.

3. The State Party having made such a reservation shall notify the Secretary-General of the United Nations of any beginning or ending of a state of war applicable to its territory.

Article 3

The States Parties to the present Protocol shall include in the reports they submit to the Human Rights Committee, in accordance with article 40 of the Covenant, information on the measures that they have adopted to give effect to the present Protocol.

Article 4

With respect to the States Parties to the Covenant that have made a declaration under article 41, the competence of the Human Rights Committee to receive and consider communications when a State Party claims that another State Party is not fulfiling its obligations shall extend to the provisions of the present Protocol, unless the State Party concerned has made a statement to the contrary at the moment of ratification or accession.

Article 5

With respect to the States Parties to the first Optional Protocol to the International Covenant on Civil and Political Rights adopted on 16 December 1966, the competence of the Human Rights Committee to receive and consider communications from individuals subject to its jurisdiction shall extend to the provision of the present Protocol, unless the State Party concerned has made a statement to the contrary at the moment of ratification or accession.

Article 6

1. The provisions of the present Protocol shall apply as additional provisions to the Covenant.

2. Without prejudice to the possibility of a reservation under article 2 of the present Protocol, the right guaranteed in article 1, paragraph 1, of the present Protocol shall not be subject to any derogation under article 4 of the Covenant.

Article 7

1. The present Protocol is open for signature by any State that has signed the Covenant.

2. The present Protocol is subject to ratification by any State that has ratified the Covenant or acceded to it. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. The present Protocol shall be open to accession by any State that has ratified the Covenant or acceded to it.

4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

5. The Secretary-General of the United Nations shall inform all States that have signed the present Protocol or acceded to it of the deposit of each instrument of ratification or accession.

Article 8

1. The present Protocol shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the tenth instrument of ratification or accession.

2. For each State ratifying the present Protocol or acceding to it after the deposit of the tenth instrument of ratification or accession, the present Protocol shall enter into force three months after the date of the deposit of its own instrument of ratification or accession.

Article 9

The provisions of the present Protocol shall extend to all parts of federal States without any limitations or exceptions.

Article 10

The Secretary-General of the United Nations shall inform all States referred to in article 48, paragraph 1, of the Covenant of the following particulars:

(*a*) Reservations, communications and notifications under article 2 of the present Protocol;

(*b*) Statements made under articles 4 or 5 of the present Protocol;

(*c*) Signatures, ratifications and accessions under article 7 of the present Protocol;

(*d*) The date of the entry into force of the present Protocol under article 8 thereof.

Article 11

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States referred to in article 48 of the Covenant.

The General Assembly, by its resolution 44/129 of the same date,[125] adopted on the recommendation of the Third Committee,[126] took note with appreciation of the report of the Human Rights Committee on its thirty-fourth, thirty-fifth and thirty-sixth session.[127]

(*ii*) *Convention on the Prevention and Punishment of the Crime of Genocide* (*1948*)[128]

In 1989, two more States became parties to the Convention, bringing the total to 100.

By its resolution 44/158 of 15 December 1989,[129] adopted on the recommendation of the Third Committee,[130] the General Assembly took note of the report of the Secretary-General.[131]

(*iii*) *International Convention on the Elimination of All Forms of Racial Discrimination* (*1966*)[132]

In 1989, no State became party to the Convention, letting stand the total number of States parties at 125.

By its resolution 44/68 of 8 December 1989,[133] adopted on the recommendation of the Third Committee,[134] the General Assembly, welcoming the report of the Committee on the Elimination of All Forms of Racial Discrimination on the work of its thirty-seventh session,[135] and having considered the report of the Secretary-General on the question of financing the expenses of the members of the Committee, invited States parties at their thirteenth meeting to decide on administrative and legal measures to improve the financial situation of the Committee.

(*iv*) *International Convention on the Suppression and Punishment of the Crime of Apartheid* (*1973*)[136]

In 1989, no State became party to the Convention, letting stand the total number of States parties at 65.

The General Assembly, by its resolution 44/69 of 8 December 1989,[137] adopted on the recommendation of the Third Committee,[138] took note of the report of the Secretary-General on the status of the Convention.[139]

(*v*) *Convention on the Elimination of All Forms of Discrimination against Women* (*1979*)[140]

In 1989, five States became parties to the Convention, bringing the total number of States parties to 98.

The General Assembly, by its resolution 44/73 of 8 December 1989,[141] adopted on the recommendation of the Third Committee,[142] took note of the report of the Secretary-General on the status of the Convention;[143] and strongly supported the view of the Committee on the Elimination of Discrimination against Women that the Secretary-General should accord higher priority to strengthening support for the Committee.

(*vi*) *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (*1984*)[144]

In 1989, 10 more States became parties to the Convention, bringing the total number of States parties to 47.

The General Assembly, by its resolution 44/144 of 15 December 1989,[145] adopted on the recommendation of the Third Committee,[146] took note of the report of the Secretary-General on the status of the Convention,[147] and also noted the adoption by the Committee against Torture of its rules of procedure.[148]

(*vii*) *Convention on the Rights of the Child* (*1989*)[149]

The General Assembly, by its resolution 44/25 of 20 November 1989,[150] adopted on the recommendation of the Third Committee,[151] adopted and opened for signature, ratification and accession the Convention on the Rights of the Child, which reads as follows:

ANNEX

Convention on the Rights of the Child

Preamble

The States Parties to the present Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,

Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance,

Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity,

Bearing in mind that the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924[152] and in the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959[153] and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in article 10) and in the statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children,

Bearing in mind that, as indicated in the Declaration of the Rights of the Child, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth",[154]

Recalling the provisions of the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally;[155] the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules);[156] and the Declaration on the Protection of Women and Children in Emergency and Armed Conflict,[157]

Recognizing that, in all countries in the world, there are children living in exceptionally difficult conditions, and that such children need special consideration,

Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child,

Recognizing the importance of international co-operation for improving the living conditions of children in every country, in particular in the developing countries,

Have agreed as follows:

Part I

Article 1

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier.

Article 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

Article 4

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international cooperation.

Article 5

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

Article 6

1. States Parties recognize that every child has the inherent right to life.

2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

Article 7

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.

2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

Article 8

1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.

2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to speedily re-establishing his or her identity.

Article 9

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review

determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.

2. In any proceeding pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.

3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.

4. Where such separation results from any action initiated by the State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child, or if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

Article 10

1. In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.

2. A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances, personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 1, States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (*ordre public*), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

Article 11

1. States Parties shall take measures to combat the illicit transfer and non-return of children abroad.

2. To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

Article 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Article 13

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.

2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(*a*) For respect of the rights or reputations of others; or

(*b*) For the protection of national security or of public order (*ordre public*), or of public health or morals.

Article 14

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.

2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

Article 15

1. States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.

2. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interest of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 16

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.

2. The child has the right to the protection of the law against such interference or attacks.

Article 17

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health. To this end, States Parties shall:

(*a*) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29;

(*b*) Encourage international cooperation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;

(*c*) Encourage the production and dissemination of children's books;

(*d*) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;

(*e*) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.

Article 18

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.

2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.

3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.

Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Article 20

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.

2. States Parties shall in accordance with their national laws ensure alternative care for such a child.

3. Such care could include, *inter alia*, foster placement, kafalah of Islamic law, adoption or, if necessary, placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

Article 21

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

(*a*) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counseling as may be necessary;

(*b*) Recognize that inter-country adoption may be considered as an alternative means of the child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;

(*c*) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;

(*d*) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;

(*e*) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.

Article 22

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

2. For this purpose, States Parties shall provide, as they consider appropriate, cooperation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations cooperating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

Article 23

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.

3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development.

4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

Article 24

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

(a) To diminish infant and child mortality;

(b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;

(c) To combat disease and malnutrition, including within the framework of primary health care, through, *inter alia*, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;

(*d*) To ensure appropriate pre-natal and post-natal health care for mothers;

(*e*) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breast-feeding, hygiene and environmental sanitation and the prevention of accidents;

(*f*) To develop preventive health care, guidance for parent and family planning education and services.

3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

4. States Parties undertake to promote and encourage international cooperation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

Article 25

States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

Article 26

1. States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of the right in accordance with their national law.

2. The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.

Article 27

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.

3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.

4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.

Article 28

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

(*a*) Make primary education compulsory and available free to all;

(*b*) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;

(*c*) Make higher education accessible to all on the basis of capacity by every appropriate means;

(*d*) Make educational and vocational information and guidance available and accessible to all children;

(*e*) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

Article 29

1. States Parties agree that the education of the child shall be directed to:

(*a*) The development of the child's personality, talents and mental and physical abilities to their fullest potential;

(*b*) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;

(*c*) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national value of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;

(*d*) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;

(*e*) The development of respect for the natural environment.

2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 30

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

Article 31

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.

2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

Article 32

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:

(*a*) Provide for a minimum age or minimum ages for admission to employment;

(*b*) Provide for appropriate regulation of the hours and conditions of employment;

(*c*) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

Article 33

States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.

Article 34

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

(*a*) The inducement or coercion of a child to engage in any unlawful sexual activity;

(*b*) The exploitative use of children in prostitution or other unlawful sexual practices;

(*c*) The exploitative use of children in pornographic performances and materials.

Article 35

States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale or traffic in children for any purpose or in any form.

Article 36

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

Article 37

States Parties shall ensure that:

(*a*) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;

(*b*) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;

(*c*) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;

(*d*) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

Article 38

1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.

2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.

3. States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into the armed forces. In recruiting amongst those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest.

4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

Article 39

States Parties shall take appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

Article 40

1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

2. To this end and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:

(*a*) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;

(*b*) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:

(i) To be presumed innocent until proven guilty according to law;

(ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;

(iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;

(iv) Not to be compelled to give testimony or confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;

(v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;

(vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used;

(vii) To have his or her privacy fully respected at all stages of the proceedings.

3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:

(*a*) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;

(*b*) Whenever appropriate and desirable measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully protected.

4. A variety of dispositions such as care, guidance and supervision orders; counselling; probation; foster care; educational and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and their offence.

Article 41

Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of the child and which may be contained in:

(*a*) The law of States Party; or

(*b*) International law enforced for that State.

Part II

Article 42

States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.

Article 43

1. For the purpose of examining the progress made by States Parties in achieving the realization of the obligations undertaken in the present Convention, there shall be established a Committee on the Rights of the Child, which shall carry out the functions hereinafter provided.

2. The Committee shall consist of ten experts of moral standing and recognized competence in the field covered by this Convention. The members of the Committee shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution, as well as to the principal legal systems.

3. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.

4. The initial election to the Committee shall be held no later than six months after the date of the entry into force of the present Convention and thereafter every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating States Parties which have nominated them, and shall submit it to the States Parties to the present Convention.

5. The elections shall be held at meetings of States Parties convened by the Secretary-General and at United Nations Headquarters. At those meetings, for which two thirds of States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

6. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. The term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the Chairman of the meeting.

7. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the State Party which nominated the member shall appoint another expert from among its nationals to serve for the remainder of the term, subject to the approval of the Committee.

8. The Committee shall establish its own rules of procedure.

9. The Committee shall elect its officers for a period of two years.

10. The meetings of the Committee shall normally be held at the United Nations Headquarters or at any other convenient place as determined by the Committee. The Committee shall normally meet annually. The duration of the meetings of the Committee shall be determined, and reviewed, if necessary, by a meeting of the States Parties to the present Convention, subject to the approval of the General Assembly.

11. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

12. With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide.

Article 44

1. States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights:

(*a*) Within two years of the entry into force of the Convention for the State Party concerned;

(*b*) Thereafter every five years.

2. Reports made under the present article shall indicate factors and difficulties, if any, affecting the degree of fulfilment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned.

3. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports submitted in accordance with paragraph 1(*b*) of the present article, repeat basic information previously provided.

4. The Committee may request from States Parties further information relevant to the implementation of the Convention.

5. The Committee shall submit to the General Assembly, through the Economic and Social Council, every two years, reports on its activities.

6. States Parties shall make their reports widely available to the public in their own countries.

Article 45

In order to foster the effective implementation of the Convention and to encourage international cooperation in the field covered by the Convention:

(*a*) The specialized agencies, the United Nations Children's Fund and other United Nations organs shall be entitled to be present at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies, the United Nations Children's Fund and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of the respective mandates. The Committee may invite the specialized agencies, the United Nations Children's Fund and other United Nations organs to submit reports on the implementation of the Convention in the areas falling within the scope of their activities;

(*b*) The Committee shall transmit, as it may consider appropriate, to the specialized agencies, the United Nations Children's Fund and other competent bodies any reports from States Parties that contain a request, or indicate a need, for technical advice or assistance, along with the Committee's observations and suggestions, if any, on these requests or indications;

(*c*) The Committee may recommend to the General Assembly that it request the Secretary-General to undertake on its behalf studies on specific issues relating to the rights of the child;

(*d*) The Committee may make suggestions and general recommendations based on information received pursuant to articles 44 and 45 of the present Convention. Such suggestions and general recommendations shall be transmitted to any State Party concerned and reported to the General Assembly, together with comments, if any, from States Parties.

Part III

Article 46

The present Convention shall be open for signature by all States.

Article 47

The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 48

The present Convention shall remain open for accession by any State.

The instrument of accession shall be deposited with the Secretary-General of the United Nations.

Article 49

1. The present Convention shall enter into force on the thirtieth day following the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

2. For each State ratifying or acceding to the Convention after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification or accession.

Article 50

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to the States Parties, with a request that they indicate whether they favour a conference of States Parties for the purpose of considering a voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of States Parties.

3. When an amendment enters into force, it shall be binding on those States Parties which have accepted it, other States Parties still being bound by the provisions of the present Convention and any earlier amendments which they have accepted.

Article 51

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by the States at the time of ratification or accession.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3. Reservations may be withdrawn at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall then inform all States. Such notification shall take effect on the date on which it is received by the Secretary-General.

Article 52

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

Article 53

The Secretary-General of the United Nations is designated as the depositary of the present Convention.

Article 54

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

(2) Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights

The General Assembly, by its resolution 44/135 of 15 December 1989,[158] adopted on the recommendation of the Third Committee,[159] taking note of the report of the Secretary-General[160] on progress achieved in enhancing the effective functioning of the treaty bodies, pursuant, *inter alia*, to the conclusions and recommendations of the meeting of persons chairing the human rights treaty bodies, held at Geneva from 10 to 14 October 1988,[161] and taking note with appreciation of the study[162] on possible long-term approaches to enhancing the effective operation of existing and prospective bodies established under United Nations instruments on human rights, prepared by an independent expert pursuant to the above-mentioned resolutions, welcomed the appointment by the Secretary-General of a task force to prepare a study on computerizing, as far as possible, the work of the treaty-monitoring bodies, with a view to increasing efficiency and facilitating compliance by States Parties with their reporting obligations and the examination of reports by the treaty bodies; took note of the report of the Secretary-General[163] to the Committee on Economic, Social and Cultural Rights showing the extent of overlapping of issues dealt with in international instruments on human rights, which would assist efforts to reduce, as appropriate, duplication in the supervisory bodies of issues raised with respect to any given State Party; and encouraged the Secretary-General to proceed with the planned finalization of the draft detailed reporting manual to assist States Parties in the fulfilment of their reporting obligations, as well as with its circulation to the various treaty bodies by the end of 1989.

(3) Enlargement of the Commission on Human Rights and the further promotion of human rights and fundamental freedoms

In its resolution 44/167 of 15 December 1989,[164] adopted on the recommendation of the Third Committee,[165] the General Assembly decided to recommend that the Economic and Social Council take the necessary steps, at its first regular session of 1990, to expand the membership of the Commission on Human Rights, on the basis of the principle of equitable geographical distribution, for the further promotion of human rights and fundamental freedoms.

(4) National institutions for the promotion of human rights

By its resolution 44/64 of 8 December 1989,[166] adopted on the recommendation of the Third Committee,[167] the General Assembly took note of the note of the Secretary-General[168] and encouraged initiatives on the part of the governments and regional, international, intergovernmental and non-governmental organizations intended to strengthen existing national institutions and to establish such institutions where they did not exist.

(5) Human rights in the administration of justice

The General Assembly, in its resolution 44/162 of 15 December 1989,[169] adopted on the recommendation of the Third Committee,[170] invited Member States to pay attention to relevant resolutions of the Economic and Social Council in developing strategies for the practical implementation of United Nations norms and standards on human rights in the administration of justice, as requested by the Assembly in its resolution 43/153 of 8 December 1988.

(6) Scientific and technological developments

The General Assembly adopted several resolutions in this area, including one on the guidelines for the regulation of computerized personal data files in connection with the Subcommission on Prevention of Discrimination and Protection of Minorities.[171] Two resolutions were adopted on 15 December 1989, both entitled "Human rights and scientific and technological developments".[172]

(7) Summary on arbitrary executions

By its resolution 44/159 of 15 December 1989,[173] adopted on the recommendation of the Third Committee,[174] the General Assembly appealed urgently to Governments, United Nations bodies, the specialized agencies, regional intergovernmental organizations and non-governmental organizations to take effective action to combat and eliminate summary or arbitrary executions, including extra-legal executions; reaffirmed Economic and Social Council resolution 1982/35 of 7 May 1982, in which the Council had decided to appoint a special rapporteur to consider the questions related to summary or arbitrary executions; recalled with satisfaction Council resolution 1988/38 of 7 May 1988, by which the Council had decided to renew the mandate of the Special Rapporteur for two years, while maintaining the annual reporting cycle; and welcomed the recommendations made by the Special Rapporteur in his reports[175] to the Commission on Human Rights at its forty-fourth and forty-fifth sessions with a view to eliminating summary or arbitrary executions.

(8) Questions of enforced or involuntary disappearances

The General Assembly, by its resolution 44/160 of 15 December 1989,[176] adopted on the recommendation of the Third Committee,[177] expressed its appreciation to the Working Group on Enforced or Involuntary Disappearances for its humanitarian work and to those Governments that had cooperated with it; recalled the decision of the Commission on Human Rights, at its forty-fourth session, to extend for two years the term of the mandate of the Working Group, as defined in Commission resolution 20 (XXXVI) of 29 February 1980,[178] while maintaining the principle of annual reporting by the Working Group; and also recalled the provisions made by the Commission on Human Rights in its resolution 1986/55 of 13 March 1986[179] to enable the Working Group to fulfil its mandate with greater efficiency.

(9) Human rights and mass exoduses

By its resolution 44/164 of 15 December 1989,[180] adopted on the recommendation of the Third Committee,[181] the General Assembly took note of the report of the Secretary-General on human rights and mass exoduses,[182] and invited him to inform the Assembly in future reports on the modalities of early-

warning activities to avert new and massive flows of refugees, and specially encouraged the Secretary-General to continue to discharge the task described in the report of the Group of Governmental Experts on International Cooperation to Avert New Flows of Refugees.[183]

(10) Universal realization of the right of peoples to self-determination

The General Assembly, by its resolution 44/80 of 8 December 1989,[184] adopted on the recommendation of the Third Committee,[185] took note of the report of the Secretary-General.[186] The General Assembly also adopted resolution 44/81 of the same date,[187] adopted on the recommendation of the Third Committee,[188] wherein the Assembly expressed its appreciation to the Special Rapporteur of the Commission on Human Rights for his report on the question of the use of mercenaries as a means to violate human rights and to impede the exercise of the right of peoples to self-determination.[189]

(11) Right to development

By its resolution 44/62 of 8 December 1989,[190] adopted on the recommendation of the Third Committee,[191] the General Assembly, recalling the proclamation by the General Assembly at its forty-first session of the Declaration on the Right to Development,[192] and having considered the report of the Working Group of Governmental Experts on the Right to Development[193] and all other relevant documents submitted to the Assembly at its forty-fourth session, endorsed the view of the Commission that there was a need for a continuing evaluation mechanism to ensure the promotion, encouragement and reinforcement of the principles set forth in the Declaration.

(12) Measures to improve the situation and ensure the human rights and dignity of all migrant workers

The General Assembly, by its resolution 44/155 of 15 December 1989,[194] adopted on the recommendation of the Third Committee[195] took note of the two most recent reports of the Working Group on the drafting of an International Convention on the Protection of the Rights of all Migrant Workers and Their Families.[196]

(13) Elimination of all forms of religious intolerance

By its resolution 44/131 of 15 December 1989,[197] adopted on the recommendation of the Third Committee,[198] the General Assembly urged States, in accordance with their respective constitutional systems and with such internationally accepted instruments as the Universal Declaration of Human Rights,[199] the International Covenant on Civil and Political Rights and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, to provide, where they had not already done so, adequate constitutional and legal guarantees of freedom of thought, conscience, religion and belief, including the provision of effective remedies where there was intolerance or discrimination based on religion or belief.

(*f*) Cultural issues

The General Assembly, by its resolution 44/18 of 6 November 1989,[200] adopted without reference to a Main Committee, recalling the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer

of Ownership of Cultural Property of 1970,[201] recommended that Member States adopt or strengthen the necessary protective legislation with regard to their own heritage and that of other peoples, and appealed to Member States to cooperate closely with the Intergovernmental Committee for Promoting the Return of Cultural Property to Its Countries of Origin or Its Restitution in Case of Illicit Appropriation and to conclude bilateral agreements for that purpose.

4. LAW OF THE SEA

Status of the United Nations Convention on the Law of the Sea (1982)[202]

As of 31 December 1989, the number of States that had ratified the Convention or acceded to it stood at 163.

Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea[203]

The Preparatory Commission met twice during 1989: it held its seventh session at Kingston from 27 February to 23 March and a summer meeting in New York from 14 August to 1 September 1989. During the debate, the preparation of draft agreements, rules, regulations and procedures for the International Seabed Authority were discussed.

Regarding the International Tribunal for the Law of the Sea, an architectural competition for the design and construction of the Tribunal was held.

Consideration by the General Assembly

The General Assembly, by its resolution 44/26 of 20 November 1989,[204] adopted without reference to a Main Committee, reiterated its conviction that the early, satisfactory and successful conclusion of the current consultations in the Preparatory Commission on the implementation of the obligations of the registered pioneer investors and the certifying States would constitute an important contribution to the overall progress in the work of the Commission; also expressed its appreciation for the report of the Secretary-General prepared in pursuance of paragraph 14 of General Assembly resolution 43/18 of 1 November 1988[205] and requested him to carry out the activities outlined therein, as well as those aimed at the strengthening of the legal regime of the sea, special emphasis being placed on the work of the Preparatory Commission, including the implementation of resolution II of the Third United Nations Conference on the Law of the Sea; and requested the competent international organizations, in accordance with their respective policies, to intensify financial, technological, organizational and managerial assistance to the developing countries in their efforts to realize the benefits of the comprehensive legal regime established by the Convention and to examine means of strengthening cooperation among themselves and with donor States in the provision of such assistance.

5. INTERNATIONAL COURT OF JUSTICE[206, 207]

Cases before the Court[208]

(A) Contentious cases before the full Court

(*i*) *Border and Transborder Armed Actions* (*Nicaragua v. Honduras*)

On 21 April 1989 the President of the Court fixed time limits for written proceedings on the merits: 19 September 1989 for the Memorial of Nicaragua and 19 February 1990 for the Counter-Memorial of Honduras.

On 31 August 1989, the President of the Court made an Order (*I.C.J. Reports 1989*, p. 123) extending to 8 December 1989 the time limit for the Memorial and reserving the question of extension of the time limit for the filing of the Counter-Memorial of Honduras. The Memorial of Nicaragua was filed within the prescribed time limit.

By letters dated 13 December 1989, the Agents of both Parties transmitted to the Court the text of an agreement reached by the Presidents of the Central American countries on 12 December 1989 in San Isidro de Coronado, Costa Rica. They referred in particular to paragraph 13 thereof, which recorded the agreement of the President of Nicaragua and the President of Honduras, in the context of arrangements aimed at achieving an extra-judicial settlement of the dispute which is the subject of the proceedings before the Court, to instruct their Agents in the case to communicate immediately, either jointly or separately, the agreement to the Court, and to request the postponement of the date for the fixing of the time limit for the presentation of the Counter-Memorial of Honduras until 11 June 1990.

By an Order of 14 December 1989 (*I.C.J. Reports 1989*, p. 174), the Court decided that the time limit for the filing by Honduras of a Counter-Memorial on the merits was extended from 19 February 1990 to a date to be fixed by an order to be made after 11 June 1990.

Subsequent to the date last mentioned, the President of the Court consulted the Parties, was informed that they did not desire the new time limit for the Counter-Memorial to be fixed for the time being, and informed them that he would so advise the Court.

