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

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

CONTENTS *(continued)*

Page

Chapter III

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

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

1. DISARMAMENT AND RELATED MATTERS[1]

(a) Comprehensive approaches to disarmament

(i) *Follow-up to the special sessions of the General Assembly devoted to disarmament*

Of the 29 resolutions which the General Assembly adopted in 1984 under the two collective items on follow-up to the special sessions directed to disarmament, only 10 resolutions—most in procedural areas—dealt with actual follow-up items. In the general debates, in both plenary meetings and the First Committee, a number of States made comments on the importance of a continuous effort to monitor implementation of the disarmament strategy set out by the Assembly at its tenth special session. The expectations generated by that session were frequently stressed, as were the continuing dismay and concern that those expectations had in no way been realized.

By resolution 39/148 M[2] of 17 December 1984, entitled "International co-operation for disarmament", the General Assembly, convinced of the need to strengthen constructive international co-operation based on the political goodwill of States for successful negotiations on disarmament, in accordance with the Final Document of the Tenth Special Session of the General Assembly,[3] called upon all States, in implementing the Final Document, to make active use of the principles and ideas contained in the Declaration on International Co-operation for Disarmament by actively participating in disarmament negotiations, with a view to achieving concrete results, and by conducting them on the basis of the principles of reciprocity, equality, undiminished security and the non-use offeree in international relations, and to refrain at the same time from developing new channels of the arms race; and appealed to States which were members of military groupings to promote, on the basis of the Final Document, the gradual mutual limitation of military activities of those groupings, thus creating conditions for their dissolution.

By resolution 39/148 *N** of the same date, entitled "Report of the Conference on Disarmament", the General Assembly expressed its deep disappointment that the Conference on Disarmament had not been enabled to reach concrete agreements on any disarmament issues to which the United Nations had assigned greatest priority and urgency and which had been under consideration for a number of years; urged the Conference to undertake negotiations with a view to elaborating a draft treaty on a nuclear-weapon-test ban; and also urged it to intensify its work on the elaboration of a draft convention on the prohibition of the development, production and stockpiling of all chemical weapons and on their destruction.

And by its resolution 39/148 O,[s] also of the same date, on "Implementation of the recommendations and decisions of the tenth special session", the General Assembly invited all States, particularly nuclear-weapon States and especially those among them which possessed the most important nuclear arsenals, to take urgent measures with a view to implementing the recommendations and decisions contained in the Final Document of the Tenth Special Session of the General Assembly, as well as to fulfilling the priority tasks set forth in the Programme of Action contained in section III of the Final Document; called upon great Powers to undertake genuine negotiations in a constructive and accommodating spirit and taking

into account the interest of the entire international community in order to halt the arms race, particularly the nuclear-arms race, and to achieve disarmament; and called upon the Conference on Disarmament to concentrate its work on the substantive and priority items on its agenda, to proceed to negotiations on the cessation of the nuclear-arms race and nuclear disarmament, on the prevention of nuclear war as well as the prevention of an arms race in outer space without further delay and to elaborate drafts of treaties on a nuclear-weapon-test ban and on a complete and effective prohibition of the development, production and stockpiling of all chemical weapons and on their destruction.

(ii) *General and complete disarmament*

The agenda item entitled "General and complete disarmament" covered a number of different subjects. General and complete disarmament was reaffirmed as the ultimate goal in a number of resolutions adopted by the General Assembly. However, strained international relations seemed to make the Member States somewhat reserved about the prospects for achieving that goal.

By resolution 39/151 G[6] of 17 December 1984, the General Assembly, reaffirming its conviction that genuine and lasting peace could only be created through the effective implementation of the security system provided for in the Charter of the United Nations and the speedy and substantial reduction of arms and armed forces, by international agreement and mutual example, leading ultimately to general and complete disarmament under effective international control, invited all States to communicate to the Secretary-General their views and suggestions on ways and means by which the United Nations could more effectively exercise its central role and primary responsibility in the field of disarmament.

(b) Nuclear disarmament

(i) *Nuclear-arms limitation and disarmament*

With regard to the consideration of the subject in the Disarmament Commission, the Conference on Disarmament and the General Assembly at its thirty-ninth session, there was no substantive progress. However, the year ended on a positive note, as the Soviet Union and the United States announced in November their agreement to enter into new negotiations in the early part of 1985. The announcement was widely welcomed as a step in a better direction.

Two draft resolutions on "Bilateral nuclear-arms negotiations" were submitted under the agenda item "Review of the implementation of the recommendations and decisions adopted by the General Assembly at its tenth special session".

By resolution 39/148 B[7] of 17 December 1984, the General Assembly, deeply regretting that the bilateral nuclear-arms negotiations at Geneva between the Union of Soviet Socialist Republics and the United States of America were not continuing, urged the Governments of those States to resume, without delay or pre-conditions, bilateral nuclear-arms negotiations in order to achieve positive results in accordance with the security interests of all States and the universal desire for progress towards disarmament.

By resolution 39/148 K[8] of the same date, the General Assembly believed that efforts should be intensified with a view to initiating, as a matter of the highest priority, multilateral negotiations in accordance with the provisions of paragraph 50 of the Final Document of the Tenth Special Session of the General Assembly;[3] and requested the Conference on Disarmament to establish an *ad hoc* committee at the beginning of its 1985 session to elaborate on paragraph 50 of the Final Document and to submit recommendations to the Conference as to how it could best initiate multilateral negotiations of agreements, with adequate measures of verification, in appropriate stages for: *(a)* cessation of the qualitative improvement and development of nuclear-weapon systems; *(b)* cessation of the production of all types of nuclear weapons and their means of delivery, and of the production of fissionable material for weapons purposes; and (c) substantial reduction of existing nuclear weapons with a view to their ultimate elimination.

And by resolution 39/148 E,[9] also of the same date, the General Assembly reaffirmed its request to the Conference on Disarmament to start without delay negotiations within an appropriate organizational framework, with a view to concluding a convention on the prohibition of the development, production, stockpiling, deployment and use of nuclear neutron weapons as an organic element of negotiations, as envisaged in paragraph 50 of the Final Document of the Tenth Special Session.

(ii) *Non-use of nuclear weapons and prevention of nuclear war*

Although there was clear agreement that there would be no winners in a nuclear war and that such a war must never be fought, there was no agreement on appropriate and practical measures for the prevention of nuclear war. Moreover, at the thirty-ninth session of the General Assembly the belief that the two main categories of armaments, nuclear and conventional, were closely linked had been increasingly voiced, particularly by Western States. The prevailing view in the Assembly and other disarmament bodies, however, seemed to be that to focus on the non-use of nuclear weapons and prevention of nuclear war did not imply licence to use conventional weapons, and there had been certain measures that could, and should, be adopted without delay in order to reduce the nuclear threat.

By resolution 39/148 D[10] of 17 December 1984, the General Assembly, reaffirming that the nuclear-weapon States had the primary responsibility for nuclear disarmament and for undertaking measures aimed at preventing the outbreak of nuclear war, *inter alia*, by establishing corresponding norms regulating relations between them, and convinced that the renunciation of the first use of nuclear weapons was a most important and urgent measure for the prevention of nuclear war, considered that the solemn declarations by two nuclear-weapon States made or reiterated at the twelfth special session of the General Assembly, concerning their respective obligations not to be the first to use nuclear weapons, offered an important avenue to decrease the danger of nuclear war; and expressed the hope that those nuclear-weapon States that had not yet done so would consider making similar declarations with respect to not being the first to use nuclear weapons.

And by resolution 39/63 H[11] of 12 December 1984, the General Assembly, convinced that a prohibition of the use or threat of use of nuclear weapons would be a step towards the complete elimination of nuclear weapons leading to general and complete disarmament under strict and effective international control, and reaffirming that the use of nuclear weapons would be a violation of the Charter of the United Nations and a crime against humanity, reiterated its request to the Conference on Disarmament to commence negotiations, as a matter of priority, in order to achieve agreement on an international convention prohibiting the use or threat of use of nuclear weapons under any circumstances.

(iii) *Freeze on nuclear weapons*

In 1984, the question of a nuclear arms freeze matured further as an important issue in the debates on nuclear-arms limitation and disarmament in the Disarmament Commission, the Conference on Disarmament and the General Assembly. Three Assembly resolutions calling for a freeze on nuclear armaments were supported by a large majority of Member States, but a minority of States, consisting mainly of Western countries (including three nuclear-weapon States), continued to have significant reservations about the desirability and feasibility of a nuclear freeze. Thus, by resolution 39/63 C[12] of 12 December 1984, the General Assembly, considering that a nuclear-arms freeze, while not an end in itself, would encourage the initiation or resumption of negotiations and prevent the continued increase and qualitative improvement of existing nuclear weaponry during the period when the negotiations took place, urged the Union of Soviet Socialist Republics and the United States of America, as the two major nuclear-weapon States, to proclaim, either through simultaneous unilateral declarations or through a joint declaration, an immediate nuclear-arms freeze, which would be a first step towards the comprehensive programme of disarmament.

(iv) *Cessation of nuclear-weapon tests*

In 1984 no progress was made towards the achievement of the cessation of nuclear-weapon tests. In the General Assembly great concern was expressed over the continuation and extent of the testing, and the impasse in the Conference on Disarmament in efforts to reach agreement on the establishment of a subsidiary body to consider the item was widely denounced. The Assembly adopted three resolutions on the question, each reflecting, under separate agenda items, the divergent positions held on how the international community might best achieve a test ban and what its scope should be. Thus, by resolution 39/52[13] of 12 December 1984, the General Assembly reiterated its grave concern that nuclear-weapon testing continued unabated, against the wishes of the overwhelming majority of Member States; reaffirmed its conviction that a treaty to achieve the prohibition of all nuclear-test explosions by all States for all time was a matter of the highest priority; reaffirmed also its conviction that such a treaty would constitute a contribution of the utmost importance to the cessation of the nuclear-arms race and an indispensable element for the success of the Treaty on the Non-Proliferation of Nuclear Weapons,[14] since it was only through the fulfilment of the obligations under the Treaty that its three depositary Powers might expect all other parties to comply likewise with their respective obligations; urged the three depositary Powers of the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water[1]* and of the Treaty on the Non-Proliferation of Nuclear Weapons to abide strictly by their undertakings to seek to achieve the early discontinuance of all test explosions of nuclear weapons for all time and to expedite negotiations to that end; urged also all States that had not yet done so to adhere to the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water and, meanwhile, to refrain from testing in the environments covered by that Treaty; and called the States depositories of that Treaty and of the Treaty on the Non-Proliferation of Nuclear Weapons, by virtue of their special responsibilities under those two Treaties and as a provisional measure, to bring to a halt without delay all nuclear-test explosions, either through a trilaterally agreed moratorium or through three unilateral moratoria.

(v) *Nuclear-weapon-free zones*

Proposals concerning the establishment of nuclear-weapon-free zones in several parts of the world, as a partial disarmament measure on the regional level, continued to receive support from a large number of States Members of the United Nations in 1984. However, some dissenting views or reservations were also expressed on the subject. Some delegations mentioned a number of general requirements that should be fulfilled by a proposed zone. A number of States reserved their position on nuclear-weapon-free zones in general; however, it was pointed out that particular situations warranted special regard owing to their specific characteristics.

By resolution 39/51[16] entitled "Implementation of General Assembly resolution 38/61 concerning the signature and ratification of Additional Protocol I of the Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco)"[17] of 12 December 1984, the General Assembly deplored the fact that the signature of Additional Protocol I by France had not yet been followed by the corresponding ratification and once more urged that State not to delay any further such ratification, which appeared all the more advisable, since France was the only one of the four States to which the Protocol was open that was not yet party to it.

By resolution 39/61 A[18] of 20 November 1984, the General Assembly, bearing in mind the Declaration on the Denuclearization of Africa adopted by the Assembly of Heads of State and Government of the Organization of African Unity at its first ordinary session, held at Cairo from 17 to 21 July 1964, strongly renewed its call upon all States to consider Africa and its surrounding areas as a nuclear-weapon-free zone; condemned South Africa's continued pursuit of a nuclear capability; called upon all States, corporations, institutions and individuals to desist from further collaboration with the racist régime of South Africa that might enable it to frustrate the objective of the Declaration; and demanded that South Africa refrain from manufacturing, testing, deploying, transporting, storing, using or threatening to use

nuclear weapons and submitted forthwith all its nuclear installations and facilities to inspection by the International Atomic Energy Agency.

By resolution 39/54[19] of 12 December 1984, 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; and also invited those countries, 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 the relevant paragraph of the Final Document of the Tenth Special Session of the General Assembly, and to deposit those declarations with the Security Council. In that connection, the Assembly condemned, by its resolution 39/147[20] of 17 December 1984, Israel's refusal to renounce any possession of nuclear weapons.

And by its resolution 39/55[21] of 12 December 1984, the General Assembly reaffirmed its endorsement, in principle, of the concept of a nuclear-weapon-free zone in South Asia.

(c) Prohibition or restriction of use of other weapons

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

In 1984, both the United States and the Soviet Union took steps to contribute to the elaboration of a convention on the prohibition of chemical weapons. During the session of the Conference on Disarmament, the United States submitted the full text of a draft convention on such a prohibition while the Soviet Union expressed willingness to be flexible on the verification of the destruction of stocks. In addition, the *Ad Hoc* Committee on Chemical Weapons was able to agree tentatively on a preliminary structure for the envisaged convention and produced a document to be used as the basis of future negotiations which reflected varying stages of the drafting process on the substantive issues. Due to differences on the question of verification, the reactions to the draft convention submitted by the United States varied. Those differences continued to prevail in the debate on chemical weapons in the General Assembly and its First Committee, although the urgency of the need to conclude a chemical weapons convention was emphasized by virtually all delegations, not least in the light of a report on the alleged recent use of those weapons.

The three resolutions dealing with a future ban on chemical weapons were adopted by the General Assembly on 12 December 1984. By resolution 39/65 A[22] the Assembly, noting that it had been reported that such weapons had been used, called for strict observance of existing international obligations regarding prohibitions on chemical and biological weapons and condemned actions that contravened them. By resolution 39/65 B[23] the Assembly reaffirmed the necessity of the speediest elaboration and conclusion of a convention on the prohibition of the development, production and stockpiling of all chemical weapons and on their destruction; appealed to all States to facilitate in every possible way the conclusion of such a convention; and reaffirmed its call to all States to conduct serious negotiations in good faith and to refrain from any action that could impede negotiations on the prohibition of chemical weapons and specifically to refrain from the production and deployment of binary and other new types of chemical weapons, as well as from stationing chemical weapons on the territory of other States. And by resolution 39/65 C[24] the Assembly again urged the Conference on Disarmament, as a matter of high priority, to intensify, during this session in 1985, the negotiations on a convention on the complete and effective prohibition of the development, production and stockpiling of all chemical weapons and on their destruction and to reinforce further its efforts with a view to the final elaboration of a convention at the earliest possible date, and to re-establish its *Ad Hoc* Committee on Chemical Weapons for that purpose with the 1984 mandate.

The Group of Consultant Experts, established in pursuance of General Assembly resolution 37/98 D of 13 December 1982, submitted in 1984 its finalized report on procedures for

investigations concerning activities in violation of the 1925 Geneva Protocol.[25] The disagreement in principle on the mandate of the Group was carried over from the two previous sessions, and was reflected in the voting (87 to 16, with 30 abstentions) on Assembly resolution 39/65 E of 12 December 1984, by which the Assembly took note of the report.

(ii) *New weapons of mass destruction*

In 1984, the divergent approaches towards the prohibition of the development and manufacture of new types of weapons of mass destruction and new systems of such weapons persisted, and no tangible results were achieved in the area.

By resolution 39/62[26] of 12 December 1984, the General Assembly requested the Conference on Disarmament, in the light of its existing priorities, to intensify negotiations with a view to preparing a draft comprehensive agreement on the prohibition of the development and manufacture of new types of weapons of mass destruction and new systems of such weapons, and to draft possible agreements on particular types of such weapons; once again urged all States to refrain from any action which could adversely affect the talks aimed at working out an agreement or agreements to prevent the emergence of new types of weapons of mass destruction and new systems of such weapons; and called upon the States permanent members of the Security Council as well as upon other militarily significant States to make declarations, identical in substance, concerning the refusal to create new types of weapons of mass destruction and new systems of such weapons, as a first step towards the conclusion of a comprehensive agreement on the subject.

(iii) *Radiological weapons*

Differences among Member States on several substantive issues concerning a ban on radiological weapons continued in 1984 to prevent the Conference on Disarmament from fulfilling its mandate, i.e., the conclusion of a radiological weapons convention. The Conference's *Ad Hoc* Committee on the subject continued its examination of questions relating to the traditional subject-matter of radiological weapons as well as to those questions concerning the prohibition of attacks against nuclear facilities. Many delegations held that the draft provisions proposed by Sweden for a treaty prohibiting radiological weapons and the release or dissemination of radioactive material for hostile purposes provided the best negotiating framework for dealing with all outstanding problems. Others continued to maintain that proposals aimed at resolving the question of prohibiting attacks against nuclear facilities in the context of the prohibition of radiological weapons could only result in a failure to achieve progress in both spheres.

By resolution 39/151J[27] of 17 December 1984, the General Assembly requested the Conference on Disarmament to continue its negotiations on the subject with a view to a prompt conclusion of its work, taking into account all proposals presented to the Conference to that end.

(iv) *Prohibition of the stationing of weapons and prevention of an arms race in outer space*

In 1984, the question of the prevention of an arms race in outer space continued to be a major concern of the international community, yet the Conference on Disarmament was still unable to agree on the mandate for an *ad hoc* committee that would enable it to move forward towards practical negotiations on the question of the prevention of an arms race in outer space.

By resolution 39/59[28] of 12 December 1984, the General Assembly reiterated that the Conference on Disarmament 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 in all its aspects; requested the Conference to establish an *ad hoc* committee at the beginning of its session in 1985, with a view to undertaking negotiations for the conclusion of an agreement or agreements, as appropriate, to prevent an arms race in outer space; and urged the Union of Soviet Socialist Republics and the United States of America to initiate immediately

and in a constructive spirit negotiations aimed at preventing an arms race in outer space and to advise the Conference on Disarmament regularly of the progress of their bilateral negotiations so as to facilitate its work.

(d) Consideration of conventional disarmament and other approaches

(i) *Limitation of conventional armaments and arms transfers on a world-wide and a regional basis*

In 1984 there was no advance in the limitation of conventional armaments and armed forces. However, since conventional weapons were in daily use in one part of the world or another and recent technological developments had led to significant qualitative improvements in conventional weapons and an active market in arms transfers, there was a growing sense that, without lessening efforts to achieve measures of nuclear disarmament, more must be done to find solutions to some of the problems presented by the existence and use of conventional weapons. The two resolutions adopted by the General Assembly referred to largely non-controversial aspects of the question. By its resolution 39/56[19] of 12 December 1984 the Assembly, reaffirming its conviction that general agreement on the prohibition or restriction of use of specific conventional weapons would significantly reduce the suffering of civilian populations and of combatants, urged all States that had not yet done so to exert their best endeavours to become parties to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects and the Protocols[30] annexed thereto as early as possible, so as ultimately to obtain universality of adherence; and noted 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 Protocols annexed thereto 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.

(ii) *Reduction of military budgets*

Two contradictory trends continued to characterize the United Nations efforts to facilitate the adoption of measures to freeze and reduce military budgets in 1984. On the one hand, the urgent need for the adoption of such measures was affirmed by Member States, many of which believed that current levels of military spending could not be sustained without gravely jeopardizing international security and the economic prospects of both developed and developing countries. On the other hand, opinions continued to differ on the specific modalities for achieving that goal.

By resolution 39/64 A[31] of 12 December 1984, the General Assembly declared once again its conviction that it was possible to achieve international agreements on the reduction of military budgets without prejudice to the right of all States to undiminished security, self-defence and sovereignty; called upon all Member States, in particular the most heavily armed States, to reinforce their readiness to co-operate in a constructive manner with a view to reaching agreements to freeze, reduce or otherwise restrain military expenditures; and requested the Disarmament Commission to continue, at its 1985 substantive session, the consideration of the item entitled "Reduction of military budgets" with a view to finalizing the identification and elaboration of the principles which should govern further actions of States in the field of freezing and reduction of military expenditures, keeping in mind the possibility of embodying such principles in a suitable document at an appropriate stage.

(Hi) *Declaration of the Indian Ocean as a Zone of Peace*

In 1984, the *Ad Hoc* Committee on the Indian Ocean was able to achieve some limited progress in its preparatory work for the Conference. The non-aligned members of the Com-

mittee submitted a draft framework of the provisional agenda for the Conference and the Committee began the consideration of the draft provisional rules of procedure. Although no conclusion was reached on either of them, the documents allowed the Committee to streamline its work and address specific questions related to the Conference.

By resolution 39/149[32] of 17 December 1984, the General Assembly emphasized its decision to convene the Conference on the Indian Ocean at Colombo as a necessary step for the implementation of the Declaration of the Indian Ocean as a Zone of Peace, adopted in 1971; took note of the progress made by *Hie Ad Hoc* Committee during 1984; and requested the *Ad Hoc* Committee, taking into account the political and security climate in the region, to complete preparatory work relating to the Conference, in 1985, in order to enable the opening of the Conference at Colombo thereafter at the earliest date in the first half of 1986 to be decided by the Committee in consultation with the host country.

(iv) *Review Conference of the Parties to the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques*

The Review Conference of the Parties to the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques[33] was held at Geneva from 10 to 20 September 1984. The objective of the Conference was to review the operation of the Convention with a view to ensuring that its purposes and provisions were being realized. The substantive work of the Conference was devoted largely to the following two items on its agenda: *(a)* "Review of the operation of the Convention as provided for in its article VIII"; and *(b)* "Preparation and adoption of Final Document". All delegations participating in the debate agreed that the provisions of the Convention had been respected during the six years since its entry into force. Many saw it as an important preventive measure and a contribution to the protection of the environment. On 20 September the Review Conference adopted by consensus its Final Document, which contained a Final Declaration[34] consisting of a preamble, the Conference's article-by-article review of the Convention and a call for additional States to become parties.

By resolution 39/151 A[35] of 17 December 1984, the General Assembly took note of the positive assessment by the Review Conference of the effectiveness of the Convention since its entry into force, as reflected in its Final Declaration; called upon all States to refrain from military or any other hostile use of environmental modification techniques; and reiterated its hope for the widest possible adherence to the Convention.

2. OTHER POLITICAL AND SECURITY QUESTIONS

(a) Implementation of the Declaration on the Strengthening of International Security[36]

In its resolution 39/155 of 17 December 1984,[37] adopted on the recommendation of the First Committee,[38] the General Assembly, noting with concern that the provisions of the Declaration on the Strengthening of International Security had not been fully implemented, reaffirmed the validity of the Declaration and called upon all States to contribute effectively to its implementation; emphasized the role that the United Nations had in the maintenance of peace and security and in economic and social development and progress for the benefit of all mankind; reiterated that the current deterioration of the international situation required an effective Security Council and, to that end, emphasized the need to examine mechanisms and working methods on a continued basis in order to enhance the authority and enforcement capacity of the Council, in accordance with the Charter of the United Nations; emphasized that the Council should consider holding periodic meetings in specific cases to consider and review outstanding problems and crises, thus enabling it to play a more active role in preventing conflicts; reiterated the need for the Council, in particular its permanent members, to

ensure the effective implementation of its decisions in compliance with the relevant provisions of the Charter; and considered that respect for and promotion of human rights and fundamental freedoms in their civil, political, economic, social and cultural aspects, on the one hand, and the strengthening of international peace and security, on the other, mutually reinforced each other.

And by its resolution 39/156[3]' of the same date, adopted also on the recommendation of the First Committee,[40] the General Assembly noted with appreciation the relevant information on the consultations in the Security Council, provided by the President of the Council in his notes dated 12 September 1983[41] and 20 September 1984;[42] and encouraged the Security Council to intensify its efforts in the prevention of international conflict and the peaceful settlement of disputes by envisaging, if possible, a more systematic series of meetings under the agreed five main aspects mentioned in paragraph 2 of the note of the President of the Council dated 12 September 1983.[43]

(b) Legal aspects of the peaceful uses of outer space

The Legal Sub-Committee of the Committee on the Peaceful Uses of Outer Space held its twenty-third session at the United Nations Office at Geneva from 19 March to 6 April 19S4.[44]

In continuing as a matter of priority its detailed consideration of the agenda item entitled "Legal implications of remote sensing of the Earth from space, with the aim of formulating draft principles", the Sub-Committee re-established its Working Group on the item (Working Group on Remote Sensing). Two working papers were submitted to the Sub-Committee at the current session, one by the delegation of France, entitled "Draft principles with respect to the activities of States concerning remote sensing from outer space",[45] and the other by the delegation of Romania.[46] The Working Group carried out a principle-by-principle reading of the draft principles as formulated to date, with special attention being given to the discussion of principles XI through XV.

The Sub-Committee also re-established its Working Group on the agenda item "The possibility of supplementing the norms of international law relevant to the use of nuclear power sources in outer space" (Working Group on the Use of Nuclear Power Sources in Outer Space). The working paper on the item was submitted to the Sub-Committee at its current session by the delegation of the Federal Republic of Germany.[47]

The Sub-Committee re-established as well its Working Group on the item "Matters relating to the definition and delimitation of outer space and to the character and utilization of the geostationary orbit, including the elaboration of general principles to govern the rational and equitable use of the geostationary orbit, a limited natural resource". A working paper containing draft general principles governing the geostationary orbit was submitted to the Sub-Committee at its current session by the delegations of Colombia, Ecuador, Indonesia and Kenya.[48]

The Committee on the Peaceful Uses of Outer Space at its twenty-seventh session, held at the Vienna International Centre from 12 to 21 June 1984, took note with appreciation of the report of the Legal Sub-Committee on the work of its twenty-third session and made recommendations concerning the agenda of the Sub-Committee at its twenty-fourth session.[49]

With regard to the item entitled "Legal implications of remote sensing of the Earth from space, with the aim of formulating draft principles", the Committee expressed its concern at the lack of progress achieved at the recent session of the Legal Sub-Committee on the item. It emphasized the importance of intensifying efforts to complete the drafting principles in the field and reaffirmed its recommendation that the Sub-Committee should make every effort to finalize the draft principles on remote sensing.

Some delegations expressed the view that the item entitled "The possibility of supplementing the norms of international law relevant to the use of nuclear power sources in outer space" should be recognized as a priority item before the Sub-Committee. Those delegations

were also of the opinion that, in order to achieve further progress on the question, the Sub-Committee should be given a clear and unequivocal mandate to draft a set of principles governing the use of nuclear power sources in outer space. In that respect they proposed that the title of the item be changed to read "Elaboration of draft principles governing the use of nuclear power sources in outer space". Other delegations expressed the view that there was no need to change the title or the basis on which the Sub-Committee had been treating the issue. Those delegations reiterated their view that what was important was the achievement of concrete results and not procedural aspects relating to the issue. The Committee recommended that the item be retained on the agenda of the Legal Sub-Committee for its twenty-fourth session.

Some delegations expressed the view that the item entitled "Matters relating to the definition and delimination of outer space and to the character and utilization of the geostationary orbit including the elaboration of general principles to govern the rational and equitable use of the geostationary orbit, a limited natural resource" should be retained on the agenda of the Legal Sub-Committee as a priority item for further consideration at its twenty-fourth session, on the same basis as recommended by the General Assembly in its resolution 38/80 of 15 December 1983. Other delegations expressed the view that the regulation of the geostationary orbit was the responsibility of ITU and that it was not necessary or appropriate at the current stage to consider the questions of definition and delimitation of outer space.

The Committee agreed that it and its sub-committees should continue to make efforts to develop and promote further international co-operation in space science and applications. Furthermore, it was agreed that the Legal Sub-Committee should develop appropriate norms which would have the purpose of implementing international co-operation in the matter.

At its thirty-ninth session, by resolution 39/96 of 14 December 1984,[50] adopted on the recommendation of the Special Political Committee,[51] 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 use of outer space[52] to give consideration to ratifying or acceding to those treaties; decided that the Legal Sub-Committee at its twenty-fourth session should, in its working groups, continue its consideration of: *(a)* the legal implications of remote sensing of the Earth from space, with the aim of formulating draft principles relating to remote sensing; *(b)* the possibility of supplementing the norms of international law relevant to the use of nuclear power sources in outer space; and (c) 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 urged all States, in particular those with major space capabilities, to contribute actively to the goal of preventing an arms race in outer space as an essential condition for the promotion of international co-operation in the exploration and uses of outer space for peaceful purposes.

(<?) Question of Antarctica

By its resolution 39/152 of 17 December 1984,[53] adopted on the recommendation of the First Committee,[54] the General Assembly, taking note of the study on the question of Antarctica,[55] bearing in mind the Antarctic Treaty[56] and the significance of the system it had developed and affirming the conviction that, in the interest of all mankind, Antarctica should continue forever to be used exclusively for peaceful purposes and that it should not become the scene or object of international discord, expressed its appreciation to the Secretary-General for the study on the question of Antarctica.

3. ECONOMIC, SOCIAL, HUMANITARIAN AND CULTURAL QUESTIONS

(a) Environmental questions

Twelfth session of the Governing Council of the United Nations Environment Programme[97]

The twelfth session of the Governing Council of the United Nations Environment Programme was held at UNEP headquarters, Nairobi, from 16 to 29 May 1984.

By its decision 12/14 of 28 May 1984[58] entitled "Environmental Law", the Governing Council, in section I (Protection of the ozone layer), requested the Executive Director to convene the fourth session of the *Ad Hoc* Working Group in 1984 in order to complete work on the Convention to the extent possible and to continue to elaborate a possible draft protocol concerning control of chlorofluorocarbons; also requested the the Executive Director to convene, in the first quarter of 1985, a diplomatic conference on the finalization, adoption and signature of the global framework convention and for the consideration of a report from the Working Group concerning further work on a protocol; in section II (Other topics of the Montevideo Programme for the Development and Periodic Review of Environmental Law),[59] expressed satisfaction at the results of the first sessions of the *Ad Hoc* Working Group of Experts on the Protection of the Marine Environment against Pollution from Land-based Sources, the *Ad Hoc* Working Group of Experts of Environmentally Sound Management of Hazardous Wastes and the *Ad Hoc* Working Group of Experts for the Exchange of Information on Potentially Harmful Chemicals (in particular Pesticides) in International Trade; and requested the Executive Director to continue the work initiated by those groups, in accordance with the recommendations submitted by them, and to take all appropriate measures to expedite the preparation of the guidelines and principles elaborated by the groups with a view to their early adoption by the Governing Council; in section III (Working Group of Experts on Environmental Law), welcomed the financial support offered by the Government of the United States of America for holding the next session of the Working Group of Experts on Environmental Law, scheduled for 26 to 29 June 1984 in Washington, D.C., on the subject of principles and guidelines with regard to environmental impact assessment; in section IV (Convention on the Conservation of Migratory Species of Wild Animals), welcomed the intention of the Government of the Federal Republic of Germany to host the first meeting of the Conference of the Parties to the Convention in question at Bonn in 1985, and to facilitate the establishment of a secretariat which would be provisionally located in Bonn until the Conference took a final decision; and in section V (Information on environmental law), took note of the report of the Executive Director on international conventions and protocols in the field of environment[60] and further requested him, in co-operation with other intergovernmental and non-governmental organizations as appropriate, to continue the collection and dissemination of information concerning international and national environmental law.

Consideration by the General Assembly

At its thirty-ninth session, the General Assembly, by its decision 39/429 of 17 December 1984,[61] adopted on the recommendation of the Second Committee,[62] took note of the report of the Governing Council of the United Nations Environment Programme on the work of its twelfth session; and took note of the note by the Secretary-General transmitting the report of the Executive Director of UNEP on international conventions and protocols in the field of the environment.[63]

(b) Office of the United Nations High Commissioner for Refugees[64]

During the period under review, the Office of the United Nations High Commissioner for Refugees continued to consolidate existing assistance programmes and to devote a greater proportion of its resources to promoting durable solutions.

In the field of international protection, the reporting period witnessed the continuation of serious problems relating to the physical safety of refugees, the granting of asylum and the

day-to-day implementation of recognized international standards for the treatment of refugees.

As to the developments which occurred in the field of international protection, there was undoubtedly a perceptible strengthening of the legal framework which provided the necessary support for international action in favour of refugees. The 1951 Convention relating to the Status of Refugees[65] and the 1967 Protocol relating to the Status of Refugees" had acquired an even wider application through further accessions[67] by States. The implementation of the provisions of these basic international refugee instruments was assured in an increasing number of States through the adoption of appropriate refugee legislation. In spite of this welcome progress, the practice of States in many areas of the world can be taken to indicate a contradictory trend. This has become apparent particularly with regard to the admission and treatment of refugees and asylum seekers, the resurgence of cases in which asylum was denied for fear of damaging or compromising bilateral relations with countries of origin and the reluctance of States to assume responsibility for examining an asylum request or to admit asylum-seekers otherwise than on a purely temporary basis. To this disquieting picture must be added continuing threats to and violations of the physical safety of refugees through piracy, military attacks on refugee camps and settlements and the failure to rescue refugees on the high seas. The suffering caused by such atrocities was unprecedented in the history of the Office.

