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

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Chapter III

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

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

1. DISARMAMENT AND RELATED MATTERS

(*a*) Trends in multilateral disarmament

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

The activities of the United Nations in the field of disarmament reflected, in 1991, an improving international situation and, at the same time, a clearer realization that while the end of the cold war had created new opportunities for a more peaceful future and for reinvigorating disarmament efforts, much remained to be done. Arms limitation and disarmament efforts in 1991 took place in a dramatically altered situation, especially in relation to the bilateral nuclear issues between the United States and the Soviet Union and in the areas of East-West conventional disarmament and security cooperation in Europe. As a result, arms limitation and disarmament played a major role in the complex process of consolidating peace. At the same time, the international community continued to espouse a multidimensional approach to peace and security, an approach stressing the need to consider the military aspects of the problem in relation to other priorities such as development, welfare, the environment and the protection of human rights.

By its resolution 46/38 A of 6 December 1991,[1] the General Assembly noted with satisfaction that the Disarmament Commission had successfully implemented its reform programme and had made considerable progress on substantive items on its agenda, pursuant to the "Ways and means to enhance the functioning of the Disarmament Commission" adopted at its 1990 substantive session;[2] recalled the role of the Commission as the specialized, deliberative body within the United Nations multilateral disarmament machinery that allowed for in-depth deliberations on specific disarmament issues, leading to the submission of concrete recommendations on those issues; and requested the Disarmament Commission to continue its work in accordance with its mandate, as set forth in paragraph 118 of the Final Document of the Tenth Special Session of the General Assembly,[3] and with paragraph 3 of resolution 37/78 H of 9 December 1982, and to that end to make every effort to achieve specific recommendations on the items on its agenda, taking into account the

above-mentioned "Ways and means" to enhance its functioning. Moreover, by its resolution 46/38 C of the same date,[4] the Assembly reaffirmed the role of the Conference on Disarmament as the single multilateral disarmament negotiating forum of the international community; welcomed the progress in the negotiations on the elaboration of a draft convention on the complete and effective prohibition of the development, production, stockpiling and use of all chemical weapons and on their destruction, and urged the Conference on Disarmament to intensify its work with a view to completing negotiations on such a draft convention in 1992; and called upon the Conference to strengthen its work, within the framework of ad hoc committees as the most appropriate mechanism, and to adopt concrete measures on the specific priority issues of disarmament on its agenda, in accordance with the Programme of Action set forth in section III of the Final Document of the Tenth Special Session of the General Assembly.[3] Furthermore, by its resolution 46/38 B, adopted also on the same date,[5] the General Assembly requested the Conference on Disarmament to re-establish, at the beginning of its 1992 session, the Ad Hoc Committee on the Comprehensive Programme of Disarmament; and recommended that the Ad Hoc Committee resume its work, building on the texts, already agreed to, with the view to resolving the outstanding issues and thus concluding negotiations on the programme. In addition, by its resolution 46/26 of the same date,[6] the General Assembly urged all States parties to arms limitation and disarmament agreements to implement and comply with the entirety of the spirit and provisions of such agreements; called upon all Member States to support efforts aimed at the resolution of non-compliance questions, with a view to encouraging strict observance by all parties of the provisions of arms limitation and disarmament agreements and maintaining or restoring the integrity of such agreements; welcomed the role that the United Nations had played in restoring the integrity of certain arms limitation and disarmament agreements and in the removal of threats to peace; encouraged efforts by States parties to develop additional cooperative measures, as appropriate, that could increase confidence in compliance with existing arms limitation and disarmament agreements and reduce the possibility of misinterpretation and misunderstanding; and noted, in that connection, the contribution that verification experiments and research could make and already had made in confirming and improving verification procedures in arms limitation and disarmament agreements under negotiation, thereby providing an opportunity, from the time that such agreements entered into force, for enhanced confidence in the effectiveness of verification procedures as a basis for determining compliance.

(ii) *Iraq—action under section C of Security Council resolution 687 (1991)*

In 1991, the United Nations took dramatically new actions in the sphere of disarmament as a result of Security Council resolutions adopted under Chapter VII of the Charter of the United Nations.

On 3 April, following the war in the Persian Gulf and the restoration to Kuwait of its sovereignty, independence and territorial integrity, and

after the return of its legitimate Government, the Security Council adopted resolution 687 (1991).[7]

In section C of the resolution, the Council invited Iraq to reaffirm unconditionally its obligations under the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on 17 June 1925,[8] and to ratify the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, of 10 April 1972 (para. 7);[9] decided that Iraq should unconditionally accept the destruction, removal, or rendering harmless, under international supervision, of: (*a*) all chemical and biological weapons and all stocks of agents and all related subsystems and components and all research, development, support and manufacturing facilities related thereto; (*b*) all ballistic missiles with a range greater than 150 kilometres, and related major parts and repair and production facilities (para. 8); decided also, for the implementation of paragraph 8, the following: (*a*) Iraq should submit to the Secretary-General, within 15 days of the adoption of the resolution, a declaration on the locations, amounts and types of all items specified in paragraph 8 and agree to urgent, on-site inspection as specified below; (*b*) The Secretary-General, in consultation with the appropriate Governments and, where appropriate, with the Director-General of the World Health Organization, within 45 days of the adoption of the resolution, should develop and submit to the Council for approval a plan calling for the completion of the specified acts within 45 days of such approval, *inter alia*, the forming of a special commission which should carry out immediate on-site inspection of Iraq's biological, chemical and missile capabilities, based on Iraq's declarations and the designation of any additional locations by the Special Commission itself (para. 9); decided further that Iraq should unconditionally undertake not to use, develop, construct or acquire any of the items specified in paragraphs 8 and 9 above, and requested the Secretary-General, in consultation with the Special Commission, to develop a plan for the future ongoing monitoring and verification of Iraq's compliance with the paragraph, to be submitted to the Security Council for approval within 120 days of the passage of the resolution (para. 10); invited Iraq to reaffirm unconditionally its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons of 1 July 1968[10] (para. 11); decided that Iraq should unconditionally agree not to acquire or develop nuclear weapons or nuclear-weapon-usable material or any subsystems or components or any research, development, support or manufacturing facilities related to the above; to submit to the Secretary-General and the Director General of the International Atomic Energy Agency within 15 days of the adoption of the resolution a declaration of the locations, amounts and types of all items specified above; to place all of its nuclear-weapon-usable materials under the exclusive control, for custody and removal, of the Agency, with the assistance and cooperation of the Special Commission as provided for in the plan of the Secretary-General discussed in paragraph 9 (*b*); to accept, in accordance with the arrangements provided for in paragraph 13, urgent on-site inspection and the destruction, removal or rendering harmless as appropriate of all items specified above; and to accept the plan discussed in

paragraph 13 for the future ongoing monitoring and verification of its compliance with these undertakings (para. 12); requested the Director General of the International Atomic Energy Agency, through the Secretary-General and with the assistance and cooperation of the Special Commission as provided for in the plan of the Secretary-General referred to in paragraph 9 (*b*), to carry out immediate on-site inspection of Iraq's nuclear capabilities based on Iraq's declarations and the designation of any additional locations by the Special Commission; to develop a plan for submission to the Security Council within 45 days calling for the destruction, removal or rendering harmless, as appropriate, of all items listed in paragraph 12; to carry out the plan within 45 days following approval by the Council and to develop a plan, taking into account the rights and obligations of Iraq under the Treaty on the Non-Proliferation of Nuclear Weapons, for the future ongoing monitoring and verification of Iraq's compliance with paragraph 12, including an inventory of all nuclear material in Iraq subject to the Agency's verification and inspections, to confirm that Agency safeguards covered all relevant nuclear activities in Iraq, to be submitted to the Council for approval within 120 days of the adoption of the resolution (para. 13); and noted that the actions to be taken by Iraq in paragraphs 8 to 13 above represented steps towards the goal of establishing in the Middle East a zone free from weapons of mass destruction and all missiles for their delivery, and the objective of a global ban on chemical weapons (para. 14).

In pursuance of resolution 687 (1991), on 18 April 1991, the Secretary-General submitted a report to the Security Council[11] in which he indicated his intention to set up the Special Commission envisaged in paragraph 9 (*b*) (i) of the resolution, subject to the approval of the Council, and to make all necessary arrangements for it to begin implementation of its task. The Special Commission (also known as "UNSCOM") would enjoy the relevant privileges and immunities provided for in the Convention on the Privileges and Immunities of the United Nations.[12] Members of the Special Commission, experts attached to it and other specialists assigned to assist it in the implementation of section C of the resolution would be regarded as experts on mission within the meaning of article VI of the Convention on the Privileges and Immunities of the United Nations, relevant annexes to the Convention on the Privileges and Immunities of the Specialized Agencies[13] and article VII of the Agreement on the Privileges and Immunities of the International Atomic Energy Agency,[14] respectively. Taking into account the tasks to be performed by the Special Commission, it might be necessary to conclude special agreements covering the status, facilities, privileges and immunities of the Commission and its personnel. The existing agreements mentioned above would equally apply to tasks to be performed in Iraq by IAEA and could be supplemented by special agreements, should the need arise.

On 19 April, the Security Council informed the Secretary-General that it approved his proposals as contained in the report of 18 April.[15]

On 1 August, pursuant to paragraph 10 of resolution 687 (1991), the Secretary-General submitted to the Security Council a formal "Plan for future ongoing monitoring and verification of Iraq's compliance with rele-

vant parts of section C of Security Council resolution 687 (1991)".[16] On the same day, he transmitted to the Council the IAEA plan for future ongoing monitoring and verification of Iraq's compliance with its undertaking under paragraph 12 of the resolution.[17] The two plans, with certain revisions, were approved by the Security Council in its resolution 715 (1991) of 11 October.[18]

The question of Iraq's failure to comply with its obligations under resolution 687 (1991) (denying an IAEA/UNSCOM nuclear inspection team immediate and unimpeded access to sites designated for inspection by UNSCOM) was further pursued by the Security Council. On 15 August, the Council, determined to ensure full compliance with resolution 687 (1991) and in particular its section C, and acting under Chapter VII of the Charter, adopted resolution 707 (1991),[19] in which it condemned Iraq's serious violation of a number of its obligations under section C of resolution 687 (1991) and of its undertakings to cooperate with the Special Commission and the International Atomic Energy Agency, which constituted a material breach of the relevant provisions of that resolution, which established a cease-fire and provided the conditions essential to the restoration of peace and security in the region; also condemned non-compliance by the Government of Iraq with its obligations under its safeguards agreement with the International Atomic Energy Agency, as established by the Board of Governors of the Agency in its resolution of 18 July 1991 and which constituted a violation of its commitments as a party to the Treaty on the Non-Proliferation of Nuclear Weapons of 1 July 1968; determined that Iraq retained no ownership interest in items to be destroyed, removed or rendered harmless pursuant to paragraph 12 of resolution 687 (1991); and required the Government of Iraq forthwith, to comply fully and without delay with all its international obligations, including those set out in the resolution, in resolution 687 (1991), in the Treaty on the Non-Proliferation of Nuclear Weapons and its safeguards agreement with IAEA.

On 25 October 1991, the Secretary-General transmitted to the Security Council a comprehensive report[20] on UNSCOM's activities during the first six months of its existence, to 24 October, prepared by the Chairman of the Special Commission. The report covered the Commission's operational activities, pursuant to Security Council resolution 687 (1991), related to the elimination of Iraq's weapons of mass destruction and the means of their production as well as to ensuring that the acquisition of such weapons was not resumed in the future. Such activities thus involved the chemical, biological and ballistic missile fields and, in conjunction with IAEA, the nuclear field. An additional report[21] of 4 December 1991 brought up to date that of 25 October.

(iii) *Environmental consequences of military activities*

The grave damage resulting from Iraqi actions during the war in the Persian Gulf, particularly the setting on fire of oil wells and deliberate release of oil into the Gulf, had raised serious concern worldwide. Those concerns had led to a greater focusing of attention on the protection of the

environment in forums both within and outside the framework of the United Nations.

A new item entitled "Exploitation of the environment as a weapon in times of armed conflict and the taking of practical measures to prevent such exploitation" was included in the agenda of the General Assembly. While in the Sixth Committee there was general agreement that the conflict in the Gulf had serious environmental consequences and many States expressed their concerns with regard to that, there were differences of view as to whether existing international law was adequate to cover such actions.

In the context of the same agenda item, it was stressed that there was a need to strengthen the provisions of the Convention on the Prohibition of Military or any Other Hostile Use of Environmental Modification Techniques of 1977,[22] especially those pertaining to its implementation mechanism.

By its decision 46/417 of 9 December 1991,[23] adopted on the recommendation of the Sixth Committee,[24] the General Assembly took note that the protection of the environment in times of armed conflict was to be addressed at the Twenty-sixth International Conference of the Red Cross and Red Crescent; and decided to request the Secretary-General to report to the General Assembly at its forty-seventh session on activities undertaken in the framework of the International Red Cross with regard to that issue. Furthermore, by its resolution 46/36 A of 6 December 1991,[25] adopted on the recommendation of the First Committee,[26] the General Assembly noted that, as a result of consultations, a majority of States parties to the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques had expressed their wish to convene the Second Review Conference of the Parties to the Convention in September 1992 and that, to that end, the Secretary-General of the United Nations, as depositary of the Convention, would hold consultations with the parties to the Convention with regard to questions relating to the Conference and its preparation, including the establishment of a preparatory committee for the Conference. On the same date, the Assembly adopted resolution 46/40,[27] in which it noted with satisfaction an increase in the number of States parties to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects,[28] urged all States that had not yet done so to exert their best endeavours to become parties to it, and stressed that under article 8 of the Convention, conferences might be convened to consider additional protocols relating to other categories of conventional weapons not covered by the existing annexed Protocols or to review the scope and operation of the Convention.

(iv) *Economic aspects of disarmament*

In 1991, Member States continued to stress the significance of the economic aspects of disarmament, pointing out, among other things, the need to approach to the problems of peace and security in conjunction

with political, economic, social and other elements. In the view of many, the disarmament process must go hand in hand with development, and new financial resources must be allocated to priority civilian areas.

In a study undertaken by the Secretary-General and a group of experts on charting potential uses of resources allocated to military activities for civilian endeavours to protect the environment,[29] the Secretary-General noted that vast political energies had been released by the end of the cold war and that new possibilities had been opened up for a more productive utilization of the world's resources.

By its resolution 46/36 B of 6 December 1991,[30] the General Assembly took note of the above study, and by its resolution 46/36 C of the same date,[31] the Assembly welcomed the report of the Secretary-General on the relationship between disarmament and development[32] and actions undertaken in accordance with the Final Document of the International Conference on the Relationship between Disarmament and Development,[33] and requested him to continue to take action for the implementation of the action programme adopted at that Conference.[34]

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

The question of the prevention of an arms race in outer space continued to be a focus of attention within the United Nations. 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.

By its resolution 46/33 of 6 December 1991,[35] the General Assembly reaffirmed the importance and urgency of preventing an arms race in outer space and readiness of all States to contribute to that common objective, in conformity with the provisions of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies;[36] reaffirmed its recognition, as stated in the report of the Ad Hoc Committee on the Prevention of an Arms Race in Outer Space,[37] that the legal regime applicable to outer space by itself did not guarantee the prevention of an arms race in outer space, that that legal regime played a significant role in the prevention of an arms race in that environment, that there was a need to consolidate and reinforce that regime and enhance its effectiveness, and that it was important strictly to comply with existing agreements, both bilateral and multilateral;[38] called upon all States, in particular those with major space capabilities, to contribute actively to the objective of the peaceful use of outer space and of the prevention of an arms race in outer space and to refrain from actions contrary to that objective and to the relevant existing treaties in the interest of maintaining international peace and security and promoting international cooperation; reiterated that the Conference on Disarmament, as the single multilateral disarmament negotiating forum, had the primary role in the negotiation of a multilateral agreement or agreements, as appropriate, on the prevention of an arms race in outer space; and urged the Union of Soviet Socialist Republics and the United States of America to pursue intensively their bilateral negotiations in a constructive

spirit with a view to reaching early agreement for preventing an arms race in outer space, and to advise the Conference on Disarmament periodically of the progress of their bilateral sessions so as to facilitate its work.

(*b*) Nuclear disarmament

(i) *Nuclear-arms limitation and disarmament*

The question of nuclear-arms limitation and disarmament and the prevention of nuclear war continued to be a focus of attention at both the bilateral and the multilateral level. As a result of decade-long negotiations, the Treaty between the United States of America and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms (START Treaty), by which radical cuts in the nuclear offensive arms of the two major Powers were envisaged, had been signed[39]. Further unilateral measures undertaken by the United States and the Soviet Union, as announced in their statements of 27 September and 5 October respectively, and continuation of bilateral negotiations marked a new chapter in efforts to reduce and eliminate existing nuclear weapons and to contribute to the elimination of certain grounds for their possible use.

At the 1991 session of the Disarmament Commission, members focused on four concrete elements of nuclear disarmament according to the structure proposed by the Chairman of the Commission.[40] In the Conference on Disarmament, the cessation of the nuclear-arms race and nuclear disarmament and the prevention of nuclear war were considered in plenary meetings devoted to all items, and in more structured and concrete discussion in informal meetings. No substantive progress was made on those items.

Subsequently, the General Assembly adopted, within the two broad areas of the cessation of the nuclear-arms race and the prevention of nuclear war, three traditional resolutions. By its resolution 46/36 D of 6 December 1991,[41] the General Assembly, considering that the prohibition of the production of fissionable material for nuclear weapons and other explosive devices would be an important measure in facilitating the prevention of the proliferation of nuclear weapons and explosive devices, requested the Conference on Disarmament to continue to pursue its consideration of the question of adequately verified cessation and prohibition of the production of fissionable material for nuclear weapons and other nuclear explosive devices and to keep the General Assembly informed of the progress of that consideration. Furthermore, by its resolution 46/37 C of the same date,[42] the Assembly urged the Union of Soviet Socialist Republics and the United States of America, as the two major nuclear-weapon States, to reach agreement on the immediate nuclear-arms freeze, which would, *inter alia*, provide for a simultaneous total stoppage of any production of nuclear weapons and a complete cut-off in the production of fissionable material for weapons purposes; and called upon all nuclear-weapon States to agree, through a joint declaration, to a comprehensive nuclear-arms freeze. Moreover, by its resolution 46/37 D, also of the same date,[43] the Assembly reiterated its request to the Conference on Disarma-

ment to commence negotiations, as a matter of priority, in order to reach agreement on an international convention prohibiting the use or threat of use of nuclear weapons under any circumstances, taking as a basis the draft Convention on the Prohibition of the Use of Nuclear Weapons annexed to the resolution.

(ii) *Treaty on the Reduction and Limitation of Strategic Offensive Arms*

The Treaty between the Union of Soviet Socialist Republics and the United States of America on the Reduction and Limitation of Strategic Offensive Arms (START-I), signed in Moscow on 31 July 1991, represented a milestone in bilateral negotiations on the subject and contributed to equalizing at lower levels the capabilities of the strategic nuclear forces of the two sides.

Throughout the Treaty negotiating period (1982-1991) the General Assembly had addressed the question of bilateral nuclear-arms negotiations and adopted a large number of resolutions on the subject.[44]

By its resolution 46/36 J of 6 December 1991,[45] the General Assembly, affirming that bilateral and multilateral negotiations on disarmament should facilitate and complement each other, welcomed the signing of the Treaty; and recalled the stated intention of the two Governments concerned to intensify, following the signature of the START Treaty, further negotiations on other issues, in particular on preventing an arms race in space and achieving a comprehensive nuclear-test ban.

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

Although a number of incremental but noteworthy signs of movement towards further reductions in nuclear explosive testing and an eventual comprehensive test-ban treaty were manifested during 1991, in all, it appeared that there was still a long road to travel to achieve the complete cessation of nuclear-test explosions.

By its resolution 46/29 of 6 December 1991,[46] the General Assembly reaffirmed its conviction that a treaty to achieve the prohibition of all nuclear-test explosions by all States in all environments for all time was a matter of priority which would constitute an essential step in order to prevent the qualitative improvement and development of nuclear weapons and their further proliferation, and which would contribute to the process of nuclear disarmament; urged, therefore, all States to seek to achieve the early discontinuance of all nuclear-test explosions for all time; reaffirmed the particular responsibilities of the Conference on Disarmament in the negotiation of a comprehensive nuclear-test-ban treaty, and in that context urged the re-establishment of the Ad Hoc Committee on a Nuclear Test Ban in 1992 with an appropriate mandate; requested the Conference on Disarmament, in that context, to intensify its substantive work on specific and interrelated test-ban issues, including structure and scope and verification and compliance, taking also into account all relevant proposals and future initiatives; urged the Conference to take into account the

progress achieved by the Ad Hoc Group of Scientific Experts to Consider International Cooperative Measures to Detect and Identify Seismic Events, including the experience gained from the technical test concerning the global exchange and analysis of seismic data, and other relevant initiatives; urged the nuclear-weapon States to agree promptly to appropriate verifiable and military significant interim measures, with a view to concluding a comprehensive nuclear-test-ban treaty; and also urged those nuclear-weapon States which had not yet done so to adhere to the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water.[47] Furthermore, by its resolution 46/28 of the same date,[48] the Assembly noted with satisfaction that a substantive session of the Amendment Conference of the States Parties to the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water had been held in New York from 7 to 18 January 1991, and took note of its report;[49] took note as well of the decision adopted by the Amendment Conference to the effect that, since further work needed to be taken on certain aspects of a comprehensive test-ban treaty, especially those with regard to verification of compliance and possible sanctions against non-compliance, the President of the Conference should conduct consultations with a view to achieving progress on those issues and to resuming the work of the Conference at an appropriate time; welcomed the ongoing consultations being conducted by the President of the Amendment Conference and the holding in 1992 of more structured open-ended consultations, as well as the establishment of a group of friends of the President in order to examine various aspects of a comprehensive nuclear-test ban, with a view to resuming the work of the Conference as soon as possible thereafter; called upon all parties to the Treaty to participate in, and to contribute to the success of, the Amendment Conference for the achievement of a comprehensive nuclear-test ban at an early date, as an indispensable measure towards implementation of their undertakings in the preamble to the Treaty; urged all States, especially those nuclear-weapon States which had not yet done so, to adhere to the Treaty; and reiterated its conviction that, pending the conclusion of a comprehensive nuclear-test-ban treaty, the nuclear-weapon States should suspend all nuclear-test explosions through an agreed moratorium or unilateral moratoriums.

(iv) *Non-proliferation of nuclear weapons*

Although the question of the non-proliferation of nuclear weapons was not considered as a separate agenda item in the various deliberative or negotiating bodies dealing with disarmament, it was brought sharply into focus by a number of developments in 1991, both positive and negative. There was an increase in the number of parties to the Treaty on the Non-Proliferation of Nuclear Weapons.[50] France and China, the two nuclear-weapon States not yet parties, stated their intention to accede to it, as did Ukraine and Belarus. At the same time, the war in the Persian Gulf demonstrated the fragility of the non-proliferation regime, especially in regions of conflict such as the Middle East. All those developments, together with the reduction and elimination of some categories of nuclear weapons of the two nuclear Powers and the further arms control measures

that had been announced, could facilitate agreement to extend the Non-Proliferation Treaty beyond 1995 and the solving of such long-standing issues as that of a comprehensive test-ban treaty.

On the question of effective international arrangements to assure non-nuclear weapon States against the use or threat of use of nuclear weapons, no significant progress was made once again in 1991, mainly because of continuing differences of perception as to the real security interests and concerns of the few nuclear-weapon States and the large number of non-nuclear-weapon States.

By its decision 46/413 of 6 December 1991,[51] the General Assembly took note of the intent of the parties to the Treaty on the Non-Proliferation of Nuclear Weapons to form a preparatory committee in 1993 for the conference called for in article X, paragraph 2, of the Treaty, and decided to include in the provisional agenda of its forty-seventh session the item entitled "Treaty of the Non-Proliferation of Nuclear Weapons: 1995 Conference and its Preparatory Committee." Furthermore, by its resolution 46/32 of the same date,[52] the Assembly reaffirmed the urgent need to reach an early agreement on effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons; noted with satisfaction that in the Conference on Disarmament there was no objection, in principle, to the idea of an international convention to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons; appealed to all States, especially the nuclear-weapon States, to work actively towards an early agreement on a common approach and, in particular, on a common formula that could be included in an international instrument of a legally binding character; and recommended that the Conference on Disarmament should actively continue intensive negotiations with a view to reaching early agreement and concluding effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons, taking into account the widespread support for the conclusion of an international convention and giving consideration to any other proposals designed to secure the same objective.

(v) *Peaceful uses of nuclear energy and the International Atomic Energy Agency safeguards and related activities*

While the promotion of the peaceful uses of nuclear energy and the safeguarding of the non-proliferation regime continued to be recognized as the areas in which IAEA played an indispensable role, the dominant concerns of the international community in 1991 centred on the clandestine activities of Iraq in violation of its international obligations under the Non-Proliferation Treaty and safeguards agreement and on the problem of nuclear safety. In connection with Iraq, the Agency, under a mandate entrusted to it by resolutions of the Security Council, had carried out a number of inspections that disclosed the existence of extensive undeclared and hitherto unknown programmes for the enrichment of uranium and an advanced nuclear-weapon-development programme. Moreover, as a result of the Conference on the Safety of Nuclear Power, held at Vienna in September 1991, there was growing awareness of a need to elaborate a

binding framework convention on nuclear safety, which might mark the beginning of a recognition that some standards and rules in that field should be defined and made mandatory.

By its resolution 46/16 of 13 November 1991,[53] the General Assembly took note of the report of IAEA;[54] urged all States to strive for effective and harmonious international cooperation in carrying out the work of the Agency in the fields of the promotion of the use of nuclear energy, the safety of nuclear installations, technical assistance and safeguards; and also noted with appreciation IAEA's actions concerning Iraq's non-compliance with its non-proliferation obligations, and commended the Agency for its efforts in implementing Security Council resolutions 687 (1991) and 707 (1991).

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

The establishment of nuclear-weapon-free zones and zones of peace in various regions of the world continued to draw support at the forty-sixth session of the General Assembly. In the debate, the establishing of nuclear-weapon-free zones was seen as contributing, in principle, 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.

Africa

By its resolution 46/34 B of 9 December 1991,[55] the General Assembly, noting South Africa's accession to the Treaty on the Non-Proliferation of Nuclear Weapons on 10 July 1991, reaffirmed that the implementation of the Declaration on the Denuclearization of Africa adopted by the Assembly of Heads of State and Government of the Organization of African Unity in 1964 would be an important measure to prevent the proliferation of nuclear weapons and to promote international peace and security; strongly renewed its call upon all States to consider and respect the continent of Africa and its surrounding areas as a nuclear-weapon-free zone; and requested the Secretary-General (OAU), in consultation with the Organization of African Unity, to take appropriate action to enable the group of experts designated by the United Nations in cooperation with OAU to meet during 1992, in order to complete its work as indicated in paragraph 37 of its report,[56] and to submit the report of the group of experts to the General Assembly at its forty-seventh session. Furthermore, by its resolution 46/34 A of the same date,[57] the Assembly called upon South Africa to comply fully with the implementation of its safeguards agreement with IAEA; also called upon South Africa to disclose all its nuclear installations and materials in conformity with its treaty obligations, and to enhance confidence-building, peace and security in the region; and called upon all States, corporations, institutions and individuals not to engage in collaboration with South Africa that might lead it to violate its commitments under the Treaty on the Non-Proliferation of Nuclear Weapons and its safeguards agreement with the Agency.

Middle East

By its resolution 46/30 of 6 December 1991,[58] the General Assembly urged all parties directly concerned to consider seriously taking the practical and urgent steps required for the implementation of the proposal to establish a nuclear-weapon-free zone in the region of the Middle East in accordance with the relevant resolutions of the General Assembly, and, as a means of promoting that objective, invited the countries concerned to adhere to the Treaty on the Non-Proliferation of Nuclear Weapons; called upon all countries of the region that had not done so, pending the establishment of the zone, to agree to place all their nuclear activities under IAEA safeguards; invited all countries of the region, pending the establishment of a nuclear-weapon-free zone in the region of the Middle East, to declare their support for establishing such a zone, consistent with paragraph 63 (*d*) of the Final Document of the Tenth Special Session of the General Assembly, and to deposit those declarations with the Security Council; also invited those countries, pending the establishment of the zone, not to develop, produce, test or otherwise acquire nuclear weapons or permit the stationing on their territories, or territories under their control, of nuclear weapons or nuclear explosive devices; and invited all parties to consider the appropriate means that might contribute towards the goal of general and complete disarmament and the establishment of a zone free of weapons of mass destruction in the region of the Middle East. Furthermore, by its resolution 46/39 of the same date,[59] the Assembly deplored Israel's refusal to renounce possession of nuclear weapons; and reaffirmed that Israel should promptly apply Security Council resolution 487 (1981), in which the Council, *inter alia*, requested it to place all nuclear facilities under IAEA safeguards and to refrain from attacking or threatening to attack nuclear facilities.

South Asia

By its resolution 46/31 of 6 December 1991,[60] the General Assembly reaffirmed its endorsement, in principle, of the concept of a nuclear-weapon-free zone in South Asia; urged once again the States of South Asia to continue to make all possible efforts to establish a nuclear-weapon-free zone in South Asia and to refrain, in the meantime, from any action contrary to that objective; and called upon the nuclear-weapon States which had not done so to respond positively to that proposal and to extend the necessary cooperation in the efforts to establish a nuclear-weapon-free zone in South Asia.

Latin America and the Caribbean

In the light of the statement made by France that it was prepared to give serious consideration to the ratification of Additional Protocol I of the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco),[61] the sponsors of a draft resolution concerning the signature and ratification of that Protocol did not insist that the First Committee take a decision in that connection.

The Indian Ocean as a zone of peace

By its resolution 46/49 of 9 December 1991,[62] the General Assembly reaffirmed full support for the achievement of the objectives of the Declaration of the Indian Ocean as a Zone of Peace;[63] reiterated and emphasized its decision to convene the United Nations Conference on the Indian Ocean at Colombo, as a necessary step for the implementation of the Declaration; noted with satisfaction the preparatory work done by the Ad Hoc Committee in the implementation of the mandate entrusted to it for the convening of the Conference; decided that the Conference should be structured in more than one stage; and also decided to convene the first stage of the Conference at Colombo in 1993, or as soon as possible, in accordance with the resolution and in consultation with the host country.

(*c*) Other weapons and methods of mass destruction

(i) *Chemical weapons*

In 1991, the negotiations on the multilateral convention globally banning chemical weapons witnessed a qualitative change. The war in the Persian Gulf and the possibility that chemical weapons might be used added urgency to the efforts to rid the world of those weapons as soon as possible. With the commitment of the United States, announced in May, to unconditionally destroy its chemical weapons stocks and chemical weapons production facilities and to formally foreswear the use of chemical weapons under any circumstances, including retaliation in kind against any State as of the entry into force of the convention, and with that position shared by the USSR, major obstacles were removed. That made it possible for the Conference on Disarmament to agree to expand the scope of the future convention to include the prohibition of the use of chemical weapons.

By its resolution 46/35 B of 6 December 1991,[64] the General Assembly condemned vigorously all actions that violated, or threatened to violate the obligations assumed under the 1925 Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare,[65] and other relevant provisions of international law; and welcomed, in that context, recent decisions, declarations and initiatives of the United Nations, and in particular the Security Council, aimed at upholding the authority of the Geneva Protocol and removing the threat of chemical weapons use. Furthermore, by its resolution 46/35 C of the same date,[66] the Assembly renewed its call to all States to observe strictly the principles and objectives of the Geneva Protocol; noted the progress made in the work of the Ad Hoc Committee on Chemical Weapons of the Conference on Disarmament during its 1991 session, and the results recorded in the Committee's report;[67] commended the decision of the Conference on Disarmament to intensify further the negotiations on the complete and effective prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction with the view to striving to achieve a final agreement on a convention by 1992;[68] and called upon all States to consider declaring their intention

to become original States parties to the convention so as to ensure its early entry into force, its effective implementation and its universal character.

(ii) *Third Review Conference of the Parties to the Convention on Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction*[69]

Two factors brought the question of the production of bacteriological (biological) weapons into focus in 1991: the Third Review Conference of the Biological Weapons Convention and an increased awareness of the danger of the proliferation of weapons of mass destruction, particularly biological ones.

At the Third 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, held at Geneva from 9 to 27 September 1991, the States parties succeeded in adopting unanimously a Final Document, including a Final Declaration, in which they reaffirmed the significance of the Convention and undertook obligations under its provisions. The Conference adopted, *inter alia*, two important decisions: one on confidence-building measures and another on verification.

By its resolution 46/35 A of 6 December 1991,[70] the General Assembly noted with satisfaction the adoption by consensus of the Final Declaration;[71] welcomed with satisfaction the results of the Conference; called upon all States parties to the Convention to participate in the implementation of the recommendations of the Conference; and called upon all signatory States that had not ratified or acceded to the Convention to do it without delay, and also called upon those States that had not yet signed the Convention to join the States parties thereto at an early date, thus contributing to the achievement of universal adherence to the Convention.

(iii) *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 received very little attention in the deliberations of the disarmament bodies in 1991, as differences of opinion persisted concerning the imminence of the emergence of such weapons, and no resolution on the subject was adopted by the General Assembly at its forty-sixth session.

The question of the prohibition of radiological weapons continued to be considered in the Conference on Disarmament and in the General Assembly. With respect to the prohibition of radiological weapons in the traditional sense, the Ad Hoc Committee on Radiological Weapons continued to review the draft articles for a convention.

By its resolution 46/36 E of 6 December 1991,[72] the General Assembly recognized that in 1991 the Ad Hoc Committee on Radiological Weapons had made a further contribution to the clarification and better understanding of the different approaches that continued to exist with regard to both of the important matters under consideration; and requested the

Conference on Disarmament to continue its substantive negotiation on the subject with a view to the prompt conclusion of its work, taking into account all proposals presented to the Conference to that end and drawing upon the annexes to the report of the Ad Hoc Committee[73] as a basis of its further work, the result of which should be submitted to the General Assembly at its forty-seventh session.

The issue of the prohibition of the dumping of radioactive waste also continued to figure in the deliberation of the Conference on Disarmament and the General Assembly, but was not a focus of attention. By its resolution 46/36 K of 6 December 1991,[74] on the prohibition of the dumping of radioactive wastes, the General Assembly took note of the part of the report of the Conference on Disarmament relating to a future convention on the prohibition of radiological weapons;[75] requested the Conference on Disarmament to take into account, in the ongoing negotiations for a convention on the prohibition of radiological weapons, radioactive wastes as part of the scope of such a convention; and requested the International Atomic Energy Agency to continue keeping the dumping of radioactive wastes under active review, including the desirability of concluding a legally binding instrument in that field.

(*d*) Conventional disarmament and related issues

(i) *Conventional armaments and advanced technology, and their dissemination*

The trend towards an ever increasing emphasis on conventional aspects of the arms race, armaments and armed conflict in an increasingly technological era clearly continued in 1991. In fact, emphasis on those and closely interrelated issues reached a new level, owing in large part to the crisis and war in the Persian Gulf. Moreover, by the end of the cold war and with the somewhat lessened concern over nuclear weapons, a number of initiatives were put forward concerning transparency in armaments and their transfer, curbing the illicit arms trade and regulating the transfer of technology with possible military applications.

By its resolution 46/36 H of 6 December 1991,[76] the General Assembly expressed its appreciation to the Secretary-General for the study which he had submitted on ways and means of promoting transparency in international transfers of conventional arms;[77] called upon all States to give high priority to eradicating the illicit trade in all kinds of weapons and military equipment, a most disturbing and dangerous phenomenon often associated with terrorism, drug trafficking, organized crime and mercenary and other destabilizing activities, and to take urgent action towards that end, as recommended in the study submitted by the Secretary-General; and invited Member States to provide the Secretary-General with relevant information on their national legislation and/or regulations on arms exports, imports and procurement, and administrative procedures, as regard both authorization of arms transfers and prevention of the illicit arms trade. Furthermore, by its resolution 46/36 L of 9 December 1991,[78]

the Assembly requested the Secretary-General to establish and maintain at United Nations Headquarters in New York a universal and non-discriminatory Register of Conventional Arms, to include data on international arms transfers as well as information provided by Member States on military holdings, procurement through national production and relevant policies in accordance with procedures and input requirements initially comprising those set out in the annex to the resolution; called upon all Member States to provide annually for the Register data on imports and exports of arms in accordance with the established procedures; and requested the Secretary-General, with the assistance of a group of governmental experts to be convened in 1994 on the basis of equitable geographical representation, to prepare a report on the continuing operation of the Register and its further development. Moreover, by its resolution 46/38 D of 6 December 1991,[79] the General Assembly called upon the Disarmament Commission to continue its consideration, within the scope of its agenda, of all relevant aspects of the question of the transfer of high technology with military applications at its 1992 session, with a view to concluding its work on the matter at its 1993 session. In addition, by its resolution 46/40 of the same date,[80] the Assembly noted with satisfaction that an increasing number of States had either signed, ratified, accepted or acceded to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, which had been opened for signature in New York on 10 April 1981;[81] urged all States that had not yet done so to exert their best endeavours to become parties to the Convention and the Protocols annexed thereto as early as possible, so as ultimately to obtain universality of adherence; stressed that, under article 8 of the Convention, conferences might be convened to consider amendments to the Convention or any of the annexed Protocols, to consider additional protocols relating to other categories of conventional weapons not covered by the existing annexed Protocols or to review the scope and operation of the Convention and the annexed Protocols and to consider any proposal for amendments to the Convention or to the existing Protocols and any proposals for additional protocols relating to other categories of conventional weapons not covered by the existing Protocols; and noted, taking into account the nature of the Convention, the potential of the International Committee of the Red Cross to consider questions pursuant to the Convention.