(*ii*) *Maritime Delimitation in the Area between Greenland and Jan Mayen* (*Denmark v. Norway*)

By an Order of 14 October 1988 (*I.C.J. Reports 1988*, p. 66), the Court, taking into account the views expressed by the Parties, fixed 1 August 1989 as the time limit for the Memorial of Denmark and 15 May 1990 for the Counter-Memorial of Norway. Both the Memorial and Counter-Memorial were filed within the prescribed time limits.

(*iii*) *Aerial Incident of 3 July 1988* (*Islamic Republic of Iran v. United States of America*)

On 17 May 1989, the Islamic Republic of Iran filed in the Registry of the Court an Application instituting proceedings against the United States of America.

In its Application, the Islamic Republic of Iran referred to:

> "The destruction of an Iranian aircraft, Iran Air Airbus A-300B, flight 655, and the killing of its 290 passengers and the crew by two surface-to-air missiles launched from the USS *Vincennes*, a guided-missile cruiser on duty with the United States Persian Gulf/Middle East Force in the Iranian airspace over the Islamic Republic's territorial waters in the Persian Gulf on 3 July 1988".

It contended that,

> "by its destruction of Iran Air Flight 655 and taking 290 lives, its refusal to compensate the Islamic Republic for damages arising from the loss of the aircraft and individuals on board and its continuous interference with the Persian Gulf aviation",

the Government of the United States had violated certain provisions of the Chicago Convention on International Civil Aviation (7 December 1944), as amended, and of the Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (23 September 1971), and that the Council of the International Civil Aviation Organization had erred in its decision of 17 March 1989 concerning the incident.

The Government of the Islamic Republic of Iran requested, in its Application, the Court to adjudge and declare:

"(*a*) That the ICAO Council decision is erroneous in that the Government of the United States has violated the Chicago Convention, including the preamble, articles 1, 2, 3 *bis* and 44(a) and (h) and annex 15 of the Chicago Convention as well as Recommendation 2.6/1 of the Third Middle East Regional Air Navigation Meeting of ICAO;

(*b*) That the Government of the United States has violated articles 1, 3 and 10(1) of the Montreal Convention; and

(*c*) That the Government of the United States is responsible to pay compensation to the Islamic Republic, in the amount to be determined by the Court, as measured by the injuries suffered by the Islamic Republic and the bereaved families as a result of these violations, including additional financial losses which Iran Air and the bereaved families have suffered for the disruption of their activities."

By an Order of 13 December 1989 (*I.C.J. Reports 1989*, p. 132), the Court, taking into account the views expressed by each of the Parties, fixed 12 June 1990 as the time limit for the filing of the Memorial of the Islamic Republic of Iran and 10 December 1990 for the filing of the Counter-Memorial of the United States of America. Judge Oda appended a declaration to the Order of the Court (ibid., p. 135); Judges Schwebel and Shahabuddeen appended separate opinions (ibid., pp. 136-144 and 145-160).

(*iv*) *Certain Phosphate Lands in Nauru* (*Nauru v. Australia*)

On 19 May 1989, the Republic of Nauru filed in the Registry of the Court an Application instituting proceedings against the Commonwealth of Australia in a dispute concerning the rehabilitation of certain phosphate lands mined under Australian administration before Nauruan independence.

In its Application, Nauru claimed that Australia had breached the trusteeship obligations it accepted under Article 76 of the Charter of the United Nations and under articles 3 and 5 of the Trusteeship Agreement for Nauru of 1 November 1947. Nauru further claimed that Australia had breached certain obligations towards Nauru under general international law.

The Republic of Nauru requested the Court to adjudge and declare:

> "that Australia has incurred an international legal responsibility and is bound to make restitution or other appropriate reparation to Nauru for the damage and prejudice suffered";

and further

> "that the nature and amount of such restitution or reparation should, in the absence of agreement between the Parties, be assessed and determined by the Court, if necessary, in a separate phase of the proceedings".

By an Order of 18 July 1989 (*I.C.J. Reports 1989*, p. 12), the Court, having ascertained the views of the Parties, fixed 20 April 1990 as the time limit for the Memorial of Nauru and 21 January 1991 for the Counter-Memorial of Australia. The Memorial was filed within the prescribed time limit.

(*v*) *Arbitral Award of 31 July 1989* (*Guinea-Bissau v. Senegal*)

On 23 August 1989 the Republic of Guinea-Bissau filed in the Registry of the Court an Application instituting proceedings against the Republic of Senegal.

The Application explained that, notwithstanding the negotiations carried on from 1977 onwards, the two States had been unable to reach agreement regarding the settlement of a dispute concerning the maritime delimitation to be effected between them and for that reason had jointly consented, by an Arbitration Agreement dated 12 March 1985, to submit that dispute to an arbitration tribunal composed of three members.

It further indicated that, according to the terms of article 2 of that Agreement, the Tribunal was asked to rule on the following twofold question:

> "(1) Does the agreement concluded by an exchange of letters [between France and Portugal] on 26 April 1960, and which relates to the maritime boundary, have the force of law in the relations between the Republic of Guinea-Bissau and the Republic of Senegal?
>
> "(2) In the event of a negative answer to the first question, what is the course of the line delimiting the maritime territories appertaining to the Republic of Guinea-Bissau and the Republic of Senegal respectively?"

The Application added that it had been specified, in article 9 of the Agreement, that the Tribunal would inform the two Governments of its decision regarding the question set forth in article 2, and that that decision should include the drawing on a map of the frontier line — the Application emphasized that the Agreement used the word "line" in the singular.

According to the Application, the Tribunal communicated to the Parties on 31 July 1989 a "text that was supposed to serve as an award", but did not in fact amount to one.

Guinea-Bissau, contending that "a new dispute thus came into existence, relating to the applicability of the text issued by way of award on 31 July 1989", therefore asked the Court to adjudge and declare:

> " — that [the] so-called decision [of the Tribunal] is inexistent in view of the fact that one of the two arbitrators making up the appearance of a majority in favour of the text of the 'award', has, by a declaration appended to it, expressed a view in contradiction with the one apparently adopted by the vote;
>
> — subsidiarily, that that so-called decision is null and void, as the Tribunal did not give a complete answer to the two-fold question raised by the Agreement and so did not arrive at a single delimitation line duly recorded on a map, and as it has not given the reasons for the restrictions thus improperly placed upon its jurisdiction;
>
> — that the Government of Senegal is thus not justified in seeking to require the Government of Guinea-Bissau to apply the so-called award of 31 July 1989".

Guinea-Bissau chose Mr. Hubert Thierry to sit as judge ad hoc. At the public sitting of 12 February 1990 (see below), Judge ad hoc Thierry made the solemn declaration required by the Statute and Rules of Court.

By an Order of 1 November 1989 (*I.C.J Reports 1989*, p. 126), the Court, having ascertained the views of the Parties, fixed 2 May 1990 as the time limit for the filing of the Memorial of Guinea-Bissau and 31 October 1990 for the filing of the Counter-Memorial of Senegal. The Memorial was filed within the prescribed time limit.

(B) Contentious Case before a Chamber

(*i*) *Land, Island and Maritime Frontier Dispute* (*El Salvador/Honduras*)

In an Order of 13 December 1989 (*I.C.J. Reports 1989*, p. 162), adopted unanimously, the Court took note of the death of Judge ad hoc Virally, of the nomination on 9 February 1989 by Honduras of Mr. Santiago Torres Bernárdez to replace him and of a number of communications from the Parties, noted that it appeared that El Salvador had no objection to the choice of Mr. Torres

Bernárdez, and that no objection appeared to the Court itself, and declared the Chamber to be composed as follows: Judges José Sette-Camara (President of the Chamber), Shigeru Oda and Sir Robert Jennings; Judges ad hoc Nicolas Valticos and Santiago Torres Bernárdez. Judge Shahabuddeen appended a separate opinion to the Order (*I.C.J. Reports 1989*, pp. 165-172). Judge Torres Bernárdez made the solemn declaration required by the Statute and Rules of Court at the first public sitting held by the Chamber thereafter, on 5 June 1990.

The written proceedings in the case have taken the following course: Each party filed a Memorial within the time limit of 1 June 1988 which had been fixed therefor by the Court after ascertainment of the Parties' views. The Parties having requested, by virtue of the Special Agreement, that the written proceedings should also consist of Counter-Memorials and Replies, the Chamber authorized the filing of such pleadings and fixed time limits accordingly. At the successive requests of the Parties, the President of the Chamber extended those time limits, by Orders made on 12 January 1989 and 13 December 1989 (*I.C.J. Reports 1989*, pp. 3 and 129), to 10 February 1989 and 12 January 1990 respectively. Each Party's Counter-Memorial and Reply were filed within the time limits as thus extended.

On 17 November 1989, Nicaragua addressed to the Court an Application under Article 62 of the Statute for permission to intervene in the case. Nicaragua stated that it had no intention of intervening in respect of the dispute concerning the land boundary between El Salvador and Honduras, its object being:

> "*First*, generally to protect the legal rights of the Republic of Nicaragua in the Gulf of Fonseca and the adjacent maritime areas by all legal means available.
>
> "*Secondly*, to intervene in the proceedings in order to inform the Court of the nature of the legal rights of Nicaragua which are in issue in the dispute. This form of intervention would have the conservative purpose of seeking to ensure that the determinations of the Chamber did not trench upon the legal rights and interests of the Republic of Nicaragua, and Nicaragua intends to subject itself to the binding effect of the decision to be given."

Nicaragua further expressed the view that its request for permission to intervene was a matter exclusively within the procedural mandate of the full Court.

(*ii*) *Elettronica Sicula S.p.A.* (*ELSI*)

The oral proceedings took place between 13 February and 2 March 1989. During 12 public sittings statements were made on behalf of the United States and Italy. Three witnesses and an expert called by the United States and one expert called by Italy gave evidence before the Chamber. Questions were put to the Parties, and to the witnesses and experts, by the President and Members of the Chamber.

On 20 July 1989, at a public sitting, the Chamber delivered its judgment (*I.C.J. Reports 1989*, p. 15). An analysis of the judgment is given below, followed by the text of the operative clause.

Proceedings and submissions of the Parties (paras. 1-12)

The Chamber began by recapitulating the various stages of the proceedings, recalling that the case concerned a dispute in which the United States of America claimed that Italy, by its actions with respect to an Italian company, *Elettronica Sicula S.p.A.*(*ELSI*), which was wholly owned by two United States corporations, the Raytheon Company ("Raytheon") and The Machlett Laboratories Incorporated ("Machlett"), had violated certain provisions of the Treaty of Friendship, Commerce and Navigation between the two Parties, concluded in Rome on 2 February 1948 ("the FCN Treaty") and the Supplementary Agreement thereto concluded on 26 September 1951.

Origins and development of the dispute (paras. 13-15)

In 1967, Raytheon held 99.16 per cent. of the shares in ELSI, the remaining 0.84 per cent. being held by Machlett, which was a wholly-owned subsidiary of Raytheon. ELSI was established in Palermo, Sicily, where it had a plant for the production of electronic components: in 1967 it had a workforce of slightly under 900 employees. Its five major product lines were microwave tubes, cathode-ray tubes, semiconductor rectifiers, X-ray tubes and surge arresters.

From 1964 to 1966 ELSI made an operating profit, but this was insufficient to offset its debt expense or accumulated losses. In February 1967, according to the United States, Raytheon began taking steps to endeavour to make ELSI self-sufficient.

At the same time, numerous meetings were held between February 1967 and March 1968 with Italian officials and companies, the purpose of which was stated to be to find for ELSI an Italian partner with economic power and influence, and to explore the possibilities of other governmental support.

When it became apparent that those discussions were unlikely to lead to a mutually satisfactory arrangement, Raytheon and Machlett, as shareholders in ELSI, began seriously to plan to close and liquidate ELSI to minimize their losses. An asset analysis was prepared by the Chief Financial Officer of Raytheon showing the expected position on 31 March 1968. This showed the book value of ELSI's assets as 18,640 million lire; as explained in his affidavit filed in the current proceedings, it also showed "the minimum prospects of recovery of values which we could be sure of, in order to ensure an orderly liquidation process", and the total realizable value of the assets on this basis (the "quick-sale value") was calculated to be 10,838.8 million lire. The total debt of the company at 30 September 1967 was 13,123.9 million lire. The "orderly liquidation" contemplated was an operation for the sale of ELSI's business or its assets, en bloc or separately, and the discharge of its debts, fully or otherwise, out of the proceeds, the whole operation being under ELSI's own management. It was contemplated that all creditors would be paid in full, or, if only the "quick-sale value" was realized, the unsecured major creditors would receive about 50 per cent. of their claims, and that this would be acceptable as more favourable than what could be expected in a bankruptcy.

On 28 March 1968 it was decided that the Company should cease operations. Meetings with Italian officials, however, continued, at which the Italian authority rigorously pressed ELSI not to close the plant and not to dismiss the workforce. On 29 March 1968 letters of dismissal were mailed to the employees of ELSI.

On 1 April 1968, the Mayor of Palermo issued an order, effective immediately, requisitioning ELSI's plant and related assets for a period of six months.

The Parties disagreed over whether, immediately prior to the requisition order, there had been any occupation of ELSI's plant by the employees, but it was common ground that the plant was so occupied during the period immediately following the requisition.

On 19 April 1968, ELSI brought an administrative appeal against the requisition to the Prefect of Palermo.

A bankruptcy petition was filed by ELSI on 26 April 1968, referring to the requisition as the reason why the company had lost control of the plant and could not avail itself of an immediate source of liquid funds, and mentioning payments which had become due and could not be met. A decree of bankruptcy was issued by the *Tribunale di Palermo* on 16 May 1968.

The administrative appeal filed by ELSI against the requisition order was determined by the Prefect of Palermo by a decision given on 22 August 1969, by which he annulled the requisition order. The Parties were at issue on the question whether this period of time was or was not normal for an appeal of this character.

On 16 June 1970, the trustee in bankruptcy had brought proceedings in the Court of Palermo against the Minister of the Interior of Italy and the Mayor of Palermo for damages resulting from the requisition. The Court of Appeal of Palermo awarded damages for loss of use of the plant during the period of the requisition.

The bankruptcy proceedings closed in November 1985. Of the amount realized, no surplus remained for distribution to the shareholders, Raytheon and Machlett.

I. *Jurisdiction of the Court and admissibility of the Application; rule of exhaustion of local remedies* (paras. 48-63)

An objection to the admissibility of the instant case was entered by Italy in its Counter-Memorial on the ground of an alleged failure of the two United States corporations, Raytheon and Machlett, on whose behalf the United States claim was brought, to exhaust the local remedies available to them in Italy. The Parties agreed that this objection be heard and determined in the framework of the merits.

The United States questioned whether the rule of the exhaustion of local remedies could apply at all, as article XXVI (the jurisdictional clause) of the FCN Treaty was categorical in its terms, and unqualified by any reference to the local remedies rule. It also argued that insofar as its claim was for a declaratory judgement of a direct injury to the United States by infringement of its rights under the FCN treaty, independent of the dispute over the alleged violation in respect of Raytheon and Machlett, the local remedies rule was inapplicable. The Chamber rejected these arguments. The United States also observed that at no time until the filing of the Respondent's Counter-Memorial in the proceedings had Italy suggested that Raytheon and Machlett should sue in the Italian courts on the basis of the Treaty, and argued that this amounted to an estoppel. The Chamber, however, found that there were difficulties in constructing an estoppel from a mere failure to mention a matter at a particular point in somewhat desultory diplomatic exchanges.

On the question whether local remedies were, or were not, exhausted by Raytheon and Machlett, the Chamber noted that the damage claimed in that case to have been caused to Raytheon and Machlett was said to have resulted from the "losses incurred by ELSI's owners as a result of the involuntary change in the manner of disposing of ELSI's assets": and it was the requisition order that was said to have caused this change, and which was therefore at the core of the United States complaint. It was therefore right that local remedies be pursued by ELSI itself.

After examining the action taken by ELSI in its appeal against the requisition order and, later, by the trustee in bankruptcy, who claimed damages for the requisition, the Chamber considered that the municipal courts had been fully seised of the matter which was the substance of the Applicant's claim before the Chamber. Italy, however, contended that it was possible to cite the provision of the treaties themselves before the municipal courts, in conjunction with article 2043 of the Italian Civil Code, which was never done.

After examining the jurisprudence cited by Italy, the Chamber concluded that it was impossible to deduce what the attitude of the Italian courts would have been if such a claim had been brought. Since it was for Italy to show the existence of a local remedy, and as Italy had not been able to satisfy the Chamber that there clearly remained some remedy which Raytheon and Machlett, independently of ELSI, and of ELSI's trustee in bankruptcy, ought to have pursued and exhausted, the Chamber rejected the objection of non-exhaustion of local remedies.

II. *Alleged breaches of the Treaty of Friendship, Commerce and Navigation and its Supplementary Agreement* (paras. 64-135)

Paragraph 1 of the United States final submission claimed that:

> "(1) the Respondent violated the international legal obligations which it undertook by the Treaty of Friendship, Commerce and Navigation between the two countries, and the Supplement thereto, and in particular, violated articles III, V, VII of the Treaty and article I of the Supplement".

The acts of the Respondent which were alleged to violated its treaty obligations were described by the Applicant's counsel in terms which the Chamber found convenient to cite at this point:

> "First, the Respondent violated its legal obligations when it unlawfully requisitioned the ELSI plant on 1 April 1968 which denied the ELSI stockholders their direct right to liquidate the ELSI assets in an orderly fashion. Second, the Respondent violated its obligations when it allowed ELSI workers to occupy the plant. Third, the Respondent violated its obligations when it unreasonably delayed ruling on the lawfulness of the requisition for 16 months until immediately after the ELSI plant, equipment and work-in-process had all been acquired by ELTEL. Fourth and finally, the Respondent violated its obligations when it interfered with the ELSI bankruptcy proceedings, which allowed the Respondent to realize its previously expressed intention of acquiring ELSI for a price far less than its fair market value."

The most important of these acts of the Respondent which the Applicant claimed to have been in violation of the FCN Treaty was the requisition of the ELSI plant by the Mayor of Palermo on 1 April 1968, which was claimed to have frustrated the plan for what the Applicant termed an "orderly liquidation" of the company. It was considered fair to describe the other impugned acts of the Respondent as ancillary to that core claim based on the requisition and its effects.

A. *Article III of FCN Treaty* (paras. 68-101)

The allegation by the United States of a violation of article III of the FCN Treaty by Italy related to the first sentence of the second paragraph, which provides:

> "The nationals, corporations and associations of either High Contracting Party shall be permitted, in conformity with the applicable laws and regulations within the territories of the other High Contracting Party, to organize, control and manage corporations and associations of such other High Contracting Party for engaging in commercial, manufacturing, processing, mining, educational, philanthropic, religious and scientific activities."

In terms of the instant case, the effect of this sentence was that Raytheon and Machlett were to be permitted, in conformity with the applicable laws and regulations within the territory of Italy, to organize, control and manage ELSI. The claim of the United States focused on the right to "control and manage". The Chamber considered whether there was a violation of this article if, as the United States alleged, the requisition had had the effect of depriving ELSI of both the right and practical possibility of selling off its plant and assets for satisfaction of its liabilities to its creditors and satisfaction of its shareholders.

A requisition of that kind should normally amount to a deprivation, at least in important part, of the right to control and manage. The reference in article III to conformity with "the applicable laws and regulations" could not mean that, if an act was in conformity with the municipal law and regulations (as, according to Italy, the requisition was), that would of itself exclude any possibility that it was an act in breach of the FCN Treaty. Compliance with municipal law and compliance with the provisions of a treaty were different questions.

The treaty right to be permitted to control and manage could not be interpreted as a warranty that the normal exercise of control and management should never be disturbed; every system of law had to provide, for example, for interferences with the normal exercise of rights during public emergencies and the like.

The requisition had been found both by the Prefect and by the Court of Appeal of Palermo not to have been justified in the applicable local law; if therefore, as seemed to be the case, it had deprived Raytheon and Machlett of what were at that time their most crucial rights to control and manage, it might have appeared prima facie a violation of article III, paragraph 2.

According to the Respondent, however, Raytheon and Machlett were, because of ELSI's financial position, already naked of those very rights of control and management of which they claimed to have been deprived. The Chamber had therefore to consider what effect, if any, the financial position of ELSI might have had in that respect, first as a practical matter, and then also as a question of Italian law.

The essence of the Applicant's claim had been throughout that Raytheon and Machlett, which controlled ELSI, were by the requisition deprived of the right, and of the practical possibility, of conducting an orderly liquidation of ELSI's assets, the plan for which liquidation was however very much bound up with the financial state of ELSI.

After noting that the orderly liquidation was an alternative of the aim of keeping the place going, and that it was hoped that the threat of closure might bring pressure to bear on the Italian authorities, and that the Italian authorities did not come to the rescue on terms acceptable to ELSI's management, the Chamber observed that the crucial question was whether Raytheon, on the eve of the requisition, and after the closure of the plant and the dismissal, on 29 March 1968, of the majority of the employees, was in a position to carry out its orderly liquidation plan, even apart from its alleged frustration by the requisition.

The successful implementation of a plan of orderly liquidation would have depended upon a number of factors not under the control of ELSI's management. Evidence had been produced by the Applicant that Raytheon was prepared to supply cash flow and other assistance necessary to effect the orderly liquidation, and the Chamber saw no reason to question that Raytheon had entered or was ready to enter into such a commitment; but other facts gave rise to some doubt.

After considering those other factors governing the matter — the preparedness of creditors to cooperate in an orderly liquidation, especially in case of inequality among them, the likelihood of the sale of the assets realizing enough to pay all creditors in full, the claims of the dismissed employees, the difficulty of obtaining the best price for assets sold with a minimum delay, in view of the trouble likely at the plant when the closure plans became known, and the attitude of the Sicilian administration — the Chamber concluded that all those factors pointed towards a conclusion that the feasibility at 31 March 1968 of a plan of orderly liquidation, an essential link in the chain of reasoning upon which the United States' claim rested, had not been sufficiently established.

Finally, there was, beside the practicalities, the position in Italian bankruptcy law. If ELSI was in a state of legal insolvency at 31 March 1968 and if, as contended by Italy, a state of insolvency entailed an obligation on the company to petition for its own bankruptcy, then the relevant rights of control and management would not have existed to be protected by the FCN Treaty. While not essential to the Chamber's conclusion stated above, an assessment of ELSI's solvency as a matter of Italian law was thus highly material.

After considering the decision of the Prefect and judgements of the courts of Palermo, the Chamber observed that whether their findings were to be regarded as determinations as a matter of Italian law that ELSI was insolvent on 31 March 1968, or as findings that the financial position of ELSI on that date was so desperate that it was past saving, made no difference; they reinforced the conclusion that the feasibility of an orderly liquidation was not sufficiently established.

If, therefore, the management of ELSI, at the material time, had no practical possibility of carrying out successfully a scheme of orderly liquidation under its own management, and might indeed already have forfeited any right to do so under Italian law, it could not be said that it was the requisition that deprived it of that faculty of control and management. There were several causes

acting together that had led to the disaster of ELSI, of which the effects of the requisition might no doubt have been one. The possibility of orderly liquidation was purely a matter of speculation. The Chamber was therefore unable to see here anything which could be said to amount to a violation by Italy of article III, paragraph 2, of the FCN Treaty.

B. *Article V, paragraphs 1 and 3, of FCN Treaty* (paras. 102-112)

The Applicant's claim under paragraphs 1 and 3 of article V of the FCN Treaty was concerned with protection and security of nationals and their property.

Paragraph 1 of article V provides for "the most constant protection and security" for nationals of each High Contracting Party, both "for their persons and property"; and also that, in relation to property, the term "nationals" shall be construed to "include corporations and associations"; and in defining the nature of the protection, the required standard is established by a reference to "the full protection and security required by international law". Paragraph 3 elaborated this notion of protection and security further, by requiring no less than the standard accorded to the nationals, corporations and associations of the other High Contracting Party; and not less than that accorded to the nationals, corporations and associations of any third country. It was, accordingly, considered that there were three different standards of protection, all of which had to be satisfied.

A breach of these provisions was seen by the Applicant to have been committed when the Respondent "allowed ELSI workers to occupy the plant". While noting the contention of Italy that the relevant "property", the plant in Palermo, belonged not to Raytheon and Machlett but to the Italian company ELSI, the Chamber examined the matter on the basis of the United States argument that the "property" to be protected was ELSI itself.

The reference in article V to the provision of "constant protection and security" could not be construed as the giving of a warranty that property should never in any circumstances be occupied or disturbed. In any event, considering that it was not established that any deterioration in the plant and machinery was attributable to the presence of the workers, and that the authorities were able not merely to protect the plant but even in some measure to continue production, the protection provided by the authorities could not be regarded as falling below "the full protection and security required by international law", or indeed as less than the national or third-State standards. The mere fact that the occupation was referred to by the Court of Appeal of Palermo as unlawful did not, in the Chamber's view, necessarily mean that the protection afforded fell short of the national standard to which the FCN Treaty refers. The essential question was whether the local law, either in its terms or its application, had treated United States nationals less well than Italian nationals. This, in the opinion of the Chamber, had not been shown. The Chamber, therefore, had to reject the charge of any violation of article V, paragraphs 1 and 3.

