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UNITED NATIONS JURIDICAL YEARBOOK

1985

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*)

Chapter III

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

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

1. DISARMAMENT AND RELATED MATTERS

(*a*) Comprehensive approaches to disarmament

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

The general discussion relating to follow-up of the special sessions of the General Assembly devoted to disarmament was held in both the Disarmament Commission and the Conference on Disarmament.

Furthermore, the General Assembly considered the matter at its fortieth session under two collective agenda items entitled "Review of the implementation of the recommendations and decisions adopted by the General Assembly at its tenth special session" and "Review and implementation of the Concluding Document of the Twelfth Special Session of the General Assembly". Altogether, the Assembly adopted 27 resolutions and one decision within the framework of those two items in 1985. By resolution 40/152 I of 16 December 1985,[1] the General Assembly, stressing again the urgent need for an active and sustained effort to expedite the implementation of the recommendations and decisions unanimously adopted at its tenth special session as contained in the Final Document of that session[2] and confirmed in the Concluding Document of the Twelfth 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 Cooperation 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 of force in international relations. And by resolution 40/152 L of the same date,[4] the General Assembly called upon all States to reaffirm their commitment to the Declaration of the 1980s as the Second Disarmament Decade and to take appropriate steps to halt and reverse the nuclear-arms race with a view to improving the international climate and enhancing the efficacy of disarmament negotiations.

Moreover, by its resolution 40/152 M of 16 December 1985,[5] the General Assembly urged the Conference on Disarmament to undertake, without further delay, negotiations with a view to elaborating a draft treaty on a nuclear-test ban and to intensify further 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 resolution 40/152 O, also of the same date,[6] the Assembly called upon Member States to intensify their efforts towards achieving agreements on balanced, mutually acceptable, verifiable and effective arms limitation and disarmament measures.

(ii) *General and complete disarmament*

Member States reaffirmed their commitment to general and complete disarmament under effective international control in 1985 in spite of their apparent scepticism about its feasibility in the foreseeable future. In those circumstances, many countries concentrated on advocating limited and what could be considered interim measures that could pave the way to the ultimate goal, mentioning various approaches to nuclear-arms limitation and other ideas such as regional measures as steps towards more comprehensive arrangements.

By resolution 40/94 I of 12 December 1985,[7] the General Assembly, reaffirming once again that seas and oceans, being of vital importance to mankind, should be used exclusively for peaceful purposes in accordance with the regime established by the 1982 United Nations Convention on the Law of the Sea,[8] reaffirmed once again its recognition of the urgent need to start negotiations with the participation of the major naval Powers, in particular the nuclear-weapon States, and other interested States on the limitation of naval activities, the limitation and reduction of naval armaments and the extension of confidence-building measures to seas and oceans, especially to areas with the busiest international sea lanes or to regions where the probability of conflict situations was high. By its resolution 40/94 J, also of 12 December 1985,[9] the Assembly, emphasizing the interest of all States in the progress of the exploration and use of the seabed and the ocean floor and its resources for peaceful purposes, requested the Conference on Disarmament, in consultation with the States parties to the Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Seabed and Ocean Floor and in the Subsoil Thereof,[10] to continue its consideration of further measures in the field of disarmament for the prevention of an arms race on the seabed, the ocean floor and in the subsoil thereof. Furthermore, by resolution 40/94 N, also of 12 December 1985,[11] the Assembly, taking into account the existence of negotiations in multilateral, regional and bilateral forums, called upon all States faithfully to comply with and implement all provisions of multilateral, regional and bilateral disarmament and arms limitation agreements to which they were a party and to negotiate in good faith for the conclusion of additional treaties and conventions, multilateral, regional or bilateral as appropriate, taking into account the need for strict observance of an acceptable balance of mutual responsibilities and obligations for nuclear- and non-nuclear-weapon States.

(iii) *World Disarmament Conference*

The two different approaches to convening a world disarmament conference prevented the Ad Hoc Committee on the World Disarmament Conference from achieving any tangible results in 1985.

By resolution 40/154 of 16 December 1985,[12] the General Assembly decided to renew the mandate of the Ad Hoc Committee on the World Disarmament Conference and retain the item on its agenda.

(*b*) Nuclear disarmament

(i) *Nuclear arms limitation and disarmament*

As to the consideration of the subject in the Disarmament Commission, the Conference on Disarmament and the General Assembly at its fortieth session, no substantive progress could be observed.

By resolution 40/18 of 18 November 1985,[13] the General Assembly, noting the agreement between the Union of Soviet Socialist Republics and the United States of America to begin negotiations on "a complex of questions concerning space and nuclear arms, both strategic and intermediate-range", reaffirmed that bilateral negotiations did not in any way diminish the urgent need to initiate and pursue multilateral negotiations on the cessation of the nuclear-arms race and nuclear disarmament and on the prevention of an arms race in outer space. By resolution 40/152 C of 16 December 1985,[14] the Assembly called upon the Conference on Disarmament to proceed without delay to negotiations on the cessation of the nuclear-arms race and nuclear disarmament and especially to begin the elaboration of pratical measures for the cessation of the nuclear-arms race and for nuclear disarmament in accordance with paragraph 50 of the Final Document of the Tenth Special Session of the General Assembly, including a nuclear-disarmament programme, and to establish for that purpose an ad hoc committee. By resolution 40/152 P of 16 December 1985,[15] the Assembly again requested the Conference on Disarmament to establish an ad hoc committee at the beginning of its 1986 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; (*c*) substantial reduction in existing nuclear weapons with a view to their ultimate elimination. And by resolution

40/152 H of the same date[16] the 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 of the General Assembly.

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

It was clear in 1985, as in previous years, that while there was agreement on the absolute need to prevent nuclear war if the survival of humankind was to be assured, there was no consensus on how to deal with the issue at the multilateral level.