(ii) *Regional disarmament and confidence- and security-building measures*

In 1991, Member States of all regions of the world expressed their conviction that the regional approach to conventional disarmament was working and that it complemented the global approach.

Encouraging steps were taken in 1991 in various parts of the world to lessen tension and resolve conflicts, most notably in Cambodia and in Central America. The measures envisaged involved the drawing up of inventories of weapons and, in the case of Cambodia, demobilization and arms control and reduction with respect to the Cambodian parties.

The increasing emphasis on regional disarmament was also reflected in considerable activity under United Nations auspices in 1991. The General Assembly adopted five resolutions and one decision on various aspects of the subject area, including confidence-building measures.

By its resolution 46/36 F of 6 December 1991,[82] the General Assembly reaffirmed that the regional approach to disarmament was one of the essential elements in the global process of disarmament; pronounced itself convinced of the importance and effectiveness of regional disarmament measures taken at the initiative of States of the region and with the participation of all States concerned and taking into account the specific characteristics of each region, in that they could contribute to the security and stability of all States, in accordance with the principles of the Charter of the United Nations and in compliance with international law and existing treaties; affirmed that regional and subregional agreements on arms control and disarmament could contribute to the peaceful settlement of disputes and conflicts; recognized the useful role played by the regional centres of the United Nations; encouraged States of the same region to examine the possibility of creating, on their own initiative, regional mechanisms and/or institutions for the establishment of measures in the framework of an effort of regional disarmament or for the prevention and the peaceful settlement of disputes and conflicts with the assistance, if requested, of the United Nations; and invited and encouraged all States to conclude, whenever possible, agreements on disarmament and confidence-building measures at the regional level. Furthermore, by its resolution 46/36 G of the same date,[83] the Assembly welcomed the determination of the States signatories of the Treaty on Conventional Armed Forces in Europe[84] fully to implement its provisions and the determination of all the States participating in the Conference on Security and Cooperation in Europe fully to implement the provisions of the Vienna Document of the negotiations on confidence- and security-building measures,[85] as well as the decision of those States to continue negotiations in those fields. Moreover, by its resolution 46/36 I, also of the same date,[86] the Assembly called upon States to conclude agreements, whenever possible, for nuclear non-proliferation, disarmament and confidence-building measures at regional and subregional levels. And by its resolution 46/37 B of the same date,[87] the Assembly supported and encouraged efforts aimed at promoting confidence-building measures at regional and subregional levels in order to ease regional tensions and to further disarmament and non-proliferation measures at regional and subregional levels in Central Africa. In addition, by its resolution 46/25 of the same date,[88] the Assembly called upon all Member States to participate in the United Nations system for the standardized reporting of military expenditures as adopted by the General Assembly;[89] and encouraged the Disarmament Commission to finalize its work on objective information on military matters in 1992.

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2. OTHER POLITICAL AND SECURITY QUESTIONS

(*a*) Membership in the United Nations

In 1991, the following States were admitted to membership in the United Nations:

States	*General Assembly resolution*	*Date of adoption*
Democratic People's Republic of Korea	46/1	17 September 1991
Estonia	46/4	17 September 1991
Latvia	46/5	17 September 1991
Lithuania	46/6	17 September 1991
Marshall Islands	46/3	17 September 1991
Micronesia (Federated States of)	46/2	17 September 1991
Republic of Korea	46/1	17 September 1991

By the end of 1991, 166 States had become Members of the United Nations.[90]

(*b*) Implementation of the Declaration on the Strengthening of International Security[91]

In its decision 46/414 of 6 December 1991,[92] adopted on the recommendation of the First Committee,[93] the General Assembly reaffirmed the Declaration on the Strengthening of International Security and invited Member States to provide their views on the implementation of the Declaration.

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

The Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space held its thirtieth session at United Nations Headquarters in New York from 25 March to 12 April 1991.[94]

In continuing its consideration of the agenda item entitled "The elaboration of draft principles relevant to the use of nuclear power sources in outer space, with the aim of finalizing the draft set of principles", the Subcommittee re-established its Working Group on the item. The Subcommittee continued to consider that item through its Working Group, having before it a working paper submitted at its previous session by the delegation of Canada,[95] a working paper submitted to the Committee at its thirty-third session by the delegations of Canada and Germany,[96] a working paper submitted to the Subcommittee at its current session by the delegations of Canada, France, Germany and Sweden[97] and a working paper submitted to the Subcommittee at its current session by the delegations of Canada, China, Czechoslovakia, France, Germany, Italy, the Netherlands, Sweden and the United Kingdom.[98]

The Subcommittee also re-established its Working Group on the agenda item "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". The Subcommittee had before it working papers submitted at its previous sessions. The Working Group considered the two aspects of the agenda item, namely, the definition and delimitation of outer space, on the one hand, and the geostationary orbit, on the other, separately.

The Subcommittee re-established as well its Working Group on the item "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". The Subcommittee had before it the replies[99] received from States Members of the United Nations containing their views as to the priority of specific subjects under that particular agenda item and providing information on their national legal frameworks relating to the development of the application of the principle contained in article I of the 1967 Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies.[100] The Subcommittee also had before it the replies received[101] from States Members of the United Nations containing their views on the subject of international agreements that Member States had entered into that were relevant to the principle that the exploration and use of outer space should be carried out for the benefit and in the interests of all countries, taking into particular account the needs of developing countries. The Working Group, after discussion, requested its Chairman to prepare, for the next session of the Subcommittee, a paper summarizing in an analytical manner the views and information contained in the above-mentioned responses of Member States.

The Committee on the Peaceful Uses of Outer Space at its thirty-fourth session, held at Graz, Austria, from 27 May to 6 June 1991, took note with appreciation of the report of the Legal Subcommittee on the work of its thirtieth session and made recommendations concerning the agenda of the subcommittee at its thirty-first session.[102]

With regard to the item entitled "The elaboration of the draft principles relevant to the use of nuclear power sources in outer space", the Committee, noting that the delegations of Canada and Germany had submitted a revised version of their working paper,[103] expressed the hope that it could constitute a solid basis for consensus at the next session of the Legal Subcommittee.

Regarding the agenda of the Legal Subcommittee, the Committee recommended that the Subcommittee at its thirty-first session should continue the work on its current agenda items.

The Committee also considered, in accordance with paragraph 27 of General Assembly resolution 45/72 of 11 December 1990, the item entitled "Spin-off benefits of space technology: review of current status". The

Committee noted with appreciation the study prepared at its request by the Outer Space Affairs Division on spin-off benefits of space technology[104] and took note of the working paper on the subject submitted by the USSR.[105] The Committee agreed that there was a need to examine ways to strengthen and enhance international cooperation in the field of spin-off benefits of space technology through, *inter alia*, improved means of providing access to spin-offs for all countries, giving particular attention to those spin-offs which could address the social and economic needs of developing countries.

Consideration by the General Assembly

At its forty-sixth session, by its resolution 46/45[106] of 9 December 1991, adopted on the recommendation of the Special Political Committee,[107] the General Assembly endorsed the report of the Committee on the Peaceful Uses of Outer Space; invited States that had not yet become parties to the international treaties governing the uses of outer space[108] to give consideration to ratifying or acceding to those treaties; and endorsed the recommendations of the Committee that the Legal Subcommittee, at its thirty-first session, taking into account the concerns of all countries, particularly those of developing countries, should continue, through its working groups: (*a*) the elaboration of draft principles relevant to the use of nuclear power sources in outer space with the aim of finalizing the draft set of principles at its next session; (*b*) its consideration of 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 ITU; and (*c*) its 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. The Assembly also requested the Committee to continue to consider, at its thirty-fifth session, its agenda item entitled "Spin-off benefits of space technology: review of current status".

(*d*) Question of Antarctica

By its resolution 46/41 A of 6 December 1991,[109] adopted on the recommendation of the First Committee,[110] the General Assembly took note of the report of the Secretary-General on a United Nations-sponsored station in Antarctica[111] and decided to keep the matter under review; took note also of the Secretary-General's report on the state of the environment in Antarctica[112] and requested him to monitor and gather information on the subject and to submit an annual report to the General Assembly; expressed its regret that, despite the numerous resolutions adopted by the General Assembly, the Secretary-General or his representative had not been invited to the meetings of the Antarctic Treaty Consultative Parties; reiterated its call upon the Consultative Parties to deposit information and documents covering all aspects of Antarctica with the Secretary-General of the United Nations, and requested the Secretary-General to submit a report on his evaluation thereof to the

General Assembly at its forty-seventh session expressed its disappointment, while welcoming the signing on 4 October 1991 at Madrid of the Protocol on Environmental Protection to the Antarctic Treaty[113] by the Antarctic Treaty parties, that the Protocol had not been negotiated with the full participation of the international community; expressed its concern that the Madrid Protocol lacked the monitoring and implementation mechanisms to comply with the provisions of the Protocol and had not taken into consideration the call of the international community to ban permanently prospecting and mining in Antarctica; and underlined its call that any move at drawing up an international convention to establish a nature reserve or world park in Antarctica and its dependent and associated ecosystems must be negotiated with the full participation of the international community. Furthermore, by its resolution 46/41 B of the same date,[114] adopted also on the recommendation of the First Committee,[115] the General Assembly appealed once again to the Antarctic Treaty Consultative Parties to take urgent measures to exclude the apartheid minority regime from participation in their meetings at the earliest possible date until such time that the abhorrent system and practices of apartheid minority domination were totally eliminated in South Africa.

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

(*a*) Environmental questions

Sixteenth session of the Governing Council of the United Nations Environment Programme[116]

The sixteenth session of the Governing Council of the United Nations Environment Programme was held at UNEP headquarters, Nairobi, from 20 to 31 May 1991.

By its decision of 16/15 B[117] entitled "The 1991 state-of-the-environment report, 'The state of the world environment 1991' ", the Governing Council requested the Executive Director within the environment programme to continue to accord high priority to the negotiation of a convention on biological diversity.

By its decision 16/25, entitled "Strengthening of three main secretariat units through the establishment of programme activity centres", the Council, noting the progress made in the implementation of decision 10/21 of 31 May 1982, in which the Council had endorsed the Montevideo Programme for the Development and Periodic Review of Environmental Law, and of subsequent decisions in the field of environmental law, decided to give the Global Resource Information Database, the Industry and Environment Office and the Environmental Law and Institutions Unit a greater degree of autonomy in fulfilling their functions by establishing them as programme activity centres within the Office of the Environment Programme, with the priorities and long-term goals with regard to (*a*) pro-

motion and implementation of global legal environmental instruments, (*b*) formulation and implementation of national environmental legislation and establishment or support of appropriate institutions and (*c*) information exchange, as set out in the annex to the decision; called upon Governments and international organizations concerned to cooperate and support the development and application of international environmental law, assistance to developing countries through the provision of technical assistance to develop national environmental legislation, institution building, and support of education and information programmes regarding environmental law; and called upon the United Nations organizations and bodies and intergovernmental organizations outside the United Nations system, as well as non-governmental organizations active in the field of environmental law, to cooperate fully with the United Nations Environment Programme in the implementation of its programme.

By its decision 16/30 A, entitled "Hazardous waste: Environmentally sound management of hazardous waste", the Council requested the Executive Director to prepare, through the interim secretariat for the 1989 Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal[118] and in cooperation with the UNCED secretariat, FAO, ILO, WHO, UNIDO, the Organisation for Economic Cooperation and Development (OECD), the European Economic Community (EEC) and other relevant organizations, draft elements of an international strategy and an action programme; further requested the Executive Director to convene, in cooperation with other organizations as appropriate, an ad hoc meeting of government-designated experts to consider the draft elements and a possible international strategy and action programme; urged Governments that had not yet acceded to or ratified the Basel Convention to do so as soon as possible; and requested the Executive Director to continue to support the efforts of African Governments with regard to the entry into force and implementation of the 1991 Bamako Convention on the Ban of the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes within Africa.[119]

By its decision 16/40, entitled "Protection of the ozone layer", the Council urged States that had not done so to ratify, accept or approve the 1987 Montreal Protocol on Substances That Deplete the Ozone Layer[120] and the 1990 Amendment to the Montreal Protocol adopted by the Second Meeting of the Parties;[121] and urged the parties to the 1985 Vienna Convention for the Protection of the Ozone Layer[122] and the Montreal Protocol that had not yet done so to pay their contributions to the Trust Fund for the Vienna Convention and the Trust Fund for the Montreal Protocol to enable the Ozone Secretariat to implement the decisions of the parties.

By its decision 16/41, entitled "Climate change", in part II, "Intergovernmental Negotiating Committee for a Framework Convention on Climate Change", the Council urged States, acting individually or in groups, as well as through UNEP and other United Nations bodies or other institutions, to support the negotiating process aimed at the protection of the global climate for present and future generations of humanity.

By its decision 16/42, entitled "Preparation of an international legal instrument on biological diversity", the Council decided to rename the Ad Hoc Working Group of Legal and Technical Experts on Biological Diversity the "Intergovernmental Negotiating Committee for a Convention on Biological Diversity"; and affirmed that the change of name did not mean a new negotiating body or affect the continuity of the process of elaborating the convention. And by its decision 16/43, entitled "International conventions and protocols in the field of the environment", the Council took note of the report of the Executive Director on international conventions and protocols in the field of the environment;[123] requested the Executive Director to make the report and the Register of International Treaties and Other Agreements in the Field of the Environment[124] available to the Preparatory Committee for the United Nations Conference on Environment and Development at its third session; called upon the Executive Director, in furtherance of the objectives of the Preparatory Committee for UNCED, to cooperate fully in reviewing the effectiveness of existing international conventions and protocols in the field of the environment; and urged those States that had not already done so to sign, ratify, accede to and implement relevant conventions in the field of the environment.

Pursuant to the request contained in section II, paragraph 9, of General Assembly resolution 44/228 of 22 December 1989, the Governing Council adopted a number of other decisions of relevance to the preparatory process for UNCED.

Session of the Preparatory Committee for the United Nations Conference on Environment and Development[125]

The second and third sessions of the Preparatory Committee for UNCED were held at the United Nations Office at Geneva, from 18 March to 5 April and from 12 August to 4 September 1991, respectively.

Decisions adopted by the Committee[126] included decisions related to legal matters. In particular, by its decision 2/3, entitled "Establishment of Working Group III on legal, institutional and all related matters", the Committee decided to establish an open-ended Working Group III to assist the Preparatory Committee in dealing with legal, institutional and all related matters in full conformity with the terms of General Assembly resolution 44/228 of 22 December 1989, and that that Working Group would (i) prepare an annotated list of existing international agreements and international legal instruments in the environmental field; (ii) examine the feasibility of elaborating principles on general rights and obligations of States and regional economic integration organizations, as appropriate, in the field of environment and development, and consider the feasibility of incorporating such principles in an appropriate instrument/charter/statement/declaration, taking due account of the conclusions of all the regional preparatory conferences; (iii) consider the legal and institutional issues referred to it by Working Groups I and II as well as the plenary of the Preparatory Committee; (iv) review ways and means of strengthening the cooperation and coordination between the United Nations system and

other intergovernmental and non-governmental, regional and global institutions in the field of environment and development; (v) review the role and functioning of the United Nations system in the field of environment and development and make relevant recommendations; and (vi) examine and consider strengthening institutional arrangements required for the effective implementation of the conclusions of UNCED in the United Nations system. By its decision 2/8, entitled "Climate change", the Committee took note of the establishment by General Assembly resolution 45/212 of 21 December 1990 of a single intergovernmental negotiating process for preparation by an Intergovernmental Negotiating Committee of an effective framework convention on climate change and took note of the relationships between the Intergovernmental Negotiating Committee and UNCED as defined by General Assembly resolutions 45/211 and 45/212 of 21 December 1990; and by its decision 3/13 A entitled "Protection of the atmosphere: Climate change", the Committee took note of the report of the Secretary-General of the Conference on protection of the atmosphere: climate change,[127] concerning the ongoing processes related to climate change, and requested the Secretary-General of the Conference to continue to follow those processes in order to ensure that relevant results were reflected in the work of the Preparatory Committee. By its decision 2/9, entitled "Biological diversity", the Committee took note of the progress report of the Secretary-General of UNCED on the conservation of biological diversity.[128] It requested the Secretary-General of UNCED to collaborate closely with UNEP and to transmit a copy of the progress report and the decision of the Preparatory Committee at its second session on the issue to the Chairman and the secretariat of the negotiations on a convention on biological diversity. And by its decision 3/18, entitled "Conservation of biological diversity: options for Agenda 21", the Preparatory Committee of UNCED, having regard to the report of the Secretary-General of the Conference on conservation of biological diversity[129] and on the options for Agenda 21,[130] as well as the oral report by the Chairman of the Intergovernmental Negotiating Committee for a Convention on Biological Diversity regarding progress of the negotiations, requested the Secretary-General of the Conference to transmit the Chairman's Summary and Proposals for Action,[131] suitably represented as an amendment to document A/CONF.151/PC/42/Add.4, to the Negotiating Committee; and also requested the Secretary-General of the Conference to follow the work of the Negotiating Committee and to keep it informed of the interconnections between relevant aspects of biological diversity and other environment and development issues as they emerged from the process of the Conference, in particular in the elaboration in Agenda 21.

By its decision 2/20, entitled "Protection of the quality and supply of freshwater resources: application of integrated approaches to the development, management and use of water resources", the Preparatory Committee requested the Secretary-General of the Conference to prepare for its third session a report on progress achieved in the preparation for the International Conference on Water and the Environment, to be held at Dublin in January 1992. In preparing his report, the Secretary-General of UNCED should take into account, *inter alia*, the need to take into account

the work of the International Law Commission of the United Nations in developing legal instruments for the management of transboundary water resources and related water supply and water quality issues, particularly in international rivers and lakes, and in that connection the Preparatory Committee referred the question of the definition of legal principles for the protection, national use and development of transboundary rivers and lakes to Working Group III and requested the Secretary-General of the Conference to report on progress achieved by the ILC. And by its decision 3/27, entitled "Legal instruments for transboundary waters", the Committee, having taken note of the progress report of the Secretary-General on the development of legal instruments for transboundary waters,[132] and in view of the need to take into account further progress on the matter in the International Law Commission and in the United Nations Economic Commission for Europe (ECE), as well as the results of the International Conference on Water and the Environment, decided to consider the matter at the fourth session of Working Group III.

By its decision 3/25, entitled "Survey of existing agreements and instruments, and criteria for evaluation", the Preparatory Committee took note of the report of the Secretariat on the survey of existing agreements and instruments, and criteria for evaluation;[133] and requested the Secretary-General of UNCED to compile the necessary background information in accordance with the proposed criteria for evaluating the effectiveness of existing agreements and instruments, on the basis of a revised list of such agreements and instruments and in cooperation with international secretariats or depositaries concerned, as applicable. By its decision 3/26, entitled "Principles on general rights and obligations", the Preparatory Committee took note of document A/CONF.151/PC/78 (note by the Secretariat on an annotated check-list of principles of general rights and obligations) and documents submitted by delegations,[134] and decided to take as a basis for the discussion at the fourth session of the Preparatory Commission the ideas and proposals contained in those documents, in combination with the proposals from delegations contained in A/CONF.151/PC/WG.III/L.8 and Add.1 (the Chairman's consolidated draft), without prejudice to further contributions or proposals to be submitted by national delegations or regional groups after the third session of the Preparatory Committee. And by its decision 3/28, entitled "Environmental disputes: prevention and settlement", the Preparatory Committee, recalling General Assembly resolution 44/228 of 22 December 1989 on UNCED and in particular subparagraph 15 (*w*), under which the Conference should assess the capacity of the United Nations system to assist in the prevention and the settlement of disputes in the environmental sphere and to recommend measures in that field, while respecting existing bilateral and multilateral agreements that provided for the settlement of such disputes, bearing in mind the interrelationship of environmental policies, development strategies and peaceful cooperation to achieve global sustainable development, recalling principle 21 of the Declaration of the United Nations Conference on Human Environment, held at Stockholm in June 1972, and taking note of the proposals (submitted by Austria) contained in documents A/CONF.151/PC/L.29 and A/CONF.151/PC/WG.III/L.1, decided to devote one or two sessions of Working Group III

at the fourth session of the Preparatory Committee to subparagraph 15 (*w*) of resolution 44/228; and requested the secretariat, in evaluation of international agreements in preparation for the fourth session of the Preparatory Committee to give special attention to the mandate of subparagraph 15 (*w*) of the above mentioned General Assembly resolution.

Consideration by the General Assembly

At its forty-sixth session the General Assembly, by its resolution 46/168 of 19 December 1991,[135] adopted on the recommendation of the Second Committee,[136] reaffirmed its resolution 44/228 of 22 December 1989, on the United Nations Conference on Environment and Development, and called for its full implementation; and took note of the reports of the Preparatory Committee on its second[137] and third[138] sessions and endorsed the decisions contained therein.

Furthermore, by its resolution 46/169 of the same date,[139] adopted also on the recommendation of the Second Committee,[140] the General Assembly noted with appreciation the work of the Intergovernmental Negotiating Committee for a Framework Convention on Climate Change at its first, second and third sessions;[141] and urged the Negotiating Committee to expedite and successfully complete the negotiations as soon as possible and to adopt the framework convention on climate change, containing appropriate commitments and any related legal instruments as might be agreed upon, in time for it to be opened for signature during UNCED. Moreover, by its decision 46/463 of 20 December 1991,[142] also adopted on the recommendation of the Second Committee,[143] the General Assembly took note of the following reports of the Secretary-General: (*a*) on possible adverse effects of the sea level rise on islands and coastal areas, particularly low-lying coastal areas;[144] (*b*) on traffic in and disposal, control and transboundary movements of toxic and dangerous products and wastes;[145] (*c*) on implementation of General Assembly resolution 44/227;[146] (*d*) on large-scale pelagic drift-net fishing and its impact on the living marine resources of the world's oceans and seas;[147] and the note on international conventions and protocols in the field of the environment.[148]

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

By its resolution 46/214 of 20 December 1991,[149] adopted on the recommendation of the Second Committee,[150] 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 1991 on an international code of conduct on the transfer of technology.[151]

(*c*) Office of the United Nations High Commissioner for Refugees[152]

During the reporting period the global refugee situation deteriorated in an unprecedented manner, owing particularly to developments in the Middle East region and in Africa (the Horn and western Africa). That

troubling evaluation of events had put the humanitarian machinery of the United Nations system and the international community to the test and might have far-reaching implications for the manner in which international assistance was channelled towards emergencies, both man-made and natural. Previous calls for enhanced inter-agency coordination and improvements in resource allocation had assumed greater significance and urgency and gave particular relevance to Economic and Social Council resolution 1990/78 of 27 July 1990.

International protection involved using law and principles to secure the rights, security and welfare of refugees. Beyond attaining immediate objectives, such as the prevention of *refoulement*, the ultimate aim of protection was to achieve durable solutions to the problems of refugees, either through voluntary repatriation to their countries of origin in conditions of safety, or through integration in new national communities. Reassessment of how those goals could be achieved remained an urgent need. The forty-first session of the Executive Committee of the High Commissioner's Programme had noted the urgency of the deliberations of its Working Group on Solutions and Protection. Beginning in the autumn of 1990 the Working Group has met regularly analysing the causes of refugee flows, protection problems, possible responses and solutions—including prevention—relating to the seven categories of persons it decided to discuss within the framework of the exercise, that is, those covered by the 1951 Convention relating to the Status of Refugees[153] and its 1967 Protocol;[154] those covered by the Organization of African Unity Convention Governing Specific Aspects of Refugee Problems in Africa[155] and the Cartagena Declaration on Refugees;[156] those forced to leave, or prevented from returning to their countries because of man-made disasters; those forced to leave or prevented from returning because of natural or ecological disasters or extreme poverty; rejected asylum-seekers; the internally displaced; and stateless persons. Throughout discussions in the Working Group, the perspective of UNHCR had been that it was necessary to adopt a global, solution-oriented approach to population movements containing asylum-seekers, which integrated and properly balanced humanitarian and human rights concerns with development, foreign policy and immigration-control considerations. It was clear from the proceedings that the concept of international protection covered a broad range of activities.

Those included providing for the protection of refugees by promoting with Governments international conventions and special agreements intended to improve the situations of refugees and assisting in efforts to implement durable solutions to their problems.

With Belize acceding on 25 September 1990 to the 1951 Convention relating to the Status of Refugees and its Protocol, the number of States parties to one or both of those instruments was, by the end of the reporting period, 107.

Promotion and dissemination of refugee law had also retained its place as an essential protection function of UNHCR in order to safeguard the human rights of refugees and asylum-seekers. During the period under

review, 20 refugee law training seminars for Government officials and others were organized in all parts of the world. Moreover, the Centre for Documentation on Refugees continued to strengthen and systematize the Office's information and documentation capacity. In that connection, further progress had been realized in the development of its databases, REFLIT, REFCAS, REFINT and REFLEG. Those databases contained, respectively, abstracts of public documents concerning refugees and of legal decisions on refugees status, the full texts of international instruments and of national legislation. In addition to its quarterly bulletin, *Refugee Abstracts*, the Centre had published a special bibliography, *EXOM in abstracts*, on the occasion of the fortieth anniversary of UNHCR, which described all major documents issued in the context of UNHCR governing bodies since its creation. In the framework of the International Refugee Documentation Network, the Centre had set up an *International Refugee Electronic Network* (IRENE). Finally, the *International Thesaurus of Refugee Terminology*, published in English in 1989, was now being issued in French and Spanish.

At the forty-second session of the Executive Committee of the Programme of the High Commissioner for Refugees, held at Geneva from 7 to 11 October 1991,[157] the Committee commended the High Commissioner for the Guidelines on the Protection of Refugee Women[158] and requested that they be made an integral part of all UNHCR protection and assistance activities; reaffirmed Conclusion No. 59 (XL) on refugee children adopted at the fortieth session of the Executive Committee; welcomed the recent accessions by Romania and Poland to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol and appealed to States which had not yet acceded to those instruments to do so, thereby promoting international burden-sharing and facilitating the handling and resolution of refugee situations; noted with appreciation the efforts of the High Commissioner to promote refugee law and called upon the High Commissioner to strengthen the Office's training activities, in particular through training courses directed to Government officials and others working directly with refugees and asylum-seekers; welcomed the convening of the World Conference on Human Rights and called upon the High Commissioner to participate actively in the preparations for and the proceedings of the Conference, bearing in mind particularly that the matter of human rights and mass exoduses merited further serious consideration; accepted with appreciation the report of the Working Group on Solutions and Protection to the forty-second session of the Executive Committee of the High Commissioner's Programme;[159] reaffirmed the link between international protection and resettlement as an instrument of protection and its important role as a durable solution in specific circumstances; welcomed the development of a comprehensive set of Guidelines on the Protection of Refugee Women and stressed the ongoing need to implement and monitor the effectiveness of the Policy on Refugee Women[160] and the Guidelines on the Protection of Refugee Women; reiterated its invitation to Governments, other United Nations bodies, especially UNICEF, intergovernmental and non-governmental organizations and refugees themselves to work with UNHCR in the implementation of the Guidelines on Refugee Children;[161] invited UNHCR to adopt the Guidelines on Refugee Children

and the Guidelines on the Protection of Refugee Women as tools to be used by field offices in their training and their programmes and budget planning process and suggested that UNHCR make active use of those Guidelines in planning and executing any refugee emergency operation.

Consideration by the General Assembly

By its resolution 46/106 of 16 December 1991,[162] adopted on the recommendation of the Third Committee,[163] the General Assembly strongly reaffirmed the fundamental nature of the function of the Office of the United Nations High Commissioner for Refugees to provide international protection and the need for States to cooperate fully with the Office in fulfilling that function, in particular by acceding to and fully and effectively implementing the relevant international and regional refugee instruments; endorsed the conclusion on refugee children adopted by the Executive Committee of the Programme of the High Commissioner at its forty-second session,[164] including the decision to establish a new post of coordinator for refugee children within the Office of the High Commissioner; commended the High Commissioner on the Guidelines on the Protection of Refugee Women;[165] welcomed the initiatives taken by the High Commissioner to enhance the capacity of the Office to respond to emergencies and, taking into account current deliberations on a United Nations system-wide response, encouraged the High Commissioner to continue to work closely with other United Nations agencies, as well as other organizations, whether governmental, intergovernmental or non-governmental, to assure a coordinated and effective response to emergency humanitarian situations of a complex and protracted nature, and called upon Governments to assist in implementing those initiatives.

(*d*) International drug control

Status of international instruments

In the course of 1991, four more States became parties to the 1961 Single Convention on Narcotic Drugs,[166] three more States became parties to the 1971 Convention on Psychotropic Substances,[167] two more States became parties to the 1972 Protocol amending the Single Convention on Narcotic Drugs, 1961,[168] four more States became parties to the Single Convention on Narcotic Drugs, 1961, as amended by the Protocol of 25 March 1972 amending the Single Convention on Narcotic Drugs, 1961,[169] and 23 more States became parties to the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.[170]

Consideration by the General Assembly

By its resolution 46/101 of 16 December 1991,[171] adopted on the recommendation of the Third Committee,[172] the General Assembly reaffirmed that the fight against drug abuse and illicit trafficking should continue to be based on strict respect for the principles enshrined in the Charter of the United Nations and international law, particularly respect

for the sovereignty and territorial integrity of States, non-interference in the internal affairs of States, and non-use of force or the threat of force in international relations; and affirmed that the international fight against drug trafficking should not in any way justify violation of the principles enshrined in the Charter and international law, particularly the right of all peoples freely to determine, without external interference, their political status and to pursue their economic, social and cultural development, and that every State had the duty to respect that right in accordance with the provisions of the Charter.

By its resolution 46/102 of the same date,[173] adopted also on the recommendation of the Third Committee,[174] the General Assembly reaffirmed the commitment expressed in the Global Programme of Action adopted by the General Assembly at its seventeenth special session on 23 February 1990[175] and the Comprehensive Multidisciplinary Outline of Future Activities in Drug Abuse Control,[176] as adopted by the International Conference on Drug Abuse and Illicit Trafficking; and called upon States to take all possible steps to promote and implement individually and in cooperation with other States the mandates and recommendations contained in the Global Programme of Action.

Furthermore, by its resolution 46/103 of the same date,[177] adopted also on the recommendation of the Third Committee,[178] the General Assembly urged Governments and organizations to adhere to the principles set forth in the Declaration adopted by the International Conference on Drug Abuse and Illicit Trafficking[179] and the Political Declaration adopted by the General Assembly at its seventeenth special session,[180] and to implement the recommendations contained in the above-mentioned Comprehensive Multidisciplinary Outline and in the Global Programme of Action; welcomed the trend towards ratification and implementation of the Single Convention on Narcotic Drugs of 1961, that Convention as amended by the 1972 Protocol, the Convention on Psychotropic Substances of 1971 and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988; and commended the International Narcotics Control Board for its valuable work in monitoring production and distribution of narcotic drugs and psychotropic substances so as to limit their use to medical and scientific purposes, and for implementing its additional responsibilities under the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

Finally, by its resolution 46/104 of the same date,[181] adopted also on the recommendation of the Third Committee,[182] the General Assembly took note with appreciation of the report of the Secretary-General on the measures taken to implement Assembly resolution 45/179 of 21 December 1990 on the enhancement of the United Nations structure for drug abuse control;[183] welcomed the integration of the structures and functions of the Division of Narcotic Drugs, the secretariat of the International Narcotics Control Board and the United Nations Fund for Drug Abuse Control into a single international drug control programme based in Vienna; and emphasized the need for the Executive Director of the United Nations International Drug Control Programme to have the necessary degree of managerial flexibility to discharge effectively and expeditiously the functions of the

Programme under the terms of the United Nations treaties and resolutions relating to international drug control, while recognizing that the Programme was now a part of the United Nations Secretariat.

(*e*) Human rights questions

(1) *Status and implementation of international instruments*

(i) *International Covenants on Human Rights*

In 1991, seven more States became parties to the International Covenant on Economic, Social and Cultural Rights,[184] eight more States became parties to the International Covenant on Civil and Political Rights[185] and eight more States became parties to the Optional Protocol to the International Covenant on Civil and Political Rights.[186] On 11 July 1991, the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty of 1989,[187] entered into force, and as of the end of the year, 10 States had become parties to that Protocol.

By its resolution 46/113 of 17 December 1991,[188] adopted on the recommendation of the Third Committee,[189] the General Assembly took note with appreciation of the report of the Human Rights Committee on its fortieth, forty-first and forty-second sessions;[190] also took note with appreciation of the report of the Committee on Economic, Social and Cultural Rights on its fifth session,[191] including its suggestions and recommendations; urged States parties to the International Covenants on Human Rights to pay active attention to the protection and promotion of civil and political rights, as well as economic, social and cultural rights, taking into consideration their indivisible and interrelated character and the fact that the promotion and protection of one category of rights should never exempt or excuse States from the promotion and protection of the other rights; again urged all States that had not yet done so to become parties to the International Covenants on Human Rights and to consider acceding to the Optional Protocols to the International Covenant on Civil and Political Rights; invited the States parties to the International Covenant on Civil and Political Rights to consider making the declaration provided for in article 41 of the Covenant; stressed the importance of avoiding the erosion of human rights by derogation, and underlined the necessity of strict observance of the agreed conditions and procedures for derogation under article 4 of the International Covenant on Civil and Political Rights, bearing in mind the need for States parties to provide the fullest possible information during states of emergency, so that the justification for and appropriateness of measures taken in those circumstances could be assessed; appealed to States parties to the Covenants that had exercised their sovereign right to make reservations in accordance with relevant rules of international law to consider whether any such reservations should be reviewed; again urged the Secretary-General, taking into account the suggestions of the Human Rights Committee, to take determined steps to give more publicity to the work of that Committee and, similarly, to the work of the Committee on Economic, Social and Cultural Rights; and encouraged all Governments to publish the texts of the International Covenants on Human Rights and the

Optional Protocols to the International Covenant on Civil and Political Rights in as many languages as possible and to distribute them and make them known as widely as possible on their territories.

Moreover, by its resolution 46/81 of 16 December 1991,[192] the General Assembly, recalling, on the occasion of the twenty-fifth anniversary of the adoption of the International Covenants on Human Rights, the fundamental importance and special status of those basic human rights instruments of the United Nations, and reaffirming the importance of the observance and effective implementation of the universally recognized standards in the field of human rights as contained in the Covenants, solemnly declared that the acceptance of the Covenants contributed greatly to the protection of human rights and fundamental freedoms.

(ii) *International Convention on the Elimination of All Forms of Racial Discrimination*[193]

In 1991, two more States became parties to the International Convention on the Elimination of All Forms of Racial Discrimination.

By its resolution 46/83 of 16 December 1991,[194] adopted on the recommendation of the Third Committee,[195] the General Assembly commended the Committee on the Elimination of Racial Discrimination for its work with regard to the implementation of the Convention on the Elimination of All Forms of Racial Discrimination and the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination;[196] and took note with appreciation of the report of the Committee on the work of its thirty-ninth and fortieth sessions.[197] Furthermore, by its decision 46/429 of 17 December 1991,[198] adopted on the recommendation of the Third Committee,[199] the General Assembly, aware that the Government of Australia had made a written request for the revision of article 8, paragraph 6, of the Convention, by substituting, for existing paragraph 6, a new paragraph reading "The Secretary-General shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the Convention", and by adding a new paragraph, as paragraph 7, reading "The members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the General Assembly may decide", and having noted that article 23 of the Convention required the General Assembly to decide upon the steps, if any, to be taken in respect of such a request, decided: (*a*) to request the States parties to the Convention to consider the proposed revision at their next meeting; and (*b*) to request the meeting of States parties to limit the scope of any revision of the Convention to the question of arrangements for meeting the expenses of members of the Committee on the Elimination of Racial Discrimination while they were performing Committee duties, as provided for in article 8, paragraph 6, of the Convention.

(iii) *International Convention on the Suppression and Punishment of the Crime of Apartheid*[200]

In 1991, three more States became parties to the International Convention on the Suppression and Punishment of the Crime of Apartheid.

By its resolution 46/84 of 16 December 1991,[201] adopted on the recommendation of the Third Committee,[202] the General Assembly took note of the report of the Secretary-General on the status of the International Convention on the Suppression and Punishment of the Crime of Apartheid;[203] called upon all States whose transnational corporations continued to do business with South Africa to take appropriate steps to terminate their dealings with South Africa; requested the Commission on Human Rights to intensify, in cooperation with the Special Committee against Apartheid, its efforts to compile and update periodically the list of individuals, organizations, institutions and representatives of States deemed responsible for crimes enumerated in article II of the Convention, as well as those against whom or which legal proceedings had been undertaken; underlined the importance of the universal ratification of the Convention, which would be an effective contribution to the fulfilment of the ideals of the Universal Declaration of Human Rights and other human rights instruments; and appealed once again to those States that had not yet done so to ratify or to accede to the Convention without further delay.

(iv) *Convention on the Elimination of All Forms of Discrimination against Women*[204]

In 1991, seven more States became parties to the Convention on the Elimination of All Forms of Discrimination against Women.

By its decision 46/426 of 16 December 1991,[205] adopted on the recommendation of the Third Committee,[206] the General Assembly took note of the report of the Committee on the Elimination of Discrimination against Women[207] and of the report of the Secretary-General on the Convention on the Elimination of All Forms of Discrimination against Women.[208]

(v) *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*[209]

In 1991, nine more States became parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

By its decision 46/428 of 17 December 1991,[210] adopted on the recommendation of the Third Committee,[211] the General Assembly took note of the report of the Secretary-General on the status of the Convention.[212]

(vi) *Convention on the Rights of the Child*[213]

In 1991, 44 more States became parties to the Convention on the Rights of the Child.