The Applicant saw a further breach of article V, paragraphs 1 and 3, of the FCN Treaty, in the time taken — 16 months — before the Prefect ruled on ELSI's administrative appeal against the Mayor's requisition order. For the reasons already explained in connection with article III, the Chamber rejected the contention that, had there been a speedy decision by the Prefect, the bankruptcy might have been avoided.

With regard to the alternative contention that Italy was obliged to protect ELSI from the deleterious effects of the requisition, *inter alia*, by providing an adequate method of overturning it, the Chamber observed that under article V the "full protection and security" should conform to the minimum international standard, supplemented by the criteria of national treatment and most-favoured-nation treatment. It was led to doubt whether in all the circumstances, the delay in the Prefect's ruling could be regarded as falling below the minimum international standard. As regards the contention of failure to accord a national standard of protection, the Chamber, though not entirely convinced by the Respondent's contention that such a lengthy delay as in ELSI's case was quite usual, was nevertheless not satisfied that a "national standard" of more rapid determination of administrative appeals had been shown to have existed. It was therefore unable to see in that delay a violation of paragraphs 1 and 3 of article V of the FCN Treaty.

C. *Article V, paragraph 2, of FCN Treaty* (paras. 113-119)

The first sentence of article V, paragraph 2, of the FCN Treaty provides as follows:

> "2. The property of nationals, corporations and associations of either High Contracting Party shall not be taken within the territories of the other High Contracting Party without due process of law and without the prompt payment of just and effective compensation."

The Chamber noted a difference in terminology between the two authentic texts (English and Italian): the word "taking" was wider and looser than "*espropriazione*".

In the contention of the United States, first, both the Respondent's act of requisitioning the ELSI plant and its subsequent acts in acquiring the plant, assets, and work-in-progress, singly and in combination, constituted takings of property without due process of law and just compensation. Secondly, the United States claimed that, by interference with the bankruptcy proceedings, the Respondent proceeded through the ELTEL Company to acquire the ELSI plant and assets for less than fair market value.

The Chamber observed that the charge based on the combination of the requisition and subsequent acts was really that the requisition was the beginning of a process that led to the acquisition of the bulk of the assets of ELSI for far less than market value. What was thus alleged by the Applicant, if not an overt expropriation, might be regarded as a disguised expropriation because, at the end of the process, it was indeed title to property itself that was at stake. The United States had, however, during the oral proceedings disavowed any allegation that the Italian authorities were parties to a conspiracy to bring about the change of ownership.

Assuming though without deciding that "*espropriazione*" might be wide enough to include a disguised expropriation account had further to be taken of the Protocol appended to the FCN Treaty, extending article V, paragraph 2, to "interests held directly or indirectly by nationals" of the Parties.

The Chamber found that it was not possible in that connection to ignore ELSI's financial situation and the consequent decision to close the plant and put an end to the company's activities. It could not regard any of the acts com-

plained of which occurred subsequently to the bankruptcy as breaches of article V, paragraph 2, in the absence of any evidence of collusion, which was no longer even alleged. Even if it were possible to see the requisition as having been designed to bring about bankruptcy as a step towards disguised expropriation, then, if ELSI was already under an obligation to file a petition of bankruptcy or in such a financial state that such a petition could not be long delayed, the requisition was an act of supererogation. Furthermore this requisition, independently of the motives which allegedly inspired it, being by its terms for a limited period, and liable to be overturned by administrative appeal, could not, in the Chamber's view, amount to a "taking" contrary to article V unless it constituted a significant deprivation of Raytheon and Machlett's interest in ELSI's plant; as might have been the case if, while ELSI remained solvent, the requisition had been extended and the hearing of the administrative appeal delayed. In fact the bankruptcy of ELSI transformed the situation less than a month after the requisition. The requisition could therefore only be regarded as significant for this purpose if it caused or triggered the bankruptcy. This was precisely the proposition, which was irreconcilable with the findings of the municipal courts, and with the Chamber's conclusions above.

D. *Article I of Supplementary Agreement to FCN Treaty* (paras. 120-130)

Article I of the Supplementary Agreement to the FCN Treaty, which confers rights not qualified by national or most-favoured-nation standards, provides as follows:

> "The nationals, corporations and associations of either High Contracting Party shall not be subjected to arbitrary or discriminatory measures within the territories of the other High Contracting Party resulting particularly in: (*a*) preventing their effective control and management of enterprises which they have been permitted to establish or acquired therein; or (*b*) impairing their other legally acquired rights and interests in such enterprises or in the investments which they have made, whether in the form of funds (loans, shares or otherwise), materials, equipment, services, processes, patents, techniques or otherwise. Each High Contracting Party undertakes not to discriminate against nationals, corporations and associations of the other High Contracting Party as to their obtaining under normal terms the capital, manufacturing processes, skills and technology which may be needed for economic development."

The answer to the Applicant's claim that the requisition was an arbitrary or discriminatory act which violated both the "(*a*)" and the "(*b*)" clauses of the article was the absence of a sufficiently palpable connection between the effects of the requisition and the failure of ELSI to carry out its planned orderly liquidation. However, the Chamber considered that the effect of the word "particularly", introducing the clauses "(*a*)" and "(*b*)", suggested that the prohibition of arbitrary (and discriminatory) acts was not confined to those resulting in the situations described in "(*a*)" and "(*b*)", but was in effect a prohibition of such acts whether or not they produced such results. It was necessary, therefore, to examine whether the requisition was, or was not, an arbitrary or discriminatory act of itself.

The United States claimed that there was "discrimination" in favour of IRI, an entity controlled by Italy; there was however, no sufficient evidence before the Chamber to support the suggestion that there was a plan to favour IRI at the expense of ELSI, and the claim of "discriminatory measures" in the sense of the Supplementary Agreement had therefore to be rejected.

In order to show that the requisition order was an "arbitrary" act in the sense of the Supplementary Agreement, the Applicant had relied (*inter alia*) upon the status of that order in Italian law. It contended that the requisition "was precisely the sort of arbitrary action which was prohibited" by article I of the Supplementary Agreement, in that "under both the Treaty and Italian law, the requisition was unreasonable and improperly motivated"; it was "found to be illegal under Italian domestic law for precisely this reason".

Though examining the decision of the Prefect of Palermo and the Court of Appeal of Palermo, the Chamber observed that the fact that an act of a public authority might have been unlawful in municipal law did not necessarily mean that that act was unlawful in international law. By itself, and without more, unlawfulness could not be said to amount to arbitrariness. The qualification given to an act by a municipal authority (e.g., as unjustified, or unreasonable or arbitrary) might be a valuable indication, but it did not follow that the act was necessarily to be classed as arbitrary in international law.

Neither the grounds given by the Prefect for annulling the requisition nor the analysis by the Court of Appeal of Palermo of the Prefect's decision as a finding that the Mayor's requisition was an excess of power with the result that the order was subject to a defect of lawfulness signified, in the Chamber's view, necessarily and in itself any view by the Prefect, or by the Court of Appeal of Palermo, that the Mayor's act was unreasonable or arbitrary. Arbitrariness was a wilful disregard of due process of law, an act which shocked or at least surprised a sense of juridical propriety. Nothing in the decision of the Prefect, or in the judgement of the Court of Appeal of Palermo, conveyed any indication that the requisition order of the Mayor was to be regarded in that light. Independently of the findings of the Prefect or of the local courts, the Chamber considered that it could not be said to have been unreasonable or merely capricious for the Mayor to seek to use his powers in an attempt to do something about the situation in Palermo at the moment of the requisition. The Mayor's order was consciously made in the context of an operating system of law and of appropriate remedies of appeal and treated as such by the superior administrative authority and the local courts. These were not at all the marks of an "arbitrary" act. Accordingly, there was no violation of article I of the Supplementary Agreement.

E. *Article VII of FCN Treaty* (paras. 131-135)

Article VII of the FCN Treaty, in four paragraphs, was principally concerned with ensuring the right "to acquire, own and dispose of immovable property or interests therein [in the Italian text, "*beni immobili o ... altri diritti reali*"] within the territories of the other High Contracting Party".

The Chamber noted the controversy between the Parties turning on the difference in meaning between the English "interests" and the Italian "*diritti reali*", and the problems arising out of the qualification by the Treaty of the group of rights conferred by this article, laying down alternative standards, and

subject to a proviso. The Chamber considered, however, that for the application of this article there remained precisely the same difficulty as in trying to apply article III, paragraph 2, of the FCN Treaty: what really deprived Raytheon and Machlett, as shareholders, of their right to dispose of ELSI's real property was not the requisition but the precarious financial state of ELSI, ultimately leading inescapably to bankruptcy. In bankruptcy the right to dispose of the property of a corporation no longer belonged even to the company, but to the trustee acting for it; and the Chamber had already decided that ELSI was on a course to bankruptcy even before the requisition. The Chamber therefore did not find that article VII of the FCN Treaty had been violated.

Having found that the Respondent had not violated the FCN Treaty in the manner asserted by the Applicant, it followed that the Chamber rejected also the claim for reparation made in the Submissions of the Applicant.

Operative clause (para. 137)

"THE CHAMBER

(1) Unanimously,

Rejects the objection presented by the Italian Republic to the admissibility of the Application filed in this case by the United States of America on 6 February 1987;

(2) By four votes to one,

Finds that the Italian Republic has not committed any of the breaches, alleged in said Application, of the Treaty of Friendship, Commerce and Navigation between the Parties signed at Rome on 2 February 1948, or of the Agreement Supplementing that Treaty signed by the Parties at Washington on 26 September 1951.

IN FAVOUR: *President* Ruda; *Judges* Oda, Ago and Sir Robert Jennings;

AGAINST: *Judge* Schwebel.

(3) By four votes to one,

Rejects, accordingly, the claim for reparation made against the Republic of Italy by the United States of America.

IN FAVOUR: *President* Ruda; *Judges* Oda, Ago and Sir Robert Jennings;

AGAINST: *Judge* Schwebel."

Judge Oda appended a separate opinion (*I.C.J. Reports 1989*, pp. 83-93) and Judge Schwebel a dissenting opinion (*I.C.J. Reports 1989*, pp. 94-121) to the judgment.

(*c*) Request for advisory opinion

*Applicability of article VI, section 22, of the Convention on the Privileges and Immunities of the United Nations**

Consideration by the General Assembly

In its resolution 44/43 of 7 December 1989,[209] adopted without reference to a Main Committee, the General Assembly reiterated once again its urgent call for full and immediate compliance with the Judgment of the International Court of Justice of 27 June 1986 in the case of "Military and Paramilitary Activities in and against Nicaragua", in conformity with the relevant provisions of the Charter of the United Nations.

6. INTERNATIONAL LAW COMMISSION[210]

Forty-first session of the Commission[211]

The International Law Commission held its forty-first session at Geneva from 2 May to 21 July 1989.

During the session, the Commission considered the Special Rapporteur's eighth report on the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier.[212] The Commission adopted the final text of a set of 32 draft articles on the topic, as well as a draft optional protocol on the status of the courier and the bag of special missions and a draft optional protocol on the status of the courier and the bag of international organizations of a universal character.

Regarding the topic "Draft code of crimes against the peace and security of mankind", the Commission had before it the seventh report of the Special Rapporteur[213] and at the end of the debate it was generally agreed that each crime in the draft code should be dealt with in a separate provision.

Owing to lack of time, the Commission was unable to consider the Special Rapporteur's second report[214] on the topic of "State responsibility" and deferred its consideration to the next session.

For the topic "International liability for injurious consequences arising out of acts not prohibited by international law", the Commission considered the Special Rapporteur's fifth report.[215]

Concerning "Jurisdictional immunities of States and their property", the Commission had before it the second report of the Special Rapporteur,[216] which it considered together with the preliminary report[217] for the purpose of conducting the second reading of the draft articles.

The Commission also considered the topic of "The law of the non-navigational uses of international watercourses" and had before it the fifth report of the Special Rapporteur.[218]

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*See chap. VII.

The Commission furthermore resumed its work on the topic "Relations between States and international organizations (second part of the topic)", and had before it the fourth report of the Special Rapporteur.[219]

Consideration by the General Assembly

At the forty-fourth session, the General Assembly had before it the report of the International Law Commission on the work of its forty-first session.[220] By its resolution 44/35 of 4 December 1989,[221] adopted on the recommendation of the Sixth Committee,[222] the Assembly took note of the report, and urged Governments and, as appropriate, international organizations to respond in writing as fully and expeditiously as possible to the requests of the International Law Commission for comments, observations and replies to questionnaires and for materials on topics in its programme of work.

The General Assembly also adopted resolutions on the draft Code of Crimes against the Peace and Security of Mankind[223] and on the draft articles on the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier and of the draft optional protocols thereto.[224]

7. UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW[225]

Twenty-second session of the Commission[226]

The United Nations Commission on International Trade Law (UNCITRAL) held its twenty-second session at Vienna from 16 May to 2 June 1989.

During the session, the Commission reviewed the draft Convention on the Liability of Operators of Transport Terminals in International Trade and recommended that the General Assembly should convene an international conference on plenipotentiaries to conclude the Convention.

Concerning guarantees and stand-by letters of credit, the Commission had before it the report of the Working Group on International Contract Practices on the work of its twelfth session,[227] wherein the Working Group's review of the International Chamber of Commerce draft Uniform Rules for Guarantees was set out. After deliberation, the Commission decided to begin work on a uniform law that would respond to an urgent need for uniform legislation in the field of guarantees and stand-by letters of credit.

On the subject of international counter-trade, the Commission had before it a report entitled "Draft outline of the possible content and structure of a legal guide on drawing up international counter-trade contracts".[228] After discussion, which included views as to whether the Commission should continue work in the area, the Commission requested the secretariat to prepare for the next session of the Commission draft chapters of such a legal guide.

The Commission also had before it a report of the Secretary-General on current activities of international organizations related to the harmonization and unification of international trade law.[229]

That report updated the information contained in an earlier report on the same subject submitted to the Commission at its nineteenth session.[230] The current report dealt with the contracts in general; commodities; industrialization; transnational corporations; transfer of technology; industrial and intellectual property law; international payments; international transport; international commercial arbitration; private international law; trade facilitation; and other topics of international trade law, congresses and publications.

The Commission considered the status of signatures, ratifications, accessions and approvals of conventions that were the outcome of its work: the Convention on the Limitation Period in the International Sale of Goods of 1974,[231] the Protocol amending the Limitation Convention of 1980,[232] the United Nations Convention on Contracts for the International Sale of Goods of 1980[233] and the United Nations Convention on the Carriage of Goods by Sea (Hamburg Rules) of 1978.[234] The Commission also considered the status of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958[235] which, although it had not emanated from the work of the Commission, was of particular interest to it with regard to its work in the field of international commercial arbitration. In addition, the Commission took note of the jurisdictions that had enacted legislation based on the UNCITRAL Model Law on International Commercial Arbitration. The Commission had before it a note by the secretariat on the status of those Conventions and of the Model Law as at 16 May 1989.[236]

Consideration by the General Assembly

At its forty-fourth session, in its resolution 44/33 of 4 December 1989,[237] adopted on the recommendation of the Sixth Committee,[238] the General Assembly took note of the report of UNCITRAL; reaffirmed the mandate of the Commission, as the core legal body within the United Nations system in the field of international trade law, to coordinate legal activities in this field in order to avoid duplication of effort and to promote efficiency, consistency and coherence in the unification and harmonization of international trade law and, in this connection, recommend that the Commission, through its secretariat, should continue to maintain close cooperation with the other international organs and organizations, including regional organizations, active in the field of international trade law; called upon the Commission to continue to take account of the relevant provisions of the resolutions concerning the new international economic order, as adopted by the General Assembly at its sixth[239] and seventh[240] special sessions; and decided that an international conference of plenipotentiaries would be convened at Vienna from 2 to 19 April 1991 to consider the draft convention prepared by the Commission and to embody the results of its work in a convention on the liability of operators of transport terminals in international trade.

8. LEGAL QUESTIONS DEALT WITH BY THE SIXTH COMMITTEE OF THE GENERAL ASSEMBLY AND BY AD HOC LEGAL BODIES[241]

(*a*) United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law

By its resolution 44/28 of 4 December 1989,[242] adopted on the recommendation of the Sixth Committee,[243] the General Assembly approved the recommendations of the Secretary-General contained in section III of his report on the implementation of the United Nations Programme of Assistance,[244] and requested the Secretary-General to report to the General Assembly at its forty-sixth session on the implementation of the Programme during 1990 and 1991 and, following consultations with the Advisory Committee on the United Nations Programme of Assistance, to submit recommendations regarding the execution of the Programme in subsequent years.

(*b*) 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.

By its resolution 44/29 of 4 December 1989,[245] adopted on the recommendation of the Sixth Committee,[246] the General Assembly, recalling the existing international conventions relating to various aspects of the problem of international terrorism, *inter alia*, the Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963,[247] the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970,[248] the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, concluded at Montreal on 23 September 1971,[249] the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted at New York on 14 December 1973,[250] the International Convention against the Taking of Hostages, adopted at New York on 14 December 1979,[251] the Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 3 March 1980,[252] the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 24 February 1988,[253] the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988,[254] and the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on 10 March 1988;[255] and taking note of the report of the Secretary-General,[256] once again unequivocally condemned, as criminal and unjustifiable, all acts, methods and practices of terrorism wherever and by whomever committed, including those which jeopardize friendly relations among States and their security. By the same resolution, the General Assembly welcomed the efforts undertaken by the International Civil Aviation Organization aimed at promoting uni-

versal acceptance of, and strict compliance with, international air-security conventions, and welcomed its recent adoption of the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation; also welcomed the adoption by the International Maritime Organization of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf; urged the International Civil Aviation Organization to intensify its work on devising an international regime for the marking of plastic or sheet explosives for the purposes of detection; and requested the other relevant specialized agencies and intergovernmental organizations, in particular the Universal Postal Union, the World Tourism Organization and the International Atomic Energy Agency, within their respective spheres of competence, to consider what further measures could usefully be taken to combat and eliminate terrorism.

(*c*) Progressive development of the principles and norms of international law relating to the new international economic order

By its resolution 44/30 of 4 December 1989,[257] adopted on the recommendation of the Sixth Committee,[258] the General Assembly, recalling the analytical study[259] submitted to the General Assembly at its thirty-ninth session by the United Nations Institute for Training and Research, noted with appreciation the views and comments submitted by Governments pursuant to Assembly resolutions 40/67, 41/73/ 42/149 and 43/162[260] and requested the Secretary-General:

(*a*) To continue to seek proposals of Member States concerning the most appropriate procedures to be adopted with regard to the consideration of the analytical study, as well as the codification and progressive development of the principles and norms of international law relating to the new international economic order;

(*b*) To include the proposals received in accordance with paragraph 2(*a*) of resolution 44/30 in a report to be submitted to the Assembly at its forty-sixth session;

(*c*) By the same resolution, the General Assembly recommended that the Sixth Committee should consider making a final decision at the forty-sixth session of the Assembly on the question of the appropriate forum within the framework of the Commission which would undertake the task of completing the elaboration of the process of codification and progressive development of the principles and norms of international law relating to the new international economic order, taking into account the proposals and suggestions which had been or would be submitted by Member States on the matter;

(*d*) Peaceful settlement of disputes between States

By its resolution 44/31 of 4 December 1989,[261] adopted on the recommendation of the Sixth Committee,[262] the General Assembly took note of the report of the Secretary-General,[263] submitted in accordance with its resolution 43/163 of 9 December 1988, which contained opinions, proposals and considerations for a broader implementation of the Manila Declaration on the Peaceful Settlement of International Disputes,[264] and once again urged States to observe and promote in good faith the provisions of the Manila Declaration.

(*e*) International Convention against the Recruitment, Use, Financing and Training of Mercenaries

By its resolution 44/34 of December 1989,[265] adopted on the recommendation of the Sixth Committee,[266] the General Assembly, recalling its resolution 35/48 of 4 December 1980, by which it had established the Ad Hoc Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries, and having considered the draft convention prepared by the Ad Hoc Committee in pursuance of the above-mentioned resolution[267] and finalized by the Working Group on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries,[268] which met during the forty-fourth session of the General Assembly, adopted and opened for signature and ratification or for accession the International Convention against the Recruitment, Use, Financing and Training of Mercenaries, which reads as follows:

ANNEX

International Convention against the Recruitment, Use, Financing and Training of Mercenaries

The States Parties to the present Convention,

Reaffirming the purposes and principles enshrined in the Charter of the United Nations and in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,[269]

Being aware of the recruitment, use, financing and training of mercenaries for activities which violate principles of international law, such as those of sovereign equality, political independence, territorial integrity of States and self-determination of peoples,

Affirming that the recruitment, use, financing and training of mercenaries should be considered as offences of grave concern to all States and that any person committing any of these offences should be either prosecuted or extradited,

Convinced of the necessity to develop and enhance international cooperation among States for the prevention, prosecution and punishment of such offences,

Expressing concern at new unlawful international activities linking drug traffickers and mercenaries in the perpetration of violent actions which undermine the constitutional order of States,

Also convinced that the adoption of a convention against the recruitment, use, financing and training of mercenaries would contribute to the eradication of these nefarious activities and thereby to the observance of the purposes and principles enshrined in the Charter,

Cognizant that matters not regulated by such a convention continue to be governed by the rules and principles of international law,

Have agreed as follows:

Article 1

For the purposes of the present Convention,

1. A mercenary is any person who:

(*a*) Is specially recruited locally or abroad in order to fight in an armed conflict;

(*b*) Is motivated to take part in the hostilities essentially by the desire for private gain, and in fact, is promised, by or on behalf of a party to the conflict, material compensation substantially in excess of that promised or paid to combatants of similar rank and functions in the armed forces of that party;

(*c*) Is neither a national of a party to the conflict nor a resident of territory controlled by a party to the conflict;

(*d*) Is not a member of the armed forces of a party to the conflict; and

(*e*) Has not been sent by a State which is not a party to the conflict on official duty as a member of its armed forces.

2. A mercenary is also any person who, in any other situation:

(*a*) Is specially recruited locally or abroad for the purpose of participating in a concerted act of violence aimed at:

(i) Overthrowing a Government or otherwise undermining the constitutional order of a State; or

(ii) Undermining the territorial integrity of a State;

(*b*) Is motivated to take part therein essentially by the desire for significant private gain and is prompted by the promise of payment of material compensation;

(*c*) Is neither a national nor a resident of the State against which such an act is directed;

(*d*) Has not been sent by a State on official duty;

(*e*) Is not a member of the armed forces of the State on whose territory the act is undertaken.

Article 2

Any person who recruits, uses, finances or trains mercenaries, as defined in article I of the present Convention, commits an offence for the purposes of the Convention.

Article 3

1. A mercenary, as defined in article I of the present Convention, who participates directly in hostilities or in a concerted act of violence, as the case may be, commits an offence for the purposes of the Convention.

2. Nothing in this article limits the scope of application of article 4 of the present Convention.

Article 4

An offence is committed by any person who:

(*a*) Attempts to commit one of the offences set forth in the present Convention;

(*b*) Is the accomplice of a person who commits or attempts to commit any of the offences set forth in the present Convention.

Article 5

1. States Parties shall not recruit, use, finance or train mercenaries and shall prohibit such activities in accordance with the provisions of the present Convention.

2. States Parties shall not recruit, use, finance or train mercenaries for the purpose of opposing the legitimate exercise of the inalienable right of peoples to self-determination, as recognized by international law, and shall take, in conformity with the international law, the appropriate measures to prevent the recruitment, use, financing or training of mercenaries for that purpose.

3. They shall make the offences set forth in the present Convention punishable by appropriate penalties which take into account the grave nature of those offences.

Article 6

States Parties shall cooperate in the prevention of the offences set forth in the present Convention, particularly by:

(*a*) Taking all practicable measures to prevent preparations in their respective territories for the commission of those offences within or outside their territories, including the prohibition of illegal activities of persons, groups and organizations that encourage, instigate, organize or engage in the perpetration of such offences;

(*b*) Coordinating the taking of administrative and other measures as appropriate to prevent the commission of those offences.

Article 7

States Parties shall cooperate in taking the necessary measures for the implementation of the present Convention.

Article 8

Any State Party having reason to believe that one of the offences set forth in the present Convention has been, is being or will be committed shall, in accordance with its national law, communicate the relevant information, as soon as it comes to its knowledge, directly or through the Secretary-General of the United Nations, to the States Parties affected.