By resolution 40/152 A of 16 December 1985,[17] the General Assembly 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; 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 requested the Conference on Disarmament to consider under its relevant agenda item the elaboration of an international instrument of a legally binding character laying down the obligation not to be the first to use nuclear weapons. Furthermore, by resolution 40/152 Q of 16 December 1985,[18] the Assembly again requested the Conference on Disarmament to undertake, as a matter of the highest priority, negotiations with a view to achieving agreement on appropriate and practical measures for the prevention of nuclear war and to establish for that purpose an ad hoc committee on the subject at the beginning of its 1986 session. And by resolution 40/151 F of the same date,[19] the General Assembly 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, taking as a basis the text of the draft Convention on the Prohibition of the Use of Nuclear Weapons annexed to the resolution.

(iii) *Third Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons*

The Third Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons[20] was held at Geneva from 27 August to 21 September 1985. The Conference achieved a consensus substantive Final Document[21] incorporating, in part I, a Final Declaration comprising a solemn preambular statement and a detailed article-by-article review of the operation of the Treaty, clearly supporting it and yet making purposeful recommendations.

By resolution 40/94 M of 12 December 1985,[22] the General Assembly noted with satisfaction that on 21 September 1985, the Third Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons had adopted by consensus a Final Document.

(iv) *Cessation of nuclear-weapon tests*

In 1985, major differences of viewpoint as to procedures and practical criteria for achieving the cessation of nuclear-weapon tests continued to pervade the consideration of the issue in the various forums. All shades of opinion, however, acknowledged that the complete cessation of nuclear explosive testing was a desirable objective. For the second successive year, the Conference on Disarmament was not able to reach agreement on the establishment of an ad hoc committee to consider the item, because of differences over the question of a mandate for such a body.

By resolution 40/80 A of 12 December 1985,[23] the General Assembly 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 that the commencement of negotiations on such a treaty was an indispensable element of the obligations of States parties to the Treaty on the Non-Proliferation of Nuclear Weapons under article VI of that Treaty; and appealed to all

States members of the Conference on Disarmament, in particular to the three depository Powers of the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water, to promote the establishment by the Conference at the beginning of its 1986 session of an ad hoc committee to carry out the multilateral negotiation of a treaty on the complete cessation of nuclear-test explosions. And by resolution 40/80 B, also of 12 December 1985,[24] the Assembly, noting that article II of the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water provided a procedure for the consideration and eventual adoption of amendments to the Treaty by a conference of its parties, recommended that States parties to the Treaty carry out urgent consultations among themselves as to the advisability and most appropriate method of taking advantage of the provisions of its article II for the conversion of the partial nuclear-test-ban treaty into a comprehensive nuclear-test-ban treaty.

Furthermore, by resolution 40/88 of 12 December 1985,[25] the General Assembly urged the Conference on Disarmament to proceed promptly to negotiations on all aspects of cessation and prohibition of nuclear-weapon tests, including adequate measures of verification, with the aim of preparing without delay a draft treaty that would effectively ban all test explosions of nuclear weapons by all States everywhere and would contain provisions, acceptable to all, preventing the circumvention of this ban by means of nuclear explosions for peaceful purposes; welcomed the unilateral cessation by one major nuclear-weapon State of all its nuclear explosions, effective 6 August 1985, as well as the proposal for the suspension of all nuclear tests for a period of 12 months, with the possibility of its extension, contained in the joint message of 24 October 1985 addressed to the leaders of the United States of America and the Union of Soviet Socialist Republics by the Heads of State and Government of six countries; and expressed its hope that all other nuclear-weapon States would also consider joining in such a moratorium.

(v) *Nuclear-arms freeze*

In 1985, the question of a nuclear-arms freeze continued to receive attention in the debates on nuclear-arms limitation and disarmament in the Disarmament Commission, the Conference on Disarmament and the General Assembly. Three General Assembly resolutions calling for a freeze on nuclear armaments were supported by a large majority of Member States; however, a minority continued to doubt that a freeze was either feasible or desirable.

By resolution 40/151 C of 16 December,[26] the General Assembly urged once more 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 and whose structure and scope would be the following: (*a*) it would embrace: (i) a comprehensive test ban of nuclear weapons and of their delivery vehicles; (ii) the complete cessation of the manufacture of nuclear weapons and of their delivery vehicles; (iii) a ban on all further deployment of nuclear weapons and of their delivery vehicles; (iv) the complete cessation of the production of fissionable material for weapons purposes; (*b*) it would be subject to appropriate measures and procedures of verification; (*c*) it would be of an initial five-year duration, subject to prolongation when other nuclear-weapon States joined in such a freeze, as the Assembly urged them to do. In addition, by resolution 40/151 E of the same date,[27] the Assembly once again called upon all nuclear-weapon States to agree to a freeze on nuclear weapons, which would provide for a simultaneous total stoppage of any further production of nuclear weapons and a complete cut-off in the production of fissionable material for weapons purposes.

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

No tangible progress was achieved in 1985 in reaching agreements on effective international assurances for non-nuclear-weapon States against the use or threat of use of nuclear weapons, either in the Conference on Disarmament or in the General Assembly. The work of those two bodies revealed again that the positions of the States on the main elements of the problem—the scope, substance, nature and form of such assurances—had not changed. Nor had it been possible to bridge the divergent views on how the idea of concluding an international convention on the matter could be realized in

practice. There was also disagreement on the evaluation and practical significance of the unilateral declarations that had been made by the nuclear-weapon States.