By its resolution 46/112 of 17 December 1991,[214] adopted on the recommendation of the Third Committee,[215] the General Assembly took note with appreciation of the report of the Secretary-General on the status of the Convention on the Rights of the Child;[216] expressed its satisfaction at the number of States that had signed, ratified or acceded to the Convention since it had been opened for signature, ratification and accession on 26 January 1990; called upon all States that had not done so to sign, ratify or accede to the Convention as a matter of priority; and requested the Secretary-General to provide all facilities and assistance necessary for the

dissemination of information on the Convention and its implementation, with a view to promoting further ratification of or accession to the Convention.

(vii) *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*[217]

By its resolution 46/114 of 17 December 1991,[218] adopted on the recommendation of the Third Committee,[219] the General Assembly took note of the note of the Secretary-General on the implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;[220] called upon all Member States to consider signing and ratifying or acceding to the Convention as a matter of priority, and expressed the hope that it would enter into force at an early date; requested the Secretary-General to provide all facilities and assistance necessary for the promotion of the Convention, through the World Public Information Campaign on Human Rights and the programme of advisory services in the field of human rights; and invited United Nations agencies and organizations, as well as intergovernmental and non-governmental organizations, to identify their efforts with a view to disseminating information on and promoting understanding of the Convention.

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

By its resolution 46/111 of 17 December 1991,[221] adopted on the recommendation of the Third Committee,[222] the General Assembly endorsed the conclusions and recommendations of the meetings of persons chairing the human rights treaty bodies aimed at streamlining, rationalizing and otherwise improving reporting procedures,[223] and supported the continuing efforts in that connection by the treaty bodies and the Secretary-General within their respective spheres of competence; once again expressed its satisfaction with the study by the independent expert on possible long-term approaches to enhancing the effective operation of existing and prospective bodies established under United Nations instruments on human rights;[224] requested the Secretary-General to give high priority to establishing a computerized database to improve the efficiency and effectiveness of the functioning of the treaty bodies; again urged States parties to make every effort to meet their reporting obligations and to contribute, individually and through meetings of States parties, to identifying and implementing ways of further streamlining and improving reporting procedures as well as enhancing coordination and information flow between the treaty bodies and with relevant United Nations bodies, including specialized agencies; and endorsed the recommendation, made in October 1990, of the third meeting of persons chairing the human rights treaty bodies, that the General Assembly should take appropriate measures to ensure the financing of each of the committees from the United Nations regular budget.[225]

(2) *World Conference on Human Rights*

By its resolution 46/116 of 17 December 1991,[226] adopted on the recommendation of the Third Committee,[227] the General Assembly recalling its resolution 45/155 of 18 December 1990 in which it had decided to convene at a high level a World Conference on Human Rights in 1993 and to establish a Preparatory Commission for the World Conference on Human Rights, took note with appreciation of the report of the Preparatory Committee for the World Conference on Human Rights on its first session;[228] decided that the Preparatory Committee, at its second session, would base the elaboration of the provisional agenda for the Conference on the objectives stated in paragraph 1 of resolution 45/155; and decided, in accordance with the decisions adopted by the Preparatory Committee, that the Conference should be convened at Berlin, for a period of two weeks in 1993 and requested the Secretary-General to prepare the relevant specific documentation as soon as possible.

(3) *Alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms*

By its resolution 46/117 of 17 December 1991,[229] adopted on the recommendation of the Third Committee,[230] the General Assembly reiterated its request that the Commission on Human Rights should continue its current work on overall analysis with a view to further promoting and strengthening human rights and fundamental freedoms, including the question of the programme and working methods of the Commissions, and on the overall analysis of the alternative approaches and ways and means for improving the effective enjoyment of human rights and fundamental freedoms in accordance with the provisions and ideas set forth in General Assembly resolution 32/130 of 16 December 1977; affirmed that a primary aim of international cooperation in the field of human rights was a life of freedom, dignity and peace for all peoples and for every human being, that all human rights and fundamental freedoms were indivisible and interrelated and that the promotion and protection of one category of rights should never exempt or excuse States from promoting and protecting the others; reaffirmed that equal attention and urgent consideration should be given to the implementation, promotion and protection of civil and political rights and of economic, social and cultural rights; reiterated once again that the international community should accord, or continue to accord, priority to the search for solutions to mass and flagrant violations of human rights of peoples and individuals affected by situations such as those mentioned in paragraph 1 (*e*) of General Assembly resolution 32/130, paying due attention also to other situations of violations of human rights; reaffirmed that the right to development was an inalienable human right; and considered it necessary for all Member States to promote international cooperation on the basis of respect for the independence, sovereignty and territorial integrity of each State, including the right of every people to choose freely its own socio-economic and political system, with a view to solving international economic, social and humanitarian problems.

(4) *National institutions for the protection and promotion of human rights*

By its resolution 46/124 of 17 December 1991,[231] adopted on the recommendation of the Third Committee,[232] the General Assembly took note with satisfaction of the updated report of the Secretary-General on national institutions for the protection and promotion of human rights,[233] prepared in accordance with General Assembly resolution 44/64 of 8 December 1989; reaffirmed the importance of the development, in accordance with national legislation, of effective national institutions for the protection and promotion of human rights and of maintaining their independence and integrity; encouraged Member States to establish or, where they already existed, to strengthen national institutions for the protection and promotion of human rights and to incorporate those elements in national development plans; and welcomed the convening of a workshop on that subject by the Centre for Human Rights in Paris in October 1991, as had been requested in Commission on Human Rights resolution 1990/73 of 7 March 1990.

(5) *Human rights in the administration of justice*

By its resolution 46/120 of 17 December 1991,[234] adopted on the recommendation of the Third Committee,[235] the General Assembly reaffirmed the importance of the full and effective implementation of United Nations norms and standards on human rights in the administration of justice; once again called upon all States to pay due attention to those norms and standards in developing national and regional strategies for their practical implementation and to spare no effort in providing for effective legislative and other mechanisms and procedures, as well as for adequate financial resources to ensure more effective implementation of those norms and standards; and endorsed Economic and Social Council resolution 1991/15 of 30 May 1991 concerning the implementation of United Nations standards and norms in crime prevention and criminal justice.

(6) *Enhancing the effectiveness of the principle of periodic and genuine elections*

By its resolution 46/137 of 17 December 1991,[236] adopted on the recommendation of the Third Committee,[237] the General Assembly took note with appreciation of the report of the Secretary-General[238] on enhancing the effectiveness of the principle of periodic and genuine elections; underscored the significance of the Universal Declaration of Human Rights[239] and the International Covenant on Civil and Political Rights,[240] which established that the authority to govern should be based on the will of the people, as expressed in periodic and genuine elections; stressed its conviction that periodic and genuine elections were a necessary and indispensable element of sustained efforts to protect the rights and interests of the governed and that, as a matter of practical experience, the right of everyone to take part in the government of his or her country was a crucial factor in the effective enjoyment by all of a wide range of

other human rights and fundamental freedoms, embracing political, economic, social and cultural rights; declared that determining the will of the people required an electoral process that provided an equal opportunity for all citizens to become candidates and put forward their political views, individually and in cooperation with others, as provided in national constitutions and laws; believed that the international community should continue to give serious consideration to ways in which the United Nations could respond to the requests of Member States as they sought to promote and strengthen their electoral institutions and procedures; endorsed the view of the Secretary-General that he should designate a senior official in the Offices of the Secretary-General to act as a focal point, in addition to existing duties and in order to ensure consistency in the handling of requests of Member States organizing elections, who would assist the Secretary-General to coordinate and consider requests for electoral verification and to channel requests for electoral assistance to the appropriate office or programme; and requested the Secretary-General to establish, in accordance with United Nations financial regulations, a voluntary trust fund for cases where the requesting Member State was unable to finance the electoral verification mission and to propose guidelines for disbursements therefrom. Furthermore, by its resolution 46/130 of the same date,[241] adopted also on the recommendation of the Third Committee,[242] the General Assembly reiterated that, by virtue of the principle of equal rights and self-determination of peoples enshrined in the Charter of the United Nations, all peoples had the right, freely and without external interference, to determine their political status and to pursue their economic, social and cultural development, and that every State had the duty to respect that right in accordance with the provisions of the Charter; reaffirmed that it was the concern solely of peoples to determine methods and to establish institutions regarding the electoral process, as well as to determine the ways for its implementation according to their constitution and national legislation; recognized that there was no universal need for the United Nations to provide electoral assistance to Member States, except in special circumstances such as cases of decolonization, in the context of regional or international peace processes or at the request of specific sovereign States, by virtue of resolutions adopted by the Security Council or the General Assembly in each individual case, in strict conformity with the principles of sovereignty and non-interference in the internal affairs of States; and called upon the Commission on Human Rights, at its forty-eighth session, to give priority to the review of the fundamental factors that negatively affected the observance of the principles of national sovereignty and non-interference in the internal affairs of States in their electoral processes and to report to the General Assembly at its forty-seventh session, through the Economic and Social Council.

(7) *Strengthening of United Nations action in the human rights field through the promotion of international cooperation and the importance of non-selectivity, impartiality and objectivity*

By its resolution 46/129 of 17 December 1991,[243] adopted on the recommendation of the Third Committee,[244] the General Assembly called

upon all Member States to base their activities for the protection and promotion of human rights, including the development of further international cooperation in that field, on the Charter of the United Nations, the Universal Declaration of Human Rights,[245] the International Covenants on Human Rights[246] and other relevant international instruments and to refrain from activities that were inconsistent with that international legal framework; affirmed that the promotion, protection and full realization of all human rights and fundamental freedoms, as legitimate concerns of the world community, should be guided by the principles of non-selectivity, impartiality and objectivity and should not be used for political ends; invited Member States to consider adopting, as appropriate, within the framework of their respective legal systems and in accordance with their obligations under international law, especially the Charter, as well as international human rights instruments, the measures that they might deem appropriate to achieve further progress in international cooperation in promoting and encouraging respect for human rights and fundamental freedoms; and requested the Commission on Human Rights, at its forty-eighth session, to continue to examine ways and means to strengthen United Nations action in that regard, on the basis of the current resolution and of Commission on Human Rights resolution 1991/79 of 6 March 1991.

(8) *Elimination of all forms of religious intolerance*

By its resolution 46/131 of 17 December 1991,[247] adopted on the recommendation of the Third Committee,[248] the General Assembly reaffirmed that freedom of thought, conscience, religion and belief was a right guaranteed to all without discrimination; urged States, therefore, in accordance with their respective constitutional systems and with such internationally accepted instruments as the Universal Declaration of Human Rights,[249] the International Covenant on Civil and Political Rights[250] and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief,[251] to provide, where they had not already done so, adequate constitutional and legal guarantees of freedom of thought, conscience, religion and belief; called upon all States to recognize, as provided in the Declaration, the right of all persons to worship or assemble in connection with a religion or belief, and to establish and maintain places for those purposes; encouraged the continued efforts on the part of the Special Rapporteur appointed to examine incidents and governmental actions in all parts of the world that were incompatible with the provisions of the Declaration and to recommend remedial measures as appropriate;[252] recommended that the promotion and protection of the right to freedom of thought, conscience and religion be given appropriate priority in the work of the United Nations programme of advisory services in the field of human rights, with regard to, *inter alia*, the drafting of basic legal texts in conformity with international instruments on human rights and taking into account the provisions of the Declaration; welcomed the announced intention of the Human Rights Committee to prepare a general comment on article 18 of the International Covenant on Civil and Political Rights, dealing with freedom of thought, conscience and religion; urged all States to consider disseminating the text of the Declaration in their respec-

tive national languages and to facilitate its dissemination in national and local languages; and requested the Commission on Human Rights to continue its consideration of measures to implement the Declaration.

(9) *Non-discrimination and protection of minorities*

By its resolution 46/115 of 17 December 1991,[253] adopted on the recommendation of the Third Committee,[254] the General Assembly, stressing the need to ensure for all, without discrimination of any kind, full enjoyment of human rights and fundamental freedoms and, in particular, to accomplish the elaboration of a draft declaration on the rights of persons belonging to national, ethnic, religious and linguistic minorities, encouraged the Commission on Human Rights to complete the final text of the draft declaration on the subject as soon as possible and to transmit it for adoption to the General Assembly, through the Economic and Social Council.

(10) *The protection of persons with mental illness and the improvement of mental health care*

By its resolution 46/119 of 17 December 1991,[255] adopted on the recommendation of the Third Committee,[256] the General Assembly, recalling its resolution 33/53 of 14 December 1978, in which it had requested the Commission on Human Rights to urge the Subcommission on Prevention of Discrimination and Protection of Minorities to undertake, as a matter of priority, a study of the question of the protection of those detained on the grounds of mental ill-health, with a view to formulating guidelines, and taking note of the note of the Secretary-General,[257] the annex to which contained the draft body of principles and the introduction to the body of principles, adopted the Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care, the text of which was contained in the annex to the resolution.

ANNEX

Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care

Application

The present Principles shall be applied without discrimination on any grounds, such as disability, race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, legal or social status, age, property or birth.

Definitions

In the present Principles:

(*a*) "Counsel" means a legal or other qualified representative;

(*b*) "Independent authority" means a competent and independent authority prescribed by domestic law;

(*c*) "Mental health care" includes analysis and diagnosis of a person's mental condition, and treatment, care and rehabilitation for a mental illness or suspected mental illness;

(*d*) "Mental health facility" means any establishment, or any unit of an establishment, which as its primary function provides mental health care;

(*e*) "Mental health practitioner" means a medical doctor, clinical psychologist, nurse, social worker or other appropriately trained and qualified person with specific skills relevant to mental health care;

(*f*) "Patient" means a person receiving mental health care and includes all persons who are admitted to a mental health facility;

(*g*) "Personal representative" means a person charged by law with the duty of representing a patient's interests in any specified respect or of exercising specified rights on the patient's behalf, and includes the parent or legal guardian of a minor unless otherwise provided by domestic law;

(*h*) "The review body" means the body established in accordance with principle 17 to review the involuntary admission or retention of a patient in a mental health facility.

General limitation clause

The exercise of the rights set forth in the present Principles may be subject only to such limitations as are prescribed by law and are necessary to protect the health or safety of the person concerned or of others, or otherwise to protect public safety, order, health or morals or the fundamental rights and freedoms of others.

PRINCIPLE 1

Fundamental freedoms and basic rights

1. All persons have the right to the best available mental health care, which shall be part of the health and social care system.

2. All persons with a mental illness, or who are being treated as such persons, shall be treated with humanity and respect for the inherent dignity of the human person.

3. All persons with a mental illness, or who are being treated as such persons, have the right to protection from economic, sexual and other forms of exploitation, physical or other abuse and degrading treatment.

4. There shall be no discrimination on the grounds of mental illness. "Discrimination" means any distinction, exclusion or preference that has the effect of nullifying or impairing equal enjoyment of rights. Special measures solely to protect the rights, or secure the advancement, of persons with mental illness shall not be deemed to be discriminatory. Discrimination does not include any distinction, exclusion or preference undertaken in accordance with the provisions of the present Principles and necessary to protect the human rights of a person with a mental illness or of other individuals.

5. Every person with a mental illness shall have the right to exercise all civil, political, economic, social and cultural rights as recognized in the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and in other relevant instruments, such as the Declaration on the Rights of Disabled Persons[142] and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

6. Any decision that, by reason of his or her mental illness, a person lacks legal capacity, and any decision that, in consequence of such incapacity, a personal

representative shall be appointed, shall be made only after a fair hearing by an independent and impartial tribunal established by domestic law. The person whose capacity is at issue shall be entitled to be represented by a counsel. If the person whose capacity is at issue does not himself or herself secure such representation, it shall be made available without payment by that person to the extent that he or she does not have sufficient means to pay for it. The counsel shall not in the same proceedings represent a mental health facility or its personnel and shall not also represent a member of the family of the person whose capacity is at issue unless the tribunal is satisfied that there is no conflict of interest. Decisions regarding capacity and the need for a personal representative shall be reviewed at reasonable intervals prescribed by domestic law. The person whose capacity is at issue, his or her personal representative, if any, and any other interested person shall have the right to appeal to a higher court against any such decision.

7. Where a court or other competent tribunal finds that a person with mental illness is unable to manage his or her own affairs, measures shall be taken, so far as is necessary and appropriate to that person's condition, to ensure the protection of his or her interests.

PRINCIPLE 2

Protection of minors

Special care should be given within the purposes of the Principles and within the context of domestic law relating to the protection of minors to protect the rights of minors, including, if necessary, the appointment of a personal representative other than a family member.

PRINCIPLE 3

Life in the community

Every person with a mental illness shall have the right to live and work, to the extent possible, in the community.

PRINCIPLE 4

Determination of mental illness

1. A determination that a person has a mental illness shall be made in accordance with internationally accepted medical standards.

2. A determination of mental illness shall never be made on the basis of political, economic or social status, or membership in a cultural, racial or religious group, or for any other reason not directly relevant to mental health status.

3. Family or professional conflict, or non-conformity with moral, social, cultural or political values or religious beliefs prevailing in a person's community, shall never be a determining factor in the diagnosis of mental illness.

4. A background of past treatment or hospitalization as a patient shall not of itself justify any present or future determination of mental illness.

5. No person or authority shall classify a person as having, or otherwise indicate that a person has, a mental illness except for purposes directly relating to mental illness or the consequences of mental illness.

PRINCIPLE 5

Medical examination

No person shall be compelled to undergo medical examination with a view to determining whether or not be or she has a mental illness except in accordance with a procedure authorized by domestic law.

PRINCIPLE 6

Confidentiality

The right of confidentiality of information concerning all persons to whom the present Principles apply shall be respected.

PRINCIPLE 7

Role of community and culture

1. Every patient shall have the right to be treated and cared for, as far as possible, in the community in which he or she lives.

2. Where treatment takes place in a mental health facility, a patient shall have the right, whenever possible, to be treated near his or her home or the home of his or her relatives or friends and shall have the right to return to the community as soon as possible.

3. Every patient shall have the right to treatment suited to his or her cultural background.

PRINCIPLE 8

Standards of care

1. Every patient shall have the right to receive such health and social care as is appropriate to his or her health needs, and is entitled to care and treatment in accordance with the same standards as other ill persons.

2. Every patient shall be protected from harm, including unjustified medication, abuse by other patients, staff or others or other acts causing mental distress or physical discomfort.

PRINCIPLE 9

Treatment

1. Every patient shall have the right to be treated in the least restrictive environment and with the least restrictive or intrusive treatment appropriate to the patient's health needs and the need to protect the physical safety of others.

2. The treatment and care of every patient shall be based on an individually prescribed plan, discussed with the patient, reviewed regularly, revised as necessary and provided by qualified professional staff.

3. Mental health care shall always be provided in accordance with applicable standards of ethics for mental health practitioners, including internationally accepted standards such as the Principles of Medical Ethics relevant to the role of health personnel, particularly physicians, in the protection of prisoners and detainees against torture and other cruel, inhuman or degrading treatment or punishment, adopted by the United Nations General Assembly. Mental health knowledge and skills shall never be abused.

4. The Treatment of every patient shall be directed towards preserving and enhancing personal autonomy.

PRINCIPLE 10

Medication

1. Medication shall meet the best health needs of the patient, shall be given to a patient only for therapeutic or diagnostic purposes and shall never be administered as a punishment or for the convenience of others. Subject to the provisions of paragraph 15 of principle 11 below, mental health practitioners shall only administer medication of known or demonstrated efficacy.

2. All medication shall be prescribed by a mental health practitioner authorized by law and shall be recorded in the patient's records.

PRINCIPLE 11

Consent to treatment

1. No treatment shall be given to a patient without his or her informed consent, except as provided for in paragraphs 6, 7, 8 13 and 15 of the present principle.

2. Informed consent is consent obtained freely, without threats or improper inducements, after appropriate disclosure to the patient of adequate and understandable information in a form and language understood by the patient on:

(*a*) The diagnostic assessment;

(*b*) The purpose, method, likely duration and expected benefit of the proposed treatment;

(*c*) Alternative modes of treatment, including those less intrusive;

(*d*) Possible pain or discomfort, risks and side-effects of the proposed treatment.

3. A patient may request the presence of a person or persons of the patient's choosing during the procedure for granting consent.

4. A patient has the right to refuse or stop treatment, except as provided for in paragraphs 6, 7, 8, 13 and 15 of the present principle. The consequences of refusing or stopping treatment must be explained to the patient.

5. A patient shall never be invited or induced to waive the right to informed consent. If the patient should seek to do so, it shall be explained to the patient that the treatment cannot be given without informed consent.

6. Except as provided in paragraphs 7, 8, 12, 13, 14 and 15 of the present principle, a proposed plan of treatment may be given to a patient without a patient's informed consent if the following conditions are satisfied:

(*a*) The patient is, at the relevant time, held as an involuntary patient;

(*b*) An independent authority, having in its possession all relevant information, including the information specified in paragraph 2 of the present principle, is satisfied that, at the relevant time, the patient lacks the capacity to give or withhold informed consent to the proposed plan of treatment or, if domestic legislation so provides, that, having regard to the patient's own safety or the safety of others, the patient unreasonably withholds such consent;

(*c*) The independent authority is satisfied that the proposed plan of treatment is in the best interest of the patient's health needs.

7. Paragraph 6 above does not apply to a patient with a personal representative empowered by law to consent to treatment for the patient; but, except as

provided in paragraphs 12, 13, 14 and 15 of the present principle, treatment may be given to such a patient without his or her informed consent if the personal representative, having been given the information described in paragraph 2 of the present principle, consents on the patient's behalf.

8. Except as provided in paragraphs 12, 13, 14 and 15 of the present principle, treatment may also be given to any patient without the patient's informed consent if a qualified mental health practitioner authorized by law determines that it is urgently necessary in order to prevent immediate or imminent harm to the patient or to other persons. Such treatment shall not be prolonged beyond the period that is strictly necessary for this purpose.

9. Where any treatment is authorized without the patient's informed consent, every effort shall nevertheless be made to inform the patient about the nature of the treatment and any possible alternatives and to involve the patient as far as practicable in the development of the treatment plan.

10. All treatment shall be immediately recorded in the patient's medical records, with an indication of whether involuntary or voluntary.

11. Physical restraint or involuntary seclusion of a patient shall not be employed except in accordance with the officially approved procedures of the mental health facility and only when it is the only means available to prevent immediate or imminent harm to the patient or others. It shall not be prolonged beyond the period which is strictly necessary for this purpose. All instances of physical restraint or involuntary seclusion, the reasons for them and their nature and extent shall be recorded in the patient's medical record. A patient who is restrained or secluded shall be kept under humane conditions and be under the care and close and regular supervision of qualified members of the staff. A personal representative, if any and if relevant, shall be given prompt notice of any physical restraint or involuntary seclusion of the patient.

12. Sterilization shall never be carried out as a treatment for mental illness.

13. A major medical or surgical procedure may be carried out on a person with mental illness only where it is permitted by domestic law, where it is considered that it would best serve the health needs of the patient and where the patient gives informed consent, except that, where the patient is unable to give informed consent, the procedure shall be authorized only after independent review.

14. Psychosurgery and other intrusive and irreversible treatments for mental illness shall never be carried out on a patient who is an involuntary patient in a mental health facility and, to the extent that domestic law permits them to be carried out, they may be carried out on any other patient only where the patient has given informed consent and an independent external body has satisfied itself that there is genuine informed consent and that the treatment best serves the health needs of the patient.

15. Clinical trials and experimental treatment shall never be carried out on any patient without informed consent, except that a patient who is unable to give informed consent may be admitted to a clinical trial or given experimental treatment, but only with the approval of a competent, independent review body specifically constituted for this purpose.

16. In the cases specified in paragraphs 6, 7, 8, 13, 14 and 15 of the present principle, the patient or his or her personal representative, or any interested person, shall have the right to appeal to a judicial or other independent authority concerning any treatment given to him or her.

PRINCIPLE 12

Notice of rights

1. A patient in a mental health facility shall be informed as soon as possible after admission, in a form and a language which the patient understands, of all his or her rights in accordance with the present Principles and under domestic law, and the information shall include an explanation of those rights and how to exercise them.

2. If and for so long as a patient is unable to understand such information, the rights of the patient shall be communicated to the personal representative, if any and if appropriate, and to the person or persons best able to represent the patient's interests and willing to do so.

3. A patient who has the necessary capacity has the right to nominate a person who should be informed on his or her behalf, as well as a person to represent his or her interests to the authorities of the facility.

PRINCIPLE 13

Rights and conditions in mental health facilities

1. Every patient in a mental health facility shall, in particular, have the right to full respect for his or her:

(*a*) Recognition everywhere as a person before the law;

(*b*) Privacy;

(*c*) Freedom of communication, which includes freedom to communicate with other persons in the facility; freedom to send and receive uncensored private communications; freedom to receive, in private, visits from a counsel or personal representative and, at all reasonable times, from other visitors; and freedom of access to postal and telephone services and to newspapers, radio and television;

(*d*) Freedom of religion or belief.

2. The environment and living conditions in mental health facilities shall be as close as possible to those of the normal life of persons of similar age and in particular shall include:

(*a*) Facilities for recreational and leisure activities;

(*b*) Facilities for education;

(*c*) Facilities to purchase or receive items for daily living, recreation and communication;

(*d*) Facilities, and encouragement to use such facilities, for a patient's engagement in active occupation suited to his or her social and cultural background, and for appropriate vocational rehabilitation measures to promote reintegration in the community. These measures should include vocational guidance, vocational training and placement services to enable patients to secure or retain employment in the community.

3. In no circumstances shall a patient be subject to forced labour. Within the limits compatible with the needs of the patient and with the requirements of institutional administration, a patient shall be able to choose the type of work he or she wishes to perform.

4. The labour of a patient in a mental health facility shall not be exploited. Every such patient shall have the right to receive the same remuneration for any work which he or she does as would, according to domestic law or custom, be paid for such work to a non-patient. Every such patient shall, in any event, have the right to receive a fair share of any remuneration which is paid to the mental health facility for his or her work.

PRINCIPLE 14

Resources for mental health facilities

1. A mental health facility shall have access to the same level of resources as any other health establishment, and in particular:

(*a*) Qualified medical and other appropriate professional staff in sufficient numbers and with adequate space to provide each patient with privacy and a programme of appropriate and active therapy;

(*b*) Diagnostic and therapeutic equipment for the patient;

(*c*) Appropriate professional care;

(*d*) Adequate, regular and comprehensive treatment, including supplies of medication.

2. Every mental health facility shall be inspected by the competent authorities with sufficient frequency to ensure that the conditions, treatment and care of patients comply with the present Principles.

PRINCIPLE 15

Admission principles

1. Where a person needs treatment in a mental health facility, every effort shall be made to avoid involuntary admission.

2. Access to a mental health facility shall be administered in the same way as access to any other facility for any other illness.

3. Every patient not admitted involuntarily shall have the right to leave the mental health facility at any time unless the criteria for his or her retention as an involuntary patient, as set forth is principle 16 below, apply, and he or she shall be informed of that right.

PRINCIPLE 16

Involuntary admission

1. A person may be admitted involuntarily to a mental health facility as a patient or, having already been admitted voluntarily as a patient, be retained as an involuntary patient in the mental health facility if, and only if, a qualified mental health practitioner authorized by law for that purpose determines, in accordance with principle 4 above, that that person has a mental illness and considers:

(*a*) That, because of that mental illness, there is a serious likelihood of immediate or imminent harm to that person or to other persons; or

(*b*) That, in the case of a person whose mental illness is severe and whose judgement is impaired, failure to admit or retain that person is likely to lead to a serious deterioration in his or her condition or will prevent the giving of appropriate treatment that can only be given by admission to a mental health facility in accordance with the principle of the least restrictive alternative.

In the case referred to in subparagraph (*b*), a second such mental health practitioner, independent of the first, should be consulted where possible. If such consultation takes place, the involuntary admission or retention may not take place unless the second mental health practitioner concurs.

2. Involuntary admission or retention shall initially be for a short period as specified by domestic law for observation and preliminary treatment pending review of the admission or retention by the review body. The grounds of the admission shall be communicated to the patient without delay and the fact of the

admission and the grounds for it shall also be communicated promptly and in detail to the review body, to the patient's personal representative, if any, and, unless the patient objects, to the patient's family.

3. A mental health facility may receive involuntarily admitted patients only if the facility has been designated to do so by a competent authority prescribed by domestic law.

PRINCIPLE 17

Review body

1. The review body shall be a judicial or other independent and impartial body established by domestic law and functioning in accordance with procedures laid down by domestic law. It shall, in formulating its decisions, have the assistance of one or more qualified independent mental health practitioners and take their advice into account.

2. The initial review of the review body, as required by paragraph 2 of principle 16 above, of a decision to admit or retain a person as an involuntary patient shall take place as soon as possible after that decision and shall be conducted in accordance with simple and expeditious procedures as specified by domestic law.

3. The review body shall periodically review the cases of involuntary patients at reasonable intervals as specified by domestic law.

4. An involuntary patient may apply to the review body for release or voluntary status, at reasonable intervals as specified by domestic law.

5. At each review, the review body shall consider whether the criteria for involuntary admission set out in paragraph 1 of principle 16 above are still satisfied, and, if not, the patient shall be discharged as an involuntary patient.

6. If at any time the mental health practitioner responsible for the case is satisfied that the conditions for the retention of a person as an involuntary patient are no longer satisfied, he or she shall order the discharge of that person as such a patient.

7. A patient or his personal representative or any interested person shall have the right to appeal to a higher court against a decision that the patient be admitted to, or be retained in, a mental health facility.

PRINCIPLE 18

Procedural safeguards

1. The patient shall be entitled to choose and appoint a counsel to represent the patient as such, including representation in any complaint procedure or appeal. If the patient does not secure such services, a counsel shall be made available without payment by the patient to the extent that the patient lacks sufficient means to pay.

2. The patient shall also be entitled to the assistance, if necessary, of the services of an interpreter. Where such services are necessary and the patient does not secure them, they shall be made available without payment by the patient to the extent that the patient lacks sufficient means to pay.

3. The patient and the patient's counsel may request and produce at any hearing an independent mental health report and any other reports and oral, written and other evidence that are relevant and admissible.

4. Copies of the patient's records and any reports and documents to be submitted shall be given to the patient and to the patient's counsel, except in special cases where it is determined that a specific disclosure to the patient would cause

serious harm to the patient's health or put at risk the safety of others. As domestic law may provide, any document not given to the patient should, when this can be done in confidence, be given to the patient's personal representative and counsel. When any part of a document is withheld from a patient, the patient or the patient's counsel if any, shall receive notice of the withholding and the reasons for it and it shall be subject to judicial review.

5. The patient and the patient's personal representative and counsel shall be entitled to attend, participate and be heard personnally in any hearing.

6. If the patient or the patient's personal representative or counsel requests that a particular person be present at a hearing, that person shall be admitted unless it is determined that the person's presence could cause serious harm to the patient's health or put at risk the safety of others.

7. Any decision on whether the hearing or any part of it shall be in public or in private and may be publicly reported shall give full consideration to the patient's own wishes, to the need to respect the privacy of the patient and of other persons and to the need to prevent serious harm to the patient's health or to avoid putting at risk the safety of others.

8. The decision arising out of the hearing and the reasons for it shall be expressed in writing. Copies shall be given to the patient and his or her personal representative and counsel. In deciding whether the decision shall be published in whole or in part, full consideration shall be given to the patient's own wishes, to the need to respect his or her privacy and that of other persons, to the public interest in the open administration of justice and to the need to prevent serious harm to the patient's health or to avoid putting at risk the safety of others.

PRINCIPLE 19

Access to information

1. A patient (which term in the present principle includes a former patient) shall be entitled to have access to the information concerning the patient in his or her health and personal records maintained by a mental health facility. This right may be subject to restrictions in order to prevent serious harm to the patient's health and avoid putting at risk the safety of others. As domestic law may provide, any such information not given to the patient should, when this can be done in confidence, be given to the patient's personal representative and counsel. When any of the information is withheld from a patient, the patient or the patient's counsel, if any, shall receive notice of the withholding and the reasons for it and it shall be subject to judicial review.

2. Any written comments by the patient or the patient's personal representative or counsel shall, on request, be inserted in the patient's file.

PRINCIPLE 20

Criminal offenders

1. The present principle applies to persons serving sentences of imprisonment for criminal offences, or who are otherwise detained in the course of criminal proceedings or investigations against them, and who are determined to have a mental illness or who it is believed may have such an illness.

2. All such persons should receive the best available mental health care as provided in principle 1 above. The present Principles shall apply to them to the fullest extent possible, with only such limited modifications and exceptions as are necessary in the circumstances. No such modifications and exceptions shall preju-

dice the persons' rights under the instruments noted in paragraph 5 of principle 1 above.

3. Domestic law may authorize a court or other competent authority, acting on the basis of competent and independent medical advice, to order that such persons be admitted to a mental health facility.

4. Treatment of persons determined to have a mental illness shall in all circumstances be consistent with principle 11 above.

PRINCIPLE 21

Complaints

Every patient and former patient shall have the right to make a complaint through procedures as specified by domestic law.

PRINCIPLE 22

Monitoring and remedies

States shall ensure that appropriate mechanisms are in force to promote compliance with the present Principles, for the inspection of mental health facilities, for the submission, investigation and resolution of complaints and for the institution of appropriate disciplinary or judicial proceedings for professional misconduct or violation of the rights of a patient.

PRINCIPLE 23

Implementation

1. States should implement the present Principles through appropriate legislative, judicial, administrative, educational and other measures, which they shall review periodically.

2. States shall make the present Principles widely known by appropriate and active means.

PRINCIPLE 24

Scope of principles relating to mental health facilities

The present Principles apply to all persons who are admitted to a mental health facility.

PRINCIPLE 25

Saving of existing rights

There shall be no restriction upon or derogation from any existing rights of patients, including rights recognized in applicable international or domestic law, on the pretext that the present Principles do not recognize such rights or that they recognize them to a lesser extent.

(11) *Question of enforced or involuntary disappearances*

By its resolution 46/125 of 17 December 1991,[258] adopted on the recommendation of the Third Committee,[259] the General Assembly noted with satisfaction that the open-ended working group established by Commission on Human Rights resolution 1991/41 of 5 March 1991 had com-

pleted its consideration of the draft declaration on the protection of all persons from enforced or involuntary disappearances,[260] which would be transmitted to the Commission on Human Rights for adoption at its forty-eighth session; requested the Commission to give that question high priority at its forty-eighth session; and appealed to Governments to take appropriate steps to prevent and suppress the practice of enforced disappearances and to take action at the national and regional levels and in cooperation with the United Nations to that end.

(12) *Human rights and extreme poverty*

By its resolution 46/121 of 17 December 1991,[261] adopted on the recommendation of the Third Committee,[262] the General Assembly affirmed that extreme poverty and exclusion from society constituted a violation of human dignity and that urgent national and international measures were therefore required to eliminate them; stressed the need for an in-depth and complete study of the nature of the phenomenon of extreme poverty which affected mankind; and requested the Commission on Human rights to give appropriate consideration, in directing its studies of extreme poverty, to the conditions in which the poorest themselves could convey their experience and so contribute to a better understanding of their situation of social exclusion.

(13) *Human rights and mass exoduses*

By its resolution 46/127 of 17 December 1991,[263] adopted on the recommendation of the Third Committee,[264] the General Assembly reaffirmed its support for the recommendations of the Group of Governmental Experts on International Cooperation to Avert New Flows of Refugees[265] that the principal organs of the United Nations should make fuller use of their respective competencies under the Charter of the United Nations for the prevention of new massive flows of refugees and displaced persons; requested all Governments to ensure the effective implementation of the relevant international instruments, in particular in the field of human rights, as that would contribute to averting new massive flows of refugees and displaced persons; and took note of the report of the Secretary-General on human rights and mass exoduses,[266] and reiterated its request that future reports include information concerning the modalities and operations of early-working activities to avert new and massive flows of refugees.

(14) *Human rights and scientific and technological progress*

By its resolution 46/126 of 17 December 1991,[267] adopted on the recommendation of the Third Committee,[268] the General Assembly underlined the importance of the implementation by all States of the provisions and principles contained in the Universal Declaration of Human Rights[269] and the International Covenants on Human Rights[270] and the relevant provisions of the Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and for the Benefit of Mankind[271] for the promotion of the realization of human rights and fundamental freedoms;

called upon all Member States to ensure that the achievements of scientific and technological progress and the intellectual potential of mankind were used for promoting and encouraging universal respect for human rights and fundamental freedoms; also called upon Member States to take necessary measures to ensure that the results of science and technology were used only for the benefit of the human being and did not lead to the disturbance of the ecological environment; and emphasized that scientific knowledge and technology in health, education, housing and other social spheres should be readily available to the population as the heritage of humanity.

(15) *Right of peoples to self-determination*

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

By its resolution 46/88 of 16 December 1991,[272] adopted on the recommendation of the Third Committee,[273] the General Assembly reaffirmed that the universal realization of the right of all peoples, including those under colonial, foreign and alien domination, to self-determination was a fundamental condition for the effective guarantee and observance of human rights and for the preservation and promotion of such rights; and requested the Commission on Human Rights to continue to give special attention to the violation of human rights, especially the right to self-determination, resulting from foreign military intervention, aggression or occupation. Furthermore, by its resolution 46/87 of the same date,[274] adopted also on the recommendation of the Third Committee,[275] the Assembly called upon all States to implement fully and faithfully all the relevant resolutions of the United Nations regarding the exercise of the right to self-determination and independence by peoples under colonial and foreign domination; and reaffirmed the legitimacy of the struggle of peoples for independence, territorial integrity, national unity and liberation from colonial domination, apartheid and foreign occupation, in all its forms by all available means.