Article 9

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over any of the offences set forth in the present Convention which are committed:

(*a*) In its territory or on board a ship or aircraft registered in that State;

(*b*) By any of its nationals or, if that State considers it appropriate, by those stateless persons who have their habitual residence in that territory.

2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the offences set forth in articles 2, 3 and 4 of the present Convention in cases where the alleged offender is present in its territory and it does not extradite him to any of the States mentioned in paragraph 1 of this article.

3. The present Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

Article 10

1. Upon being satisfied that the circumstances so warrant, any State Party in whose territory the alleged offender is present shall in accordance with its laws, take him into custody or take such other measures to ensure his presence for such time as is necessary to enable any criminal or extradition proceedings to be instituted. The State Party shall immediately make a preliminary inquiry into the facts.

2. When a State Party, pursuant to this article, has taken a person into custody or has taken such other measures referred to in paragraph 1 of this article, it shall notify without delay either directly or through the Secretary-General of the United Nations:

(*a*) The State Party where the offence was committed;

(*b*) The State Party against which the offence has been directed or attempted;

(*c*) The State Party of which the natural or juridical person against whom the offence has been directed or attempted is a national;

(*d*) The State Party of which the alleged offender is a national or, if he is a stateless person, in whose territory he has his habitual residence;

(*e*) Any other interested State Party which it considers it appropriate to notify.

3. Any person regarding whom the measures referred to in paragraph 1 of this article are being taken shall be entitled:

(*a*) To communicated without delay with the nearest appropriate representative of the State of which he is a national or which is otherwise entitled to protect his rights or, if he is a stateless person, the State in whose territory he has his habitual residence;

(*b*) To be visited by a representative of that State.

4. The provisions of paragraph 3 of this article shall be without prejudice to the right of any State Party having a claim to jurisdiction in accordance with article 9, paragraph 1(*b*), to invite the International Committee of the Red Cross to communicate with and visit the alleged offender.

5. The State which makes the preliminary inquiry contemplated in paragraph 1 of this article shall promptly report its findings to the States referred to in paragraph 2 of this article and indicate whether it intends to exercise jurisdiction.

Article 11

Any person regarding whom proceedings are being carried out in connection with any of the offences set forth in the present Convention shall be guaranteed at all stages of the proceedings provided for in the law of the State in question. Applicable norms of international law should be taken into account.

Article 12

The State Party in whose territory the alleged offender is found shall, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any other offence of a grave nature under the law of that State.

Article 13

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offences set forth in the present Convention, including the supply of all evidence at their disposal necessary for the proceedings. The law of the State whose assistance is requested shall apply in all cases.

2. The provisions of paragraph 1 of this article shall not affect obligations concerning mutual judicial assistance embodied in any other treaty.

Article 14

The State Party where the alleged offender is prosecuted shall in accordance with its laws communicate the final outcome of the proceedings to the Secretary-General of the United Nations, who shall transmit the information to the other States concerned.

Article 15

1. The offences set forth in articles 2, 3 and 4 of the present Convention shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.

2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may at its option consider the present Convention as the legal basis for extradition in respect of those offences. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognized those offences as extraditable offences between themselves, subject to the conditions provided by the law of the requested State.

4. The offences shall be treated, for the purpose of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territories of the States required to establish their jurisdiction in accordance with article 9 of the present Convention.

Article 16

The present Convention shall be applied without prejudice to:

(*a*) The rules relating to the international responsibility of States;

(*b*) The laws of armed conflict and international humanitarian law, including the provisions relating to the status of combatant or of prisoner of war.

Article 17

1. Any dispute between two or more States Parties concerning the interpretation or application of the present Convention which is not settled by negotiation shall, at the request of one of them be submitted to arbitration. If, within six months from the date of the request for arbitration, the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by a request in conformity with the Statute of the Court.

2. Each State may, at the time of signature or ratification of the present Convention or accession thereto, declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by paragraph 1 of this article with respect to any State Party which has made such a reservation.

3. Any State Party which has made a reservation in accordance with paragraph 2 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 18

1. The present Convention shall be open for signature by all States until 31 December 1990 at United Nations Headquarters in New York.

2. The present Convention shall be subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. The present Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 19

1. The present Convention shall enter into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.

2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article 20

1. Any State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations.

2. Denunciation shall take effect one year after the date on which the notification is received by the Secretary-General of the United Nations.

Article 21

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States.

In witness whereof the undersigned, being duly authorized thereto by their respective Governments, have signed the present Convention.

(*f*) Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

The Special Committee was convened in accordance with General Assembly resolution 43/170 of 9 December 1988 and met at United Nations Headquarters from 27 March to 14 April 1989.[270]

During the meeting, the Working Group considered the question of the maintenance of international peace and security and in that context discussed the two working papers on fact-finding.[271]

On the subject of the peaceful settlement of disputes between States, the Working Group considered the proposal contained in the working paper on the resort to a commission of good offices, mediation or conciliation within the United Nations.[272] Regarding the same subject, the Special Committee had before it for review the progress report of the Secretary-General on the draft handbook on the peaceful settlement of disputes between States.[273]

The Working Group also discussed the matter of the rationalization of existing United Nations procedures.

Consideration by the General Assembly

By its resolution 44/37 of 4 December 1989,[274] adopted on the recommendation of the Sixth Committee,[275] the General Assembly took note of the report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, and requested the Special Committee, at its next session from 12 February to 2 March 1990, to, *inter alia*, accord priority to the question of the maintenance of international peace and security in all its aspects in order to strengthen the role of the United Nations.

The General Assembly also adopted decision 44/415 of 4 December 1989,[276] adopted on the recommendation of the Sixth Committee,[277] in which it commended the Special Committee for the completion of its work on the draft document on resort to a commission of good offices, mediation or conciliation within the United Nations. The draft document read as follows:

ANNEX

Resort to a commission of good offices, mediation or conciliation within the United Nations

States parties to disputes may wish to avail themselves of the possibility to resort to third-party assistance in the form of a commission of good offices, mediation or conciliation in order to settle their disputes by peaceful means. In doing so, they may be guided by the following:

1. Resort to a commission of good offices, mediation or conciliation within the United Nations may be considered by States as a procedure at their disposal for the peaceful settlement of international disputes in accordance with the provisions of the Charter of the United Nations.

2. Such a commission may be established for each particular case, in accordance with modalities described below, through the agreement of the States parties to a dispute, or, with their agreement, on the basis of a recommendation of the Security Council, or of the General Assembly or following the contacts of the States parties to a dispute with the Secretary-General. Other modalities and conditions may also be agreed upon by the States parties to a dispute for the establishment of such a commission.

3. When the States parties to a dispute accept to resort to a commission of good offices, mediation or conciliation as described in paragraph 2 above, the designation of members of the commission is proceeded with.

4. For each particular case the commission of good offices, mediation or conciliation may be constituted of persons nominated by up to three States, which are not parties to the dispute concerned.

Such States will be designated by the States parties to the dispute or, with their agreement, as the case may be, by the President of the Security Council or by the President of the General Assembly or by the Secretary-General.

5. Each designated State will appoint, upon approval by the States parties to the dispute, a highly qualified person, with adequate experience, who will act in the commission in his individual capacity.

The chairman of the commission will be selected from among its members by the States parties to the dispute. They may also agree in a particular case that the chairman be appointed by the Secretary General.

6. The proceedings of the commission may take place at United Nations Headquarters in New York, or in any other place agreed upon by the States parties to the dispute.

7. After taking note of the elements of the respective dispute, on the basis of submissions made by the States parties and, as appropriate, of information provided by the Secretary-General, the commission in performing its good offices functions will seek to bring the parties to enter immediately into direct negotiations for the settlement of the dispute, or to resume such negotiations or to resort to another means of peaceful settlement.

If the States parties to the dispute so request, the commission will seek to establish the aspects on which the States parties agree, as well as their differences of opinion and perception, and to elucidate the elements related to the dispute with a view to making suggestions for the beginning or the resuming of negotiations, including their framework and stages, as well as the problems to solve.

8. If the States parties to the dispute request the commission, at any time, to mediate, the commission will offer to the parties proposals which it deems adequate for facilitating the negotiations and seeking through mediation to bring closer their positions until an agreement is reached.

9. The States parties to the dispute may agree at any moment of the procedure to entrust the commission with functions of conciliation. The States parties to the dispute determine the legal basis on which the commission should perform its functions. If such a basis is not determined, the commission should be guided mainly by the rights and duties of States resulting from the Charter and by the applicable principles of international law. In performing its functions the commission formulates the terms which it deems adequate for the amicable settlement of the dispute and submits them to the parties.

The States parties to the dispute will be requested to pronounce themselves on these terms within a period of time established by the commission, which may be prolonged if the States parties to the dispute deem it necessary.

10. A period of time during which the commission should discharge its mission may be established by the States parties to the dispute or, where appropriate, following their contacts with the Secretary-General.

11. The States parties to the dispute may wish that the commission work in confidentiality. As long as the commission continues its efforts, no statement will be made public on its activity without the agreement of the States parties to the dispute.

12. The States parties to the dispute may wish that, upon conclusion of the commission's activity, the commission prepare a report and communicate it to them. The States parties to the dispute will decide if the report is to be made public.

Where appropriate, the commission may submit a report to the United Nations organ concerned in the form accepted by the States parties to the dispute.

13. Unless otherwise provided, any expenses of the commission shall be borne by the States parties to the dispute. They may request the Secretary-General to provide the commission with reasonable assistance and facilities as it may require.

14. The States parties to the dispute, as well as other States, shall act in accordance with the purposes and principles of the Charter and shall refrain from any action whatsoever which may aggravate the situation, endanger the maintenance of international peace and security or make more difficult or impede the peaceful settlement of the dispute.

15. Nothing in the present document shall be construed as prejudicing in any manner the provisions of the Charter, in particular those relating to the peaceful settlement of disputes.

(*g*) Report of the Committee on Relations with the Host Country

In accordance with General Assembly resolution 43/172 of 9 December 1988, the Committee on Relations with the Host Country continued its work, in conformity with General Assembly resolution 2819 (XXXVI) of 15 December 1971.[278] During the period under review, the Committee held five meetings, wherein a number of issues were discussed, including host country travel requests; immigration and custom procedures at United States airports; exemption from taxes; the possibility of establishing a commissary at United Nations Headquarters to assist diplomatic personnel and staff; and use of motor vehicles and parking by diplomatic personnel.

Consideration by the General Assembly

By its resolution 44/38 of 4 December 1989,[279] adopted on the recommendation of the Sixth Committee,[280] the General Assembly endorsed the recommendations and conclusions of the Committee on Relations with the Host Country, and expressed its appreciation for the efforts made by the host country and hoped that outstanding problems raised at the meetings of the Committee would be duly settled in a spirit of cooperation and in accordance with international law.

(*h*) International criminal responsibility of individuals and entities engaged in illicit trafficking in narcotic drugs across national frontiers and other transnational criminal activities: establishment of an international criminal court with jurisdiction over such crimes[281]

By its resolution 44/39 of 4 December 1989,[282] adopted on the recommendation of the Sixth Committee,[283] the General Assembly, mindful of the adoption on 19 December 1988 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, which recognized illicit trafficking in narcotic drugs as an international criminal activity, requested the International Law Commission, when considering at its forty-second session the item entitled "Draft code of crimes against the peace and security of mankind", to address the question of establishing an international criminal court or other international criminal trial mechanism with jurisdiction over persons alleged to have committed crimes which might be covered under such a code, including persons engaged in illicit trafficking in narcotic drugs across national frontiers, and to devote particular attention to the question in its report on the session; and decided to consider the question of establishing an international criminal court or other international criminal trial mechanism at its forty-fifth session when examining the report of the International Law Commission.

9. UNITED NATIONS DECADE OF INTERNATIONAL LAW

The General Assembly, by its resolution 44/23 of 17 November 1989,[284] adopted without reference to a Main Committee, declared the period 1990-1999 as the United Nations Decade of International Law, and considered that the main purposes of the Decade should be, *inter alia*:

(*a*) To promote acceptance of and respect for the principles of international law;

(*b*) To promote means and methods for the peaceful settlement of disputes between States, including resort to and full respect for the International Court of Justice;

(*c*) To encourage the progressive development of international law and its codification;

(*d*) To encourage the teaching, study, dissemination and wider appreciation of international law.

10. RESPECT FOR THE PRIVILEGES AND IMMUNITIES OF OFFICIALS OF THE UNITED NATIONS AND THE SPECIALIZED AGENCIES AND RELATED ORGANIZATIONS

By its resolution 44/186 of 19 December 1989,[285] adopted on the recommendation of the Fifth Committee,[286] the General Assembly, recalling Articles 100 and 105 of the Charter of the United Nations, recalling the Convention on the Privileges and Immunities of the United Nations,[287] the Convention on the Privileges and Immunities of the Specialized Agencies,[288] the Agreement on the Privileges and Immunities of the International Atomic Energy Agency[289] and the United Nations Development Programme Standard Basic Assistance Agreements; recalling also its resolution 76 (I) of 7 December 1946, in which it approved the granting of the privileges and immunities referred to in articles V and VII of the Convention on the Privileges and Immunities of the United Nations to all members of the staff of the United Nations; recalling further its resolution 43/173 of 9 December 1988, the annex to which contained the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, including the principle that all persons under arrest or detention shall be provided whenever necessary with medical care and treatment; reiterating the obligation of all officials of the Organization in the conduct of their duties to observe fully both the laws and regulations of Member States and their duties and responsibilities to the Organization; mindful of the responsibilities of the Secretary-General to safeguard the functional immunity of all United Nations officials; mindful also of the importance in that respect of the provision by Member States of adequate and timely information concerning the arrest and detention of staff members and, more particularly, their granting of access to them; bearing in mind the considerations of the Secretary-General to guarantee minimum standards of justice and due process to United Nations officials; reaffirming its previous resolutions, in particular resolutions 42/219 of 21 December 1987 and 43/225 of 21 December 1988; took note with grave concern of the report submitted by the Secretary-General,[290] on behalf of the Administrative

Committee on Coordination, and of the developments indicated therein, in particular the reported case of abduction and killing, as well as the once again very high number of new cases of arrest and detention and the very negative developments in respect of various previously reported cases under that category; deplored the increase in the number of cases in which the safety, functioning and well-being of officials had been placed in jeopardy; and also deplored the substantially increased number of cases of arrest or detention of officials for which the organizations of the United Nations system had not been able fully to exercise their rights during the reporting period.

By the same resolution, the General Assembly called upon all Member States scrupulously to respect the privileges and immunities of all officials of the United Nations and the specialized agencies and related organizations and to refrain from any acts that would impede such officials in the performance of their functions, thereby seriously affecting the proper functioning of the organizations; urged those Member States holding under arrest or detention officials of the United Nations and the specialized agencies and related organizations to enable the Secretary-General or the executive head of the organization concerned fully to exercise the right of functional protection inherent in the relevant multilateral conventions and bilateral agreements, particularly with respect to immediate access to detained staff members; also called upon the staff of the United Nations and the specialized agencies and related organizations to comply fully with the provisions of Article 100 of the Charter of the United Nations and with the obligations resulting from the Staff Regulations and Rules of the United Nations, in particular regulation 1.8, and from the equivalent provisions governing the staff of the other agencies; noted with concern the restrictions on duty travel of officials as indicated in the report of the Secretary-General; took note with concern of the information in the report of the Secretary-General[291] related to taxation on salaries and emoluments as well as the status, privileges and immunities of officials; called upon the Secretary-General, as chief administrative officer of the United Nations, to continue personally to act as the focal point in promoting and ensuring the observance of the privileges and immunities of officials of the United Nations and the specialized agencies and related organizations by using all such means as were available to him; and requested the Secretary-General, as Chairman of the Administrative Committee on Coordination, to review and appraise the measures already taken to enhance the proper functioning, safety and protection of international civil servants.

B. General Review of the legal activities of intergovernmental organizations related to the United Nations

1. INTERNATIONAL LABOUR ORGANIZATION

1. The International Labour Conference, which held its 76th session at Geneva in June 1989, adopted a Convention concerning indigenous and tribal peoples in independent countries.[292]

2. The Committee of Experts on the Application of Conventions and Recommendations met at Geneva from 9 to 22 March 1989 and presented its report. [293]

3. The Governing Body Committee on Freedom of Association met at Geneva and adopted reports Nos. 262,[294] 263[294] and 264[294] (242nd session of the Governing Body, February-March 1989); reports Nos. 265,[295] 266[295] and 267[295] (243rd session of the Governing Body, May-June 1989); and reports Nos. 268[296] and 269[296] (244th session of the Governing Body, November 1989).

4. Reference should also be made to the exchange of letters dated 21 December 1989 between the Director-General of the International Labour Office and the President of the Commission of the European Communities[297] concerning arrangements for cooperation between the International Labour Organization and the European Communities under the Agreement concerning liaison between the International Labour Organization and the European Economic Community concluded on 7 July 1958.[298]

2. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

(*a*) Constitutional and general legal matters

At the secretariat level, the legal activities of FAO are now coordinated by a single legal office directed by the Legal Counsel and consisting of the General Legal Affairs Service and the Development Law Service.

(*i*) *Regional representation on the Programme and Finance Committees*

Whereas Conference resolution 11/87 on the procedure for the election of the chairman and the members of the Programme and Finance Committees called for equitable regional representation on the said committees, practice showed that it was not always achieved.[299] As requested by the Council during its ninety-fourth session, the Committee on Constitutional and Legal Matters (CCLM) explored different possibilities with a view to bringing the practice in line with Conference resolution 11/87.

The first option considered by the CCLM consisted in expanding the criteria already set fourth in the resolution by adding the need for substantial representation of regions that were priority areas for development assistance. The second option provided for a pre-election and nomination procedure to reach regional understandings among and within regions. A third option consisted in introducing a formal procedure for reaching regional understanding.

These three possibilities and the views of the Director-General thereon were examined during the ninety-fifth session of the Council. Both the Council and the Conference, at its twenty-fifth session, agreed that it would be preferable to maintain the flexibility inherent in the system in place and not to introduce any modification thereto. However, they called for respect of the criteria set forth in resolution 11/87.

(*ii*) *Draft agreement between FAO and UNIDO*

In its ninety-fifth session the Council decided to enter into a formal relationship agreement between FAO and UNIDO to ensure proper coordination in fields of activity which they share. This agreement was confirmed by the Conference in its twenty-fifth session.

(*iii*) *Declaration of Environmental Policies and Procedures related to Economic Development*

CCLM concluded that FAO's signature of the Declaration of Environmental Policies and Procedures related to Economic Development of 1 February 1980 and its participation in the inter-secretariat body set up under its aegis (Committee of International Development Institutions on the Environment (CIDIE)) would be consistent with the Basic Texts of the Organization and the mandate of FAO in the field of environment. At its ninety-fifth session, the Council agreed to the signature of the Declaration and to the participation of FAO in CIDIE.

(*iv*) *Immunity of the Organization from legal process in Italy*

At its ninety-fifth session, the Council was informed that two lawsuits against FAO were pending before the Italian courts: one brought by a former staff member seeking a ruling that Italian courts should apply Italian labour legislation to her employment relationship with FAO and the other brought by the liquidators of a firm that had formerly provided removal services of the Organization.

At its ninety-sixth session, the Council was informed that a Presidential Decree had been promulgated giving the Italian Avvocatura Generale dello Stato the necessary authority to defend the Organization's immunity in court. The Council was also informed that a first informal meeting had been held with the Italian Ministry of Foreign Affairs in September 1989 with the view to concluding an agreement on the interpretation of the provisions in the Headquarters Agreement on the immunity of the Organization.

(v) *Status of the European Economic Community with respect to FAO*

The Government of Spain, in its capacity as member State currently holding the Presidency of the Council of the European Communities and on behalf of the States members of the European Economic Community (EEC) which were also member nations of FAO, requested in a communication sent to the Director-General that the question of devising for EEC a status of member commensurate with its powers be placed on the agenda of the ninety-fifth session of the Council.

The Council noted that, since 1962, EEC had enjoyed observer status with FAO. The Council also took note of the statement included in the aforementioned communication to the effect that currently neither the member States nor EEC could participate fully in the work of FAO in the field of activity where member States had transferred authority to EEC.

The Council was informed that since under the FAO Constitution membership was reserved to States EEC could not apply for membership unless the Constitution and other Basic Texts had been amended appropriately.

Considering the complexity of the topic and the wide range of opinions expressed thereon by member nations, the Council invited the Director-General to explore the options for a form of membership of FAO for regional economic integration organizations to which member States had transferred competence in some

field of activity of FAO, along with the full constitutional, legal, financial and other implications for the Organization of such options. The Director-General was also invited to keep the Finance Committee and CCLM fully informed of progress and to report thereon to the Council at its ninety-eighth session.

(*vi*) *European Commission for the Control of Foot-and-Mouth Disease: amendment to the Commission's Constitution*

The European Commission for the Control of Foot-and-Mouth Disease adopted an amendment to paragraph 1 of article I of its Constitution which would enlarge the eligibility for membership to all States members of the FAO European Regional Conference and serviced by the FAO European Regional Office.

Article XIV of the FAO Constitution subjects the entry into force of such amendments to the concurrence of the Council, which was given by the Council at its ninety-sixth session in 1989.[300]

(*vii*) *Agreements based on the standard "Memorandum of Responsibilities" in respect of FAO sessions*

Agreements concerning specific sessions held outside FAO headquarters, containing provisions on privileges and immunities of FAO and participants similar to the standard text,[301] were concluded in 1989 with the Governments of the following countries acting as hosts to such Sessions: Argentina, Austria, Brazil, Bulgaria, Burundi, China, Colombia, Costa Rica, Côte d'Ivoire, Cyprus, Czechoslovakia, Ecuador, Egypt, Ethiopia, Finland, France, Ghana, Greece, Guatemala, India, Indonesia, Israel, Italy, Jordan, Kenya, Libya, Morocco, Philippines, Poland, Portugal, Qatar, Republic of Korea, Seychelles, Spain, Sri Lanka, Switzerland, Thailand, Trinidad and Tobago, Tunisia, Turkey, United Republic of Tanzania, United States of America, Uruguay, Venezuela and Zimbabwe.

(*viii*) *Agreements based on the standard "Memorandum of Responsibilities" in respect of seminars, workshops, training courses or related study tours*

Agreements concerning specific training activities, containing provisions on privileges and immunities of FAO and participants similar to the standard text, were concluded in 1989 with the Governments of the following countries acting as hosts to such training activities: Austria, Burkina Faso, Cameroon, Costa Rica, Denmark, Dominican Republic, Ghana, Guyana, Malawi, Mexico,[301] Niger, Peru, Swaziland, Thailand, United Republic of Tanzania, Venezuela and Zimbabwe.

(*ix*) *Convention on Early Notification of a Nuclear Accident and Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency*[302]

At its ninety-sixth session, the Council took note of the opinion of CCLM that the above Conventions were covered by the constitutional mandate of FAO and fell within its competence and that the accession of FAO would be a symbolic act confirming FAO's readiness to cooperate actively with States and other

organizations in taking measures within its field of competence in the case of nuclear accidents. The Council noted that there was no intention to duplicate efforts of other organizations, but that accession would signify the willingness of FAO to become part of the overall information system set up by these Conventions. Following the procedure indicated as appropriate by CCLM, the Council approved FAO's accession to the said Conventions and transmitted them to the Conference with a view to obtaining its authorization for FAO to become a party thereto. Such authorization was granted by the Conference at its twenty-fifth session.

(*x*) *Plant protection conventions*

a. International Plant Protection Convention

At its twenty-fifth session, the Conference noted that 15 acceptances were still necessary in order to bring the revised text of the International Plant Protection Convention into force. The revised text of the Convention incorporated amendments adopted by the Conference in resolution 14/79. The Conference reiterated its appeal to the Contracting Parties to accept the revised text.

b. Plant Protection Agreement for the Asia and Pacific Region

At the same session, the Conference urged the Contracting Parties to accept the amendments relating to the definition of the region approved by the Council in November 1983 (resolution 1/84), in order to bring those amendments into force as soon as possible.

(*b*) Activities of legal interest relating to commodities

(*i*) *Hard fibres*

The Intergovernmental Group on Hard Fibres held its twenty-third session in October 1989. It agreed to revise upwards the indicative price for sisal fibre upon recommendation by the Subgroup of Sisal and Henequen Producing Countries. It recommended that the quota system should be maintained in principle, although the global and national quotas should remain suspended. The Group also agreed, with the exception of two consuming countries, to raise the indicative price for sisal baler twines. For abaca, the Group recommended to raise the indicative price for the composite of three major brands of Philippine fibre. It decided, however, that the mechanism triggering automatic consultations between producers and consumers when the indicator price was approaching either limit of the range should remain suspended.