During the reporting period, States continued to respect the principle *of non-refoulement* which had come to be described as a peremptory norm of international law. Once again, however, there were cases in which that fundamental principle was disregarded. In several regions, refugees were returned to their countries of origin or threatened with return in the context of more general agreements between countries of origin and asylum aimed at normalizing bilateral relations.

The increasingly complex nature of the world refugee problem underscored the importance of UNHCR's activities in the promotion, advancement and dissemination of the principles of refugee law. In so far as the Office's activities in the fields of promotion and dissemination were concerned, the overriding objective was to create a greater understanding and wider acceptance, by both States and the general public, of the principles of international protection. In the field of advancement, the Office endeavoured to promote the development of international refugee law.

At the thirty-fifth session of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees, held at Geneva from 7 to 18 October 1984, there was an emphatic agreement that in the face of the continuing severity and increasing complexity of refugee problems in many parts of the world the purely humanitarian and non-political character of the High Commissioner's Office had to be vigorously maintained in order to ensure the effective delivery of international protection and assistance. The Committee furthermore reaffirmed the purely humanitarian nature of the activities of the High Commissioner and stressed the importance of maintaining their non-political character so as to ensure the effective delivery of protection and assistance to refugees; urged the international community to intensify its efforts to address the root causes of refugee problems in the appropriate international forums; welcomed the continued strengthening of the legal framework for international protection through additional accessions to the international refugee instruments and the removal of reservations; and expressed, nevertheless, most serious concern at the deterioration in the protection situation and serious threats to and violations of the physical safety of refugees and urged the international community to give full support to the High Commissioner in carrying out his international protective function. The adoption of less liberal asylum practices and falling standards in the treatment of asylum-seekers were also regretted. The Executive Committee also took note of the discussions in the Sub-Committee of the Whole on International Protection concerning military and armed attacks on refugee camps and settlements and of the addendum to the report of the Sub-Committee's ninth

meeting[68] and requested the Chairman to take appropriate action for the continuation of consultations regarding the prohibition of military or armed attacks on refugee camps and settlements and to report on the results of those consultations to the Executive Committee at its thirty-sixth session; welcomed the additional accessions to the 1951 United Nations Convention and the 1967 Protocol relating to the Status of Refugees which had taken place since the Committee's thirty-fourth session and expressed the hope that further States—and, in particular, States confronted with large-scale refugee problems—would accede to those basic international refugee instruments in the near future, thereby strengthening the framework of international solidarity and burden sharing of which the instruments were an essential part; and expressed satisfaction at the continuing efforts of the High Commissioner to promote a greater knowledge and understanding of international refugee law and recognized the positive contribution made by the International Institute for Humanitarian Law in San Remo, Italy, in that important area of the High Commissioner's activities.

By its resolution 39/140 of 14 December 1984,[69] adopted on the recommendation of the Third Committee,[70] the General Assembly strongly reaffirmed the fundamental nature of the High Commissioner's function to provide international protection and the need for Governments to continue to co-operate fully with his Office in order to facilitate the effective exercise of that function, in particular by acceding to and fully implementing the relevant international and regional refugee instruments and by scrupulously observing the principles of asylum and *non-refoulement;* condemned all violations of the rights and safety of refugees and asylum-seekers, in particular those perpetrated through military or armed attacks against refugee camps and settlements and other forms of brutality and by the failure to rescue asylum-seekers in distress at sea; urged all States, in co-operation with the Office of the High Commissioner and other competent international bodies, to take all measures necessary to ensure the safety of refugees and asylum-seekers; and expressed deep appreciation for the valuable material and humanitarian response of many receiving countries, in particular those developing countries that, despite serious economic crises and limited resources, continued to admit, on a permanent or temporary basis, large numbers of refugees and displaced persons of concern to the Office of the High Commissioner, and, reaffirming the principle of international solidarity and burden-sharing, urged the international community to assist receiving countries in order to enable them to cope with the additional burden created by their presence.

(c) International drug control

In the course of 1984, one more State became party to the 1961 Single Convention on Narcotic Drugs,[71] two more States became parties to the 1971 Convention on Psychotropic Substances[72] and two 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.[73]

By its resolution 39/141 of 14 December 1984,[74] adopted on the recommendation of the Third Committee,[75] the General Assembly, convinced that the wide scope of the illicit traffic in narcotic drugs and its consequences made it necessary to prepare a convention which would consider the various aspects of the problem as a whole and, in particular, those not envisaged in existing international instruments, requested the Economic and Social Council, taking into consideration Article 62, paragraph 3, and Article 66, paragraph 1, of the Charter of the United Nations and Council resolution 9 (I) of 16 February 1946, to request the Commission on Narcotic Drugs to initiate at its thirty-first session, to be held in February 1985, as a matter of priority, the preparation of a draft convention against illicit traffic in narcotic drugs which would consider the various aspects of the problems as a whole and, in particular, those not envisaged in existing international instruments, and, to that end, to transmit to it the draft Convention annexed to the resolution as a working paper.

By resolution 39/142 of the same date,[76] adopted on the recommendation of the Third Committee,[77] the General Assembly, recognizing the concern that prevailed in the interna-

tional community about the problem of the illegal production of, illicit trafficking in and abuse of drugs, adopted the Declaration set forth in the annex to the resolution, which is reproduced below.

ANNEX

Declaration on the Control of Drug Trafficking and Drug Abuse

TheGeneralAssembly,

Bearing in mind thai the purposes and principles of the Charter of the United Nations reaffirm faith in the dignity and worth of the human person and promote social progress and better standards of life in larger freedom and international co-operation in solving problems of an economic, social, cultural or humanitarian character,

Considering that Member States have undertaken in the Universal Declaration of Human Rights to promote social progress and better standards of life for the peoples of the world,

Considering that the international community has expressed grave concern at the fact that trafficking in narcotics and drug abuse constitute an obstacle to the physical and moral well-being of peoples and of youth in particular,

Desiring to heighten the awareness of the international community of the urgency of preventing and punishing the illicit demand for, abuse of and illicit production of and traffic in drugs,

Considering that the Quito Declaration against Traffic in Narcotic Drugs of 11 August 1984 and the New York Declaration against Drug Trafficking and the Illicit Use of Drugs of 1 October 1984 recognize the international nature of this problem and emphasize that it should be solved with the firm support of the entire international community,

Considering that the Commission on Narcotic Drugs, the International Narcotics Control Board and the United Nations Fund for Drug Abuse Control have made valuable contributions to the control and elimination of drug trafficking and drug abuse,

Recognizing that existing international instruments, including the Single Convention on Narcotic Drugs of 1961, as amended by the 1972 Protocol Amending the Single Convention on Narcotic Drugs of 1961, and the Convention on Psychotropic Substances of 1971, have created a legal framework for combating trafficking in narcotic drugs and drug abuse in specialized fields,

Declares that:

1. Drug trafficking and drug abuse are extremely serious problems which, owing to their magnitude, scope and widespread pernicious effects, have become an international criminal activity demanding urgent attention and maximum priority.

2. The illegal production of, illicit demand for, abuse of and illicit trafficking in drugs impede economic and social progress, constitute a grave threat to the security and development of many countries and peoples and should be combated by all moral, legal and institutional means, at the national, regional and international levels.

3. The eradication of trafficking in narcotic drugs is the collective responsibility of all States, especially those affected by problems relating to illicit production, trafficking or abuse.

4. States Members shall utilize the legal instruments against the illicit production of and demand for, abuse of and illicit traffic in drugs and adopt additional measures to counter new manifestations of this shameful and heinous crime.

5. States Members undertake to intensify efforts and to co-ordinate strategies aimed at the control and eradication of the complex problem of drug trafficking and drug abuse through programmes including economic, social and cultural alternatives.

Moreover, by resolution 39/143, also of the same date,[78] entitled "International campaign against traffic in drugs", adopted also on the recommendation of the Third Committee,[79] the General Assembly called upon Member States that had not yet done so to ratify the international drug control treaties and, in the meantime, to make serious efforts to comply with the provisions thereof; reiterated the importance of integrated action, co-ordinated at the regional and international levels, and, for that purpose, requested the Secretary-General and the Commission on Narcotic Drugs to step up efforts and initiatives designed to establish, on a continuing basis, co-ordinating machinery for law enforcement in regions where it did not yet exist; and requested the Economic and Social Council, through the Commission on Narcotic Drugs, to consider the legal, institutional and social elements relevant to all aspects of

combating drug trafficking, including the possibility of convening a specialized conference.

id) Human rights questions

(1) *Status and implementation of international instruments*

(i) *International Covenants on Human Rights*[*0]

In 1984, three more States became parties to the International Covenant on Economic, Social and Cultural Rights,[81] three more States became parties to the International Covenant on Civil and Political Rights[82] and two more States became parties to the Optional Protocol to the International Covenant on Civil and Political Rights.[83]

By its resolution 39/136 of 14 December 1984,[84] adopted on the recommendation of the Third Committee,[85] the General Assembly took note with appreciation of the report of the Human Rights Committee on its twentieth, twenty-first and twenty-second sessions[86] and expressed its satisfaction with the serious and constructive manner in which the Committee was continuing to perform its functions; again urged all States that had not yet done so to become parties to the International Covenants on Human Rights as well as to consider acceding to the Optional Protocol 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; and again urged the Secretary-General, taking into account the suggestions of the Human Rights Committee, to take determined steps within existing resources to give more publicity to the work of the Committee and, similarly, to the work of the Economic and Social Council and its Sessional Working Group and to improve administrative and related arrangements to enable them to carry out their respective functions effectively under the International Covenants on Human Rights. And by its resolution 39/137 of the same date,[87] adopted also on the recommendation of the Third Committee,[88] the General Assembly requested the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities to consider further the idea of elaborating a draft of a second optional protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

Moreover, by its resolution 39/138 of the same date,[89] adopted on the recommendation of the Third Committee,[90] the General Assembly, considering that the Assembly, as the principal organ of the United Nations entitled to adopt conventions on human rights, was in the position to take an overview of their implementation as an integrated system of substantive provisions and reporting obligations of States parties to the various conventions; concerned about the problems experienced by the various bodies entrusted with the consideration of the reports of States parties on the implementation of all United Nations conventions on human rights in the functioning of the reporting procedures, including the burden which several coexisting reporting systems placed upon States parties; and convinced, therefore, of the need to improve the existing reporting systems in order to resolve the problems experienced both by the bodies entrusted with the consideration of the periodic reports of the States parties and by the States parties to the conventions on human rights, took note with interest of the report of the meeting of the Chairmen of the Commission on Human Rights, the Human Rights Committee, the Sessional Working Group of Governmental Experts on the Implementation of the International Covenant on Economic, Social and Cultural Rights and the Committee on the Elimination of Racial Discrimination, which contained suggestions made by the Chairmen with regard to exchange of information among their respective bodies, co-ordination of guidelines for the submission of the reports of States parties, advisory services and assistance for States parties to the various conventions on human rights, and other matters;[91] acknowledged that common problems had arisen in the functioning of the reporting procedures, thus indicating the necessity of considering them within the overall framework of reporting obligations of States parties under the various conventions on human rights; decided to keep under consideration the problems that had arisen from the coexistence of sev-

eral different reporting systems, in particular the proliferation of reporting obligations under the various instruments, as well as the serious delays which had occurred in the submission of reports; and requested the Secretary-General, to that effect, to submit to the General Assembly at its fortieth session a report containing *(a)* updated information on the general situation of the submission of reports of States parties to all conventions which were already in force; and *(b)* a consolidated text of the guidelines of the various bodies entrusted with the consideration of the reports.

(ii) *International Convention on the Elimination of All Forms of Racial Discrimination*[92]

In 1984, two more States became parties to the International Convention on the Elimination of All Forms of Racial Discrimination.

By its resolution 39/20 of 23 November 1984,[93] adopted on the recommendation of the Third Committee,[94] the General Assembly, expressing its satisfaction at the entry into force, on 3 December 1982, of the competence of the Committee on the Elimination of Racial Discrimination to accept and to examine communications from persons or groups of persons under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination, reaffirmed once again its conviction that ratification of or accession to the Convention on a universal basis and implementation of its provisions were necessary for the realization of the objectives of the Second Decade to Combat Racism and Racial Discrimination;[95] requested those States that had not yet become parties to the Convention to ratify it or accede thereto; and called upon States parties to the Convention to consider the possibility of making the declaration provided for in article 14 of the Convention.

Furthermore, by its resolution 39/21 of the same date,[96] adopted also on the recommendation of the Third Committee,[97] the General Assembly took note with appreciation of the report of the Committee on the Elimination of Racial Discrimination on the work of its twenty-ninth and thirtieth sessions;[98] welcomed the efforts of the Committee aimed at the elimination of all forms of discrimination against national or ethnic minorities, persons belonging to such minorities and indigenous populations, wherever such discrimination existed, and the attainment of the full enjoyment of their human rights through the implementation of the principles and provisions of the Convention; welcomed further the efforts of the Committee aimed at the elimination of all forms of discrimination against migrant workers and their families, the promotion of their rights on a non-discriminatory basis and the achievement of their full equality, including the freedom to maintain their cultural characteristics; and called upon all Member States to adopt effective legislative, socio-economic and other necessary measures in order to ensure the prevention or elimination of discrimination based on race, colour, descent or national or ethnic origin.

(iii) *International Convention on the Suppression and Punishment of the Crime of* Apartheid[99]

In 1984, two more States became parties to the International Convention on the Suppression and Punishment of the Crime *of Apartheid.*

By its resolution 39/19 of 23 November 1984,[100] adopted on the recommendation of the Third Committee,[101] the General Assembly appealed once again to those States that had not yet done so to ratify or to accede to the Convention on the Suppression and Punishment of the Crime of *Apartheid* without further delay, in particular those States which had jurisdiction over transnational corporations operating in South Africa and Namibia; expressed its appreciation of the constructive role played by the Group of Three of the Commission on Human Rights, established in accordance with article IX of the Convention, in analysing the periodic reports of States and in publicizing the experience gained in the international struggle against the crime of *apartheid;* and called upon all States parties to the Convention to adopt legislative, judicial and administrative measures to prosecute, bring to trial and punish, in accordance with their jurisdiction, persons responsible for, or accused of, the acts enumerated in article II of the Convention.

(iv) *Convention on the Elimination of All Forms of Discrimination against Women*[102]

In 1984, eleven more States became parties to the Convention on the Elimination of All Forms of Discrimination against Women.

By its resolution 39/130 of 14 December 1984,[103] adopted on the recommendation of the Third Committee,[104] the General Assembly invited States that had not yet done so to become parties to the Convention on the Elimination of All Forms of Discrimination against Women and requested States parties to make all possible efforts to submit their initial implementation reports in accordance with article 18 of the Convention, bearing in mind the general guidelines of the Committee on the Elimination of Discrimination against Women regarding the form and contents of such reports.

(2) *Torture and other cruel, inhuman or degrading treatment or punishment*

By its resolution 39/46 of 10 December 1984,[105] adopted on the recommendation of the Third Committee,[106] the General Assembly, desirous of achieving a more effective implementation of the existing prohibition under international and national law of the practice of torture and other cruel, inhuman or degrading treatment or punishment, expressed its appreciation for the work achieved by the Commission on Human Rights in preparing the text of a draft convention against torture and other cruel, inhuman or degrading treatment and adopted and opened for signature, ratification and accession the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, contained in the annex to the resolution.[107]

(3) *Summary or arbitrary executions*

By its resolution 39/110 of 14 December 1984,[10S] adopted on the recommendation of the Third Committee,[109] the General Assembly, convinced of the need for appropriate action to combat and eventually eliminate the practice of summary or arbitrary executions, which represented a flagrant violation of the most fundamental human rights, the right to life, strongly deplored the large number of summary or arbitrary executions, including extra-legal executions, which continued to take place in various parts of the world; welcomed Economic and Social Council resolution 1984/35 of 24 May 1984, in which the Council had decided to continue the mandate of the Special Rapporteur for a further year and requested the Commission on Human Rights to consider the question of summary or arbitrary executions as a matter of high priority at its forty-first session; and requested the Special Rapporteur, in carrying out his mandate, to respond effectively to information that came before him, in particular when a summary or arbitrary execution was imminent or threatened.

(4) *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 39/145 of 14 December 1984,[110] adopted on the recommendation of the Third Committee,[1"] the General Assembly reiterated its request that the Commission on Human Rights continue its current work on the overall analysis with a view to further promoting and improving human rights and fundamental freedoms, including the question of the Commission's programme and working methods, 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 concepts of General Assembly resolution 32/130 of 16 December 1977 and other relevant texts; affirmed that a primary aim of international co-operation in the field of human rights was a life of freedom, dignity and peace for all peoples and for each 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 the promotion and protection of the others; reaffirmed that it was of paramount importance for the promotion of human rights and fundamental freedoms that Member States should undertake specific obligations through accession to, or ratification of, international instruments in that field and,

consequently, that standard-setting work within the United Nations system in the field of human rights and the universal acceptance and implementation of the relevant international instruments should be encouraged; 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 resolution 32/120, paying due attention also to other situations of violations of human rights; reaffirmed that the right to development was an inalienable human right; and expressed concern at the disparity existing between the established norms and principles and the actual situation of all human rights and fundamental freedoms in the world.

Moreover, by its resolution 39/144 of the same date,"[2] adopted also on the recommendation of the Third Committee,"[3] the General Assembly emphasized the importance of the integrity and independence of national institutions for the protection and promotion of human rights, in accordance with national legislation; encouraged all Member States to take appropriate steps for the establishment or, where they already existed, the strengthening of national institutions for the protection and promotion of human rights; and invited all Member States to take appropriate steps to disseminate the texts of human rights instruments, including international covenants and conventions, in their respective national or local languages, in order to give the widest possible publicity to those instruments.

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

By its resolution 39/102 of 14 December 1984,"[4] adopted on the recommendation of the Third Committee,"[5] the General Assembly, reiterating that, in spite of the existence of an already established body of principles and standards, there was a need to make further efforts to improve the situation and ensure the human rights and dignity of all migrant workers and families, took note with satisfaction of the reports of the Working Group on the Drafting of an International Convention on the Protection of the Rights of All Migrant Workers and Their Families"[6] and commended it for concluding, in its first reading, the drafting of the preamble and articles, which would serve as the basis for the second reading.

(6) *Question of the international legal protection of the human rights of individuals who are not citizens of the country in which they live*

By its resolution 39/103 of 14 December 1984,"[7] adopted on the recommendation of the Third Committee,[118] the General Assembly took note of the report of the Working Group established for the purpose of concluding the elaboration of the draft declaration on the human rights of individuals who were not citizens of the country in which they lived"[9] and of the fact that, although the Working Group had done useful work, it had not had sufficient time to conclude its task; and decided to establish, at its fortieth session, an open-ended working group for the purpose of concluding the elaboration of the draft declaration in question.

(7) *Question of a convention on the rights of the child*

By its resolution 39/135 of 14 December 1984,[120] adopted likewise on the recommendation of the Third Committee,[121] the General Assembly, reaffirming that children's rights were basic human rights and called for continuous improvement of the situation of children all over the world, as well as their development and education in conditions of peace and security, and convinced of the significance of an international convention on the rights of the child as a standard-setting accomplishment of the United Nations, in the fields of social development and human rights, for protecting children's rights and ensuring their well-being, requested the Commission on Human Rights to give the highest priority to the question of elaborating an international convention on the rights of the child and to make every effort at its forty-first session to complete the draft convention and to submit it, through the Economic and Social Council, to the Assembly at its fortieth session.

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

By its resolution 39/131 of 14 December 1984,[122] adopted on the recommendation of the Third Committee,[123] the General Assembly reaffirmed that everyone had the right to freedom of thought, conscience, religion or belief; urged all States to give continuing attention to the need for adequate legislation to prohibit discrimination based on religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms; also urged all States to take all appropriate measures to combat intolerance and to encourage understanding, tolerance and respect in matters relating to freedom of religion or belief; and requested the Commission on Human Rights to continue its consideration of measures to implement the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief[124] and to report, through the Economic and Social Council, to the Assembly at its fortieth session.

(9) *Measures to be taken against Nazi, Fascist and neo-Fascist activities and all other forms of totalitarian ideologies and practices based on racial intolerance, hatred and terror*

By its resolution 39/114 of 14 November 1984,[125] adopted on the recommendation of the Third Committee,[126] the General Assembly again condemned and expressed its determination to resist all totalitarian or other ideologies and practices, including Nazi, Fascist and neo-Fascist, based on racial or ethnic exclusiveness or intolerance, hatred and terror, which deprived people of basic human rights and fundamental freedoms and of equality of opportunity; urged all States to draw attention to the threat to democratic institutions by those ideologies and practices and to consider taking measures, in accordance with their national constitutional systems and with the provisions of the Universal Declaration of Human Rights[127] and the International Covenants on Human Rights,[80] to prohibit or otherwise deter activities by groups or organizations or whoever was practising those ideologies; invited Member States to adopt, as a matter of high priority, measures declaring punishable by law any dissemination of ideas based on racial superiority or hatred and of war propaganda, including Nazi, Fascist and neo-Fascist ideologies; and appealed to all States that had not yet done so to ratify or to accede or to give serious consideration to acceding to the International Covenants on Human Rights, the Convention on the Prevention and Punishment of the Crime of Genocide,[128] the International Convention on the Elimination of All Forms of Racial Discrimination,[92] the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity[129] and the International Convention on the Suppression and Punishment of the Crime of *Apartheid."*

(10) *Human rights and scientific and technological developments*

By its resolution 39/133 of 14 December 1984,[130] adopted on the recommendation of the Third Committee,[131] the General Assembly, seriously concerned that the results of scientific and technological progress could be used for the arms race to the detriment of international peace and security and social progress, human rights and fundamental freedoms and the dignity of the human person, stressed the importance of the implementation by all States of the provisions and principles contained in the Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and for the Benefit of Mankind[132] in order to promote human rights and fundamental freedoms and called upon all States to make every effort to use the achievements of science and technology in order to promote peaceful social, economic and cultural development and progress.

Moreover, by its resolution 39/132 of the same date,[133] adopted also on the recommendation of the Third Committee,[134] the General Assembly, reaffirming its conviction that detention of persons in mental institutions on account of their political views or on other non-medical grounds was a violation of their human rights, again urged the Commission on Human Rights and, through it, the Sub-Commission on Prevention of Discrimination and Protection of Minorities to expedite their consideration of the draft body of guidelines, princi-

pies and guarantees,[135] so that the Commission could submit its views and recommendations, including a draft body of guidelines, principles and guarantees, to the General Assembly at its forty-first session, through the Economic and Social Council.

4. LAW OF THE SEA

Status of the United Nations Convention on the Law of the Sea[136]

As of 31 December 1984, 159 States had signed and 14 States and the United Nations Council for Namibia had ratified the United Nations Convention on the Law of the Sea.

Preparatory Commission for the International Sea-Bed Authority and the International Tribunal for the Law of the Sea"[7]

The Preparatory Commission met twice during 1984. It held its second session at Kingston, Jamaica, from 19 March to 13 April 1984 and a meeting from 13 August to 5 September at Geneva. During the session priority was accorded to the adoption of rules for the registration of pioneer investors under resolution II of the Third United Nations Conference on the Law of the Sea.[138] The plenary completed the first reading of the draft rules for the registration of pioneer investors and on confidentiality of data and information and provisionally adopted several of the rules.

During the Geneva meeting the Preparatory Commission was informed by three States entitled to sponsor pioneer investors—France, Japan and the Netherlands—that an intergovernmental agreement ("Provisional Understanding regarding Deep Sea-Bed Matters"[139]) had been concluded on 3 August 1984 between eight Governments: Belgium, France, Germany, Federal Republic of, Italy, Japan, Netherlands, United Kingdom of Great Britain and Northern Ireland and United States of America. In response to the provisional understanding, the Group of 77 and the Group of Eastern European (Socialist) States reiterated their opposition to instruments based on national legislation and reciprocal agreements purporting to regulate and authorize deep sea-bed activities. They asserted that the carrying out of any such activities outside the régime established by the Convention was illegal.

The plenary of the Commission also considered the rules of procedure of the Assembly of the Authority and provisionally adopted a large number of them. At the Kingston session the plenary also discussed the establishment of the Authority, including its staffing.

The four Special Commissions of the Preparatory Commission had been considering the substantive work allocated to them. Special Commission 1, charged with the responsibility of studying the possible adverse effects of sea-bed mining on developing land-based producer States, had begun its study of the relevant statistics and data. Special Commission 2 on the Enterprise, the operational arm of the Authority, had been examining the measures necessary to bring the Enterprise into operation at an early date. Special Commission 3, mandated to draft the regulations for deep sea-bed mining (the mining code), had begun to examine a first set of regulations dealing with the application for approval of plans of work and the content of the application. Special Commission 4 was preparing a report with recommendations regarding arrangements for the establishment of the International Tribunal for the Law of the Sea.

The Secretary-General's report,[140] in its part two on the implementation of General Assembly resolution 38/59 A of 14 December 1983, also provided a general overview of the activities of the Office of the Special Representative of the Secretary-General for the Law of the Sea dealing with analytical studies; the law of the sea reference library collection and the publication of selected bibliographies; national legislation and State practice; an information system; special studies and special advice; co-operation within the United Nations system; promotional and educational activities; the Law of the Sea *Bulletin;* and a fellowship programme.

Consideration by the General Assembly

By its resolution 39/73 of 13 December 1984,[141] 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; called upon all States that had not yet 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 régime for the uses of the sea and its resources; called upon all States to safeguard the unified character of the Convention and related resolutions adopted therewith; called upon all States to desist from taking actions which undermined the Convention or defeated its object and purpose; expressed its appreciation for the effective execution by the Secretary-General of the central programme in law of the sea affairs under chapter 25 of the medium-term plan for the period 1984-1989; and further expressed its appreciation for the report of the Secretary-General[1*5] in response to Assembly resolution 38/59 A and requested the Secretary-General to continue the activities outlined therein, special emphasis being placed on the work of the Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea, including the implementation of resolution II of the Third United Nations Conference on the Law of the Sea.[138]

5. INTERNATIONAL COURT OF JUSTICE[142]-[143]

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)*[144]

On 9 April 1984 the Government of Nicaragua filed an Application instituting proceedings against the United States of America, accompanied by a request for the indication of provisional measures, in respect of a dispute concerning responsibility for military and paramilitary activities in and against Nicaragua. As basis for the jurisdiction of the Court it invoked one declaration accepting the Court's jurisdiction deposited by the two States under Article 36 of the Statute of the Court.

On 13 April 1984, by a letter from its Ambassador to the Netherlands, the Government of the United States of America informed the Court that it had appointed an Agent for the purposes of the case while indicating its conviction that the Court was without jurisdiction to deal with the Application and was *a fortiori* without jurisdiction to indicate the provisional measures requested by Nicaragua.

Having heard the oral observations of both Parties on the request for provisional measures at public sittings on 25 and 27 April 1984, the Court held on 10 May 1984 a public sitting at which it delivered an Order[145] indicating such measures, of which a summary outline and the complete text of the operative terms are given below.[146]

Proceedings before the Court (paras. 1-9)

The Court began by recalling that on 9 April 1984 Nicaragua had instituted proceedings against the United States of America, in respect of a dispute concerning responsibility for military and paramilitary activities in and against Nicaragua. On the basis of the facts alleged in its Application, Nicaragua requested the Court to adjudge and declare *(inter alia):*

—that the United States of America had violated and was violating its obligations to Nicaragua, under several international instruments and under general and customary international law;

—that the United States of America was under a duty to cease and desist immediately from all use of force against Nicaragua, all violations of the sovereignty, territorial integrity or political independence of Nicaragua, all support of any kind to anyone engaged in military or paramilitary actions in or against Nicaragua, and all efforts to restrict access to or from Nicaraguan ports;

—that the United States of America had an obligation to pay Nicaragua reparation for damages incurred by reason of these violations.

On the same day, Nicaragua urgently requested the Court to indicate provisional measures:

"—That the United States should immediately cease and desist from providing, directly or indirectly, any support—including training, arms, ammunition, supplies, assistance, finances, direction or any other form of support—to any nation, group, organization, movement or individual engaged or planning to engage in military or paramilitary activities in or against Nicaragua;

—That the United States should immediately cease and desist from any military or paramilitary activity by its own officials, agents or forces in or against Nicaragua and from any other use or threat of force in its relations with Nicaragua."

Shortly after the institution of these proceedings, the United States of America notified the Registry that it had appointed an Agent for the purposes of this case and, being convinced that the Court was without jurisdiction in the case, requested the Court to preclude any further proceedings and to remove the case from the list (letters of 13 and 23 April 1984). On 24 April, taking into account a letter of the same date from Nicaragua, the Court decided that it had then no sufficient basis for acceding to the request of the United States.

Jurisdiction (paras. 10-26)

Declaration of Nicaragua and request for removal from the list made by the United States (paras. 10-21)

Nicaragua claims to found the jurisdiction of the Court to entertain this case on the declarations of the Parties accepting the compulsory jurisdiction of the Court under Article 36, paragraph 2, of the Statute of the Court, namely the declaration made by the United States of America dated 26 August 1946 and the declaration made by Nicaragua dated 24 September 1929. Under the system of international judicial settlement of disputes in which the consent of the States constitutes the basis of the Court's jurisdiction, a State having accepted the jurisdiction of the Court by a declaration may rely on the declaration by which another State has also accepted the jurisdiction of the Court, in order to bring a case before the Court.

Nicaragua claims to have recognized the compulsory jurisdiction of the Permanent Court of International Justice by its declaration of 24 September 1929, which, it claims, continues in force and is deemed by virtue of Article 36, paragraph 5, of the Statute of the present Court to be an acceptance of the compulsory jurisdiction of that Court.[147]

The United States contends that Nicaragua never ratified the Protocol of Signature of the Statute of the Permanent Court of International Justice, that Nicaragua never became a party to the Statute of the Permanent Court, and that consequently the declaration by Nicaragua of 1929 never came into force and that Nicaragua cannot be deemed to have accepted the compulsory jurisdiction of the present Court by virtue of Article 36 of its Statute. The United States therefore requests the Court to preclude any further proceedings and to remove the case from the list.

For its part, Nicaragua asserts that it duly ratified the Protocol of Signature of the Statute of the Permanent Court, and sets forth a number of points in support of the legal validity of its declaration of 1929. The two Parties explained their arguments at length during the oral proceedings.

The Court finds that in this case, the question is whether Nicaragua, having deposited a declaration of acceptance of the jurisdiction of the Permanent Court, can claim to be a "State

accepting the same obligation" within the meaning of Article 36, paragraph 2, of the Statute, so as to invoke the declaration of the United States. As the contentions of the Parties disclose a "dispute as to whether the Court has jurisdiction", the matter has to be settled by the decision of the Court, after having heard the Parties. The Court is therefore unable to accede to the United States' request summarily to remove the case from the list.

Declaration of the United States (paras. 22 and 23)

The United States also disputes the jurisdiction of the Court in this case by relying on a declaration which it deposited on 6 April 1984, referring to its 1946 declaration, and providing that the declaration "shall not apply to disputes with any Central American State or arising out of or related to events in Central America" and that it "shall take effect immediately and shall remain in force for a period of two years". Since the dispute with Nicaragua, in its opinion, clearly falls within the terms of the exclusion in the declaration of 6 April 1984, it considers that the 1946 declaration cannot confer jurisdiction on the Court to entertain the case. For its part, Nicaragua considers that the declaration of 6 April 1984 could not have modified the 1946 declaration which, not having been validly terminated, remains in force.

Conclusion (paras. 24-26)

The Court observes that it ought not to indicate provisional measures unless the provisions invoked by the Applicant appear, *prima facie,* to afford a basis on which its jurisdiction might be founded. It does not now have to determine the validity or invalidity of the declaration of Nicaragua of 24 September 1929 and, the question whether or not Nicaragua could thus rely on the Untied States declaration of 16 August 1946, or the question whether, as a result of the declaration of 6 April 1984, the Application is excluded as from this date from the scope of the United States acceptance of the compulsory jurisdiction of the Court. It finds that the declarations deposited by the two Parties respectively in 1929 and in 1946 nevertheless appear to afford a basis on which the jurisdiction of the Court might be founded.

Provisional measures (paras. 27-40)

The Order sets out the circumstances alleged by Nicaragua as requiring the indication of provisional measures, and the material it has provided to support its allegations. The Government of the United States has stated that the United States does not intend to engage in a debate concerning the facts alleged by Nicaragua, given the absence of jurisdiction, but it has admitted no factual allegations by Nicaragua whatever. The Court had available to it considerable information concerning the facts of the present case, including official statements of United States authorities, and has to consider whether the circumstances drawn to its attention require the indication of provisional measures, but it makes it clear that the right of the respondent to dispute the facts alleged must remain unaffected by its decision.

After setting out the rights which, according to Nicaragua, should be urgently protected by the indication of provisional measures, the Court considers three objections raised by the United States (in addition to the objection relating to jurisdiction) against the indication of such measures.

First, the indication of provisional measures would interfere with the negotiations being conducted in the context of the work of the Contadora Group, and would directly involve the rights and interests of States not parties to this case; secondly, these negotiations constituted a regional process within which Nicaragua is under a good-faith obligation to negotiate; thirdly, the Application by Nicaragua raises issues which should more properly be committed to resolution by the political organs of the United Nations and of the Organization of American States.