By resolution 40/86 of 12 December 1985,[28] the General Assembly, bearing in mind paragraph 59 of the Final Document of the Tenth Special Session of the General Assembly, in which it had urged the nuclear-weapon States to pursue efforts to conclude, as appropriate, effective arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons, and noting the support expressed in the Conference on Disarmament and in the General Assembly for the elaboration of an international convention on the matter, as well as the difficulties pointed out in evolving a common approach acceptable to all, appealed to all States, especially the nuclear-weapon States, to demonstrate the political will necessary to reach agreement on a common approach and, in particular, on a common formula which could be included in an international instrument of a legally binding character; and recommended that the Conference on Disarmament should actively continue negotiations with a view to reaching early agreement and concluding effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons. Furthermore, by resolution 40/85, also of 12 December 1985,[29] the Assembly, welcoming once again the solemn declarations made by some nuclear-weapon States concerning non-first use of nuclear weapons and convinced that, if all nuclear-weapon States were to assume obligations not to be the first to use nuclear weapons, that would be tantamount in practice to banning the use of nuclear weapons against all States, including all non-nuclear-weapon States, and considering that the non-nuclear-weapon States having no nuclear weapons on their territories had every right to receive reliable international legal guarantees against the use or threat of use of nuclear weapons, reaffirmed once again the urgent need to reach agreement on effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons and to find a common approach acceptable to all, which could be included in an international instrument of a legally binding character.

(vii) *Nuclear-weapon-free zones*

In 1985, in the discussion in the various disarmament forums it was argued that the creation of nuclear-weapon-free zones would prevent further proliferation of nuclear weapons, strengthen the security of the countries concerned and contribute to the building of confidence among them. Two major trends were discernible: an increased interest on the part of many States in the creation of nuclear-weapon-free zones and a growing concern about the violability of such zones in some regions.

Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco)[30]

By resolution 40/79 of 12 December 1985,[31] the General Assembly, recalling that three of the four States to whom Additional Protocol I of the Treaty for the Prohibition of Nuclear Weapons in Latin America was opened—the United Kingdom of Great Britain and Northern Ireland, the Netherlands and the United States of America—had become parties to the Protocol, deplored the fact that the signature of the Additional Protocol I by France, which had taken place in 1979, had not yet been followed by the corresponding ratification and once more urged France not to delay any further such ratification.

Denuclearization of Africa

By resolution 40/89 B of 12 December 1985,[32] the General Assembly, recalling that, in the Final Document of the Tenth Special Session of the General Assembly, it had noted that the accumulation of armaments and the acquisition of armaments technology by the racist regimes, as well as their possible acquisition of nuclear weapons, presented a challenging and increasingly dangerous obstacle to the world community, faced with the urgent need to disarm, condemned the massive build-up of South Africa's military machine, in particular its frenzied acquisition of nuclear-weapon capability for repressive and aggressive purposes and as an instrument of blackmail; and called upon all States, corporations, institutions and individuals to terminate forthwith all forms of military and nuclear collaboration with the racist regime.

Establishment of a nuclear-weapon-free zone in the region of the Middle East

By resolution 40/82, also of 12 December 1985,[33] the General Assembly urged all parties directly concerned to consider seriously taking the practical and urgent steps required for the implementation of the proposal to establish a nuclear-weapon-free zone in the region of the Middle East in accordance with the relevant resolutions of the General Assembly and, as a means of promoting that objective, invited the countries concerned to adhere to the Treaty on the Non-Proliferation of Nuclear Weapons; called upon all countries of the region that had not done so, pending the establishment of the zone, to agree to place all their nuclear activities under International Atomic Energy Agency safeguards; 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; further invited those countries, pending the establishment of the zone, not to develop, produce, test or otherwise acquire nuclear weapons or permit the stationing on their territories, or territories under their control, of nuclear weapons or nuclear explosive devices; and invited the nuclear-weapon States and all other States to render their assistance in the establishment of the zone and at the same time to refrain from any action that ran counter to both the letter and the spirit of the resolution.

Establishment of a nuclear-weapon-free zone in South Asia

By resolution 40/83 of 12 December 1985,[34] the General Assembly reaffirmed its endorsement, in principle, of the concept of a nuclear-weapon-free zone in South Asia; urged once again the States of South Asia, and such other neighbouring non-nuclear-weapon States as might be interested, to continue to make all possible efforts to establish a nuclear-weapon-free zone in South Asia and to refrain, in the meantime, from any action contrary to that objective; and called upon those nuclear-weapon States that had not done so to respond positively to the proposal and to extend the necessary cooperation in the efforts to establish a nuclear-weapon-free zone in South Asia.

(viii) *International cooperation in the peaceful uses of nuclear energy*

The General Assembly, by its resolution 40/95 of 12 December 1985,[35] approved the new dates of the United Nations Conference for the Promotion of International Cooperation in the Peaceful Uses of Nuclear Energy, namely from 23 March to 10 April 1987, at Geneva. And by its resolution 40/8 of 8 November 1985,[36] the Assembly, conscious of the importance of the work of the International Atomic Energy Agency in the implementation of the safeguards provisions of the Treaty on the Non-Proliferation of Nuclear Weapons and other international treaties, conventions and agreements designed to achieve similar objectives, as well as ensuring, as far as it was able, that the assistance provided by the Agency or at its request or under its supervision or control was not used in such a way as to further any military purposes, as stated in article II of its Statute, urged all States to strive for effective and harmonious international cooperation in carrying out the work of the International Atomic Energy Agency, pursuant to its Statute, in promoting the use of nuclear energy and the application of nuclear science and technology for peaceful purposes; in strengthening technical assistance and cooperation for developing countries; and in ensuring the effectiveness and efficiency of the Agency's safeguards system.

(c) Prohibition or restriction of use of other weapons

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

Intensive work on a convention on a comprehensive prohibition of chemical weapons continued in 1985 in the Ad Hoc Committee on Chemical Weapons of the Conference on Disarmament. Progress was made in the formulation of certain aspects of the convention, including those covering plans for the elimination of chemical weapons. On the other hand, some difficult and controversial questions remained, such as verification by challenge, the precise definition of some basic concepts, the elimination of the existing stocks and production facilities of chemical weapons and the question of so-called permitted activities.