(*ii*) Jute, kenaf and allied fibres

a. Informal price arrangements for jute and kenaf

The informal price arrangements operated under the auspices of the FAO Intergovernmental Group on Jute, Kenaf and Allied Fibres were maintained in 1989. At its twenty-fifth session in 1989, the Group agreed to revise upwards the indicative prices for Bangladesh jute and Thai kenaf.

b. Support to activities of the International Jute Organization (IJO)

FAO continued to provide support to the activities of the International Jute Organization through:

(i) Technical assistance in developing and implementing its projects on jute agriculture and primary processing;

(ii) Supply of statistical and economic information on jute and its competing synthetic materials;

(iii) Regular participation in the work of the biannual sessions of its Council and Committee on Projects.

(*c*) Activities of legal interest relating to plant protection

Draft resolution 4/89 on the "Agreed interpretation of the International Undertaking on Plant Genetic Resources" and draft resolution 5/89 on "Farmers' Rights" were negotiated by the Commission on Plant Genetic Resources and endorsed by the FAO Conference at its twenty-fifth session in November 1989.

During 1989, discussions were held on the further development of Farmers' Rights and the appropriate financial mechanisms to implement them.

Pursuant to the request formulated by the Commission at its third session, FAO undertook a feasibility study for an *in situ* network of protected areas under FAO auspices and the development of a code of conduct for international collectors of germplasm. A code of conduct for biotechnology as it affected conservation and use of plant genetic resources was also being developed.

Many of the documents prepared for the sessions of the Commission on Plant Genetic Resources and its Working Group included considerations on the protection of genetic resources, biodiversity and biotechnology.

One of the main areas of activity on plant protection concerned the implementation on the part of Member States of various provisions of the International Code of Conduct on the Distribution and use of Pesticides. Specifically, advice and assistance was given to a number of national Governments on the establishment or strengthening of national legislative procedures designed to facilitate enforcement of regulations on the introduction, use and control of agrochemicals.

3. UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

(*a*) Constitutional and procedural questions

(*i*) *Amendments to the Constitution*

At its 25th session the General Conference decided:

— To amend article VI.2 of the Constitution to read as follows:

"The Director-General shall be nominated by the Executive Board and appointed by the General Conference for a period of six years, under such conditions as the Conference may approve. The Direc-

tor-General may be appointed for a further term of six years but shall not be eligible for reappointment for a subsequent term. The Director-General shall be the chief administrative officer of the Organization."[303]

— To replace the text of article IX.3 of the Constitution by the following:

"The Director-General may accept voluntary contributions, gifts, bequests and subventions directly from governments, public and private institutions, associations and private persons subject to the conditions specified in the Financial Regulations."[304]

(*ii*) *Membership of the Organization*

At its second plenary meeting, on 17 October 1989, the General Conference decided to admit the Cook Islands and Kiribati as member States.

Under the terms of articles II and XV of the UNESCO Constitution, the Cook Islands became a member of the Organization on 25 October 1989 and Kiribati on 24 October 1989.

(*b*) International regulations

(*i*) *Instruments adopted by the General Conference of UNESCO*

— Convention on Technical and Vocational Education, adopted by the General Conference of UNESCO at its twenty-fifth session, on 10 November 1989.[305]

In accordance with the terms of its article 10 this Convention enters into force three months after the third instrument of ratification, acceptance, accession or approval has been deposited, but solely with respect to the States that have deposited their respective instruments by that date. It will enter into force for each other State three months after that State has become a party to it.

— Recommendation on the safeguarding of Traditional Culture and folklore, adopted by the General Conference at its twenty-fifth session, on 15 November 1989.[305]

Considering that folklore forms part of the universal heritage of humanity, the General Conference adopted the Recommendation at its twenty-fifth session.

The Recommendation defines and identifies folklore and makes suggestions for its conservation, preservation and dissemination through the establishment of national archives and museums, the development of educational programmes, and through publication and international cooperation.

The General Conference suggests that member States bring this Recommendation to the attention of both authorities responsible for the safeguarding of folklore and various institutions and organizations concerned with folklore. The General Conference also encourages contact with appropriate international organizations dealing with the

protection of folklore. The General Conference invites member States to report on the actions they have taken to put the Recommendation into effect.

(*ii*) *Proposals concerning the preparation of new instruments*

The General Conference, having examined the question of the desirability of adopting an international convention on the recognition of studies, degrees and diplomas in higher education, decided that the recognition of studies, degrees and diplomas be regulated at the international level and that the method adopted should be an international convention. The General Conference invited the Director-General to follow the procedure set out in article 10 of the Rules of Procedure concerning Recommendations to member States and International Conventions, so that a final draft of a convention might be submitted to it at its twenty-sixth session (1991).

(*c*) Reports by member States

At its 25th session, the General Conference noted the synthesis of national reports on measures taken by member States to apply the Recommendation concerning Education for International Understanding, Cooperation and Peace and Education relating to Human Rights and Fundamental Freedoms (1974), and called upon all member States to play an active part in the preparation of their national reports within the Permanent System of Reporting.

At the same session, the General Conference noted also the fourth report of the Joint ILO/UNESCO Committee of Experts on the Application of the 1966 Recommendation concerning the Status of Teachers and the observations of the Executive Board thereon (25 C/29 Addendum) and invited the Director-General to bring the report of the Joint Committee, together with the observations of the Executive Board, to the attention of member States and their National Commissions, international teachers organizations and other organizations having relations with UNESCO, and of the United Nations.

The General Conference took note of the report of the Committee on Conventions and Recommendations of the Executive Board regarding the follow-up to the first consultation on the implementation of the Revised Recommendation concerning Technical and Vocational Education (25 C/28).

(*d*) Human rights

Examination of cases and questions concerning the exercise of human rights coming within UNESCO's fields of competence

The Committee on Conventions and Recommendations met in private session at UNESCO headquarters from 9 to 12 May 1989 (spring session) and from 21 to 26 September 1989 (fall session), in order to examine communications which had been transmitted to it in accordance with decision 104 EX/3.3 of the Executive Board.

At its spring session, the Committee examined 30 communications, of which 21 were examined with a view toward their admissibility and 9 were examined on their substance. Of the 21 communications examined as to admissibility, 2

were declared admissible, 1 was declared irreceivable and 8 were struck from the list since they were considered as having been settled. The examination of 19 communications was suspended. The Committee presented its report to the Executive Board at its 131st session.

At its fall session, the Committee had before it 32 communications, of which 22 were examined as to their admissibility and 10 were examined on their substance. Of the 22 communications examined as to their admissibility, one was declared admissible, one was declared irreceivable and 4 were struck from the list since they were considered as having been settled. The examination of 26 communications was suspended. The Committee presented its report on its examination of these communications to the Executive Board at its 132nd session.

(*e*) Copyright and neighbouring rights

Draft Recommendations to member States on the Safeguarding of Works in the Public Domain

Pursuant to resolution 15.2 adopted by the General Conference at its twenty-fourth session, a Special Committee of Governmental experts met at UNESCO headquarters in Paris from 3 to 7 April 1989 to formulate recommendations to member States concerning the safeguarding of works in the public domain. The report of the Special Committee was unanimously adopted (document 25 C/32, annex 2) as were its recommendations concerning the safeguarding of works in the public domain (document 25 C/32, annex 1). These recommendations are aimed at both defining what are works in the public domain and establishing measures to protect these works. These measures include guidelines for steps member States should take as well as suggestions for international cooperation.

These draft recommendations were submitted for approval and adoption by the General Conference pursuant to article IV, paragraph 4, of the Constitution (document 25 C/32).

Conference on Piracy

Participants at the Conference on Piracy, which met at UNESCO headquarters in Paris (18-21 September 1989), requested the intervention of public powers and professional organizations in global action as new technologies facilitate the unauthorized reproduction and public dissemination of intellectual property, and throw out of balance the equilibrium between access to information and culture and protection for the creators of intellectual property. The conference participants advocated adherence to international conventions and the obligations stemming from them as well as the establishment of national legislation and legal and administrative infrastructures to inform the public about copyright and to fight against piracy.

Recommendation on the Safeguarding of Traditional Culture and Folklore

Considering that folklore forms part of the universal heritage of humanity, the General Conference of UNESCO adopted the Recommendation at its twenty-fifth session.[307]

4. INTERNATIONAL CIVIL AVIATION ORGANIZATION

(*a*) Work programme of the Legal Committee of ICAO

During the 27th session of the Assembly, the Legal Commission had for its consideration the general work programme of the Legal Committee as approved by the Council on 29 June 1988 and amended by the Council on 6 March and 29 June 1989.

The Commission noted that on 29 June 1989 the Council had decided to include in the general work programme of the Legal Committee with the highest and overriding priority the subject "Preparation of a new legal instrument regarding the marking of explosives for detectability".

As a result of its deliberations, the Commission agreed that the general work programme of the Legal Committee should include the items listed below in their order of priority:

(i) Preparation of a new legal instrument regarding the marking of explosives for detectability;

(ii) Action to expedite ratification of Montreal Protocols Nos. 3 and 4 of the Warsaw System;[308]

(iii) Legal aspects of global air-ground communications;

(iv) Institutional and legal aspects of future air navigation systems;

(v) United Nations Convention on the Law of the Sea[309] — implications, if any, for the application of the Chicago Convention,[310] its annexes and other international air law instruments;

(vi) Liability of air traffic control agencies;

(vii) Study of the instruments of the Warsaw System.

The Assembly adopted the recommendations and decisions made by the Legal Commission regarding the general work programme of the Legal Committee and adopted resolution A27-8, which in its two resolving clauses:

— *Strongly endorsed* the decision of the Council to include in the general work programme of the Legal Committee, with the highest and overriding priority, the preparation of a new international instrument regarding the marking of plastic or sheet explosives for detection;

— *Called upon* the Council to convene a meeting of the Legal Committee, if possible in the first half of 1990, to prepare a draft international instrument for this purpose, with a view to its adoption at a diplomatic conference as soon as practicable thereafter in accordance with the ICAO procedures set out in Assembly resolution A7-6.

As a consequence of the Council's decision, a Rapporteur was appointed by the Chairman of the Legal Committee to prepare a report concerning the new legal instrument regarding the marking of explosives for detectability.

During its 128th session, in November 1989, the Council approved the general work programme of the Legal Committee and decided to convene a session of the special Subcommittee of the Legal Committee at Montreal from 9 to 19 January 1990 and the 27th session of the Legal Committee from 27 March to 12 April 1990. To implement those decisions, the Chairman of the Legal

Committee established the special Subcommittee with the following terms of reference: "To study, in the light of the Council decision of 29 June 1989 and Assembly resolution A27-8, as well as in the light of the Rapporteur's report, the subject of a draft instrument relating to the marking of explosives for detectability, and to prepare a draft instrument for further consideration by the 27th session of the Legal Committee."

The Assembly reconfirmed the decision of its 23rd session that only problems of sufficient magnitude and practical importance requiring urgent international action should be included in the work programme in the legal field.

The Assembly decided that the Secretary General should continue to monitor the work of the United Nations Committee on the Peaceful Uses of Outer Space and should bring to the attention of the Council appropriate subjects requiring study by the Legal Committee without duplicating the work of the Outer Space Committee.

(*b*) Other resolutions adopted by the 27th session of the ICAO Assembly which are of legal significance

(*i*) *Resolution A27-1. Ratification of the Protocol incorporating article 3 bis into the Chicago Convention*

This resolution appeals urgently to all Contracting States which have not yet done so to ratify, as soon as possible, the Protocol incorporating article 3 *bis* into the Chicago Convention.

(*ii*) *Resolution A27-2. Amendment to article 56 of the Convention on International Civil Aviation*[310]

By this resolution, the Assembly adopted at Montreal on 6 October 1989 the Protocol relating to an amendment to article 56 of the Convention on International Civil Aviation. The Protocol, which increases the membership of the Air Navigation Commission of ICAO from 15 to 19, shall come into force in respect of the States which have ratified it on the date on which the 108th instrument of ratification is deposited.

(*iii*) *Resolution A27-3. Ratification of ICAO international instruments*

This resolution notes with concern the continuing slow progress of ratification of the Protocols of Amendment to the Chicago Convention (in particular those introducing articles 3 *bis* and 83 *bis* as well as the new Final Clause) and urges Contracting States which have not yet done so to ratify those and other air law instruments developed and adopted under the auspices of the Organization, in particular Montreal Protocols Nos. 3 and 4 of 1975, as soon as possible.

The Assembly also directs the Secretary-General to take all practical measures within the Organization's means in cooperation with States to provide assistance, if requested, to States encountering difficulties in the process of ratification and implementation of the air law instruments, including the organization of and the participation in workshops and seminars to further the process of ratification of the international air law instruments.

(*iv*) *Resolution A27-4. Registration of aeronautical agreements and arrangements with ICAO*

All Contracting States are reminded of the importance of registration of cooperative agreements and arrangements relating to international civil aviation with ICAO in accordance with articles 81 and 83 of the Convention on International Civil Aviation and the Rules of Registration with ICAO of Aeronautical Agreements and Arrangements (document 6685). The Secretary-General is directed to remind States of the importance of registration without undue delay of such agreements and arrangements and to provide assistance to States encountering difficulties in registering their aeronautical agreements and arrangements with the Council of ICAO.

(*v*) *Resolution A27-7. Consolidated statement of continuing ICAO policies related to the safeguarding of international civil aviation against acts of unlawful interference*

The purpose of this resolution, which supersedes resolution A26-7, is to facilitate the implementation of all relevant Assembly resolutions on aviation security by making their texts more readily available, understandable and logically organized, and to ensure that such a consolidated statement remains up to date and reflects the policies of the Organization as they exist at the end of each regular Assembly session.

(*vi*) *Resolution A27-9. Acts of unlawful interference aimed at the destruction of civil aircraft in flight*

Member States are urged by this resolution to intensify their efforts to implement fully the Standards, Recommended Practices and Procedures related to aviation security developed by ICAO and to take any appropriate additional security measures whenever an increase in the level of threat so requires. In addition, they are urgently requested to accelerate studies and research related to security equipment and to the detection of explosives, with a view to their widespread application as soon as practicable, and to take an active part in the development of an international regime for the marking of explosives for detectability.

(*vii*) *Resolution A27-12. Role of ICAO in the suppression of illicit transport of narcotic drugs by air*

This resolution urges the Council of ICAO to elaborate with a high degree of priority concrete measures in order to prevent and to eliminate the possible use of illicit drugs and abuse of other drugs and substances by crew members, air traffic controllers, mechanics and other staff of international civil aviation, and to continue its work in order to prevent the illicit transport of narcotic drugs and other substances.

Further, Contracting States are called upon to continue their efforts to prevent the illicit trafficking of drugs by air, to take appropriate legislative measures to ensure that the crime of illicit transport of narcotic drugs and other psychotropic substances by air is punishable by severe penalties and to become parties, as soon as practicable, to the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988.[311]

(*viii*) *Resolution A27-16. Computer Reservation Systems*

The Council is requested to carry out, as a matter of the highest priority, studies on a code of conduct regarding computer reservation systems which can be applied worldwide and which might lead to a multilateral agreement guaranteeing for airlines the basic principles of bilateral air transport agreements, providing for equitable treatment and giving equal opportunities to the designated airlines in the exercise of their rights. The Council is also requested to draw up a model clause on computer reservation systems to be embodied in bilateral air transport agreements.

(*c*) Privileges, immunities and facilities

On 8 March 1989, at its 126th session, the Council considered a comparative study of the ICAO Headquarters Agreement with the Government of Canada and similar agreements entered into by other specialized agencies with their host countries. On 5 June, the Council examined a paper listing the views and points of concern expressed by the Council on 8 March. As a result of its deliberations, the Council established a Working Group under the chairmanship of the President of the Council to meet representatives of the Government of Canada, with a view to finding solutions to remedy difficulties encountered regarding the application of the Headquarters Agreement.

The 27th session of the Assembly recalled resolution A26-3 and appealed once again to all Contracting States to become parties to the Convention on the Privileges and Immunities of the Specialized Agencies of 1947[312] and to apply it to the Organization.

(*d*) Other legal aspects of aviation security

On 30 January 1989, the Council considered the report of the Chairman of the Committee on Unlawful Interference, entitled "Reports on acts of unlawful interference in 1988 (Pan Am 103 incident)", and decided to establish an Ad Hoc Group of Specialists on the Detection of Explosives. The Council, on 16 February 1989, adopted a resolution in which it urged member States "to expedite, in the light of Assembly resolution A26-7, appendix C, research and development on detection of explosives and on security equipment, to continue to exchange such information and to consider how to achieve an international regime for the marking of explosives for detectability". The Ad Hoc Group met at Montreal from 6 to 10 March 1989 and concluded that it would be possible to enhance the detectability of plastic explosives through the use of an additive at the manufacturing stage. Its conclusions were endorsed by the Committee on Unlawful Interference, which subsequently considered a proposal for the development of a new instrument regarding the marking of explosives for detectability prepared by the United Kingdom of Great Britain and Northern Ireland and Czechoslovakia.

As state above, the Council decided to include in the general work programme of the Legal Committee with the highest and overriding priority the subject "Preparation of a new legal instrument regarding the marking of explosives for detectability". The Assembly unanimously adopted resolution A27-8; subsequently the Council decided to convene the Special Subcommittee of the Legal Committee from 9 to 19 January 1990 and the Legal Committee from 27 March to 12 April 1990 to implement the resolution.

On 9 June, the Council considered and approved a draft working paper reporting to the 27th session of the Assembly on the action taken by the Council in the legal and related fields regarding the implementation of Assembly resolution A26-7 (Consolidated statement of continuing ICAO policies related to the safeguarding of international civil aviation against acts of unlawful interference). The Council decided that all factual information provided in the report should be updated in the light of subsequent relevant developments and that, if necessary, an addendum should be issued to reflect the latest pertinent information received during the remaining part of the current triennium. The Assembly at its 27th session adopted resolution A27-7.

During its consideration of this subject, the Council noted the increase of parties to the Tokyo,[313] the Hague[314] and the Montreal Conventions.[315] These three aviation security conventions continue to rank among the most widely accepted multilateral international conventions.

The Council further noted the pertinent information on recent occurrences of unlawful interference received from States concerned pursuant to article 11 of the Hague Convention and article 13 of the Montreal Convention, as well as the information received on the domestic legislative implementation of those two conventions.

Furthermore, the Council noted the information presented by Contracting States on cooperation with other States in the suppression of acts of unlawful interference with civil aviation in the different regions of the world, including information on practical instances and modalities of inserting into their bilateral air services agreements a clause on aviation security along the lines of the model clause recommended by the Council in its resolution of 25 June 1986.

As recommended by the Committee on Unlawful Interference, the Council on 30 June adopted a resolution recommending that Contracting States continue their efforts on a bilateral or regional basis to complement and reinforce the application of the international conventions and ICAO Standards on aviation security. At the same time, the Council recommended to Contracting States to take into account the model agreement attached to the resolution. The model agreement is intended only for the guidance of States; it is not compulsory and in no way limits the contractual freedom of States to expand or limit its scope or to use a different approach.

(*e*) ICAO/Inmarsat Cooperation Agreement

The ICAO signed, on 27 June 1989, an Agreement of Cooperation between the ICAO and the International Maritime Satellite Organization (Inmarsat), which entered into force on 20 October 1989.

5. WORLD HEALTH ORGANIZATION

(*a*) Constitutional and legal developments

1. The amendments to articles 24 and 25 of the Constitution, adopted in 1986 by the thirty-ninth World Health Assembly to increase the membership of the Executive Board from 31 to 32, had been accepted by 43 member States as at 31 December 1989.

2. An Agreement for cooperation between the World Health Organization and the United Nations Industrial Development Organization was signed on 19 April 1989 by the Director-Generals of the two Organizations and approved on 19 May 1989 by the forty-second World Health Assembly.[316]

(*b*) Health legislation

WHO continued to function as a global clearing house for published information on all aspects of health legislation, including legislation on the human environment. The cornerstone of the information transfer system remains the quarterly journal *International digest of health legislation* (and its French-language counterpart, *Recueil international de legislation sanitaire*). The system depends on close cooperation with recognized centres of expertise on various aspects of health legislation and on the systematic sharing of materials with other agencies, both within and outside the United Nations system, engaged in information transfer in other fields of legislation that are relevant to the health sector.

6. WORLD BANK

(*a*) International Development Association

Ninth Replenishment

The representatives of the donor countries of IDA and Switzerland (the "deputies") successfully completed their negotiations of the Ninth Replenishment of the resources of IDA in 1989. The deputies are senior officials of the ministries of finance or development, experienced in multilateral financial negotiations.

In the course of their meetings, the deputies had detailed discussions on the operational objectives of IDA, the size of the replenishment and the sharing of the burden of contributions among donors. They also agreed on a formal report and the text of a draft resolution containing the terms and conditions of the replenishment which they forwarded to the Executive Directors of IDA with a recommendation that they be sent to the Board of Governors for approval.

The deputies recommended a replenishment of SDR 11.68 billion ($15.1 billion at 14 December 1989 exchange rates) to be committed over the period from 1 July 1990 to 30 June 1993. To these resources will be added grant cofinancing from Switzerland and the use of about SDR 1.58 billion in repayments of earlier credits, which will enable IDA to commit SDR 13.26 ($17.1 billion) over the three-year period.

(*b*) Multilateral Investment Guarantee Agency

Signatory and Contracting States

By the end of 1989, the MIGA Convention[317] had been signed by 83 countries. Fifty-nine of them had also ratified the Convention and 55 of those 59 countries had fulfilled all membership requirements and were members of MIGA.

Beginning of guarantee operations

As of 31 December 1989, MIGA had registered a total of 149 applications for guarantee which were submitted by investors from 15 countries for projects in 48 developing countries.[318]

In December 1989, the MIGA Board of Directors approved the first four proposed guarantee projects, two of which were for investments in Chile, one in Indonesia and one in Ghana. One of the Chilean projects was for the reinsurance of a guarantee issued by the Canadian Export Development Corporation (EDC).

(*c*) International Finance Corporation and Multilateral Investment Guarantee Agency Foreign Investment Advisory Service

The Foreign Investment Advisory Service (FIAS), originally established by the Corporation in 1986, was restructured in 1989 as a joint service of the Corporation and the Agency.

FIAS provides advice at the request of member countries on policies, regulations and institutional arrangements to attract more foreign investment in priority sectors, while safeguarding national interests. FIAS can help Governments formulate investment strategies, prepare investment regulations, find cost-effective ways to interest foreign firms in local investment possibilities, evaluate investment proposals, provide appropriate support to investments, encourage stronger links between foreign investments and the domestic economy and monitor the entire process of increasing foreign investment and improve it.

(*d*) International Centre for Settlement of Investment Disputes

(*i*) *Signatures and ratifications*

During 1989, the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID Convention)[319] was signed by Tonga, bringing to 98 the total number of signatory States. In addition, Honduras and Turkey ratified the ICSID Convention in 1989; with those ratifications, the total number of Contracting States reached 91.

(*ii*) *Disputes before the Centre*

At the end of January 1989, the arbitration in *Occidental of Pakistan Inc. v. Islamic Republic of Pakistan* (case ARB/87/4) was discontinued following an amicable settlement of their dispute by the parties.

On 15 June 1989, the Secretary-General registered a request for arbitration in *Manufacturers Hanover Trust Company v. Arab Republic of Egypt and the General Authority for Investment and Free Zones* (case ARB/89/1).

In 1988, an ad hoc Committee was constituted in accordance with article 52 of the ICSID Convention to consider a request made by the respondent in *Maritime International Nominees Establishment* (*MINE*) *v. Republic of Guinea* (case ARB/84/4) for annulment of the award that had been rendered in that case. In its decision, rendered on 22 December 1989, the ad hoc Committee rejected the respondent's request for annulment of the part of the award holding that the

respondent had been in breach of contract, but granted the request for annulment of the award's ruling on damages.

As of 31 December 1989, there were eight cases pending before the Centre. These included the *Manufacturers Hanover Trust* proceeding, mentioned above, and the following further seven cases:

(i) *Amco/Indonesia* (case ARB/81/1) (resubmission);

(ii) *Klöckner/Cameroon* (case ARB/81/2) (annulment proceeding);

(iii) *Colt Industries Operating Corp., Firearms Division v. Government of the Republic of Korea* (case ARB/84/2);

(iv) *SPP* (*ME*) *v. Arab Republic of Egypt* (case ARB/84/3);

(v) *Société d'Etudes de Travaux et de Gestion* (*SETIMEG*) *S.A. v. Republic of Gabon* (case ARB/87/1);

(vi) *Mobil Oil Corporation, Mobil Petroleum Company, Inc., Mobil Oil New Zealand Limited v. New Zealand Government* (case ARB/87/2);

(vii) *Asian Agricultural Products Ltd. v. Democratic Socialist Republic of Sri Lanka* (case ARB/87/3).