Nicaragua disputes the relevance to this case of the Contadora process—in which it is actively participating—, denies that its claim could prejudice the rights of other States and recalls previous decisions of the Court, by virtue of which, in its opinion, the Court is not required to decline to undertake an essentially judicial task merely because the question before it is intertwined with political questions.

The Court finds that the circumstances require that it should indicate provisional measures, as provided by Article 41 of the Statute, in order to preserve the rights claimed. It emphasizes that its decision in no way prejudges the question of its jurisdiction to deal with the merits of the case and leaves unaffected the right of the Government of the United States and of the Government of Nicaragua to submit arguments in respect of such jurisdiction or such merits.

For these reasons, the Court gave, in the form of an Order, the decision of which the operative terms were as follows:

"THE COURT,

A. Unanimously,

Rejects the request made by the United States of America that the proceedings on the Application filed by the Republic of Nicaragua on 9 April 1984, and on the request filed the same day by the Republic of Nicaragua for the indication of provisional measures, be terminated by the removal of the case from the list;

B. *Indicates,* pending its final decision in the proceedings instituted on 9 April 1984 by the Republic of Nicaragua against the United States of America, the following provisional measures:

1. Unanimously,
The United States of America should immediately cease and refrain from any action restricting, blocking or endangering access to or from Nicaraguan ports, and, in particular, the laying of mines;

2. By fourteen votes to one,
The right to sovereignty and to political independence possessed by the Republic of Nicaragua, like any other State of the region or of the world, should be fully respected and should not in any way be jeopardized by any military and paramilitary activities which are prohibited by the principles of international law, in particular the principle that States should refrain in their international relations from the threat or use of force against the territorial integrity or the political independence of any State, and the principle concerning the duty not to intervene in matters within the domestic jurisdiction of a State, principles embodied in the United Nations Charter and the Charter of the Organization of American States;

IN FAVOUR: *President* EHas; *Vice-President* Sette-Camara; *Judges* Lachs, Morozov, Nagendra Singh, Ruda, Mosler, Oda, Ago, El-Khani, Sir Robert Jennings, de Lacharrière, Mbaye, Bedjaoui;

AGAINST: *Judge* Schwebel;

3. Unanimously,
The Governments of the United States of America and the Republic of Nicaragua should each of them ensure that no action of any kind is taken which might aggravate or extend the dispute submitted to the Court;

4. Unanimously,
The Governments of the United States of America and the Republic of Nicaragua should each of them ensure that no action is taken which might prejudice the rights of the other Party in respect of the carrying out of whatever decision the Court may render in the case;

C. Unanimously,

Decides further that, until the Court delivers its final judgment in the present case, it will keep the matters covered by this Order continuously under review;

D. Unanimously,

Decides that the written proceedings shall first be addressed to the questions of the jurisdiction of the Court to entertain the dispute and of the admissibility of the Application;

And reserves the fixing of the time-limits for the said written proceedings, and the subsequent procedure, for further decision."

Judges Mosler and Sir Robert Jennings appended a joint separate opinion to the Order of the Court[148] and Judge Schwebel appended a dissenting opinion.[149]

*

In accordance with Article 41, paragraph 2, of the Statute of the Court, the Registrar immediately notified the Parties and the Security Council of the indication of these measures.

*

By an Order of 14 May 1984, the President of the Court fixed the following time-limits for the filing of pleadings addressed to the questions of jurisdiction and admissibility: 30 June 1984 for the Memorial of Nicaragua, and 17 August 1984 for the Counter-Memorial of the United States.[150] These pleadings were filed within the prescribed time-limits.

On 15 August 1984, before the expiration of the time-limits allowed for the filing of pleadings relating to jurisdiction and admissibility, the Republic of El Salvador filed a Declaration of Intervention in the case under the terms of Article 63 of the Statute. In its Declaration, the Government of El Salvador stated that the purpose of its intervention was to enable it to maintain that the Court had no jurisdiction to entertain Nicaragua's application. In this connection, it referred to certain multilateral treaties on which Nicaragua relies in its dispute with the United States.

Having regard to the written observations on that Declaration submitted by the Parties in accordance with Article 83 of the Rules of Court, on 4 October 1984 the Court made an Order of which the operative provisions are as follows:

"THE COURT,

(i) By nine votes to six,

Decides not to hold a hearing on the Declaration of Intervention of the Republic of El Salvador,

IN FAVOUR: *President* Elias; *Vice-President* Sette-Camara; *Judges* Lachs, Morozov, Nagendra Singh, Oda, El-Khani, Mbaye, Bedjaoui;

AGAINST: *Judges* Ruda, Mosler, Ago, Schwebel, Sir Robert Jennings, de Lacharriere;

(ii) By fourteen votes to one,

Decides that the Declaration of Intervention of the Republic of El Salvador is inadmissible inasmuch as it relates to the current phase of the proceedings brought by Nicaragua against the United States of America;

IN FAVOUR: *President* Elias; *Vice-President* Sette-Camara; *Judges* Lachs, Morozov, Nagendra Singh, Ruda, Mosler, Oda, Ago, El-Khani, Sir Robert Jennings, de Lacharriere, Mbaye, Bedjaoui;

AGAINST: *Judge* Schwebel."

From 8 to 18 October 1984, the Court held nine public sittings during which speeches were made on behalf of Nicaragua and the United States on the questions of jurisdiction and admissibility. The Judge *ad hoc* appointed by Nicaragua under Article 31 of the Statute of the Court, Mr. C. A. Colliard, participated in the work of the Court from this stage of the proceedings.

At a public sitting held on 26 November 1984, the Court delivered its Judgement,[151] of which a summary outline and the complete text of the operative paragraphs are given below.[152]

Proceedings and submissions of the Parties (paras. 1-11)

After recapitulating the various stages in the proceedings and setting out the submissions of the Parties (paras. 1-10), the Court recalls that the case concerns a dispute between the

Government of the Republic of Nicaragua and the Government of the United States of America arising out of military and paramilitary activities in Nicaragua and in the waters off its coasts, responsibility for which is attributed by Nicaragua to the United States. In the present phase, the case concerns the Court's jurisdiction to entertain and pronounce upon this dispute, as well as the admissibility of Nicaragua's Application referring it to the Court (para. 11).

/. *The question of the jurisdiction of the Court to entertain the dispute* (paras. 12-83)

A. The declaration of Nicaragua and Article 36, paragraph 5, of the Statute of the Court (paras. 12-51)

To found the jurisdiction of the Court, Nicaragua relied on Article 36 of the Statute of the Court and the declarations accepting the compulsory jurisdiction of the Court made by the United States and itself.

The relevant texts and the historical background to Nicaragua's declaration (paras. 12-16)

Article 36, paragraph 2, of the Statute of the International Court of Justice provides that:

"The States parties to the present Statute may at any time declare that they recognize as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes concerning:

(a) the interpretation of a treaty;

(b) any question of international law;

(c) the existence of any fact which, if established, would constitute a breach of an international obligation;

id) the nature or extent of the reparation to be made for the breach of an international obligation."

On 14 August 1946, under this provision, the United States made a declaration containing reservations which will be described further below. In this declaration, it stated that:

"this declaration shall remain in force for a period of five years and thereafter until the expiration of six months after notice may be given to terminate this declaration".

On 6 April 1984 the Government of the United States deposited with the Secretary-General of the United Nations a notification signed by the Secretary of State, Mr. George Shultz (hereinafter referred to as "the 1984 notification"), referring to the declaration of 1946, and stating that:

"the aforesaid declaration shall not apply to disputes with any Central American State or arising out of or related to events in Central America, any of which disputes shall be settled in such manner as the parties to them may agree.

"Notwithstanding the terms of the aforesaid declaration, this proviso shall take effect immediately and shall remain in force for two years, so as to foster the continuing regional dispute settlement process which seeks a negotiated solution to the interrelated political, economic and security problems of Central America."

In order to be able to rely upon the United States declaration of 1946 to found jurisdiction in the present case, Nicaragua has to show that it is a "State accepting the same obligation" as the United States within the meaning of Article 36, paragraph 2, of the Statute.

For this purpose, it relies on a declaration made by it on 24 September 1929 pursuant to Article 36, paragraph 2, of the Statute of the Permanent Court of International Justice, the predecessor of the present Court, which provided that:

"The Members of the League of Nations and the States mentioned in the Annex to the Covenant may, either when signing or ratifying the Protocol to which the present Statute is adjoined, or at a later moment, declare that they recognize as compulsory *ipso facto* and without special agreement, in relation to any other Member or State accepting the same obligation, the jurisdiction of the Court..."

in any of the same categories of dispute as listed in Article 36, paragraph 2, of the Statute of the present Court.

Nicaragua relies further on Article 36, paragraph 5, of the Statute of the present Court, which provides that:

> "Declarations made under Article 36 of the Statute of the Permanent Court of International Justice and which are still in force shall be deemed, as between the parties to the present Statute, to be acceptances of the compulsory jurisdiction of the International Court of Justice for the period which they still have to run and in accordance with their terms,"

The Judgment recalls the circumstances in which Nicaragua made its declaration: on 14 September 1929, as a Member of the League of Nations, it signed the Protocol of Signature of the Statute of the Permanent Court of International Justice;[153] this Protocol provided that it was subject to ratification and that instruments of ratification were to be sent to the Secretary-General of the League of Nations. On 24 September 1929 Nicaragua deposited with the Secretary-General of the League a declaration under Article 36, paragraph 2, of the Statute of the Permanent Court which reads:

> "On behalf of the Republic of Nicaragua I recognize as compulsory unconditionally the jurisdiction of the Permanent Court of International Justice.
>
> "Geneva, 24 September 1929.
>
> *(Signed)* T. F. MEDINA."

The national authorities in Nicaragua authorized its ratification, and, on 29 November 1939, the Ministry of Foreign Affairs of Nicaragua sent a telegram to the Secretary-General of the League of Nations advising him of the dispatch of the instrument of ratification. The files of the League, however, contain no record of an instrument of ratification ever having been received and no evidence has been adduced to show that such an instrument of ratification was ever dispatched to Geneva. After the Second World War, Nicaragua became an original Member of the United Nations, having ratified the Charter on 6 September 1945; on 24 October 1945 the Statute of the International Court of Justice, which is an integral part of the Charter, came into force.

The arguments of the Parties (paras. 17-23) *and the reasoning of the Court* (paras. 24-42)

This being the case, the United States contends that Nicaragua never became a party to the Statute of the Permanent Court and that its 1929 declaration was therefore not "still in force" within the meaning of the English text of Article 36, paragraph 5, of the Statue of the present Court.

In the light of the arguments of the United States and the opposing arguments of Nicaragua, the Court sought to determine whether Article 36, paragraph 5, could have applied to Nicaragua's declaration of 1929.

The Court notes that the Nicaraguan declaration was valid at the time when the question of the applicability of the new Statute, that of the International Court of Justice, arose, since under the system of the Permanent Court of International Justice a declaration was valid only on condition that it had been made by a State which had signed the Protocol of Signature of the Statute. It had not become binding under that Statute, since Nicaragua had not deposited its instrument of ratification of the Protocol of Signature and it was therefore not a party to the Statute. However, it is not disputed that the 1929 declaration could have acquired binding force. All that Nicaragua need have done was to deposit its instrument of ratification, and it could have done that at any time until the day on which the new Court came into existence. It follows that the declaration had a certain potential effect which could be maintained for many years. Having been made "unconditionally" and being valid for an unlimited period, it had retained its potential effect at the moment when Nicaragua became a party to the Statute of the new Court.

In order to reach a conclusion on the question whether the effect of a declaration which did not have binding force at the time of the Permanent Court could be transposed to the

International Court of Justice through the operation of Article 36, paragraph 5, of the Statute of that body, the Court took several considerations into account.

As regards the French phrase *"pour une durée qui n'est pas encore expirée"*[1] applying to declarations made under the former system, the Court does not consider it to imply that *"la durée non expirée"* (the unexpired period) is that of a commitment of a binding character. The deliberate choice of the expression seems to denote an intention to widen the scope of Article 36, paragraph 5, so as to cover declarations which have not acquired binding force. The English phrase "still in force" does not expressly exclude a valid declaration of unexpired duration, made by a State not party to the Protocol of Signature of the Statute of the Permanent Court, and therefore not of binding character.

With regard to the considerations governing the transfer of the powers of the former Court to the new one, the Court takes the view that the primary concern of those who drafted its Statute was to maintain the greatest possible continuity between it and the Permanent Court and that their aim was to ensure that the replacement of one Court by another should not result in a step backwards in relation to the progress accomplished towards adopting a system of compulsory jurisdiction. The logic of a general system of devolution from the old Court to the new resulted in the ratification of the new Statute having exactly the same effects as those of the ratification of the Protocol of Signature of the old Statute, i.e., in the case of Nicaragua, a transformation of a potential commitment into an effective one. Nicaragua may therefore be deemed to have given its consent to the transfer of its declaration to the International Court of Justice when it signed and ratified the Charter, thus accepting the Statute and its Article 36, paragraph 5.

Concerning the publications of the Court referred to by the Parties for opposite reasons, the Court notes that they have regularly placed Nicaragua on the list of those States that have recognized the compulsory jurisdiction of the Court by virtue of Article 36, paragraph 5, of the Statute. The attestations furnished by these publications have been entirely official and public, extremely numerous and have extended over a period of nearly 40 years. The Court draws from this testimony the conclusion that the conduct of States parties to the Statute has confirmed the interpretation of Article 36, paragraph 5, of the Statute, whereby the provisions of this Article cover the case of Nicaragua.

The conduct of the Parties (paras. 43-51)

Nicaragua also contends that the validity of Nicaragua's recognition of the compulsory jurisdiction of the Court finds an independent basis in the conduct of the Parties. It argues that its conduct over 38 years unequivocally constitutes consent to be bound by the compulsory jurisdiction of the Court and that the conduct of the United States over the same period unequivocally constitutes its recognition of the validity of the declaration of Nicaragua of 1929 as an acceptance of the compulsory jurisdiction of the Court. The United States, however, objects that the contention of Nicaragua is inconsistent with the Statute and, in particular, that compulsory jurisdiction must be based on the clearest manifestation of the State's intent to accept it. After considering Nicaragua's particular circumstances and noting that Nicaragua's situation has been wholly unique, the Court considers that, having regard to the source and generality of statements to the effect that Nicaragua was bound by its 1929 declaration, it is right to conclude that the constant acquiescence of that State in those affirmations constitutes a valid mode of manifestation of its intent to recognize the compulsory jurisdiction of the Court under Article 36, paragraph 2, of the Statute. It further considers that the estoppel on which the United States has relied and which would have barred Nicaragua from instituting proceedings against it in the Court, cannot be said to apply to it.

Finding: the Court therefore finds that the Nicaraguan declaration of 1929 is valid and that Nicaragua accordingly was, for the purposes of Article 36, paragraph 2, of the Statute of the Court, a "State accepting the same obligation" as the United States at the date of filing of the Application and could therefore rely on the United States declaration of 1946.

B. The declaration of the United States (paras. 52-76)
The notification of 1984 (paras. 52-66)

The acceptance of the jurisdiction of the Court by the United States on which Nicaragua relies is the result of the United States declaration of 14 August 1946. However, the United States argues that effect should be given to the letter sent to the Secretary-General of the United Nations on 6 April 1984. It is clear that if this notification were valid as against Nicaragua at the date of filing of the Application, the Court would not have jurisdiction under Article 36 of the Statute. After outlining the arguments of the Parties in this connection, the Court points out that the most important question relating to the effect of the 1984 notification is whether the United States was free to disregard the six months' notice clause which, freely and by its own choice, it has appended to its declaration, in spite of the obligation it has entered into *vis-à-vis* other States which have made such a declaration. The Court notes that the United States has argued that the Nicaraguan declaration, being of undefined duration, is liable to immediate termination, and that Nicaragua has not accepted "the same obligation" as itself and may not rely on the time-limit proviso against it. The Court does not consider that this argument entitles the United States validly to derogate from the time-limit proviso included in its 1946 declaration. In the Court's opinion, the notion of reciprocity is concerned with the scope and substance of the commitments entered into, including reservations, and not with the formal conditions of their creation, duration or extinction. Reciprocity cannot be invoked in order to excuse departure from the terms of a State's own declaration. The United States cannot rely on reciprocity since the Nicaraguan declaration contains no express restriction at all. On the contrary, Nicaragua can invoke the six months' notice against it, not on the basis of reciprocity, but because it is an undertaking which is an integral part of the instrument that contains it. The 1984 notification cannot therefore override the obligation of the United States to submit to the jurisdiction of the Court *vis-à-vis* Nicaragua.

The United States multilateral treaty reservation (paras. 67-76)

The question remains to be resolved whether the United States declaration of 1946 constitutes the necessary consent of the United States to the jurisdiction of the Court in the present case, taking into account the reservations which were attached to the declaration. Specifically, the United States had invoked proviso (c) to that declaration, which provides that the United States acceptance of the Court's compulsory jurisdiction shall not extend to:

> "disputes arising under a multilateral treaty, unless (1) all parties to the treaty affected by the decision are also parties to the case before the Court, or (2) the United States of America specially agrees to jurisdiction".

This reservation will be referred to as the "multilateral treaty reservation".

The United States argues that Nicaragua relies in its Application on four multilateral treaties, and that the Court, in view of the above reservation, may exercise jurisdiction only if all treaty parties affected by a prospective decision of the Court are also parties to the case.

The Court notes that the States which, according to the United States, might be affected by the future decision of the Court, have made declarations of acceptance of the compulsory jurisdiction of the Court, and are free, any time, to come before the Court with an application instituting proceedings, or to resort to the incidental procedure of intervention. These States are therefore not defenceless against any consequences that may arise out of adjudication by the Court and they do not need the protection of the multilateral treaty reservation (in so far as they are not already protected by Article 59 of the Statute). The Court considers that obviously the question of what States may be affected is not a jurisdictional problem and that it has no choice but to declare that the objection based on the multilateral treaty reservation does not possess, in the circumstances of the case, an exclusively preliminary character.

Finding: the Court finds that, despite the United States notification of 1984, Nicaragua's Application is not excluded from the scope of the acceptance by the United States of the compulsory jurisdiction of the Court. The two declarations afford a basis for its jurisdiction.

C. The Treaty of Friendship, Commerce and Navigation of 21 January 1956 as a basis of jurisdiction (paras. 77-83)

In its Memorial, Nicaragua also relies, as a "subsidiary basis" for the Court's jurisdiction in this case, on the Treaty of Friendship, Commerce and Navigation which it concluded at Managua with the United States on 21 January 1956 and which entered into force on 24 May 1958. Article XXIV, paragraph *2,* reads as follows:

> "Any dispute between the Parties as to the interpretation or application of the present Treaty, not satisfactorily adjusted by diplomacy, shall be submitted to the International Court of Justice, unless the Parties agree to settlement by some other pacific means."

Nicaragua submits that this treaty has been and is being violated by the military and paramilitary activities of the United States as described in the Application. The United States contends that, since the Application presents no claims of any violation of the treaty, there are no claims properly before the Court for adjudication, and that, since no attempt to adjust the dispute by diplomacy has been made, the compromissory clause cannot operate. The Court finds it necessary to satisfy itself as to jurisdiction under the treaty inasmuch as it has found that the objection based upon the multilateral treaty reservation in the United States declaration does not debar it from entertaining the Application. In the view of the Court, the fact that a State has not expressly referred, in negotiations with another State, to a particular treaty as having been violated by the conduct of that other State, does not debar that State from invoking a compromissory clause in that treaty. Accordingly, the Court finds that it has jurisdiction under the 1956 Treaty to entertain the claims made by Nicaragua in its Application.

//. *The question of the admissibility of Nicaragua's Application* (paras. 84-108)

The Court now turns to the question of the admissibility of Nicaragua's Application. The United States contended that it is inadmissible on five separate grounds, each of which, it is said, is sufficient to establish such inadmissibility, whether considered as a legal bar to adjudication or as "a matter requiring the exercise of prudential discretion in the interest of the integrity of the judicial function".

The first ground of inadmissibility (paras. 85-88) put forward by the United States is that Nicaragua has failed to bring before the Court parties whose presence and participation is necessary for the rights of those parties to be protected and for the adjudication of the issues raised in the Application. In this connection, the Court recalls that it delivers judgments with binding force as between the Parties in accordance with Article 59 of the Statute, and that States which consider they may be affected by the decision are free to institute separate proceedings or to employ the procedure of intervention. There is no trace, either in the Statute or in the practice of international tribunals, of an "indispensable parties" rule which would only be conceivable in parallel to a power, which the Court does not possess, to direct that a third State be made a party to proceedings. None of the States referred to can be regarded as being in a position such that its presence would be truly indispensable to the pursuance of the proceedings.

The *second ground of inadmissibility* (paras. 89-90) relied on by the United States is that Nicaragua is, in effect, requesting that the Court in this case determine the existence of a threat to peace, a matter falling essentially within the competence of the Security Council because it is connected with Nicaragua's complaint involving the use of force. The Court examines this ground of inadmissibility at the same time as the *third ground (paras.* 91-98) based on the position of the Court within the United Nations system, including the impact of proceedings before the Court on the exercise of the inherent right of individual or collective self-defence under Article 51 of the Charter. The Court is of the opinion that the fact that a matter is before the Security Council should not prevent it from being dealt with by the Court and that both proceedings could be pursued *pari passu.* The Council has functions of a political nature assigned to it, whereas the Court exercises purely judicial functions. Both organs

can therefore perform their separate but complementary functions with respect to the same events. In the present case, the complaint of Nicaragua is not about an ongoing war of armed conflict between it and the United States, but about a situation demanding the peaceful settlement of disputes, a matter which is covered by Chapter VI of the Charter. Hence, it is properly brought before the principal judicial organ of the United Nations for peaceful settlement. This is not a case which can only be dealt with by the Security Council in accordance with the provisions of Chapter VII of the Charter.

With reference to Article 51 of the Charter, the Court notes that the fact that the inherent right of self-defence is referred to in the Charter as a "right" is indicative of a legal dimension, and finds that if, in the present proceedings, it became necessary for the Court to judge in this respect between the Parties, it cannot be debarred from doing so by the existence of a procedure requiring that the matter be reported to the Security Council.

A *fourth ground of inadmissibility* (paras. 99-101) put forward by the United States is the inability of the judicial function to deal with situations involving ongoing armed conflict, since the resort to force during an ongoing armed conflict lacks the attributes necessary for the application of the judicial process, namely a pattern of legally relevant facts discernible by the means available to the adjudicating tribunal. The Court observes that any judgment on the merits is limited to upholding such submissions of the Parties as has been supported by sufficient proof of relevant facts and that ultimately it is the litigant who bears the burden of proof.

The fifth ground of inadmissibility (paras. 102-108) put forward by the United States is based on the non-exhaustion of the established processes for the resolution of the conflicts occurring in Central America. It contends that the Nicaraguan Application is incompatible with the Contadora process to which Nicaragua is a party.

The Court recalls its earlier decisions that there is nothing to compel it to decline to take cognizance of one aspect of a dispute merely because that dispute has other aspects *(United States Diplomatic and Consular Staff in Tehran* case)[154] and the fact that negotiations are being actively pursued during the proceedings is not, legally, any obstacle to the exercise by the Court of its judicial function *(Aegean Sea Continental Shelf* case).[155]

The Court is unable to accept either that there is any requirement of prior exhaustion of regional negotiating processes as a precondition to seising the Court; or that the existence of the Contadora process constitutes in this case an obstacle to the examination by the Court of Nicaragua's Application.

The Court is therefore unable to declare the Application inadmissible on any of the grounds the United States has advanced.

Findings (paras. 109-111)

Status of the provisional measures (para. 112)

The Court states that its Order of 10 May 1984 and the provisional measures indicated therein remain operative until the delivery of the final judgment in the case.

Operative clause (para. 113)

"For these reasons,

THE COURT,

(1) *(a) finds,* by eleven votes to five, that it has jurisdiction to entertain the Application filed by the Republic of Nicaragua on 9 April 1984, on the basis of Article 36, paragraphs 2 and 5, of the Statute of the Court;

IN FAVOUR: *President* Elias; *Vice-President* Sette-Camara; *Judges* Lachs, Morozov, Nagendra Singh, Ruda, El-Khani, de Lacharriere, Mbaye, Bedjaoui; *Judge* ad hoc Colliard;

AGAINST: *Judges* Mosler, Oda, Ago, Schwebel and Sir Robert Jennings;

(b) finds, by fourteen votes to two, that it has jurisdiction to entertain the Application filed by the Republic of Nicaragua on 9 April 1984, in so far as that Application

relates to a dispute concerning the interpretation or application of the Treaty of Friendship, Commerce and Navigation between the United States of America and the Republic of Nicaragua signed at Managua on 21 January 1956, on the basis of Article XXIV of that Treaty;

IN FAVOUR: *President* Elias; *Vice-President* Sette-Camara; *Judges* Lachs, Morozov, Nagendra Singh, Mosler, Oda, Ago, El-Khani, Sir Robert Jennings, de Lacharriere, Mbaye, Bedjaoui; *Judge* ad hoc Colliard;

AGAINST: *Judges* Ruda and Schwebel;

(c) *finds,* by fifteen votes to one, that it has jurisdiction to entertain the case;

IN FAVOUR: *President* Elias; *Vice-President* Sette-Camara; *Judges* Lachs, Morozov, Nagendra Singh, Ruda, Mosler, Oda, Ago, El-Kham, Sir Robert Jennings, de Lacharriere, Mbaye, Bedjaoui; *Judge* ad hoc Colliard;

AGAINST: *Judge* Schwebel;

(2) finds, unanimously, that the said Application is admissible."

*

Judges Nagendra Singh, Ruda, Mosler, Oda, Ago and Sir Robert Jennings appended separate opinions to the Judgment[156] Judge Schwebel appended a dissenting opinion to the Judgment.[157]

(ii) *Continental Shelf (Libyan Arab Jamahiriya/Malta)*[IJS]

Pursuant to Article 83 of the Rules of Court, on 5 December 1983, within the time-limit fixed therefor, the Governments of the Libyan Arab Jamahiriya and Malta submitted written observations on Italy's request for permission to intervene. Objections having been raised to that request, the Court, in accordance with Article 84 of its Rules, held seven public sittings between 25 and 30 June 1984 to hear argument presented on behalf of Italy, the Libyan Arab Jamahiriya and Malta on the question whether the application for permission to intervene should be granted.

On 21 March 1984 the Court sat in public to deliver a Judgment,[159] of which a summary outline and the complete text of the operative paragraph are given below:[160]

Provisions of the Statute and Rules of Court concerning intervention (para. 10)

Article 62 of the Statute, invoked by Italy, provides as follows:

"1. Should a State consider that it has an interest of a legal nature which may be affected by the decision in the case, it may submit a request to the Court to be permitted to intervene.

2. It shall be for the Court to decide upon this request."

Under Article 81, paragraph 2, of the Rules of Court, an application for permission to intervene under Article 62 of the Statute shall specify the case to which it relates, and shall set out:

(a) the interest of a legal nature which the State applying to intervene considers may be affected by the decision in that case;

(b) the precise object of the intervention;

(c) any basis of jurisdiction which is claimed to exist as between the State applying to intervene and the Parties to the case".

Formal admissibility of the Italian Application for permission to intervene (paras. 10-12)

Noting that the Italian Application complied formally with the three conditions set out in Article 81, paragraph 2, of the Rules and that it was not filed out of time, the Court concluded that it had no formal defect which would render it inadmissible.

Statement of the contentions of Italy and of the two Parties (paras. 13-27)

The Court summarized the contentions advanced by Italy in its Application and oral argument (paras. 13-17). It noted in particular that the legal interest invoked by Italy was constituted by the protection of the sovereign rights which it claimed over certain areas of

continental shelf *en cause* in the case between the Libyan Arab Jamahiriya and Malta. It also noted that the object of the intervention was to permit Italy to defend those rights, so that the Court should be as fully informed of them as possible, and so that it might be in a position to take due account of them in its decision and provide the Parties with every needful indication to ensure that they do not, when they conclude their delimitation agreement pursuant to the Court's judgment, include any areas over which Italy has rights. Finally the Court noted that, according to Italy, Article 62 of the Statute afforded a sufficient basis of jurisdiction in this case, which did not need to be complemented by a special jurisdictional link between itself and the Parties to the case.

The Court then summarized the arguments put forward by the Libyan Arab Jamahiriya (paras. 18-24) and by Malta {paras. 25-27), both in their written observations on the Italian Application and in their counsel's oral argument.

Interest of a legal nature and object of the intervention (paras. 28-38)

In order to determine whether the Italian request is justified, the Court had to consider the interest of a legal nature which, it was claimed, might be affected, and to do this it had to assess the object of the Application and the way in which that object corresponds to what is contemplated by the Statute, namely to ensure the protection of an "interest of a legal nature", by preventing it from being "affected" by the decision.

The Court recalled that in the case of an intervention, it is normally by reference to the definition of its interest of a legal nature and of the object indicated by the State seeking to intervene that the Court should judge whether or not the intervention is admissible. It had none the less to ascertain the true object of the claim. In this case, taking into account all the circumstances as well as the nature of the subject-matter of the proceedings instituted by Libya and Malta, it appeared to the Court that, while formally Italy was requesting the Court to safeguard its rights, the unavoidable practical effect of its request was that the Court would be called upon to recognize those rights, and, hence, for the purpose of being able to do so, to make a finding, at least in part, on disputes between Italy and one or both of the Parties. Italy was in fact requesting the Court to pronounce only on what genuinely appertains to Malta and Libya. But for the Court to be able to carry out such an operation, it would first have to determine the areas over which Italy has rights and those over which it has none. It would therefore have to make findings as to the existence of Italian rights over certain areas, and as to the absence of such Italian rights in other areas. The Court would thus be called upon, in order to give effect to the intervention, to determine a dispute, or some part of a dispute, between Italy and one or both of the principal Parties, which would involve it in adjudicating on the legal relations between Italy and Libya without the consent of Libya, or on those between Italy and Malta without the consent of Malta. Its decision could not be interpreted merely as not "affecting" those rights, but would be one either recognizing or rejecting them, in whole or in part.

The consequences of the Court's finding, that to permit the intervention would involve the introduction of a fresh dispute, could be defined by reference to either of two approaches to the interpretation of Article 62 of the Statute.

According to the first approach, since Italy was requesting the Court to decide on the rights which it had claimed, the Court would have to decide whether it was competent to give, by way of intervention procedure, the decision requested by Italy. As already noted, the Italian Government maintained that the operation of Article 62 of the Statute was itself sufficient to create the basis of jurisdiction of the Court in this case. It appeared to the Court that, if it were to admit the Italian contention, it would thereby be admitting that the procedure of intervention under Article 62 would constitute an exception to the fundamental principles underlying its jurisdiction: primarily the principle of consent, but also the principles of reciprocity and equality of States. The Court considered that an exception of this kind could not be admitted unless it were very clearly expressed, which was not the case. It therefore considered that appeal to Article 62 should, if it were to justify an intervention in a case such as that of the Italian Application, be backed by a basis of jurisdiction.

According to the second approach, in a case in which the State requesting the intervention asked the Court to give a judgment on the rights which it was claiming, this would not be a genuine intervention within the meaning of Article 62. That Article would not derogate from the consensualism which underlies the jurisdiction of the Court since the only cases of intervention afforded by that Article would be those in which the intervener was only seeking the preservation of its rights, without attempting to have them recognized. There was nothing to suggest that Article 62 was intended as an alternative means of bringing an additional dispute as a case before the Court, or as a method of asserting the individual rights of a State not a party to the case. Such a dispute may not be brought before the Court by way of intervention.

The Court found that the intervention requested by Italy fell into a category which, on Italy's own showing, is one which cannot be accepted. That conclusion followed from either of the two approaches outlined above, and the court accordingly did not have to decide between them.

Since the Court considered that it should not go beyond the considerations which were in its view necessary to its decision, the various other questions raised before the Court in the proceedings as to the conditions for, and operation of, intervention under Article 62 of the Statute did not have to be dealt with by the Judgment. In particular, the Court, in order to arrive at its decision on the Application of Italy to intervene in the present case, did not have to rule on the question whether, in general, any intervention based on Article 62 must, as a condition for its admission, show the existence of a valid jurisdictional link.

Protection of Italy's interest (paras. 39-43)

Italy had also urged the impossibility, or at least the greatly increased difficulty, of the Court's performing the task entrusted to it by the Special Agreement in the absence of participation in the proceedings by Italy as intervener. Whilst recognizing that if the Court were fully enlightened as to the claims and contentions of Italy, it might be in a better position to give the Parties such indications as would enable them to delimit their areas of continental shelf without difficulty (even though sufficient information for the purpose of safeguarding Italy's rights had been supplied during the present proceedings), the Court noted that the question was not whether the participation of Italy might be useful or even necessary to the Court; it was whether, assuming Italy's non-participation, a legal interest of Italy would be *en cause,* or was likely to be affected by the decision.