(ii) *Use of mercenaries as a means to violate human rights and to impede the exercise of the right of peoples to self-determination*

By its resolution 46/89 of 16 December 1991,[276] adopted on the recommendation of the Third Committee,[277] the General Assembly, recalling with satisfaction the adoption of the International Convention against the Recruitment, Use, Financing and Training of Mercenaries,[278] and welcoming the fulfilment of the provisions of paragraph 2 of Commission on Human Rights resolution 1991/29 of 5 March 1991,[279] as reflected in the report of the Special Rapporteur of the Commission,[280] took note with appreciation of the report of the Special Rapporteur of the Commission on Human Rights; condemned the continued recruitment, financing, training, assembly, transit and use of mercenaries, as well as all other forms of support to mercenaries, for the purpose of destabilizing and overthrowing the Governments of African States and of other developing States and fighting against the national liberation movements of peoples struggling for the exercise of their right to self-determination; reaffirmed that the use of mercenaries and their recruitment, financing and training were offences

of grave concern to all States and violated the purposes and principles enshrined in the Charter of the United Nations; urged all States to take the necessary steps and to exercise the utmost vigilance against the menace posed by the activities of mercenaries and to ensure, by both administrative and legislative measures, that the territory of those States and other territories under their control, as well as their nationals, were not used for the recruitment, assembly, financing, training and transit of mercenaries, or for the planning of activities designed to destabilize or overthrow the Government of any State and to fight the national liberation movements struggling against racism, apartheid, colonial domination and foreign intervention or occupation; and called upon all States which had not yet done so to consider taking early action to accede to or to ratify the Convention.

(16) *Right to development*

By its resolution 46/123 of 17 December 1991,[281] adopted on the recommendation of the Third Committee,[282] the General Assembly recalling the proclamation at its forty-first session of the Declaration on the Right to Development,[283] reaffirmed the importance of the right to development for all countries, in particular the developing countries; took note with interest of the comprehensive report of the Secretary-General;[284] requested the Secretary-General to submit to the Commission on Human Rights at its forty-eighth session concrete proposals on the effective implementation and promotion of the Declaration on the Right to Development, taking into account the views expressed on the issue at the forty-seventh session of the Commission as well as any further comments and suggestions that might be submitted on the basis of paragraph 3 of Commission resolution 1990/18 of 23 February 1990.

(*f*) Crime prevention and criminal justice

By its decision 46/435 of 18 December 1991,[285] adopted on the recommendation of the Third Committee,[286] the General Assembly took note of the report of the Secretary-General[287] on the progress achieved in the implementation of General Assembly resolution 45/121 of 14 December 1990 on the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

(*g*) Return or restitution of cultural property to the countries of origin

By its resolution 46/10 of 22 October 1991,[288] the General Assembly, recalling the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property,[289] adopted on 14 November 1970 by the General Conference of the United Nations Educational, Scientific and Cultural Organization, and taking note with satisfaction of the report of the Secretary-General submitted in cooperation with the Director-General of UNESCO,[290] commended UNESCO and the Intergovernmental Committee for Promoting the Return of Cultural Property to Its Countries of Origin or Its Restitution in Case of Illicit Appropriation on the work they had accomplished, in particular through the

promotion of bilateral negotiations, for the return or restitution of cultural property, the preparation of inventories of movable cultural property, the reduction of illicit traffic in cultural property and the dissemination of information to the public; reaffirmed that the restitution to the country of its objets d'art, monuments, museum pieces, archives, manuscripts, documents and any other cultural or artistic treasures contributed to the strengthening of international cooperation and to the preservation and flowering of universal cultural values through fruitful cooperation between developed and developing countries; recommended that Member States adopt or strengthen the necessary protective legislation with regard to their own heritage and that of other peoples; requested Member States to study the possibility of including in permits for excavations a clause requiring archaeologists and palaeontologists to provide the national authorities with photographic documentation of each object brought to light during the excavations immediately after its discovery; invited Member States to continue drawing up, in cooperation with UNESCO, systematic inventories of cultural property existing in their territory and of their cultural property abroad; and invited once again those Member States that had not yet done so to sign and ratify the Convention.

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4. LAW OF THE SEA

Status of the United Nations Convention on the Law of the Sea[291]

As of 31 December 1991, 51 States had ratified the United Nations Convention on the Law of the Sea or acceded to it.

Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea[292]

The Preparatory Commission met twice during 1991. It held its ninth session at Kingston from 25 February to 22 March 1991, and a summer meeting in New York from 12 to 30 August 1991.

Regarding the implementation of resolution II of the Third United Nations Conference on the Law of the Sea, the Preparatory Commission approved two applications for registration as pioneer investors in 1991. The first application was submitted by China for registration of the China Ocean Mineral Resources Research and Development Association (COMRA) as a pioneer investor, and was approved by the General Committee on the basis of the report of the Group of Technical Experts on 5 March 1991.[293] The second application was submitted by Bulgaria, Cuba, the Czech and Slovak Federal Republic, Poland and the USSR for registration of the Interoceanmetal Joint Organization (IOM) as a pioneer investor, and was approved by the General Committee on the basis of the report of the Group of Technical Experts on 21 August 1991.[294]

The Preparatory Commission, on the recommendation of the General Committee, decided to include Cuba in the list of States having the right to

apply as pioneer investors in accordance with resolution II for one pioneer area until the Convention on the Law of the Sea entered into force.

With respect to the implementation of the obligations of the first group of registered pioneer investors and their certifying States, i.e., France, India, Japan and the USSR, in accordance with the Understanding on the Fulfilment of Obligations by the Registered Pioneer Investors and their Certifying States which was adopted on 30 August 1990,[295] the following developments took place during the summer meeting: (i) *Training:* The Training Panel commenced its work on the establishment of a training schedule. It decided that traineeships should cover the following priority disciplines: chemical/metallurgical, electrical, electronic, mechanical and mining engineering as well as marine geology, marine geophysics and marine ecology; (ii) *Exploration:* The preparatory work for the exploration of one mine site in the area reserved for the Authority had been completed by France, Japan and the Soviet Union and a joint report entitled "Preparatory work in the International Authority reserved area—August 1991" had been transmitted to the Special Representative of the Secretary-General for the Law of the Sea for submission to the Preparatory Commission.

Regarding the preparation of draft agreements, rules, regulations and procedures for the International Seabed Authority, the Preparatory Commission completed its second reading of the draft agreement concerning the relationship between the United Nations and the Authority and provisionally approved a number of its provisions. As far as the articles on personnel arrangements, budgetary and financial matters and the financing of special services were concerned; it was decided to defer their consideration until after the discussion of the paper on administrative arrangements, structures and financial implications of the Authority. The Preparatory Commission began its consideration of the above-mentioned paper at the summer meeting. Focusing its attention on matters such as financial guidelines, functions of the Authority during the initial period, staffing requirements, etc., the Commission agreed that the structure of the Authority should ensure efficiency and cost-effectiveness and that it should be no larger or smaller than required in order to guarantee the adequate performance of its functions at a particular stage of its activities; that an evolutionary approach should be provided for; and that the nature and level of the staff would depend on the activities to be performed by the Authority. Informal consultations also continued on matters relating to the Finance Committee.

The four Special Commissions of the Preparatory Commission had been considering the substantive work allocated to them. Special Commission 1, which was charged with the problems that would be encountered by developing land-based producer States from deep seabed mineral production, continued its consideration of the provisional conclusions of its deliberations which could form the basis of its recommendations to the Authority on how best to minimize the difficulties of land-based producer States. A negotiating group was established to facilitate the negotiations and suggest compromise solutions. Special Commission 2, which was mandated to prepare for the early entry into effective operation of the

Enterprise, concluded its final reading of the working paper on the structure and organization of the Enterprise. Special Commission 3, which was preparing rules, regulations and procedures for the exploration and exploitation of the deep seabed, completed its first reading of part VIII of the draft regulations on prospecting, exploration and exploitation of polymetallic modules in the international seabed area ("the Area"), dealing with the protection and preservation of the marine environment from the activities in the Area; concluded its consideration of the draft regulations on accommodation of activities in the Area and in the marine environment; and completed its first reading of a working paper containing draft regulations on accounting principles and procedures, relating to the financial terms of contracts between the Authority and its contractors. Special Commission 4, which was preparing recommendations regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea, continued its consideration of administrative arrangements, structure and financial implications of the Tribunal, and examined a scheme to phase in the establishment of the Tribunal to serve during the initial stage of its existence. The Special Commission also undertook an article-by-article reading of the revised draft protocol on the privileges and immunities of the Tribunal and approved a considerable number of the provisions. With regard to the revised draft headquarters agreement between the Tribunal and the Federal Republic of Germany, the Special Commission in its review of the document, approved, with some exceptions, articles 1 to 19. Informal consultations were also continued on matters relating to the seat of the Tribunal with a view to reconciling divergent opinions concerning the approach to be taken with regard to the requirements listed in the introductory note to the revision of the official draft Convention.[296]

Consideration by the General Assembly

By its resolution 46/78 of 12 December 1991,[297] the General Assembly recalled the historic significance of the United Nations Convention on the Law of the Sea as an important contribution to the maintenance of peace, justice and progress for all peoples of the world; noted with appreciation the initiative of the Secretary-General to promote dialogue aimed at addressing issues of concern to some States in order to achieve universal participation in the Convention;[298] called upon all States that had not done so to consider ratifying or acceding to the Convention at the earliest possible date to allow the effective entry into force of the new legal regime for the uses of the sea and its resources and called upon all States to take appropriate steps to promote universal participation in the Convention, including through dialogue aimed at addressing the issues of concern to some States; called upon all States to safeguard the unified character of the Convention and related resolutions adopted therewith and to apply them in a manner consistent with that character and with their object and purpose; called upon States to observe the provisions of the Convention when enacting their national legislation; noted the progress being made by the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea in all areas of its work; and called upon the Secretary-General to continue to assist States

in the implementation of the Convention and in the development of a consistent and uniform approach to the legal regime thereunder, as well as in their national, subregional and regional efforts towards the full realization of the benefits therefrom, and invited the organs and organizations of the United Nations system to cooperate and lend assistance in those endeavours.

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5. INTERNATIONAL COURT OF JUSTICE[299, 300]

Cases before the Court

A. CONTENTIOUS CASES BEFORE THE FULL COURT

(i) *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*[301]

By a letter dated 12 September 1991, the Agent of Nicaragua informed the Court that his Government had decided to renounce all further right of action based on the case and requested that an Order be made officially recording the discontinuance of the proceedings and directing the removal of the case from the list.

As required by Article 89 of the Rules of Court, the President of the Court then fixed 25 September 1991 as the time-limit within which the United States of America might state whether it opposed the discontinuance. On that date a letter welcoming the discontinuance was received from the Legal Adviser of the United States Department of State, writing on behalf of his Government.

Consequently, on 26 September 1991, the President of the Court made an Order recording the discontinuance of the proceedings and directing the removal of the case from the Court's list.[302]

(ii) *Aerial Incident of 3 July 1988 (Islamic Republic of Iran v. United States of America)*[303]

On 4 March 1991, within the time-limit fixed for the filing of its Counter-Memorial, the United States of America filed certain preliminary objections to the jurisdiction of the Court. By virtue of the provisions of Article 79, paragraph 3, of the Rules of Court, the proceedings on the merits were suspended and a time-limit had to be fixed for the presentation by the other Party of a written statement of its observations and submissions on the preliminary objections. By an Order of 9 April 1991,[304] the Court, having ascertained the views of the Parties, fixed 9 December 1991 as the time-limit within which the Islamic Republic of Iran might present such observations and submissions.

The Islamic Republic of Iran chose Mr. Mohsen Aghahosseini to sit as judge ad hoc.

(iii) *Certain Phosphate Lands in Nauru (Nauru v. Australia)*[305]

On 16 January 1991, within the time-limit fixed for the filing of the Counter-Memorial, Australia filed certain preliminary objections whereby it asked the Court to adjudge and declare "that the Application by Nauru is inadmissible and that the Court lacks jurisdiction to hear the claims made by Nauru". In accordance with Article 79, paragraph 2, of the Rules of Court, the proceedings on the merits were suspended and the Court, by an Order of 8 February 1991,[306] fixed 19 July 1991 as the time-limit within which Nauru might present a written statement of its observations and submissions on the objections. This written statement was filed within the prescribed time-limit.

Oral proceedings on the issues of jurisdiction and admissibility were held from 11 to 22 November 1991. During eight public sittings the Court heard statements made on behalf of Australia and Nauru. Members of the Court put questions to the Parties.

(iv) *Arbitral Award of 31 July 1989 (Guinea-Bissau v. Senegal)*[307]

Oral proceedings on the merits of the case where held from 3 to 11 April 1991. During seven public sittings, the Court heard statements made on behalf of Guinea-Bissau and of Senegal. Members of the Court put questions to the Parties.

On 12 November 1991, at a public sitting, the Court delivered its judgment,[308] a summary of which is given below, followed by the text of the operative paragraph.

I. *Review of the proceedings and summary of facts* (paras. 1-21)

The Court outlined the successive stages of the proceedings as from the time at which the case had been brought before it (paras. 1-9) and set out the submissions of the Parties (paras. 10-11). It recalled that, on 23 August 1989, Guinea-Bissau had instituted proceedings against Senegal in respect of a dispute concerning the existence and validity of the arbitral award delivered on 31 July 1989 by an arbitration tribunal consisting of three arbitrators and established pursuant to an Arbitration Agreement concluded by the two States on 12 March 1985. The Court went on to summarize the facts of the case as follows (paras. 12-21):

On 26 April 1960, an Agreement by exchange of letters was concluded between France and Portugal for the purpose of defining the maritime boundary between the Republic of Senegal (at that time an autonomous State within the *Communauté* established by the Constitution of the French Republic of 1958) and the Portuguese Province of Guinea. The letter of France proposed, *inter alia*, as follows:

> "As far as the outer limit of the territorial sea, the boundary shall consist of a straight line drawn at 240° from the intersection of the prolongation of the land frontier and the low-water mark, represented for that purpose by the Cape Roxo lighthouse. As regards the contiguous zones and the continental shelf, the delimitation shall be

constituted by the prolongation in a straight line, in the same direction, of the boundary of the territorial seas."

The letter of Portugal expressed its agreement to this proposal.

After the accession to independence of Senegal and Portuguese Guinea, which became Guinea-Bissau, a dispute arose between those two States concerning the delimitation of their maritime areas. This dispute was the subject of negotiations between them from 1977 onward, in the course of which Guinea-Bissau insisted that the maritime areas in question be delimited without reference to the 1960 Agreement, disputing its validity and its opposability to Guinea-Bissau.

On 12 March 1985, the Parties concluded an Arbitration Agreement for submission of that dispute to an arbitration tribunal, article 2 of which Agreement reads, as follows:

> "The Tribunal is requested to decide in accordance with the norms of international law on the following questions:
>
> "1. Does the Agreement concluded by an exchange of letters 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?"

Article 9 of the Arbitration Agreement provided, among other things, that the decision "shall include the drawing of the boundary line on a map".

An arbitration tribunal (hereinafter called "the Tribunal") was duly constituted under the Agreement, Mr. Mohammed Bedjaoui and Mr. André Gros having successively been appointed as arbitrators and Mr. Julio A. Barberis as President. On 31 July 1989, the Tribunal pronounced the Award, the existence and validity of which were challenged by Guinea-Bissau in the case before the Court.

The findings of the Tribunal were summarized by the Court as follows. The Tribunal concluded that the 1960 Agreement was valid and could be opposed to Senegal and to Guinea-Bissau (Award, para. 80); that it had to be interpreted in the light of the law in force at the date of its conclusion (ibid., para. 85); that:

> "the 1960 Agreement does not delimit those maritime spaces which did not exist at that date, whether they be termed exclusive economic zone, fishery zone or whatever . . .",

but that

> "the territorial sea, the contiguous zone and the continental shelf . . . are expressly mentioned in the 1960 Agreement and they existed at the time of its conclusion" (ibid.).

After examining "the question of determining how far the boundary line extends . . . today, in view of the evolution of the definition of the concept of 'continental shelf", the Tribunal explained that:

> "Bearing in mind the above conclusions reached by the Tribunal and the working of article 2 of the Arbitration Agreement, in the opinion of the Tribunal it is not called upon to reply to the second question.
>
> "Furthermore, in view of its decision, the Tribunal considered that there was no need to append a map showing the course of the boundary line." (ibid., para. 87.)

The operative clause of the Award was as follows:

> "For the reasons stated above, the Tribunal *decides* by two votes to one:
>
> "To reply as follows to the first question formulated in article 2 of the Arbitration Agreement: The Agreement concluded by an exchange of letters of 26 April 1960, and relating to the maritime boundary, has the force of law in the relations between the Republic of Guinea-Bissau and the Republic of Senegal with regard solely to the areas mentioned in that Agreement, namely the territorial sea, the contiguous zone and the continental shelf. The 'straight line drawn at 240° is a loxodromic line." (para. 88.)

Mr. Barberis, President of the Tribunal who, together with Mr. Gros, voted for the Award, appended a declaration to it, while Mr. Bedjaoui, who had voted against the Award, appended a dissenting opinion. The declaration of Mr. Barberis read, in particular, as follows:

> "I feel that the reply given by the Tribunal to the first question put by the Arbitration Agreement could have been more precise. I would have replied to that question as follows:
>
> " 'The Agreement concluded by an exchange of letters of 26 April 1960, and relating to the maritime boundary, has the force of law in the relations between the Republic of Guinea-Bissau and the Republic of Senegal with respect to the territorial sea, the contiguous zone and the continental shelf, but does not have the force of law with respect to the waters of the exclusive economic zone or the fishery zone. The "straight line drawn at 240°" mentioned in the Agreement of 26 April 1960 is a loxodromic line.'
>
> "This partially affirmative and partially negative reply is, in my view, the exact description of the legal position existing between the Parties. As suggested by Guinea-Bissau in the course of the present arbitration (Reply, p. 248), this reply would have enabled the Tribunal to deal in its Award with the second question put by the Arbitration Agreement. The *partially* negative reply to the first question would have conferred on the Tribunal a *partial* competence to reply to the second, i.e., to do so to the extent that the reply to the first question would have been negative . . ."

On 31 July 1989, the Tribunal held a public sitting for delivery of the Award; Mr. Barberis, the President, and Mr. Bedjaoui were present, but not Mr. Gros. At that sitting, after the Award had been delivered, the representative of Guinea-Bissau indicated that, pending full reading of the documents and consultation with his Government, he reserved the position of Guinea-Bissau regarding the applicability and validity of the Award, which did not, in his opinion, satisfy the requirements laid down by agreement between the two Parties. After contacts between the Governments of the two Parties, in which Guinea-Bissau indicated its reasons for not accepting the Award, the proceedings were brought before the Court by Guinea-Bissau.

II. *Question of the jurisdiction of the Court, of the admissibility of the Application and the possible effect of the absence of an arbitrator from the meeting at which the Award was delivered* (paras. 22-29)

The Court first considered its jurisdiction. In its Application, Guinea-Bissau founded the jurisdiction of the Court on "the declarations by which the Republic of Guinea-Bissau and the Republic of Senegal have respectively accepted the jurisdiction of the Court under the conditions set forth in Article 36, paragraph 2, of the Statute" of the Court. Those declarations had been deposited with the Secretary-General of the United Nations, in the case of Senegal on 2 December 1985, and in the case of Guinea-Bissau on 7 August 1989. Guinea-Bissau's declaration contained no reservation. Senegal's declaration, which replaced its previous declaration, of 3 May 1985, provided among other things that:

"Senegal may reject the Court's competence in respect of:

– Disputes in regard to which the parties have agreed to have recourse to some other means of settlement . . .",

and specified that it applied only to "all legal disputes arising after the present declaration . . .

Senegal observed that if Guinea-Bissau were to challenge the decision of the Tribunal on the merits, it would be raising a question excluded from the Court's jurisdiction by the terms of Senegal's declaration. According to Senegal, the dispute concerning the maritime delimitation was the subject of the Arbitration Agreement of 12 March 1985 and consequently fell into the category of disputes "in regard to which the Parties have agreed to have recourse to some other method of settlement". Furthermore, in the view of Senegal, that dispute arose before 2 December 1985, the date on which Senegal's acceptance of the compulsory jurisdiction of the Court became effective, and was thus excluded from the category of disputes "arising after" that declaration.

However, the Parties were agreed that there was a distinction between the substantive dispute relating to maritime delimitation, and the dispute relating to the Award rendered by the Tribunal, and that only the latter dispute, which arose after the Senegalese declaration, was the subject of the proceedings before the Court. Guinea-Bissau also took the position, which Senegal accepted, that those proceedings were not intended by way of appeal from the Award or as an application for revision

of it. Thus, both Parties recognized that no aspect of the substantive delimitation dispute was involved. On that basis, Senegal did not dispute that the Court had jurisdiction to entertain the Application under Article 36, paragraph 2, of the Statute. In the circumstances of the case, the Court regarded its jurisdiction as established and emphasized that, as the Parties were both agreed, the proceedings alleged the inexistence and nullity of the Award rendered by the Tribunal and were not by way of appeal from it or application for revision of it.

The Court then considered a contention by Senegal that Guinea-Bissau's Application was inadmissible in so far as it sought to use the declaration of President Barberis for the purpose of casting doubt on the validity of the Award. Senegal argued in particular that that declaration was not part of the Award, and therefore that any attempt by Guinea-Bissau to make use of it for that purpose "must be regarded as an abuse of process aimed at depriving Senegal of the rights belonging to it under the Award".

The Court considered that Guinea-Bissau's Application had been properly presented in the framework of its right to have recourse to the Court in the circumstances of the case. Accordingly it did not accept Senegal's contention that Guinea-Bissau's Application, or the arguments used in support of it, amounted to an abuse of process.

Guinea-Bissau contended that the absence of Mr. Gros from the meeting of the Tribunal at which the Award had been pronounced amounted to a recognition that the Tribunal had failed to resolve the dispute, that this had been a particularly important meeting of the Tribunal and that the absence of Mr. Gros had lessened the Tribunal's authority. The Court noted that it was not disputed that Mr. Gros participated in the voting when the Award was adopted. The absence of Mr. Gros from that meeting could not have affected the validity of the Award which has already been adopted.

III. *Question of the inexistence of the Award* (paras. 30-34)

In support of its principal contention that the Award was inexistent, Guinea-Bissau claimed that the Award was not supported by a real majority. It did not dispute the fact that the Award was expressed to have been adopted by the votes of President Barberis and Mr. Gros; it contended however that President Barberis's declaration contradicted and invalidated his vote, thus leaving the Award unsupported by a real majority. In this regard Guinea-Bissau drew attention to the terms of the operative clause of the Award and to the language advocated by President Barberis in his declaration.

The Court considered that, in putting forward this formulation, what President Barberis had had in mind was that the Tribunal's answer to the first question "could have been more precise"—to use his own words—not that it had to be more precise in the sense indicated in his formulation, which was, in his view, a preferable one, not a necessary one. In the opinion of the Court, the formulation disclosed no contradiction with that of the Award.

Guinea-Bissau also drew attention to the fact that President Barberis expressed the view that his own formulation "would have enabled the Tribunal to deal in its Award with the second question put by the Arbitration Agreement" and that the Tribunal would in consequence "have been competent to delimit the waters of the exclusive economic zone or the fishery zone between the two countries", in addition to the other areas. The Court considered that the view expressed by President Barberis, that the reply which he would have given to the first question would have enabled the Tribunal to deal with the second question, represented, not a position taken by him as to what the Tribunal was required to do, but only an indication of what he considered would have been a better course. His position therefore could not be regarded as standing in contradiction with the position adopted by the Award.

Furthermore, even if there had been any contradiction, for either of the two reasons relied on by Guinea-Bissau, between the view expressed by President Barberis and that states in the Award, the Court noted that such contradiction could not prevail over the position which President Barberis had taken when voting for the Award. In agreeing to the Award, he definitively agreed to the decisions, which it incorporated, as to the extent of the maritime areas governed by the 1960 Agreement, and as to the Tribunal not being required to answer the second question in view of its answer to the first. The Court added that, as the practice of international tribunals showed, it sometimes happened that a member of a tribunal voted in favour of a decision of the tribunal even though he might individually have been inclined to prefer another solution. The validity of his vote remained unaffected by the expression of any such differences in a declaration or separate opinion of the member concerned, which was therefore without consequence for the decision of the tribunal.

Accordingly, in the opinion of the Court, the contention of Guinea-Bissau that the Award was inexistent for lack of a real majority could not be accepted.

IV. *Question of the nullity of the Award* (paras. 35-36)

Subsidiarily, Guinea-Bissau maintained that the Award was, as a whole, null and void, on the grounds of *excès de pouvoir* and of insufficiency of reasoning. Guinea-Bissau observed that the Tribunal had not replied to the second question put in article 2 of the Arbitration Agreement, and had not appended to the Award the map provided for in article 9 of that Agreement. It was contended that these two omissions constituted an *excès de pouvoir*. Furthermore, Guinea-Bissau maintained that the Tribunal had given no reasons for its decision not to proceed to the second question, for not producing a single delimitation line, and for refusing to draw that line on a map.

1. *Absence of a reply to the second question*

(*a*) Guinea-Bissau suggested that, rather than deciding not to answer the second question put to it, the Tribunal had simply omitted, for lack of a real majority, to reach any decision at all on the issue. In this respect Guinea-Bissau stressed that what was referred to in the first

sentence of paragraph 87 of the Award as an "opinion of the Tribunal" on the point appeared in the statement of reasoning, not in the operative clause of the Award; that the Award did not specify the majority by which that paragraph had been adopted; and that only Mr. Gros could have voted in favour of this paragraph. In the light of the declaration made by President Barberis, Guinea-Bissau questioned whether any vote had been taken on paragraph 87. The Court recognized that the structure of the Award was, in that respect, open to criticism. Article 2 of the Arbitration Agreement had put two questions to the Tribunal. The latter was, according to article 9, to "inform the two Governments of its decision regarding the questions set forth in article 2". Consequently, the Court considered that it would have been normal to include in the operative part of the Award both the answer given to the first question and the decision not to answer the second. It was to be regretted that this course had not been followed. Nevertheless the Court was of the opinion that the Tribunal, when it adopted the Award, was not only approving the content of paragraph 88, but was also doing so for the reasons already stated in the Award and, in particular, in paragraph 87. It was clear from paragraph 87, taken in its context, and also from the declaration of President Barberis, that the Tribunal had decided by two votes to one that, as it had given an affirmative answer to the first question, it did not have to answer the second. The Court observed that, by so doing, the Tribunal had taken a decision: namely, not to answer the second question put to it. It concluded that the Award was not flawed by any failure to decide.

(*b*) Guinea-Bissau argued, secondly, that any arbitral award had, in accordance with general international law, to be a reasoned one. Moreover, according to article 9 of the Arbitration Agreement, the Parties had specifically agreed that "the Award shall state in full the reasons on which it is based". Yet, according to Guinea-Bissau, the Tribunal in this case had not given any reasoning in support of its refusal to reply to the second question put by the Parties or, at the very least, had given "wholly insufficient" reasoning. The Court observed that in paragraph 87 of the Award, referred to above, the Tribunal, "bearing in mind the . . . conclusions" that it had reached, together with "the wording of article 2 of the Arbitration Agreement", had taken the view that it was not called upon to reply to the second question put to it. The reasoning was brief, and could doubtless have been developed further. But the references in paragraph 87 to the Tribunal's conclusions and to the wording of article 2 of the Arbitration Agreement made it possible to determine, without difficulty, the reasons why the Tribunal had decided not to answer the second question. The Court observed that, by referring to the wording of article 2 of the Arbitration Agreement, the Tribunal had noted that, according to that article, it had been asked, first, whether the 1960 Agreement had "the force of law in the relations" between Guinea-Bissau and Senegal, and then, "in the event of a negative answer to the first question, what is the course of the line delimiting the maritime territories" of the two countries. By referring to the conclusions that it had already reached, the Tribunal had noted that it had, in paragraphs 80 et seq. of the Award, found that the 1960 Agreement, in respect of which it had already determined the scope of its substantive validity, was "valid and can be opposed to Senegal and to Guinea- Bissau".

Having given an affirmative answer to the first question, and basing itself on the actual text of the Arbitration Agreement, the Tribunal had found as a consequence that it did not have to reply to the second question. The Court observed that that statement of reasoning, while succinct, was clear and precise, and concluded that the second contention of Guinea-Bissau had also to be dismissed.

(*c*) Thirdly, Guinea-Bissau challenged the validity of the reasoning thus adopted by the Tribunal on the issue whether it had been required to answer the second question:

(*i*) Guinea-Bissau first argued that the Arbitration Agreement, on its true construction, had required the Tribunal to answer the second question whatever might have been its reply to the first. In that connection, the Court first recalled that in the absence of any agreement to the contrary an international tribunal had the right to decide as to its own jurisdiction and had the power to interpret for that purpose the instruments which governed that jurisdiction. In the instant case, the Arbitration Agreement had confirmed that the Tribunal had the power to determine its own jurisdiction and to interpret the Agreement for that purpose. The Court observed that by its argument set out above, Guinea-Bissau was in fact criticizing the interpretation in the Award of the provisions of the Arbitration Agreement which had determined the Tribunal's jurisdiction, and proposing another interpretation. However, the Court did not have to enquire whether or not the Arbitration Agreement could, with regard to the Tribunal's competence, have been interpreted in a number of a ways, and, if so, to consider which would have been preferable. The Court was of the opinion that by proceeding in that way it would be treating the request as an appeal and not as a *recours en nullité*. The Court could not act in that way in the case before it. The Court had simply to ascertain whether by rendering the disputed Award the Tribunal had acted in manifest breach of the competence conferred on it by the Arbitration Agreement, either by deciding in excess of, or by failing to exercise, its jurisdiction. Such manifest breach might have resulted from, for example, the failure of the Tribunal properly to apply the relevant rules of interpretation to the provisions of the Arbitration Agreement which had governed its competence. The Court observed that an arbitration agreement was an agreement between States which had to be interpreted in accordance with the general rules of international law governing the interpretation of treaties. It then recalled the principles of interpretation laid down by its case-law and observed that those principles were reflected in articles 31 and 32 of the Vienna Convention on the Law of Treaties, which might in many respects be considered as a codification of existing customary international law on that point. The Court also noted that when States signed an arbitration agreement, they were concluding an agreement with a very specific object and purpose: to entrust an arbitration tribunal with the task of settling a dispute in accordance with the terms agreed by the parties. In the performance of the task entrusted to it, the tribunal had to conform to those terms.

The Court observed that, in the instant case, article 2 of the Arbitration Agreement had presented a first question concerning the 1960 Agree-

ment, and then a second question relating to delimitation. A reply had to be given to the second question "in event of a negative answer to the first question". The Court noted that those last words, which had originally been proposed by Guinea-Bissau itself, were categorical. It went on to examine situations in which international judicial bodies had been asked to answer successive questions made conditional on each other or not. The Court noted that in fact in the present case the Parties could have used some such expression as that the Tribunal should answer the second question "taking into account" the reply given to the first, but they had not done so; they had directed that the second question should be answered only "in the event of a negative answer" to that first question. Relying on various elements of the text of the Arbitration Agreement, Guinea-Bissau nevertheless considered that the Tribunal had been required to delimit by a single line the whole of the maritime areas appertaining to one or the other State. As, for the reasons given by the Tribunal, its answer to the first question put in the Arbitration Agreement could not have led to a comprehensive delimitation, it followed, in Guinea-Bissau's view, that, notwithstanding the prefatory words to the second question, the Tribunal had been required to answer that question and to effect the overall delimitation desired by both Parties.

After recalling the circumstances in which the Arbitration Agreement had been drawn up, the Court noted that the two questions had a completely different subject-matter. The first concerned the issue whether an international agreement had the force of law in the relations between the Parties; the second was directed to a maritime delimitation in the event that that agreement did not have such force. Senegal had been counting on an affirmative answer to the first question, and concluded that the straight line on a bearing of 240°, adopted by the 1960 Agreement, would constitute the single line separating the whole of maritime areas of the two countries. Guinea-Bissau had been counting on a negative answer to the first question and had concluded that a single dividing line for the whole of the maritime areas of the two countries would have been fixed *ex novo* by the Tribunal in reply to the second question. The two States had intended to obtain a delimitation of the whole of their maritime areas by a single line. But Senegal had counted on achieving that result through an affirmative answer to the first question, and Guinea-Bissau through a negative answer to that question. The Court noted that no agreement had been reached between the Parties as to what should happen in the event of an affirmative answer leading only to a partial delimitation, and as to what might be the task of the Tribunal in such case, and that the *travaux préparatoires* accordingly confirmed the ordinary meaning of article 2. The Court considered that that conclusion was not at variance with the circumstance that the Tribunal adopted as its title "Arbitration Tribunal for the Determination of the Maritime Boundary: Guinea-Bissau/Senegal", or with its definition, in paragraph 27 of the Award, of the "sole object of the dispute" as being one relating to "the determination of the maritime boundary between the Republic of Senegal and the Republic of Guinea-Bissau, a question which they have not been able to settle by means of negotiation . . ." In the opinion of the Court, that title and that definition were to be read in the light of the Tribunal's conclusion, which the Court shared,

that, while the Tribunal's mandate had included the making of a delimitation of all the maritime areas of the Parties, this had fallen to be done only under the second question and "in the event of a negative answer to the first question". The Court noted, in short, that although the two States had expressed in general terms in the preamble to the Arbitration Agreement their desire to reach a settlement of their dispute, their consent thereto had only been given in the terms laid down by article 2 of the Arbitration Agreement. The Court concluded that consequently the Tribunal had not acted in manifest breach of its competence to determine its own jurisdiction by deciding that it was not required to answer the second question except in the event of a negative answer to the first, and that the first argument had to be rejected.

(ii) Guinea-Bissau then argued that the answer in fact given by the Tribunal to the first question had been a partially negative answer and that this had sufficed to satisfy the prescribed condition for entering into the second question. Accordingly, and as was to be shown by the declaration of President Barberis, the Tribunal had, it was said, been both entitled and bound to answer the second question.

The Court observed that Guinea-Bissau could not base its arguments upon a form of words (that of President Barberis) which had not in fact been adopted by the Tribunal. The Tribunal had found, in reply to the first question, that the 1960 Agreement had the force of law in the relations between the Parties, and at the same time it defined the substantive scope of that Agreement. Such an answer had not permitted of a delimitation of the whole of the maritime areas of the two States, and a complete settlement of the dispute between them. It had achieved a partial delimitation. But that answer had none the less been both a complete and an affirmative answer to the first question. It accordingly had been possible for the Tribunal to find, without manifest breach of its competence, that its answer to the first question was not a negative one, and that it was therefore not competent to answer the second question. Therefore the Court rejected the contention of Guineau-Bissau that the entire Award was a nullity.

2. *Absence of a map*

Finally, Guinea-Bissau recalled that, according to article 9, paragraph 2, of the Arbitration Agreement, the decision of the Tribunal was to "include the drawing of the boundary line on a map", and that no such map was produced by the Tribunal. Guinea-Bissau contended that the Tribunal also did not give sufficient reasons for its decision on that point. The Award should, for those reasons, be held wholly null and void.

The Court considered that the reasoning of the Tribunal on this point was, once again, brief but sufficient to enlighten the Parties and the Court as to the reasons that had guided the Tribunal. It had found that the boundary line fixed by the 1960 Agreement was a loxodromic line drawn at 240° from the point of intersection of the prolongation of the land frontier and the low-water line, represented for that purpose by the Cape Roxo lighthouse. Since it had not replied to the second question, it had not had to define any other line. It had thus considered that there was no need

to draw on a map a line which was common knowledge, and the definitive characteristics of which it had specified.

In view of the wording of articles 2 and 9 of the Arbitration Agreement, and the positions taken by the Parties before the Tribunal, the Court noted that it was open to argument whether, in the absence of a reply to the second question, the Tribunal had been under an obligation to produce the map envisaged by the Arbitration Agreement. The Court had not however considered it necessary to enter into such a discussion. In the circumstances of the case, the absence of a map could not in any event constitute such an irregularity as would render the Award invalid. Accordingly the Court rejected this last argument of Guinea-Bissau.

V. *Final observations* (paras. 66-68)

The Court none the less took note of the fact that the Award had not brought about a complete delimitation of the maritime areas appertaining respectively to Guinea-Bissau and to Senegal. It however observed that that result was due to the wording of article 2 of the Arbitration Agreement.

The Court moreover took note of the fact that on 12 March 1991 Guinea-Bissau had filed in the Registry of the Court a second Application requesting the Court to adjudge and declare:

> "What should be, on the basis of the international law of the sea and of all the revelant elements of the case, including the future decision of the Court in the case concerning the arbitral '*award*' of 31 July 1989, the line (to be drawn on a map) delimiting all the maritime territories appertaining respectively to Guinea-Bissau and Senegal."

It also took note of the declaration made by the Agent of Senegal during the proceedings, according to which one solution:

> "would be to negotiate with Senegal, which has no objection to this, a boundary for the exclusive economic zone or, should it prove impossible to reach an agreement, to bring the matter before the Court".

Having regard to that Application and that declaration, and at the close of a long and difficult arbitral procedure and of the proceedings before the Court, the Court considered it highly desirable that the elements of the dispute that had not been settled by the Arbitral Award of 31 July 1989 should be resolved as soon as possible, as both Parties desired.