By resolution 40/92 B of 12 December 1985,[37] the General Assembly, convinced of the necessity that all efforts be exerted for the continuation and successful conclusion of negotiations on the prohibition of the development, production and stockpiling of all chemical weapons and on their destruction, urged again the Conference on Disarmament, as a matter of high priority, to intensify, during its session in 1986, the negotiations on such a convention and to reinforce further its efforts by increasing the time during the year that it devoted to such negotiations, taking into account all existing proposals and future initiatives, with a view to the final elaboration of a convention at the earliest possible date.

Furthermore, by its resolution 40/92 A of 12 December 1985,[38] the General Assembly, recalling paragraph 75 of the Final Document of the Tenth Special Session of the General Assembly and determined, for the sake of all mankind, to exclude completely the possibility of the use of chemical weapons, through the earliest conclusion and implementation of a convention on the prohibition of the development, production and stockpiling of all types of chemical weapons and on their destruction, thereby complementing the obligations assumed under the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on 17 June 1925, 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 called upon all States that had not yet done so to become parties to the Geneva Protocol of 17 June 1925. Additionally, by resolution 40/92 C of the same date,[39] the Assembly reaffirmed the need for strict observance of existing international obligations regarding prohibitions on chemical and biological weapons and condemned all actions that contravened those obligations; and called upon all States, pending the conclusion of such a comprehensive ban, to cooperate in efforts to prevent the use of chemical weapons.

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

On the multilateral level, the main development was the setting up of a subsidiary body by the Conference on Disarmament under its agenda item entitled "Prevention of an arms race in outer space".

By resolution 40/87 of 12 December 1985,[40] the General Assembly, recalling that the States parties to the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and other Celestial Bodies, had undertaken, in article III, to carry on activities in the exploration and use of outer space in accordance with international law and the Charter of the United Nations, in the interest of maintaining international peace and security and promoting international cooperation and understanding; reaffirming, in particular, article IV of the Treaty, which had stipulated that States parties to the Treaty undertake not to place in orbit around the Earth any objects carrying nuclear weapons or any other kinds of weapons of mass destruction, install such weapons on celestial bodies or station such weapons in outer space in any other manner; reaffirming also paragraph 80 of the Final Document of the Tenth Special Session of the General Assembly; welcoming the establishment of an Ad Hoc Committee on the prevention of an arms race in outer space during the 1985 session of the Conference on Disarmament, recalled the obligation of all States to refrain from the threat or use of force in their space activities; reiterated that the Conference on Disarmament, as the single multilateral disarmament negotiating forum, had the primary role in the negotiation of a multilateral agreement or agreements on the prevention of an arms race in outer space in all its aspects; requested the Conference on Disarmament to reestablish an ad hoc committee with an adequate mandate at the beginning of the session in 1986, with a view to undertaking negotiations for the conclusion of an agreement or agreements on the prevention of an arms race in outer space in all its aspects; urged the Union of Soviet Socialist Republics and the United States of America to pursue intensively their bilateral negotiations in a constructive spirit aimed at reaching early agreement for preventing an arms race in outer space, and to advise the Conference on Disarmament periodically of the progress of their bilateral sessions so as to facilitate its work; and called upon all States, especially those with major space capabilities, to refrain, in their activities relating to outer space, from actions

contrary to the observance of the relevant existing treaties or to the objective of preventing an arms race in outer space.

(iii) *New weapons of mass destruction*

As was the case in preceding years, 1985 failed to achieve tangible progress with regard to the prohibition of the development and manufacture of new types of weapons of mass destruction.

By resolution 40/90 of 12 December 1985,[41] the General Assembly, bearing in mind the provisions of paragraphs 39 and 77 of the Final Document of the Tenth Special Session of the General Assembly and expressing once again its firm belief in the importance of concluding an agreement or agreements to prevent the use of scientific and technological progress for the development of new types of weapons of mass destruction and new systems of such weapons, requested the Conference on Disarmament to keep constantly under review the question of the prohibition of the development and manufacture of new types of weapons of mass destruction and new systems of such weapons with a view to making, when necessary, recommendations on undertaking specific negotiations on the identified types of such weapons; and called upon all States to contribute, immediately following the identification of any new type of weapon of mass destruction, to the commencement of negotiations on its prohibition with the simultaneous introduction of a moratorium on its practical development.

(iv) *Radiological weapons*

The Conference on Disarmament was unable to reach agreement on the prohibition of radiological weapons in 1985, owing to differences among member States on a number of substantive issues.

By resolution 40/94 D of 12 December 1985,[42] the General Assembly requested the Conference on Disarmament to continue its negotiations on the question of radiological weapons with a view to a prompt conclusion of its work, taking into account all proposals presented to the Conference to that end.

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

(i) *Conventional weapons*

Notwithstanding numerous evidences of mounting international interest, 1985 witnessed no specific achievement in the process of disarmament regarding conventional weapons.

By resolution 40/94 A of 12 December 1985,[43] the General Assembly urged Governments, where the regional situation so permitted and on the initiative of the States concerned, to consider and adopt appropriate measures at the regional level with a view to strengthening peace and security at a lower level of forces through the limitation and reduction of armed forces and conventional weapons, under strict and effective international control; endorsed most emphatically the recent regional and subregional initiatives directed towards the conclusion of agreements to limit armaments and reduce military expenditures; requested all States to facilitate progress towards regional disarmament by strictly honouring their commitment to refrain from the threat or use of force and to contribute to the creation of an atmosphere favourable to the realization of conventional disarmament on a regional scale; and urged countries which were suppliers of conventional weapons to cooperate with regional efforts. Furthermore by resolution 40/84 of the same date,[44] the Assembly noted with satisfaction that an increasing number of States had either signed, ratified, accepted or acceded to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, which had been opened for signature in New York on 10 April 1981 and had entered into force on 2 December 1983; and urged all States that had not yet done so to exert their best endeavours to become parties to the Convention and the Protocols annexed thereto as early as possible, so as ultimately to obtain universality of adherence.