The Court considered that it was possible to take into account the legal interest of Italy —as well as of other States of the Mediterranean region—while replying to the questions raised in the Special Agreement. The rights claimed by Italy would be safeguarded by Article 59 of the Statute, which provides that "the decision of the Court has no binding force except between the parties and in respect of that particular case". It was clear from this that principles and rules of international law found by the Court to be applicable to the delimitation between Libya and Malta, and the indications given by the Court as to their application in practice, could be relied on by the Parties against any other State. Furthermore, there could be no doubt that the Court would, in its future judgment in the case, take account, as a fact, of the existence of other States having claims in the region. The judgment would not merely be limited in its effects by Article 59 of the Statute; it would be expressed, upon its face, to be without prejudice to the rights and titles of third States.

Interpretation of Article 62 (paras. 44-46)

Reverting to the question as to whether or not an intervener has to establish a jurisdictional link as between it and the principal parties to the case, the Court recalled that it had already made a summary of the origin and evolution of Article 62 of the Statute of the Court in its judgment of 14 April 1981 on the Application of Malta for permission to intervene in the *Tunisia/Libya* case. The Court had found it possible to reach a decision on the present Application without generally resolving the vexed question of the "valid link of jurisdiction" (see above), and no more needed to be said than that the Court was convinced of the wisdom

of the conclusion reached by its predecessor in 1922, that it should not attempt to resolve in the Rules of Court the various questions which have been raised, but leave them to be decided as and when they occurred in practice and in the light of the circumstances of each particular case.

Operative clause (para. 47)

"47. For these reasons,

THE COURT,

by eleven votes to five,

finds that the Application of the Italian Republic, filed in the Registry of the Court on 24 October 1983, for permission to intervene under Article 62 of the Statute of the Court, cannot be granted.

IN FAVOUR: *President* Elias; *Judges* Lachs, Morozov, Nagendra Singh, Ruda, El-Khani, de Lacharrière, Mbaye, Bedjaoui; *Judges* ad hoc Jiminez de Aréchaga and Castañeda;

AGAINST: *Vice-President* Sette-Camara; *Judges* Oda, Ago, Schwebel and Sir Robert Jennings."

Judges Morozov, Nagendra Singh, Mbaye and Jiménez de Aréchaga appended separate opinions to the Judgment.[161] Vice-President Sette-Camara, Judges Oda, Ago, Schwebel and Sir Robert Jennings appended dissenting opinions.[162]

Following the Court's decision to reject Italy's application for permission to intervene, the main proceedings continued. On 21 March 1984 the President made an Order fixing 12 July 1984 as the time-limit for the filing of Replies by the Libyan Arab Jamahiriya and Malta,[163] both States having expressed a wish to submit a further pleading as provided for in the Special Agreement. The Agents of the Parties filed their respective Replies within the time-limit, and the case thus became ready for hearing. The body of documentation submitted by the Parties in support of their contentions is very extensive (approximately 3,400 pages).

Following the resignation for health reasons of the Judge *ad hoc* Mr. J. Castañeda, appointed by Malta, Malta appointed Mr. N. Valticos as its new judge *ad hoc.*

(iii) *Application for Revision and Interpretation of the Judgement of 24 February 1982 in the case concerning the Continental Shelf (Tunisia/Libyan Arab Jamahiriya) (Tunisia* v. *Libyan Arab Jamahiriya)*[1]^

On 27 July 1984, the Government of the Tunisian Republic submitted to the Court an Application for the revision and interpretation of the Judgment given by the Court on 24 February 1982 in the case concerning the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya).*[165] Tunisia founded its application for revision and interpretation on Articles 61 and 60 of the Statute and Articles 98,99 and 100 of the Rules of Court. Article 61, paragraph 1, of the Statute is worded as follows:

"An application for revision of a judgment may be made only when it is based upon the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Court and also the party claiming revision, always provided that such ignorance was not due to negligence."

Article 60 of the Statute reads:

"The judgment is final and without appeal. In the event of dispute as to the meaning or scope of the judgment, the Court shall construe it upon the request of any party."

To justify its application for revision, the Tunisian Government has invoked the discovery of a new fact. It has requested the Court to declare the application admissible and, in regard to the first sector of the delimitation envisaged by the Court, to revise the delimination line indicated by the Judgment. In the event of the Court's deciding that the application for revision is not admissible, it has requested the Court to construe certain passages of the Judg-

ment concerning this sector. It has further requested the Court to declare in respect of the second sector that it is for the experts of the Parties to establish the exact co-ordinates of the most westerly point of the Gulf of Gabès, which is mentioned in the operative terms of the Court's Judgment.

Pursuant to the Rules of Court, the Vice-President fixed a time-limit within which the Libyan Arab Jamahiriya would be entitled to present written observations on the Tunisian application, in particular on the subject of the admissibility of the application (Rules, Art. 99, para. 2). Those observations were filed within the prescribed time-limit, which expired on 15 October 1984.

Both States have chosen a judge *ad hoc* under Article 31 of the Statute of the Court. Tunisia has appointed Madame S. Bastid, and the Libyan Arab Jamahiriya has appointed Mr. E. Jiménez de Aréchaga.

B. CONTENTIOUS CASES BEFORE A CHAMBER

Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America)[166]

By an Order of 30 March 1984, the Chamber, acceding to a request made by the Parties under the terms of their Special Agreement, appointed a technical expert to assist it in respect of technical matters and, in particular, in preparing the description of the maritime boundary and the charts required.

From 2 April to 11 May 1984 the Chamber held 26 public sittings in the Great Hall of Justice in the Peace Palace to hear arguments presented on behalf of Canada and the United States.

On 12 October 1984, the Chamber delivered its Judgment at a public sitting,[167] of which a summary outline and the complete text of the operative paragraph are given below.

/. *The Special Agreement and the Chamber's jurisdiction* (paras. 1-27)

After recapitulating the various stages in the proceedings and setting out the formal submission of the Parties (paras. 1-13), the Chamber takes note of the provisions of the Special Agreement by which the case was brought before it. Under Article II, paragraph 1, of that Special Agreement, it was:

> "requested to decide, in accordance with the principles and rules of international law applicable in the matter as between the Parties, the following question:
>
> "What is the course of the single maritime boundary that divides the continental shelf and fisheries zones of Canada and the United States of America from a point in latitude 44°IT 12" N, longitude 67°16'46" W to a point to be determined by the Chamber within an area bounded by straight lines connecting the following sets of geographic co-ordinates: latitude40° N, longitude 67° W; latitude40° N, longitude 65° W; latitude 42° N, longitude 65° W?"[168]

The Chamber notes that the Special Agreement imposes no limitation on its jurisdiction other than that resulting from the terms of this question, and that the rights of third States in the marine and submarine areas to which the case related could not in any way be affected by the delimitation. It also notes that, the case having been submitted by special agreement, no preliminary question of jurisdiction arose. The only initial problem that might theoretically arise is whether and to what extent the Chamber is obliged to adhere to the terms of the Special Agreement as regards the starting-point of the line to be drawn—called point A—and the triangular area within which that line is to terminate. Noting the reasons for the Parties' choice of the point and area in question, the Chamber sees a decisive consideration for not adopting any other starting-point or terminal area in the fact that, under international law, mutual agreement between States concerned is the preferred procedure for establishing a maritime delimitation; since Canada and the United States of America had by mutual agreement taken a step towards the solution of their dispute which must not be disregarded, the

Chamber must, in performing the task conferred upon it, conform to the terms by which the Parties have defined it.

The Chamber notes that there are profound differences between the case before it and other delimitation cases previously brought before the Court in that *(a)* the Chamber is requested to draw the line of delimitation itself and not merely to undertake a task preliminary to the determination of a line, and *(b)* the delimitation requested does not relate exclusively to the continental shelf but to both the shelf and the exclusive fishing zone, the delimitation to be by a single boundary. With regard to *(b)*, the Chamber is of the view that there is certainly no rule of international law, or any material impossibility, to prevent it from determining such a line.

II. The delimitation area (paras. 28-59)

The Chamber finds it indispensable to define with greater precision the geographical area—"the Gulf of Maine area"—within which the delimitation has to be carried out. It notes that the Gulf of Maine properly so called is a broad indentation in the eastern coast of the North-American Continent, having roughly the shape of an elongated rectangle whose short sides are made up mainly by the coasts of Massachusetts in the west and Nova Scotia in the east, whose long landward side is made up by the coast of Maine from Cape Elizabeth to the terminus of the international boundary between the United States and Canada, and whose fourth, Atlantic side would be an imaginary line, between Nantucket and Cape Sable, agreed by the Parties to be the "closing line" of the Gulf of Maine.

The Chamber emphasizes the quasi-parallel direction of the opposite coasts of Massachusetts and Nova Scotia. It points out that the reference to "long" and "short" sides is not to be interpreted as an espousal of the idea of distinguishing "primary" and "secondary" coastal fronts. The latter distinction is merely the expression of a human value judgement, which is necessarily subjective and may vary on the basis of the same facts, depending on the ends in view. It points out, with reference to certain arguments put forward by the Parties, that geographical facts are the result of natural phenomena and can only be taken as they are.

The delimitation, the Chamber observes, is not limited to the Gulf of Maine but comprises, beyond the Gulf closing line, another maritime expanse including the whole of the Georges Bank, the main focus of the dispute. The Chamber rejects however the arguments of the Parties tending to involve coasts other than those directly surrounding the Gulf so as to extend the delimitation area to expanses which have in fact nothing to do with it.

After noting that it has up to this point based itself on aspects inherent in physical geography, the Chamber goes on to consider the geological and geomorphological characteristics of the area. It notes that the Parties are in agreement that geological factors are not significant and finds that, given the unity and uniformity of the sea-bed, there are no geomorphological reasons for distinguishing between the respective natural prolongations of the United States and Canadian coasts in the continental shelf of the delimitation area: even the Northeast Channel, which is the most prominent feature, does not have the characteristics of a real trough dividing two geomorphologically distinct units.

As regards another component element of the delimitation area, the "water column", the Chamber notes that while Canada emphasized its character of overall unity, the United States invoked the existence of three distinct ecological régimes separated by natural boundaries the most important of which consisted of the Northeast Channel; the Chamber however, is not convinced of the possibility of discerning, in so fluctuating an environment as the waters of the ocean, any natural boundaries capable of serving as a basis for carrying out a delimitation of the kind requested.

///. Origins and development of the dispute (paras. 60-78)

Beginning with a reference to the Truman Proclamations of 1945, the Chamber summarizes the origins and development of the dispute, which first materialized in the 1960s in relation to the continental shelf, as soon as petroleum exploration had begun on either side, more particularly in certain locations on Georges Bank. In 1976-1977 certain events occurred

which added to the continental shelf dimension that of the waters and their living resources, for both States proceeded to institute an exclusive 200-mile fishery zone off their coasts and adopted regulations specifying the limits of the zone and continental shelf they claimed. In its account of the negotiations which eventually led to the reference of the dispute to the Court, the Chamber notes that in 1976 the United States adopted a line limiting both the continental shelf and the fishing zones and the adoption by Canada of a first line in 1976 (Map No. 2).

The Chamber takes note of the respective delimitation lines now proposed by each Party (Map No. 3). The Canadian line, described like that of 1976 as an equidistance line, is one constructed almost entirely from the nearest points of the baselines from which the breadth of the territorial sea is measured. Those points happen to be exclusively islands, rocks or low-tide elevations, yet the basepoints on the Massachusetts coast which had initially been chosen for the 1976 line have been shifted westward so that the new line no longer takes account of the protrusion formed by Cape Cod and Nantucket Island and is accordingly displaced west. The line proposed by the United States is a perpendicular to the general direction of the coast from the starting-point agreed upon by the Parties, adjusted to avoid the splitting of fishing banks. It differs from the "Northeast Channel line" adopted in 1976 which, according to its authors, had been based upon the "equidistance/special circumstances" rule of article 6 of the 1958 Geneva Convention. The Chamber notes that the two successive lines put forward by Canada were both drawn primarily with the continental shelf in mind, whereas the United States lines were both drawn up initially on the basis of different considerations though both treated the fishery régime as essential.

IV. The applicable principles and rules of international law (paras. 79-112)

After observing that the terms "principles and rules" really convey one and the same idea, the Chamber stresses that a distinction has to be made between such principles or rules and what, rather, are equitable criteria or practical methods for ensuring that a particular situation is dealt with in accordance with those principles and rules. Of its nature, customary international law can only provide a few basic legal principles serving as guidelines and cannot be expected also to specify the equitable criteria to be applied or the practical methods to be followed. The same may however not be true of international treaty law.

To determine the principles and rules of international law governing maritime delimitation, the Chamber begins by examining the Geneva Convention of 29 April 1958 on the Continental Shelf, which has been ratified by both the Parties to the case, who both also recognize that it is in force between them. In particular the Chamber examines article 6, paragraphs 1 and 2, from which a principle of international law may be deduced to the effect that any delimitation of a continental shelf effected unilaterally by one State regardless of the views of the other State or States concerned is not opposable to those States. To this principle may conceivably be added a latent rule that any agreement or other, equivalent solution should involve the application of equitable criteria. The Chamber goes on to consider the bearing on the problem of various judicial decisions and to comment upon the work of the Third United Nations Conference on the Law of the Sea, noting that certain provisions concerning the continental shelf and the exclusive economic zone were, in the Convention of 1982, adopted without any objections and may be regarded as consonant at present with general international law on the question.

As regards the respective positions of the Parties in the light of those findings, the Chamber notes their agreement as to the existence of a fundamental norm of international law calling for a single maritime boundary to be determined in accordance with the applicable law, in conformity with equitable principles, having regard to all relevant circumstances, in order to achieve an equitable result. However, there is no longer agreement between the Parties when each separately seeks to ascertain whether international law might also contain other mandatory rules in the same field. The Chamber rejects the Canadian argument from geographical adjacency to the effect that a rule exists whereby a State any part of whose coasts is less distant from the zones to be attributed than those of the other State concerned would be entitled to have the zones recognized as its own. The Chamber also finds unacceptable the

distinction made by the United States between "primary" and "secondary" coasts and the consequent preferential relationship said to exist between the "principal" coasts and the maritime and submarine areas situated frontally before them.

In concluding this part of its considerations, the Chamber sets out a more precise reformulation of the fundamental norm acknowledged by the Parties:

> "(1) No maritime delimitation between States with opposite or adjacent coasts may be effected unilaterally by one of those States. Such delimitation must be sought and effected by means of an agreement, following negotiations conducted in good faith and with the genuine intention of achieving a positive result. Where, however, such agreement cannot be achieved, delimitation should be effected by recourse to a third party possessing the necessary competence.
>
> "(2) In either case, delimitation is to be effected by the application of equitable criteria and by the use of practical methods capable of ensuring, with regard to the geographic configuration of the area and other relevant circumstances, an equitable result." (para. 112)

V. The equitable criteria and practical methods applicable to the delimitation (paras. 113-163)

Turning to the question of the criteria and methods which are capable of ensuring an equitable result and whose application is prescribed by the above norm, the Chamber is of the view that they must be looked for not in customary international law but in positive international law, and in that connection it examines those provided for by the 1958 Convention on the Continental Shelf, in article 6 (median line in the case of opposite coasts, lateral equidistance line in the case of adjacent coasts). The Chamber points out that a treaty obligation concerning the delimitation of the continental shelf cannot be extended so as to apply to the superjacent waters and, after rejecting the Canadian argument that the combined equidistance/special-circumstances rule has become a rule of general international law, finds that article 6, while in force between the Parties, does not entail either for them or for the Chamber any legal obligation to apply its provisions to the present delimitation.

The Chamber next turns to the question whether any obligation of that kind can have resulted from the conduct of the Parties and whether the conduct of one of them might not have constituted an acquiescence in the application of a specific method or resulted in a *modus vivendi* with regard to a line corresponding to such an application. Dealing first with a Canadian argument that the conduct of the United States had evinced a form of consent to the application of the equidistance methods, especially in the Georges Bank sector, the chamber finds that reliance on acquiescence or estoppel is not warranted in the circumstances and that the conduct of the Parties does not prove the existence of any such *modus vivendi*. As for the argument of the United States based on Canada's failure to react to the Truman Proclamation, that amounted to claiming that delimitation must be effected in accordance with equitable principles; consequently, the United States position on that point merely referred back to the "fundamental norm" acknowledged by both Parties. On the basis of that analysis, the Chamber concludes that the Parties, in the current state of the law governing relations between them, are not bound, under a rule of treaty law or other rule, to apply certain criteria or certain methods for the establishment of the single maritime boundary, and that the Chamber is not so bound either.

Regarding possible criteria, the Chamber does not consider that it would be useful to undertake a more or less complete enumeration in the abstract of those that might be theoretically conceivable, or an evaluation of their greater or lesser degree of equity. It also notes, in regard to the practical methods, that none would intrinsically bring greater justice or be of greater practical usefulness than others, and that there must be willingness to adopt a combination of different methods whenever circumstances so require.

VI. The criteria and methods proposed by the Parties and the lines resulting from their application to the delimitation (paras. 164-189)

Once the dispute had taken on its present dual dimension (first the continental shelf and

subsequently fisheries), both Parties took care to specify and publish their respective claims, proposing the application of very different criteria and the use of very different practical methods. Each had successively proposed two delimitation lines (Maps Nos. 2 and 3).

The United States had first proposed, in 1976, a criterion attaching determinative value to the natural, especially ecological, factors of the area. Its line corresponded approximately to the line of the greatest depths, leaving German Bank to Canada and Georges Bank to the United States. The Chamber considers that this line, inspired as it was by the objective of distributing fishery resources in accordance with a "natural" criterion, was too biased towards one aspect (fisheries) to be considered as equitable in relation to the overall problem. In 1982 the United States proposed a second line with the general direction of the coast as its central idea, the criterion applied being that of the frontal projection of the primary coastal front. This application resulted in a perpendicular to the general direction of the coastline, adjusted however to take account of various relevant circumstances, in particular such ecological circumstances as the existence of fishing banks. The Chamber considers it almost an essential condition for the use of such a method that the boundary to be drawn should concern two countries whose territories lie successively along a more or less rectilinear coast, for a certain distance at least. But it would be difficult to imagine a case less conducive to the application of that method than the Gulf of Maine case. The circumstances would moreover entail so many adjustments that the character of the method would be completely distorted.

As for the Canadian proposals, the Chamber considers together the two lines proposed respectively in 1976 and 1977, as they are essentially based on the same criterion, that of the equal division of disputed areas—and the same method—equidistance. Canada described the first line as a strict equidistance line, and the second as an equidistance line corrected on account of the special circumstance formed by the protrusion of Nantucket Island and the Cape Cod peninsula, alleged to be geographical anomalies that Canada is entitled to discount, so that its delimitation line is displaced towards the west. The Chamber notes that in the case before it the difference in the lengths of the two States' coastlines within the delimitation area is particularly marked and would constitute a valid ground for making a correction even if this factor in itself furnished neither a criterion nor a method of delimitation. Furthermore, the Canadian line appears to neglect the difference between two situations clearly distinguished by the 1958 Convention, namely that of adjacent coasts and that of opposite coasts, and fails to take account of the fact that the relationship of lateral adjacency between, on the one hand, part of the coast of Nova Scotia and its prolongation across the opening of the Bay of Fundy and, on the other hand, the coast of Maine, gives way to a relationship of frontal opposition between the other relevant part of the coast of Nova Scotia and the coast of Massachusetts. The Canadian line fails to allow for this new relationship, which is nevertheless the most characteristic feature of the objective situation in the context of which the delimitation is to be effected.

VII. The criteria and methods held by the Chamber to be applicable. Line resulting from their application to the delimitation (paras. 190-229)

The Chamber considers that, having regard to all those considerations, it must put forward its own solution independently of the Parties. It must exclude criteria which, however equitable they may appear in themselves, are not suited to the delimitation of both of the two objects in respect of which the delimitation is requested—the continental shelf and the fishery zones. Inevitably, criteria will be preferred which, by their more neutral character, are best suited for use in a multi-purpose delimitation. The Chamber feels bound to turn in the present case to criteria more especially derived from geography, and it is inevitable that its basic choice should favour the criterion whereby one should aim at an equal division of areas where the maritime projections of the coasts of the States between which delimitation is to be effected converge and overlap. However, some corrections must be made to certain effects of applying that criterion that might be unreasonable, so that the concurrent use of auxiliary criteria may appear indispensable. As regards the practical methods to be used for giving effect to the criteria indicated, the Chamber considers that, like the criteria themselves, they

must be basically founded upon geography and be as suitable for the delimitation of the seabed and subsoil as to that of the superjacent waters and their living resources. In the outcome, therefore, only geometrical methods will serve.

Turning to the concrete choice of the methods it considers appropriate for implementing the equitable criteria it has decided to apply, the Chamber notes that the coastal configuration of the Gulf of Maine excludes any possibility of the boundary's being formed by a basically unidirectional line, given the change of situation noted in the geography of the Gulf. It is only in the northeastern sector of the Gulf that the prevailing relationship of the coasts of the United States and Canada is one of lateral adjacency. In the sector closest to the closing line, it is one of oppositeness. In the Chamber's view it is therefore obvious that, between point A and the line from Nantucket to Cape Sable, i.e., within the limits of the Gulf of Main proper, the delimitation line must comprise two segments.

In the case of *tht first segment,* the one closest to the international boundary terminus, there are no special circumstances to militate against the division into, as far as possible, equal parts of the overlapping created by the lateral superimposition of the maritime projections of the two States' coasts. Rejecting the employment of a lateral equidistance line on account of the disadvantages it is found to entail, the Chamber follows the method of drawing, from point A, two perpendiculars to the two basic coastal lines, namely the line from Cape Elizabeth to the international boundary terminus and the line running thence to Cape Sable. At point A, those two perpendiculars form an acute angle of 278^{C}. It is the bisector for this angle which is prescribed for the first sector of the delimitation line (Map No. 4).

In turning to the *second segment,* the Chamber proceeds by two stages. First, it decides the method to be employed in view of the quasi-parallelism between the coasts of Nova Scotia and Massachusetts. As these are opposite coasts, the application of a geometrical method can only result in the drawing of a median delimitation line approximately parallel to them. The Chamber finds, however, that, while a median line would be perfectly legitimate if the international boundary ended in the very middle of the coast at the back of the Gulf, in the actual circumstances where it is situated at the northeastern corner of the rectangle which geometrically represents the shape of the Gulf, the use of a median line would result in an unreasonable effect, in that it would give Canada the same overall maritime projection in the delimitation area as if the entire eastern part of the coast of Maine belonged to Canada instead of the United States. That being so, the Chamber finds a second stage necessary, in which it corrects the median line to take account of the undeniably important circumstance of the difference in length between the two States' coastlines abutting on the delimitation area. As the total length of the United States coastlines on the Gulf is approximately 284 nautical miles, and that of the Canadian coasts (including part of the coast of the Bay of Fundy) is approximately 206 nautical miles, the ratio of the coastlines is 1.38 to 1. However, a further correction is necessitated by the presence of Seal Island off Nova Scotia. The Chamber considers that it would be excessive to consider the coastline of Nova Scotia as displaced in a southwesterly direction by the entire distance between Seal Island and that coast, and therefore considers it appropriate to attribute half effect to the island. Taking that into account, the ratio to be applied to determine the position of the corrected median line on a line across the Gulf between the points where the coasts of Nova Scotia and Massachusetts are closest (i.e, a line from the tip of Cape Cod to Chebogue Point) becomes 1.32 to 1. The second segment of the delimitation will therefore correspond to the median line as thus corrected, from its intersection with the bisector drawn from point A (first segment) to the point where it reaches the closing line of the Gulf (Map No. 4).

As for the *third segment* of the delimitation, relating to that part of the delimitation area lying outside the Gulf of Maine, this portion of the line is situated throughout its length in the open ocean. It appears obvious that the most appropriate geometrical method for this segment is the drawing of a perpendicular to the closing line of the Gulf. One advantage of this method is to give the final segment of the line practically the same orientation as that given by

both Parties to the final portion of the respective lines they envisaged. As for the exact point on the closing line from which the perpendicular should be drawn seawards, it will coincide with the intersection of that line with the corrected median line. Starting from that point, the third segment crosses Georges Bank between points on the 100-fathom depth line with the following co-ordinates:

42°11'.8N, 67°ll'.0W
41°1O'.1N, 66°17'.9W

The terminus of this segment will be situated within the triangle defined by the Special Agreement and coincide with the last point it reaches within the overlapping of the respective 200-mile zones claimed by the two States.

VIII. Verification of the equitable character of the result (paras. 230-241)

Having drawn the delimitation line requested by the Parties, the final task of the Chamber is to verify whether the result obtained can be considered as intrinsically equitable in the light of all the circumstances. While such verification is not absolutely necessary where the first two segments of the line are concerned, since the Chamber's guiding parameters were provided by geography, the situation is different as regards the third segment, which is the one of greatest concern to the Parties on account of the presence in the area it traverses of Georges Bank, the principal stake in the proceedings on account of the potential resources of its subsoil and the economic importance of its fisheries.

In the eyes of the United States, the decisive factor lies in the fishing carried on by the United States and its nationals ever since the country's independence and even before, activities which they are held to have been alone in pursuing over the greater part of that period, and which were accompanied by other maritime activities concerning navigational assistance, rescue, research, defence, etc. Canada laid greater emphasis on the socio-economic aspects, concentrating on the recent past, especially the last 15 years, and presenting as an equitable principle the idea that a single maritime boundary should ensure the maintenance of the existing structures of fishing which, according to it, were of vital importance to the coastal communities of the area.

The Chamber explains why it cannot subscribe to these contentions and finds that it is clearly out of the question to consider the respective scale of activities in the domain of fishing or petroleum exploitation as an equitable criterion to be applied in determining the delimitation line. What the Chamber would regard as a legitimate scruple lies rather in concern lest, unexpectedly, the overall result should appear radially inequitable as entailing disastrous repercussions on the subsistence and economic development of the populations concerned. It considers that there is no reason to fear any such danger in the present case on account of the Chamber's choice of delimitation line or, more especially, the course of its third segment, and concludes that the overall result of the delimitation is equitable. Noting the long tradition of friendly and fruitful co-operation in maritime matters between Canada and the United States, the Chamber considers that the Parties will be able to surmount any difficulties and take the right steps to ensure the positive development of their activities in the important domains concerned.

For these reasons, the Chamber renders the decision couched in the following terms:

Operative clause (para. 243)

"For these reasons,

THE CHAMBER,

by four votes to one,

Decides

That the course of the single maritime boundary that divides the continental shelf and the exclusive fisheries zones of Canada and the United States of America in the Area referred to in the Special Agreement concluded by those two States on 29 March 1979 shall be defined by geodetic lines connecting the points with the following co-ordinates

	Latitude North	Longitude West
A	44°11'12"	67°16'46"
B	42°53'14"	67°44'35"
C	42°31'08"	67°28'05"
D	44°27'05"	65°41'59"

IN FAVOUR: *President* Ago; *Judges* Mosler and Schwebel, *Judge* ad hoc Cohen;

AGAINST: *Judge* Gros."

Judge Schwebel appended a separate opinion to the Judgment[169] and Judge Gros appended a dissenting opinion.[170]

C. REQUEST FOR ADVISORY OPINION

Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal[171]

On 10 September 1984 the Court received a request for an advisory opinion, submitted by the Committee on Applications for Review of Judgements of the Administrative Tribunal of the United Nations, in respect of Judgement No. 333, delivered at Geneva on 8 June 1984 by the Administrative Tribunal in the case of *Yakimetz* v. *Secretary-General of the United Nations}*[12] On 23 August 1984, at the request of the interested party, the Committee had decided to request an advisory opinion from the Court, under article 11 of the statute of the Administrative Tribunal.

By an Order dated 13 September 1984 the President fixed 14 December 1984 as the time-limit for the submission of written statements by the United Nations and its Member States, in accordance with article 66, paragraph 2, of the statute of the Court.[173] By an Order of 30 November 1984, this time-limit was extended to 28 February 1985.[174] Statements have been submitted by the Governments of the Union of Soviet Socialist Republics, Italy, Canada and the United States of America, and on behalf of the Secretary-General of the United Nations. The latter has also transmitted a statement on behalf of the person who was the subject of the judgement delivered by the Administrative Tribunal.

The President of the Court fixed 31 May 1985 as the time-limit within which States and the Organization having filed written statements might submit written comments on the statements presented by others, in accordance with article 66, paragraph 4, of the statute. At the request of the Applicant and by a decision of the President, the time-limit was extended to 1 July 1985.

Written comments have been sent by the Secretary-General of the United Nations, who has also transmitted comments made by the person in respect of whom the Administrative Tribunal judgement was rendered, and from the Government of the United States of America.

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6. INTERNATIONAL LAW COMMISSION[175]

THIRTY-SIXTH SESSION OF THE COMMISSION[176]

The International Law Commission held its thirty-sixth session at Geneva from 7 May to 27 May 1984. In accordance with General Assembly resolutions 38/138 and 38/132 of 19 December 1983, it continued its work on all the topics in its current programme.

On the question of the draft Code of Offences against the Peace and Security of Mankind, the Commission had before it the second report on the topic submitted by the Special Rapporteur,[177] which dealt with the list of acts to be classified as offences against the peace

and security of mankind. In its conclusions: *(a)* with regard to the content *ratione personae* of the draft Code, the Commission intended that it should be limited at that stage to the criminal liability of individuals, without prejudice to the subsequent consideration of the possible application to States of the notion of international criminal responsibility; *(b)* with regard to the first stage of the Commission's work on the draft Code, the Commission intended to begin by drawing up a provisional list of offences while bearing in mind the drafting of an introduction summarizing the general principles of international criminal law relating to offences against the peace and security of mankind; (c) with regard to the content *ratione materiae* of the draft Code, the Commission intended to include the offences covered in the 1954 Code, with appropriate modifications of form and substance; there also was a general trend in the Commission in favour of including in the draft Code colonialism, *apartheid and.* possibly serious damage to the human environment and economic aggression, if appropriate legal formulations could be found.

With respect to the question of the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier the Commission had before it the four remaining instalments of the fourth report[178] as well as the fifth report[179] submitted by the Special Rapporteur. The latter document was essentially a progress report, mainly intended to establish a linkage between what had been done so far and the work that lay ahead. Its purpose was to set out the current status of the draft articles and the stage that had been reached in considering each one and to indicate the main points which had arisen with regard to the draft articles during the discussion in the Sixth Committee. The Commission considered draft articles 20-35 and decided to refer them to the Drafting Committee. The Commission commenced its discussion of draft articles 36 to 42 and decided to resume its consideration of those articles at its next session. The Commission also considered the report of the Drafting Committee and decided to adopt provisionally draft articles 9,10,11,12,13,14,15,16,17,19 and 20, as well as a consequential amendment to the text of draft article 8.

Regarding the question of jurisdictional immunities of States and their property, the Commission had before it the sixth report submitted by the Special Rapporteur.[180] The report dealt with part III of the draft articles, concerning exceptions to State immunity. The Commission considered article 11, paragraph 2, and articles 16, 17 and 18 and decided to refer them to the Drafting Committee. It also considered article 19 (Ships employed in commercial service) but owing to lack of time was not in a position to conclude its deliberations on the article; for the same reason, it was unable to take up article 20 (Arbitration). The Commission also provisionally adopted draft articles 13, 14, 16, 17 and 18.

With respect to the question of international liability for injurious consequences arising out of acts not prohibited by international law, the Commission held a debate in which some members devoted their attention primarily to the Special Rapporteur's fourth report[181] and to questions concerning the nature of the topic and its future treatment by the Commission. Other members, while not neglecting those fundamental issues, found it convenient to relate their remarks to the development of the topic in the Special Rapporteur's fifth report[182] and in particular to the draft articles proposed in that report. A number of members expressed appreciation for the Secretariat's comprehensive survey of State practice relevant to the topic.[183]

Though significant differences of opinion and emphasis remained, there was already general agreement that the topic was correctly centred on the need to avoid—or to minimize and, if necessary, to repair—transboundary loss or injury arising as a physical consequence of an activity within the territory or control of another State. There was almost unanimous agreement that the Commission's work on the topic, as currently delineated, should continue.

Many who spoke stressed the difficulty and novelty of the topic but concluded that the challenges must be met, if only because scientific progress could not be halted and because the traditional rules of international responsibility for wrongful acts were no longer responsive to all of the international community's needs. There was complete agreement that those needs could be met only by increased measures of international co-operation, of the kind exhibited

in multilateral treaty régimes designed to regulate particular transboundary dangers. There were, however, different views about the possibility of translating the duty of co-operation, or the principle of international solidarity, into a framework treaty.

Regarding the question of the law of the non-navigational uses of international watercourses, the Commission had before it the second report submitted by the Special Rapporteur[184] which contained a revised tentative draft of a convention on the law of the non-navigational uses of international watercourses. On the suggestion of the Special Rapporteur, the Commission focused its discussion on draft articles 1 to 9 and questions related thereto. Opinions on certain basic issues concerning those articles varied considerably. At the conclusion of its debate on the item, the Commission decided to refer to the Drafting Committee draft articles 1 to 9 contained in the second report, for consideration in the light of the debate. Owing to lack of time, the Drafting Committee was unable to consider those articles at the current session.

With regard to the topic of State responsibility, the Commission considered the Special Rapporteur's fifth report,[185] which consisted mainly of 12 new draft articles intended to replace earlier draft articles proposed by the Special Rapporteur. Several members commented generally that the submission of the new set of draft articles marked a major breakthrough in the consideration of part two of the topic by the Commission. At the end of its discussion, the Commission referred articles 5 and 6 to the Drafting Committee on the understanding that members who had not had the opportunity to comment on those articles at the current session could do so at an early stage of the next session, in order that the Drafting Committee could also take those comments into account.