7. INTERNATIONAL MONETARY FUND

Membership

Angola became a member of the Fund on 19 September 1989, increasing the total number of members in the Fund to 152. The new member's quota in the Fund is SDR 145.0 million, and with the admission of Angola, the total of members' quotas in the Fund has been increased to SDR 90,132.6 million.

Debt and debt service reduction operations

On 23 May 1989, the Executive Board of the Fund adopted broad guidelines for the Fund's role in the evolving debt strategy and, in particular, for Fund support for debt and debt service reduction operations. This support would be linked to medium-term adjustment programmes with a strong element of structural reform, adopted in the context of stand-by or extended arrangements. Particular emphasis would be given to measures that would improve the climate for saving and investment in borrowing countries and help reverse capital flight and attract private capital inflows and direct investments.

On modalities of Fund support for debt and debt service reduction, the Executive Board decided that:

(*a*) Part of a member's access under an extended or stand-by arrangement could be set aside, in appropriate cases, to support operations involving principal reduction, such as debt buybacks or exchanges. The exact size of the set-aside would be determined on a case-by-case basis, but would involve a figure of around 25 per cent. of the arrangement, determined on the basis of existing access policy;

(*b*) The Fund would be prepared to approve, in appropriate cases, requests for additional resources of up to 40 per cent. of a member's quota, where such support would be decisive in facilitating further cost-effective operations and

catalysing other resources. The additional resources from the Fund are to be used for interest support in connection with debt reduction or debt service reduction operations, and the amount of additional resources would be determined on a case-by-case basis, in the light of the magnitude of the member's balance of payments need and the strength of its adjustment programme as well as its own efforts to contribute resources and support of the operations;

(*c*) The Fund may approve, on a case-by-case basis, an arrangement outright before the conclusion of an agreement on an appropriate financing package between the member and commercial bank creditors if it is judged that prompt Fund support is essential for programme implementation, that negotiations between the member and the banks have begun and that it can be expected that a financing package consistent with external viability will be agreed within a reasonable period of time.

In the context of the guidelines on the role of the Fund in the debt strategy mentioned above, the Executive Board in December 1989 adopted a decision relating to expectations of early repurchase by members with respect to purchases of additional resources for interest support under stand-by or extended arrangements, and purchases of amounts set aside under such arrangements to support operations involving debt reduction.

Rate of charge on use of ordinary resources

The Executive Board of the Fund decided in June 1989 that, during financial year 1990 (from 1 May 1989 to 30 April 1990), the rate of charge referred to in rule I-6(4) shall be a proportion of the SDR interest rate under rule T-1, and that the proportion shall be 96.3 per cent. for the financial year.

UNDP-financed technical cooperation activities

The Fund and the United Nations Development Programme in July 1989 signed an Executive Agency Agreement, under which the Fund will be in a position to accept requests to undertake UNDP-financed technical cooperation activities with member Governments. Activities financed by UNDP and executed by the Fund will be carried out under technical assistance programmes agreed with recipient Governments.

This financing will augment the existing Fund programmes of technical assistance.

Supplementary Financing Facility (SFF) Subsidy Account

In July 1989, the Executive Board of the Fund approved payments totalling the equivalent of SDR 13,657,139 to 15 eligible low-income member countries under the Supplementary Financing Facility Subsidy Account. Those payments brought the cumulative amount of all payments from the Subsidy Account since its establishment to SDR 447.5 million.

The Subsidy Account was established in 1980 to reduce the cost to eligible low-income developing members of using the Fund's resources under the SFF established in 1979 and is being financed mainly from repayments of Trust Fund loans and from voluntary contributions.

Procedures for dealing with members with overdue financial obligations to the Fund

In August 1989, the Executive Board adopted procedures for dealing with members with overdue financial obligations to the Fund. Those procedures aimed at preventing the emergence of overdue financial obligations to the Fund and the elimination of existing overdues, including protracted arrears.

With respect to the Fund's response to overdue obligations, the procedures provide for a sequence of actions by management, the staff and the Executive Board, and these actions may be summarized as follows:

(*a*) Whenever a member fails to settle an obligation on time, the staff immediately sends a cable urging the member to make the payment promptly;

(*b*) When an obligation has been outstanding for two weeks, the management sends a communication to the Governor for that member stressing the seriousness of the failure to meet obligations to the Fund and urging full and prompt settlement;

(*c*) The Managing Director notifies the Executive Board normally one month after an obligation has become overdue;

(*d*) When the longest-overdue obligation has been outstanding for six weeks, the Managing Director informs the member concerned that unless the overdue obligations are settled, a complaint will be issued to the Executive Board in two weeks' time. The Managing Director would in each case recommend to the Executive Board whether a communication should be sent to a selected set of Fund Governors, or to all Fund Governors. If it were considered that it should be sent to a selected set of Governors, an informal meeting of the Executive Board would be held, some six weeks after the emergence of overdues, to consider the thrust of the communication. Alternatively, if it were considered that the communication should be sent to all Fund Governors, a formal Board meeting would be held to consider a draft text and the preferred timing;

(*e*) A complaint by the Managing Director is issued two months after an obligation has become overdue and is given substantive consideration by the Board one month later. At that stage, the Board usually decides to limit the member's use of the Fund's general resources and, if the member has overdue obligations in the SDR Department, to suspend its right to use SDRs, and provides for a subsequent review of the decision;

(*f*) The annual report and the financial statements identify those members with overdue obligations outstanding for more than six months.

With respect to the "declaration of ineligibility", the procedures provide the following:

(*a*) If a member persists in its failure to settle its overdue obligations to the Fund, the Executive Board declares the member ineligible to use the general resources of the Fund. The timing of the declaration of ineligibility would vary according to the Board's assessment of the specific circumstances and of the efforts being made by the member to fulfil its financial obligations to the Fund;

(*b*) For members with protracted arrears willing to cooperate with the Fund in settling these overdues, the Fund would adopt an intensified collaborative approach, which incorporates exceptional efforts by the international financial community;

(*c*) For members that are judged not to be cooperating actively with the Fund, remedial measures would be applied;

(*d*) Members not showing a clear willingness to cooperate with the Fund would be informed that in these circumstances the provision of technical assistance would be inappropriate, but the Fund may reconsider providing technical assistance once the member has resumed active cooperation;

(*e*) A further remedial measure in cases of protracted arrears would be communications with all Governors of the Fund and with heads of certain international financial institutions. Use of such communications would normally be raised for the Board's consideration at the time of the first post-ineligibility review of the member's arrears.

With regard to a "declaration of censure or non-cooperation", the procedures provide that such a declaration would come as an intermediate step between a declaration of ineligibility and a resolution on compulsory withdrawal. The decision as to whether to issue such a declaration would be based on an assessment of the member's performance in the settlement of its arrears to the Fund and of its efforts, in consultation with the Fund, to follow appropriate policies for the settlement of its arrears; three related tests would be germane to this decision, i.e.: (*a*) the member's performance in meeting its financial obligations to the Fund taking account of exogenous factors that may have affected the member's performance, (*b*) whether the member had made payments to other creditors while continuing to be in arrears to the Fund, and (*c*) the preparedness of the member to adopt comprehensive adjustment policies.

With respect to "other remedial measures", consideration would be given to introducing a provision into the Articles of Agreement under which the voting and related rights of a member that had been declared ineligible to use the Fund's general resources could be suspended. Subsequently, in 1990, the Executive Board recommended, and the Board of Governors approved, a proposed Third Amendment of the Articles providing for the suspension of voting and related rights of members that do not fulfil their obligations under the Articles. The proposed Amendment will enter into force when it has been accepted by three fifths of the members having 85 per cent. of the total voting power.

8. UNIVERSAL POSTAL UNION

At the twentieth Congress, held in Washington from 13 November to 14 December 1989, the Universal Postal Union conducted a review of all the Acts of the Union.

The 1989 Washington Congress made some amendments to the Constitution of the Universal Postal Union. These were included in the Fourth Additional Protocol.

It also revised and updated the following Acts of the Universal Postal Union:

— General Regulations of the Universal Postal Union;

— Universal Postal Convention and the Final Protocol thereto;[320]

— Money Orders Agreement;

— Giro Agreement;

— Cash-on-Delivery Agreement.

All these Acts were signed on 14 December 1989 in Washington, and they entered into force on 1 January 1991. Pursuant to Article 102 of the Charter of the United Nations, they will be registered with the Secretariat of the United Nations.

Congress also adopted a number of decisions, in the form of resolutions and recommendations which do not modify the Acts of the Union. Attention should be drawn, in particular, to the following decisions:

(*a*) General issues

(*i*) *Washington General Action Plan* (*resolution C 91*)

In an effort to define strategies for improving services and examine the impact of increased pressure from private competition, the Congress organized a general debate on the topic of "Caring for the customer". This led to the adoption of the Washington General Action Plan, which sets forth the priorities of the Universal Postal Union for the next five years, with special emphasis on six key sectors: knowledge of the market, commercial strategies, quality of service and operational strategies, management independence, human resources and increased role of the Executive Council, the Consultative Council for Postal Studies and the International Bureau.

(*ii*) *Permanent project to safeguard and enhance the quality of and to modernize the international postal service* (*resolution C 22*)

Congress adopted a permanent project to enhance the quality of and to modernize the international postal service. Thus, the Universal Postal Union will go beyond its traditional legislative role and focus on quality control, transport flow studies, market research, analysis of the strategies of the competition, development of an electronic mail system (EMS) and setting-up of new services.

(*iii*) *Rapid mechanism for decisions between congresses; complementary studies*

Congress set up, effective immediately, a more expeditious mechanism for making decisions and taking measures between congresses, by transferring to the Executive Council legislative functions in regard to execution regulations and strengthening the role of the Consultative Council for Postal Studies in setting and revising technical standards. A complementary study was requested of the Executive Council on the following matters:

- Second phase of the transfer to the Executive Council of some of the legislative functions of Congress (resolution C 2);
- Study of the structure of the Convention, the Agreements and their Detailed Regulations (resolution C 14);
- Reinforcement of the priority activities of the Union (resolution C 67);
- Subsequent improvement of the management of the Union's work (resolution C 8).

(*b*) International postal issues

(*i*) *Postal financial services* (*resolution C 3*)

Congress abolished the Collection of Bills Agreement, the International Savings Agreement and the Subscriptions to Newspapers and Periodicals Agreement. It also deleted the provisions concerning postal travellers' cheques from the Money Orders Agreement and the provisions concerning "Giro travellers' cheques" and those concerning "Negotiation by giro transfer of instruments payable at giro centres" from the Giro Agreement. However, it left administrations the possibility of retaining or subsequently reintroducing between themselves all or part of the provisions relating to the above-mentioned services.

(*ii*) *Standardization of the conditions of admission and supplementary services provided in the postal parcels service* (*resolution C 15*)

Congress invited the administrations to standardize the services they provide in connection with postal parcels in order to simplify the way they present the service to customers and retain or recover the postal share of the parcels market.

(*iii*) *Introduction and extension of the postal parcels service* (*resolution C 16*)

Congress instructed the Executive Council to examine the problems preventing certain administrations from acceding to the Postal Parcels Agreement and called upon those administrations to sign the Agreement. The Council was also instructed to study the possibility of making the postal parcels service mandatory within the Union.

(*iv*) *Adapting postal parcel services to the demands of the international market* (*resolution C 27*)

Congress instructed the Consultative Council for Postal Studies to study the possibility of identifying and developing a range of new postal parcel products/services suited to the demands of the international market, with particular reference to marketing, quality-of-service standards, administrations' payments and charges collected from customers.

(*v*) *Transit systems for parcel mails* (*resolution C 26*)

Congress instructed the Executive Council to undertake a study with a view to having a single system that applies to both letter post and parcel post, considering that transit of surface parcel mails is administered differently from that of letter-post mail.

(*vi*) *Philatelic code of ethics for the use of UPU member countries* (*recommendation C 80*)

Congress recommended that the administrations of member countries of the Union should observe the procedures described in the philatelic code of ethics for the use of UPU member countries (recommendation C 80) when issuing and providing postage stamps and postal items for philatelic purposes.

9. INTERNATIONAL MARITIME ORGANIZATION

(*a*) Membership of the Organization

On 27 June 1988, Solomon Islands became the 132nd member of the Organization, in accordance with article 5 of the IMO Convention.[321] In 1989, two new countries became members of the International Maritime Organization: Malawi (19 January), in accordance with article 5 of the IMO Convention; and Monaco (22 December), in accordance with article 7 of the IMO Convention. As at 31 December 1989, the number of members of IMO was 134. There was also one associate member.

(*b*) Review of legal activities of IMO

(*i*) *Liability for damage caused by hazardous and noxious substances*

The Legal Committee made good progress in its consideration of the complex issues arising in connection with the preparation of a draft convention relating to liability for damage caused by the maritime carriage of hazardous and noxious substances[322] and decided to retain this item, which was considered of top priority, in its work programme for further substantial consideration.

(*ii*) *Carriage of passengers and their luggage*

The Legal Committee reached agreement on a draft protocol to revise the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974,[323] and concluded that the text was ready for submission to a diplomatic conference to be convened early in 1990.

(*iii*) *Maritime liens and mortgages*

Pursuant to the agreement between IMO and UNCTAD, the Joint Intergovernmental Group of Experts on Maritime Liens and Mortgages and Related Subjects has undertaken and completed the examination of a draft convention on Maritime Liens and Mortgages.[324]

(*iv*) *Law of the Sea*

Suitable arrangements have been made to keep the United Nations Office for Ocean Affairs and Law of the Sea and the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea duly informed of developments in the work of IMO and vice versa.

(*v*) *Participation in official inquiries into maritime casualties*

The Legal Committee considered and agreed on a revised draft of a proposed resolution on participation in official inquiries into maritime casualties. The Assembly at its 16th session considered and approved the draft resolution, taking into account the comments made in the Legal Committee (A.637(16)).[325]

(*vi*) *Legal implications of United Nations work regarding illicit drug trafficking*

At the request of the Facilitation Committee, during 1989, the Legal Committee considered a number of legal issues of interest to IMO which had arisen in connection with the work of the United Nations on drug abuse control and illicit trafficking in narcotic and psychotropic substances. In particular, the Committee examined the draft convention on the subject and its conclusions have been transmitted to the Secretariat to the United Nations for the information of the relevant United Nations Conference held in November 1988.[326]

(*vii*) *Marking of explosives for detectability*

The Legal Committee took note of information on action taken in the International Civil Aviation Organization concerning the development of an international regime for the marking of plastic or sheet explosives in order that such material might be detected and prevented from being loaded on board aircraft.[327] The Committee indicated that it would be willing to consider any proposals on legal aspects affecting IMO which might emerge from work being undertaken on the subject.

(*viii*) *Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988*[328]

This Convention was adopted by the International Conference on the Suppression of Unlawful Acts against the Safety of Maritime Navigation on 10 March 1989 and opened for signature on that date. In accordance with its terms, the Convention is to enter into force 90 days following the date on which 15 States have become Contracting States. By 9 March 1989, the last day it was open for signature, the Convention had been signed, subject to ratification, by 42 States. As at 31 December 1989, six States had deposited the requisite instruments in relation to the Convention.

(*ix*) *International Convention on Salvage,1989*[329]

The International Conference on Salvage, held in London from 17 to 28 April 1989, adopted the International Convention on Salvage, 1989. The Convention was opened for signature at the headquarters of the Organization on 1 July 1989. As at 31 December 1989 the Convention had been signed, *ad referendum*, by one State.

(*x*) *Protocol of 1988 relating to the International Convention for the Safety of Life at Sea* (*SOLAS*)*, 1974*[330]

This Protocol, which was adopted by the International Conference on the Harmonized System of Survey and Certification on 11 November 1988, was opened for signature on 1 March 1989. In accordance with article V, entry into force of the Protocol requires that 15 Contracting Governments to the 1974 Convention, the combined merchant fleets of which constitute not less than 50 per cent. of the gross tonnage of the world's merchant shipping, express their consent to be bound by it. As at 31 December 1989, five States had signed the Protocol subject to ratification.

(*xi*) *Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, 1988*[331]

This Protocol was adopted by the International Conference on the Suppression of Unlawful Acts against the Safety of Maritime Navigation on 10 March 1988 and opened for signature on that date. In accordance with its terms, the Protocol is to enter into force 90 days following the date on which three Contracting States to the Convention have become Contracting States to the Protocol. By 9 March 1989, the last day it was open for signature, the Protocol had been signed, subject to ratification, by 40 States. As at 31 December 1989, six States had deposited the requisite instruments in relation to the Protocol.

(*xii*) *1976 Protocol to the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974*[332]

The conditions for the entry into force of this Protocol were met on 30 January 1989. In accordance with article IV.1, the Protocol entered into force on 30 April 1989.

(*xiii*) *Protocol of 1988 relating to the International Convention on Load Lines, 1966*[333]

This Protocol, which was adopted by the International Conference on the Harmonized System of Survey and Certification on 11 November 1988, was opened for signature on 1 March 1989. In accordance with article V, entry into force of the Protocol requires that 15 Contracting Governments to the 1966 Convention, the combined merchant fleets of which constitute not less than 50 per cent. of the gross tonnage of the world's merchant shipping, express their consent to be bound by it. As at 31 December 1989, five States had signed the Protocol subject to ratification.

Amendments to legal instruments

(*xiv*) *1987 amendments to the Annex to the Convention on Facilitation of International Maritime Traffic,1965, as amended*

These amendments were adopted by the Facilitation Committee on 17 September 1987 by resolution FAL.1(17). The conditions for their entry into force

were met on 1 October 1988 and the amendments therefore entered into force on 1 January 1989, in accordance with the terms of the resolution of the Facilitation Committee.

(*xv*) *1987* (*Annex I*) *amendments to the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships* (*MARPOL*)*, 1973*

These amendments were adopted by the Marine Environment Protection Committee (MEPC) on 1 December 1987 by resolution MEPC.29(25). The conditions for their entry into force were met on 1 October 1988 and the amendments therefore entered into force on 1 April 1989, in accordance with the terms of the resolution of MEPC.

(*xvi*) *1985 amendments to the Convention and Operating Agreement of Inmarsat, 1976*

Amendments to the Convention and the Operating Agreement of the International Maritime Satellite Organization (Inmarsat) were adopted and confirmed, respectively, on 16 October 1985 by the Assembly of Inmarsat at its fourth session. The conditions for their entry into force were met on 15 June 1989 and the amendments therefore entered into force on 13 October 1989, in accordance with the provisions of the Convention and Operating Agreement.

(*xvii*) *1988 amendments to the International Convention for the Safety of Life at Sea* (*SOLAS*)*, 1974*

These amendments were adopted by the Maritime Safety Committee (MSC) on 21 April 1988 by resolution MSC.11(55). The conditions for their entry into force were met on 21 April 1989 and the amendments therefore entered into force on 22 October 1989, in accordance with the terms of the resolution of MSC.

(*xviii*) *1988 amendments to the International Convention for the Safety of Life at Sea* (*SOLAS*)*, 1974*

These amendments were adopted by the Maritime Safety Committee on 28 October 1988 by resolution MSC.12(56). The conditions for their entry into force were met on 28 October 1989. The amendments will enter into force on 29 April 1990, in accordance with the terms of the resolution of MSC.

(*xix*) *1988 amendments to the International Convention for the Safety of Life at Sea* (*SOLAS*)*, 1974, concerning Radiocommunications for the Global Maritime Distress and Safety System*

These amendments were adopted by the Conference of Contracting Governments to the International Convention for the Safety of Life at Sea, 1974, on the Global Maritime Distress and Safety System on 9 November 1988 by resolution of the Conference. The conditions for their entry into force were met on 1 February 1990. The amendments will enter into force on 1 February 1991, in accordance with the decision of the Conference.

(*xx*) *1988 amendments to the 1978 SOLAS Protocol resulting from the introduction of the Global Maritime Distress and Safety System*

These amendments were adopted by the Conference of Parties to the Protocol of 1978 relating to the International Convention for the Safety of Life at Sea, 1974, on the Global Maritime Distress and Safety System on 10 November 1988 by resolution of the Conference. The conditions for their entry into force were met on 1 February 1990. The amendments will enter into force on 1 February 1992, in accordance with the decision of the Conference.

(*xxi*) *1987 amendments to the Convention on the International Regulations for Preventing Collisions at Sea, 1972, as amended*

These amendments were adopted by the Assembly on 19 November 1987 by resolution A.626(15). The conditions for their entry into force were met on 19 May 1988 and the amendments therefore entered into force on 19 November 1989, in accordance with the terms of the Assembly resolution.

10. INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT

(*a*) Third Replenishment of IFAD's Resources

1. The Governing Council, at its twelfth session reconvened in connection with the Third Replenishment of IFAD's Resources, adopted, on 8 June 1989, resolution 56/XII on the Third Replenishment of IFAD's Resources,[334] the operative paragraphs of which are reproduced below:

"The Governing Council of IFAD

"I. *Resolves:*

"1. *Definitions*

"The terms used in this resolution have the meanings herein set forth:

(*a*) 'Fund' or 'IFAD': the International Fund for Agricultural Development;

(*b*) 'Agreement': the Agreement Establishing IFAD;

(*c*) 'Replenishment': the Third Replenishment of the resources of the Fund through contributions in accordance with this resolution;

(*d*) 'Member': a Member of the Fund;

(*e*) 'Consultation': the committee of senior representatives of the Members established pursuant to resolution 48/XI of the Governing Council to discuss various aspects of the Replenishment;

(*f*) 'Instrument of Contribution': a written commitment whereby a Member confirms its intention to make a contribution to the resources of the Fund under the Replenishment;

(*g*) 'contribution': the amount that a Member is legally committed to pay into the resources of the Fund under its Instrument of Contribution;

(*h*) 'additional contribution': a Member's contribution under the Replenishment of the resources of the Fund as defined in section 3 of article 4 of the Agreement;

(*i*) 'supplementary contribution': the contribution voluntarily made as a special effort in a freely convertible currency by a Member of Category III in support of the core replenishment, and the matching voluntarily of those contributions by Members of category I and referred to in attachments A and C to this resolution;

(*j*) 'increase in contribution': an increase by a Member, pursuant to section 4 of article 4 of the Agreement, of the amount of its additional contribution;

(*k*) 'special contribution': a contribution from a non-member to the resources of the Fund as defined in section 6 of article 4 of the Agreement;

(*l*) 'unqualified contribution': the contribution covered by an unqualified Instrument of Contribution as defined in provision (*b*) of paragraph 5 of this resolution;

(*m*) 'qualified contribution': the contribution covered by a qualified Instrument of Contribution as defined in provision (*c*) of paragraph 5 of this resolution;

(*n*) 'complementary contribution': the amount made available by a Member to the Fund during the Replenishment period on a voluntary basis and referred to in paragraph 3(d) of this resolution;

(*o*) 'unit of obligation': a freely convertible currency or Special Drawing Right (SDR) of the International Monetary Fund, as selected by each Member and in which its contribution is denominated in accordance with its pledge as specified in attachments A, B or C to this resolution;

(*p*) 'payment of' or 'to pay' a contribution: payment of, or to pay, a contribution in cash or by deposit of promissory notes or similar obligations;

(*q*) 'instalment': one of the instalments in which a contribution is to be paid;

(*r*) 'dollar' or '$': United States dollar.

"2. *General Clause*

(*a*) The Governing Council accepts the conclusions of the Ad Hoc Working Group and invites Members to make additional and other contributions to the resources of the Fund under the Replenishment.

(*b*) The level of Replenishment if $522,904,000, in freely convertible currencies, with each category contributing the amount specified in paragraph 3 below. In seeking that objective, the Replenishment has been accomplished through the good will of Members of all categories, including the special effort voluntarily made on the part of category III Members to ensure the availability of maximum resources to the Fund in freely convertible currencies and in turn due to the willingness of category I to match category III contributions, referred to herein on a 3:1 ratio.

(*c*) Supplementary contributions were formulated in response to particular reasons of the Replenishment and shall not be regarded as constituting a precedent for any future replenishment of the resources of the Fund.