*

Operative paragraph (para. 69)

> "THE COURT,
>
> (1) Unanimously,
>
> *Rejects* the submission of the Republic of Guinea-Bissau that the Arbitral Award given on 31 July 1989 by the Arbitration Tribunal

established pursuant to the Agreement of 12 March 1985 between the Republic of Guinea-Bissau and the Republic of Senegal, is inexistent;

(2) By eleven votes to four,

Rejects the submission of the Repulic of Guinea-Bissau that the Arbitral Award of 31 July 1989 is absolutely null and void;

IN FAVOUR: *President* Sir Robert Jennings; *Vice-President* Oda; *Judges* Lachs, Ago, Schwebel, Ni, Evensen, Tarassov, Guillaume, Shahabuddeen; *Judge ad hoc* Mbaye.

AGAINST: *Judges* Aguilar Mawdsley, Weeramantry, Ranjeva; *Judge ad hoc* Thierry.

(3) By twelve votes to three,

Rejects the submission of the Republic of Guinea-Bissau that the Government of Senegal is not justified in seeking to require the Government of Guinea-Bissau to apply the Arbitral Award of 31 July 1989; and, on the submission to that effect of the Republic of Senegal, *finds* that the Arbitral Award of 31 July 1989 is valid and binding for the Republic of Senegal and the Republic of Guinea-Bissau, which have the obligations to apply it.

IN FAVOUR: *President* Sir Robert Jennings; *Vice-President* Oda; *Judges* Lachs, Ago, Schwebel, Ni, Evensen, Tarassov, Guillaume, Shahabuddeen, Ranjeva; *Judge ad hoc* Mbaye.

AGAINST: *Judges* Aguilar Mawdsley, Weeramantry; *Judge ad hoc* Thierry."

Judge Tarassov and Judge ad hoc Mbaye each appended a declaration to the Judgment,[309] Vice-President Oda and Judges Lachs, Ni and Shahabuddeen appended separate opinions;[310] Judges Aguilar Mawdsley and Ranjeva appended a joint dissenting opinion, and Judge Weeramantry and Judge ad hoc Thierry each a dissenting opinion.[311]

(v) *Territorial Dispute (Libyan Arab Jamahiriya/Chad)*[312]

On 26 August 1991,[313] the President of the Court, having ascertained the views of the Parties, fixed 27 March 1992 as the time-limit for the filing of the Counter-Memorials. Both Counter-Memorials were duly filed within the prescribed time-limit.

(vi) *East Timor (Portugal v. Australia)*[314]

On 22 February 1991 the Government of the Portuguese Republic filed in the Registry of the Court an Application instituting proceedings against the Commonwealth of Australia in a dispute concerning "certain activities of Australia with respect to East Timor".

In order to establish the basis of the Court's jurisdiction, Portugal referred, in its Application, to the Declarations made by the two States under Article 36, paragraph 2, of the Statute of the Court.

It claimed that Australia, by negotiating, with Indonesia, an "agreement relating to the exploration and exploitation of the continental shelf in the area of the 'Timor Gap' ", signed on 11 December 1989, by the "ratification, and the initiation of the performance" of that agreement, by the "related internal legislation", by the "negotiation of the delimitation of that shelf", and by the "exclusion of any negotiation on those matters with Portugal", had caused "particularly serious legal and moral damage to the people of East Timor and to Portugal, which will become material damage also if the exploitation of hydrocarbon resources begins".

Portugal requested the Court:

"(1) To adjuge and declare that, first, the rights of the people of East Timor to self-determination, to territorial integrity and unity (as defined in paras. 5 and 6 of the present Application) and to permanent sovereignty over its wealth and natural resources and, secondly, the duties, powers and rights of Portugal as the administering Power of the Territory of East Timor are opposable to Australia, which is under an obligation not to disregard them, but to respect them.

(2) To adjudge and declare that Australia, inasmuch as in the first place it has negotiated, concluded and initiated performance of the agreement referred to in paragraph 18 of the statement of facts, has taken internal legislative measures for the application thereof, and is continuing to negotiate, with the State party to that agreement, the delimitation of the continental shelf in the area of the 'Timor Gap'; and inasmuch as it has furthermore excluded any negotiation with the administering Power with respect to the exploration and exploitation of the continental shelf in that same area; and, finally, inasmuch as it contemplates exploring and exploiting the subsoil of the sea in the 'Timor Gap' on the basis of a plurilateral title to which Portugal is not a party (each of these facts sufficing on its own):

(*a*) has infringed and is infringing the right of the people of East Timor to self-determination, to territorial integrity and unity and its permanent sovereignty over its natural wealth and resources, and is in breach of the obligation not to disregard but to respect that right, that integrity and that sovereignty;

(*b*) has infringed and is infringing the powers of Portugal as the administering Power of the Territory of East Timor, is impeding the fulfilment of its duties to the people of East Timor and to the international community, is infringing the right of Portugal to fulfil its responsibilities and is in breach of the obligation not to disregard but to respect those powers and duties and that right;

(*c*) is contravening Security Council resolutions 384 (1974) and 389 (1975) and, as a consequence, is in breach of the obligation to accept and carry out Security Council resolutions laid down by Article 25 of the Charter of the United Nations and, more generally, is in breach of the obligation incumbent on Member States to co-operate in good faith with the United Nations;

"(3) To adjudge and declare that, inasmuch as it has excluded and is excluding any negotiation with Portugal as the administering Power of the Territory of East Timor, with respect to the exploration and exploitation of the continental shelf in the area of the 'Timor Gap', Australia had failed and is failing in its duty to negotiate in order to harmonize the respective rights in the event of a conflict of rights or of claims over maritime areas.

"(4) To adjudge and declare that, by the breaches indicated in paragraphs 2 and 3 of the present submissions, Australia has incurred international responsibility and has caused damage, for which it owes reparation to the people of East Timor and to Portugal, in such form and manner as may be indicated by the Court.

"(5) To adjudge and declare that Australia is bound, in relation to the people of East Timor, to Portugal and to the international community, to cease from all breaches of the rights and international norms referred to in paragraphs 1, 2 and 3 of the present submissions and in particular, until such time as the people of East Timor shall have exercised its right to self-determination, under the conditions laid down by the United Nations:

(*a*) to refrain from any negotiation, signature or ratification of any agreement with a State other than the administering Power concerning the delimitation, and the exploration and exploitation, of the continental shelf, or the exercise of jurisdiction over that shelf, in the area of the 'Timor Gap';

(*b*) to refrain from any act relating to the exploration and exploitation of the continental shelf in the area of the 'Timor Gap' or to the exercise of jurisdiction over that shelf, on the basis of any plurilateral title to which Portugal, as the administering Power of the Territory of East Timor, is not a party."

By an Order of 3 May 1991,[315] the President of the Court having ascertained the views of the Parties at a meeting with their Agents held on 2 May 1991, fixed the following time-limits: 18 November 1991 for the filing of the Portuguese Memorial and 1 June 1992 for the Australian Counter-Memorial. Both the Memorial and the Counter-Memorial were filed within the prescribed time-limits.

Portugal chose Mr. António de Arruda Ferrer-Correia and Australia Sir Ninian Stephen to sit as judges *ad hoc*.

(vii) *Maritime Delimitation between Guinea-Bissau and Senegal (Guinea-Bissau v. Senegal)*[316]

On 12 March 1991, the Government of the Republic of Guinea-Bissau filed in the Registry of the Court an Application instituting proceedings against the Republic of Senegal in a dispute concerning the delimitation of all the maritime territories between the two States. Guinea-Bissau cited as bases for the Court's jurisdiction the declarations made by both States under Article 36, paragraph 2, of the Statute.

In its Application, Guinea-Bissau recalled that, by an Application dated 23 August 1989, it referred to the Court a dispute concerning the existence and validity of the Arbitral Award made on 31 July 1989 by the Arbitration Tribunal formed to determine the maritime boundary between the two States.

Guinea-Bissau claimed that the objective of the request laid before the Arbitration Tribunal was the delimitation of the maritime territories appertaining respectively to one and the other State. According to Guinea-Bissau, the decision of the Arbitration Tribunal of 31 July 1989, however, did not make it possible to draw a definitive delimitation of all the maritime areas over which the Parties had rights. Moreover, whatever the outcome of the proceedings pending before the Court, a real and definitive delimitation of all the maritime territories between the two States would still not be realized.

The Government of Guinea-Bissau asked the Court to adjudge and declare:

> "What should be, on the basis of the international law of the sea and of all the relevant elements of the case, including the future decision of the Court in the case concerning the Arbitral *'award'* of 31 July 1989, the line (to be drawn on a map) delimiting all the maritime territories appertaining respectively to Guinea-Bissau and Senegal."

In its judgment of 12 November 1991 in the case concerning the *Arbitral Award of 31 July 1989 (Guinea-Bissau v. Senegal)*,[317] the Court took note of the filing of a second Application but added:

> "67. ...
>
> "It has also taken note of the declaration made by the Agent of Senegal in the present proceedings, according to which one solution:
>
> > 'would be to negotiate with Senegal, which has no objection to this, a boundary for the exclusive economic zone or, should it prove impossible to reach an agreement, to bring the matter before the Court'.
>
> "68. Having regard to that Application and that declaration, and at the close of a long and difficult arbitral procedure and of these proceedings before the Court, the Court considers it highly desirable that the elements of the dispute that were not settled by the Arbitral Award of 31 July 1989 be resolved as soon as possible, as both Parties desire."

(viii) *Passage through the Great Belt (Finland v. Denmark)*[318]

On 17 May 1991, the Republic of Finland filed in the Registry of the Court an Application instituting proceedings against the Kingdom of Denmark in respect of a dispute concerning the question of passage of oil rigs through the Great Belt (Storebælt—one of the three straits linking the Baltic to the Kattegat and thence to the North Sea). Finland cited as bases

for the Courts jurisdiction the declarations made by both States under Article 36, paragraph 2, of the Statute.

In its Application, Finland contended that there was no foundation in international law for the unilateral exclusion by Denmark, through the projected construction of a "high-level bridge . . . 65 metres above mean sea level", of the passage between the Baltic and the North Sea by vessels such as drill ships and oil rigs or other existing or reasonably foreseeable ships with a height of 65 metres or above to and from Finnish shipyards and ports. Such exclusion allegedly violated Finland's rights in respect of free passage through the Great Belt as established by the relevant conventions and customary international law. Finland recognized that Denmark was fully entitled, as the territorial sovereign, to take measures to improve its internal and international traffic connections, but contended that Denmark's entitlement to take such measures was necessarily limited by the established rights and interests of all States, and of Finland in particular, in the maintenance of the legal regime of free passage through the Danish straits. In Finland's view, these rights had been ignored by Denmark's refusal to enter into negotiations with Finland in order to find a solution and by its insistence that the planned bridge project be completed without modification.

Accordingly, the Republic of Finland, reserving its right to modify or to add to its submissions and in particular its right to claim compensation for any damage or loss arising from the bridge project, asked the Court to adjudge and declare:

> "(*a*) that there is a right of free passage through the Great Belt which applies to all ships entering and leaving Finnish ports and shipyards;
>
> "(*b*) that this right extends to drill ships, oil rigs and reasonably foreseeable ships;
>
> "(*c*) that the construction of a fixed bridge over the Great Belt as currently planned by Denmark would be incompatible with the right of passage mentioned in subparagraphs (*a*) and (*b*) above;
>
> "(*d*) that Denmark and Finland should start negotiations, in good faith, on how the right of free passage, as set out in subparagraphs (*a*) to (*c*) above, shall be guaranteed."

On 23 May 1991, Finland filed in the Registry a request for the indication of provisional measures, contending that "construction work for the East Channel bridge would prejudice the very outcome of the dispute"; that "the object of the Application relates precisely to the right of passage which the completion of the bridge project in its planned form will effectively deny"; and that "in particular, the continuation of the construction work prejudices the negotiating result which the Finnish submissions in the Application aim to attain".

Finland accordingly requested the Court to indicate the following provisional measures:

"(1) Denmark should, pending the decision by the Court on the merits of the present case, refrain from continuing or otherwise proceeding with such construction works in connection with the planned bridge project over the East Channel of the Great Belt as would impede the passage of ships, including drill ships and oil rigs, to and from Finnish ports and shipyards; and

(2) Denmark should refrain from any other action that might prejudice the outcome of the present proceedings."

Finland chose Mr. Bengt Broms and Denmark Mr. Paul Henning Fischer to sit as judges ad hoc.

Between 1 and 5 July 1991, the Court, at six public sittings, heard the oral observations of both Parties on the request for provisional measures.

At a public sitting held on 29 July 1991, the Court read the Order on the request for provisional measures filed by Finland,[319] in which it found that "the circumstances, as they now present themselves to the Court, are not such as to require the exercise of its power under Article 41 of the Statute to indicate provisional measures". Judge Tarassov appended a declaration,[320] and Vice President Oda, Judge Shahabuddeen and Judge ad hoc Broms appended separate opinions to the Order.[321]

By an Order of 29 July 1991,[322] the President of the Court, having ascertained the views of the Parties at a meeting with their Agents held on the same day, fixed the following time-limits: 30 December 1991 for the filing of the Memorial of Finland, and 1 June 1992 for the filing of the Counter-Memorial of Denmark.

(ix) *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)*[323]

On 8 July 1991, the Government of the State of Qatar filed in the Registry of the Court an Application instituting proceedings against the Government of the State of Bahrain:

"in respect of certain existing disputes between them relating to sovereignty over the Hawar islands, sovereign rights over the shoals of Dibal and Qit'at Jaradah, and the delimitation of the maritime areas of the two States".

Qatar claimed that its sovereignty over the Hawar islands was well founded on the basis of customary international law and applicable local practices and customs. It had therefore continuously opposed a decision announced by the British Government in 1939, during the time of the British presence in Bahrain and Qatar (which came to an end in 1971), that the islands belonged to Bahrain. This decision was, in the view of Qatar, invalid, beyond the power of the British Government in relation to the two States, and not binding on Qatar.

With regard to the shoals of Dibal and Qit'at Jaradah, a further decision of the British Government in 1947 to delimit the seabed boundary between Bahrain and Qatar purported to recognize that Bahrain had "sovereign rights" in the areas of those shoals. In that decision the view was

expressed that the shoals should not be considered to be islands having territorial waters. Qatar had claimed and continued to claim that such sovereign rights as existed over the shoals belonged to Qatar; it also considered however that these were shoals and not islands. Bahrain claimed in 1964 that Dibal and Qit'at Jaradah were islands possessing territorial waters, and belonged to Bahrain, a claim rejected by Qatar.

With regard to the delimitation of the maritime areas of the two States, in the letter informing the Rulers of Qatar and Bahrain of the 1947 decision it was stated that the British Government considered that the line divided "in accordance with equitable principles" the seabed between Qatar and Bahrain, and that it was a median line based generally on the configuration of the coastline of the Bahrain main island and the peninsula of Qatar. The letter further specified two exceptions. One concerned the status of the shoals; the other that of the Hawar islands.

Qatar stated that it did not oppose that part of the delimitation line which the British Government stated was based on the configuration of the coastlines of the two States and was determined in accordance with equitable principles. It has been rejecting and still rejected the claim made in 1964 by Bahrain (which had refused to accept the above-mentioned delimitation by the British Government) of a new line delimiting the seabed boundary of the two States. Qatar based its claims with respect to delimitation on customary international law and applicable local practices and customs.

The State of Qatar therefore requested the Court:

"I. To adjudge and declare in accordance with international law:

(A) that the State of Qatar has sovereignty over the Hawar islands; and

(B) that the State of Qatar has sovereign rights over Dibal and Qit'at Jaradah shoals; and

"II. With due regard to the line dividing the seabed of the two States as described in the British decision of 23 December 1947, to draw in accordance with international law a single maritime boundary between the maritime areas of seabed, subsoil and superjacent waters appertaining respectively to the State of Qatar and the State of Bahrain."

In the Application, Qatar founded the jurisdiction of the Court upon certain agreements between the Parties stated to have been concluded in December 1987 and December 1990, the subject and scope of the commitment to jurisdiction being determined, according to Qatar, by a formula proposed by Bahrain to Qatar on 26 October 1988 and accepted by Qatar in December 1990.

By letters addressed to the Registrar of the Court on 14 July 1991 and 18 August 1991, Bahrain contested the basis of jurisdiction invoked by Qatar.

At a meeting held on 2 October 1991 to enable the President of the Court to ascertain their views, the Parties reached agreement as to the desirability of the proceedings being initially devoted to the questions of the Court's jurisdiction to entertain the dispute and the admissibility of the Application. The President accordingly made, on 11 October 1991, an Order[324] deciding that the written proceedings should first be addressed to those questions; in the same Order he fixed the following time-limits in accordance with a further agreement reached between the Parties at the meeting of 2 October: 10 February 1992 for the Memorial of Qatar, and 11 June 1992 for the Counter-Memorial of Bahrain.

B. CONTENTIOUS CASE BEFORE A CHAMBER

Land, Island and Maritime Frontier Dispute
(El Salvador/Honduras: Nicaragua intervening)[325]

At 50 public sittings, held between 15 April and 14 June 1991, the Chamber heard oral arguments by the two Parties, as well as Nicaragua's observations with respect to the subject-matter of its intervention and the two Parties' observations thereon. It also heard a witness, presented by El Salvador.

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6. INTERNATIONAL LAW COMMISSION[326]

FORTY-THIRD SESSION OF THE COMMISSION[327]

The International Law Commission held its forty-third session at Geneva from 29 April to 19 July 1991.

Regarding the topic "Jurisdictional immunities of States and their property", the Commission, on the basis of the recommendation of the Drafting Committee, adopted on second reading the final text of a set of 22 draft articles. It decided, in accordance with article 23 of its statute, to recommend the General Assembly that it should convene an international conference of plenipotentiaries to consider the draft articles and to conclude a convention on the subject. The Commission was of the view that the question of the settlement of disputes on which draft articles were proposed[328] could be dealt with by the above-mentioned international conference, if it considered that a legal mechanism on the settlement of disputes should be provided in connection with the draft articles.

As regards the topic "The law of the non-navigational uses of international watercourses", the Commission had before it the second part of the sixth report[329] and the seventh report.[330] The second part of the sixth report contained a chapter on settlement of disputes, which had been introduced at the last session but was not discussed for lack of time. At the conclusion of its deliberations the Commission adopted on first reading the draft articles on the subject and decided, in accordance with articles 16

and 21 of its statute, to transmit the draft articles to the Governments of the Member States for comments and observations.

With respect to the topic "Draft Code of Crimes against the Peace and Security of Mankind", the Commission had before it the ninth report of the Special Rapporteur.[331] At the conclusion of its discussion, the Commission adopted on first reading a complete set of draft articles on the topic and decided, in accordance with articles 16 and 21 of the statute of the Commission, that the draft should be transmitted to Governments for their comments and observations.

The topic "International liability for injurious consequences arising out of acts not prohibited by international law" was considered by the Commission on the basis of the seventh report of the Special Rapporteur,[332] which had been designed to re-evaluate the developments of the topic in the Commission. The debate of the Commission was focused on the principal issues of the topic in order to identify areas of agreement in the Commission and facilitate future work on the topic.

With regard to the topic "Relations between States and international organizations (second part of the topic)", the Commission had before it fifth[333] and sixth[334] reports of the Special Rapporteur. At the conclusion of its discussion, the Commission agreed to refer all the articles articles considered to the Drafting Committee.

On the topic "State responsibility", the Commission heard the presentation by the Special Rapporteur of his third report.[335] The report was not discussed for lack of time.

Consideration by the General Assembly

At its forty-sixth session, the General Assembly had before it the report of the International Law Commission on the work of its forty-third session.[336] By its resolution 46/54 of 9 December 1991,[337] adopted on the recommendation of the Sixth Committee,[338] the General Assembly took note of the report of the International Law Commission on the work of its forty-third session; expressed its appreciation to the Commission for the work accomplished at that session, in particular for the completion of the final draft articles on jurisdictional immunities of States and their property and the provisional draft articles on the law of the non-navigational uses of international watercourses and on the draft Code of Crimes against the Peace and Security of Mankind; invited the Commission, within the framework of the draft Code, to consider further and analyse the issues raised in its report on the work of its forty-second session[339] concerning the question of an international criminal jurisdiction, including proposals for the establishment of an international criminal court or other international criminal trial mechanism in order to enable the Assembly to provide guidance on the matter; recommended that, taking into account the comments of Governments, the Commission should continue its work on the topics in its current programme; and expressed its appreciation for the efforts of the Commission to improve its procedures and methods of work.

7. UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW[340]

TWENTY-FOURTH SESSION OF THE COMMISSION[341]

The United Nations Commission on International Trade Law held its twenty-fourth session at Vienna from 10 to 28 June 1991.

With respect to international payments, the Commission had before it reports of the Working Group on International Payments on the work of its twenty-first[342] and twenty-second[343] sessions, a report of the Secretary-General containing a compilation of comments by Governments and international organizations on the draft text of the Model Law on International Credit Transfers[344] and a report of the Secretary-General containing a commentary on the draft Model Law prepared by the Secretariat.[345] At the conclusion of its discussion on the draft text of a Model Law, the Commission referred the text of articles 1 to 15 to the Drafting Group. The text of those articles as revised by the Drafting Group, as well as the text of articles 16 to 18 as they were submitted by the Working Group to the Commission, are contained in annex I to the Commission's report.[346]

With regard to the question of procurement, the Commission had before it the report of the Working Group on the work of its twelfth session.[347] The Commission expressed appreciation for the work performed by the Working Group so far and requested it to proceed with its work expeditiously.

In connection with the question of international countertrade, the Secretariat reported orally to the Commission that, in addition to draft chapter VII, "Fulfilment of countertrade commitment",[348] the following materials would be before the Working Group on International Payments at its forthcoming session: document A/CN.9/WG.IV/WP.51 and Add.1-7. The Commission took note with appreciation of the progress made in the preparation of a legal guide on countertrade.

Concerning the question of legal problems of electronic data interchange (EDI), the Commission had before it the report entitled "Electronic data interchange",[349] which described the current activities in the various organizations involved in the legal issues of EDI and analysed the contents of a number of standard interchange agreements already developed or being currently developed. The Commission expressed its appreciation for the report submitted to it. It was agreed that the legal issues of EDI would become increasingly important as the use of EDI developed and that the Commission should undertake work in that field. There was wide support for the suggestion that the Commission should undertake the preparation of a general framework identifying the legal issues and providing a set of legal principles and basic legal rules governing communication through EDI. The Commission agreed that, given the number of issues involved, the matter needed detailed consideration by a working group.

As regards the preparation of a standard communication agreement for worldwide use in international trade, support was given to the idea that

such a project might be appropriate for the Commission. However, divergent views were expressed as to whether the preparation of such a standard communications agreement should be undertaken as a priority item. After deliberation, the Commission decided that a session of the Working Group on International Payments would be devoted to identifying the legal issues involved and to considering possible statutory provisions, and that the Working Group would report to the Commission at its next session on the desirability and feasibility of undertaking further work such as the preparation of a standard communications agreement. The Commission also took note of the suggestion by the Secretariat to prepare a uniform law on the replacement of negotiable documents of title, and more particularly transport documents, by EDI messages.

In connection with the question of coordination of work, the Commission had before it a note by the Secretariat on current activities of international organizations related to the harmonization and unification of international trade.[350] The Commission noted with appreciation the efforts of the Secretariat to obtain information on the extent to which multilateral and bilateral development organizations might be involved in activities relating to the modernization of commercial law in developing countries.

With respect to training and assistance, the Commission had before it a note by the Secretariat that set out the activities that had been carried out during the prior year as well as possible future activities in that field.[351] The Commission expressed its appreciation to all those who had participated in the organization of UNCITRAL symposia and seminars and in particular to those States that had given financial assistance to the programme of seminars and symposia. The Commission also expressed its appreciation to the Secretariat for its efforts to conduct an increased programme of seminars and symposia.

The Commission also considered the state of signatures, ratifications, accessions and approvals of conventions that were the outcome of its work,[352] as well as the 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards,[353] and 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.[354]

Consideration by the General Assembly

At its forty-sixth session, the General Assembly, in its resolution 46/56 A of 9 December 1991,[355] adopted on the recommendation of the Sixth Committee,[356] took note with appreciation of the report of the United Nations Commission on International Trade Law on the work of its twenty-fourth session;[357] took note of the successful conclusion of the United Nations Conference on the Liability of Operators of Transport Terminals in International Trade, held at Vienna from 2 to 19 April 1991, which had resulted in the adoption of the United Nations Conventions on the Liability of Operators of Transport Terminals in International Trade;[358] 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 that 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 that connection, recommended 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, as appropriate, of the relevant provisions of the resolutions concerning the new international economic order, as adopted by the General Assembly at its sixth[359] and seventh[360] special session; reaffirmed the importance, in particular for developing countries, of the work of the Commission concerned with training and assistance in the field of international trade law and the desirability for it to sponsor seminars and symposia to provide such training and assistance; and commended the Commission on its decision to organize, as a first step in the preparation of its programme of activities for the United Nations Decade of International Law, a Congress on International Trade Law during the last week of the twenty-fifth session of the Commission, to be held in New York from 4 to 22 May 1992.[361] Furthermore, by its resolution 46/56 B, also of 9 December 1991,[362] adopted on the recommendation of the Sixth Committee,[363] the General Assembly took note of the report of the Secretary-General on possible ways of assisting developing countries to attend meetings of UNCITRAL,[364] requested the Fifth Committee, in order to ensure full, participation by all Member States, to consider granting travel assistance, within existing resources, to the least developed countries that were members of the Commission, as well as, on an exceptional basis, to other developing countries that were members of the Commission, at their request, in consultation with the Secretary-General, to enable them to participate in the sessions of the Commission and its working groups.

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

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

By its resolution 46/50 of 9 December 1991,[365] adopted on the recommendation of the Sixth Committee,[366] the General Assembly approved the guidelines and recommendations contained in section III of the report of the Secretary-General[367] and adopted by the Advisory Committee on the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law; authorized the Secretary-General to carry out in 1992 and 1993 the activities specified in his report; expressed its appreciation to the Secretary-General for his constructive efforts to promote training and assistance in international law within the framework of the Programme; welcomed, in particular, the joint

efforts described in the report of the Secretary-General, and undertaken by the Codification Division of the Office of Legal Affairs and the secretariat of the Programme as well as by the International Court of Justice to publish in a single volume in all official languages of the Organization, and within the existing overall level of appropriations, the summaries of the judgements and advisory opinions of the Court (1949-1990) as provided by the Registry of the Court, and to update that publication in subsequent years; welcomed the efforts undertaken by the Office of Legal Affairs of the Secretariat to bring up to date the United Nations *Treaty Series* and the *United Nations Juridical Yearbook*; expressed its appreciation to UNESCO for its participation in the Programme, and in particular for the publication of *International Law: Achievements and Prospects*; and urged all States, and relevant international organizations, whether regional or universal, to make all possible efforts to implement the goals and carry out the activities contemplated in section IV of the programme for the activities for the first term (1990-1992)[368] of the United Nations Decade of International Law, dealing with the encouragement of the teaching, study, dissemination and wider appreciation of international law.

(*b*) Measures to eliminate international terrorism

By its resolution 46/51 of 9 December 1991,[369] adopted on the recommendation of the Sixth Committee,[370] the General Assembly, taking note of the report of the Secretary-General,[371] once again unequivocally condemned, as criminal and unjustifiable, all acts, methods and practices of terrorism wherever and by whomever committed; called upon all States to fulfil their obligations under international law to refrain from organizing, instigating, assisting or participating in terrorist acts in other States, or acquiescing in or encouraging activities within their territory directed towards the commission of such acts; urged all States to fulfil their obligations under international law and take effective and resolute measures for the speedy and final elimination of international terrorism; appealed to all States that had not yet done so to consider becoming party to the international conventions relating to various aspects of international terrorism;[372] urged all States, as well as relevant United Nations organs, to contribute to the progressive elimination of the causes underlying international terrorism and to pay special attention to all situations, including colonialism, racism and situations involving mass and flagrant violations of human rights and fundamental freedoms and those involving alien domination and foreign occupation, that might give rise to international terrorism and might endanger international peace and security; welcomed the efforts undertaken by ICAO aimed at promoting universal acceptance of, and strict compliance with, international air security conventions, and welcomed also the recent adoption of the Convention on the Marking of Plastic Explosives for the Purpose of Detection; also requested the Secretary-General to seek the views of Member States on the proposals contained in his report or made during the debate on the item in the Sixth Committee,[373] and on the ways and means of enhancing the role of the United Nations and the relevant specialized agencies in combating international terrorism; and considered that nothing in the resolution could in

any way prejudice the right to self-determination, freedom and independence, as derived from the Charter of the United Nations, of peoples forcibly deprived of that right referred to in the Declaration of Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations.[374]

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

By its resolution 46/52 of 9 December 1991,[375] adopted on the recommendation of the Sixth Committee,[376] the General Assembly, bearing in mind the analytical study[377] submitted to the General Assembly at its thirty-ninth session by the United Nations Institute for Training and Research (UNITAR) could constitute a valuable source of information, in common with the relevant resolutions adopted on the question by various United Nations organs, considered that the impact on developing countries of the existing economic situation should be examined; and decided to establish a working group of the Sixth Committee to develop the principles and norms of international law relating to the new international economic order.

(*d*) United Nations Decade of International Law

By its resolution 46/53 of 9 December 1991,[378] adopted on the recommendation of the Sixth Committee,[379] the General Assembly, recalling its resolution 44/23 of 17 November 1989, by which it declared the period 1990-1999 the United Nations Decade of International Law, and its resolution 45/40 of 28 November 1990, to which was annexed the programme for the activities to be commenced during the first term (1990-1992) of the Decade[380] expressed its appreciation to the Sixth Committee and its Working Group on the United Nations Decade of International Law for their work at the current session and requested the Working Group to continue to work at its forty-seventh session in accordance with its mandate and methods of work; invited all States and international organizations and institutions referred to in the programme to provide, update or supplement information on activities they had undertaken in implementation of the programme, as appropriate, to the Secretary-General, as well as to submit their views on possible activities for the next term of the Decade; and requested the Secretary-General to supplement his report on the implementation of the programme, as appropriate, with new information on activities of the United Nations relevant to the progressive development of international law and its codification and to submit it to the General Assembly on an annual basis.

(*e*) Consideration of the draft articles on jurisdictional immunities of States and their property

By its resolution 46/55 of 9 December 1991,[381] adopted on the recommendation of the Sixth Committee,[382] the General Assembly, noting that the International Law Commission had completed at its forty-third session the second reading of the draft articles on jurisdictional immunities of

States and their property,[383] invited States to submit their written comments and observations on the draft articles; and decided to establish at its forty-seventh session an open-ended working group of the Sixth Committee to examine, in the light of the written comments of Governments, as well as views expressed in debates at the forty-sixth session of the Assembly: (*a*) issues of substance arising out of the draft articles, in order to facilitate a successful conclusion of a convention through the promotion of general agreement; (*b*) the question of the convening of an international conference, to be held in 1994 or subsequently, to conclude a convention on jurisdictional immunities of States and their property.

(*f*) Consideration of 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

By its resolution 46/57 of 9 December 1991,[384] adopted on the recommendation of the Sixth Committee,[385] the General Assembly, recalling that the International Law Commission had completed at its forty-first session the second reading of the draft articles on the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier and had also prepared 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,[386] expressed its satisfaction at the useful informal consultations that had been held at its forty-sixth session to study the draft articles as well as the question of how to deal further with those draft instruments with a view to facilitating the reaching of a generally acceptable decision in the latter respect, and took note of the report of the Vice-Chairman of the Sixth Committee who had presided over those consultations;[387] and decided that the informal consultations would be resumed at its forty-seventh session.

(*g*) Questions concerning the Charter of the United Nations and the strengthening of the role of the Organization

In accordance with General Assembly resolution 45/44 of 28 November 1990, the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization met at United Nations Headquarters from 4 to 22 February 1991.[388]

With respect to the topic of the maintenance of international peace and security, the Special Committee had before it the document entitled "Fact-finding by the United Nations in the field of the maintenance of international peace and security",[389] submitted by Belgium, Czechoslovakia, Germany, Italy, Japan, New Zealand and Spain, which was later revised,[390] as well as the "Proposal submitted by the Socialist People's Libyan Arab Jamahiriya, with a view to enhancing the effectiveness of the Security Council in regard to the maintenance of international peace and security".[391]

As a result of intensive work, the Special Committee completed its work on the draft Declaration on Fact-finding by the United Nations in the Field of the Maintenance of International Peace and Security and decided to submit it to the General Assembly for consideration and adoption.[392] The Committee also had before it the working paper entitled "New issues for consideration in the Special Committee" submitted by the Union of Soviet Socialist Republics.[393] It was generally agreed that the working paper provided the Special Committee with a good basis for future work on its mandate. At the end of the discussion, the Chairman concluded that the Special Committee would continue its consideration of the Soviet working paper at its session the following year before deciding which of the proposals contained in it should be included in the agenda of the Committee. On 20 February 1991, the Union of Soviet Socialist Republics presented a specific working document relating to paragraph 1 (*a*) of the above-mentioned working paper on enhancement of cooperation between the United Nations and regional organizations.[394]

With regard to the topic of the peaceful settlement of disputes between States, the Special Committee, having taken note of the final progress report of the Secretary-General,[395] and having considered the final text of the draft handbook pursuant to paragraph 3 (*b*) (ii) of General Assembly resolution 45/44 of 28 November 1990, recommended to the General Assembly at its forty-sixth session the publication of the draft handbook, which was annexed to the report of the Special Committee.

Consideration of the General Assembly

By its resolution 46/58 of 9 December 1991,[396] adopted on the recommendation of the Sixth Committee,[397] 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; expressed its appreciation to the Secretary-General for the completion of the Handbook on the Peaceful Settlement of Disputes between States[398] and requested him to publish and disseminate it widely in all the official languages of the United Nations; requested the Special Committee, at its next session: (*a*) to 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 and, in that context, to consider the proposal on the enhancement of cooperation between the United Nations and regional organizations, as well as other specific proposals relating to the maintenance of international peace and security which might be submitted to the Special Committee at its next session; (*b*) to continue its work on the question of the peaceful settlement of disputes between States and, in that context, to consider: (i) the proposal on United Nations rules for the conciliation of disputes between States; (ii) other specific proposals relating to the question of the peaceful settlement of disputes between States that might be submitted to the Special Committee at its next session; (*c*) to consider various proposals with the aim of strengthening the role of the Organization and enhancing its effectiveness; and also requested the Special Committee to be mindful of the importance of reaching general agreement whenever that had significance for the outcome of its work.

(*h*) Declaration on Fact-finding by the United Nations in the Field of the Maintenance of International Peace and Security

By its resolution 46/59 of 9 December 1991,[399] adopted on the recommendation of the Sixth Committee,[400] the General Assembly approved the Declaration on Fact-finding by the United Nations in the Field of the Maintenance of International Peace and Security, the text of which was annexed to the resolution; and expressed its appreciation to the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization for its important contribution to the elaboration of the text of the Declaration.

ANNEX

Declaration on Fact-finding by the United Nations in the Field of the Maintenance of International Peace and Security

The General Assembly,

Recalling the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,[401] the Manila Declaration on the Peaceful Settlement of International Disputes,[402] the Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations,[403] the Declaration on the Prevention and Removal of Disputes and Situations Which May Threaten International Peace and Security and on the Role of the United Nations in this Field,[404] and their provisions regarding fact-finding,

Emphasizing that the ability of the United Nations to maintain international peace and security depends to a large extent on its acquiring detailed knowledge about the factual circumstances of any dispute or situation, the continuance of which might threaten the maintenance of international peace and security (hereinafter, "disputes or situations"),

Recognizing that the full use and further improvement of the means for fact-finding of the United Nations could contribute to the strengthening of the role of the United Nations in the maintenance of international peace and security and promote the peaceful settlement of disputes, as well as the prevention and removal of threats to peace,

Desiring to encourage States to bear in mind the role that competent organs of the United Nations can play in ascertaining the facts in relation to disputes or situations,

Recognizing the particular usefulness of fact-finding missions that the competent United Nations organs may undertake in this respect,

Bearing in mind the experience and expertise acquired by the United Nations in the field of fact-finding missions,

Recognizing the need for States, in exercising their sovereignty, to co-operate with the relevant organs of the United Nations as regards fact-finding missions undertaken by them,

Seeking to contribute to the effectiveness of the United Nations, with a view to enhancing mutual understanding, trust and stability in the world,

Solemnly declares that:

I

1. In performing their functions in relation to the maintenance of international peace and security, the competent organs of the United Nations should endeavour

to have full knowledge of all relevant facts. To that end they should consider undertaking fact-finding activities.

2. For the purpose of the present Declaration fact-finding means any activity designed to obtain detailed knowledge of the relevant facts of any dispute or situation which the competent United Nations organs need to order to exercise effectively their functions in relation to the maintenance of international peace and security.

3. Fact-finding should be comprehensive, objective, impartial and timely.

4. Unless a satisfactory knowledge of all relevant facts can be obtained through the use of the information-gathering capabilities of the Security-General or other existing means, the competent organ of the United Nations should consider resorting to a fact-finding mission.

5. In deciding if and when to undertake such a mission, the competent United Nations organs should bear in mind that the sending of a fact-finding mission can signal the concern of the Organization and should contribute to building confidence and defusing the dispute or situation while avoiding any aggravation of it.

6. The sending of a United Nations fact-finding mission to the territory of any State requires the prior consent of that State, subject to the relevant provisions of the Charter of the United Nations.