CONSIDERATION BY THE GENERAL ASSEMBLY

At its thirty-ninth session, the General Assembly had before it the report of the International Law Commission on the work of its thirty-sixth session.[186] By its resolution 39/85 of 13 December 1984,[187] adopted on the recommendation of the Sixth Committee,[188] the General Assembly recommended that the International Law Commission should continue its work on all the topics in its current programme; reaffirmed its previous decisions concerning the increased role of the Codification Division of the Office of Legal Affairs of the Secretariat and those concerning the documentation of the International Law Commission; and reaffirmed its wish that the Commission continue to enhance its co-operation with intergovernmental legal bodies whose work was of interest for the progressive development of international law and its codification. Moreover, by its resolution 39/80,[189] adopted on the same date, also on the recommendation of the Sixth Committee,[190] the Assembly requested the Commission to continue its work on the elaboration of the draft Code of Offences against the Peace and Security of Mankind by elaborating an introduction as well as a list of the offences, taking into account the progress made at its thirty-sixth session, as well as the views expressed during the thirty-ninth session of the General Assembly.

7. UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW[191]

SEVENTEENTH SESSION OF THE COMMISSION[192]

The United Nations Commission on International Trade Law held its seventeenth session in New York, from 25 June to 10 July 1984.

With respect to international payments, the Commission held a general discussion on the two draft Conventions under consideration, namely the draft convention on international bills of exchange and international promissory notes and the draft convention on International cheques, and thereafter considered the major and other issues raised by Gov-

ernments in their observations on the two draft Conventions. In view of the significant degree of support for the unification of negotiable instruments law along the lines agreed to by the Commission at earlier sessions, the Commission agreed that further work on that subject was justified. The Commission decided, however, that such work should concentrate on the draft convention on international bills of exchange and international promissory notes and that the work on the draft convention on international cheques should be postponed. Moreover, there was general agreement in the Commission that the draft chapters of the legal guide on electronic funds[193] that the Commission had before it already constituted an excellent beginning to the work in the field and laid the legal basis for the development of an international common understanding of the legal issues involved.

After considering the reports of the Working Group on International Contract Practices on the work of its sixth and seventh sessions, the Commission expressed its appreciation to the Working Group for having completed its task by adopting the draft text of a model law on international commercial arbitration[194] and decided to consider, at its eighteenth session, the draft text in the light of comments received from Governments and interested international organizations, with a view to finalizing and adopting the text of a model law on international commercial arbitration.

The Commission also discussed a report of the Secretary-General on the liability of operators of transport terminals.[195] The Commission decided to assign to its Working Group on International Contract Practices the task of formulating uniform rules on the liability of operators of transport terminals. It further decided that the mandate of the Working Group should be to base its work on the above-mentioned report of the Secretary-General and on the UNIDROIT preliminary draft Convention[196] and the explanatory report thereto prepared by UNIDROIT,[197] and that the Working Group should also consider issues not dealt with in the UNIDROIT preliminary draft convention, as well as any other issues which it considered to be relevant.

With regard to the new international economic order, the Commission expressed its satisfaction with the work thus far accomplished by its Working Group on the New International Economic Order in connection with the preparation of the legal guide on drawing up contracts for industrial works. There was general agreement that, in order to expedite the work, two sessions of the Working Group should be held prior to the eighteenth session of the Commission.

The Commission also discussed-a report of the Secretary-General which set forth the main activities of the UNCITRAL secretariat for the purpose of co-ordination of work in the field of international trade law since the sixteenth session[198] and expressed its appreciation for the co-operation shown by the other organizations active in the field of international trade law.

Upon the completion of its consideration of a report of the Secretary-General concerning the 1983 revision of the Uniform Customs and Practice for Documentary Credits by the International Chamber of Commerce,[199] the Commission, expressing its appreciation to the International Chamber of Commerce for having transmitted to it the revised text of "Uniform Customs and Practice for Documentary Credits" and noting that it constituted a valuable contribution to the facilitation of international trade, commended the use of the 1983 revision, as from 1 October 1984, in transactions involving the establishment of a documentary credit.

With respect to training and assistance, the Commission decided that it would be desirable to continue the sponsorship of symposia and seminars on international trade law in collaboration with other organizations. It also affirmed the importance of regional symposia and seminars, both for the purpose of promoting the work of the Commission and for the purpose of making participants, particularly from developing countries, aware of current legal problems of international trade. The Commission approved the approach taken by the Secretariat in organizing symposia and seminars.

CONSIDERATION BY THE GENERAL ASSEMBLY

At its thirty-ninth session, the General Assembly, by its resolution 39/82 of 13 December 1984,[200] adopted on the recommendation of the Sixth Committee,[201] commended the Commission for the progress made in its work, in particular towards the preparation of a draft convention on international bills of exchange and international promissory notes, a model law on international commercial arbitration, a legal guide on drawing up international contracts for the construction of industrial works and a legal guide on electronic funds transfers, and for having reached decisions by consensus; reaffirmed the mandate of the Commission, as the core legal body within the United Nations system in the field of international trade law, to co-ordinate legal activities in the 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 should continue to maintain close co-operation with the other international organs and organizations, including regional organizations; recommended that the Commission should continue its work on the topics included in its programme of work; and reaffirmed the important role of the International Trade Law Branch of the Office of Legal Affairs of the Secretariat, as the substantive secretariat of the Commission, in assisting in the implementation of the work programme of the Commission.

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

id) Progressive development of the principles and norms of international law relating to the new international economic order

By its resolution 39/75 of 13 December 1984,[202] adopted on the recommendation of the Sixth Committee,[203] the General Assembly, recognizing the need for a systematic and progressive development of the principles and norms of international law relating to the new international economic order, expressed its appreciation to the United Nations Institute for Training and Research for the completion of the analytical study on the progressive development of the principles and norms of international law relating to the new international economic order[204] and urged Member States to submit their views and comments on the study, including proposals concerning further action and procedures to be adopted within the framework of the Sixth Committee with regard to the consideration of the analytical study.

ib) Observer status of national liberation movements recognized by the Organization of African Unity and/or by the League of Arab States

By its resolution 39/76 of 13 December 1984,[205] adopted on the recommendation of the Sixth Committee,[206] the General Assembly urged all States that had not done so, in particular those which were hosts to international organizations or to conferences convened by, or held under the auspices of, international organizations of a universal character, to consider as soon as possible the question of ratifying, or acceding to, the Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character[207] and called once more upon the States concerned to accord to the delegations of the national liberation movements recognized by the Organization of African Unity and/or by the League of Arab States, and accorded observer status by international organizations, the facilities, privileges and immunities necessary for the performance of their functions in accordance with the provisions of the above-mentioned Convention.

(c) Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts[208]

By its resolution 39/77 of 13 December 1984,[209] adopted on the recommendation of the Sixth Committee,[210] the General Assembly, convinced of the continuing value of established humanitarian rules relating to armed conflicts and the need to respect and ensure respect for those rules in all circumstances within the scope of the relevant international instruments pending the earliest possible termination of such conflicts, reiterated its call to all States to consider at the earliest possible date the matter of ratifying or acceding to the two Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts and called upon all States becoming parties to Protocol I to consider the matter of making the declaration provided for under article 90 of that Protocol.

(d) Development and strengthening of good-neighbourliness between States

By its resolution 39/78 of 13 December 1984,[211] adopted on the recommendation of the Sixth Committee,[212] the General Assembly reaffirmed that good-neighbourliness fully conformed with the purposes of the United Nations and should be founded upon the strict observance of the principles of the Charter of the United Nations and of the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations,[213] and so presupposed the rejection of any acts seeking to establish zones of influence or domination; deemed it appropriate, on the basis of the working paper concerning the development and strengthening of good-neighbourliness between States,[214] as well as of other proposals and ideas which had been or would be submitted by States, and the replies and views of States and international organizations, to start clarifying and formulating the elements of good-neighbourliness as part of a process of elaboration of a suitable international document on the subject; and decided to proceed with the task of identifying and clarifying the elements of good-neighbourliness within the framework of a working group or other appropriate organ of the Sixth Committee as might be decided upon by the Committee when organizing its work at the fortieth session of the Assembly.

(e) Peaceful settlement of disputes between States

By its resolution 39/79 of 13 December 1984,[215] adopted on the recommendation of the Sixth Committee,[216] the General Assembly, considering that the question of the peaceful settlement of disputes should represent one of the central concerns for States and for the United Nations, and that efforts for strengthening the process of the peaceful settlement of disputes should be continued, again urged all States to observe and promote in good faith the provisions of the Manila Declaration on the Peaceful Settlement of International Disputes[217] in the settlement of their international disputes; stressed the need to continue efforts to strengthen the process of the peaceful settlement of disputes through the progressive development and codification of international law and through enhancing the effectiveness of the United Nations in that field; and requested the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, during its session in 1985, to continue its work on the question of the peaceful settlement of disputes between States.

if) Enhancing the effectiveness of the principles of non-use of force in international relations

In accordance with General Assembly resolution 38/133 of 19 December 1984, the Special Committee on Enhancing the Effectiveness of the Principles of Non-Use of Force in International Relations met at United Nations Headquarters from 21 February to 16 March 1984.[218] The Committee had before it the draft World Treaty on the Non-Use of Force in International Relations, submitted by the Union of Soviet Socialist Republics.[219] In addition, the reconstituted Working Group had before it the working paper submitted at the 1979 session of the Committee by Belgium, France, the Federal Republic of Germany, Italy and the

United Kingdom,[220] a revised working paper submitted at the 1981 session of the Committee by 10 non-aligned countries (Benin, Cyprus, Egypt, India, Iraq, Morocco, Nepal, Nicaragua, Senegal and Uganda)[221] and a proposal submitted by the Chairman[222] at the 1982 session of the Committee.

The Committee held a general exchange of views on the general aspects of the matter under consideration which reflected opposing approaches to the mandate and work of the Committee.

The Working Group conducted a discussion of the "headings" in the paper submitted by the Committee's Chairman at its 1982 session[222] pursuant to the agreement reached at the 1983 session on the basis of the proposals of the Chairman adopted by consensus at that session. Subsequently, the Chairman circulated to the Working Group an informal paper containing a compilation of officially submitted proposals to date.[223]

Since the Committee had not completed its work, it generally recognized the desirability of further consideration of the question before it.

At its thirty-ninth session, the General Assembly, by its resolution 39/81 of 13 December 1983,[224] adopted on the recommendation of the Sixth Committee,[225] decided that the Special Committee should continue its work with the goal of drafting, at the earliest possible date, a world treaty on the non-use of force in international relations as well as the peaceful settlement of disputes or such other recommendations as the Committee deemed appropriate and requested the Special Committee, in order to ensure progress in its work, to speed up at its session in 1985 the elaboration of the formulas of the working paper containing the main elements of the principle of non-use of force in international relations, taking duly into account the proposals submitted to it and the efforts undertaken at its sessions in 1982, 1983 and 1984.

(g) Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives

By its resolution 39/83 of 13 December 1984,[226] adopted on the recommendation of the Sixth Committee,[227] the General Assembly urged States to observe and to implement the principles and rules of international law governing diplomatic and consular relations and, in particular, to take all necessary measures in conformity with their international obligations to ensure effectively the protection, security and safety of all diplomatic and consular missions and representatives officially present in territory under their jurisdiction, including practicable measures to prohibit in their territories illegal activities of persons, groups and organizations that encouraged, instigated, organized or engaged in the perpetration of acts against the security and safety of such missions and representatives; recommended that States should cooperate closely through, *inter alia,* contacts between the diplomatic and consular missions and the receiving State, with regard to practical measures designed to enhance the protection, security and safety of diplomatic and consular missions and representatives and with regard to exchange of information on the circumstances of all serious violations thereof; called upon States that had not yet done so to consider becoming parties to the instruments relevant to the protection, security and safety of diplomatic and consular missions and representatives; also called upon States, in cases where a dispute arose in connection with a violation of the principles and rules of international law concerning the inviolability of diplomatic and consular missions and representatives, to make use of the means for peaceful settlement of disputes, including the good offices of the Secretary-General; and requested: (a) all states to report to the Secretary-General as promptly as possible serious violations of the protection, security and safety of diplomatic and consular missions and representatives; *(b)* the State in which the violation had taken place—and, to the extent applicable, the State where the alleged offender was present—to report as promptly as possible on measures taken to bring the offender to justice and eventually to communicate, in accordance with its laws, the final outcome of the proceedings against the offender, and on measures adopted with a view to preventing a repetition of such violations.

(h) Drafting of an international convention against the recruitment, use, financing and training of mercenaries

By its resolution 39/84 of 13 December 1984[228] adopted on the recommendation of the Sixth Committee,[229] the General Assembly decided to renew the mandate of the *Ad Hoc* Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries to enable it to continue its work on the drafting of an international convention on the subject and requested the *Ad Hoc* Committee, in the fulfilment of its mandate, to use the draft articles contained in chapter IV of its report, entitled "Consolidated Negotiating Basis of a convention against the recruitment, use, financing and training of mercenaries",[230] as a basis for future negotiation on the text of the proposed international convention.

(*i*) United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizations

By its resolution 39/86 of 13 December 1984,[231] adopted on the recommendation of the Sixth Committee,[232] the General Assembly decided that the United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizations should be held at Vienna from 18 February to 21 March 1986; requested the Secretary-General to invite for the participation in the Conference: *(a)* all States; *(b)* Namibia, represented by the United Nations Council for Namibia; (c) representatives of organizations that had received a standing invitation from the Assembly to participate in the sessions and the work of all international conferences convened under its auspices in the capacity of observers, in accordance with Assembly resolutions 3237 (XXIX) of 22 November 1974 and 31/152 of 20 December 1976; *(d)* representatives of the national liberation movements recognized in its region by the Organization of African Unity as observers, in accordance with Assembly resolution 3280 (XXIX) of 10 December 1984; *(e)* representatives of international intergovernmental organizations that had traditionally been invited to participate as observers at legal codification conferences convened under the auspices of the United Nations, in a capacity to be considered during the consultations prior to the Conference and to be decided upon by the Assembly at its fortieth session; referred to the Conference, as the basic proposal for its consideration, the draft articles on the law of treaties between States and international organizations or between international organizations adopted by the International Law Commission at its thirty-fourth session; and appealed to participants in the Conference to organize consultations, primarily on the organization and methods of work of the Conference, including rules of procedure, and on major issues of substance, including final clauses and settlement of disputes, prior to the convening of the Conference in order to facilitate a successful conclusion of its work through the promotion of general agreement.

(*j*) Report of the Committee on Relations with the Host Country[233]

In accordance with its resolution 38/140 of 19 December 1983, the General Assembly decided that the Committee on Relations with the Host Country should continue its work, in conformity with resolution 2819 (XXVI) of 15 December 1971.

In its report to the General Assembly at its thirty-ninth session, the Committee included a set of recommendations whereby it, *inter alia*, urged the host country to continue to take measures to apprehend, bring to justice and punish all those responsible for committing or conspiring to commit criminal acts against missions accredited to the United Nations as provided for in the 1972 Federal Act for the Protection of Foreign Officials and Official Guests of the United States; drew the attention to the establishment of a contact group on immunities of members of missions to the United Nations and expressed the hope that the work of the group would help to establish procedures which would assist in the prosecution of lawbreakers committing criminal acts against diplomatic missions and their personnel; and reiterated that adherence of all Member States to the Headquarters Agreement and other relevant agreements was an indispensable condition for the normal functioning of the United

Nations and permanent missions in New York and underlined the necessity to avoid any action not consistent with obligations in accordance with the Headquarters Agreement and international law.

The General Assembly, by its resolution 39/87 of 13 December 1984,[234] adopted on the recommendation of the Sixth Committee,[235] endorsed the recommendations of the Committee on Relations with the Host Country contained in paragraph 58 of its report; urged the host country to continue to take all necessary measures to ensure effectively the protection, security and safety of the missions accredited to the United Nations and their personnel, including practicable measures to prohibit illegal activities of persons, groups and organizations that encouraged, instigated, organized or engaged in the perpetration of acts and activities against the security and safety of such missions and representatives; and called upon all countries, especially the host country, to build up public awareness by explaining, through all available means, the importance of the role played by the United Nations and all missions accredited to it in the strengthening of international peace and security.

(k) Question concerning the Charter of the United Nations and the strengthening of the role of the Organization

In accordance with General Assembly resolution 38/141 of 19 December 1983, 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 2 to 27 April 1984.[236]

The Special Committee decided that its Working Group should discuss the questions referred to in paragraph 3 of the resolution.

In dealing with the question of the maintenance of international peace and security, the Working Group had before it a working paper entitled "Prevention and removal of threats to the peace and of situations which may lead to international friction or give rise to a dispute"[237] submitted by the Federal Republic of Germany, Italy, Japan and Spain, later joined by New Zealand. Subsequent to the introduction of the working paper by the co-sponsors, the Chairman stated that on the basis of his discussions with the co-sponsors and other interested delegations it was his understanding that the working paper had been put forward as a draft basis for discussion on the question of the prevention and removal of threats to the peace and of situations which might lead to international friction or give rise to a dispute, and that it was understood that the question was one of the aspects of the problem of the maintenance of international peace and security as set out in paragraph 3 (a) of resolution 38/141 and that discussion of the working paper was without prejudice to the right of any delegation to submit additional papers for consideration on the same level on that or other aspects of the Special Committee's mandate. There was widespread support for the ideas underlying the working paper. The view was expressed, however, that conflict prevention could not be confined to the functioning of the United Nations organs and should deal also with the obligations of States.[238]

In its consideration of the proposal contained in the working paper entitled "Establishment of a permanent commission on good offices, mediation and conciliation for the settlement of disputes and the prevention of conflicts among States" submitted to the General Assembly at its thirty-eighth session by Nigeria, the Philippines and Romania,[239] the delegations sponsoring the proposal pointed out that its purpose was to strengthen the capabilities of the United Nations to act more effectively and less formally in order to find solutions for international disputes and situations by means of permanent ongoing contacts with States, thus promoting negotiated solutions between the parties. The proposed commission would perform activities in the field of preventive diplomacy in order to forestall the aggravation of disputes and situations. A number of delegations expressed their appreciation for the proposal, underscoring its far-reaching significance which deserved careful analysis. However, qualifications, doubts or reservations were expressed regarding certain aspects of the working paper.[240]

As to the proposal concerning the elaboration of a handbook on the peaceful settlement of disputes between States,[241] the Special Committee reached the conclusion that the Secretary-General should be requested by the General Assembly to prepare, on the basis of the outline reproduced in the Committee's report[242] and in the light of the views expressed in the course of the Special Committee's discussion, a draft handbook on the peaceful settlement of disputes between States.

The Special Committee agreed also on a list of conclusions on the rationalization of existing procedures of the United Nations.[243] Some delegations held that the Special Committee should, at the appropriate moment, revert to the topic of the rationalization of procedures of the United Nations while other delegations point out that the matter fell within the competence of the General Assembly and stressed that the conclusions adopted represented the finalization of the work on the topic as provided in paragraph 3 (c) of resolution 38/141.

At its thirty-ninth session the General Assembly, by its resolution 39/88 A of 13 December 1984,[244] adopted on the recommendation of the Sixth Committee,[245] requested the Special Committee at its 1985 session:

(a) To accord priority by devoting more time 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, in particular the Security Council, and to enable it to discharge fully its responsibilities under the Charter in that field; that necessitated the examination, *inter alia*, of the prevention and removal of threats to the peace and of situations which might lead to international friction or give rise to a dispute; the Special Committee would work on all questions with the aim of submitting its conclusions to the General Assembly for the adoption of such recommendations as the Assembly deemed appropriate; in doing so, the Special Committee should continue its work on the working paper on the prevention and removal of threats to the peace and of situations which might lead to international friction or give rise to a dispute or any revision thereof, as well as other proposals which might be made;

(b) To continue its work on the question of the peaceful settlement of disputes between States and, in this context:

(i) To continue consideration of the proposal contained in the working papers on the establishment of a commission on good offices, mediation and conciliation;

(ii) To examine the report of the Secretary-General on the progress of work on the draft handbook on the peaceful settlement of disputes between States;

and to keep the question of the rationalization of the procedures of the United Nations under review and to revert to its work on the topic when it deemed appropriate; and requested the Secretary-General to prepare, on the basis of the outline elaborated by the Special Committee and in the light of the views expressed in the course of the discussions in the Sixth Committee and in the Special Committee, a draft handbook on the peaceful settlement of disputes between States, and to report to the Special Committee at its session in 1985 on the progress of work, before submitting to it the draft handbook in its final form, with a view to its approval at a later stage.

And by its resolution 39/88 B of the same date,[246] adopted also on the recommendation of the Sixth Committee,[247] the General Assembly approved the conclusions of the Special Committee as set forth in the annex to the resolution and decided that the conclusions should be reproduced as an annex to the rules of procedure of the General Assembly.

ANNEX

Conclusions of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization concerning the rationalization of the procedures of the General Assembly

1. The agenda of the sessions of the General Assembly should be simplified as much as possible by grouping or merging related items, after consultation and with the agreement of the delegations concerned.

2. Specific items should be referred, where relevant, to other United Nations organs or to special-

ized agencies. The right of States to request that specific items be discussed in the General Assembly should remain unimpaired.

3. The recommendation in paragraph 28 of annex V to the rules of procedure of the General Assembly, according to which the Assembly should ensure, as far as possible, that the same questions, or the same aspects of a question, are not considered by more than one Main Committee, should be more fully implemented, except when it would be helpful for the Sixth Committee to be consulted on the legal aspects of questions under consideration by other Main Committees.

4. The General Committee should play more fully its role under rule 42 of the rules of procedure and paragraphs 1 and 2 of General Assembly decision 34/401, reviewing periodically the work of the Assembly and making the necessary recommendations.

5. The Chairmen of the Main Committees should take the initiative, in the light of past experience, to propose the grouping of similar or related items and the holding of a single general debate on them.

6. The Chairmen of the Main Committees should propose to the Committee the closing of the list of speakers on each item at a suitably early stage.

7. Agreed programmes of work should be respected. To this end, meetings should start at the scheduled time and the time allotted for meetings should be fully utilized.

8. The officers of each Main Committee should review periodically the progress of work. In case of need, they should propose appropriate measures to ensure that the work remains on schedule.

9. Negotiation procedures should be carefully selected to suit the particular subject-matter.

10. The Secretariat should facilitate informal consultations by providing adequate conference services.

11. The mandate of subsidiary organs should be carefully defined in order to avoid overlapping and duplication of work. The General Assembly should also review periodically the usefulness of its subsidiary organs.

12. Resolutions should be as clear and succinct as possible.

(/) Draft Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally

By its resolution 39/89 of 13 December 1984,[248] adopted on the recommendation of the Sixth Committee,[249] the General Assembly, bearing in mind the existence of different national legislation in the field of the protection and welfare of children and convinced that adoption of the draft Declaration would promote the well-being of children with special needs, appealed to Member States representing different legal systems to undertake consultations on the draft Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally, with a view to finding out the extent to which they would join the common endeavour of completing the work thereon.

(m) Review of the multilateral treaty-making process

By its resolution 39/90 of 13 December 1984,[250] adopted on the recommendation of the Sixth Committee,[251] the General Assembly, bearing in mind that multilateral treaties were an important means of ensuring co-operation among States and an important primary source of international law and conscious, therefore, that the process of elaboration of multilateral treaties, directed towards the progressive development of international law and its codification, formed an important part of the work of the United Nations and of the international community in general, expressed its appreciation to the Working Group on the Review of the Multilateral Treaty-making Process for the completion of its mandate and for its final document;[252] recommended to all States which were considering the initiation of a multilateral treaty within the framework of the United Nations to give consideration to the procedures set out in the above-mentioned final document of the Working Group; requested the Secretary-General to prepare, for information and possible use by Governments, a handbook on multilateral treaty-making as described in paragraph 18 of the final document in question, to be

made available within two years; and reiterated its request to the Secretary-General to continue to prepare for publication as soon as possible new editions of the *Handbook of Final Clauses*[153] and the *Summary of the Practice of the Secretary-General as Depositary of Multilateral Agreements*,[25]* taking into account relevant developments and practices in that respect.

(«) Draft Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment

By its decision 39/148 of 13 December 1984,[255] adopted on the recommendation of the Sixth Committee,[256] the General Assembly took note with appreciation of the report of the Working Group on the Draft Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment,[257] established in accordance with Assembly decision 37/427 of 16 December 1982 to elaborate a final version of the draft Body of Principles, a task which it had not been able to conclude, and decided that an open-ended working group of the Sixth Committee would be established at its fortieth session with a view to expediting the finalization of the draft Body of Principles.

(o) International Convention against *Apartheid* in Sports

By its resolution 39/72 D of 13 December 1984,[258] the General Assembly, having considered the report of the *Ad Hoc* Committee on the Drafting of an International Convention *against Apartheid in* Sports,[259] requested the *Ad Hoc* Committee to continue its work with a view to submitting the draft Convention to the Assembly at its fortieth session.

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9. DECLARATION ON THE RIGHT OF PEOPLES TO PEACE

By its resolution 39/11 of 12 November 1984,[260] the General Assembly, convinced that a proclamation of the right of peoples to peace would contribute to the efforts aimed at the strengthening of international peace and security, approved the Declaration on the Right of Peoples to Peace, the text of which was annexed to the resolution.

ANNEX

Declaration on the Right of Peoples to Peace

The General Assembly,

Reaffirming that the principal aim of the United Nations is the maintenance of international peace and security,

Bearing in mind the fundamental principles of international law set forth in the Charter of the United Nations,

Expressing the will and the aspirations of all peoples to eradicate war from the life of mankind and, above all, to avert a world-wide nuclear catastrophe,

Convinced that life without war serves as the primary international prerequisite for the material well-being, development and progress of countries, and for the full implementation of the rights and fundamental human freedoms proclaimed by the United Nations,

Aware that in the nuclear age the establishment of a lasting peace on Earth represents the primary condition for the preservation of human civilization and the survival of mankind,

Recognizing that the maintenance of a peaceful life for peoples is the sacred duty of each State,

1. *Solemnly proclaims* that the peoples of our planet have a sacred right to peace;

2. *Solemnly declares* that the preservation of the right of peoples to peace and the promotion of its implementation constitute a fundamental obligation of each State;

3. *Emphasizes* that ensuring the exercise of the right of peoples to peace demands that the policies of States be directed towards the elimination of the threat of war, particularly nuclear war, the renunciation of the use of force in international relations and the settlement of international disputes by peaceful means on the basis of the Charter of the United Nations;

4. *Appeals* to all States and international organizations to do their utmost to assist in implementing the right of peoples to peace through the adoption of appropriate measures at both the national and the international level.

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

By its resolution 39/244 of 18 December 1984,[261] adopted on the recommendation of the Fifth Committee,[262] the General Assembly, recalling that, under Article 105 of the Charter of the United Nations, officials of the Organization should enjoy in the territory of each of its Member States such privileges and immunities as were necessary for the independent exercise of their functions in connection with the Organization, took note with concern of the report submitted to the General Assembly by the Secretary-General on behalf of the Administrative Committee on Co-ordination,[263] which showed a continuing neglect of the observance of the principles related to respect for the privileges and immunities of officials of the United Nations and the specialized agencies and related organizations; welcomed the measures already taken by the Secretary-General in furtherance of the safety and security of international civil servants, as outlined in paragraph 7 of his report; called upon the Secretary-General, as chief administrative officer of the Organization, to continue personally to act as the focal point in promoting and ensuring the observance of the privileges and immunities of officials of the United Nations and the specialized agencies and related organizations by using all such means as were available to him; urged the Secretary-General to give priority, through the United Nations Security Co-ordinator and the other special representatives, to the reporting and prompt follow-up of cases of arrest, detention and other possible matters relating to the security of officials of the United Nations and the specialized agencies and related organizations; called upon the staff of the United Nations and the specialized agencies and related organizations to comply with the obligations arising from the Staff Regulations of the United Nations, in particular regulation 1.8, and from the equivalent provisions governing the staff of the other agencies; and requested the Secretary-General, as Chairman of the Administrative Committee on Co-ordination, to review and appraise the measures already taken to enhance the safety and protection of international civil servants and to modify them where necessary.

11. CO-OPERATION BETWEEN THE UNITED NATIONS AND THE ASIAN-AFRICAN LEGAL CONSULTATIVE COMMITTEE

By its resolution 39/47 of 10 December 1984,[264] the General Assembly commended the Asian-African Legal Consultative Committee for orienting its programme to strengthen its supportive role to the work of the United Nations in wider areas, as called for by the General Assembly in its resolution 36/38 of 18 November 1981, and requested the Secretary-General to continue to take steps to promote co-operation between the United Nations and the Asian-African Legal Consultative Committee in the field of the progressive development and codification of international law and other areas of common interest.

12. UNITED NATIONS INSTITUTE FOR TRAINING AND RESEARCH[265]

In its discussion of the future role of UNITAR at its twenty-second session held in New York from 19 to 23 March 1984, the Board of Trustees of UNITAR reaffirmed the impor-

tance of the mandate of UNITAR[266] and the need to give the Institute the fullest support and the means to perform its functions satisfactorily. The Board approved the work programme for the biennium 1984-1985 proposed by the Executive Director of UNITAR in his annual report to the General Assembly at its thirty-ninth session.[267]

During the period under review the Institute carried out the following training programme: *(a)* Under the heading of training in multilateral diplomacy for members of permanent missions to the United Nations: (i) orientation course for new members of permanent missions (New York, 24-27 January 1984); (ii) Economic Development Institute/UNITAR seminar on international development issues (New York/Washington, D.C., 17 February-2 March 1984); (iii) practical course on the drafting of treaties, resolutions and other international instruments (New York, 9-13 and 18 April 1984); (iv) workshop on the structure, retrieval and use of United Nations documentation (Geneva, 8-18 May 1984); (v) briefing on recent developments in international humanitarian law (Geneva, 18 and 20 June 1984); and *(b)* under the heading of training in response to *ad hoc* requests by individual Member States: (i) training course on international co-operation and multilateral diplomacy for junior diplomats from French-speaking African countries (Paris/Geneva/Brussels/Berlin/Bonn, 16 April-15 June 1984); (ii) training for conference officers from Kuwait (Geneva, 8-25 May 1984); (c) training for officials and field experts of the United Nations system: orientation course on the international civil service for staff from Europe-based United Nations agencies and organizations (Geneva, 26-30 March 1984).

The period under review was a year of transition for the UNITAR Division of Research, which devoted considerable time to the reappraisal of existing activities and to planning a future programme.

At its thirty-ninth session, the General Assembly, by its resolution 39/178 of 17 December 1984,[268] adopted on the recommendation of the Second Committee,[269] took note with appreciation of the report of the Executive Director of UNITAR; took note of the priorities and work programme for the biennium 1984-1985 approved by the Board of Trustees of UNITAR; and also took note of the clarification provided by the Executive Director on the mandate and the future role of UNITAR as they related to the mandates and roles of other institutions active in the Institute's field of competence, and noted with satisfaction the efforts being made to strengthen co-operation with those institutions.[270]

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

1. INTERNATIONAL LABOUR ORGANISATION[271]

The International Labour Conference, which held its 70th session at Geneva in June 1984, adopted the following instrument: a Recommendation concerning Employment Policy.[272]

The Committee of Experts on the Application of Conventions and Recommendations met at Geneva from 8 to 21 March 1984 and presented its report.[273]

The Governing Body Committee on Freedom of Association met at Geneva and adopted reports No. 233[274] (225th session of the Governing Body, February-March 1984); reports Nos. 234[275] and 235[27S] (226th session of the Governing Body, May-June 1984); and reports Nos. 236[276] and 237[276] (228th session of the Governing Body, November 1984).

Finally, mention may be made of the publication of the report of the Commission instituted under article 26 of the Constitution of the International Labour Organisation to examine the complaint on the observance by Poland of the freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective

Bargaining Convention, 1949 (No. 98), presented by delegates at the 68th session of the International Labour Conference.[277]

2. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

(a) Constitutional and general legal matters

(i) MEETINGS OF THE COMMITTEE ON CONSTITUTIONAL AND LEGAL MATTERS

The Committee on Constitutional and Legal Matters (CCLM)[278] held its forty-fourth session from 24 to 25 May 1984. At the session CCLM considered the question of FAO's immunity from legal process in Italy.[279] At its forty-fifth session (8 to 10 October 1984), CCLM again considered the question of FAO's immunity from legal process, as well as two other substantive questions: review of the rules governing voting procedures of Council and Conference; and FAO's immunity from measures of execution in Italy.[280]

a. *Review of the Rules governing voting procedures of Council and Conference*

At the twenty-second session of the Conference (1983), some delegates expressed concern at the fact that rule XII.9(a) of the General Rules of the Organization provided for a vote by secret ballot in certain specific cases even when there was the same number of candidates as places to be filled. They suggested that the election procedures be reviewed in order to study the possibility of not proceeding to a secret ballot in such cases (for instance, for the election of the Independent Chairman of the Council). The Conference agreed "that the Council should review the present rules governing the voting procedures where there were the same number of candidates as places to be filled in the Conference or Council of the Organization with a view to speeding procedures and thus saving valuable time. The Council should report back to the Conference at its twenty-third session".[281] At its eighty-fifth session, the Council agreed that the question raised by the Conference should be submitted for examination to CCLM prior to its reporting on the matter, as requested, to the twenty-third session of the Conference.[282]

At its forty-fifth session, CCLM noted that, in accordance with rule XII.9(a) of the General Rules of the Organization, it was mandatory to hold a secret ballot with respect to *(a)* the appointment of the Independent Chairman of the Council, *(b)* the appointment of the Director-General, *(c)* the admission of additional Member Nations or Associate Members and *(d)* the election of Council Members.