(ii) *Reduction of military budgets*

Efforts to achieve progress towards international agreements on freezing and reducing military budgets continued in 1985. However, the differences of view which in previous years had prevented it from reaching consensus persisted.

By resolution 40/91 A of 12 December 1985,[45] the General Assembly, considering that the identification and elaboration of the principles that should govern further actions of States in freezing and reducing military budgets and the other current activities within the framework of the United Nations related to the question of the reduction of military budgets should be regarded as having the fundamental objective of reaching international agreements on the reduction of military expenditures, declared 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; appealed to all States, in particular to the most heavily armed States, pending the conclusion of agreements on the reduction of military expenditures, to exercise self-restraint in their military expenditures with a view to reallocating the funds thus saved to economic and social development, particularly for the benefit of developing countries; and urged all Member States, in particular the most heavily armed States, to reinforce their readiness to cooperate in a constructive manner with a view to reaching agreements to freeze, reduce or otherwise restrain military expenditures. Furthermore, by resolution 40/91 B of the same date,[46] the Assembly, reaffirming its conviction that provisions for defining, reporting, comparing and verifying military expenditures would have to be basic elements of any international agreement to reduce such expenditures, took note with appreciation of the report of the Group of Experts on the Reduction of Military Budgets.

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

In 1985, the Ad Hoc Committee on the Indian Ocean was able to achieve some further progress in its preparatory work for the Conference on the subject.

By resolution 40/153 of 16 December 1985,[47] 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; and requested the Ad Hoc Committee on the Indian Ocean to complete preparatory work relating to the Conference during 1986 in order to enable the opening of the Conference at Colombo at an early date soon thereafter.

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2. OTHER POLITICAL AND SECURITY QUESTIONS

(*a*) Implementation of the Declaration on the Strengthening of International Security[48]

In its resolution 40/158 of 16 December 1985,[49] adopted on the recommendation of the First Committee,[50] the General Assembly reaffirmed the validity of the Declaration on the Strengthening of International Security and called upon all States to contribute effectively to its implementation; called upon all States to promote the role of the General Assembly and the Secretary-General on the strengthening of international security, in accordance with the Charter of the United Nations; stressed that there was an urgent need to enhance the effectiveness of the Security Council in discharging its principal role of maintaining international peace and security 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; 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.

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

The Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space held its twenty-fourth session at United Nations Headquarters from 18 March to 4 April 1985.[51]

In continuing its consideration of the agenda item entitled "Legal implications of remote sensing of the Earth from space, with the aim of formulating draft principles", the Subcommittee re-established its Working Group on the item. Two working papers were submitted to the Subcommit-

tee during the current session, one by the delegation of France entitled "Memorandum on remote sensing",[52] and the other by the delegation of Kenya.[53] The Working Group proceeded in the first instance to a preliminary review of the draft principles as they appeared at the conclusion of the twenty-third session of the Subcommittee and, thereafter, commenced a preliminary review of the provisions of the draft principles contained in the French working paper submitted at the twenty-third session of the Subcommittee[54] ending, because of time constraints, with its draft principle VII. Suggestions for clarifications or rewording of language were made with respect to some of the draft principles.

The Subcommittee 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". The Working Group agreed that it should consider the following themes: assistance to States; notification prior to re-entry of a space object with nuclear power sources on board; State responsibility; safety measures concerning radiological protection; and protection of space objects with nuclear power sources on board. The Working Group, in the time allocated to it by the Subcommittee, was able to discuss only the first two themes and worked out the formulations regarding them.

The Subcommittee 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 consideration of ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of the International Telecommunication Union". The Group considered the two aspects of the agenda item, namely, the definition and delimitation of outer space, on the one hand, and the geostationary orbit, on the other, separately.

The Committee on the Peaceful Uses of Outer Space at its twenty-eighth session, held at United Nations Headquarters from 17 to 28 June 1985, took note with appreciation of the report of the Legal Subcommittee on the work of its twenty-fourth session and made recommendations concerning the agenda of the Subcommittee at its twenty-fifth session.[55]

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 conducted extensive consultations with a view to finalizing the principles on the basis of the working document prepared by the Chairman of the Working Group on Remote Sensing. The delegation of Austria submitted a working document on the principles relating to remote sensing based on the above-mentioned consultations.[56]

During the discussion on the item entitled "The possibility of supplementing the norms of international law relevant to the use of nuclear power sources in outer space", some delegations noted that it was important to have norms for international liability in that area and that such liability should include direct, indirect and delayed damage.

Regarding the agenda of the Legal Subcommittee, the Committee recommended that the Subcommittee should continue the work on its current agenda items.

At its fortieth session, by resolution 40/162 of 16 December 1985,[57] adopted on the recommendation of the Special Political Committee,[58] the General Assembly endorsed the report of the Committee on the Peaceful Uses of Outer Space; invited States that had not yet become parties to the international treaties governing the uses of outer space[59] to give consideration to ratifying or acceding to those treaties; and endorsed the recommendations of the Committee that the Legal Subcommittee at its twenty-fifth session should in its working groups: (*a*) continue its detailed consideration of the legal implications of remote sensing of the Earth from space, with the aim of finalizing the draft set of principles; (*b*) undertake the elaboration of draft principles relevant to the use of nuclear power sources in outer space; (*c*) and continue its consideration of matters relating to the definition and delimitation of outer space and to the character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit, without prejudice to the role of the International Telecommunication Union.