II

7. Fact-finding missions may be undertaken by the Security Council, the General Assembly and the Secretary-General, in the context of their respective responsibilities for the maintenance of international peace and security in accordance with the Charter.

8. The Security Council should consider the possibility of undertaking fact-finding to discharge effectively its primary responsibility for the maintenance of international peace and security in accordance with the Charter.

9. The Security Council should, wherever appropriate, consider the possibility of providing in its resolutions for recourse to fact-finding.

10. The General Assembly should consider the possibility of undertaking fact-finding for exercising effectively its responsibilities under the Charter for the maintenance of international peace and security.

11. The General Assembly should, wherever appropriate, consider the possibility of providing for recourse to fact-finding in its resolutions relevant to the maintenance of international peace and security.

12. The Secretary-General should pay special attention to using the United Nations fact-finding capabilities at an early stage in order to contribute to the prevention of disputes and situations.

13. The Secretary-General, on his own initiative or at the request of the States concerned, should consider undertaking a fact-finding mission when a dispute or a situation exists.

14. The Secretary-General should prepare and update lists of experts in various fields who would be available for fact-finding missions. He should also maintain and develop, within existing resources, capabilities for mounting emergency fact-finding missions.

15. The Security Council and the General Assembly should, in deciding to whom to entrust the conduct of a fact-finding mission, give preference to the Security-General, who may, *inter alia*, designate a special representative or a group of experts reporting to him. Resort to an ad hoc subsidiary body of the Security Council or the General Assembly may also be considered.

16. In considering the possibility of undertaking a fact-finding mission, the competent United Nations organ should bear in mind other relevant fact-finding efforts, including those undertaken by the States concerned and in the framework of regional arrangements or agencies.

17. The decision by the competent United Nations organ to undertake fact-finding should always contain a clear mandate for the fact-finding mission and precise requirements to be met by its report. The report should be limited to a presentation of findings of a factual nature.

18. Any request by a State to a competent organ of the United Nations for the sending of a United Nations fact-finding mission to its territory should be considered without undue delay.

III

19. Any request by a competent organ of the United Nations for the consent of a State to receive a fact-finding mission within its territory should be given timely consideration by that State. That State should inform the organ of its decision without delay.

20. In the event a State decides not to admit a United Nations fact-finding mission to its territory, it should, if it deems it appropriate, indicate the reasons for its decision. It should also keep the possibility of admitting the fact-finding mission under review.

21. States should endeavour to follow a policy of admitting United Nations fact-finding missions to their territory.

22. States should cooperate with United Nations fact-finding missions and give them, within the limits of their capabilities, the full and prompt assistance necessary for the exercise of their functions and the fulfilment of their mandate.

23. Fact-finding missions should be accorded all immunities and facilities needed for discharging their mandate, in particular full confidentiality in their work and access to all relevant places and persons, it being understood that no harmful consequences will result to these persons. Fact-finding missions have an obligation to respect the laws and regulations of the State in which they exercise their functions; such laws and regulations should not however be applied in such a way as to hinder missions in the proper discharge of their functions.

24. The members of fact-finding missions, as a minimum, enjoy the privileges and immunities accorded to experts on missions by the Convention on the Privileges and Immunities of the United Nations. Without prejudice to their privileges and immunities, members of fact-finding missions have an obligation to respect the laws and regulations of the State in the territory in which they exercise their functions.

25. Fact-finding missions have an obligation to act in strict conformity with their mandate and perform their task in an impartial way. Their members have an obligation not to seek or receive instructions from any Government or from any authority other than the competent United Nations organ. They should keep the information acquired in discharging their mandate confidential even after the mission has fulfilled its task.

26. The States directly concerned should be given an opportunity, at all stages of the fact-finding process, to express their views in respect of the facts the fact-finding mission has been entrusted to obtain. When the results of fact-finding are to be made public, the view expressed by the States directly concerned should, if they so wish, also be made public.

27. Whenever fact-finding includes hearings, appropriate rules of procedure should ensure their fairness.

IV

28. The Secretary-General should monitor the state of international peace and security regularly and systematically in order to provide early warning of disputes or situations which might threaten international peace and security. The Secretary-General may bring relevant information to the attention of the Security Council and, where appropriate, of the General Assembly.

29. To this end, the Secretary-General should make full use of the information-gathering capabilities of the Secretariat and keep under review the improvement of these capabilities.

V

30. The sending of a United Nations fact-finding mission is without prejudice to the use of the States concerned of inquiry or any similar procedure or of any means of peaceful settlement of disputes agreed by them.

31. Nothing in the present Declaration is to be construed as prejudicing in any manner the provisions of the Charter.

(*i*) Additional protocol on consular functions to the Vienna Convention on Consular Relations

By its resolution 46/61 of 9 December 1991,[405] adopted on the recommendation of the Sixth Committee,[406] the General Assembly, taking note with appreciation of the report of the Secretary-General[407] containing the replies received from Member States and other States parties to the Vienna Convention on Consular Relations[408] concerning an additional protocol on consular functions to that Convention, decided to hold informal consultations during its forty-seventh session to examine the proposal concerning an additional protocol on consular functions to the above-mentioned Convention, particularly in the light of the views of States reflected in the report of the Secretary-General or expressed during the debate on the question in the Sixth Committee.

(*j*) Development and strengthening of good-neighbourliness between States

By its resolution 46/62 of 9 December 1991,[409] adopted on the recommendation of the Sixth Committee,[410] the General Assembly reaffirmed that, by acting as good neighbours, States could help to ensure that the ends for which the United Nations had been established were achieved; emphasized that States should act as good neighbours whether or not they were contiguous; called upon all States to keep in mind the need to act as good neighbours both in their dealings with other States and when taking decisions that could affect them; expressed the conviction that good-neighbourliness was best fostered by each State respecting the rule of law in its international relations, and by practical measures designed to promote good relations with other States; and decided that the question of development and strengthening of good-neighbourliness between States should continue to guide States as a goal to be pursued in their consideration of the issues before the United Nations, and noted that it could be considered in the future.

(*k*) Consideration of the draft articles on most-favoured-nation clauses

By its decision 46/416 of 9 December 1991,[411] adopted on the recommendation of the Sixth Committee,[412] the General Assembly, having noted with appreciation the valuable work done by the International Law Commission on the most-favoured-nation clauses, as well as the observations and comments of Member States, of organs of the United Nations, of specialized agencies and of interested intergovernmental organizations, decided to bring the draft articles on most-favoured-nation clauses, as contained in the report of the International Law Commission on the work of its thirtieth session,[413] to the attention of Member States and interested intergovernmental organizations for their consideration in such cases and to the extent that they deemed appropriate.

(*l*) Exploitation of the environment as a weapon in times of armed conflict and the taking of practical measures to prevent such exploitation

By its decision 46/417 of 9 December 1991,[414] adopted on the recommendation of the Sixth Committee,[415] the General Assembly took note that the protection of the environment in times of armed conflict was to be addressed at the Twenty-sixth International Conference on the Red Cross and Red Crescent; and decided to request the Secretary-General to report to the General Assembly at its forty-seventh session on activities undertaken in the framework of the International Red Cross with regard to that issue.

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

In accordance with General Assembly resolution 45/46 of November 1990, the Committee on Relations with the Host Country continued its work, in conformity with General Assembly resolution 2819 (XXVI) of 15 December 1971. During the period under review, the Committee held six meetings and approved, *inter alia*, the following recommendations and conclusions: considering that the maintenance of appropriate conditions for the normal work of the delegations and the missions accredited to the United Nations was in the interest of the United Nations and all Member States, the Committee appreciated the efforts made by the host country for that purpose and was assured that all problems raised at its meetings would be duly settled in a spirit of cooperation and in accordance with international law; considering that the security of missions accredited to the United Nations and the safety of their personnel were indispensable for their effective functioning, the Committee appreciated the efforts of the host country to that end and anticipated that the host country would continue to take all measures necessary to prevent any interference with the functioning of missions; with a view to facilitating the course of justice, the Committee called upon the missions of Member States to cooperate as fully as possible with the federal and local United States

authorities in cases affecting the security of missions and their personnel; concerning travel regulations issued by the host country with regard to personnel of certain missions and staff members of the Secretariat of certain nationalities, the Committee took note of the positions of the affected Member States, of the Secretary-General and of the host country; the Committee appealed to the host country to review the measures relating to diplomatic vehicles with a view to responding to the needs of the diplomatic community, and to consult with the Committee on matters relating to transportation; and the Committee stressed the importance of the work of its newly established Working Group concerning problems of financial indebtedness and welcomed the cooperation of all interested parties. It reminded all permanent missions to the United Nations and their personnel of their responsibilities to meet their financial obligations. With a view to resolving the issues relating thereto, the Committee strongly supported the continuation of the Working Group's efforts to find a solution to the problem.

Consideration by the General Assembly

By its resolution 46/60 of 9 December 1991,[416] adopted on the recommendation of the Sixth Committee,[417] the General Assembly endorsed the recommendations and conclusions of the Committee on Relations with the Host Country contained in paragraph 76 of its report;[418] 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 resolved in a spirit of cooperation and in accordance with international law; urged the host country, in the light of the consideration by the Committee of travel regulations issued by the host country, to continue to bear in mind its obligations to facilitate the functioning of the United Nations and the missions accredited to it; and stressed the importance of a positive perception of the work of the United Nations, and urged that efforts be continued to build up public awareness by explaining, through all available means, the importance of the role played by the United Nations and the missions accredited to it in the strengthening of international peace and security.

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

1. INTERNATIONAL LABOUR ORGANISATION[419]

(*a*) The International Labour Conference (ILC), which held its 78th session at Geneva in June 1991, adopted a Convention and a Recommendation concerning working conditions in hotels, restaurants and similar establishments.[420]

(*b*) The Committee of Experts on the Application of Conventions and Recommendations met at Geneva from 7 to 20 March 1991 and presented its report.[421]

(*c*) Several representations were lodged under article 24 of the Constitution of the International Labour Organisation alleging non-observance of ratified Conventions by the following countries: Mauritania on the Protection of Wages Convention, 1949 (No. 95), the Social Security (Minimum Standards) Convention, 1952 (No. 102), the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Equality of Treatment (Social Security) Convention, 1962 (No. 118), and the Employment Policy Convention, 1964 (No. 122);[422] and Iraq on the Protection of Wages Convention, 1949 (No. 95), the Abolition of Forced Labour Convention, 1957 (No. 105), the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and the Equality of Treatment (Social Security) Convention, 1962 (No. 118).[423]

(*d*) The Commission of Inquiry appointed under article 26 of the Constitution of the International Labour Organisation to examine the complaint concerning the non-observance by Nicaragua of the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), the Right to Organize and Collective Bargaining Convention, 1949 (No. 98), and the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), met in February, June and November 1990 and adopted its report[424] which was noted by the Governing Body at its 250th session (May-June 1991).

(*e*) The Commission of Inquiry appointed under article 26 of the Constitution of the International Labour Organisation to examine the complaint concerning the non-observance by Romania of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), met in January 1990, July 1990, October 1990 and March 1991 and adopted its report[425] which was noted by the Governing Body at its 250th session (May-June 1991).

(*f*) The Governing Body, which met at Geneva, considered and adopted the following reports of its Committee on Freedom of Association: the 277th report[426] at its 249th session (February-March 1991); the 278th report[427] at its 250th session (May-June 1991); and the 279th and 280th reports[428] at its 251st session (November 1991).

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2. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

(a) *Constitutional and general legal matters*

(i) *Membership of regional economic integration organizations in FAO*

After considering the report of the FAO Council which had reviewed the proposals formulated by the Committee on Constitutional and Legal Matters and the Committee of Member Nations Established to Review the Proposed Amendments to the Basic Texts of the Organization to Allow for Membership of Regional Economic Integration Organizations in FAO as well as a Compromise Text prepared by the Chairman of the Commit-

tee of Member Nations, the Conference, at its twenty-sixth session held in November 1991, decided to amend the Basic Texts of FAO to allow for the membership of regional economic integration organizations (REIO) in FAO.

These amendments provide that REIOs constituted by sovereign States, a majority of which are member nations of FAO and to which its member States have transferred competence over a range of matters within the purview of FAO, including the authority to make decisions binding on its member States in respect of those matters, may apply for membership of FAO. The term "transfer of competence" in respect of a given subject includes the transfer of treaty-making power by member States and means that complete power with respect to that subject is transferred and that no residual power remains with the member States. An REIO wishing to become a member of FAO is required, at the time of application for membership, to submit a declaration of competence specifying the matters in respect of which competence has been transferred to it by its member States. There is a presumption that any competence in respect of which no declaration of transfer has been given to FAO lies with the member States. The amendments to the Basic Texts provide for the rights and obligations of REIOs that are accepted as members of FAO (member organizations) and set the modalities of the exercise of membership rights by member organizations and their Member States as follows:

(*a*) The exercise of membership rights by a member organization is on an alternative basis with its member States which are members of FAO;

(*b*) A member organization has the right to participate, within its competence, in all meetings of FAO and its bodies in which any of its member States is entitled to participate with the exception of committees of restricted membership specified in the General Rules of the Organization (GRO). The GRO provide that a member organization shall not participate in the Programme Committee, the Finance Committee, the Committee on Constitutional and Legal Matters, the Credentials Committee, the Nominations Committee and the General Committee of the biannual Conference and any other body of the Conference dealing with the internal working of the Conference as the Conference may decide;

(*c*) A member organization is not eligible for election or designation to any body of FAO on its own right nor does it vote for elective places. Furthermore, member organizations are not entitled to hold office in the Conference, the Council or any of their subsidiary bodies;

(*d*) A member organization may exercise a number of votes equal to the number of its member States which are entitled to vote at the meeting in question;

(*e*) Before any meeting, a member organization or its member States is required to indicate which, as between the member organization and its member States, is competent in respect of any of the specific questions to be considered in the meeting and which shall exercise the right to vote in respect of each particular agenda item;

(*f*) In cases where an agenda item covers matters in respect of which competence has been transferred to the member organization and matters which lie within the competence of its member States (mixed competence), both the member organization and its member States may participate in the discussions but, for the purposes of arriving at a decision, only the intervention of the party having the right to vote shall be taken into account;

(*g*) For quorum purposes, the delegation of a member organization counts to the extent that it is entitled to vote in the particular meeting;

(*h*) A member organization does not contribute to the budget of FAO but is required to pay a sum to be determined by the Conference to cover administrative and other expenses arising out of its membership.

Article XIV of the Constitution of FAO[429] was also amended to allow Member Organizations and other eligible REIOs to become parties to conventions and agreements concluded thereunder. The terms of participation and voting rights to be exercised by such organizations are to be defined in each such agreement. Where the organization becomes a party on its own, without the alternative participation of its member States, the organization will be restricted to exercise a single vote in any body established under the agreement.

By its resolution 7/91, the Conference adopted the amendments to the Basic Texts of the Organization.

(ii) *Change in the membership of the Organization*

The Conference, at its twenty-sixth session, admitted Estonia, Latvia and Lithuania to membership in FAO and Puerto Rico, as an associate member.

The European Economic Community was also admitted and thus became the first member organization of FAO, pursuant to the amendment to the Basic Texts adopted during the session.

South Africa also made an application for admission. The Conference decided that no action should be taken on that application at its twenty-sixth session but that the matter should be placed on the provisional agenda of the twenty-seventh session of the Conference.

(iii) *Cooperation Agreement between the African Development Bank, the African Development Fund and FAO*

In accordance with article XIII, paragraph 1, of the Constitution, the Conference confirmed the Cooperation Agreement and expressed the hope that it would be signed and implemented as soon as possible.

(iv) *Revision of Conference resolution 46/57*

In 1957, the Conference had adopted resolution 46/57 ("Principles and procedures which should govern conventions and agreements concluded under articles XIV and XV of the Constitution, and commissions and committees established under article VI of the Constitution").

The Conference, acknowledging the developments that had taken place since then, amended that resolution by Conference resolution 8/91 to allow for greater flexibility and autonomy to these bodies. These amendments may be summarized as follows:

1. Amendments to conventions and agreements concluded under article XIV of the Constitution are to be reported to the Council which has the power to disallow them if it finds that such amendments are inconsistent with the objectives and purposes of FAO or its Constitution. Amendments are no longer subjected to the prior approval of the Council or Conference; they are now operative until disallowed by the Council or Conference.

2. Relations between bodies established by conventions or agreements concluded under article XVI of the Constitution ("article XIV bodies") and other international organizations need no longer be dealt with by the Director-General.

3. In the case of article XIV bodies with autonomous budgets, recommendations or decisions not having financial, policy or programme implications for FAO may be transmitted directly to the members of the body concerned for their consideration or action whereas this had to be done previously through the Director-General.

4. The basic texts of article XIV bodies with autonomous budgets may specify that their Secretary be appointed by the Director-General after consultation with, or with the approval or concurrence of the members of the body concerned. Such appointments used to lie within the exclusive discretion of the Director-General.

5. It is no longer required, for article XIV bodies, that cooperative projects and autonomous budgets and programmes be submitted to the Council or the Conference prior to implementation.

6. Financial regulations of article XIV bodies are now required to be consistent with the Financial Regulations of FAO and must be reported to the Finance Committee which has the power to disallow them if it finds them to be inconsistent with the principles embodied therein. Previously, the financial regulations had to be approved by the Director-General subject to confirmation by the Council.

7. Rules of procedure of article XIV bodies must not be inconsistent with the convention or agreement creating them or with the Constitution of FAO. They no longer need to be submitted for approval to the Director-General.

(v) *Revision of the General Regulations of the World Food Programme and membership of the WFP Committee on Food Aid Policies*[430]

The Conference adopted, under Conference resolution 9/91, the Revised General Regulations of the World Food Programme (WFP) which allow a greater degree of administrative autonomy to WFP while preserving its legal status as a joint programme of the United Nations and FAO

and substantially maintaining the technical role of FAO in respect of WFP activities.

The Revised General Regulations enhance the role of the Committee on Food Aid Policies and Programmes (CFA) as the body responsible for the intergovernmental supervision and direction of the Programme, enlarge its composition from 30 to 42 members of which 27 are to be developing countries and 15 more economically developed states, to be elected half by the Economic and Social Council and half by the Council of FAO.

(vi) *Headquarters Agreement for the World Food Programme and Interpretation Agreements concerning FAO Headquarters Agreement*

An Agreement regarding the Headquarters of the World Food Programme was signed by the United Nations, FAO and the Italian Government on 15 March 1991.[431]

On the same date, two interpretation agreements of the FAO Headquarters Agreement and the new WFP Headquarters Agreement were concluded. They provide for the interpretation of certain of the provisions of the Headquarters Agreements of FAO and WFP, confirm the position with respect to immunity from jurisdiction of national courts and reaffirm the fact that the administration of the staff is governed exclusively by FAO's and WPF's internal laws and rules.

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

The Conference was informed that the Organization's immunity from legal process had been upheld by the Supreme Court of Italy (Corte di Cassazione) in a lawsuit brought against it in the Italian courts by a former staff member. The former staff member was contesting the immunity from national jurisdiction and arguing that the Italian courts had jurisdiction over the employment relationship between FAO and its staff and that the Italian labour laws were applicable to this relationship. At the time, only the ruling was available and the full judgement was expected in the following months.

(viii) *International Plant Protection Convention*

The revised text of the International Plant Protection Convention entered into force on 4 April 1991 and the Conference, at its twenty-sixth session, appealed again to all States not yet parties to adhere to it.

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

(i) *Hard fibres*

The Intergovernmental Group on Hard Fibres held its twenty-fifth Session in October 1991, at which it agreed to revise downward the indicative price for sisal fibre on the recommendation of the Subgroup of Sisal and Henequen Producing Countries. The Group also agreed to maintain unchanged the indicative price for sisal and henequen baler twines. It recommended further that the quota system should be maintained in

principle, although the global and national quotas should remain suspended. For abaca, the Group agreed that the indicative price range for the composite of three major grades of Philippine fibre should also remain unchanged. 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. Some consuming countries abstained from participating in the discussions on indicative price arrangements for fibres and twine.

(ii) *Jute, kenaf and allied fibres*

a. *Jute, kenaf and allied fibres*

The informal price arrangements operated under the auspices of the FAO Intergovernmental Group on Jute, Kenaf and Allied Fibres for these fibres were maintained in 1991. At its twenty-seventh Session in 1991, the Group agreed to maintain the prices of jute unchanged for the 1991/92 season (Bangladesh jute – US$ 400 +/– US$ 30 per metric ton, sight, for BWD grade, f.o.b. Chittagong/Chalna) and to increase those of kenaf to US$ 350 +/– US$ per metric ton.

b. *International commodity bodies*

Following the requests of the Director-General, the Common Fund for Commodities designated as eligible international commodity bodies the Groups on Hard Fibres, Bananas, Rice, Meat, Oilseeds, Oils and Fats, Tea and Citrus Fruits, the Subgroup on Hides and Skins and the Subcommittee on Fish Trade.

(c) *Activities of the Joint FAO/WHO Codex Alimentarius Commission in relation to food law*

At its nineteenth session, held in Rome from 1 to 10 July 1991, the Commission decided to amend the elaboration procedures for Codex standards and the acceptance procedures, so as to provide for notification of acceptance in cases where commodities conforming to Codex requirements might be freely distributed in the importing country.

The Commission also decided that existing regional standards should be converted to worldwide standards.

(d) *Legislative matters*

(i) *Activities connected with international meetings*

FAO participated in and provided contributions to the following international meetings:

Ad Hoc Working Group of Legal and Technical Experts on Biological Diversity, second negotiating session, Nairobi, 25 February–6 March 1991;

International Union for the Protection of Industrial Property—Diplomatic Conference for the Revision of the International Convention for the Protection of New Varieties of Plants, Geneva, 4-19 March 1991;

International Symposium on the Argan Tree: Research and Future Prospects, Agadir, Morocco, 11-14 March 1991;

International Symposium on Comparative Environmental Law, Tokyo, 14-15 March 1991;

Preparatory Organizational and Legal Studies, Mekong Secretariat: Workshop 1: Financing of International Water Development Projects, Rome, 1-11 May, 1991; Workshop 2: National Water Law and Institutions. Hanoi, 1-8 October 1991;

Meeting of legal experts to examine the Draft Convention concerning Fisheries Cooperation among African States bordering the Atlantic Ocean, FAO, Rome, 27-30 May 1991;

Intergovernmental Negotiating Committee for a Convention on Biological Diversity, third negotiating session, Madrid, 24 June – 3 July 1991; fourth session, Nairobi, 23 September –2 October 1991; fifth session, Geneva, 25 November – 4 December 1991;

Ministerial Conference for Fisheries Cooperation among African States bordering the Atlantic Ocean, Dakar, 1-5 July 1991;

UNDP, International Institute for Hydraulic and Environmental Engineering, Symposium on a Strategy for Water Sector Capacity Building; Delft, the Netherlands, 3-5 June 1991;

Ministerial Conference on Maritime Cooperation between African States bordering the Atlantic Ocean, Dakar, 1-5 July 1991;

Preparatory Committee for the United Nations Conference on Environment and Development, third session, 12 August – 4 September 1991;

Second Joint FAO-WHO Consultation on Legal Aspects of Water Allocation and Wastewater Reuse, Geneva, 9-11 September 1991;

Expert Consultation on Harmonization of Quarantine Procedures, Rome, 13-19 June 1991;

Expert Consultation on Guidelines for the Introduction of Biological Control Agents, Rome, 17-19 September 1991;

Tenth World Forestry Congress—Organization of the Workshop on the Drafting and Implementation of Social Forestry Legislation, Paris, 23 September 1991;

Seventeenth Session of the Asia and Pacific Plant Protection Commission, Kuala Lumpur, 2-7 October 1991;

WHO Regional Workshop on Chemical Safety Legislation, Kuala Lumpur, 7-11 October 1991;

German Foundation for International Development, Workshop on New Trends and Policies in Irrigation Management, Colombo, 4-7 November 1991.

(ii) *Legislative assistance and advice*

Legal assistance and advice not involving field missions was furnished to Governments, agencies or educational centres, at their request, on a broad range of topics, including:

—Agrarian and rural land law;

—Animal, plant and food legislation;

—Forestry and wildlife legislation;

—Environmental legislation.

During 1991, legislative assistance and advice in the field were given to various countries on the following topics:

a. *Agrarian legislation*

Benin (rural institutions), Burundi (rural and law), Congo (agrarian and rural land law), Equatorial Guinea (natural resources law), Grenada (farmers and growers associations), Lao People's Democratic Republic (rural land law), Mali (rural land law), Mozambique (rural land law), Nicaragua (agrarian reform), Niger (rural land law), Rwanda (rural land law), Togo (agrarian reform), Trinidad and Tobago (land use and development), USSR (land reform and land legislation).

b. *Water legislation*

Burundi, Chile, Indonesia.

c. *Animal health and production legislation*

Organization of Eastern Caribbean States (OECS) (animal quarantine), Burkina Faso (animal production and bee industry), Rwanda (animal quarantine).

(iii) *Plant protection legislation*

Antigua and Barbuda, Burundi, Mali, Mauritania, Rwanda, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Sudan, Swaziland, Syrian Arab Republic, Uganda, United Republic of Tanzania, Zaire.

(iv) *Plant production and seed legislation*

India (Plant Breeders Rights), Indonesia (seed), Pakistan (Cotton Standards), Zaire (seed).

(v) *Pesticide legislation*

Burundi, Ghana, Mali, Mauritania, Rwanda, Pakistan, Swaziland, United Republic of Tanzania.

(vi) *Food legislation*

Bulgaria, Burkina Faso, Cape Verde, Czechoslovakia, Guinea-Bissau.

a. *Fisheries legislation*

Burundi, Caribbean Community (CARICOM), China, Chile, Cook Islands, Costa Rica, Cyprus, Djibouti, El Salvador, Guatemala, Guinea, Guinea-Bissau, Honduras, Myanmar, Namibia, Nicaragua, OECS, Panama, Peru, Rwanda, Sao Tome and Principe, Sierra Leone, Western Samoa, Suriname, Zaire.

b. *Forestry and wildlife legislation*

Bhutan (forestry), Cape Verde (forestry), Fiji (forestry), Guinea (forestry), Lao People's Democratic Republic (forestry), Morocco (forestry), Myanmar (forestry), Western Samoa (watershed), Trinidad and Tobago (forestry and national parks), Uganda (wildlife and national parks), United Republic of Tanzania (marine parks and reserves).

c. *Environment legislation*

Cook Islands (soil conservation), Guinea (soil conservation), United Republic of Tanzania (sustainable agricultural development).

(vii) *Legislative research and publications*

Research was conducted, *inter alia*, on:

—Water Resources Management Regulations;

—International water treaties—Europe;

—FAO activities in the field of environmental law;

—Forest usage rights;

—Pesticide registration procedures;

—European Economic Community (EEC) food law;

—Case studies on land reform and land legislation issues: EEC, Central and Latin America, Egypt, India, United States, USSR.

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

In 1991, FAO published the annual *Food and Agricultural Legislation* (Recueil de législation: alimentation et agriculture; Colección legislativa: agricultura y alimentación).

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3. UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

(*a*) Constitutional and procedural questions

By its resolution 26 C/19.3, adopted on 24 October 1991, the General Conference decided, *inter alia*, to amend article V of the Constitution of UNESCO[432] to the effect that the Executive Board "shall consist of fifty-

one member States". Accordingly, the Executive Board, immediately after the twenty-seventh session of the General Conference in 1993, will no longer be composed of physical persons but of member States. This amendment will entail consequential changes in the rules of procedure governing the election of members of the Executive Board.

(*b*) International regulations

Entry into force of instruments previously adopted

On 29 August 1991 the Convention on Technical and Vocational Education[433] entered into force.

(*c*) Initial special reports by member States

At its 26th session, the General Conference examined the initial special reports submitted by member States on the action taken by them on the Convention on Technical and Vocational Education and on the Recommendation on the safeguarding of traditional culture and folklore.[434]

(*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 14 to 16 May 1991 and from 24 to 26 September 1991, in order to examine communications which had been transmitted to it in accordance with Executive Board decision 104 EX/3.3.

At its spring session the Committee examined 28 communications, of which 17 were examined with a view toward their admissibility and 11 were examined on their substance. Of the 17 communications examined as to admissibility, none were declared admissible, 1 was declared irreceivable and 6 were struck from the list since they were considered as having been settled. The examination of 21 communications was suspended. The Committee presented its report to the Executive Board at its 136th session.

At its fall session, the Committee had before it 34 communications, of which 24 were examined as to their admissibility and 10 were examined on their substance. Of the 24 communications examined as to their admissibility, none were declared admissible, 2 were declared irreceivable and 6 were struck from the list since they were considered as having been settled or did not, upon examination of the merits, appear to warrant further action. The examination of 26 communications was suspended. The Committee presented its report on its examination of these communications to the Executive Board at its 137th session.

4. INTERNATIONAL CIVIL AVIATION ORGANIZATION

(*a*) Legal meetings

The International Conference on Air Law, convened by the decision of the Council of 4 July 1990, met at Montreal from 12 February to 1 March; 79 States and 6 observer delegations were represented. The purpose of the Conference was to consider, with a view to adopting, the draft articles prepared by the 27th session of the Legal Committee for inclusion in a draft instrument on the marking of plastic [and sheet] explosives for the purpose of detection. As a result of its deliberations, the Conference adopted by consensus and without a vote the Convention on the Marking of Plastic Explosives for the Purpose of Detection, done at Montreal, on 1 March 1991.[435] The Convention was opened for signature at Montreal on 1 March 1991 and on that day was signed by the delegations of 41 States. By the end of 1991 the Convention had been signed by 45 States and one State had submitted an instrument of approval.

The Final Act of the Conference was signed on behalf of 76 States and includes the text of a resolution which was adopted by the Conference by general consensus.

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

On 14 June, the Council considered the general work programme established by the 27th session of the Legal Committee in 1990 and approved by the Council on 16 November 1990; the Council agreed to amend the general work programme to include the following items in this order of priority:

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

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

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

(4) Liability of air-traffic control agencies;

(5) Action to expedite ratification of Montreal Protocols Nos. 3 and 4 of the "Warsaw System";

(6) Study of the instruments of the "Warsaw System".

In 1990, the Chairman of the Legal Committee had appointed a Rapporteur on the item "Institutional and legal aspects of future air navigation systems" and another Rapporteur on the "Legal aspects of global air-ground communications".

The 10th Air Navigation Conference (5-20 September) addressed under agenda item 4 the subject "Consideration of the institutional aspects of future air navigation systems". As a result of its deliberations, the Conference adopted recommendations 4/1 and 4/2. Recommendation 4/2 states *inter alia*, that ICAO should expedite the work of the Legal Committee on items (1) and (2) in its General Work Programme.

During its 134th session, in December 1991, the Council decided to convene the 28th session of the Legal Committee from 11 to 22 May 1992 with the following terms of reference: to study in the light of recommendations 4/1 and 4/2 adopted by the 10th Air Navigation Conference, as well as the Rapporteurs' reports, the subjects "Institutional and legal aspects of future air navigation systems" and "Legal aspects of global air-ground communications".

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5. WORLD HEALTH ORGANIZATION

(*a*) Constitutional and legal developments

During 1991, the following countries became members of the World Health Organization by deposit of an instrument of acceptance of the Constitution,[436] as provided for in articles 4, 6 and 79 (*b*) of the Constitution.

Marshall Islands	5 June 1991
Micronesia (Federated States of)	14 August 1991
Lithuania	25 November 1991
Latvia	4 December 1991

In the case of the Marshall Islands and the Federated States of Micronesia, which were not Members of the United Nations, the World Health Assembly accepted their application for admission. On 8 May 1991, Tokelau became an associate member of WHO by acceptance of the application for admission by the World Health Assembly. Thus, at the end of 1991, there were 170 State members and one associate member of WHO.

The amendments to articles 24 and 25 of the Constitution, adopted in 1986 by the thirty-ninth World Health Assembly to increase membership of the Executive Board from 31 to 32, had been accepted by 84 member States on 31 December 1991; acceptance by two-thirds of member States is required for the amendments to enter into force.

(*b*) Health legislation

As in previous years, WHO's Health Legislation Programme continued to focus primarily on two interrelated functions. The first is to provide direct technical cooperation to member States seeking to review their health legislation. Thus, consultant missions were undertaken in nine countries. The second is to promote the international transfer and exchange of information on all aspects of health and environmental legislation (and to a growing extent bioethics). The cornerstone of this "clearinghouse" function remained the quarterly journal, the *International Digest of Health Legislation* (and its French-language counterpart, the *Recueil international de législation sanitaire*). Regional health legislation information systems were operated by WHO's regional offices for the Americas (in Washington, D.C.) and Europe (in Copenhagen).

The Programme maintained its strong interest in all aspects of HIV/AIDS legislation, and was represented at a number of international and national meetings on this topic. It was also represented at a number of international and national conferences on health and medical law and cognate areas. It was represented at a meeting in the Library of Congress in Washington, D.C., the first in a series that, it is hoped, will lead to the creation of what is tentatively known as the International Legislative Information Network (ILIN).

On 13 May 1991, the World Health Assembly adopted a resolution endorsing a set of Guiding Principles on Human Organ Transplantation.[437] These are contained in a report published in 1991, which likewise includes the outcome of a review of international and national legislation, codes and other measures to combat commercialism in the use of human organs and tissues for therapeutic purposes.[438] WHO was represented at a number of international conferences on this subject, every opportunity being taken to promote the Guidelines.

In October 1991, WHO responded to a request from the Ministry of Health of the Islamic Republic of Iran, for technical support in the implementation of the International Code of Marketing of Breast-milk Substitutes. A senior legal officer was sent to Tehran and a draft national Code was formulated, in cooperation with the national Iranian team established for that purpose.

(*c*) Expanded role of the International Programme on Chemical Safety and the establishment of an intergovernmental mechanism for chemical risk assessment and management

In 1989, the United Nations General Assembly decided to convene in June 1992 a Conference on Environment and Development, during the preparatory work for which environmentally sound management of toxic chemicals was identified as a priority area where an international strategy needed to be developed. The International Programme on Chemical Safety (IPCS), along with the various international organizations actively working in the field of chemical safety, assisted the UNCED secretariat in developing this strategy and in preparing proposals for examination at the Conference itself. As part of the preparatory process, a meeting of Government-designated experts was held in London in December 1991, in order to examine the possible need for an intergovernmental mechanism on chemical risk assessment and management.

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6. WORLD BANK

(*a*) IBRD, IFC, IDA—membership

During 1991, Albania and Mongolia became members of the Bank and IDA and Albania, Bulgaria, the Central African Republic and Mongolia

became members of IFC. As at 31 December 1991, membership in these organizations stood at 156, 140 and 143, respectively.

(*b*) The Global Environment Facility

The Global Environment Facility (GEF) was established by a resolution adopted by the Executive Directors of the Bank, after negotiations with a large number of interested States and international organizations. The Facility consists of the Global Environment Trust Fund (GET), initially envisaged as a three-year pilot programme, Co-financing Arrangements with the GET, the Ozone Projects Trust Fundi, and such other trust funds as the Bank may agree to administer in the future within the framework of the Facility.

The GET is operated by the Workd Bank in cooperation with two partner agencies, UNEP and UNDP. The Bank administers the Facility's trust funds and is responsible for investment operations. UNDP coordinates and manages the pre-investment phase (financing and execution) and administers technical assistance. UNEP coordinates research and data, providing the overall scientific and technological guidance for selecting and evaluating projects. UNEP also heads a Scientific and Technical Advisory Panel which gives advice on broad scientific and technical issues related to the Facility to the participants and to the three institutions involved. The three institutions cooperate in identifying other agencies (e.g., NGOs, United Nations specialized agencies) to assess local project impact and to support project design and implementation.

The basic purpose of the Facility is to assist in the protection of the global environment and promote environmentally sound and sustainable economic development in developing countries which can undertake the necessary actions only through additional and concessional financing by the international community. Accordingly, the Facility will provide grants from core allocations to the trust funds, or arrange concessional loans from co-financing contributions, to developing countries, to assist them in implementing programmes and activities for the protection of the global environment. The proceeds of the trust funds established under the GEF will be used in four selected areas of global environment priority, namely: (i) the protection of the ozone layer consistent with the provisions of the Vienna Convention and its Montreal Protocol; (ii) limiting emissions of greenhouse gases which have been found to be a major contributor to global warming; (iii) protection of ecosystems and biodiversity in the developing countries; and, lastly, (iv) protection of international waters from industrial, wastewater and hazardous waste pollution. These four areas were chosen on the basis that they need measures which would benefit the world at large but would not otherwise be fully financed by existing development assistance or environmental programmes.

Countries which may benefit directly from the GET funding are limited to developing countries and territories with UNDP programmes with a per capita GNP at or below $4,000 in 1989. The projects to be financed out of GET resources should meet four conditions. They should be "consistent with global environment conventions", a requirement to be

verified by UNEP. They should also be "consistent with the country-specific environment strategy or programme". They must utilize "appropriate technology from the spectrum of available options". And they must be "both cost-effective and of high priority from the global perspective". Furthermore, investments funded from the GET should be different from regular projects which could be funded otherwise. Typically, they would cover investments which are not justified in a country context if the full costs were to be borne by the country alone and would thus need the additional financing from the GET to be attractive to the country. Also, they would cover investments which are justified in a country context but would need to incur additional costs to bring about additional global benefits.

(*c*) Multilateral Investment Guarantee Agency (MIGA)

Signatories/members

Since the Convention Establishing the Multilateral Investment Guarantee Agency[439] (the "Convention") was opened for signature to member countries of the World Bank and Switzerland in October 1985, 111 countries have signed the Convention, of which 75 had completed the requirements for membership as of 31 December 1991.