CCLM expressed the view that the four cases in which it was mandatory to hold a secret ballot under rule XII.9(a) related to highly sensitive matters, for which the secrecy provided for in the voting procedure was intended to afford Member Nations the possibility of expressing their choice without any constraint or embarrassment. It considered that the advantage of such a method of voting should be weighed against the disadvantage of spending valuable time thereon. In this connection it noted that the time actually spent on the election of the Independent Chairman of the Council or on the election of Council Members did not appear to be excessive if one took into account the length of the Conference sessions and the importance of the elections under consideration.

CCLM noted that in 1959,1965 and 1967 the Governing Bodies of the organization had examined the advisability of amending rule XII.9(a) but had decided to maintain a secret ballot in the four cases.

CCLM concluded that the present provisions were adequate to protect the interests of Member Nations, and that no amendment to rule XII.9(a) was necessary. However, CCLM noted that the question of whether or not rule *XU.9(a)* should be amended involved a policy decision that would have to be taken by the Conference.

The Council, at its eighty-sixth session (19-30 November 1984), agreed with CCLM's conclusions.

In carrying out the review CCLM noted that the Spanish text of rule XII.9(a) of the General Rules of the Organization made use of the term *"por aclamación'*, which term did not entirely correspond to the terms used in the English text ("by clear general consent"), and in the French text *("par consentement général manifested).* CCLM recommended that the Council consider proposing that the Conference amend the Spanish text of the General Rules of the Organization by deleting the words *"por aclamación"* which appear in *9{a)* of rule XII, and replacing them by the words *"evidente consenso general".* CCLM also recommended a similar amendment to the Spanish text of paragraph 17 of rule XII; this amendment would consist in replacing the words *"por aclamaciori"* by *"consenso general",* so as to correspond with the terms "by general consent" and *"par consentement général"* in the English and French texts respectively.

The Council endorsed CCLM's recommendations.[283]

b. *FAO's immunity from legal process in Italy*

At its forty-fourth session (24 and 25 May 1984) the Committee on Constitutional and Legal Matters was informed that, although the Council had repeatedly urged the host Government to find a way of settling the dispute with Istituto Nazionale in Previdenze per i Dirigenti di Aziende Industriali (INPDAI) (the landlords of Building F)[284] without further recourse to the Italian courts, proceedings had been resumed after the Corte di Cassazione had held, in its judgement delivered in 1982, that the Italian courts had jurisdiction over the action. These proceedings had culminated in a judgement being rendered against FAO by the Pretore di Roma on 4 April 1984 on the merits of the action relating to the landlords' claim for increases in rent.[285] CCLM was also informed that the landlords could at any moment initiate proceedings for execution of the judgement by formally serving on FAO a copy of the judgement accompanied by a request to pay the sum awarded to it. If payment were not effected, the landlords might then seek, through a judicial official, to apply measures of execution, in particular the attachment of FAO's property and assets.

CCLM considered that the settlement of the dispute with the landlords of Building F was no solution to the problem of safeguarding FAO's immunity from legal process, including measures of execution, in the future. The Committee was of the opinion that legislative action on the part of the host Government was the only appropriate way of protecting FAO's status in Italy. Therefore the Committee recommended that the Council yet again urge the Government to take the necessary legislative measures to that effect.

CCLM recommended that the Council consider the desirability of the Conference requesting an advisory opinion from the International Court of Justice on the interpretation of sections 16 and 17 of the headquarters Agreement, considering that the International Court of Justice would be the appropriate forum for interpreting the host Government's treaty obligations under international law. It also recommended that the Council might wish to consider the desirability of the Organization invoking the arbitration clause provided for in Section 35 of the headquarters Agreement, which is applicable to disputes between the host Government and the organization which arise out of the interpretation of that Agreement.

At its eighty-sixth session (19-30 November 1984) the Council endorsed the recommendations of CCLM and requested the Director-General to make such preparations as might be necessary to enable the Conference, if it so decided, to seek an advisory opinion from the International Court of Justice on the interpretation of sections 16 and 17 of the headquarters Agreement, unless legislative action had been taken to safeguard FAO's immunity from legal process that would render an advisory opinion unnecessary.[286]

c. *FAO's immunity from measures of execution in Italy*

At its forty-fifth session (8-10 October 1984) CCLM noted that in the action brought against the organization by the landlords of Building F, the latter had so far refrained from

serving a copy of the judgement on the organization. Although steps towards a settlement out of court had been initiated, CCLM considered that the threat of such action continued to prevail. It expressed its deep concern in respect of the possibility that measures of execution might be taken against the organization, since this would have a direct effect on the funds and property for which the organization was accountable to its Member Nations.

CCLM reiterated its recommendations set out in the report of its forty-fourth session and stressed that the provisions of section 17 of the headquarters Agreement, which provided a clear legal basis for ensuring the immunity of the organization from measures of execution in Italy, should be given full effect by the Italian authorities.

At its eighty-sixth session (19-30 November 1984) the Council unanimously adopted resolution 4/86 entitled "Relations with the Host Government". In the resolution the Council noted that no fully satisfactory solutions had yet been found to ensure the organization's immunity from legal process and from measures of execution and urged the host Government "to accelerate the adoption of legislative measures that would guarantee, in the future, the Organization's immunity from legal process including measures of execution."[287]

(ii) AMENDMENTS TO STAFF REGULATIONS OF THE ORGANIZATION

At its eighty-sixth session the Council noted that Member Nations participating with FAO in the Associate Expert Scheme (now called the Associate Professional Officers Programme) had requested the organization to modify the conditions of employment of staff recruited under the scheme by reducing certain entitlements to which they would otherwise be entitled under the FAO Staff Regulations, Staff Rules and Administrative Manual.

In order to enable the organization to offer special terms and conditions of employment to such staff who as of 1 January 1985 would constitute a new category of staff, the Director-General recommended that staff regulation 301.136 be amended to include the words "Associate Professional Officers".

The Council agreed with the Director-General's recommendation and approved an amendment to staff regulation 301.136, reading as follows:

> "Other personnel: The Director-General shall determine the salary rates and the terms and conditions of employment applicable to personnel specifically engaged for conference and other short-term service or for service with a mission, *to Associate Professional Officers,* to part-time personnel, to consultants, to field project personnel, and to personnel locally recruited for service in established offices away from Headquarters."[288] (words in italics added)

(iii) ABOLITION OF THE REGIONAL COMMISSION ON FARM MANAGEMENT FOR ASIA AND THE FAR EAST

As requested by the Council at its eighty-second session, the Seventeenth Regional Conference for Asia and the Pacific examined the various regional commissions' activities and in particular the performance of the Regional Commission on Farm Management for Asia and the Far East.

The Regional Conference had noted the poor attendance at the Commission, had requested the secretariat to make efforts to revitalize the Commission and had urged Member Nations to take a more active interest in the Commission's activities. It had expressed the view that the Council should defer any decision on the abolition of the Commission on Farm Management until the Eighteenth Regional Conference had the opportunity to review its renewed performance.[289]

During the discussion by the Council, several members expressed their support for the continuation of the activities of the Commission on Farm Management in the region. The Council unanimously agreed to defer any decision regarding the abolition of the Commission on Farm Management until it had received a report from the Eighteenth Regional Conference for Asia and the Pacific on the performance of the Commission in the intervening period.[290]

(iv) APPLICATION FOR MEMBERSHIP IN THE ORGANIZATION

At its eighty-sixth session the Council took cognizance of the application for membership submitted by Solomon Islands. Pending a decision by the Conference on the application, the Council authorized the Director-General to invite Solomon Islands to participate, in an observer capacity, at appropriate Council meetings as well as regional and technical meetings of the organization of interest to it.[291]

(v) INVITATION TO NON-MEMBER NATIONS TO ATTEND FAO SESSIONS

The Council, at its eighty-sixth session, was advised that the Director-General had invited the German Democratic Republic, a non-member State, to attend *the Ad Hoc* Consultation on Improved Animal Health Co-ordination in the European Region, held in Hungary in June 1984.[292] The invitation had been issued in accordance with paragraphs B-l and B-2 of the "Statement of principles relating to the granting of observer status to nations".

(vi) STATUS OF CONVENTIONS AND AGREEMENTS AND AMENDMENTS THERETO FOR WHICH THE DIRECTOR-GENERAL OF FAO ACTS AS DEPOSITARY

(a) In 1984 the amendments to the International Plant Protection Convention, approved by the Conference at its twentieth session (November 1979), were accepted by Bangladesh, Senegal and Togo.

(b) In 1984 the amendments to the Plant Protection Agreement for the Asia and Pacific Region, approved by the eighty-fourth session of the organization's Council (November 1983), were accepted by Bangladesh.

(c) In 1984 the following countries accepted the Constitution of the International Rice Commission: Benin, Cameroon and Guinea.

(d) In 1984 the Constitution of the European Commission for the Control of Foot-and-Mouth Disease was accepted by France and Poland.

(e) In 1984 Benin became a party to the Agreement for the Establishment of a Centre on Integrated Rural Development for Africa.

(f) In 1984 Jordan became a party to the Agreement for the Establishment of a Regional Centre on Agrarian Reform and Rural Development for the Near East.

(vii) PROTOCOL TO AMEND THE INTERNATIONAL CONVENTION FOR THE CONSERVATION OF ATLANTIC TUNAS

A Conference of Plenipotentiaries of the States Parties to the International Convention for the Conservation of Atlantic Tunas met in Paris on 9 and 10 July 1984. The Conference of Plenipotentiaries agreed upon a Protocol in respect of which the Director-General of FAO is the depositary. At the end of December 1984 the Protocol had been approved or accepted by France, Sao Tome and Principe and the Republic of Korea; three other States had signed the Protocol subject to the deposit of an instrument of ratification: Brazil, Canada and the United States of America.

(viii) AGREEMENTS AND ARRANGEMENTS WITH INTERGOVERNMENTAL ORGANIZATIONS AND BODIES

In 1984 the Organization established relations on the basis of a co-operation agreement or a memorandum of understanding with the following intergovernmental organizations: Communauté Economique des Etats de 1'Afrique de l'Ouest; International Jute Organization; and Southern African Development Co-ordination Conference (SADCC).

(ix) INTERNATIONAL UNDERTAKING ON PLANT GENETIC RESOURCES

In 1984 the Director-General of FAO, as requested by the Conference at its twenty-second session (November 1983), transmitted to all States members of FAO and to all organizations concerned resolution 8/83 on the International Undertaking on Plant Genetic

Resources adopted in 1983. When forwarding the resolution, the Director-General asked to be informed whether the Government or the organization would consider the objectives of the Undertaking and if it was in a position to give effect to the principles contained in the Undertaking. At the end of the year about 70 Governments and 10 international organizations had expressed their views; they generally supported the Undertaking.

(b) Activities of legal interest relating to commodities

(i) INFORMAL PRICE ARRANGEMENTS FOR JUTE AND KENAF

At its twentieth session, in November 1984, the FAO Intergovernmental Group on Jute, Kenaf and Allied Fibres suspended the informal indicative price arrangements for jute and kenaf temporarily for the 1984/85 season because of an unprecedented shortage of fibre and extremely high prices. The possibility of establishing indicative prices for these commodities for the 1985/86 season will be reconsidered by the Group at its next session.

(ii) INFORMAL PRICE ARRANGEMENTS FOR HARD FIBRES

At its nineteenth session, in December 1984, the FAO Intergovernmental Group on Hard Fibres agreed to reduce the indicative price range for the major African grade and to introduce a differential to Brazilian fibre. The quota system should continue to be maintained in principle but the global and national quotas should remain suspended. However, for the first time the Group, with the exception of two countries, agreed to recommend an indicative price for sisal and henequen baler twine. Regarding abaca, the Group suspended price recommendations within the informal arrangements in view of the unsettled market situation, but agreed to reconsider the matter at its next session.

(iii) INTERNATIONAL JUTE ORGANIZATION

FAO continued to extend its support to the activities of the International Jute Organization (IJO), officially established in January 1984. Full project documents for selected research and development projects on jute agriculture and primary processing were prepared and statistical data and economic information on the commodity were provided.

(iv) WEST AFRICA RICE DEVELOPMENT ASSOCIATION

FAO provided extensive legal assistance to the West Africa Rice Development Association (WARDA).

(c) Activities of legal interest relating to fisheries

(i) FAO WORLD CONFERENCE ON FISHERIES MANAGEMENT AND DEVELOPMENT

At the initiative of the Organization, the FAO World Conference on Fisheries Management and Development was held in Rome from 27 June to 6 July 1984. The Conference endorsed a Strategy for Fisheries Management and Development containing a number of principles and guidelines and invited States and international organizations concerned to take these principles and guidelines into account when planning the management and development of fisheries. It emphasized, however, that the Strategy should in no way be considered binding upon or involving commitments by Governments.

At its eighty-sixth session the FAO Council examined the report of the FAO World Conference on Fisheries Management and Development. At the session the Council was informed that the United Nations Economic and Social Council, at its July 1984 session, had received an oral report on the results of the Conference and had adopted a decision inviting the Director-General of FAO to submit the report of the Conference to the General Assembly at its thirty-ninth session.

The Council agreed that the report of the FAO World Conference on Fisheries Management and Development, together with a document on the progress achieved in the implementation of the Strategy, should be submitted to the twenty-third session of the FAO

Conference for consideration. It recommended that the Conference adopt a special resolution endorsing the outcome of the World Fisheries Conference.

A chapter of the strategy adopted by the FAO World Conference on Fisheries Management and Development dealt with international trade aspects. It is in that context that FAO prepared a first draft of an Agreement for the Establishment of an Intergovernmental Organization for Marketing Information and Advisory Services for Fish Products in the Asia and Pacific Region (INFOFISH) which was revised by a Consultation of Legal Experts convened by the Director-General at Kuala Lumpur, on 13 and 14 September 1984. The Agreement is to be submitted to a Conference of Plenipotentiaries for adoption.

(ii) REGULATORY MEASURES RECOMMENDED BY FAO REGIONAL FISHERY BODIES

a. *Indian Ocean Fishery Commission*

At its fifth session, held in Manama, Bahrain, from 22 to 24 October 1984, the Indian Ocean Fishery Commission (IOFC) Committee for the Development and Management of the Fishery Resources of the Gulfs agreed that member countries should continue to (i) apply a closed season for shrimp fishing, and (ii) limit the shrimp catch by not granting new fishing licences and limiting the size of shrimp fishing vessels.

b. *Fishery Committee for the Eastern Central Atlantic*

At its ninth session, held in Banjul, the Gambia, from 15 to 18 October 1984, the Fishery Committee for the Eastern Central Atlantic (CECAF) adopted a new procedure for the management of shared stocks.

(d) Environmental law

In 1984 FAO actively participated in and contributed studies to the Second Meeting of Legal Experts on a Draft Convention for the Protection and Development of the Marine and Coastal Environment of the East African Region (Nairobi, November 1984). It also participated actively in the Meeting of National Focal Points on the Development of an Action Plan for the Protection and Management of the South Asian Seas Region (Bangkok, March 1984). The organization also took an active part in the meeting of the UNEP Group of Legal Experts on Environmental Impact Assessment (Washington, June 1984). All three meetings had been convened by UNEP. Research is being carried out on the Legal Aspects of Economic Incentives for Agricultural Development and their Impacts on the Environment.

(e) Activities of the Joint FAO/WHO Codex Alimentarius Commission in relation with food law

In 1984 membership of the Joint FAO/WHO Codex Alimentarius Commission reached 129 countries. In order to promote the international harmonization of maximum limits for pesticide residues a document entitled "Recommended national regulatory practices to facilitate the acceptance and use of Codex maximum limits for pesticide residues in foods" was prepared. The document recommends to Governments action of a legal, administrative or other nature in order to facilitate implementation of Codex recommendations under their particular legal systems. It will be considered by the Commission in 1985.

(f) Legislative matters

(i) ACTIVITIES CONNECTED WITH INTERNATIONAL MEETINGS

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

Fifth International Food Law Congress, organized by the European Food Law Association, Munich, Federal Republic of Germany, September 1984;

Workshop on the Legal Problems of Meat Export and Import organized by the Latin American Association of Food Processors (ALICA), Barcelona, Spain, March 1984;

FAO/University of the South Pacific Workshop on land tenure and rural development, Nuku'alofa, Tonga, April 1984;

FAO/Southwest Indian Ocean Committee Workshop on the Licensing and Control of Foreign Fishing, Mahé, Seychelles, 21-26 May 1984;

Organization of Eastern Caribbean States (OECS)/FAO Workshop on the Harmonization and Co-ordination of Fishery Régimes, Castries, Saint Lucia, 30 July - 4 August 1984;

Gulf Co-operation Council (GCC) Symposium on Harmonized Fisheries Legislation (first meeting of the GCC Fisheries Resources Committee), Riyadh, 5-7 August 1984;

(ii) LEGISLATIVE ASSISTANCE AND ADVICE IN THE FIELD

During 1984, legislative assistance and advice were given to various countries on the following topics:

(a) Animal, plant and food legislation:

(i) Suriname (pesticide legislation);

(ii) Honduras (legal framework of agrarian research);

(b) Agrarian legislation and agrarian law:

(i) Guyana (agrarian reform planning and legislation);

(ii) Sudan (assistance in) land use planning legislation;

(iii) Cape Verde (assistance in) land reform and water legislation;

(c) National water legislation:

(i) Malaysia (drafting of National Water Resources Planning and Development Act: National Waters Enactment);

(ii) Guinea-Bissau (review of water legislation);

(iii) Jamaica (finalization of proposed Water Resources Act);

(iv) Mauritania (drafting of outline Water Law);

(v) Somalia (drafting of a National Water Act);

(vi) Samoa (drafting of a National Water Act);

(vii) Tonga (drafting of a National Water Resources Act);

(viii) Honduras (revision and analysis of Draft General Water Law);

(d) National and international water law:

(i) Organisation pour la mise en valeur du fleuve Gambie (OMVG) (Advice on international legal questions concerned with the development of the Gambia river basin);

(ii) Niger/Nigeria (assistance in international water legislation);

(e) Agricultural investment legislation:

Yemen Arab Republic—review of current legislation and proposals for legal incentives for investment;

(f) Fisheries legislation:

Anguilla, Antigua and Barbuda, Barbados, Bahamas, British Virgin Islands, Dominica, Grenada, Guyana, Honduras, Montserrat, Nicaragua, Panama, Peru, Saint Christopher and Nevis, Saint Lucia, Saint Vincent and the Grenadines; Angola, Cape Verde, Congo, Gabon, Guinea, Guinea-Bissau, Morocco, Namibia, Zaire; Comoros, Madagascar, Mauritius, Seychelles, Sri Lanka; Cook Islands, Solomon Islands;

(g) Forestry legislation:

Angola, Honduras, Nicaragua, Rwanda.

(iii) LEGAL ASSISTANCE AND ADVICE NOT INVOLVING FIELD MISSIONS

The principal activities, performed at the request of the Governments or agencies during 1984, were the following:

(a) Assistance and advice were provided on a range of topics, including: legislation on coffee beans (France); food standards (Cuba); food additives regulations (Spain); oil seeds regulations (Venezuela); food additives regulations (Turkey); acetic acid regulations (Iran (Islamic Republic of)); international rules for livestock protection (Ecuador); food quality control regulations (Costa Rica); animal feed additives regulations (Spain); food law (Argentina); animal feeds legislation (Cape Verde); animal feed legislation (Australia); fertilizer legislation (Argentina); pesticide residues tolerances (Spain); collective catering regulations (Spain); pesticide legislation (Ethiopia); fertilizers and pesticides legislation (Venezuela); wildlife and national parks legislation (Uganda and Upper Volta); and Code of Conduct on the Distribution and Use of Pesticides (AGP); right to food (Netherlands Institute of Human Rights); agricultural chemicals legislation (International Juridical Organization, Rome).

(b) Legal advice was provided to the FAO interdepartmental working group on land use planning; this advice was oriented primarily to the development of draft guidelines intended to assist in the implementation of technical projects in the field.

(iv) LEGISLATIVE RESEARCH AND PUBLICATIONS

Research was conducted, *inter alia,* on meat import and export legislation, pesticide labelling and advertising legislation; principles of land use planning legislation in developing countries; a world-wide index of international treaties on water resources; coastal State requirements for foreign fishing, fisheries joint ventures, the impact of non-forestry laws on forestry; compendia of fisheries legislation.

(v) COLLECTION, TRANSLATION AND DISSEMINATION OF LEGISLATIVE INFORMATION

In 1984 FAO published the semi-annual *Food and Agricultural Legislation.* Annotated lists of relevant laws and regulations relating to food legislation were also published in the semi-annual *Food and Nutrition Review.*

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3. UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

(a) Constitutional and procedural questions

MEMBERSHIP OF THE ORGANIZATION

On 5 December 1984, the United Kingdom of Great Britain and Northern Ireland gave notice of withdrawal from the organization. Under the terms of article II (6) of the Constitution of UNESCO[293] this notice takes effect on 31 December 1985.

(b) Human rights

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

The Committee on Conventions and Recommendations met in private session at UNESCO headquarters from 2 to 8 May and 17 to 25 September 1984, in order to examine communications which had been transmitted to it in accordance with decision 104 EX/3.3 of the Executive Board.

At its spring session, the Committee examined 55 communications, of which 49 were examined with a view towards their admissibility and 6 were examined on their substance. Of the 49 communications examined as to admissibility, none were declared admissible, 9 were declared irreceivable and 7 were struck from the list since they were considered as having been settled. The examination of 39 communications was suspended. The Committee presented its report to the Executive Board at its 119th session.

At its fall session, the Committee had before it 55 communications, of which 51 were examined as to their admissibility and 4 were examined on their substance. Of the 51 commu-

nications examined as to their admissibility, 5 were declared admissible, 4 were declared irreceivable and 16 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 30 communications was suspended. The Committee presented its report on its examination of these communications to the Executive Board at its 120th session.

(c) Copyright

(i) *Model contracts concerning co-publishing and commissioned works*

The Second Working Group on Model Contracts Concerning Co-Publishing and Commissioned Works, convened jointly by UNESCO and WIPO, met at UNESCO headquarters from 2 to 6 April 1984 and discussed three annotated model contracts, revised by the two secretariats, and a review by the Consultative Committee of the Joint International UNESCO-WIPO Service for Access by Developing Countries to Works Protected by Copyright. The comments made by the experts will again be examined by the said UNESCO-WIPO Joint Service before the model contracts are made public in final form.[294]

(ii) *Unauthorized private copying*

UNESCO and WIPO jointly convened a Group of Experts on Unauthorized Private Copying of Recordings, Broadcasts and Printed Matter, which met at Geneva from 4 to 8 June 1984. The Group of Experts agreed that the use of modern technology for reproduction of works for private purposes should not be hindered, and its adverse effects on the interests of authors and beneficiaries of neighbouring rights should be mitigated by appropriate means of protection, which could be collective administration of the exclusive right of reproduction or various forms of non-voluntary licensing with obligation to pay proper remuneration. The Group also found that in view of the latest technological developments reopening discussion on reprographic reproduction, at the international level, would be justified.[295]

(iii) *Publishing contracts for literary works*

The Working Group on Model Provisions for National Laws on Publishing Contracts for Literary Works, which met at Geneva from 18 to 22 June 1984 under the joint aupices of UNESCO and WIPO, examined model provisions for national laws on the rights and obligations of authors and publishers under publishing contracts for literary works and decided that the secretariats would subsequently revise the comments on the model provisions into a completed version for further consideration in 1985 by a group of experts.[296]

(iv) *Rental of phonograms and videograms*

UNESCO and WIPO jointly convened a Group of Experts on the Rental of Phonograms and Videograms, which met at UNESCO headquarters from 26 to 30 November 1984. The Group of Experts concluded that authors should enjoy an exclusive right to authorize the rental and lending of phonograms and videograms embodying or constituting their works and under certain circumstances the producers of phonograms and videograms should, without prejudice to the rights of authors, have a similar exclusive right. The Group recommended, *inter alia,* that the secretariats consider the desirability of extending the relevant studies also to the rights of performing artists.[297]

(v) *International protection of expressions of folklore by intellectual property*

A Group of Experts on the International Protection of Expressions of Folklore by Intellectual Property met in Paris from 10 to 14 December 1984 under the joint auspices of UNESCO and WIPO. The experts generally recognized the need for international protection of expressions of folklore and, after thorough discussion of the draft Treaty on the subject, presented by the secretariats, noted that the secretariats shall further explore various aspects of such a treaty and shall prepare a revised text thereof. The report of the Group of Experts will be communicated to the two Intergovernmental Copyright Committees and to the respective governing bodies of UNESCO and WIPO.[298]

4. INTERNATIONAL CIVIL AVIATION ORGANIZATION

(a) Amendment to the Chicago Convention

Article 3 bis

The 25th session (extraordinary) of the Assembly convened by the Council was held at Montreal from 24 April to 10 May 1984 and approved unanimously a proposed amendment (article 3 *bis)* to the Convention on International Civil Aviation (Chicago, 1944).[299] The basic purpose of the amendment was to reaffirm the principle that every State must refrain from resorting to the use of weapons against civil aircraft in flight. The amendment is embodied in a Protocol which shall come into force in respect of the States which have ratified it on the date on which the 102nd instrument of ratification is so deposited. The Assembly also adopted unanimously Resolution A25-2 in which the Assembly urges all contracting States to ratify the Protocol as soon as possible; before the end of the year two States had ratified the Protocol. The third resolution adopted by the Assembly encourages the taking of practical measures which would further enhance the safety of international civil aviation.

(b) Legal meetings

On 9 December 1983, the Council decided to include in the general work programme of the Legal Committee with high priority the item "Preparation of a draft instrument on the interception of civil aircraft". A special Sub-Committee was established for consideration of the item, taking into account the results of the work of the extraordinary session of the Assembly in April 1984 in relation to the amendment of the Chicago Convention. The Sub-Committee met at Montreal from 25 September to 3 October 1984 and unanimously came to the conclusion that the question of drafting an instrument on the interception of civil aircraft can best be considered only after the entry into force of article 3 *bis* and in the light of completion of the present work of the Air Navigation Commission and the Council in respect of the review of ICAO Standards, Recommended Practices and guidance material on the subject of the interception of civil aircraft. Subject to the foregoing, the Sub-Committee recommended that in the meantime the Council should consider:

(a) Taking appropriate steps to encourage the ratification of article 3 *bis* by Contracting States;

(b) The study by appropriate bodies of ICAO of whether provisions should be developed, either in the form of amendments to the annexes to the Chicago Convention or in some other form, concerning matters with regard to the aftermath of the landing of an intercepted civil aircraft, such as:

(i) Notification to States concerned and ICAO;

(ii) The protection of and assistance to the passengers and crew, and protection of aircraft and property thereon;

(iii) Facilitation of the journey of passengers, crew, aircraft and property;

(iv) Detention, inspection, investigation of the circumstances, and reports.

On 16 November 1984 the Council considered the report of the Sub-Committee and requested the Secretary General to prepare a preliminary study of appropriate action to implement the Sub-Committee's recommendation, to be submitted to the 114th session of the Council in March 1985.

(c) Unlawful interference with international civil aviation and its facilities

The Council Committee on Unlawful Interference with International Civil Aviation and its Facilities held three meetings during the year. The Committee re-examined proposals for the amendment of certain specifications in annex 17 (Security—Safeguarding international aviation against acts of unlawful interference) to the Convention on International Civil Avia-

tion, in the light of comments made by contracting States and interested international organizations which had been consulted on these matters. As a result of the recommendations made by the Committee, the Council adopted amendment 5 to annex 17 on 30 November. The amendment, *inter alia*, modifies a specification in chapter 4 of annex 17 by making a clear distinction between the requirements for the carriage of weapons on board aircraft by law enforcement officers and other authorized persons and the requirements for the transportation of weapons in other cases which should be allowed only if stowed in a place inaccessible to any person during flight time.

5. WORLD HEALTH ORGANIZATION

(a) Constitutional and legal developments

During 1984, the following countries became members of WHO by the deposit of an instrument of acceptance of the WHO Constitution,[300] as provided for in articles 4, 6 and 79 *(b)* of the Constitution:

butts	*immanent*	*of*	*Date of deposit ol acceptance*
Antigua and Barbuda			12 March 1984
Cook Islands			9 May 1984
Kiribati			26 July 1984
Saint Christopher and Nevis			3 December 1984

As of 31 December 1984 there were 165 States members and one associate member of WHO.

The amendments to articles 24 and 25 of the Constitution adopted in 1976 by the twenty-ninth World Health Assembly, providing for an increase in the membership of the Executive Board from 30 to 31, entered into force on 20 January 1984 with the deposit of the 108th instrument of acceptance. Four further acceptances were received in 1984.

The amendment to article 74 of the Constitution, adopted in 1978 by the thirty-first World Health Assembly, to include an Arabic version among the authentic texts, was accepted by a further member, bringing the total number of acceptances to 28.

Basic Agreements on technical advisory co-operation were concluded in 1984 between WHO and the following States;

bititv	*Place of signature*	*Date ol signature*
Cook Islands	Rarotonga/ Manila	26 September 1984 / 22 October 1984
Yemen Arab Republic	Sana'a	26 November 1984

These agreements contain provisions similar to article I, paragraph 6, and article V of the Agreement between the World Health Organization and Guyana.[301]

The Pan American Health Organization concluded in 1984 the following agreements:

(i) Addendum to the Agreement between the Pan American Sanitary Bureau and the Government of Brazil for the operations of the PAHO/WHO zone office in Brazil. Signed at Brasilia on 21 December 1984;

(ii) Agreement between the Pan American Sanitary Bureau and the Government of Mexico regarding the establishment of a representative's office in Mexico City and the privileges and immunities required for its operation. Signed at Mexico City on 26 August 1984.

(b) Health legislation and human rights

Four issues of the *International Digest of Health Legislation* were published in 1984. The journal continues to cover significant national and international legal instruments in the health, environmental and related fields. Reports on conferences and meetings relevant to these fields, as well as other noteworthy events, appear in the "News and views" section of the periodical, while some 250 new additions to the literature were covered in the "Book reviews" and "In the literature" sections.

Articles on current problems in health legislation are a feature of certain issues of the *Digest.* Two were published in 1984, viz., "Mental health legislation in ten Asian developing countries: the perceived need for change", by V. K. Verma, S. K. Varma and T. W. Harding (vol. 35, No. 2), and "Assessment and reduction of psychiatric disability", by K. Canavan *et al.* (vol. 35, No. 4).

WHO continued its efforts to strengthen member States' capacities in the health legislation field, both by the transfer of relevant information and by technical co-operation activities (such as consultant missions to developing countries seeking the organization's help in reviewing and, if necessary, updating their health legislation).

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6. WORLD BANK

(a) Proposed multilateral investment guarantee agency

The possibility of establishing a multilateral facility for guaranteeing international investment has been periodically discussed since the early 1960s in various forums. One regional agency, the Inter-Arab Investment Guarantee Corporation, was established in 1974 and has operated successfully since then. The operations of this corporation are, however, limited to investments flowing among its Arab member countries. In 1981, the management of the World Bank resumed the initiative of creating a globally operating Multilateral Investment Guarantee Agency (MIGA). In May 1984, the management of the Bank presented to member Governments a concrete proposal for such an Agency, and in October 1984, the Bank staff submitted a first draft Convention to member Governments of the Bank reflecting the comments received on the proposal. The draft Convention served as the basis for wide-ranging consultations the Bank staff had held with member Governments, business and professional associations and international organizations. Further work on the topic will be carried out in 1985.

The objective of MIGA would be to encourage the flow of resources to productive enterprises in its member countries by guaranteeing investments emanating from other member countries against non-commercial risks. Complementary activities would include the furnishing of information about investment opportunities and rendering advice and technical assistance to interested members on the measures useful to attract foreign investment.

In its operations, MIGA would respond to the demand for protection that is not being adequately met at present by national investment guarantee schemes and the private market. MIGA would complement these schemes and would co-operate with them through co-insurance and reinsurance. It would give special attention to guaranteeing investments from countries without a national scheme and in host countries where a national scheme was either unable to operate or was already heavily exposed. It would co-insure large investments with national schemes and insure and co-insure multinationally financed investments. MIGA might be able to act as reinsurer of national schemes. MIGA would also co-operate with private political risk insurers, mainly by co-insuring large investments and reinsuring part of its portfolio with them.