(*c*) Question of Antarctica

By its resolution 40/156 A of 16 December 1985,[60] adopted on the recommendation of the First Committee,[61] the General Assembly requested the Secretary-General to update and expand the study

on the question of Antarctica[62] by addressing questions concerning the availability to the United Nations of information from the Antarctic Treaty Consultative Parties on their respective activities in and their deliberations regarding Antarctica, the involvement of the relevant specialized agencies and intergovernmental organizations in the Antarctic Treaty system and the significance of the United Nations Convention on the Law of the Sea in the southern ocean. Furthermore, by its resolution 40/156 B of the same date,[63] adopted also on the recommendation of the First Committee,[64] the Assembly, aware that negotiations were in progress among the Antarctic Treaty Consultative Parties, with the non-Consultative Parties as observers, to which other States were not privy, with a view to establishing a regime regarding Antarctic minerals, affirmed that any exploitation of the resources of Antarctica should ensure the maintenance of international peace and security in Antarctica, the protection of its environment, the non-appropriation and conservation of its resources and the international management and equitable sharing of the benefits of such exploitation; and invited the Antarctic Treaty Consultative Parties to inform the Secretary-General of their negotiations to establish a regime regarding Antarctic minerals.

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

(*a*) Environmental questions

Thirteenth session of the Governing Council of the United Nations Environment Programme[65]

The thirteenth session of the Governing Council of the United Nations Environment Programme was held at UNEP headquarters, Nairobi, from 14 to 24 May 1985.

By its decision 13/18[66] entitled "Environmental law", the Governing Council, in section I (Protection of the ozone layer), took note of the adoption of the Vienna Convention for the Protection of the Ozone Layer on 22 March 1985;[67] urged all States which had not already done so to sign and ratify the Convention; requested the Executive Director, in consultation with the signatories to the Convention and in close cooperation with the World Meteorological Organization and other relevant United Nations bodies, to make arrangements required for the interim secretariat of the Convention in order to promote achievement of the objective of the Convention; further requested the Executive Director, on the basis of the work of the Ad Hoc Working Group of Legal and Technical Experts for the Elaboration of a Global Framework Convention for the Protection of the Ozone Layer, to convene a working group to continue work on a protocol that could address both short-term and long-term strategies for the equitable control of the global production, emissions and use of fully halogenated chlorofluorocarbons, taking into account the particular situation of developing countries as well as recent scientific and economic research; and authorized the Executive Director, pending the entry into force of the Convention, to convene a diplomatic conference, in consultation with the signatories to the Convention, if possible in 1987, for the purpose of adopting such a protocol; in section II (Protection of the marine environment against pollution from land-based sources), took note of the final report of the Ad Hoc Working Group of Experts on the Protection of the Marine Environment against Pollution from Land-based Sources;[68] encouraged States and international organizations to take the Montreal Guidelines for the Protection of the Marine Environment against Pollution from Land-based Sources into account in the process of developing bilateral, regional and, as appropriate, global agreements in the field; in section III (Other topics of the Montevideo Programme for the Development and Periodic Review of Environmental Law),[69] requested the Executive Director to take all appropriate measures to continue implementation of the Montevideo Programme, within available resources; requested the Executive Director to convene a further session of the Ad Hoc Working Group of Experts on the Environmentally Sound Management of Hazardous Wastes to enable it to complete the preparation of guidelines and principles on the environmentally sound management of hazardous wastes with a view to their consideration by the Council at its fourteenth session; requested the Executive Director to take all appropriate measures to expedite the preparation by the Ad Hoc Working Group of Experts for the

Exchange of Information on Potentially Harmful Chemicals (in particular Pesticides) in International Trade of the guidelines with a view to their early consideration by the Council; and requested the Executive Director to enable the Working Group of Experts on Environmental Law to complete the development of guidelines and principles for environmental impact assessment in time for their submission to the Council for consideration at its fourteenth session; in section IV (Shared natural resources and legal aspects of offshore mining and drilling), took note of the report of the Executive Director on shared natural resources and legal aspects of offshore mining and drilling[70] and authorized him to transmit it on behalf of the Council to the General Assembly at its fortieth session in accordance with Assembly resolution 37/217 of 20 December 1982; and called on Governments to make use of the principles of conduct in the field of the environment for the guidance of States in the conservation and harmonious utilization of natural resources shared by two or more States, contained in the report of the Intergovernmental Working Group of Experts on Natural Resources Shared by Two or More States established under Council decision 44 (III) of 25 April 1975,[71] and the conclusions of the study of the legal aspects concerning the environment related to offshore mining and drilling within the limits of national jurisdiction undertaken by the Working Group of Experts on Environmental Law,[72] as guidelines and recommendations in the formulation of bilateral or multilateral conventions, on the basis of the principle of good faith and in the spirit of good neighbourliness, and in such a way as to enhance and not adversely affect development and the interests of all countries, in particular those of the developing countries; in section V (Convention on the Conservation of Migratory Species of Wild Animals),[73] noted that the Executive Director had convened the first meeting of the Conference of the Parties to the Convention at Bonn from 21 to 26 October 1985; and called upon all States not yet parties to the Convention to consider early adherence to it; and in section VI (International conventions and protocols in the field of the environment), took note of the report of the Executive Director on international conventions and protocols in the field of the environment.[74]

Furthermore, by its decision 13/25, entitled "Marine pollution", the Governing Council called upon the Executive Director to complete the preparatory phase leading to the adoption of action plans and regional conventions for those regions where such action plans and conventions had yet to be adopted (the Eastern African region, the South Asian Seas region and the South Pacific region) and to continue to assist States to implement the adopted action plans as agreements in all other regions.