"3. *Additional and other contributions*

"The Fund is authorized, in accordance with the Agreement and the provisions of this resolution, to accept from Members for the resources of the Fund:

(*a*) additional contributions in freely convertible currencies from Members of categories I and II, including supplementary contributions from Members of category I, currently totalling $345,528,000 from category I and totalling $124,400,000 from category II, contributed in sums as indicated for the respective Members, in terms of the applicable unit of obligation, as set out in attachments A and B to this resolution;

(*b*) (i) Supplementary contributions in freely convertible currencies from category III in amounts not less than those indicated for the respective Member, in terms of the applicable unit of obligation, in attachment C to this resolution;

(ii) Supplementary contributions to category I in amounts not less than those indicated in attachment A to this resolution;

(iii) Attachment C to this resolution indicates the pledges in freely convertible currencies of supplementary contributions of category III, which currently total $52,976,000, and matching pledges of supplementary contributions for category I as set forth in attachment A, which currently total $158,928,000. To the extent that the current supplementary contributions of category III as shown in attachment C are increased up to a level of $75,000,000 not later than 15 September 1989, category I has agreed to increase its supplementary contributions in the proportion of 3:1 to category III contributions, the objective being to supplement the level of Replenishment referred to in paragraph 2(*b*) of this resolution. Upon receipt of formal pledges of further supplementary contributions of category III Members, the President shall communicate revised attachments A and C to all Members of the Fund not later than 29 September 1989;

(iv) The supplementary portion of the contributions of category I shall be paid in parallel instalments to the remainder of its additional contributions in accordance with the provisions of paragraphs 8 and 12. However, supplementary contributions of category I shall become available for use by the Fund pro rata in the proportion 3:1 as supplementary contributions of category III become available;

(*c*) An increase in contribution to the resources of the Fund for the Replenishment;

(*d*) Complementary contributions, not forming part of the pledged contributions included in attachments A, B and C to this resolution.

"4. *Special contributions*

"During the Replenishment period, the Fund may accept special contributions from entities other than Members. The President shall notify the Executive Board of all such contributions.

"5. *Instrument of contribution*

(*a*) *General clause*

(i) Members making contributions under this resolution shall deposit with the Fund, preferably not later than 30 June 1990, an Instrument of Contribution[a] specifying therein the amount of its contribution in the applicable unit of obligation as set forth in attachments A, B and C to this resolution.

[a]An illustrative format of an Instrument of Contribution is given in attachment D to this resolution, which the Member may follow in preparing its Instrument of Contribution."

(ii) Any Member which has not been able to make a pledge of its contribution under this resolution may deposit its Instrument of Contribution in accordance with the requirements of provision (i) of this paragraph. The President shall take such steps as may be necessary for the implementation of this provision and shall keep the Executive Board informed, in accordance with paragraph 15 of this resolution.

(*b*) *Unqualified contribution.* Except as provided in (*c*) below, the instrument of Contribution shall constitute an unqualified commitment by the Member to make payment of the contribution in the manner and on the terms set forth in or contemplated by this resolution.

(*c*) *Qualified contribution.* As an exceptional case, where an unqualified contribution commitment cannot be given by a Member due to its legislative procedures, the Fund may accept from that Member an Instrument of Contribution that contains a formal notification by that Member that it will pay the first instalment of its contribution without qualification but that payment of the remaining instalments is subject to the enactment of the necessary appropriation legislation and compliance with other legislative requirements. Such a qualified Instrument, however, shall include an express undertaking on the part of the Member to seek the necessary appropriations at a rate so as to complete payment of its total contribution not later than 30 June 1992, except as the Executive Board shall otherwise determine. The Fund shall be notified as soon as possible after such appropriation has been obtained and such other legislative requirements have been fulfilled. For the purposes of this resolution, a qualified contribution shall be deemed to be unqualified to the extent that appropriations have been obtained, other legislative requirements have been met and the Fund has been notified.

"6. *Effectiveness*

(*a*) *Effectiveness of Replenishment.* The Replenishment shall come into effect on the date when the Instruments of Contribution relating to contributions from categories I and II have been deposited with the Fund in the aggregate total amount equivalent to at least 50 per cent. of the respective total contribution of each such category as set forth in attachments A and B to this resolution.

(*b*) *Effectiveness of individual Instruments of Contribution.* Instruments of Contribution deposited on or before the effective date of the Replenishment shall take effect on the date the Replenishment becomes effective, and Instruments of Contribution deposited after that date shall take effect on their respective dates of deposit.

"7. *Advance contribution*

"Notwithstanding the provisions of paragraph 5 above, any Member may notify the Fund that a specified portion of its contribution shall be treated as an advance contribution to the resources of the Fund until this Replenishment becomes effective.

"8. *Instalment payments*[b]

(*a*) *Unqualified contributions*

(i) Each contributing Member shall, at its option, pay its unqualified contribution in a single sum, in two or in no more than three equal

[b] "Payments from categories I, II and III shall be consistent with the provisions of section 5(c) of article 4 and section 2(b) of article 7 of the Agreement."

instalments, as specified in the Instrument of Contribution. The single sum or the first instalment shall be due on the thirtieth day after the Member's Instrument of Contribution enters into effect, and any other instalment shall be due on the first anniversary of the entry into effect of the Replenishment but the balance, if any, of the payment shall be made not later than 30 June 1992, except as the Executive Board shall otherwise determine.

(ii) Instalment payments in respect of each unqualified contribution shall be, at the option of the Member, either (i) in equal amounts or (ii) in progressively graduated amounts with the first instalment amounting to at least 30 per cent. of the contribution, the second instalment amounting to at least 35 per cent. and the third instalment, if any, covering the remaining balance. In special circumstances, the Executive Board may upon the request of a Member agree to vary the prescribed percentages or the number of instalments of a Member subject to the requirement that such a variation shall not affect adversely the operational needs of the Fund.

(*b*) *Payments of a qualified contribution*. Payment in respect of a qualified contribution shall be made within ninety (90) days as and to the extent each instalment has become unqualified and becomes due in accordance with provision (*a*)(i) of this paragraph.

(*c*) *Advance contribution and amount of instalments.* The Member who shall make advance contribution of no less than 40 per cent. of its total contribution may, in consultation with the Executive Board, vary the amounts of the second and third instalments free of any restriction on the size of such instalments prescribed in the provisions of (*a*)(ii) above, subject to the total amount of its contribution.

(*d*) *Schedule of payments*. To the extent the payments are to depart from the requirements of provision (*a*)(i) and percentages of instalments specified in (*a*)(ii) of this paragraph, at the time of depositing its Instrument of Contribution, each Member preferably should indicate to the Fund its proposed schedule of instalment payments on the basis of the arrangements set forth in this paragraph.

(*e*) *Optional arrangements*. A Member may at its option pay its contribution in fewer instalments or in larger percentage portions or at earlier dates than those specified in this paragraph, provided that such payment arrangements are no less favorable to the Fund.

"9. *Mode of payment*

(*a*) *Form of payment*. All payments in respect of each contribution shall be made in cash or, at the option of the Member, by the deposit of non-negotiable, irrevocable, non-interest-bearing promissory notes or other similar obligations of the Member, encashable by the Fund at par on demand in accordance with such drawdown arrangements as the Executive Board shall determine on the basis of the operational requirements of the Fund.

(*b*) *Freedom from restriction of use*. In accordance with the requirements of paragraph (*a*) of section 5 of article 4 of the Agreement, all freely convertible currency contributions shall be made free of any restrictions as to their use by the Fund.

(*c*) *Increase in cash payment*. To the extent possible, the Members may favourably consider payment of larger portions of their contributions in cash.

"10. *Encashment of promissory notes or similar obligations*

"It is expected that the Fund would commence drawing down against promissory notes or other similar obligations made as payment of contributions under the resolution only in 1992.

"11. *Currency of payment*

"All contributions referred to in attachments A, B and C shall be paid in freely convertible currencies or in SDRs as specified in the respective Instruments of Contribution.

"12. *Delay in deposit of an Instrument of Contribution and/or reduction in payment*

(*a*) *Option of commensurate modification*. In the case of an undue delay in the deposit of an Instrument of Contribution or in payment or of substantial reduction in its contribution by a Member, any other Member may, notwithstanding any provision to the contrary in this resolution, at its option, after consultation with the Executive Board, make a commensurate modification, ad interim, in its schedule of payment or amount of contribution. In exercising this option, a Member shall act solely with a view to safeguarding the objectives of the Replenishment and avoiding any significant disparity between the relative proportion of Members' total contributions until such time that the Member whose delay in the deposit of an Instrument of Contribution and/or payment or reduction in its share caused such a move by another Member has acted to remedy the situation on its part or the Member exercising the option revokes its decision taken under this provision.

(*b*) *Member not modifying commitment*. Members that do not wish to exercise their option referred to in (*a*) above may indicate so in their respective Instruments of Contribution.

"13. *Meeting of the Consultation*

"If, during the period covered by the Replenishment, delays in the making of any contributions cause or threaten to cause a suspension in the Fund's lending operations or otherwise prevent the substantial attainment of the goals of the Replenishment, the Fund shall convene a meeting of the Consultation to review the situation and consider ways of fulfilling the conditions necessary for the continuation of the Fund's lending operations or for the substantial attainment of those goals.

"14. *Exchange rates*

"For the purposes of freely convertible currency contributions and pledges under this resolution, the rate of exchange to be applied to convert the unit of obligation into the dollar shall be the average month-end exchange rate of the International Monetary Fund over the period from 30 November 1988 to 30 April 1989 between the currencies to be converted, rounded to the fourth decimal point.

"15. *Review by the Executive Board*

"The Executive Board shall periodically review the status of contributions under the Replenishment and shall take such actions, as may be appropriate, for the implementation of the provisions of this resolution."

(*b*) Membership of the International Labour Organization Administrative Tribunal

2. IFAD's Personnel Policies Manual, which provides the terms and conditions of employment in IFAD, did not initially provide for IFAD's membership of an Administrative Tribunal. The only casual remedy available to IFAD staff members with a complaint relating to the conditions of their employment was that of a three-man tribunal provided in section 4.10.2 of the Manual:

"4.10.2. *Representation*

(*a*) The President shall institute and maintain a simple procedure whereby the views of employees, individually or collectively, may be represented to him on any matter arising from or in connection with the conditions and terms of their employment.

Such representation shall be subject to the understanding that the President will retain, under the provisions governing his constitutional responsibility as expressed in the Agreement and in these policies, the right of final determination of matters within his authority.

(*b*) Should a matter affecting an individual employee not be resolved as a result of representation under this procedure, the employee or the President may refer the matter for final determination to a three-member tribunal comprising one member nominated by the employee, one member nominated by the President and an independent Chairman agreed between the two parties. The decision of the Tribunal shall be binding on the parties."

3. It was increasingly felt that there was a need for a revision of the original remedy to bring IFAD into line with other United Nations specialized agencies. Accordingly, the Executive Board, at its thirty-third session in April 1988, on the recommendation of the President of IFAD, approved the amendment of the Personnel Policies Manual so as to permit IFAD to join an administrative tribunal.[335] The International Labour Organization Administrative Tribunal (ILOAT) was considered the most suitable tribunal. Consequently, to enable IFAD to accept the jurisdiction of ILOAT, at its thirty-third session in November 1988, the Executive Board amended paragraph 4.10.2(b) of the Personnel Policy Manual to read:

> "(b) Should a matter affecting an individual employee not be resolved as a result of representation under this procedure, the employee may refer the matter for final determination to the International Labour Organization Administrative Tribunal."[336]

(*c*) Cooperation with the United Nations bodies and agencies and regional organizations

4. *Office of the United Nations High Commissioner for Refugees*. IFAD and UNHCR both have common developing member States which place great importance on agricultural and rural development. The sustenance and betterment of refugees and returnees through UNHCR often involves the socio-economic development of the areas in which they may be residing in the host country or to which they may be returning. In view of that, UNHCR is now giving increased attention in its operations to linkages between refugee aid and development. Many

of the projects selected by UNHCR for its financial assistance fall within the scope of IFAD's development mandate, as a large number of refugees and displaced persons in developing countries belong to the poorest segments of rural populations. Taking into account the common objectives of both organizations and in accordance with article 8.2 of the Agreement Establishing IFAD, IFAD in June 1988 signed a Cooperation Agreement with UNHCR.[337]

5. The Agreement provides the basis upon which both organizations can cooperate and carry out their mandates jointly in areas of common interest in developing countries that are members of both UNHCR and IFAD and permits each to benefit from the other's resources and expertise. The Agreement enables IFAD and UNHCR to mobilize additional resources and to seek jointly alternative ways of finding more constructive and durable solutions for refugees and returnees than mere care and maintenance. The Agreement, in particular, provides that IFAD and UNHCR will closely cooperate in the identification, preparation and appraisal of projects which are likely to be suitable for financing, either exclusively by UNHCR or jointly by IFAD and UNHCR, as appropriate. The parties will also collaborate in the implementation of the projects by, *inter alia*, the coordination of their respective activities. To ensure effective coordination, IFAD and UNHCR will conduct joint reviews of projects. However, UNHCR may independently monitor project implementation so as to ensure the employment of refugees and returnees in development activities.

6. *United Nations Industrial Development Organization*. In June 1989, IFAD concluded a Cooperation Agreement with UNIDO. The Agreement replaced the cooperation arrangement between IFAD and UNIDO that existed before the latter became a specialized agency of the United Nations.[338] Under the new Cooperation Agreement, both parties will cooperate in the identification, preparation and implementation of projects which are compatible with IFAD's mandate. Special emphasis will be given to the following areas of cooperation:

— Survey and studies with particular reference to linkage between agriculture and industry, including the issue of new and renewable;

— Energy resources;

— Preparation of feasibility studies and appraisal of agro-industrial projects;

— Rural industrialization;

— Combating desertification and drought;

— Promotion and development of standardization and institutions and training of agro-industrial extension workers;

— Promotion of small- and medium-scale enterprises aiming at increasing processing of agricultural raw materials;

— Rehabilitation and expansion of production and formulation facilities for pesticides, fertilizers and soil conditioners, as well as the promotion of their safe and efficient use;

— Production of simple agricultural tools and machinery most appropriate to local needs;

— Upgrading existing repair and maintenance workshops;

— Development of agro-industrial entrepreneurs;

— Promotion and upgrading of the nutritional value of agricultural products by biotechnology and genetic engineering technologies.

7. *Cooperation Council for the Arab States of the Gulf* (*GCC*). In the context of intensifying cooperation with regional organizations, IFAD concluded, in August 1989, a Cooperation Agreement with GCC.[339] Under this Agreement, both parties will cooperate on matters related to agricultural and rural development, food production, nutrition and related research activity of common interest. The Agreement provides that IFAD and GCC will exchange information and documents regarding areas of cooperation and potential investment projects and research programmes in the agricultural and rural development field. GCC will communicate to IFAD proposals concerning areas of cooperation and projects and research programmes which are prima facie suitable for further processing. On its behalf, IFAD will keep GCC informed of inter-country studies and/or projects benefiting from its assistance in countries of common membership and may examine proposals concerning studies and projects relevant to agricultural and rural development and prima facie suitable for further processing. The Agreement provides also that GCC will assume responsibility for the coordination of activities of its member countries with the projects and research programmes agreed by IFAD and GCC and supported by IFAD.

11. UNITED NATIONS INDUSTRIAL DEVELOPMENT ORGANIZATION

In addition to providing legal advice and assistance to the principal organs of UNIDO, the Director-General and various departments in the Organization, the Legal Service of UNIDO continued to deal with subjects related to the completion of the conversion of UNIDO into a specialized agency. These activities can be summed up as follows:

(*a*) *Constitutional matters*

After the withdrawal of Australia of its membership in UNIDO effective 31 December 1988, 151 States were members of UNIDO by the end of 1989.[340]

(*b*) *Conference agreements*

UNIDO concluded agreements with the Governments of Italy, Malta and the USSR regarding UNIDO Consultation meetings in those countries.[341]

(*c*) *Agreements with intergovernmental, non-governmental, governmental and other organizations*

Based on the Guidelines regarding Relationship Agreements with organizations of the United Nations System other than the United Nations, and with other Intergovernmental and Governmental Organizations, and regarding Appropriate Relations with Non-governmental and other Organizations, adopted by the General Conference,[342] UNIDO concluded the following agreements in 1989:

(i) As approved by the Industrial Development Board at its second,[343] third[344] and fifth[345] sessions, UNIDO concluded relationship agreements with the following intergovernmental organizations not in the United Nations system:[341]

—Relationship Agreement with the African Regional Organization for Standardization (ARSO), signed on 1 and 11 December 1989;
—Relationship Agreement with the Arab Union for Cement and Building Materials (AUCBM), signed on 4 June and 4 August 1989;
—Relationship Agreement with the Caribbean Development Bank (CARIBANK), signed on 24 October and 16 November 1989;
—Relationship Agreement with the International Lead and Zinc Study Group (ILZSG), signed on 13 October 1989;
—Agreement with the Organization of African Unity (OAU), signed on 25 July 1989.

(ii) On 13 July 1989 UNIDO signed an Agreement with the Permanent Secretariat of the Latin American Economic System (SELA) concerning the second programme of cooperation between SELA and UNIDO.[341]

(iii) UNIDO concluded Agreements or working arrangements with the following Governments or governmental organizations:[341]
—"Relevé de conclusions" of discussions with the Government of Algeria during the Director-General's visit to Algeria, on cooperation between Algeria and UNIDO;
—Agreement with Italy on basic terms and conditions governing UNIDO projects envisaged by the five-year work programme for the International Centre for Genetic Engineering and Biotechnology and related trust fund agreement;
—Trust fund agreement with the Research Area of Trieste in connection with the above Agreement on basic terms and conditions;
—Agreement with the Research Area of Trieste in connection with the Agreement of 29 June 1988 between UNIDO and Italy on basic terms and conditions governing the UNIDO project concerning the preparatory phase for the establishment of an International Centre for Science and High Technology.

(*d*) *Agreements with the United Nations or its organs*

(i) As in previous years, UNIDO concluded an agreement with the United Nations on arrangements for the sale of UNIDO publications.[341]

(ii) UNIDO signed a working arrangement with the Secretariat of the Economic and Social Commission for Asia and the Pacific, and a Memorandum of Understanding with UNDP concerning the integration of the UNIDO field service within the UNDP field office.[341, 346]

(*e*) *Agreements with specialized agencies*

UNIDO signed a Relationship Agreement with IFAD, an Agreement for cooperation with UNESCO and an Agreement with WHO, the latter together with a Protocol regarding the entry into force of the Agreement.[341]

(*f*) *Standard Basic Cooperation Agreement*

Agreements were concluded with Cameroon, Ecuador, Lebanon, Mauritania, Papua New Guinea and Saint Lucia.

(*g*) *Agreements with publishing houses regarding UNIDO publications*

On the basis of the model agreement elaborated by the Legal Service, UNIDO has concluded agreements with the publishing houses Harvester-Wheatsheaf of Hemel Hempstead and Basil Blackwell of Oxford, both of the United Kingdom.

12. INTERNATIONAL ATOMIC ENERGY AGENCY

Amendment to article VI.A.1 of the IAEA Statute[347]

During 1989, eight more member States — Bangladesh, Côte d'Ivoire, Ghana, Italy, Jamaica, Libyan Arab Jamahiriya, Tunisia and Uganda — accepted the amendment,[348] bringing the total number of acceptances to 76. The amendment thus entered into force on 28 December 1989, the date on which acceptance by two thirds of all member States was effected.

Convention on the Physical Protection of Nuclear Material[349]

Three more States — Argentina, China and Finland — expressed consent to be bound by the Convention. By the end of 1989, 46 States and one regional organization — Euratom — had signed the Convention and 23 States were party to it.

Convention on Early Notification of a Nuclear Accident[350]
Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency[351]

During 1989, 13 more States — Cyprus, France, Germany (Federal Republic of), Iceland, Israel, Monaco, Pakistan, Saudi Arabia, Spain, Thailand, Tunisia, Uruguay and Yugoslavia — expressed consent to be bound by the Notification Convention. By the end of 1989, 72 States had signed the Convention on Early Notification of a Nuclear Accident and 44 States and one international organization had become party to it.

By 1989, 12 States — Austria, Cyprus, France, Germany (Federal Republic of), Israel, Monaco, Pakistan, Saudi Arabia, Spain, Thailand, Tunisia and Uruguay — adhered to the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency. Thus, at the end of 1989, 70 States had signed the Convention and 38 States and one international organization had become parties.

Vienna Convention on Civil Liability for Nuclear Damage[352]

Three States — Chile, Hungary and Mexico — expressed consent to be bound by the Convention during 1989. By the end of the year, 10 States had signed the Convention and 12 States were party to it.

Joint Protocol Relating to the Application of the Vienna Convention and the Paris Convention[353]

The Joint Protocol was signed by two more States — France and Hungary — and ratified by three States —Chile, Denmark and Egypt. Thus, by the end of 1989, the Joint Protocol had been signed by 22 States and 3 States had adhered to it. Two of the ratifying States are party to the Vienna Convention and one is party to the Paris Convention. Pursuant to article VII of the Joint Protocol, adherence of at least five States party to the Vienna Convention and five States party to the Paris Convention is required for its entry into force.

Examination of the question of liability for nuclear damage

In 1989, IAEA continued consideration of the question of liability for nuclear damage. In response to resolution GC(XXXII)/RES/491 adopted by the IAEA General Conference on 23 September 1988, the Agency Board of Governors, on 23 February 1989, established an open-ended working group which was assigned the task of considering ways and means of complementing and strengthening the existing civil liability regime and also the question of international (State) liability. The working group held two sessions. At its second session, held from 30 October to 3 November 1989, the working group recommended that: the IAEA Director General should bring the need for revision of the existing civil liability conventions to the attention of IAEA member States, States party to the Vienna Convention on Civil Liability for Nuclear Damage and to the Convention on Third Party Liability in the Field of Nuclear Energy (Paris Convention);[354] the IAEA Director General, as the depositary of the Vienna Convention, should ascertain from its parties whether they desired that a revision conference should be convened in accordance with article XXVI of the Convention; in view of the close relationship between the issues of civil and State liability, the work of the working group should be subsumed under a new open-ended Standing Committee on Liability for Nuclear Damage with an expanded mandate to include issues of civil and State liability and the relationship between them. (The new Standing Committee replaces the Standing Committee on civil liability established in 1963.)

Safeguards Agreements[355]

During 1989, Safeguards Agreements were concluded between IAEA and eight States: Bhutan, Lao People's Democratic Republic, Tunisia, Viet Nam, United States of America, Algeria, Antigua and Barbuda, and India. The agreements with Bhutan, Lao People's Democratic Republic, Tunisia and Viet Nam were concluded pursuant to the Treaty on the Non-Proliferation of Nuclear Weapons;[356] the agreement with the United States was concluded on the basis of Additional Protocol I to the Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco);[357] the agreement with Antigua and Barbuda was concluded on the basis of the Non-Proliferation Treaty and the Tlatelolco Treaty.[358]

The agreements with Bhutan,[358] the United States[360] and India,[361] as well as the Safeguards Agreement concluded in 1988 with China,[362] entered into force; the agreement with Algeria[363] entered into force provisionally. In addition, Spain acceded to the Non-Proliferation Treaty-based Safeguards Agreement between IAEA, Euratom and the non-nuclear-weapon States of the European Community.[364] As a consequence, the application of safeguards under five agreements[365] in Spain was suspended. An agreement between the United States, Japan and the Agency expired in accordance with the underlying agreement for cooperation.[366]

By the end of 1989, there were 172 Safeguards Agreements in force with 101 States,[367] 80 of which agreements were concluded pursuant to the Non-Proliferation Treaty and/or the Tlatelolco Treaty with 84 non-nuclear weapon States.

Notes

[1]For detailed information, see *The United Nations Disarmament Yearbook*, vol. 14:1989 (United Nations publication, Sales No. E. 90.IX.4).

[2]Adopted without a vote.

[3]Ibid.

[4]Adopted by a recorded vote of 138 to 8, with 9 abstentions.

[5]Adopted without a vote.

[6]Adopted by a recorded vote of 153 to 1, with 1 abstention.

[7]Adopted without a vote.

[8]Adopted without a vote.

[9]Adopted by a recorded vote of 129 to 1, with 25 abstentions.

[10]Adopted by a recorded vote of 154 to none with 1 abstention.

[11]Adopted by a recorded vote of 137 to none, with 17 abstentions.

[12]Both adopted by recorded votes.

[13]Adopted without a vote.

[14]Adopted by a recorded vote of 147 to 1, with 6 abstentions.

[15]Adopted by a recorded vote of 136 to 13, with 5 abstentions.

[16]Adopted on 15 December 1989 by a recorded vote.

[17]Adopted on 15 December 1989 by a recorded vote.

[18]General Assembly resolution 44/106 of 15 December 1989, entitled "Amendment of the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water." United Nations, *Treaty Series*, vol. 480, p. 43.

[19]General Assembly resolution 2373 (XXII), annex; the text also appears in *Status of Multilateral Arms Regulation and Disarmament Agreements*, 1987 (United Nations publication, Sales No. E.88.IX.5).