In general terms, four broad categories of non-commercial risks would be covered: *(a)* the transfer risk resulting from host Government restrictions on conversion and transfer from

local currency into another currency; *(b)* the risk of loss resulting from actions or inactions of the host Government which deprive the foreign investor of substantial rights or reduce the benefits of his investment; (c) the armed conflict and civil unrest risk; and *(d)* the repudiation of government contracts which is followed by a denial of justice. Although the first three types of risks traditionally constitute the non-commercial risks feared by foreign investors, the "transfer risk" is at present the most relevant from the viewpoint of these investors; cases of outright nationalization have become infrequent. To be eligible, investments would have to contribute to the development of the host country and would require the approval of that country.

MIGA would be expected ultimately to operate at no cost to its members, financing itself from its own revenues. The Agency would, however, have to rely on its members in order to meet its initial administrative expenditures and to pay whatever claims that might arise under contracts of guarantee when they could not be covered out of its own revenues.

(b) International Centre for Settlement of Investment Disputes

(i) *Signatures and ratifications*

During 1984, El Salvador and Portugal ratified the Convention,[302] while Saint Lucia both signed and ratified it This brought the number of contracting States to 87. As of 31 December 1984, three countries had signed the Convention but had not yet deposited an instrument of ratification.

(ii) *Disputes before the Centre*[303]

Four new requests to institute arbitration proceedings were registered in 1984. These proceedings involve:

(i) *Atlantic Triton Company Ltd.* v. *People's Revolutionary Republic of Guinea* (Case No. ARB/84/1);

(ii) *Colt Industries Operating Corp., Firearms Division* v. *Government of the Republic of Korea* (Case No. ARB/84/2);

(iii) *SPP (Middle East) Ltd.* v. *Arab Republic of Egypt* (Case No. ARB/84/3);

(iv) *Maritime International Nominees Establishment (MINE)* v. *Government of the Republic of Guinea* (Case No. ARB/84/4).

On 28 November 1984, the Arbitral Tribunal rendered an award in the case *of Amco Asia Corp. et al* v. *Government of Indonesia* (Case No. ARB/81/1).

Also during 1984, the Secretary-General registered an application to annul the award rendered by the Arbitral Tribunal in the case *of Klöchner Industrie-Anlagen GmbH et al.* v. *United Republic of Cameroon* (Case No. ARB/81/2).

Four other cases were still pending before the Centre as of 31 December 1984. These were:

(i) *Société Quest Africaine des Bétons Industriels (SOABI)* v. *State of Senegal* (Case No. ARB/82/1);

(ii) *Swiss Aluminium Ltd. (ALUSUISSE) et al.* v. *Government of Iceland* (Case No. ARB/83/1);

(iii) *Liberian Eastern Timber Corp. (LETCO) et al.* v. *Government of the Republic of Liberia* (Case No. ARB/83/2);

(iv) *Tesoro Petroleum Corp.* v. *Government of Trinidad and Tobago* (Case No. CONC/83/1).

(iii) *Additional Facility*

In approving the Additional Facility[304] in 1978, the Administrative Council decided to review its operation after a five-year period in order to determine whether the Additional

Facility should be continued. In 1983, it was decided to postpone a decision on continuation of the Additional Facility for another year. At its Eighteenth Annual Meeting, held in Washington, D.C., on 26 September 1984, the Administrative Council approved the Secretary-General's proposal to continue indefinitely the Additional Facility.

(iv) *Regulations and Rules*

Also at its Eighteenth Annual Meeting, the Administrative Council adopted a revised set of Regulations and Rules. Among the revisions adopted is an amendment to the Arbitration Rules providing for a new procedure in the form of a "pre-hearing conference", which may be called by the Secretary-General or the Arbitral Tribunal, or be requested by the parties, to expedite the proceedings by promptly identifying undisputed facts and to facilitate early amicable settlements. Other amendments include changes designed to clarify or simplify certain provisions and to enhance the flexibility of others.[305]

(v) *ICSID and the courts*

In *République Populaire Révolutionnaire de Guinée et al.* v. *Société Atlantic Triton,* the Court of Appeal of Rennes (France), on 26 October 1984, vacated an order of attachment of certain assets of the appellant. The ground for the Court's decision was that when parties have consented to ICSID arbitration domestic courts in contracting States must decline to entertain claims brought before them by one of the parties since, under article 26 of the Convention, consent to ICSID arbitration is deemed to exclude any other remedy.[306]

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7. INTERNATIONAL MONETARY FUND

MEMBERSHIP

On 15 August 1984, Saint Christopher and Nevis became a member of the Fund with a quota of SDR 4.5 million, and on 24 September 1984, Mozambique also joined the Fund with a quota of SDR 61 million, raising the total membership to 148 countries. With the admission of Mozambique, the total of members' quotas in the Fund is SDR 89,301.8 million. Kiribati applied for membership in July 1984.

FINANCIAL ASSISTANCE

The Executive Board of the Fund adopted a number of decisions on 6 January 1984 that enabled the Fund to continue to provide financial assistance, on an appropriate scale, to members experiencing payments imbalance that were large in relation to members' quotas. One set of decisions related to the policy on enlarged access, and another decision was on members' access to the compensatory financing and buffer stock financing facilities.

Decisions on the enlarged access policy were necessary because the Fund could not approve stand-by or extended arrangements under the enlarged access policy following the coming into effect of the Eighth General Review of Quotas on 30 November 1983. Under the action taken by the Executive Board, the Fund could resume approving such stand-by or extended arrangements until the end of 1984 and, subject to a further decision by the Executive Board, beyond that date.

In determining members' access under this policy, the Executive Board agreed on guidelines, under which access by members during 1984 would be subject to annual limits of 102 or 125 per cent of quota, three-year limits of 306 or 375 per cent of quota and cumulative limits of 408 or 500 per cent of quota (net of scheduled repurchases), depending on the seriousness of the member's balance of payments needs and the strength of its adjustment efforts.

Under another decision of 6 January 1984 relating to the policy of enlarged access, the Executive Board simplified the mixing of ordinary and borrowed resources under stand-by and extended arrangements in the interest of the better administration of the policy.

On 16 November 1984, the Executive Board completed its review of the policy on enlarged access and took a decision covering 1985 to give effect to conclusions reached by the Interim Committee at its meeting on 22 September 1984. Under the decision, access by members to the Fund's general resources under arrangements approved under the policy on enlarged access during 1985 would be subject to annual limits of 95 or 115 per cent of quota, three-year limits of 280 or 345 per cent of quota and cumulative limits, net of scheduled repurchases, of 408 or 450 per cent of quota, depending on the seriousness of the member's balance-of-payments needs and the strength of its adjustment efforts. The annual and triennial limits are not to be regarded as targets. Within these limits, the amounts of access in individual cases will vary according to the circumstances of the members. Also, the Fund will continue to be able to approve stand-by or extended arrangements that provide for amounts in excess of these access limits in exceptional circumstances.

On the question of compensatory financing, the Executive Board decided on 6 January 1984 that members may draw up to 83 per cent of quota (instead of 100 per cent of quota) under the facility relating to shortfalls in receipts from exports as well as the facility relating to excesses in the cost of cereal imports. For members making use of compensatory financing from the Fund for both export shortfalls and excesses in cereal import costs, an overall limit of 105 per cent of quota has been set. The new limits compare to previous limits of 100 per cent and 125 per cent of quota, respectively.

On the question of the buffer stock financing facility, the Executive Board agreed on 6 January 1984 to a maximum access of 45 per cent of quota as compared with the previous limit of 50 per cent. The Executive Board reviewed the decision on 16 November 1984 and decided to maintain the maximum access limit at 45 per cent of quota under the buffer stock financing facility. These limits and the enlarged access policy itself will be reviewed before the end of 1985.

BORROWING

The Fund concluded in April 1984 four borrowing agreements for a total of SDR 6 billion with the Saudi Arabian Monetary Agency (SAMA), the Bank for International Settlements (BIS), Japan and the National Bank of Belgium. The Agreement with SAMA is in the form of a supplement to the borrowing agreement concluded on 7 May 1981 between SAMA and the Fund.

These borrowing agreements will enable the Fund to continue to provide resources under the policy on enlarged access to members adopting strong programmes of economic adjustment to correct payments imbalances that are large in relation to quotas.

The drawing period under these agreements will be for one year, beginning 30 April 1984 in the case of the BIS and Japan, and 30 June 1984 in the case of the National Bank of Belgium. Drawings on the agreement with SAMA may be made by the Fund beginning in 1985. The final maturity of each drawing under the agreements will be $2^{x}h$ years after the date of the drawing. Interest will be based on the weighted average of short-term Euromarket interest rates for the five currencies comprising the SDR basket, although prior to the first drawing under its agreement SAMA may elect instead to receive interest based on the weighted average of interest rates on 2!£ year government securities in the five SDR currencies. In all cases, the amounts of commitments, drawings, and repayments will be denominated in SDRs.

On 10 April 1984, the Fund was formally notified of Swiss adherence to the Fund's General Arrangements to Borrow (GAB). Swiss participation will be through the Swiss National Bank. Previously, Switzerland had been associated with, but not a full participant in, GAB.

With the adherence of the Swiss National Bank, whose participation amounts to SDR 1,020,000,000, the lines of credit available to the Fund under GAB now total SDR 17 billion.

The recent revisions to GAB also permit certain borrowing arrangements between the Fund and non-participating members to be associated with GAB. Saudi Arabia and the Fund have already entered into such an arrangement, which went into effect at the same time as the revised GAB, which became effective on 26 December 1983.

Thus, the Fund will continue to be able to call on GAB resources for any drawings by the Fund members that are participants, when supplementary resources are needed to forestall or cope with an impairment of the international monetary system. Also under such circumstances, the Fund may call on GAB resources to finance drawings by Fund members that are not participants provided that those drawings are made under policies of the Fund requiring adjustment programmes. Calls on GAB may be made to finance purchases by non-participants if the Fund faces an inadequacy of resources to meet actual and expected requests for financing that reflect the existence of an exceptional situation associated with balance-of-payments problems of members of a character or aggregate size that would threaten the stability of the international monetary system.

On 15 February 1984, the Executive Board adopted a decision effective 10 April 1984, under which the Fund consents in advance to the transfer of outstanding claims to repayment under GAB on certain terms and conditions, pursuant to paragraph 13 of the revised GAB, which became effective on 26 December 1983. The Executive Board also adopted a decision on the same date, which enabled the Fund to consent in advance to the transfer of outstanding claims to repayment under the Borrowing Agreement with Saudi Arabia on certain terms and conditions, pursuant to paragraph 9 of the Agreement with Saudi Arabia under which Saudi Arabia agreed to provide supplementary resources in association with GAB.

CHARGES AND REMUNERATION

The Executive Board has reviewed the Fund's net income position for the financial year ending 30 April 1984 and the rate of charges on members' use of the Fund's ordinary resources. On the basis of estimated income and expense for the fiscal year 1985, the Board has decided that the rate of charge shall be 7 per cent per annum effective 1 May 1984. Previously, the rate of charge was *6.6* per cent per annum. The rate of charge applies on the daily average outstanding balances of members' purchases under the regular credit tranches and under the compensatory and buffer stock financing facilities.

On the rate of remuneration, the Executive Board agreed on a formula on 9 January 1984, under which this rate would be raised from the level of 85 per cent of the SDR interest rate by increases of 3.33 percentage points on 1 May of each year, 1984,1985, and 1986, and when the SDR interest rate was falling, raised further within certain ranges during each financial year. A review of the rate of remuneration will be held between 1 May 1986 and 1 May 1987, taking into account all relevant factors, including the SDR interest rate and the rate of charge. Beginning on 1 May 1987, adjustments of the rate of remuneration will continue beyond the level attained on the basis of movements in the SDR interest rate. The SDR interest rate is the weighted average of money market interest rates in the United States, the Federal Republic of Germany, France, Japan and the United Kingdom.

SDRs

The Executive Board prescribed the Eastern Caribbean Central Bank as a holder of SDRs on 17 May 1984. The Bank is the successor to the East Caribbean Currency Authority, which itself was a prescribed holder of SDRs.

There are 14 official institutions, in addition to the Fund and its 148 members, authorized to hold and deal in SDRs. Each of these institutions can acquire and use SDRs in transactions and operations with any other prescribed holder and with any of the Fund's members.

STATUS UNDER ARTICLE VIII

The Government of Saint Christopher and Nevis formally notified the Fund that it accepted the obligations of article VIII, sections 2, 3, and 4, of the Fund's Articles of Agreement [M7] with effect from 3 December 1984.

Members accepting the obligations of article VIII undertake not to impose restrictions on the making of payments and transfers for current international transactions or engage in discriminatory currency arrangements or multiple currency practices.

Saint Christopher and Nevis, which joined the Fund on 15 August 1984, is the sixtieth member of the Fund to assume article VIII status.

8. UNIVERSAL POSTAL UNION[308]

For the Universal Postal Union, 1984 was a very important year from the legal point of view because the Union undertook the revision of all the Union's Acts at its 19th Congress, held at Hamburg, Federal Republic of Germany, from 18 June to 27 July.

The 1984 Hamburg Congress made a number of amendments to the Constitution of the Universal Postal Union which were incorporated in the Third Additional Protocol to it.

It also revised and renewed the following acts of the Universal Postal Union:

(a) General Regulations of the Universal Postal Union (with annex);

(b) Universal Postal Convention (with final protocol and detailed regulations);

(c) Postal Parcels Agreement (with final protocol and detailed regulations);

(d) Money Orders and Postal Travellers' Cheques Agreement (with detailed regulations and final protocol to detailed regulations);

(e) Giro Agreement (with detailed regulations);

(/) Cash-on-Delivery Agreement (with detailed regulations);

(g) Collection of Bills Agreement (with detailed regulations);

(A) International Savings Agreement (with detailed regulations);

(0 Subscriptions to Newspapers and Periodicals Agreement (with detailed regulations).

All these Acts were signed at Hamburg on 27 July 1984; they were to enter into force on 1 January 1986.

In addition, the same Congress adopted a number of decisions, in the form of resolutions, formal opinions and recommendations, that do not modify the Acts of the Union. They concern the functioning of UPU or certain legal or basic aspects of the international postal service.

(a) General questions

(i) *Declaration of Hamburg on the role of UPU in the integration of national postal networks*

Wishing to keep postal services up to their task and to enable postal administrations to meet their customer's needs, the Congress organized a general discussion on the changes taking place in the postal service in the face of developments in the communications market. The result was a Declaration of Hamburg, which emphasizes that UPU must "actively participate in strengthening the international postal service as a whole and in improving the standard and speed of international mail circulation and postal exchanges".

(ii) *Exclusion of the Republic of South Africa from UPU*[309]

Having considered the sanctions previously adopted against South Africa (exclusion of the Republic of South Africa from the 17th Congress of UPU and from all other Congresses and meetings of the Universal Postal Union (resolution C2 of the Lausanne Congress), and the expulsion of the Republic of South Africa from UPU (resolution *C6* of the 1979 Rio de Janeiro Congress)) and the country's persistence in its policy of *apartheid,* the 1984 Hamburg Congress confirmed the expulsion of the Republic of South Africa from the Union and decided that it would not be able to take advantage of its status as a Member of the United Nations to rejoin UPU.

(iii) *Contacts with international organizations representing customers of the postal services*[310]

The Congress instructed the Executive Council to study the relationships that might be established with organizations representing customers of the postal services in order to identify their needs better and achieve better co-operation.

(iv) *Clearing up of arrears by means of the International Bureau's clearing system*[311]

Faced with the problem of arrears of contributions, UPU declined to impose the same sanctions as other specialized agencies (suspension of the right to vote, ineligibility for membership of restricted bodies, deprivation of certain services or publications, interest on overdue payments); instead, it adopted a procedure *sui generis* which had the advantage of clearing up the debts of certain countries to UPU without requiring them to obtain the allocation of large credits and permission to export currency from their competent authorities.

(v) *Choice of contribution class*[312]

The Hamburg Congress introduced three new contribution classes of 40, 35 and $^{l}/_{h}$ units, the last being reserved for the least developed countries listed by the United Nations and other countries designated by the Executive Council. Member countries currently placed in the one-unit contribution class and considered by the United Nations to be least developed countries were authorized to choose the $^{x}/_{h}$ unit class under the system resulting from the Hamburg Acts.

(vi) *Non-attendance of members of the Executive Council and of the Consultative Council for Postal Studies at meetings of those bodies*[313]

Proposals having been made at the Hamburg Congress for sanctions against members of the Executive Council (EC) and the Consultative Council for Postal Studies (CCPS) who did not send representatives to meetings of those bodies, the Congress assigned the proposals to the Executive Council for study.

(vii) *Duration of Congress*[314]

The Congress instructed the Executive Council to find means of reducing the duration of its next Congress, to be held in the United States of America in 1989, to five weeks at most.

(viii) *Study on international postal regulations*[315]

The Congress instructed the Executive Council to study a different conceptual approach and presentation for international postal regulations that would facilitate their flexible application by postal administrations and speed up their amendment without requiring systematic recourse to the Congress.

(ix) *Credentials of delegates to Congress*[316]

The Congress instructed the Executive Council to study the procedures and provisions relating to the deposit of credentials and the scope thereof. The question was to decide in particular if, and until when, delegations whose credentials were not deposited or not in good and due order should be entitled to vote.

(x) *Geographical distribution of Executive Council seats**[17]

The Congress instructed the Executive Council to study the question of the geographical distribution of Executive Council seats on the basis of certain regional demarcations, in particular those of the various United Nations Economic Commissions.

(b) International postal questions

(i) *Agreements concerning the postal financial services*[31]*

In order to encourage administrations to effect financial services on the basis of the UPU Agreements, the Congress instructed the Executive Council to study how to bring those Agreements up to date and to make them more flexible. At the same time, it called for the promotion of such services.

(ii) *Postal monopoly**[19]

Governments were called upon to maintain the postal monopoly, to define clearly the items which fell within the scope of the postal monopoly and, where appropriate, to instruct the competent authorities (customs, etc.) to assist the postal authorities in enforcing the postal monopoly.

(iii) *Customs treatment of postal items: International Convention on the Simplification and Harmonization of Customs Procedures (Kyoto Convention)**[20]

The Congress expressed the formal opinion that postal administrations should approach the authorities in charge of customs questions in their country to request that they take steps to speed up the ratification of annex F4 to the Kyoto Convention, which aims to simplify and harmonize customs procedures.

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9. WORLD METEOROLOGICAL ORGANIZATION

(a) Constitutional and regulatory matters

(i) *Rules of Procedure of the Executive Council*

The Executive Council discussed its Rules of Procedure as given in the annex to resolution 29 (EC-XXIX) in the light of the relevant decisions of Cg-IX related to the Convention[321] and the General Regulations, and concluded that certain amendments had to be introduced therein. Those amendments were mainly of an editorial nature, concerning the change of the name of the Executive Committee, the change in the numerical order of some general regulations referred to and the interpretation of the word "designated" in regulation 141 of the General Regulations.

The Council considered rule 25 *(e)* of its Rules of Procedure and decided to amend it with a view of retaining WMO-No. 508 as a reference publication. In this respect, it requested the Secretary-General to continue its publication but in a simplified format which would substantially reduce its present size.

The Council adopted resolution 17 (EC-XXXVI), the annex of which contains the full text of the Rules of Procedure as amended.

(ii) *Interpretation of the term "designated" in general regulation 141*

The Executive Council reconsidered the question of the interpretation of the term "designated" in regulation 141 of the General Regulations and noted the decision of Ninth Congress that the term "designated" should continue to mean "elected" until Congress decided otherwise.

In this respect, the Council noted that the Ninth Congress had adopted that interpretation without amending the term "designated" in general regulation 141, as such an amendment cannot be carried out without also amending article 16 of the Convention as indicated in resolution 26 (EC-XXXIV).

The Council felt that a possible solution to such a problem would be to amend general regulation 141 with the aim of confining the list of candidates for an acting member of the Council to those coming from the same Region as the outgoing member.

The Council requested the Secretary-General, therefore, to submit to the next session of the Council a proposed draft amendment to general regulation 141 to cover the procedure mentioned in the previous paragraph. The proposed amendment as agreed upon by the Council will be submitted to the Tenth Congress.

In the meantime, the Council approved the following statement on the application of general regulation 141, in accordance with the provisions of general regulation 2, paragraph

> "The final list of candidates for filling a vacant seat in the Executive Council will be confined to those candidates coming from the same Region as the outgoing member of the Council."

(iii) *Voting by correspondence on amendments to articles 3 and 34 of the Convention*

The Executive Council examined the queries raised by the Bureau of the organization at its ninth session (January/February 1984) about the validity of the procedures followed by the Secretary-General for voting by correspondence on the amendments to articles 3 and 34 of the Convention as a consequence of the decision taken by the Ninth Congress (abridged report of Cg-IX, general summary, para. 10.1.10).

The Council agreed with the conclusions of the legal opinion provided by the Director-General of WHO at the request of the Secretary-General on this matter, namely that the above-mentioned voting by correspondence, initiated by WMO letter dated 26 October 1983, had not been validly carried out. All the envelopes containing voting slips, which had remained unopened, were consequently destroyed during the third plenary meeting of the session (21 June 1984).

As regards the procedures for voting by correspondence, the Council noted that the relevant WMO General Regulations[322] do not provide for a secret ballot in the context of voting by correspondence but confidentiality can be secured by the provisions of the second paragraph of regulation 76 of the General Regulations. This paragraph provides for a procedure by which, at the request of two members received before the voting terminates, the list showing the votes of individual members shall not be provided to members. Such a procedure can be deemed as meeting the objectives of a secret ballot in voting by correspondence.

The Council decided, therefore, that the voting by correspondence on amendments to articles 3 and 34 of the Convention should start afresh and instructed the Secretary-General to take the necessary action in accordance with regulations 69,70,71,72,73,75 and 76 of the General Regulations. Noting that some members may eventually wish to apply the second paragraph of general regulation 76 to the ballot, the Council requested the Secretary-General to devise an appropriate method to secure confidentiality within the secretariat.

The Council requested the Secretary-General to submit to its next session a report on possible procedures for secret voting by correspondence together with any subsequent amendments to the General Regulations.

The Council was reminded of the decision taken at its thirty-fifth session and recorded in EC-XXXV/MIN. 5, paragraph 1, according to which the Secretary-General was requested to prepare a paper concerning the procedures for amending the Convention. The Council decided that this study should be made after the conclusion of the vote by correspondence on articles 3 and 34 and the paper presented at its next session.

(iv) *Consideration of WMO hosting the Ozone Convention secretariat*

The Executive Council noted with considerable interest the efforts of UNEP in preparing the draft Convention for the Protection of the Ozone Layer and the request of UNEP for the views of the Executive Council on the possibility of WMO hosting the permanent secretariat functions under the draft Convention.

The Executive Council would be prepared to look into the hosting of a permanent Ozone Convention Secretariat. In this connection, the Secretary-General was requested to inform the Executive Director of UNEP that WMO could be a possible location for the Ozone Convention Secretariat, with the proviso that, other than the resident WMO technical/managerial expertise in ozone matters, any other service would have to be provided at cost to the contracting parties to the Convention for the Protection of the Ozone Layer.

The Executive Council further requested the Secretary-General to look into the practical and financial implications of hosting such a secretariat and to make a progress report to EC-XXXVII.

(6) Staff matters

Amendments to the Staff Rules

The Executive Council noted the amendments to chapter III of the Staff Rules, applicable to headquarters staff and to chapters III and VII of the Staff Rules applicable to technical assistance project personnel, made by the Secretary-General since the thirty-fifth session of the Council.

(c) Membership of the organization

Following the deposit of its instrument of accession, Brunei Darussalam became a member of the organization on 26 December 1984. The membership of the organization was thereby increased to 153 member States and five member territories.

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10. INTERNATIONAL MARITIME ORGANIZATION

(a) Membership of the organization

In 1984, the following countries became members of the International Maritime Organization: Viet Nam (12 June) and Brunei Darussalam (31 December). At 31 December 1984, the number of members of IMO was 127. There is also one associate member.

(b) 1977 and 1979 amendments to the IMO Convention[323]

The amendments to the Convention adopted by the Assembly in 1977[324] and 1979[325] by resolutions A.400(X) and A.450(XI) respectively entered into force on 10 November 1984. Pursuant to the 1977 amendments the Technical Co-operation Committee became institutionalized in the Convention as of that date. In accordance with the amendments of 1979 the composition of the Council was enlarged from 24 to 32, also with effect from 10 November 1984.

(c) International Conference on Liability and Compensation for Damage in connection with the Carriage of Certain Substances by Sea

The International Conference on Liability and Compensation for Damage in connection with the Carriage of Certain Substances by Sea was convened from 30 April to 25 May 1984 in pursuance of the decisions of the Council and the Assembly. The purpose of the Conference was to consider the adoption of a treaty instrument on questions of liability and compensation for damage in connection with the carriage of noxious and hazardous substances by sea (HNS Convention) and the adoption of treaty instruments to revise the 1969 Civil Liabil-

ity[326] and the 1971 Fund[327] Conventions. Sixty-nine States were represented. Representatives of the United Nations as well as observers from five intergovernmental and 24 non-governmental organizations attended the Conference.

With regard to the first subject (the HNS Convention), the Conference concluded, after having examined the draft Convention which has been prepared by the Legal Committee, that it was not feasible in the time available to resolve the many complex issues raised in the discussions in order to reach consensus on an instrument which could be widely accepted by States. Accordingly, the Conference decided to refer the draft Convention to IMO for further consideration. IMO was recommended to consult and to arrange for the preparation of a new and more widely acceptable draft.

At its fifty-third session (November 1984) the Council requested the Secretary-General to identify and analyse the fundamental issues of the draft Convention on which wide consensus had not been reached. The results of that study will be submitted to the Legal Committee which will in turn make appropriate recommendations to the Council regarding further action to be undertaken by IMO.

For the revision of the 1969 Civil Liability and 1971 Fund Conventions the Conference adopted two treaty instruments, namely:

(a) Protocol of 1984 to amend the International Convention on Civil Liability for Oil Pollution Damage, 1969;[328]

(b) Protocol of 1984 to amend the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971.[329]

The Conference assigned to IMO and the Secretary-General of IMO depositary and related functions in respect of the two Protocols. At its fifty-second session (June 1984) the Council authorized the acceptance of those functions.

(d) Work of the Legal Committee

(i) *Salvage and related matters*

The subject of salvage and related issues has been the principal substantive item on the work programme of the Legal Committee since the conclusion of the 1984 diplomatic conference. The Committee is giving consideration to both private and public law aspects of the subject. The discussions on private law matters are based on a draft convention prepared by the Comité Maritime International (CMI) at the request of the Legal Committee. The draft Convention is intended to revise the 1910 Convention on Salvage and Assistance at Sea.[330]

In respect of public law issues, the Committee is considering proposals submitted by Governments and interested international organizations.

(ii) *Maritime Herts and mortgages and related subjects*

At the request of the Council, the Legal Committee examined questions arising from the consultations between the Secretary-General and the Secretary-General of UNCTAD on future work on maritime liens and mortgages and related subjects. As necessary the Committee formulated appropriate advice to the Secretary-General and the Council.

Following approval by the Council of IMO and the UNCTAD Committee on Shipping of an Agreement establishing the procedure for future work on the subject in IMO and UNCTAD, the Committee has decided to include the subject in its work programme for the 1986/87 biennium. The Committee's work thereon will be on the basis of the procedure agreed between IMO and UNCTAD.

(e) Changes in status of IMO Conventions

(i) *International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW)*[m]

The STCW Convention entered into force on 28 April 1984, in accordance with article XIV of the Convention.

(ii) *1981 Amendments?[32] to the International Convention for the Safety ofLife at Sea, 1974 (SOLAS 1974)™*

The Maritime Safety Committee at its forty-fifth session (November 1981) adopted, in accordance with article VIH(6)(iv) of the Convention, amendments to chapters II-1, II-2, III, IV, V and VI of the Convention.

The Maritime Safety Committee determined, in accordance with article VIII(£)(vii)(2) of the Convention, that the amendments should enter into force on 1 September 1984 unless, prior to 1 March 1984, more than one third of contracting Governments to the Convention or contracting Governments the combined merchant fleets of which constituted not less than 50 per cent of the gross tonnage of the world's fleet, have notified their objections to the amendments. No such notification was received and the date of entry into force of the amendments was accordingly 1 September 1984.

(iii) *1981 Amendments?[3]* to the Protocol of 1978 relating to the International Convention for the Safety ofLife at Sea, 1974 (SOLAS PROT. 1978)[33$]*

The Maritime Safety Committee at its forty-fifth session (November 1981) adopted, in accordance with article VHI(Z>)(iv) of the Convention, amendments to regulation 29(rf)(i) of chapter II-1 of the Protocol.

The Maritime Safety Committee determined, in accordance with article (Z>)(vii)(2) of the Convention, that the amendments should enter into force on 1 September 1984 unless, prior to 1 March 1984, more than one third of parties to the Protocol or parties the combined merchant fleets of which constituted not less than 50 per cent of the gross tonnage of the world's merchant fleet, have notified their objections to the amendments. No such notification was received and the date of entry into force of the amendments was accordingly 1 September 1984.

(iv) *1973 Amendments*[36] to the Convention on Facilitation of International Maritime Traffic, 1965 (FAL 1965)™*

A conference of Parties to the Convention, convened in accordance with the provisions of article IX, was held in London in November 1973. It adopted an amended article VII.

The 1973 Amendment entered into force on 1 June 1984.

(v) *1983 Amendments[i3]* to the International Convention for Safe Containers (CSC), 1972, as amended[339]*

The Maritime Safety Committee at its forty-eighth session adopted, in accordance with article X(2) of the Convention, amendments to annexes I and II to the Convention. The texts of the amendments were transmitted to the parties to the Convention for acceptance on 8 August 1983.

In accordance with the terms of article X(3) of the Convention, the amendments entered into force on 1 January 1984.

(vi) *International Convention on Maritime Search and Rescue (SAR), 1979[340]*

The conditions for entry into force were met on 22 June 1984, and the Convention entered into force on 22 June 1985.

(vii) *1984 Amendments to the Annex to the 1978 Protocol relating to the International Convention for the Prevention of Pollution from Ships, 1973[341]-[3]*[2]*

The Marine Environment Protection Committee at its twentieth session (September 1984) adopted, in accordance with article *16(2)(d)* of the 1973 Convention, amendments to the Annex to the 1978 Protocol.

In accordance with article 16(2)(/)(iii) and (g)(ii) of the 1973 Convention, the Committee determined that the amendments shall be deemed to have been accepted on 7 July 1985 and

shall enter into force on 7 January 1986 unless, prior to 7 July 1985, one third or more of the parties, or the parties the combined merchant fleet 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.

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11. INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT

As a result of the need to mobilize additional resources for operations, IFAD entered into co-financing arrangements with external donors on a co-financing basis.

(a) Belgian Survival Fund

Following a "Manifesto against death through hunger and underdevelopment", signed by 80 Nobel prize winners, the Belgian Parliament, on 3 October 1983, adopted a law (ratified by royal decree on 1 January 1984) establishing the Survival Fund for the Third World with the purpose of ensuring the survival of persons threatened by hunger, malnutrition and underdevelopment in regions of the third world which register the highest mortality rates due to these causes. To achieve these objectives the law provides that the resources of the Survival Fund have to be used for programmes aiming at food self-sufficiency. The Fund's resources are approximately $US 200 million (BF 10 billion).

On 10 May 1984 an Agreement was signed by the United Nations and IFAD, through which funds of the Survival Fund could be channelled through IFAD. The Agreement provides that IFAD shall have responsibility for ensuring the co-ordination of the activities of the United Nations agencies involved in the implementation of projects financed solely or partially through the Belgian Survival Fund. It should be noted, however, that IFAD has no obligation to extend financial assistance to the Recipient for the purpose of the project if no funds have been deposited by Belgium for the project. Pursuant to the above Agreement with Belgium, the procurement of goods and related services financed from the Survival Fund resources is subject to international competitive bidding and other relevant procedures agreed upon by the parties. The Recipient has to give timely notification to Belgian diplomatic or trade representatives of the opportunity to bid for goods and services, and invitations to tender must also be published in Belgian newspapers. In the procurement of goods and related services financed exclusively from the Survival Fund resources, all things being equal, preference is given to goods and related services from Belgium. Three United Nations organizations (the World health Organization, the United Nations Children's Fund and the United Nations Development Programme) and IFAD, known as Participating Agencies, signed a Memorandum of Understanding in May 1984 providing that IFAD should act as the focal point and co-ordinator of the Belgian Survival Fund projects and that a Participating Agency may be invited by IFAD to assist in the supervision and administration of the project and in the disbursement of the Belgian survival funds provided for the project.

The funds contributed by Belgium to the Belgium Survival Fund are to be used for projects in Somalia, Kenya, Uganda and Ethiopia. The first project of the programme was committed in 1984: the Kenya Farmers' Group and Community Support Project.

(b) Participation Agreement with the Netherlands

By an exchange of letters dated 14 and 18 November 1984, between the President of IFAD and the Ambassador of the Netherlands to Italy, a Participation Agreement was concluded between the Netherlands and IFAD and was approved by the Executive Board at its twenty-third session in December 1984.

The participation is in the form of reimbursement to IFAD, on a grant basis of the amount actually disbursed by IFAD for seven selected projects to six countries (Mozambique, Malawi, Yemen, Sudan, Bangladesh and Indonesia) during the period 1 July to 31 December 1984. Any amount received by IFAD for these projects is being deemed to have applied, *pro*

rata, as of the date of receipt, towards discharging the liability of the respective borrowers to IFAD for repayments of such outstanding maturity of the loans with no changes in the agreed design, scope and content of the approved projects. Consequently, interest or service charge on amounts of loans financed out of the participation cease to accrue to the borrower from the date of receipt of the amounts to be reimbursed by the Netherlands.