Consideration by the General Assembly

At its fortieth session the General Assembly, by its resolution 40/200 of 17 December 1985,[75] adopted on the recommendation of the Second Committee,[76] the General Assembly took note of the report of the Governing Council of the United Nations Environment Programme on the work of its thirteenth session and endorsed the decisions contained therein, as adopted; and also took note of the progress on international conventions and protocols in the field of the environment during 1985, including the adoption of the Vienna Convention for the Protection of the Ozone Layer and of an international protocol to the 1979 Convention on Long-range Transboundary Air Pollution, on sulphur emissions and fluxes, and the organization of the first meeting of the Conference of the Parties to the Convention on the Conservation of Migratory Species of Wild Animals.

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

By its resolution 40/184 of 17 December 1985,[77] adopted on the recommendation of the Second Committee,[78] the General Assembly, taking note of the decision adopted on 5 June 1985 by the United Nations Conference on an International Code of Conduct on the Transfer of Technology, at its sixth session,[79] in which it had requested the General Assembly to take the measures necessary for further action, including the possible reconvening of negotiations on an international code of conduct on the transfer of technology, noted that progress had been made in the negotiations on an international code but that there were still important problems outstanding; further noted that, at the sixth session of the United Nations Conference on an International Code of Conduct on the Transfer of Technology, progress had been made in identifying common ground, as well as divergences, in respect of the issues outstanding in chapter 4 of the draft code, on restrictive practices, and in chapter 9, on applicable law and settlement of disputes; and expressed the belief that further work was required in the search for

possible solutions to the outstanding issues in order to complete successfully the negotiations on a code of conduct.

(c) Office of the United Nations High Commissioner for Refugees[80]

During the reporting period, UNHCR faced the challenge of attaining durable solutions to refugee problems in the midst of seriously deteriorating situations in some parts of the world and the onset of a major emergency in Africa. UNHCR continued to extend its international protection to large numbers of refugees and victims of man-made disasters across the world. Problems in this field were accentuated by the continuing complexity of the causes of refugee movements and the increasing difficulties in finding durable solutions to the plight of persons of concern to the Office. Violations of the physical safety of refugees continued to cause grave anxiety.

It should be recognized that refugees included not only persons who were outside their countries due to fear of persecution but also persons who had fled their country due to armed conflicts, internal turmoil and situations involving gross and systematic violations of human rights. Even though the majority of the refugees of the day were persons who did not fall within the classical refugee definition in the UNHCR statute, they had, as helpless victims of man-made disasters, come to be recognized as persons of the High Commissioner's concern through successive resolutions of the General Assembly.

The reporting period was also characterized by the continuing willingness of many States in all regions of the world—even when faced with serious economic difficulties—to grant asylum to refugees and to ensure that they were treated in accordance with internationally recognized standards.

It was also encouraging to note that 97 States had become parties to one or both of the basic international refugee instruments: the 1951 Convention relating to the Status of Refugees[81] and the 1967 Protocol relating to the Status of Refugees.[82]

There was a continuing recognition by many States of the importance of the determination of refugee status in enabling refugees to take advantage of the various rights and standards of treatment accorded them by the international community and to avail themselves of the international protection extended to refugees by the High Commissioner's Office. It was encouraging to note in this regard that in elaborating criteria for determining refugee status reliance had been placed by courts in various countries on the *UNHCR Handbook on Procedures and Criteria for Determining Refugee Status*.

The High Commissioner continued his activities in the field of the promotion, advancement and dissemination of the principles of refugee law. Those activities formed an integral part of his protection function and were aimed not only at advancing the acceptance of and adherence to existing principles but also at promoting the development of international refugee law to meet the demands of contemporary refugee situations.

At the thirty-sixth session of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees, held at Geneva from 7 to 18 October 1985, the Committee recognized the crucial importance of the High Commissioner's international protection function, the exercise of which had become increasingly difficult owing to the growing complexity of present-day refugee problems; noted with satisfaction the progress achieved in the further development of international refugee law and the strengthening of internationally recognized standards for the treatment of refugees; welcomed the fact that a large number of States had now acceded to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees and expressed the hope that additional States would accede to those instruments in the near future, thereby strengthening the framework of international solidarity and burden-sharing of which those instruments were an integral part; reiterated the importance of the Office's continued efforts to promote the development and strengthening of international refugee law, in particular through its cooperation with the International Institute of Humanitarian Law in San Remo, Italy; and, reaffirming the significance of its 1980 conclusion on voluntary repatriation[83] as reflecting basic principles of international law and practice, adopted also the further conclusions on the matter.[84]

By its resolution 40/118 of 13 December 1985,[85] adopted on the recommendation of the Third Committee,[86] the General Assembly strongly reaffirmed the fundamental nature of the High Commis-

sioner's function to provide international protection and the need for Governments to continue to cooperate fully with the Office in order to facilitate the effective exercise of that function, in particular by acceding to and implementing the relevant international and regional refugee instruments and by scrupulously observing the principles of asylum and non-refoulement; urged all States, in cooperation 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 endorsed the conclusions on voluntary repatriation adopted by the Executive Committee of the Programme of the High Commissioner at its thirty-sixth session and urged States to extend their full cooperation to the High Commissioner to that effect.