Guarantee operations

MIGA, which guarantees foreign investments in developing countries against non-commercial risks arising from expropriation, transfer and conversion of local currency, war and civil disturbance, and breach of contract, has to date insured, co-insured or reinsured 20 projects that facilitated almost US$ 1.2 billion in total investments. MIGA's aggregate contingent liability for these investments is $274 million. Investors holding guarantees from MIGA came from Canada, Denmark, France, Japan, Luxembourg, the Netherlands, Singapore, Sweden and the United States. Host countries of covered investments are Bangladesh, Chile, Guyana, Hungary, Indonesia, Madagascar, Pakistan, Poland and Turkey.

Host country investment agreements between MIGA and its member States

As mandated by article 23 (*b*) (ii) of the Convention, MIGA concludes bilateral investment protection agreements with its member States. Such agreements ensure that MIGA is afforded treatment not less favourable than that accorded by the member country concerned to any State or other public entity in an investment protection treaty or any other agreement relating to foreign investment with respect to the rights to which MIGA may succeed as subrogee of a compensated guarantee holder. As of 31 December 1991, MIGA has concluded agreements with 13 countries: Angola, Bangladesh, Burkina Faso, Cameroon, Congo, China, Ghana, Guyana, Hungary, Mauritius, Pakistan, Poland and Zaire.

In accordance with the directives of article 18 (*c*) of the Convention, MIGA also negotiates agreements on the use of local currency. These

agreements enable MIGA to dispose freely of local currency acquired by it as a result of a claim paid by the Agency for an inability to transfer or convert such currency that has been paid by the Agency. As of 31 December 1991, MIGA has concluded 17 such agreements with Angola, Bangladesh, Burkina Faso, Cameroon, Chile, China, Congo, Ecuador, Egypt, Ghana, Guyana, Hungary, Mauritius, Pakistan, Poland, Turkey and Zaire.

Article 15 of the Convention requires MIGA to obtain before issuing a guarantee the approval of the host country in which the investment is contemplated. In order to expedite the process, MIGA negotiates arrangements with host member States that provide a degree of automaticity in the approval procedure. As of 31 December 1991, the Agency has concluded 21 agreements with Angola, Argentina, Bangladesh, Burkina Faso, Cameroon, Chile, China, Congo, Ecuador, Egypt, Ghana, Guyana, Hungary, Indonesia, Mali, Mauritius, Pakistan, Poland, Sri Lanka, Turkey and Zaire.

Convention

Article 39 (*c*) of the Convention requires that a review of the allocation of shares in the Agency take place before the end of the third year following the entry into force of the Convention, or by 12 April 1991. On that date the Council of Governors adopted resolution No. 20 postponing the review for two years, or by 12 April 1993. In the interim, the shares of the Agency which have not been subscribed will continue to be allocated to the countries and in the number set forth in schedule A to the Convention.

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

Signatures and ratifications

During 1991, five further countries—Albania, Australia, Chile, Grenada and Mongolia—ratified the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (the ICSID Convention).[440] In the course of the year, the ICSID Convention was signed by a further four countries, namely Argentina, Bolivia, Czechoslovakia and Guinea-Bissau. With these new signatures and ratifications, the number of signatory States and contracting States reached 109 and 97 respectively.

Disputes before the Centre

In January 1991, an ad hoc committee was constituted under article 52 of the ICSID Convention to consider applications to annul the second award made in *Amco Asia Corporation et al. v. Republic of Indonesia* (case ARB/87/3).

In June 1991, the jurisdictional decision was rendered in *Manufacturers Hanover Trust Company v. Arab Republic of Egypt and the General Authority for Investment and the Free Zones* (case ARB/89/1).

As of 31 December 1991, the following four cases were pending before the Centre:

(*a*) *Amco Asia et al. v. Republic of Indonesia* (case/81/1) (Annulment);

(*b*) *SPP (ME) v. Arab Republic of Egypt* (case ARB/84/3);

(*c*) *Société d'études de travaux et de gestion S.A.—SETIMEG v. Republic of Gabon* (case ARB/87/1);

(*d*) *Manufacturers Hanover Trust Company v. Arab Republic of Egypt and the General Authority for Investment and the Free Zone* (case/89/1).

ICSID and national courts

In 1989, the Paris Court of Appeal, invoking rules on sovereign immunity from execution, reversed an earlier decision of the President of the Tribunal de grande Instance of Paris granting exequatur of the award rendered in the claimant's favour in 1988 in the ICSID case of *Société Ouest Africaine des Bétons Industriels v. State of Senegal* (case ARB/82/1). In June 1991, the French Court of Cassation quashed the Paris Court of Appeal's 1989 decision as being, *inter alia*, inconsistent with the ICSID Convention.

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7. INTERNATIONAL MONETARY FUND

MEMBERSHIP

During 1991, two countries became members of the Fund: Mongolia, on 14 February 1991, with a quota of SDR 25 million; and Albania, on 15 October 1991, with a quota of SDR 25 million. With the admission of Albania, the membership of the Fund totaled 156 countries.

During the course of 1991, the Fund received membership applications from the USSR, Estonia, Lithuania, the Marshall Islands, Latvia, the Federated States of Micronesia and Ukraine.

NINTH GENERAL REVIEW OF QUOTAS AND THE PROPOSED THIRD AMENDMENT OF THE ARTICLES OF AGREEMENT

As described in the relevant section of the 1990 *United Nations Juridical Yearbook* (p. 180), an increase in the total of the quotas of Fund members was authorized by the Board of Governors in 1990 and proposed to countries that were Fund members on 30 May 1990. The resolution of the Board of Governors provides that no increase in quotas shall become effective before members having not less than 85 per cent of the total of quotas on 30 May 1990 have consented to the increases in their quotas during the period ending 30 December 1991, or after 30 December 1991, members having not less than 70 per cent of the total of quotas on 30 May 1990 have consented to the increases in their quotas. The resolution of the

Board of Governors also specifies that no quota increase shall come into effect before the effective date of the Third Amendment of the Fund's Articles.

Under the resolution, members had until 31 December 1991 to consent to their increases in quotas. On 11 December 1991, the Executive Board extended by six months—until 30 June 1992—the date by which Fund members must consent to the proposed increases in their quotas. As of the end of December 1991, 103 members, accounting for 66.69 per cent of total quotas on 30 May 1990, had consented to the increases in their quotas, and 69 members, accounting for 56.30 per cent of the total voting power, had accepted the proposed Third Amendment.

Special Association Agreement with the USSR

On 5 October 1991, the Managing Director of the Fund and President Gorbachev signed an agreement establishing a Special Association between the USSR and the Fund.

This arrangement made Fund policy advice and technical assistance immediately available to the USSR and the individual republics constituting it. The Baltic States, which had already been recognized as independent of the USSR, were not included in the Special Association. Pursuant to the agreement, the Fund agreed to conduct reviews of the economy and provide technical assistance and training courses. For its part, the USSR agreed to provide the Fund with such information as is required from members of the Fund, permit the Fund to have a resident mission and accord the Fund and its officials certain privileges and immunities.

Modification of article IV consultations

Consultations with members of the Fund are provided for by article IV of the Fund's Articles. Through them, the Fund fulfils its obligations to exercise surveillance over the exchange rate policies of its members.

In principle, consultations are held annually. In 1987, the Executive Board introduced the "bicyclic" procedure to provide for a consultation with a Board discussion every second year; in intervening years, the staff holds interim consultation discussions with the member and submits a report to the Board but this did not normally constitute a consultation with the Fund. In February 1991, the Board modified the bicyclic procedure to provide for annual consultations, under which the interim staff reports could either be discussed by the Board following a request by either an Executive Director or the Managing Director, or the consultations completed by decision but without discussion.

In November 1991, the schedule of article IV consultations for certain categories of members was changed temporarily. Certain members were shifted from the annual consultation cycle to the bicyclic procedure, while most members formerly on the bicyclic schedule were shifted to a cycle in which consultations take place every 24 months. The restoration of normal consultations is to be reviewed by the Executive Board not later than November 1992.

Military expenditure

In October 1991, the Board discussed military spending and the role of the Fund. It was agreed that, at a minimum, and for all Fund members, aggregate data, which include fiscal expenditures (including off-budget items), international trade and external assets and liabilities must be reported fully to the Fund. These data should therefore encompass military transactions, even if not separately identified. The Fund staff will continue to request a breakdown of government expenditures, but still at a highly aggregated level. It was also agreed that data on military expenditures should not serve as a basis for establishing performance criteria or similar conditions associated with Fund-supported programmes.

The rights approach

As described in the relevant section of the 1990 *United Nations Juridical Yearbook* (p. 182), under the rights approach members can earn "rights" towards future financing from the Fund through the implementation of a comprehensive economic programme with macroeconomic and structural policy standards associated with programmes supported by extended and Extended Structural Adjustment Facility (ESAF) arrangements. It was envisaged that the rights approach would be available only to members with protracted arrears to the Fund that adopt such a programme that could be endorsed by the Executive Board by the time of the spring 1991 Interim Committee meeting. In view of the progress that has been made with respect to policies and payments to the Fund in some countries with protracted arrears, and the difficult circumstances of some others, the Executive Board agreed, in March 1991, to extend the deadline for Fund endorsement of rights accumulation programmes from the spring 1991 meeting of the Interim Committee to the spring 1992 meeting.

Special charges

The system of special charges on overdue financial obligations to the Fund entered into effect in 1986 with the purpose of recovering from members in arrears the direct financial costs to the Fund of overdue obligations. In April 1991, the Executive Board decided to suspend the application of special charges in the General Resources Account for members in protracted arrears to the Fund that were judged to be actively cooperating with the Fund towards the clearance of their arrears and had undertaken not to increase their overdue obligations to the Fund above a specified ceiling level, and for members for which the Fund endorsed a Fund-monitored or rights accumulation program.

Rate of charge on the use of ordinary resources

As noted in the relevant section of the 1990 *United Nations Juridical Yearbook* (p. 183), the proportion between the basic rate of charge and the SDR interest rate was set at 91.3 per cent for the financial year 1991 and was later reduced to 87.8 per cent. In June 1991, this proportion was further reduced retroactively for the year as a whole from 87.8 per cent to 87.0 per cent. In addition, the Executive Board decided to continue, for the

financial year 1992, the proportional relationship between the basic rate of charge and the SDR interest rate and set the proportion, which will be reviewed at mid-year, at 96.6 per cent.

Enlarged access policy

Introduced as a temporary policy, the enlarged access policy is used to increase the resources available under stand-by or extended arrangements for programmes that need substantial Fund support. For this purpose, the Fund has borrowed from official sources to finance members' purchases under this policy. As described in the relevant section of the 1990 *United Nations Juridical Yearbook* (pp. 180-181), access to the Fund's general resources under the enlarged access policy has been subject to limits expressed in terms of a percentage of a member's quota in the Fund.

In December 1991, The Fund's Executive Board conducted a preliminary review of the enlarged access policy and access limits. It was indicated that the maximum potential access available under the enlarged access policy should be maintained, at least temporarily, under any new access policy that would follow the implementation of the quota increases under the Ninth General Review. In addition, it was agreed that, as the Fund was not expected to make new borrowings following the quota increases, the enlarged access policy would lapse once the quota increases became effective. The Board also decided that ordinary resources would continue to be substituted to meet commitments of borrowed resources in financing purchases made under the enlarged access policy for as long as this policy remained in place, for arrangements approved not later than the date on which the increases in quotas became effective or 31 December 1991, whichever was earlier. Later, when a further delay in the quota increases became apparent, the Executive Board substituted a new cut-off date of 30 June 1992.

Guidelines for borrowing

The guidelines for borrowing by the Fund, which were introduced in 1981 in the context of large-scale borrowing by the Fund to finance the enlarged access policy, were revised in November 1991. The previous guidelines imposed a borrowing limit in terms of a per cent of Fund quotas and provided for a review of the guidelines upon the completion of the Ninth General Review of Quotas. The new guidelines do not set out specific borrowing limits in terms of quotas, but provision is made for appropriate borrowing limits in terms of quotas to be established by the Executive Board in advance of any further borrowing undertaken by the Fund except in the case of borrowing under the General Arrangements to Borrow.

Status under article VIII of article XIV

Members of the Fund accepting the obligations of article VIII undertake to refrain from imposing restrictions on the making of payments and transfers for current international transactions or engaging in multiple currency practices without the Fund's approval. During 1991, two members, namely Tonga and Cyprus, accepted the obligations of article VIII,

sections 2, 3 and 4, raising to 70 the number of members that have accepted these obligations. Albania and Mongolia, which joined the Fund in 1991, availed themselves of the transitional arrangements under article XIV.

Compensatory and Contingency Financing Facility

In the context of the Fund's response to the Middle East crisis that broke out in August 1990, a new but temporary oil element of the Compensatory and Contingency Financing Facility (CCFF) (described in the 1990 *United Nations Juridical Yearbook* (pp. 180-181)) designed to compensate members for sharp rises in the cost of their imports of crude petroleum, petroleum products and natural gas, was introduced. This measure expired on 31 December 1991; however, approval of a member's request for compensatory financing under the oil import element could take place through 30 June 1992, provided that the request was initiated before the end of 1991.

Structural Adjustment Facility and Enhanced Structural Adjustment Facility

In September 1991, The Executive Board reviewed the operations and potential access of eligible members to the resources of the Structural Adjustment Facility (SAF) and the ESAF. These facilities enable the Fund to provide resources on concessional terms to support medium-term macroeconomic adjustment and structural reforms in low-income countries facing protracted balance-of-payments problems. In November 1991, the Executive Board amended the Regulations for Administration of the SAF to the effect that, if the full amount of resources committed to an eligible member under a three-year SAF arrangement has not been disbursed and a subsequent three-year commitment is made under the ESAF for that member, the undisbursed amounts under the previous SAF arrangement may be made available to the member under the three-year ESAF arrangement.

Debt and debt service reduction operations

In 1989, the Fund adopted broad guidelines for its role in the evolving debt strategy and, in particular, for Fund support for debt and debt service reduction operations. In the context of these guidelines, the Executive Board had adopted in 1989 a decision relating to expectations of early repurchase by members of 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. In April 1991, the Executive Board amended this decision mainly to address the situation where a member has purchased additional resources to finance the establishment of a collateral, and any portion of such collateral is subsequently released to that member.

Burden sharing and extended burden sharing

In April 1991, the Executive Board reviewed and decided to continue both the burden sharing and the extended burden sharing mechanisms (see

relevant sections of previous volumes of the *United Nations Juridical Yearbook*, in particular 1986 (p. 172) and 1990 (p. 182)), thereby maintaining the measures taken to strengthen the Fund's financial position against the financial consequences of overdue obligations and to share the burden thereof between debtor and creditor members.

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8. UNIVERSAL POSTAL UNION

As part of the study of the juridico-adminstrative questions entrusted to the Executive Council by the 1989 Washington Congress, the Executive Council has approved the preparation of manuals for the Universal Postal Convention and the Postal Parcels Agreement.

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9. INTERNATIONAL MARITIME ORGANIZATION

(*a*) Membership of the Organization

The following country became a member of the International Maritime Organization: Luxembourg (14 February 1991). As at 31 December 1991, the number of members of IMO was 135. Following the dissolution of the Union of Soviet Socialist Republics, the membership of the USSR in IMO is continued by the Russian Federation as from 26 December 1991. There are also two associate members.

(*b*) Liability for damage caused by hazardous and noxious substances

During 1991 the Legal Committee continued its consideration of a draft international convention on liability and compensation in connection with the carriage of hazardous and noxious goods by sea (HNS convention), as a priority subject.

The Legal Committee considered several issues of a technical kind submitted by the Working Group of Technical Experts, which has been meeting simultaneously during the last three sessions of the Committee. These issues mainly refer to the kind and quantity of hazardous and noxious substances to be included in the scope of a future HNS convention. Other issues considered by the Committee were the criteria to establish a threshold which would trigger the compulsory shipowners' insurance and the possible linkage between the HNS liability regime and other conventions or national legislation on limitation of liability. Particular consideration was also given to the features of the system according to which contributions to a second tier should be assessed.

It is expected that a final draft HNS convention will be submitted for the consideration of a diplomatic conference early in 1994. This subject would therefore be given priority also in 1992.

(*c*) Report on follow-up in connection with a new legal instrument regarding the marking of explosives for detectability

The Legal Committee noted the successful outcome of the ICAO International Conference on Air Law and the Agreement of the Conference on the admission of IMO experts to the Explosives Technical Commission to be established under the provision of the Convention on the Marking of Plastic Explosives for the Purpose of Detection. The Conference was attended by an IMO representative.

(*d*) Follow-up in connection with the Basel Convention

In accordance with the request of the Legal Committee, the IMO Secretariat continued to follow actively the work undertaken under the auspices of UNEP on elements which might be included in a protocol on liability and compensation in accordance with resolution 3 of the Basel Conference. An IMO representative attended the second meeting of the ad hoc working group on the consideration of such elements, which was held at Nairobi from 6 to 9 March 1991.

(*e*) Matters concerning search and rescue (SAR), including those related to the 1979 Conference on the introduction of the Global Maritime Distress and Safety System

"SAR on and over foreign territorial seas": A document, submitted to the Legal Committee by the United States, intended to set forth a legal basis for the right of ships and aircraft to enter the territorial seas and archipelagic waters of foreign coastal States to render assistance to persons, ships or aircraft in danger or distress. In this connection, the Legal Committee recognized the duty to render general assistance to save human life and preserve property which could otherwise be lost. However, when it came to the question of the legal basis for assistance entry, the Committee unanimously agreed that, since there existed no such right in public international law, the matter should be dealt with in bilateral or regional agreements.

(*f*) Amendments to IMO treaties

(i) *1991 amendments to annexes I and V of the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973, as amended (MARPOL PROT 1978)*

The Marine Environment Protection Committee at its thirty-first session (July 1991) adopted, by resolution MEPC.47(31), amendments to annex I of the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973 (new regulation 26 and other amendments to annex I of MARPOL 73/78).

At the same session, the Marine Environment Protection Committee also adopted, by resolution MEPC.48(31), amendments to annex V of the above-mentioned Protocol (designation of the wider Caribbean area as a special area under annex V of MARPOL 73/78).

The Committee determined, in accordance with article 16 (2) (*f*) (iii) and (*g*) (ii) of the 1973 Convention, that both amendments shall be deemed to have been accepted on 4 October 1992 and will enter into force on 4 April 1993 unless prior to the former date one third or more of the parties or the parties the combined merchant fleets of which constitute 50 per cent or more of the gross tonnage of the world's merchant fleet, have communicated to the Organization their objections to the amendments.

(ii) *1991 amendments to the International Convention for the Safety of Life at Sea, 1974, as amended (SOLAS 1974)*

The Maritime Safety Committee at its fifty-ninth session (May 1991) adopted by resolution MSC.22(59), amendments to chapters II-2, III, V, VI and VII of the Convention.

The Committee determined, in accordance with article VIII (*b*) (vii) (2) of the Convention, that the amendments shall enter into force on 1 January 1994 unless, prior to 1 July 1993, more than one third of contracting Governments to the Convention, or contracting Governments the combined merchant fleets of which constitute not less than 50 per cent of the gross tonnage of the world's merchant fleet, have notified their objections to the amendments.

(iii) *1991 amendments to the Protocol relating to Intervention on the High Seas in Cases of Pollution by Substances other than Oil, 1973 (INTERVENTION PROT 1973)*

The Marine Environment Protection Committee, at its thirty-first session (July 1991), adopted by resolution MEPC.49(31) an amended list of substances to be annexed to the Protocol. The conditions for the entry into force of the amended list were met on 24 April 1991. The list has therefore entered into force on 24 July 1992, in accordance with the terms of the resolution.

(iv) *1991 amendments to annexes I and II to the International Convention for Safe Container (CSC), 1972, as amended (CSC 1972)*

The Maritime Safety Committee, at its fifty-ninth session (May 1991), adopted by resolution MSC.20(59) amendments to annexes I and II to the Convention. The conditions for their entry into force were met on 1 January 1992 and these amendments shall enter into force on 1 January 1993, in accordance with the terms of the resolution.

(v) *1991 amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW 1978)*

The Maritime Safety Committee, at its fifty-ninth session (May 1991), lopted by resolution MSC.21(59) amendments to chapters I, II, IV and ' of the Convention. The conditions for their entry into force were met 1 June 1992 and the amendments shall therefore enter into force on ecember 1992, in accordance with the terms of the resolution.

(*g*) Entry into force of instruments and amendments

(i) *Instruments*

a. *Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988*

The conditions for the entry into force of this Convention were met on 2 December 1991 with the deposit of an instrument of approval by France. In accordance with article 18, the Convention entered into force on 1 March 1992.

b. *Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, 1988*

The conditions for the entry into force of this Protocol were met on 2 December 1991 with the deposit of an instrument of approval by France. In accordance with article 6, the Protocol entered into force on 1 March 1992.

c. *Annex III to the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973, as amended*

The conditions for the entry into force of optional annex III to the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973, as amended, were met on 1 July 1991. The annex entered into force on 1 July 1992 for States parties to MARPOL 73/78 which have accepted that Annex, in accordance with article 15 (2) of the Convention.

(ii) *Amendments*

a. *1990 amendments to the annex to the Convention on Facilitation of International Maritime Traffic, 1965, as amended*

These amendments were adopted by the Facilitation Committee at its nineteenth session on 3 May 1990, by resolution FAL.2(19). The conditions for their entry into force were met on 1 June 1991 and the amendments entered into force on 1 September 1991, in accordance with the terms of the resolution.

b. *1989 amendments to the International Convention for the Safety of Life at Sea, 1974*

These amendments were adopted by the Maritime Safety Committee on 11 April 1989 by resolution MSC.13(57). The conditions for their entry into force were met on 31 July 1991 and the amendments entered into force on 1 February 1992, in accordance with the terms of the resolution.

c. *1990 amendments to the International Convention for the Safety of Life at Sea, 1974, as amended (SOLAS 1974)*

These amendments were adopted by the Maritime Safety Committee on 25 May 1990 by resolution MSC.19(58). The conditions for their entry into force were met on 31 July 1991 and the amendments entered into force on 1 February 1992, in accordance with the terms of the resolution.

d. *1988 amendments to the International Convention for the Safety of Life at Sea, 1974, concerning radiocommunications for the Global Maritime Distress and Safety System*

These amendments were adopted by a Conference of Contracting Governments to the International Convention for the Safety of Life at Sea, 1974 on the Global Maritime Distress and Safety System (GMDSS) on 9 November 1988. The conditions for their entry into force were met on 1 February 1990. The amendments entered into force on 1 February 1992, in accordance with the decision of the Conference.

e. *1988 (GMDSS) amendments to the Protocol of 1978 relating to the International Convention for the Safety of Life at Sea, 1974, as amended (SOLAS PROT 1978)*

These amendments, resulting from the introduction of the GMDSS, were adopted by a Conference of Contracting Governments to the Protocol, on 10 November 1988. The conditions for the entry into force of these amendments were met on 1 February 1990 and the amendments entered into force on 1 February 1992, as determined by the Conference.

f. *1990 (annexes I and V) amendments to the annexes to the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973, as amended*

These amendments were adopted by the Marine Environment Protection Committee on 16 November 1990, by resolution MEPC.42(30). The conditions for their entry into force were met on 16 September 1991 and the amendments entered into force on 17 March 1992, in accordance with the terms of the resolution.

g. *1991 amendments to the International Convention for Safe Containers (CSC), 1972, as amended*

These amendments were adopted by the Maritime Safety Committee on 17 May 1991 by resolution MSC.20(59) in accordance with article X of the Convention. The conditions for their entry into force were met on 1 January 1992 and the amendments will enter into force on 1 January 1993.

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10. WORLD INTELLECTUAL PROPERTY ORGANIZATION

(*a*) Membership of WIPO and States party to the treaties administered by WIPO

On 31 December 1991, the membership of the World Intellectual Property Organization[441] increased to 127 with the accessions of Namibia and San Marino. The number of States party to the Paris Convention for the Protection of Industrial Property[442] rose to 102 with the accession of Chile and Swaziland. The number of States party to the Bern Convention

for the Protection of Literary and Artistic Works[443] rose to 88 with the accessions of Ecuador, Ghana, Guinea-Bissau and Malawi. Côte d'Ivoire, Czechoslovakia, Guinea and Mongolia became party to the Patent Cooperation Treaty,[444] bringing the number of contracting States to 49. Spain became party to the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations,[445] bringing the number of contracting States to 36. Greece became party to the Convention relating to the Distribution of Programme-carrying Signals Transmitted by Satellite,[446] bringing the number of contracting States to 14. With the accession of Austria, Burkina Faso, Czechoslovakia, France and Mexico, the Treaty on the International Registration of Audiovisual Works[447] entered into force on 27 February 1991.

(*b*) Development cooperation activities in the legal field

For WIPO, the year 1991 was marked by a high level of demand for assistance to developing countries. WIPO's training activities are meant to provide or enhance professional skills and competence for the effective administration and use of the intellectual property system. During the year, training was given to government officials and personnel from the technical, legal, industrial and commercial sectors in the form of courses, study visits, workshops, seminars, training attachments abroad and on-the-job training by international experts.

A condition for ensuring optimum benefits from a country's use of the intellectual property system is the existence of appropriate national legislation. WIPO continued in 1991 to lay emphasis on the advice and assistance that it gives to developing countries in the improvement of their legislation. WIPO prepared draft laws and regulations which, depending on the country concerned, dealt with one or more aspects of intellectual property, or commented on drafts prepared by the Governments of the countries themselves. In total, during the period under review, some 35 countries benefited from such advice and assistance.

(*c*) Setting of norms and standards

The objective of the work in this area is to make the protection and enforcement of intellectual property rights more effective throughout the world with due regard to the social, cultural and economic goals of the various countries. Important progress was achieved in several fields of intellectual property in 1991.

The first part of the Diplomatic Conference for the Conclusion of a Treaty Supplementing the Paris Convention as far as Patents are Concerned (Patent Law Treaty) was held in June at The Hague, on premises made available by the Government of the Netherlands. Participation was high: 88 States members of the Paris Union were represented, as were 5 non-member States, 6 intergovernmental organizations and 33 non-governmental organizations. The Conference discussed the drafts of the proposed Patent Law Treaty and its accompanying Regulations. Those discussions will doubtless ease the task of the second part of the Diplomatic

Conference, the date and venue of which will be considered by the Assembly of the Paris Union.

The first session of the Committee of Experts on a Possible Protocol to the Bern Convention was held in November. Fifty-six States, five intergovernmental organizations and 39 non-governmental organizations participated. Discussions were based on the first part of the memorandum prepared by the International Bureau entitled "Questions concerning a possible protocol to the Bern Convention". Those questions related to certain categories of protected works: computer programs, databases, expert systems and other artificial intelligence systems and computer-produced works, as well as the rights of producers of sound recordings. The following conclusions were drawn from the discussions: the legal nature of a possible protocol should be a special agreement under article 20 of the Bern Convention; the Committee should further consider the legal nature and contents of a possible protocol or protocols; the differing opinions on computer software were such that no conclusions could be drawn, so the matter could be considered again in the future by the Committee; databases should be dealt with in the proposed protocol, but not artificial intelligence, while it would be premature to deal with computer-produced works; on the rights of phonogram producers, it was agreed that the protection of those rights should be strengthened and that the International Bureau should look into the nature of a possible new instrument, notably to determine whether it should be limited to copyright or could also cover neighbouring rights.

The third session of the Committee of Experts on the Settlement of Intellectual Property Disputes Between States was held in September with 45 States, 4 intergovernmental organizations and 4 international non-governmental organizations participating. The Committee examined a document prepared by the International Bureau which contained provisions for a draft treaty on the matter and which described the dispute settlement mechanism. The Committee recommended that the International Bureau prepare a draft treaty for discussion by the Committee at its next session (to be held in 1992).

As part of the exploration of intellectual property questions that might require norm-setting, WIPO organized a Worldwide Symposium on the Intellectual Property Aspects of Artificial Intelligence in March. The Symposium examined the various categories of artificial intelligence and their main fields of application from the viewpoint of the possible intellectual property implications. The result of the Symposium was to be taken into account in the preparation of a possible protocol to the Bern Convention. The Committee of Experts which met to consider the protocol decided that it should not deal with artificial intelligence.

Also in connection with the work on intellectual property activities that might require norm-setting, a Symposium on the International Protection of Geographical Indications was held in October. The Symposium, attended by more than 100 participants from 35 countries, was concerned with various aspects of the protection of geographical indications against misuse and with suitable measures to implement protection, such as inter-

national registration. The discussions dealt with both natural produce and industrial goods. Special attention was devoted to the international protection of indications of origin under the agreements administered by WIPO and the preparation of a new agreement on the international protection of geographical indications, to the protection of wine designations in various countries and at the international level, to the national protection of geographical indications in various States and to the protection of geographical indications in the European Community.

The Working Group on the Application of the Madrid Protocol met twice in 1991 to make further improvements to the draft of the Regulations of the Madrid system. Once the Madrid Protocol of 1989 enters into force, the Regulations will cover the procedures under both the Protocol and the Madrid Agreement currently in force, and ensure the harmonious coexistence of the two texts.

A Committee of Experts on the Development of the Hague Agreement concerning the International Deposit of Industrial Designs held its first session in April to recommend solutions (including the possible revision of the Hague Agreement or the establishment of a new system) which should both increase the use of the Hague system of international deposit and permit more States to adhere to the Hague Agreement.

(*d*) Contribution system; arrears in contributions of the least developed countries

In October 1991, the Governing Bodies approved the creation, to take effect from 1 January 1992, of two new—and lower—contribution classes (representing one half and one quarter, respectively, of the one-unit contribution class VII or class C). About 50 developing countries with low assessments in the United Nations system of contributions will benefit from these two new contribution classes which will reduce their present contributions by either 50 per cent or 75 per cent, as the case may be. The Governing Bodies also decided that the amount of the arrears in contributions of any least developed country relating to years preceding 1990 be entered in a special account ("frozen account"); payment of the arrears would not be demanded, although some payments were expected and encouraged.

(*e*) Central and Eastern Europe

During the year the International Bureau contributed, in an advisory capacity, to the legislative changes that took place or were being planned in Central and Eastern European countries in the intellectual property field.

The Governing Bodies of WIPO decided, in October 1991, that in the 1992-1993 biennium, the International Bureau of WIPO will give special attention to the needs of Central and Eastern European countries. To that end a special unit, the Central and Eastern Europe Section, was set up at the International Bureau in October 1991. There are also plans for semi-

nars and other meetings to be organized at the national and inter-country levels on various aspects of intellectual property.

(*f*) Collection of intellectual property laws and treaties

WIPO continued to keep up to date its collection of the texts of laws and regulations of all countries and treaties dealing with industrial property, copyright and neighbouring rights, both in their original languages and in English and French translations. The texts concerning industrial property were published in *Industrial Property Laws and Treaties (Lois et traités de propriété industrielle)* and in the monthly periodical *Industrial Property/La propriété industrielle*, whereas the texts concerning copyright and neighbouring rights were published in the monthly periodicals *Copyright/Le droit d'auteur*.

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11. INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT

(*a*) Postponement of the fourteenth session of the Governing Council

Due to the Gulf war in January 1991, the President of IFAD, at the request of the Chairman of the Governing Council, decided to postpone the fourteenth session of the Governing Council scheduled for January 1991 in accordance with rule 2 of the Rules of Procedure of the Governing Council.

At its fifth special session, on 21 January 1991, the Executive Board endorsed the decision of the President and requested the President:

(i) To recommend to the Governing Council, by mail, that the operation of rule 34.1 (*g*) of the Rules of Procedure of the Governing Council be temporarily suspended so as to allow the Governing Council to approve the budget of IFAD for 1991 through a vote by correspondence;

(ii) To despatch, by the most rapid means, a copy of the proposed budget of IFAD for 1991 to the Governors for their approval;

(iii) To recommend to the Governing Council that the outgoing Executive Directors and Alternate Directors of the Executive Board remain in office until the election of their successors at the fourteenth session of the Governing Council.

In the light of the postponement of its fourteenth session, the Governing Council approved the budget of IFAD for 1991 on 15 March 1991 through, for the first time, a vote by correspondence[448] and, accordingly, adopted the following resolutions:

(i) *Resolution 62/XIV*, which, in accordance with rule 45 of the Rules of Procedure of the Governing Council, suspended tem-

porarily the operation of rule 34.1 (*g*) of the Rules of Procedure of the Governing Council to the extent that it related to the approval of the budget of IFAD for 1991 through a vote by correspondence;

(ii) *Resolution 63/XIV*, which approved the budget of IFAD for 1991.

The fourteenth session of the Governing Council was eventually held in Rome from 29 to 30 May 1991.

(*b*) Membership

(i) *Reclassification*

The Agreement Establishing IFAD classifies IFAD's membership into three categories. In accordance with article 3.3 (*b*) of the Agreement Establishing IFAD, "the classification of a Member may be altered by the Governing Council, by a two-thirds majority of the total number of votes, with the concurrence of that Member."

The Government of Portugal requested that Portugal be reclassified from category III (developing recipient countries) to category I (donor developed countries). Portugal is an original member of IFAD and has contributed to IFAD's resources.

Upon the recommendation of the Executive Board, the Governing Council, at its fourteenth session (29-30 May 1991), adopted resolution 65/XIV, which reclassified Portugal as a member of category I as from 29 May 1991.

(ii) *New membership*

In accordance with articles 3.2 (*b*) of the Agreement Establishing IFAD, at its fourteenth session, the Governing Council decided, upon the recommendation of the Executive Board,[449] to accept the application for non-original membership of Nambia and classified that State as a member of category III and, accordingly, adopted resolution 64/XIV thereon.

(*c*) Second phase of the Special Programme for Sub-Saharan African Countries Affected by Drought and Desertification

The thirteenth session of the Governing Council (January 1990) noted that commitments against the Special Resources for Sub-Saharan Africa (SRS) would have been completed by the end of 1991 and stressed the need to maintain the higher share of resource allocation to sub-Saharan Africa achieved during the period 1986-1990 for a further period of three years. Therefore, the Governing Council requested that the President:

"A. Consult donors about the possibility of additional voluntary contributions to the SRS for a further three years without prejudicing deliberations on the mobilization of core funding for IFAD's resources;

"B. Report back to the Governing Council at its fourteenth session through the Executive Board on the results of these consultations for a decision, so as to adopt the appropriate measures."[450]

As a result of indications by a number of potential donors of their willingness to contribute to a second phase of the Special Programme for Sub-Saharan African Countries Affected by Drought and Desertification (the Special Programme), the President submitted to the Executive Board a study on the strategy and investment priorities envisaged for the second phase of the Special Programme[451] and supplementary information on the Fund's experience with rural small-scale enterprises. At its fifth special session (21 January 1991), the Executive Board decided:

(i) To endorse, in principle, the continuation of the Special Programme into a second and terminal phase, to be completed not later than the date of the effectiveness of the Fourth Replenishment;

(ii) To request the President to conduct a more intensive dialogue with potential contributors to this second phase so as to obtain firmer indications of their level of contribution in order to arrive at a final overall level for the second phase;

(iii) To request the President to submit a supplementary report to its forty-second session containing additional information requested by the Executive Board.

At its forty-second session (April 1991), the Executive Board recommended to the Governing Council the approval of a second and terminal phase of the Special Programme but did not indicate a specific target amount, referring only to the level of the first phase (US$ 300 million) and to its successful implementation.

At its fourteenth session, the Governing Council adopted resolution 67/XIV, in which it decided:

(i) To record its appreciation of the steps taken by the Executive Board and the President in developing a second and terminal phase of the Special Programme on the understanding that the Special Programme would be thereafter integrated into the core Regular Resources not later than the date of effectiveness of the Fourth Replenishment of IFAD's Resources;

(ii) To express its support for the broad objectives of the second phase of the Special Programme and the activities contemplated thereunder, subject to further revision thereof during the amendment of the Basic Framework on Special Resources for Sub-Saharan Africa (the Basic Framework), to be considered by the Executive Board;

(iii) To take note of the appeal made by the African members that every effort should be made to reach a target of US$ 300 million for the second phase of the Special Programme;

(iv) To appeal to all members in a position to do so to contribute generously, on a voluntary basis, to the SRS for the second phase of the Special Programme of three years, bearing in mind the level of resources mobilized for the first phase and its successful implementation;

(v) To request the President to report back to the Governing Council through the Executive Board on the implementation of the second phase of the Special Programme;

(vi) To request the President to include a report on the developments under the second phase of the Special Programme as a separate component of IFAD's annual report;

(vii) To authorize the Executive Board at its forty-third session to consider and approve such amendments to the Basic Framework as may be necessary to ensure the implementation of the said second phase as a continuation of the Special Programme;

(viii) To authorize the Executive Board and the President to commence operations and to implement the second phase of the Special Programme in accordance with the aforesaid Basic Framework, as amended.

Accordingly, the Executive Board, at its forty-third session, in September 1991, approved a number of amendments to the Basic Framework on Special Resources for Sub-Saharan Africa to reflect the creation of a second phase of the Special Programme.[452]

(*d*) IFAD's evolving approaches to environmentally sustainable rural poverty alleviation

As a result of the concern expressed by the Governing Council at its thirteenth session (23-25 January 1990) on the need to integrate environmental considerations into IFAD's lending activities, the Executive Board approved and the Governing Council, at its fourteenth session, endorsed a document entitled IFAD's evolving approaches to environmentally sustainable rural poverty alleviation.[453] The report proposed a two-year preliminary development-and-testing phase, consisting of proactive environmental assessments, pre-investment studies, sectoral studies and the development of operational guidelines for sustainable agriculture which will lay the foundations for a more rigorous treatment of environmental considerations in the design and implementation of IFAD projects. The President was authorized to finance this phase through the Fund's Programme of Work and Budget. The Executive Board will evaluate the preliminary development-and-testing phase upon its completion in order to define suitable ways and means of incorporating the preliminary-phase activities into the framework of the Fund's operations.