The Participation Agreement will not affect the existing arrangements for administering the existing loans and financing agreements through the Fund's co-operating institutions and does not involve any amendment to the above-mentioned seven loans.

12. INTERNATIONAL ATOMIC ENERGY AGENCY

ARTICLE VI.A. 1

On 27 September 1984 the General Conference of the Agency approved an amendment to article VI.A. 1 of the Agency's Statute[343] providing for the designation by the Board of Governors each year of the 10—instead of 9—member States "most advanced in the technology of atomic energy including the production of source materials". On 10 December 1984, the United Kingdom of Great Britain and Northern Ireland accepted the amendment. The amendment will come into force when it has been accepted by two thirds of the member States in accordance with their respective constitutional requirements.

PHYSICAL PROTECTION OF NUCLEAR MATERIAL

During 1984, the Convention on the Physical Protection of Nuclear Material[344] was signed by two more States—Australia and Portugal—and ratified by two more States—Bulgaria and Hungary. By the end of the year, 38 States and one regional organization had signed the Convention and 10 States had ratified it. The Convention requires 21 ratifications or acceptances for its entry into force.

EXPERT GROUP ON REPORTABLE EVENTS

An expert group met at Vienna from 21 to 25 May 1984 to consider the need for, and the extent of, prior arrangements on issues such as establishing a threshold of reportable events, integrated planning and information exchange in cases where a nuclear accident may have significant radiological impact in other States. The meeting was attended by experts and observers from 19 member States and 3 international organizations.

The expert group formulated recommendations on the scope of formal arrangements among States concerning transboundary aspects of a nuclear emergency, the establishment of a threshold of events subject to notification and the purview of information exchange and integrated planning related to emergency response preparedness.

These recommendations will be published as Guidelines in the INFCIRC series of the Agency.

COMMITTEE ON ASSURANCES OF SUPPLY

The Committee on Assurances of Supply (CAS) held its eleventh to thirteenth sessions in March, July and November respectively.

It continued its consideration of principles of international co-operation in the field of nuclear energy with the focus of discussion on the linkage between non-proliferation assurances and assurances of supply.

In March, CAS requested the secretariat to prepare a report on the existing practical, technical and administrative problems in international shipments of nuclear materials and equipment. In November, after considering the report, which had been prepared in the light of discussions by a group of experts convened by the secretariat, CAS transmitted it to the

Board together with a number of observations on it. In particular, CAS felt that there was a need for Governments to consider the report with a view to reducing administrative burdens and practical problems in international shipments of nuclear materials and equipment.

THIRD REVIEW CONFERENCE OF THE PARTIES TO THE TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS

The Preparatory Committee of the Third Review Conference held two sessions in 1984. The first was mainly procedural. At the second, the provisional background papers prepared by the United Nations, the Agency and the Agency for Prohibition of Nuclear Weapons in Latin America (OPANAL) were discussed. Work started on updating those papers for the third session of the Preparatory Committee, in April 1985, and for the Review Conference itself, in September 1985.

SAFEGUARDS

During 1984, safeguards agreements concluded pursuant to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) with Nauru and Sri Lanka, and pursuant to the Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco) with Panama, entered into force, bringing the total number of non-nuclear-weapon States with agreements in force pursuant to the NPT and/or the Treaty of Tlatelolco to 80.

NUCLEAR LIABILITY

Morocco signed the Vienna Convention on Civil Liability for Nuclear Damage*[45] on 30 November 1984. By the end of the year, 14 member States had signed the Convention and 10 member States were parties to it.

REGIONAL COURSE ON NUCLEAR LAW

A regional course on nuclear law and nuclear safety regulations for Latin American countries was held from 15 to 20 October in Uruguay, with the co-operation of the National Atomic Energy Commission and the Faculty of Law and Social Sciences of Montevideo University. The purpose of the course was to provide an overview of the major components of nuclear legislation and to exchange information on the elaboration and enactment of such legislation in Latin American countries. More than 60 participants from 12 member States in Latin America participated in the course, at which lectures were presented by Agency staff members and invited experts from Argentina, Brazil, Mexico and Spain.

ADVISORY SERVICES

Following the provision by the Agency of advisory services to the Governments of Chile, Malaysia and Uruguay, the Law on Nuclear Safety of 16 April 1984 and the Atomic Energy Licensing Act 1984 were promulgated in Chile and Malaysia respectively, and regulations for the control of the use of radioactive materials and ionizing radiation were adopted by decree in Uruguay.

IAEA TRANSPORT REGULATIONS

The latest revision of the Agency's Regulations for the Safe Transport of Radioactive Materials[346] was completed and the revised version approved by the Board of Governors. Work started on the preparation of documents designed to facilitate harmonized implementation of the Regulations in member States, on the formulation of guidelines for optimizing radiation protection in the transport of radioactive materials and on procedures for the review and approval of package design. Advice was provided to eight developing member States on the drafting of national transport regulations.

[1] This summary has been prepared on the basis of *The United Nations Disarmament Yearbook,* vol. 9; 1984 (United Nations publication, Sales No. E.85.IX.4).

[2] Adopted by a recorded vote of 109 to 19, with 7 abstentions.

[3] Resolution S-I0/2.

* Adopted by a recorded vote of 123 to 1, with 21 abstentions.

[s] Adopted by a recorded vote of 127 to 11, with 7 abstentions.

[6] Adopted without a vote.

[7] Adopted by a recorded vote of 98 to 16, with 24 abstentions.

[8] Adopted by a recorded vote of 124 to 13, with 9 abstentions.

[9] Adopted by a recorded vote of 71 to 11, with 53 abstentions.

[10] Adopted by a recorded vote of 101 to 19, with 17 abstentions.

[11] Adopted by a recorded vote of 128 to 17, with 5 abstentions.

[12] Adopted by a recorded vote of 129 to 12, with 8 abstentions.

[13] Adopted by a recorded vote of 122 to 3, with 23 abstentions.

[14] General Assembly resolution 2373 (XXII), annex; see also United Nations, *Treaty Series,* vol. 729, p. 161.

[15] United Nations, *Treaty Series,* vol. 480, p. 43.

[16] Adopted by a recorded vote of 139 to none, with 8 abstentions.

[17] United Nations, *Treaty Series,* vol. 634, p. 326.

[11] Adopted by a recorded vote of 147 to none, with 5 abstentions.

[19] Adopted without a vote.

[20] Adopted by a recorded vote of 94 to 2, with 44 abstentions.

[51] Adopted by a recorded vote of 100 to 3, with 42 abstentions.

[22] Adopted by a recorded vote of 118 to 16, with 14 abstentions.

[23] Adopted by a recorded vote of 84 to 1, with 62 abstentions.

[J]* Adopted without a vote.

[25] League of Nations, *Treaty Series,* vol. XCIV, p. 65.

[26] Adopted by a recorded vote of 125 to 1, with 23 abstentions.

[27] Adopted without a vote.

[n] Adopted by a recorded vote of 150 to none, with 1 abstention.

[29] Adopted without a vote. The second resolution 39/63 F of 12 December 1984 entitled "Regional Disarmament" was adopted also without a vote.

[30] For the text of the Convention and its Protocols, see *Juridical Yearbook, 1980,* p. 113.

[31] Adopted without a vote.

[32] Adopted without a vote.

[33] United Nations, *Treaty Series,* vol. 1108, p. 151.

[34] *First Review Conference of the Parties to the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques, Final Document* (ENMOD/CONF.I/13/II) (Geneva, 1984), part II.

[33] Adopted by a recorded vote of 136 to none, with 4 abstentions.

[36] General Assembly resolution 2734 (XXV); also reproduced in *Juridical Yearbook, 1970,* p. 62.

[37] Adopted by a recorded vote of 137 to none, with 11 abstentions.

[38] See A/39/758.

[39] Adopted without a vote.

* See A/39/758.

"[l] S/15971. For the printed text, see *Official Records of the Security Council, Thirty-eighth Year, Resolutions and Decisions, 1983,* part II, "Consideration of the report of the Secretary-General on the work of the Organization, 1982."

[42] S/16760. For the printed text, see *Official Records of the Security Council, Thirty-ninth Year, Resolutions and Decisions, 1984,* part II, "Consideration of the report of the Secretary-General on the work of the Organization."

[41] The paragraph in question reads as follows:

"2. In order to initiate and facilitate these exchanges in a flexible manner, discussion was structured under five main aspects, as follows:

"(a) The role of the Council in the prevention of conflicts, including both measures by the Council under the relevant Articles of the Charter and its response to situations brought to its attention by Member States or by the Secretary-General under Articles 35 and 99;

"(b) The role of the Council in promoting negotiations or other peaceful settlement procedures

between the parties to a dispute, including the part which the Council might itself play in such procedures;

"(c) Implementation of resolutions of the Council, including measures to give effect to its decisions as well as to strengthen United Nations peace-keeping operations and ensure respect for the tasks assigned to peace-keeping forces by the Council;

"(d) Measures for giving effect to Article 43 of the Charter, including the role envisaged for the Military Staff Committee in Articles 43 to 47;

"(e) Procedural improvements designed to facilitate the effective exercise by the Council of its functions under the Charter."

[44] For the report of the Legal Sub-Committee, see A/AC. 105/337.

[45] A/AC. 105/C.2/L. 144; reproduced in A/AC. 105/337, annex IV, part A.

[46] A/AC. 105/C.2/L. 145; reproduced in A/AC. 105/337, annex IV, part A.

[47] A/AC 105/C.2/L. 146; reproduced in A/AC. 105/337, annex IV, part B.

[48] A/AC. 105/C.2/L. 147; reproduced in A/AC.105/337, annex IV, part C.

[49] See *Official Records of the General Assembly, Thirty-ninth Session, Supplement No. 20* (A/39/20), chap. II, sect. C.

[50] Adopted without a vote.

[51] See A/39/713.

[51] 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 (resolution 2345 (XXII), annex); Convention on International Liability for Damage Caused by Space Objects (resolution 2777 (XXVI), annex); Convention on Registration of Objects Launched into Outer Space (resolution 3235 (XXIX), annex); Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (resolution 34/68, annex).

[53] Adopted without a vote.

[54] See A/39/756.

[55] A/39/583 (Part I) and Corr.l and 2 and A/39/583 (Part II) and Corr.l, vols. I-III.

[56] United Nations, *Treaty Series,* vol. 402, p. 72.

[57] For detailed information, see *Official Records of the General Assembly, Thirty-ninth Session, Supplement No. 25* (A/39/25).

[58] *Ibid.,* annex.

[59] UNEP/GC.10/5/Add.2, annex, chap. II.

[W] UNEP/GC12/I8.

[61] Adopted without a vote.

[62] See *Official Records of the General Assembly, Thirty-ninth Session, Annexes,* agenda item 80, document A/39/790/Add-9, para. 22.

[63] See A/39/432.

[64] For detailed information, see *Official Records of the General Assembly, Thirty-ninth Session, Supplement No. 12* (A/39/12) and *ibid., Supplement No. 12A* (A/39/12/Add.I).

"United Nations, *Treaty Series,* vol. 189, p. 137.

[66] *Ibid,* vol. 606, p. 267.

[67] Since the High Commissioner last reported on his activities to the General Assembly, Peru, already a party to the Convention, has acceded to the Protocol and Mozambique has acceded to the Convention.

[68] A/AC.96/649/Add.l.

[69] Adopted without a vote.

[70] See A/39/709.

[71] United Nations, *Treaty Series,* vol. 520, p. 151.

[12] *Ibid,* vol. 1019, p. 175.

[73] *Ibid,* vol. 976, p. 105.

[74] Adopted without a vote.

[75] See A/39/710.

[76] Adopted without a vote.

[77] See A/39/710.

[78] Adopted without a vote.

[79] See A/39/710.

[80] See General Assembly resolution 2200 A (XXI), annex; also reproduced in *Juridical Yearbook, 1966,* p. 170.

[81] General Assembly resolution 2200 A (XXI), annex; see also United Nations, *Treaty Series,* vol. 993, p. 3.

[12] United Nations, *Treaty Series*, vol. 999, p. 171.
[83] *Ibid.*
[84] Adopted without a vote.
[13] See A/39/707.
[86] *Official Records of the General Assembly, Thirty-ninth Session, Supplement No. 40* (A/39/40 and Corr.land2).
[87] Adopted by a recorded vote of 64 to 19, with 55 abstentions.
"See A/39/707.
[89] Adopted without a vote.
[90] See A/39/707.
[91] A/39/484, annex.
[92] See General Assembly resolution 2106 A (XX), annex; also reproduced in *Juridical Yearbook, 1965*, p. 63, and in United Nations, *Treaty Series*, vol. 660, p. 195.
[93] Adopted without a vote.
[94] See A/39/658.
[95] See General Assembly resolution 38/14.
[96] Adopted by a recorded vote of 145 to 1, with no abstentions.
[97] See A/39/658.
[91] *Official Records of the General Assembly, Thirty-ninth Session, Supplement No. 18* (A/39/18).
[99] See General Assembly resolution 3068 (XXVIII); also reproduced in *Juridical Yearbook, 1973*, p. 70; and in United Nations, *Treaty Series*, vol. 1015, p. 243.
[100] Adopted by a recorded vote of 121 to 1, with 23 abstentions.
[101] See A/39/658.
[102] See General Assembly resolution 34/180; also reproduced in *Juridical Yearbook, 1979*, p. 115.
[103] Adopted by a recorded vote of 142 to 1, with 1 abstention.
[104] See A/39/703.
[105] Adopted without a vote.
[106] See A/39/708.
[107] The text of the Convention is reproduced in chapter IV of the present volume (see p. 135).
[108] Adopted without a vote.
[109] See A/39/700.
[110] Adopted by a recorded vote of 131 to 2, with 12 abstentions.
[111] See A/39/711.
[112] Adopted without a vote.
[111] A/39/711.
[114] Adopted without a vote.
[115] See A/39/700.
[116] A/C.3/39/1 and A/C.3/39/4 and Corr.l.
[117] Adopted without a vote.
"• See A/39/700.
[119] A/C.3/39/9 and Corr.l.
[120] Adopted without a vote.
[121] See A/39/706.
[122] Adopted without a vote.
[123] See A/39/704.
[124] General Assembly resolution 36/55.
[125] Adopted without a vote.
[126] See A/39/700.
[127] General Assembly resolution 217 A (HI).
[121] General Assembly resolution 260 A (III), annex; see also United Nations, *Treaty Series*, vol. 78, p. 277.
[129] General Assembly resolution 2391 (XXIII), annex; see also United Nations, *Treaty Series*, vol. 754, p. 73.
[130] Adopted by a recorded vote of 127 to none, with 21 abstentions.
IJI See A/39/705.
[132] General Assembly resolution 3384 (XXX).
[133] Adopted without a vote.
[134] See A/39/705.
[135] See E/CN.4/1985/3-E/CN.4/Sub.2/1984/43, chap. IX.
[136] *Official Records of the Third United Nations Conference on the Law of the Sea, vol. XVIII* (United

Nations publication, Sales No. E.84.V.2), document A/CONF.62/122; see also *The law of the sea: official text of the United Nations Convention on the Law of the Sea with indexes and Final Act of the Third United Nations Conference on the Law of the Sea* (United Nations publication, Sales No. 83.V.5).

[137] For detailed information on the work of the Preparatory Commission, see the report of the Secretary-General on developments relating to the United Nations Convention on Law of the Sea (A/39/647 and Corr.l and Add.I).

[138] See *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.62/121, annex I.

[139] *International Legal Materials,* vol. 23, No. 6, November 1984, p. 1354.

[140] A/39/647 and Corr.l and Add.l.

[141] Adopted by a recorded vote of 138 to 2, with 5 abstentions.

[142] For the composition of the Court, see General Assembly decision 39/307.

[143] As of 31 December 1984, the number of States recognizing the jurisdiction of the Court as compulsory in accordance with declaration filed under Article 36, paragraph 2, of the Statute of the International Court of Justice stood at 47.

[144] For detailed information, see *I.CJ. Yearbook 1983-1984,* No. 38, and *I.C.J. Yearbook 1984-1985,* No. 39.

[145] *I.CJ. Reports 1984,* p. 169.

[146] The summary is taken from *I.CJ. Yearbook 1983-1984,* No. 38, p. 133.

[147] Under Article 36, paragraph 5, of the Statute of the Court, a declaration made pursuant to the Statute of the Permanent Court which is "still in force" is to be deemed, as between the parties to the Statute, to be an acceptance of the jurisdiction of the International Court of Justice for the period which it still has to run.

[M] *I.C.J. Reports 1984,* p. 189.

[w] *Ibid., p.* 190.

[m] *lbid.,* p. 209.

[151] *Ibid.,* p. 392.

[152] The summary is taken from *I.CJ. Yearbook 1984-1985,* No. 39, p. 138.

[153] While a State admitted to membership of the United Nations automatically becomes a party to the Statute of the International Court of Justice, a State member of the League of Nations only became a party to the Statute of the Permanent Court of International Justice if it so desired, and, in that case, it was required to accede to the Protocol of Signature of the Statute of the Court.

[1J4] /.C./. *Reports 1980,* p. 19, para. 36.

[155] *I.CJ. Reports 1978,* p. 12, para. 29.

[li6] *I.CJ. Reports 1984,* p. 444.

[lil] *Ibid.,* p. 558.

[158] For detailed information, see *I.CJ. Yearbook 1983-1984,* No. 38, and *I.CJ. Yearbook 1984-1985,* No. 39.

[159] *I.CJ. Reports 1984,* p. 3.

[160] The summary is taken from *I.CJ. Yearbook 1983-1984,* No. 39, p. 126.

[161] *I.CJ. Reports 1984,* p. 30.

[ia] *Ibid., p. 71.*

[163] *Ibid.,* p. 162.

[164] For detailed information, see *I.CJ. Yearbook 1983-1984,* No. 38, and *I.CJ. Yearbook 1984-1985,* No. 39.

[165] *I.CJ. Reports 1982,* p. 4; a summary outline of the Judgment and the complete text of the operative paragraph were given in *Juridical Yearbook, 1982,* p. 96.

[166] For detailed information, see *I.CJ. Yearbook 1983-1984,* No. 38, and *I.CJ. Yearbook 1984-1985,* No. 39.

[167] *I.CJ. Reports 1984,* p. 246.

[168] For the location of the starting-point and terminal area of the delimitation, see Map No. 1 appended to the Judgment.

[169] *I.CJ. Reports 1984,* p. 353.

[170] *Ibid.,* p. 360.

[171] For detailed information, see *I.CJ. Yearbook 1984-1985,* No. 39.

[172] AT/DEC/333; a summary of the judgement is also reproduced in the present volume, p. 146.

[173] *I.CJ. Reports 1984,* p. 212.

[174] *Ibid.,* p. 639.

[175] For the membership of the Commission, see *Official Records of the General Assembly, Thirty-ninth Session, Supplement No. 10* (A/39/10), chap. I.

[176] For detailed information, see *Yearbook of the International Law Commission, 1984,* vol. I (United Nations publication, Sales No. E.85.V.6); *ibid.,* vol. II, Part One (United Nations publication, Sales No. E.85.V.7 (Part I)); and *ibid.*. Part Two (United Nations publication, Sales No. E.85.V.7 (Part II)).

[177] *Yearbook of the International Law Commission, 1984,* vol. II, Part One (United Nations publication, Sales No. E.85.V.7 (Part I), document A/CN.4/377.

[171] A/CN.4/374/Add.l, Add.2, Add.3 and Add.4; subsequently incorporated in *Yearbook of the International Law Commission, 1983,* vol. II, Part One (United Nations publication, Sales No. E.84.V.7 (Part I), document A/CN.4/374 and Add. 1-4.

[179] *Yearbook of the International Law Commission, 1984,* vol. II, Part One (United Nations publication, Sales No. E.85.V.7 (Part I)), document A/CN.4/382.

[IK] *Ibid,* document A/CN.4/376 and Add.l and 2.

[111] *Yearbook of the International Law Commission, 1983,* vol. II, Part One (United Nations publication, Sales No. E.84.V.7 (Part I)), document A/CN.4/373.

[112] *Yearbook of the International Law Commission, 1984,* vol. II, Part One (United Nations publication, Sales No. E.85.V.7 (Part I)), document A/CN.4/383 and Add.l.

[113] ST/LEG/15.

[m] *Yearbook of the International Law Commission, 1984,* vol. II, Part One (United Nations publication, Sales No. E.85.V.7 (Part I)), document A/CN.4/381.

[115] *Ibid.,* document A/CN.4/380.

[IM] *Official Records of the General Assembly, Thirty-ninth Session, Supplement No. 10* (A/39/101).

[187] Adopted without a vote.

[1M] See A/39/778/Rev.l.

[119] Adopted by a recorded vote of 122 to none, with 15 abstentions.

[190] See A/39/775.

[191] For the membership of the Commission, see *Official Records of the General Assembly, Thirty-ninth Session, Supplement No, 17* (A/39/17), chap. I.B, para. 4.

[192] For detailed information, see *Yearbook of the United Nations Commission on International Trade Law,* vol. XV: 1984 (United Nations publication, Sales No. E.86.V.2).

[193] *Yearbook of the United Nations Commission on International Trade Law,* vol. XV: 1984 (United Nations publication, Sales No. E.86.V.2), part two, chap. I, sect B, document A/CN.9/250 and Add. 1-4.

[194] *Ibid,* chap. II, sect. B.2, document A/CN.9/246, annex.

[195] *Ibid,* chap. IV, sect. A, document A/CN.9/252.

[196] *Ibid.,* sect. B, document A/CN.9/252, annex II; originally appeared as UNIDROIT 1983, study XLIV, document 24.

[197] *Ibid.,* sect. C; originally appeared as UNIDROIT 1983, study XLIV, document 24, p. 9.

[191] *Ibid.,* chap. V, sect. A, document A/CN.9/255.

[199] *Ibid.,* sect. B, document A/CN.9/251.

[200] Adopted without a vote.

[201] See A/39/698.

[202] Adopted by a recorded vote of 120 to none, with 17 abstentions.

[201] See A/39/770.

[204] A/39/504/Add.l, annex III.

[205] Adopted by a recorded vote of 106 to 10, with 21 abstentions.

[204] See A/39/771.

[207] For the text of the Convention, see *Official Records of the United Nations Conference on the Representation of States in their Relations with International Organizations, Vienna, 4 February-14 March 1975,* vol. II (United Nations publication, Sales No. E.75.V. 12), document A/CONF.67/15, annex; also reproduced in *Juridical Yearbook,* 1975, p. 87.

[^] United Nations, *Treaty Series,* vol. 1125, p. 3 (Protocol I); p. 609 (Protocol II).

[209] Adopted without a vote.

[210] See A/39/772.

[211] Adopted without a vote.

[212] See A/39/773.

[213] General Assembly resolution 2625 (XXV).

[214] A/38/440, annex.

[215] Adopted without a vote.

[216] See A/39/774.

[217] General Assembly resolution 37/10, annex; also reproduced in *Juridical Yearbook, 1983,* p. 103.

[218] For the report of the Special Committee, see *Official Records of the General Assembly, Thirty-ninth Session, Supplement No. 41* (A/39/41).

[219] *Official Records of the General Assembly, Thirty-fourth Session, Supplement No. 41 (A.I3414*1 and Corr.l), annex.
[220] *Ibid.,* para. 129.
[221] *Ibid., Thirty-sixth Session, Supplement No. 41* (A/36/41), para. 259.
[222] *Ibid., Thirty-seventh Session, Supplement No. 41 (h/yil4\),* para. 372.
[223] *Ibid., Thirty-ninth Session, Supplement No. 41* (A/39/41), para. 123.
[224] Adopted by a recorded vote of 1U to 15, with 10 abstentions.
[225] See A/39/776.
[226] Adopted without a vote.
[227] See A/39/722.
[228] Adopted without a vote.
[229] See A/39/777.
[230] *Official Records of the General Assembly, Thirty-ninth Session, Supplement No. 43* (A/39/43 and Corr.l).
[231] Adopted without a vote.
[232] See A/39/779.
[233] For detailed information, see *Official Records of the General Assembly, Thirty-ninth Session, Supplement No. 26* (A/39/26 and Corr.l).
[234] Adopted without a vote.
[235] See A/39/780.
[236] For the report of the Special Committee, see *Official Records of the General Assembly, Thirty-ninth Session, Supplement No. 33* (A/39/33).
[237] *Official Records of the General Assembly, Thirty-ninth Session, Supplement No. 33* (A/39/33), chap. II, para. 20.
[238] The detailed opinions expressed in the Special Committee on the question are reflected in chapter II of the Commission's report; see *Official Records of the General Assembly, Thirty-ninth Session. Supplement No. 33* (A/39/33).
[239] A/38/343, annex.
[240] The detailed opinions expressed in the Special Committee on the question are reflected in chapter II, section A, of the Commission's report; see *Official Records of the General Assembly, Thirty-ninth Session, Supplement No. 33* (A/39/33).
[241] *Official Records of the General Assembly, Thirty-sixth Session, Supplement No. 33* (A/36/33), para. 309.
[242] *Ibid., Thirty-ninth Session, Supplement No. 33,* para. 133 *(b).*
[243] *Ibid,* para. 151.
[244] Adopted without a vote.
[245] See A/39/781.
[246] Adopted without a vote.
[247] See A/39/781.
[248] Adopted without a vote.
[249] A/39/782.
[250] Adopted by a recorded vote of 120 to none, with 12 abstentions.
[251] See A/39/783.
[252] A/C.6/39/L.12, annex.
[253] ST/LEG/6.
[254] ST/LEG/7.
[255] Adopted without a vote.
[256] A/39/784, para. 9.
[257] A/C6/39/L.10.
[258] Adopted by a recorded vote of 148 to none, with 6 abstentions.
[259] *Official Records of the General Assembly, Thirty-ninth Session, Supplement No. 36* (A/39/36).
[260] Adopted by a recorded vote of 92 to none, with 34 abstentions.
[261] Adopted without a vote.
[262] See A/39/845.
[263] A/C.5/39/17.
[264] Adopted without a vote.
[2W] For detailed information, see *Official Records of the General Assembly, Thirty-ninth Session, Supplement No. 14* (A/39/14).
[266] *Ibid., Twenty-second Session, Annexes,* agenda item 45, document A/6875, annex III.
[267] *Ibid., Thirty-ninth Session, Supplement No. 14* (A/39/14), chapter I, sect. B.

[268] Adopted without a vote.
[269] See A/39/792.
[270] See *Official Records of the General Assembly, Thirty-ninth Session, Supplement No. 14* (A/39/14), paras. 3-22.
[171] With regard to the adoption of the instrument, information on the preparatory work, which, by virtue of the double discussion procedure, normally covers a period of two years, is given in the year during which the instrument was adopted, in order to facilitate reference work.
[272] *Official Bulletin,* vol. LXVII, 1984, Series A, No. 2, pp. 88-98; English, French, Spanish. Regarding preparatory work, see *First discussion*—Employment Policy, ILC, 69th Session (1983), report VI (1) (this report contains, *inter alia,* details of the action which led to the placing of the question on the agenda of the Conference), and report VI (2), 121 and 104 pages respectively; English, French, German, Russian, Spanish. See also ILC, 69th session (1983), *Record of Proceedings,* No. 34, pp. 1-23; No. 41, pp. 1-11; English, French, Spanish. *Second discussion*—Employment Policy, ILC, 70th session (1984), report IV (I) and report IV (2), 61 and 75 pages respectively; English, French, German, Russian, Spanish. See also ILC, 70th session (1984), *Record of Proceedings,* No. 32; No. 39, pp. 1-15; No. 42, pp. 1 and 2, pp. 9-15; English, French, Spanish.
[273] The report has been published as report HI (part 4) to the 70th Session of the Conference and comprises two volumes: Vol. A: "General Report and Observations concerning Particular Countries" (Report III (Part 4A)), 353 pages; English, French, Spanish. Vol. B: "Reduction of Hours of Work, Weekly Rest and Holidays with Pay" (Report III (Part 4B)), 137 pages; English, French, Spanish.
[274] *Official Bulletin,* vol. LXVII, 1984, Series B, No. 1.
™*Ibid,*. No. 2.
[276] *Ibid.*, No. 3.
[277] *Official Bulletin,* vol. LXVII, 1984, Series B.
[278] At its eighty-sixth session (November 1984), the FAO Council elected as members the following countries: Algeria, El Salvador, Italy, Philippines, Poland, United States of America, Yemen.
[279] See report of the forty-fourth session of CCLM, document CL 86/5.
[280] See report of the forty-fifth session of CCLM, document CL 86/5 *(a).*
[281] C83/REP, para. 371.
[282] CL 85/REP, paras. 16 and 17.
[283] CL 86/REP, paras. 173-180; CL 86/PV/12 and 17.
[284] A summary of the judgement in the case is reproduced in *Juridical Yearbook, 1982,* p. 234.
[285] The judgement is reproduced in the present volume, p. 201.
[286] CL 86/REP, paras. 186-197.
[287] *Ibid.,* para. 206.
[288] CL 86/REP, paras. 167-169; CL 86/19; CL 86/PV/16 and 18.
[289] CL 86/17; CL 86/PV/I5 and 18.
[290] CL 86/REP, paras. 213-215.
[291] CL 86/REP, paras. 208 and 209.
[m] *Ibid.,* para. 207.
[293] For the text of the UNESCO Constitution, see United Nations, *Treaty Series,* vol. 4, p. 275; for the relevant amendment to article II, see *ibid.,* vol 575, p. 270.
[294] UNESCO/WIPO/CCC/WG.2/5.
[295] UNESCO/WIPO/GE/COP.1/3.
[296] UNESCO/WIPO/GC/PC/4.
[297] UNESCO/WIPO/GE/LPV.1/6.
[298] UNESCO/WIPO/FOLK/GEI.2/4.
[299] United Nations, *Treaty Series,* vol. 15, p. 295.
[300] United Nations, *Treaty Series,* vol. 14, p. 185.
[301] See *Juridical Yearbook, 1986,* p. 56.
[302] Convention on the Settlement of Investment Disputes between States and Nationals of Other States, done at Washington, D.C. on 18 March 1965, United Nations, *Treaty Series,* vol. 575, p. 159; also reproduced in *Juridical Yearbook, 1966,* p. 196.
[303] Document ICS1D/16, "ICSID cases, 1972-1984", contains further information on disputes before the Centre.
[304] The Additional Facility Rules appear as document ICSID/11.
[303] The revised Regulations and Rules are available in ICSID/15, *ICSID Basic Documents.*
[306] The Court's decision is reproduced in the present volume, p. 198.
[307] United Nations, *Treaty Series,* vol. 2, p. 39.
[308] English translation prepared by the Secretariat of the United Nations on the basis of a French version provided by UPU.

[309] Resolution C7.
[310] Resolution C34.
[311] Recommendation C36.
[312] Resolution C39.
[313] Decision C46.
[314] Resolution C53.
[315] Resolution C56.
[316] Decision C88.
[317] Decision C91.
[318] Resolution CIO and recommendation C13.
[319] Resolution C26.
[320] Formal opinion C40.
[321] Convention on the World Meterological Organization, signed at Washington on 11 October 1947; United Nations, *Treaty Series,* vol. 77, p. 143.
[322] General regulations 64-76.
[323] United Nations, *Treaty Series,* vol. 289, p. 3.
[324] United Kingdom Command Paper No. 9719.
[325] United Kingdom Command Paper No. 9777.
[326] International Convention on Civil Liability for Oil Pollution Damage. Concluded at Brussels on 29 November 1969; United Nations, *Treaty Series,* vol. 973, p. 3; also reproduced in *Juridical Yearbook, 1969,* p. 174.
[327] International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage. Done at Brussels on 18 December 1971; United Nations, *Treaty Series,* vol. 1110, p. 57; also reproduced in *Juridical Yearbook, 1972,* p. 103.
[328] United Kingdom Command Paper No. 9927.
[329] United Kingdom Command Paper No. 9926.
[330] United Kingdom Command Paper No. 6677.
[331] United Kingdom Command Paper No. 9266.
[332] IMO document 92-801-1130-2.
[333] United Nations, *Treaty Series,* vol. 1184, p. 2.
[334] United Kingdom Command Paper No. 8741.
[335] United Kingdom Command Paper No. 8277.
[336] United Kingdom Command Paper No. 9339.
[337] United Nations, *Treaty Series,* vol. 591, p. 265.
[338] United Kingdom Command Paper No. 9180.
[339] United Nations, *Treaty Series,* vol. 1064, p. 3.
[340] United Kingdom Command Paper No. 7994.
[341] *International Legal Materials,* vol. 17, p. 546.
[342] *Ibid.,* vol. 12, p. 1319.
[343] United Nations, *Treaty Series,* vol. 276, p. 3.
[344] Reproduced in document INFCIRC/274/Rev. 1; see also United Kingdom Command Paper No. 8112.
[345] United Nations, *Treaty Series,* vol. 1063, p. 265; the text of the Convention is also published in IAEA Legal Series, No. 4.
[346] Safety Series No. 6.