[20]For details on the evolution and conclusion of the Non-Proliferation Treaty, see *The United Nations and Disarmament: 1945-1970* (United Nations publication, Sales No. 70.IX.1), chap.13.

[21]United Nations, *Treaty Series*, vol. 402, p. 71; the text also appears in *Status of Multilateral Arms Regulation and Disarmament Agreements, 1987*.

[22]United Nations, *Treaty Series*, vol. 634, p. 281; the text also appears in *Status of Multilateral Arms Regulation and Disarmament Agreements, 1987*.

[23]Registered with the United Nations as Treaty No. 24592 for inclusion in the *Treaty Series*; the text is reproduced in *The United Nations Disarmament Yearbook*, vol. 10:1985 (United Nations publication, Sales No. E.86.IX.7) and in *Status of Multilateral Arms Regulation and Disarmament Agreements, 1987*.

[24]General Assembly resolution 2222 (XXI), annex; the text also appears in *Status of Multilateral Arms Regulation and Disarmament Agreements, 1987*.

[25]General Assembly resolution 2660 (XXV), annex; the text also appears in *Status of Multilateral Arms Regulation and Disarmament Agreement, 1987*.

[26]*Official Records of the General Assembly, Thirty-ninth Session, Supplement No. 27* (A/39/27), appendix III (CD/540), 242nd meeting.

[27]Ibid., *Forty-fourth Session, Plenary meetings*, 40th meeting.

[28]Ibid., *Twenty-second Session, Plenary meetings*, 1672nd meeting.

[29]Ibid., *Twenty-ninth Session, Supplement No. 27* (A/9627), annex II, document CCD/425.

[30]The First Review Conference of the parties to the Treaty is covered in *The United Nations and Disarmament: 1970-1975* (United Nations publication, Sales No. E.76.IX.1), chap IV; the Second Review Conference, in *The United Nations Disarmament Yearbook*, vol. 5:1980, chap. VII; and the Third Review Conference, in *The United Nations Disarmament Yearbook*, vol. 10:1985.

[31]See General Assembly resolutions 44/113 A and 44/113 B, adopted on 15 December 1989 by recorded vote.

[32]See General Assembly resolutions 44/108 and 44/121, adopted on 15 December 1989, the former without a vote and the latter by a recorded vote.

[33]See General Assembly resolution 44/109, adopted on 15 December 1989 by a recorded vote.

[34]See General Assembly resolution 44/104, adopted on 15 December 1989 by a recorded vote.

[35]See General Assembly resolution 44/119 F, adopted on 15 December 1989 by a recorded vote.

[36]See General Assembly resolution 44/120, adopted on 15 December 1989 by a recorded vote.

[37]*International Legal Materials*, vol. 18 (1979), p. 1419.

[38]Adopted on 25 October 1989.

[39]United Nations, *Treaty Series*, vol. 1015, p. 163.

[40]Adopted on 15 December 1989 by a recorded vote of 124 to 2, with 26 abstentions.

[41]Adopted on 15 December 1989 without a vote.

[42]General Assembly resolution 2660 (XXV), annex. The text of the Treaty is reproduced in *Status of Multilateral Arms Regulation and Disarmament Agreements*, 1987 (United Nations publication, Sales No. E.88.IX.5). For a detailed account of the negotiations leading to conclusion of the Treaty, see *The United Nations and Disarmament: 1945-1970* (United Nations publication, Sales No. 70.IX.1), chap. 8, and *The United Nations and Disarmament: 1970-1975* (United Nations publication, Sales No. E.76.IX.1), chap. VI.

[43]See General Assembly resolution 44/116 O, adopted on 15 December 1989 by consensus; France noted that it had not participated in the vote.

[44]Adopted as a whole on 15 December 1989 by 153 votes to 1.

[45]See General Assembly resolutions: 44/116 C (Conventional disarmament), 44/116 F (Conventional disarmament), 44/116 N (International arms transfers), 44/116 S (Conventional disarmament on a regional scale), 44/117 B (Regional disarmament) and decision 44/430 regarding the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects.

[46]See also General Assembly resolutions 44/114 B, 44/116 J and 44/116 L.

[47]Adopted by a recorded vote of 114 to none, with 7 abstentions.

[48]See A/44/819.

[49]Adopted by a recorded vote of 101 to none, with 8 abstentions.

[50]Adopted without a vote.

[51]See A/44/734.

[52]A/44/301.

[53]Adopted by a recorded vote of 137 to 3, with 14 abstentions.

[54]See A/44/787.

[55]A/44/487 and Add.1 and 2.

[56]For the report of the Subcommittee, see A/AC.105/430.

[57]See *Official Records of the General Assembly, Forty-fourth Session, Supplement No. 20* (A/44/20), chap. II, sect. C.

[58]Adopted without a vote.

[59]See A/44/814.

[60]They are: Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (resolution 2222 (XXI), annex); Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space (resolution 2345 (XXII), annex); Convention on International Liability for Damage Caused by Space Objects (resolution

2777 (XXVI), annex); Convention on Registration of Objects Launched into Outer Space (resolution 3235 (XXIX), annex); and Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (resolution 34/68, annex).

[61]Adopted by a recorded vote of 128 to 1, with 24 abstentions.

[62]See A/44/821.

[63]General Assembly resolution 2734 (XXV).

[64]For the report of the session, see *Official Records of the General Assembly, Forty-fourth Session, Supplement No. 25* (A/44/25).

[65]Adopted without a vote.

[66]See A/44/746/Add.7.

[67]Adopted without a vote.

[68]See A/44/746/Add.7.

[69]Adopted without a vote.

[70]See A/44/746/Add.7.

[71]Adopted without a vote.

[72]See A/44/746/Add 7.

[73]Adopted by a recorded vote of 131 to 1, with 23 abstentions.

[74]See A/44/746/Add.3.

[75]A/44/266-E/1989/65 and Add.1 and 2.

[76]Adopted by a recorded vote of 139 to 1, with no abstentions.

[77]See A/44/861.

[78]A/44/628.

[79]Adopted by a recorded vote of 118 to 23, with 2 abstentions.

[80]See A/44/746/Add.2.

[81]A/44/510.

[82]Adopted without a vote.

[83]See A/44/746/Add.6.

[84]*Official Records of the General Assembly, Forty-fourth Session, Supplement No. 39* (A/44/39), annex I.

[85]*Report of the United Nations Conference on Technical Cooperation among Developing Countries, Buenos Aires, 30 August-12 September 1978* (United Nations publication, Sales No. E.78.II.A.11 and corrigendum), chap. I.

[86]Adopted without a vote.

[87]See A/44/746/Add.2.

[88]A/44/554.

[89]Adopted by a recorded vote of 131 to 1, with 23 abstentions.

[90]See A/44/749.

[91]United Nations publication, Sales No. E.89.IV.1.

[92]General Assembly resolution 2542 (XXIV).

[93]Adopted without a vote.

[94]See A/44/756.

[95]See *Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: report prepared by the Secretariat* (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. E.

[96]Adopted without a vote.

[97]See A/44/756.

[98]A/44/400

[99]Ibid., sect. III. A

[100]Ibid., sect. IV.C.

[101]E/CONF.82/15 and Corr.1 and 2.

[102]Adopted without a vote.

[103]See A/44/850.

[104]A/44/572.

[105]Adopted without a vote.

[106]See A/44/850.

[107]Adopted without a vote.

[108]See A/44/850.

[109]Adopted without a vote.

[110]See A/44/823.

[111]*Official Records of the General Assembly, Forty-fourth Session, Supplement No. 12* (A/44/12).

[112]Ibid., *Supplement No. 12A* (A/44/12/Add.1).
[113]Ibid., *Forty-fourth Session, Third Committee*, 44th and 47th meetings, and corrigendum.
[114]United Nations, *Treaty Series*, vol. 189, p. 137.
[115]Ibid., vol. 606, p. 267.
[116]See A/41/572, annex.
[117]A/44/527 and Corr.1 and 2, annex.
[118]A/44/523, annex.
[119]United Nations, *Treaty Series*, vol. 993, p. 3.
[120]Ibid., vol. 999, p. 171.
[121]Ibid.
[122]Adopted by a recorded vote of 59 to 26, with 48 abstentions.
[123]See A/44/824.
[124]General Assembly resolution 217 A (III).
[125]Adopted without a vote.
[126]See A/44/824.
[127]*Official Records of the General Assembly, Forty-fourth Session, Supplement No. 40* (A/44/40).
[128]United Nations, *Treaty Series*, vol. 78, p. 277.
[129]Adopted without a vote.
[130]See A/44/848.
[131]A/44/440.
[132]United Nations, *Treaty Series*, vol. 660, p. 195.
[133]Adopted without a vote.
[134]See A/44/716.
[135]*Official Records of the General Assembly, Forty-fourth Session, Supplement No. 18* (A/44/18).
[136]United Nations, *Treaty Series*, vol. 1015, p. 243.
[137]Adopted by a recorded vote of 214 to 1, with 27 abstentions.
[138]See A/44/716.
[139]A/44/442.
[140]United Nations, *Treaty Series*, vol. 1249, p. 13.
[141]Adopted without a vote.
[142]See A/44/802.
[143]A/44/457.
[144]United Nations, *Treaty Series*, vol. 1465, p. 85.
[145]Adopted without a vote.
[146]See A/44/827.
[147]A/44/443.
[148]*Official Records of the General Assembly, Forty-fourth Session, Supplement No. 46* and corrigendum (A/44/46 and Corr.1), sect. IV and annex IV.
[149]General Assembly resolution 44/25, annex.
[150]Adopted without a vote.
[151]See A/44/736.
[152]See League of Nations, *Official Journal, Special Supplement No. 21*, October 1924, p. 43.
[153]General Assembly resolution 1386 (XIV).
[154]Ibid., third preambular paragraph.
[155]General Assembly resolution 41/85, annex.
[156]General Assembly resolution 40/33, annex.
[157]General Assembly resolution 3318 (XXIX).
[158]Adopted without a vote.
[159]See A/44/849.
[160]A/44/539.
[161]See A/44/98, annex.
[162]See A/44/668.
[163]E/C.12/1989/3.
[164]Adopted by a recorded vote of 151 to 2, with 2 abstentions.
[165]See A/44/848.
[166]Adopted without a vote.
[167]See A/44/799.

[168]A/44/525. For the updated report, see E/CN.4/1989/47 and Add.1.
[169]Adopted without a vote.
[170]See A/44/848.
[171]General Assembly resolution 44/132 of 5 December 1989, adopted without a vote; see A/44/826, E/CN.4/Sub.2/1988/22 and A/44/606 and Add.1.
[172]General Assembly resolutions 44/133 and 44/134, both adopted without a vote; see A/44/826.
[173]Adopted without a vote.
[174]See A/44/848.
[175]E/CN.4/1988/22 and Add.1 and 2 and E/CN.4/1989/25.
[176]Adopted without a vote.
[177]See A/44/848.
[178]See *Official Records of the Economic and Social Council 1980, Supplement No. 3* and corrigendum (E/1980/13 and Corr.1), chap. XXVI, sect. A.
[179]Ibid., *1986, Supplement No. 2* (E/1986/22), chap. II, sect. A.
[180]Adopted without a vote.
[181]See A/44/848.
[182]A/44/622.
[183]A/41/324, annex.
[184]Adopted without a vote.
[185]See A/44/717.
[186]A/44/548.
[187]Adopted by a recorded vote of 125 to 10, with 21 abstentions.
[188]See A/44/717.
[189]A/44/526, annex.
[190]Adopted without a vote.
[191]See A/44/799.
[192]General Assembly resolution 41/128, annex.
[193]E/CN.4/1989/10.
[194]Adopted without a vote.
[195]See A/44/848.
[196]A/C.3/44/I and A/C.3/44/4.
[197]Adopted without a vote.
[198]See A/44/825.
[199]General Assembly resolution 217 A (III).
[200]Adopted by a recorded vote of 139 to none, with 16 abstentions.
[201]UNESCO, *Records of the General Conference, Sixteenth Session*, vol. 1, Resolutions, p. 135.
[202]*Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XVII (United Nations publication, Sales No. E.84.V.3), document A/CONF.62/122. See also United Nations publication sales No. E.97.V.10.
[203]For detailed information on the work of the Preparatory Commission, see the report of the Secretary-General (A/44/650 and Corr.1).
[204]Adopted by recorded vote of 138 to 2, with 6 abstentions.
[205]A/44/650 and Corr.1.
[206]For the composition of the Court, see General Assembly decision 43/327.
[207]As of 31 December 1989, the number of States recognizing the jurisdiction of the Court as compulsory in accordance with the declaration filed under Article 36, paragraph 2, of the Statute of the International Court of Justice stood at 49.
[208]For complete text of cases, see *I.C.J. Yearbook 1988-89*, ibid., *1989-90*.
[209]Adopted by a recorded vote of 91 to 2, with 41 abstentions.
[210]For the membership of the Commission, see *Official Records of the General Assembly, Forty-fourth Session, Supplement No. 10* (A/44/10), chap. I, para. 2.
[211]For detailed information on the work of the Commission, see ibid., *Forty-fourth Session, Supplement No. 10* (A/44/10).
[212]For a summary of the debate, see *Yearbook of the International Law Commission 1989*, vol. II (Part Two), pp. 75 et seq., paras. 296-488.
[213]A/CN.4/419 and Add.1.
[214]A/CN.4/425 and Add.1.
[215]A/CN.4/423.
[216]A/CN.4/422 and Add.1.
[217]A/CN.4/415.

[218]A/CN.4/421 and Add.1 and 2.
[219]A/CN.4/4424.
[220]*Official Records of the General Assembly, Forty-fourth Session, Supplement No. 10* (A/44/10).
[221]Adopted without a vote.
[222]See A/44/767.
[223]General Assembly resolution 44/32; see A/44/765.
[224]General Assembly resolution 44/36; see A/44/767.
[225]For the membership of the Commission, see *Official Records of the General Assembly, Forty-fourth Session, Supplement No. 17* (A/44/17), chap. I, sect. B.
[226]For detailed information on the work of the Commission, see *Yearbook of the United Nations Commission on International Trade Law*, vol. XX: 1989 (United Nations publication, Sales No. E.90.V.9).
[227]A/CN.9/316.
[228]A/CN.9/322.
[229]A/CN.9/324.
[230]A/CN.9/281.
[231]*Official Records of the United Nations Conference on Prescription* (*Limitation*) *in the International Sale of Goods, New York, 20 May-14 June 1974* (United Nations publication, Sales No. E.74.V.8), p. 101.
[232]*Official Records of the United Nations Conference on Contracts for the International Sale of Goods, Vienna, 10 March-11 April 1980* (United Nations publication, Sales No. E.82.V.5), p. 191.
[233]Ibid., p. 178.
[234]*Official Records of the United Nations Conference on the Carriage of Goods by Sea, Hamburg, 6-31 March 1978* (United Nations publication, Sales No. E.80.VIII.1), document A/CONF/.89/13, annex I.
[235]United Nations, *Treaty Series*, vol. 330, p. 3.
[236]A/CN.9/325.
[237]Adopted without a vote.
[238]See A/44/723.
[239]General Assembly resolutions 3201 (S-VI) and 3202 (S-VI).
[240]General Assembly resolution 3362 (S-VII).
[241]See also above, sections 6 on the International Law Commission and 7 on UNCITRAL.
[242]Adopted without a vote.
[243]See A/44/761.
[244]A/44/712.
[245]Adopted without a vote.
[246]See A/44/762.
[247]United Nations, *Treaty Series*, vol. 704, No. 10106.
[248]Ibid., vol. 860, p. 105.
[249]Ibid., vol. 974, p. 177.
[250]Ibid., vol. 1035, p. 167.
[251]General Assembly resolution 34/146, annex.
[252]*International Legal Materials*, vol. 18 (1970), p. 1419.
[253]ICAO document 9518; United Nations, *Treaty Series*, vol. 1589, p. 474.
[254]IMO document SUA/CONF/15/Rev. 1.
[255]IMO document SUA/CONF/16/Rev. 2.
[256]A/44/456 and Add.1.
[257]Adopted by a recorded vote of 126 to 1, with 24 abstentions.
[258]See A/44/763.
[259]A/39/504/Add.1, annex III.
[260]A/41/536, A/42/483 and Add.1 and 2, A/44/455 and Add.1.
[261]Adopted by a recorded vote of 131 to none, with 21 abstentions.
[262]See A/44/764.
[263]A/44/460 and Add.1.
[264]General Assembly resolution 37/10.
[265]Adopted without a vote.
[266]See A/44/766.
[267]*Official Records of the General Assembly, Forty-fourth Session, Supplement No. 43*, and corrigendum (A/44/43) and Corr.1), sects. II.C and III.

[268]A/C.6/44/L.9, annex.

[269]General Assembly resolution 2625 (XXV), annex.

[270]For the report of the Special Committee, see *Official Records of the General Assembly, Forty-fourth Session, Supplement No. 33* (A/44/33).

[271]A/AC.182/L.60 and A/AC.182/L.62.

[272]A/AC.182/L.52/Rev.2.

[273]A/AC.182/L.61.

[274]Adopted without a vote.

[275]See A/44/768.

[276]Adopted without a vote.

[277]See A.44/768, para. 13, and A/44/PV.72.

[278]For the report of the Committee, see *Official Records of the General Assembly, Forty-fourth Session, Supplement No. 26* (A/44/26).

[279]Adopted without a vote.

[280]See A/44/769.

[281]See also sect. 3(*c*) above.

[282]Adopted without a vote.

[283]See A/44/770.

[284]Adopted without a vote.

[285]Adopted without a vote.

[286]See A/44/880.

[287]General Assembly resolution 22 (A) (I).

[288]General Assembly resolution 179 (II).

[289]United Nations, *Treaty Series*, vol. 374, p. 147.

[290]A/C.5/44/11.

[291]Ibid., sects. III and IV.

[292]ILO *Official Bulletin*, vol. LXXII, 1989, Series A, No. 2, pp. 59-72; English, French, Spanish. Regarding preparatory work see: *First Discussion* — Partial revision of the Indigenous and Tribal Populations Convention, 1957 (No. 107), ILC, 75th Session (1988), Report VI(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 VI(2), 127 and 112 pages respectively; Arabic, Chinese, English, French, German, Russian, Spanish. See also, ILC, 75th Session (1988) *Record of Proceedings*, No. 32; No. 36, pp. 2-4, 17-24; English, French, Spanish. *Second Discussion* — Partial revision of the Indigenous and Tribal Populations Convention, 1957 (No. 107), ILC 76th Session (1989), Report IV(1), Report IV(2A) and Report IV(2B), 16, 68 and 27 pages respectively; Arabic, Chinese, English, French, German, Russian, Spanish. See also, ILC, 76th Session (1989) *Record of Proceedings*, No. 25; No. 25A; No. 31, pp. 1-17; No. 32, pp. 6, 11-13; English, French, Spanish. See also chap. IV of this *Yearbook*.

[293]The report has been published as report III (Part 4) to the 76th session of the Conference and comprises two volumes: vol. A: "General report and observations concerning particular countries" (report III (Part 4A)), 518 pages; English, French, Spanish; vol. B: "General survey of the reports relating to the Social Security (Minimum Standards) Convention (No. 102), 1952, the Invalidity, Old-Age and Survivors' Benefits Convention (No. 128) and Recommendation (No. 131), 1967, insofar as they apply to old-age benefits" (report III (Part 4B)), 163 pages; English, French, Spanish.

[294]ILO *Official Bulletin*, vol. LXXII, 1989, Series B, No. 1.

[295]Ibid., vol. LXXII, 1989, Series B, No. 2.

[296]Ibid., vol. LXXII, 1989, Series B, No. 3.

[297]To be published in the ILO *Official Bulletin*, vol. LXXIII, 1990, Series A, No. 2.

[298]See ILO *Official Bulletin*, vol. XLI, 1958, No. 8, pp. 565-567, and United Nations *Treaty Series*, vol. 312, p. 387.

[299]Conference resolution 11/87 called on members of the Council, when electing members of the Programme and Finance Committees, to bear in mind the need for just and equitable representation of the various regions, the fact that all regions that so wish should be represented and the importance of rotation among countries in each region.

[300]Concurrence was given under resolution 2/96 of the Council.

[301]Certain departures from the standard text or amendments thereto were introduced at the request of the host Government.

[302]See sect. 12 below, on IAEA.

[303]Resolution 25/C 29.3, *Records of the General Conference*, vol. I (Resolutions).

[304]Resolution 25/C 29.4, ibid.

[305]25 C/Resolutions, annex I: Conventions and Recommendations.

[306]25 C/Resolution 1.24.

[307]See subsection (*b*) above on International regulations.

[308]Protocols to amend the Convention for the Unification of Certain Rules relating to International Carriage by Air. ICAO documents 91.47 and 91.48.

[309]*Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XVII (United Nations publication, Sales No. E.84.V.3), document A/CONF.62/122; see also United Nations publication, Sales No. E.97.V.10.

[310]Convention on International Civil Aviation. United Nations, *Treaty Series*, vol. 15, p. 295.

[311]United Nations document E/CONF.82/15 and Corr.1 and 2. English only.

[312]United Nations, *Treaty Series*, vol. 33, p. 261.

[313]Convention on Offences and Certain Other Acts Committed on Board Aircraft. United Nations, *Treaty Series*, vol. 704, p. 219.

[314]Convention for the Suppression of Unlawful Seizure of Aircraft. Ibid., vol. 860, p. 105.

[315]Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation. Ibid., vol. 974, p. 177.

[316]See also chap. II.B.3. of the present *Yearbook*.

[317]United Nations, *Treaty Series*, vol. 1508, p. 99.

[318]These numbers include 24 registrations for projects in 17 countries which were not yet members of MIGA.

[319]United Nations, *Treaty Series*, vol. 575, p. 159.

[320]Ibid., vol. 1415, p. 65.

[321]United Nations, *Treaty Series*, vol. 289, p. 3.

[322]LEG 60/3, LEG/CONF.6/C.1/WP.22, LEG 60/3/2, LEG 60/3/3 and LEG 60/3/4.

[323]LEG 60/4.

[324]LEG/MLM/26 and LEG/MLM/27.

[325]LEG 60/6/Add.1 and LEG 60/WP.3.

[326]LEG 59/9, LEG 59/9/Add.1 and LEG 59/9/1.

[327]LEG 61/8.

[328]*International Legal Materials*, vol. 27, p. 672.

[329]United States Senate Treaty Document 102-12; see chap. IV of the present *Yearbook* for the text of the Convention.

[330]IMO (092) | SH8C (1988).

[331]*International Legal Materials*, vol. 27, p. 685.

[332]United Nations, *Treaty Series*, vol. 1545, p. 339.

[333]IMO | HSSC | Conf |12.

[334]The text of the resolution and related attachments are contained in the Report of the twelfth session of the Governing Council of IFAD, Rome 1989. The attachments to the resolution indicate the pledges of each of the three categories of IFAD. At the time of the adoption of the resolution, the pledges from categories I, II and III amounted to, respectively, US$378,078,000, $124,400,000 (including $9,000,000 to be allocated later on the basis of the final notification of contributions from the Islamic Republic of Iran, the Libyan Arab Jamahiriya and Qatar) and $63,826,000.

[335]EB 88/33/R.19.

[336]EB 88/35/R.78.

[337]EB 88/33/R.23 and EB 89/36/R.17.

[338]EB 87/30/R.27.

[339]EB 89/38/NF.2.

[340]GC.3/35.

[341]Annual report of UNIDO 1989 (IBD.6 | 10), appendix J.

[342]GC.1/INF.6.

[343]GC.2/2.

[344]GC.2/3.

[345]GC.3/9.

[346]See also chap. II.B.3 of the present *Yearbook*.

[347]INFCIRC/9/Rev.2.

[348]INFCIRC/371.

[349]INFCIRC/274/Rev.1.

[350]INFCIRC/335.

[351]INFCIRC/336.

[352]United Nations, *Treaty Series*, vol. 1063, p. 265.

[353]INFCIRC/402.

[354]United Nations, *Treaty Series*, vol. 956, p. 251.
[355]See also chap. II.B.4 of the present *Yearbook*.
[356]General Assembly resolution 2373 (XXII); see also United Nations, *Treaty Series*, vol. 729, p. 161.
[357]United Nations, *Treaty Series*, vol. 634, p. 281; see also chap. III.B.1 of the present *Yearbook*.
[358]Ibid.
[359]INFCIRC/371.
[360]INFCIRC/366.
[361]INFCIRC/374.
[362]INFCIRC/369.
[363]INFCIRC/361.
[364]INFCIRC/193.
[365]INFCIRC/99, 221, 291, 292 and 305.
[366]INFCIRC/119.
[367]IAEA also applies safeguards to nuclear facilities in Taiwan Province of China.