12. INTERNATIONAL ATOMIC ENERGY AGENCY

CONVENTION ON THE PHYSICAL PROTECTION OF NUCLEAR MATERIAL[454]

During 1991, 14 more adherences were effected, bringing the total to 41 parties—12 States members of the European Atomic Energy Community (Belgium, Denmark, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain and the United Kingdom), the European Atomic Energy Community and Slovenia (succession).

CONVENTION ON EARLY NOTIFICATION OF A NUCLEAR ACCIDENT[455] CONVENTION ON ASSISTANCE IN THE CASE OF A NUCLEAR ACCIDENT OR RADIOLOGICAL EMERGENCY[456]

During 1991, eight more States—Costa Rica, Cuba, Greece, Ireland, the Netherlands, Slovenia (by succession), Sri Lanka and Turkey—adhered to the Notification Convention. By the end of 1991, there were 62 parties.

In 1991, these same eight States and Yugoslavia adhered to the Convention on Assistance. By the end of 1991, there were 59 parties.

VIENNA CONVENTION ON CIVIL LIABILITY FOR NUCLEAR DAMAGE, 1963[457]

During 1991, Slovenia succeeded to the Convention, bringing the total number of parties to 15.

JOINT PROTOCOL RELATING TO THE APPLICATION OF THE VIENNA CONVENTION AND THE PARIS CONVENTION[458]

Four States—Cameroon, Italy, the Netherlands and Norway—expressed consent to be bound during 1991. Thus, by the end of the year, the Protocol had been signed by 22 States and 9 States had adhered to it (5 are parties to the Vienna Convention and 4 are parties to the Paris Convention). Adherence of at least 5 States party to each Convention is required for its entry into force.

LIABILITY FOR NUCLEAR DAMAGE

The Standing Committee on Liability for Nuclear Damage held two regular sessions and two intersessional meetings during which preliminary agreement was reached on a number of specific draft texts to amend the Vienna Convention, embracing most of the issues where need for improvement was recognized (e.g., extension of geographical scope, expansion of the concept of nuclear damage to cover damage caused by contamination of the environment, increase of financial limits of operator's liability). While alternative approaches remained on several fundamental issues such as application of the Vienna Convention to military installations and procedure for settlement of claims, the number of options was reduced, providing good ground for convergence of views.

Several alternative proposals were considered regarding the establishment of a system of supplementary funding. Two of these having similar elements received main support and were accepted as a basis for future work. Both suggested conclusion of a separate instrument differing, however, as to the tiers of compensation to be provided by the liable operator and mandatory or voluntary pooling by operators of nuclear installations, provision of public funds by the installation State and collectively by all contracting States, to supplement compensation paid by the operator liable. A proposal for voluntary pooling of States was also considered.

On the question of international State liability and its relationship to the civil liability regime under the revised Vienna Convention, the Committee moved from general discussion to the consideration of specific alternative proposals. Nevertheless, differences of principle remained on this question.

At its meetings in June, the Board of Governors considered the question of liability for nuclear damage. The General Conference, acting upon the report by the Board, reiterated the priority it attached to the consideration of all aspects of the question of liability for damage arising from a nuclear accident, especially in the light of the requests from parties to the Vienna Convention to convene a revision conference (GC(XXXV)/RES/553).

Safeguards Agreements

During 1991, Safeguards Agreements were concluded between IAEA and six States: Democratic People's Republic of Korea, Pakistan, Saint Vincent and the Grenadines, Solomon Islands, South Africa and Tuvalu. IAEA also concluded a safeguards agreement with Argentina, Brazil and the Brazilian-Argentine Agency for Accounting and Control of Nuclear Materials. The agreements with the Democratic People's Republic of Korea, Saint Vincent and the Grenadines, Solomon Islands, South Africa and Tuvalu were concluded pursuant to the Treaty on the Non-Proliferation of Nuclear Weapons.

The Agreements with Paksitan[459] and South Africa,[460] as well as the Safeguards Agreements concluded in 1986 with Tuvalu,[461] entered into force in 1991.

By the end of 1991, there were 180 Safeguards Agreements in force with 105 States,[462] 86 of which were concluded pursuant to the Non-Proliferation Treaty and/or the Treaty of Tlatelolco with 90 non-nuclear-weapon States and 3 nuclear-weapon States.

African Regional Cooperative Agreement[463]

Four additional States—Ghana, United Republic of Tanzania, Mauritius and Cameroon—accepted the African Regional Cooperative Agreement for Research, Development and Training related to Nuclear Energy (AFRA) during 1991, bringing the total to 13 States.

[1] Adopted without a vote.
[2] A/CN.10/137.
[3] General Assembly resolution S-10/2; see *Official Records of the General Assembly, Tenth Special Session, Supplement No. 4* (A/S-10/4), sect. III.
[4] Adopted by a recorded vote of 131 to 8, with 23 abstentions.
[5] Adopted by a recorded vote of 123 to 6, with 32 abstentions.
[6] Adopted without a vote.
[7] Adopted by a majority vote of 12 to 1, with 2 abstentions.
[8] League of Nations, *Treaty Series*, vol. XCIV, p. 65.
[9] General Assembly resolution 2826 (XXVI), annex; see also United Nations, *Treaty Series*, vol. 1015, p. 163.
[10] Ibid., vol. 729, p. 161.
[11] S/22508.
[12] United Nations, *Treaty Series*, vol. 1, p. 15.
[13] Ibid., vol. 33, p. 261.
[14] Ibid., vol. 374, p. 147.
[15] S/22509.
[16] S/22871/Rev.1.
[17] S/22872/Rev.1 and Corr.1.
[18] Adopted unanimously.
[19] Adopted unanimously.
[20] S/23165, annex.
[21] S/23268, annex.
[22] United Nations, *Treaty Series*, vol. 1108, p. 151.
[23] Adopted without a vote.
[24] A/46/693, para. 8.
[25] Adopted without a vote.
[26] See A/46/673.
[27] Adopted without a vote.
[28] See *The United Nations Disarmament Yearbook*, vol. 5: 1980 (United Nations publication, Sales No. E.81.IX.4), appendix VII; see also *International Legal Materials*, vol. XIX (1980), p. 1524.
[29] A/46/364, annex.
[30] Adopted without a vote.
[31] Adopted without a vote.
[32] A/46/527.
[33] United Nations publication, Sales No. E.87.IX.8.
[34] Ibid., para. 35.
[35] Adopted by a recorded vote of 155 to none, with 1 abstention.
[36] General Assembly resolution 2222 (XXI), annex.
[37] See *Official Records of the General Assembly, Forty-sixth Session, Supplement No. 27* (A/46/27), para. 91.
[38] Ibid., para. 60 of quoted text.
[39] For the text of the Treaty, see *The United Nations Disarmament Yearbook*, vol. 16: 1991, appendix II.
[40] See *Official Records of the General Assembly, Forty-sixth Session, Supplement No. 42 (A/46/42)*, annex II.
[41] Adopted by a recorded vote of 152 to two, with 3 abstentions.
[42] Adopted by a recorded vote of 119 to 18, with 23 abstentions.
[43] Adopted by a recorded vote of 122 to 16, with 22 abstentions.
[44] For example, General Assembly resolutions 45/58 B and 45/58 H.
[45] Adopted by a recorded vote of 130 to none, with 26 abstentions.
[46] Adopted by a recorded vote of 147 to 2, with 4 abstentions.

[47] United Nations, *Treaty Series*, vol. 480, p. 43.

[48] Adopted by a recorded vote of 110 to 2, with 35 abstentions.

[49] PTBT/CONF/13/Rev.1.

[50] General Assembly resolution 2373 (XXII); see also United Nations, *Treaty Series*, vol. 729, p. 161.

[51] Adopted without a vote.

[52] Adopted by a recorded vote of 152 to none, with 2 abstentions.

[53] Adopted by a recorded vote of 141 to none, with 9 abstentions.

[54] International Atomic Energy Agency, *The Annual Report for 1990* (Austria, July 1991) (GC(XXXV/953)); transmitted to the members of the General Assembly through a note by the Secretary-General (A/46/353).

[55] Adopted without a vote.

[56] A/C.1/46/9, annex.

[57] Adopted by a recorded vote of 108 to 1, with 47 abstentions.

[58] Adopted without a vote.

[59] Adopted by a recorded vote of 76 to 3, with 75 abstentions.

[60] Adopted by a recorded vote of 121 to 3, with 26 abstentions.

[61] United Nations, *Treaty Series*, vol. 684, p. 231.

[62] Adopted by a recorded vote of 127 to 4, with 30 abstentions.

[63] General Assembly resolution 2832 (XXVI) of 16 December 1971.

[64] Adopted without a vote.

[65] League of Nations, *Treaty Series*, vol. XCIV, p. 65.

[66] Adopted without a vote.

[67] See *Official Records of the General Assembly, Forty-sixth Session, Supplement No. 27* (A/46/27), para. 91.

[68] Ibid., para. 89.

[69] General Assembly resolution 2826 (XXVI), annex; see also United Nations, *Treaty Series*, vol. 1015, p. 163.

[70] Adopted without a vote.

[71] BWC/CONF.III/23/11.

[72] Adopted without a vote.

[73] See *Official Records of the General Assembly, Forty-sixth Session, Supplement No. 27* (A/46/27), para. 95.

[74] Adopted without a vote.

[75] See *Official Records of the General Assembly, Forth-sixth Session, Supplement No. 27* (A/46/27), para. 95.

[76] Adopted without a vote.

[77] A/46/301, annex.

[78] Adopted by a recorded vote of 150 to none, with 2 abstentions.

[79] Adopted without a vote.

[80] Adopted without a vote.

[81] See *The United Nations Disarmament Yearbook*, vol. 5: 1980 (United Nations publication, Sales No. E.81.IX.4), appendix VII; see also *International Legal Materials*, vol. XIX (1980), p. 1524.

[82] Adopted without a vote.

[83] Adopted without a vote.

[84] *The United Nations Disarmament Yearbook*, vol. 15: 1990 (United Nations publication, Sales No. E.91.IX.8), appendix II; see also Conference on Disarmament document CD/1064.

[85] Ibid., appendix III; see also Conference on Disarmament document CD/1070.

[86] Adopted by a recorded vote of 154 to none, with 4 abstentions.

[87] Adopted without a vote.

[88] Adopted without a vote.

[89] See General Assembly resolution 35/42B of 12 December 1980.

[90] Membership of the Union of Soviet Socialist Republics (USSR) in the United Nations is being continued as from 24 December 1991 by the Russian Federation.

[91] General Assembly resolution 2734 (XXV); reproduced in *Juridical Yearbook, 1970*, p. 62.

[92] Adopted without a vote.

[93] A/46/681, para. 9.

[94] For the report of the Subcommittee, see A/AC.105/484.

[95] A/AC.105/C.2/L.154/Rev.6.

[96] A/AC.105/C.2/L.154/Rev.7.

[97] A/AC.105/C.2/L.183.

[98] A/AC.105/C.2/L.184.

[99] A/AC.105/C.2/15 and Add.1-13.

[100] United Nations, *Treaty Series*, vol. 610, p. 205.

[101] A/AC.105/C.2/16 and Add.1-10.

[102] See *Official Records of the General Assembly, Forty-sixth Session, Supplement No. 20*, (A/46/20), chap. II, sect. C.

[103] A/AC.105/C.2/L.154/Rev.9.

[104] A/AC.105/486.

[105] A/AC.105/L.191.

[106] Adopted without a vote.

[107] See A/46/637.

[108] Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (General Assembly resolution 2222 (XXI), annex); Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space (General Assembly resolution 2345 (XXII), annex); Convention on International Liability for Damage Caused by Space Objects (General Assembly resolution 2777 (XXVI), annex); Convention on Registration of Objects Launched into Outer Space (General Assembly resolution 3235 (XXIX), annex); Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (General Assembly resolution 34/68, annex).

[109] Adopted by a recorded vote of 101 to none, with 7 abstentions.

[110] See A/46/679.

[111] A/46/583.

[112] A/46/590.

[113] *International Legal Materials*, vol. XXX, No. 6, p. 1461.

[114] Adopted by a recorded vote of 107 to none, with 6 abstentions.

[115] See A/46/679.

[116] For detailed information, see *Official Records of the General Assembly, Forty-sixth Session, Supplement No. 25* (A/46/25).

[117] All decisions of the Governing Council referred to in this section were adopted by consensus.

[118] *International Legal Materials*, vol. XXVIII, No. 3, p. 657.

[119] Ibid., vol. XXX, No. 3, p. 775.

[120] Ibid., vol. XXVI, No. 6, p. 1541.

[121] Ibid., vol. XXX, No. 2, p. 541.

[122] Ibid., vol. XXVI, No. 6, p. 1529.

[123] UNEP/GC.16/19 and Corr.1.

[124] UNEP/GC.16/INF.4.

[125] For detailed information, see *Official Records of the General Assembly, Forty-sixth Session, Supplement No. 48* (A/46/48), vols. I and II.

[126] All decisions of the Committee were adopted by consensus.

[127] A/CONF.151/PC/57.

[128] A/CONF.151/PC/28.

[129] A/CONF.151/PC/66.

[130] A/CONF.151/PC/42/Add.4.

[131] A/CONF.151/PC/WG.I/L.28.

[132] A/CONF.151/PC/79.

[133] A/CONF.151/PC/77.

[134] A/CONF.151/PG/WG.III/CRP.8, A/CONF.151/PC/83, A.CONF.151/PG/WG.III/L.5, A/CONF.151/PC/WG.III/L.6, A/CONF.151/PC/WG.III/L.16 and A/CONF.151/WG.III/L.17.

[135] Adopted without a vote.

[136] See A/46/728.

[137] *Official Records of the General Assembly, Forty-sixth Session, Supplement No. 48* (A/46/48), vol. I.

[138] Ibid., vol. II.

[139] Adopted without a vote.

[140] See A/46/729.

[141] See A/AC.237/6 and Corr.1, A/AC.237/9 and A/AC.237/12 and Corr.1.

[142] Adopted without a vote.

[143] A/46/645/Add.6, para. 40.

[144] A/46/156-E/1991/54.

[145] A/46/214-E/1991/77.

[146] A/46/138-E/1991/52.

[147] A/46/615 and Add.1.

[148] A/C.2/46/3.

[149] Adopted without a vote.

[150] A/46/645/Add.2.

[151] A/46/564, annex.

[152] For detailed information, see *Official Records of the General Assembly, Forty-sixth Session, Supplement No. 12* (A/46/12), and ibid., *Supplement No. 12A* (A/46/12/Add.1).

[153] United Nations, *Treaty Series*, vol. 189, p. 137.

[154] Ibid., vol. 606, p. 267.

[155] *The Regulation of Statelessness under International and National Law*, Oceana Publications, Inc., Dobbs Ferry, New York, p. 137.

[156] *Yearbook on Human Rights for 1986* (United Nations publication, Sales No. E.91.XIV.4), p. 194.

[157] For detailed information, see *Official Records of the General Assembly, Forty-sixth Session, Supplement No. 12A* (A/46/12/Add.1).

[158] E/SPC/67, annex.

[159] E/SC/64.

[160] A/AC.96/754.

[161] See A/AC.96/731, paras. 44-49.

[162] Adopted without a vote.

[163] See A/46/705.

[164] *Official Records of the General Assembly, Forty-sixth Session, Supplement No. 12A* (A/46/12/Add.1), para. 25.

[165] EC/SCP/67, annex.

[166] United Nations, *Treaty Series*, vol. 520, p. 151.

[167] Ibid., vol. 1019, p. 175.

[168] Ibid., vol. 976, p. 3.

[169] Ibid., p. 105.

[170] E/CONF.82/15 and Corr.2; issued also as a United Nations publication (Sales No. E.91.XI.6).

[171] Adopted without a vote.

[172] See A/46/720.

[173] Adopted without a vote.

[174] See A/46/720.

[175] General Assembly resolution S-17/2, annex; excerpts from the Global Programme of Action are reproduced in *Juridical Yearbook, 1990*, p. 77.

[176] See *Report of the International Conference on Drug Abuse and Illicit Trafficking, Vienna, 17-26 June 1987* (United Nations publication, Sales No. E.87.I.18), chap. I, sect. A.

[177] Adopted without a vote.

[178] See A/46/720.

[179] See *Report of the International Conference on Drug Abuse and Illicit Trafficking, Vienna, 17-26 June 1987* (United Nations publication, Sales No. E.87.I.18), chap. I, sect. A.

[180] General Assembly resolution S-17/2, annex; see also *Juridical Yearbook, 1990*, p. 77.

[181] Adopted without a vote.

[182] See A/46/720.

[183] A/46/480.

[184] United Nations, *Treaty Series*, vol. 993, p. 3.

[185] Ibid., vol. 999, p. 171.

[186] Ibid.

[187] General Assembly resolution 44/128, annex.

[188] Adopted without a vote.

[189] See A/46/721.

[190] *Official Records of the General Assembly, Forty-sixth Session, Supplement No. 40* (A/46/40).

[191] *Official Records of the Economic and Social Council, 1991, Supplement No. 3* and Corrigendum (E/1991/23 and Corr.1).

[192] Adopted without a vote.

[193] See General Assembly resolution 2106 A (XX), annex; reproduced in *Juridical Yearbook, 1965*, p. 63; see also United Nations, *Treaty Series*, vol. 660, p. 195.

[194] Adopted without a vote.

[195] See A/46/718.

[196] General Assembly resolution 38/14, annex.

[197] *Official Records of the General Assembly, Forty-sixth Session, Supplement No. 18* (A/46/18).

[198] Adopted without a vote.

[199] A/46/721, para. 103.

[200] See General Assembly resolution 3068 (XXVIII), annex; reproduced in *Juridical Yearbook, 1973*, p. 70; see also United Nations, *Treaty Series*, vol. 1015, p. 243.

[201] Adopted by a recorded vote of 118 to 1, with 39 abstentions.

[202] See A/46/718.

[203] A/46/391.

[204] See General Assembly resolution 34/180, annex; reproduced in *Juridical Yearbook, 1979*, p. 115; see also United Nations, *Treaty Series*, vol. 1249, p. 13.

[205] Adopted without a vote.

[206] A/46/653, para. 18.

[207] *Official Records of the General Assembly, Forty-sixth Session, Supplement No. 38* (A/46/38).

[208] A/46/462.

[209] See General Assembly resolution 39/46, annex; also reproduced in *Juridical Yearbook, 1984*, p. 135.

[210] Adopted without a vote.

[211] A/46/721, para. 103.

[212] A/46/394.

[213] General Assembly resolution 44/25, annex.

[214] Adopted without a vote.

[215] See A/46/721.
[216] A/46/392.
[217] General Assembly resolution 45/158, annex.
[218] Adopted without a vote.
[219] See A/46/721.
[220] A/46/395.
[221] Adopted without a vote.
[222] See A/46/721.
[223] See A/44/98, sect. VII, and A/45/636, annex.
[224] See A/44/668, annex.
[225] See A/45/636, annex, para. 53.
[226] Adopted without a vote.
[227] See A/46/721.
[228] *Official Records of the General Assembly, Forty-sixth Session, Supplement No. 24* (A/46/24).
[229] Adopted by a recorded vote of 123 to 2, with 34 abstentions.
[230] See A/46/721.
[231] Adopted without a vote.
[232] See A/46/721.
[233] E/CN.4/1991/23 and Add.1.
[234] Adopted without a vote.
[235] See A/46/721.
[236] Adopted by a recorded vote of 134 to 4, with 13 abstentions.
[237] See A/46/721/Add.1.
[238] A/46/609 and Corr.1 and Add.1 and 2.
[239] General Assembly resolution 217 A (III).
[240] General Assembly resolution 2200 A (XXI), annex.
[241] Adopted by a recorded vote of 102 to 40, with 13 abstentions.
[242] See A/46/721.
[243] Adopted without a vote.
[244] See A/46/721.
[245] General Assembly resolution 217 A (III).
[246] General Assembly resolution 2200 A (XXI), annex.
[247] Adopted without a vote.
[248] See A/46/721.
[249] General Assembly resolution 217 A (III).
[250] See General Assembly resolution 2200 A(XXI), annex.
[251] General Assembly resolution 36/55.
[252] Commission on Human Rights resolution 1990/27 (*Official Records of the Economic and Social Council, 1990, Supplement No. 2* and corrigendum (E/1990/22 and Corr.1), chap. II, sect. A) and Economic and Social Council decision 1990/229.
[253] Adopted without a vote.
[254] See A/46/721.
[255] Adopted without a vote.
[256] See A/46/721.
[257] A/46/421.
[258] Adopted without a vote.
[259] See A/46/721.
[260] E/CN.4/Sub.2/1990/32, annex.
[261] Adopted without a vote.
[262] See A/46/721.
[263] Adopted without a vote.
[264] See A/46/721.
[265] A/41/324, annex.
[266] A/46/542.

[267] Adopted without a vote.

[268] See A/46/721.

[269] General Assembly resolution 217 A (III).

[270] General Assembly resolution 2200 A (XXI), annex.

[271] General Assembly resolution 3384 (XXX).

[272] Adopted without a vote.

[273] See A/46/719.

[274] Adopted by a recorded vote of 113 to 22, with 24 abstentions.

[275] See A/46/719.

[276] Adopted by a recorded vote of 122 to 11, with 28 abstentions.

[277] See A/46/719.

[278] General Assembly resolution 44/34, annex.

[279] See *Official Records of the Economic and Social Council, 1991, Supplement No. 2* (E/1991/22), chap. II, sect. A.

[280] A/46/459, annex.

[281] Adopted without a vote.

[282] See A/46/721.

[283] General Assembly resolution 41/128, annex.

[284] E/CN.4/1991/12 and Add.1.

[285] Adopted without a vote.

[286] A/46/704 and Add.1, para. 25.

[287] A/46/363.

[288] Adopted by a recorded vote of 134 to none, with 23 abstentions.

[289] United Nations Educational, Scientific and Cultural Organization, *Records of the General Conference, Sixteenth Session*, vol. 1, *Resolutions*, p. 135.

[290] A/46/497.

[291] *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 *The Law of the Sea: United Nations Convention on the Law of the Sea with Index and Final Act of the Third United Nations Conference on the Law of the Sea* (United Nations publication, Sales No. E.83.V.5).

[292] For detailed information on the work of the Preparatory Commission, see the report of the Secretary-General (A/46/724).

[293] LOS/PCN/BUR/R.7 and Corr. 1 and LOS/PCN/117.

[294] LOS/PCN/BUR/R.8 and LOS/PCN/122.

[295] LOS/PCN/L.87, annex.

[296] A/CONF.62/L.78.

[297] Adopted by a recorded vote of 140 to 1, with 7 abstentions.

[298] See A/46/724, paras. 15-20.

[299] For the composition of the Court, see General Assembly decision 46/315.

[300] As of 31 December 1990, the number of States recognizing the jurisdiction of the International Court of Justice as compulsory in accordance with declarations filed under Article 36, para. 2, of the Statute of the Court stood at 54.

[301] For detailed information, see *I.C.J. Yearbook 1991-1992*, No. 46.

[302] *I.C.J. Reports 1991*, p. 47.

[303] For detailed information, see *I.C.J. Yearbook, 1990-1991*, No. 45; and *I.C.J. Yearbook, 1991-1992*, No. 46.

[304] *I.C.J. Reports 1991*, p. 6.

[305] For detailed information, see *I.C.J. Yearbook 1990-1991*, No. 45; and *I.C.J. Yearbook 1991-1992*, No. 46.

[306] *I.C.J. Reports 1991*, p. 3.

[307] For detailed information, see *I.C.J. Yearbook 1990-1991*, No. 45; and *I.C.J. Yearbook 1991-1992*, No. 46.

[308] *I.C.J. Reports 1991*, p. 53.

[309] Ibid., pp. 77-79 and 80.

[310] Ibid., pp. 81-91, 92-95, 96-105 and 119.

[311] Ibid., pp. 120-129, 130-174 and 175-185.

[312] For detailed information see, *I.C.J. Yearbook 1991-1992*, No. 46.

[313] *I.C.J. Reports 1991*, p. 44.

[314] For detailed information, see *I.C.J. Yearbook 1990-1991*, No. 45; and *I.C.J. Yearbook 1991-1992*, No. 46.

[315] *I.C.J. Reports 1991*, p. 9.

[316] For detailed information, see *I.C.J. Yearbook 1990-1991*, No. 45; and *I.C.J. Yearbook 1991-1992*, No. 46.

[317] See subparagraph (iv) above.

[318] For detailed information, see *I.C.J. Yearbook 1990-1991*, No. 45; and *I.C.J. Yearbook 1991-1992*, No. 46.

[319] *I.C.J. Reports 1991*, p. 12.

[320] Ibid., pp. 22-24.

[321] Ibid., pp. 25-27, 28-36 and 37-39.

[322] Ibid., p. 41.

[323] For detailed information, see *I.C.J. Yearbook 1990-1991*, No. 45; and *I.C.J. Yearbook 1991-1992*, No. 46.

[324] *I.C.J. Reports 1991*, p. 50.

[325] For detailed information, see *I.C.J. Yearbook 1990-1991*, No. 45; and *I.C.J. Yearbook 1991-1992*, No. 46.

[326] For the membership of the Commission, see *Official Records of the General Assembly, Forty-sixth Session, Supplement No. 10* (A/46/10), chap. I, sect. A.

[327] For detailed information, see *Official Records of the General Assembly, Forty-sixth Session, Supplement No. 10* (A/46/10).

[328] Articles 29 to 33 and the annex dealing with the settlement of disputes, which were prepared by the former Special Rapporteur but not discussed, are reproduced in the report of the Commission on the work of its forty-first session (*Official Records of the General Assembly, Forty-fourth Session, Supplement No. 10* (A/44/10), para. 611).

[329] A/CN.4/427/Add.1.

[330] A/CN.4/436 and Corr.1-3.

[331] A/CN.4/435, and Add.1 and Corr.1.

[332] A/CN.4/437 and Corr.1.

[333] A/CN.4/438 and Corr.1.

[334] A/CN.4/439.

[335] A/CN.4/440 and Add.1.

[336] *Official Records of the General Assembly, Forty-sixth Session, Supplement No. 10* (A/46/10).

[337] Adopted without a vote.

[338] See A/46/687.

[339] *Official Records of the General Assembly, Forty-fifth Session, Supplement No. 10* (A/45/10), chap. II, sect. C.

[340] For the membership of the Commission, see *Official Records of the General Assembly, Forty-sixth Session, Supplement No. 17* and corrigendum (A/46/17 and Corr.1), chap. I, sect. B.

[341] For detailed information, see *Yearbook of the United Nations Commission on International Trade Law*, vol. XXII:1991 (United Nations publication, Sales No. E.93.V.2).

[342] A/CN.9/341

[343] A/CN.9/344.

[344] A/CN.9/347 and Add.1.

[345] A/CN.9/346.

[346] *Official Records of the General Assembly, Forty-sixth Session, Supplement No. 17* and corrigendum (A/46/17 and Corr.1), annex I.

[347] A/CN.9/343.

[348] A/CN.9/332/Add.8.

[349] A/CN.9/350.

[350] A/CN.9/352.

[351] A/CN.9/351.

[352] 1974 Convention on the Limitation Period in the International Sale of Goods, *Juridical Yearbook, 1974*, p. 101; 1980 Protocol amending the Convention on the Limitation Period in the International Sale of Goods, *Juridical Yearbook, 1980*, p. 191; 1978 United Nations Convention on the Carriage of Goods by Sea, United Nations publication, Sales No. E.80.VIII.1; 1980 United Nations Convention on Contracts for the International Sale of Goods, *Juridical Yearbook, 1980*, p. 116; 1988 United Nations Convention on International Bills of Exchange and International Promissory Notes, General Assembly resolution 43/165; and 1991 United Nations Convention on the Liability of Operators of Transport Terminals in International Trade, reproduced in chap. IV of the present volume of the *Juridical Yearbook*.

[353] United Nations, *Treaty Series*, vol. 330, p. 3.

[354] A/CN.9/353.

[355] Adopted without a vote.

[356] See A/46/688.

[357] *Official Records of the General Assembly, Forty-sixth Session, Supplement No. 17* and corrigendum (A/46/17 and Corr.1).

[358] Reproduced in chap. IV of the present volume of the *Juridical Yearbook*.

[359] General Assembly resolutions 3201 (S-VI) and 3202 (S-VI).

[360] General Assembly resolution 3362 (S-VII).

[361] *Official Records of the General Assembly, Forty-sixth Session, Supplement No. 17* and corrigendum (A/46/17 and Corr.1), paras. 343-349.

[362] Adopted without a vote.

[363] See A/46/688.

[364] A/46/349.

[365] Adopted without a vote.

[366] See A/46/684.

[367] A/46/610 and Corr.1.

[368] General Assembly resolution 45/40, annex.

[369] Adopted without a vote.

[370] See A/46/654.

[371] A/46/346 Add.1 and 2.

[372] 1963 Convention on Offences and Certain Other Acts Committed on Board Aircraft, United Nations, *Treaty Series*, vol. 704, p. 219; 1970 Convention for the Suppression of Unlawful Seizure of Aircraft, ibid., vol. 860, p. 105; 1971 Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, ibid., vol. 974, p. 177; 1973 Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, ibid., vol. 1035, p. 167; 1979 International Convention against the Taking of Hostages, General Assembly resolution 34/146, annex; 1980 Convention on the Physical Protection of Nuclear Material, *International Legal Materials*, vol. VIII (1979), p. 1422; 1988 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, ICAO document DOC 9518; 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, IMO document SUA/CONF/15/Rev.1; 1988 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, IMO document SUA/CONF/16/Rev.2; and 1991 Convention on the Marking of Plastic Explosives for the Purpose of Detection, see S/22393 and Corr.1.

[373] See *Official Records of the General Assembly, Forty-sixth Session, Sixth Committee*, 12th to 17th, 23rd and 26th meetings, and corrigendum.

[374] General Assembly resolution 2625 (XXV), annex.

[375] Adopted by a recorded vote of 117 to 20, with 17 abstentions.

[376] See A/46/685.

[377] A/39/504/Add.1, annex III.

[378] Adopted without a vote.

[379] See A/46/686.

[380] Reproduced in *Juridical Yearbook, 1990*, p. 159.

[381] Adopted without a vote.

[382] See A/46/687.

[383] *Official Records of the General Assembly, Forty-sixth Session, Supplement No. 10* (A/46/10), chap. II.

[384] Adopted without a vote.

[385] See A/46/689.

[386] *Official Records of the General Assembly, Forty-fourth Session, Supplement No. 10*, (A/44/10), chap. II.

[387] *Forty-sixth Session, Sixth Committee*, 40th meeting, and corrigendum.

[388] For the report of the Special Committee, see *Official Records of the General Assembly, Forty-sixth Session, Supplement No. 33* and corrigendum (A/46/33 and Corr.1).

[389] A/AC.182/L.66/Rev.1.

[390] A/AC.182/L.70.

[391] See para. 14 of the report of the Special Committee *Official Records of the General Assembly, Forty-sixth Session, Supplement No. 33* and corrigendum (A/46/33 and Corr.1).

[392] For the text of the Declaration, see subparagraph (h) below. See also observations as to the text of the Declaration contained in paras. 20 and 21 of the report of the Special Committee, ibid.

[393] A/AC.182/L.65.

[394] See para. 46 of the report of the Special Committee, op. cit.

[395] A/AC.182/L.68.

[396] Adopted without a vote.

[397] See A/46/690.

[398] *Official Records of the General Assembly, Forty-sixth Session, Supplement No. 33* and corrigendum (A/46/33 and Corr.1), annex.

[399] Adopted without a vote.

[400] See A/46/690.

[401] General Assembly resolution 2625 (XXV), annex.

[402] General Assembly resolution 37/10, annex.

[403] General Assembly resolution 42/22, annex.

[404] General Assembly resolution 43/51, annex.

[405] Adopted without a vote.

[406] See A/46/692.

[407] A/46/348 and Add.1 and 2.

[408] United Nations, *Treaty Series*, vol. 596, p. 261.

[409] Adopted without a vote.

[410] See A/46/656.

[411] Adopted without a vote.

[412] A/46/655, para. 7.

[413] *Official Records of the General Assembly, Thirty-third Session, Supplement No. 10* (A/33/10).

[414] Adopted without a vote.

[415] A/46/693, para. 8, and A/46/L.39.

[416] Adopted without a vote.

[417] See A/46/691.

[418] *Official Records of the General Assembly, Forty-sixth Session, Supplement No. 26* and addendum (A/46/26 and Add.1).

[419] With regard to the adoption of instruments, information on the preparatory work, which by virtue of the double discussion procedure normally covers a period of two years, is given in order to facilitate reference work in the year during which the instrument was adopted.

[420] ILO *Official Bulletin*, vol. LXXIV, 1991, series A, No. 2, pp. 59-66; English, French, Spanish. Regarding preparatory work, see: *First discussion*—Working conditions in hotels, restaurants and similar establishments, ILC, 77th session (1990) report VI (1) and report VI (2); 80 and 132 pages respectively; Arabic, Chinese, English, French, German, Russian, Spanish. See also, ILC, 77th session (1990), *Record of Proceedings*, No. 28; No. 33, pp. 14-17; English, French, Spanish. *Second Discussion*—Working conditions in hotels, restaurants and similar establishments, ILC, 78th session (1991), report IV (1), report IV (2A) and report IV (2B); 11, 72, and 22 pages respectively; Arabic, Chinese, English, French, German, Russian, Spanish. See also ILC, 78th session (1991), *Record of Proceedings*, No. 23; No. 26, pp. 6-16; No. 27, pp. 4 and 17; English, French, Spanish.

[421] This report has been published as report III (part 4) to the 78th session of the Conference and comprises two volumes: vol. A: General Report and Observations concerning particular Countries, report III (4A), 523 pp.; English, French, Spanish; vol. B: General Survey of the Reports on the Paid Educational Leave Convention (No. 140) and Recommendation (No. 148), 1974, and on the Human Resources Development Convention (No. 142), and Recommendation (No. 150), 1975, report III (4B), 212 pp.; English, French, Spanish.

[422] ILO *Official Bulletin*, vol. LXXIV, 1991, series B, supplement 1.

[423] GB.248/20/21 and GB.250/15/25.

[424] ILO *Official Bulletin*, vol. LXXIV, 1991, series B, supplement 2.

[425] ILO *Official Bulletin*, vol. LXXIV, 1991, series B, supplement 3.

[426] Ibid., vol. LXXIV, 1991, series B, No. 1.

[427] Ibid., No. 2.

[428] Ibid., No. 3.

[429] *Basic Texts of the Food and Agriculture Organization of the United Nations*, vols. I and II, 1992 editions (FAO, 1992), p. 3.

[430] These revised General Regulations were also approved by the General Assembly of the United Nations, as the joint parent body of WFP, in resolution 46/22.

[431] Reproduced in CL 99/26.

[432] United Nations, *Treaty Series*, vol. 4, p. 275.

[433] UNESCO document 26C/29.

[434] UNESCO document 26C/30.

[435] For the text, see United Nations Security Council document S/22393, annex; reproduced also in chapter IV of the present volume of *Juridical Yearbook*.

[436] For the text of the Constitution, see United Nations, *Treaty Series*, vol. 15, p. 295.

[437] WHA 44.25.

[438] *Human organ transplantation: a report on developments under the auspices of WHO (1987-1991)* (WHO, Geneva, 1991).

[439] *International Legal Materials*, vol. XXIV, No. 6 (1985), p. 1607.

[440] The text of the ICSID Convention is reproduced in *Juridical Yearbook*, 1966, p. 196.

[441] For the text of the Convention Establishing the World Intellectual Property Organization, see United Nations, *Treaty Series*, vol. 828, p. 3.

[442] *Paris Convention for the Protection of Industrial Property of March 20, 1883* (as amended) official English text, WIPO Publication No. 201(E) (World Intellectual Property Organization, Geneva, 1993).

[443] United Nations, *Treaty Series*, vol. 828, p. 221.

[444] United Nations, *Treaty Series*, 78 (1978).

[445] United Nations, *Treaty Series*, vol. 496, p. 43.

[446] Ibid., vol. 1144, p. 3.

[447] *Treaty on the International Registration of Audiovisual Works, adopted at Geneva on 18 April 1989 and Regulations as in force since 28 February 1991*, WIPO Publication No. 299(E) (World Intellectual Property Organization, Geneva), 1993.

[448] Document GC 14/L.5.

[449] Documents EB 90/40/R.54 and EB/40.

[450] Resolution 60/XIII.

[451] Document EB 90/41/R.87.

[452] Document EB 91/43/R.47.

[453] Documents EB 91/42/R.22 and Addendum and GC14/L.9/Rev.1.

[454] Reproduced in IAEA document INFCIRC/274/Rev.1.

[455] Reproduced in IAEA document INFCIRC/335.

[456] Reproduced in IAEA document INFCIRC/336.

[457] United Nations, *Treaty Series*, vol. 1063, p. 265; the text of the Convention is also reproduced in *IAEA Legal Series*, No. 4.

[458] Reproduced in IAEA document INFCIRC/402.

[459] Reproduced in IAEA document INFICRC/393.

[460] Reproduced in IAEA document INFCIRC/394.

[461] Reproduced in IAEA document INFCIRC/391.

[462] IAEA also applies safeguards to nuclear facilities in Taiwan Province of China.

[463] Reproduced in IAEA document INFCIRC/377.