(*d*) International drug control

In the course of 1985, three more States became parties to the 1971 Convention on Psychotropic Substances,[87] two more States became parties to the 1972 Protocol Amending the Single Convention on Narcotic Drugs, 1961,[88] 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.[89]

By its resolution 40/120 of 13 December 1985,[90] adopted on the recommendation of the Third Committee,[91] the General Assembly, reaffirming its conviction that the magnitude and complexity reached in illicit trafficking and its grave consequences emphasized the urgent need to carry out the mandate given by the General Assembly, in its resolution 39/141 of 14 December 1984, to the Commission on Narcotic Drugs, through the Economic and Social Council, to initiate, 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 problem as a whole, in particular those not envisaged in existing international instruments, requested the Economic and Social Council to instruct the Commission on Narcotic Drugs to decide on the elements that could be included in the convention and to request the Secretary-General to prepare a draft on the basis of those elements; requested the Secretary-General to submit to the International Conference on Drug Abuse and Illicit Trafficking, to be held in 1987, a report on progress made towards completing a new convention against drug trafficking; and urged once again all States that had not yet done so to adhere to and ratify the Single Convention on Narcotic Drugs of 1961, the 1972 Protocol Amending the Single Convention on Narcotic Drugs of 1961 and the Convention on Psychotropic Substances of 1971.

By its resolution 40/121 of the same date,[92] adopted also on the recommendation of the Third Committee,[93] the General Assembly recommended to the Commission on Narcotic Drugs that it should advise the interregional meeting to examine in depth the most important aspects of the problem, especially those that would enhance ongoing bilateral and multilateral efforts, in particular the preparation of a draft convention against illicit traffic in narcotic drugs and psychotropic substances and the proposed International Conference on Drug Abuse and Illicit Trafficking, to recommend action on: (*a*) extradition; (*b*) mechanisms that would enhance interregional coordination and cooperation on a permanent basis; (*c*) modalities of ensuring rapid and secure means of communication between law enforcement agencies at the national, regional and international levels; (*d*) techniques of controlled delivery; and (*e*) measures to reduce the vulnerability of States affected by the transit of illicit drugs.

Furthermore, by its resolution 40/122 of the same date,[94] adopted on the recommendation of the Third Committee,[95] the General Assembly decided to convene, in 1987, an International Conference on Drug Abuse and Illicit Trafficking at the ministerial level at the Vienna International Centre as an expression of the political will of nations to combat the drug menace, with the mandate to generate universal action to combat the drug problem in all its forms at the national, regional and international levels and to adopt a comprehensive multidisciplinary outline of future activities which would focus on concrete and substantive issues directly relevant to the problems of drug abuse and illicit trafficking, *inter alia*: to achieve as much harmonization as possible and to reinforce national legislation, bilateral treaties, regional arrangements and other international legal instruments; and to support strongly current high-priority initiatives and programmes of the United Nations, including the elaboration of a convention against illicit traffic in narcotic drugs and psychotropic substances which

would consider, in particular, those aspects of the problem not envisaged in existing international instruments.

(*e*) Human rights questions

(1) *Status and implementation of international instruments*

(i) *International Covenants on Human Rights*[96]

In 1985, two more States became parties to the International Covenant on Economic, Social and Cultural Rights,[97] one more State became party to the International Covenant on Civil and Political Rights[98] and two more States became parties to the Optional Protocol to the International Covenant on Civil and Political Rights.[99]

By its resolution 40/115 of 13 December 1985,[100] adopted on the recommendation of the Third Committee,[101] the General Assembly took note with appreciation of the report of the Human Rights Committee on its twenty-third, twenty-fourth and twenty-fifth sessions;[102] again urged all States that had not yet done so to become parties to the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political 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; recommended to States parties that they continually review whether any reservation made in respect of the provisions of the International Covenants on Human Rights should be upheld; welcomed the decision of the Economic and Social Council, in its resolution 1985/17 of 28 May 1985, to establish the Committee on Economic, Social and Cultural Rights, which would be entrusted from 1987 on with the important task of overseeing the implementation of the International Covenant on Economic, Social and Cultural Rights; also welcomed the progress already made towards the publication of the official public records of the Human Rights Committee in bound volumes and looked forward to receiving in the near future the volumes covering the first two sessions; and encouraged all Governments to publish the texts of the International Covenants on Human Rights in as many languages as possible and to distribute them and make them known as widely as possible in their territories.

And by its resolution 40/114 of the same date,[103] adopted also on the recommendation of the Third Committee,[104] the General Assembly, convinced that the full realization of civil and political rights were inseparably linked with the enjoyment of economic, social and cultural rights, recognizing the fundamental rights of every people to exercise full sovereignty over its natural wealth and resources and recognizing also that the realization of the right to development could help to promote the enjoyment of economic, social and cultural rights, recognized that equal attention should be given to the implementation, promotion and protection of economic, social and cultural rights and civil and political rights; and appealed to all States, on the occasion of the twentieth anniversary of the adoption of the International Covenants on Human Rights, to pursue policies directed to the full implementation of the rights contained therein.

Moreover, by its resolution 40/116 of the same date,[105] adopted also on the recommendation of the Third Committee,[106] the General Assembly, recognizing once again and with deeper concern the burden that several coexisting reporting systems placed upon Member States that were parties to various conventions, which in future might become more acute in relation to the ratification of other conventions, took note with appreciation of the very comprehensive second report of the Secretary-General on reporting obligations of States parties to the United Nations conventions on human rights;[107] expressed its deep concern about the alarming number of reports overdue from many States parties to the international conventions on human rights; took note with interest of Economic and Social Council decision 1985/132 of 28 May 1985, by which, while maintaining the first six-year cycle of the reporting procedures on the implementation of the International Covenant on Economic, Social and Cultural Rights, the Council had decided to establish a nine-year period for the subsequent cycles; expressed the belief that new timely steps were needed in order to ascertain better the most relevant causes of the current situation regarding the non-submission of reports and to devise feasible types of action intended to remove the difficulties being encountered; fully concurred with the consid-

erations and suggestions of the Secretary-General on the question of consolidating the guidelines of the supervisory bodies entrusted with the consideration of reports of the States parties on the implementation of the conventions on human rights; and took note with appreciation of the compilation of the general guidelines elaborated by the various supervisory bodies and of the list of articles dealing with related rights under the five conventions, both of which were very helpful for States parties in the preparation of their reports.

(ii) *International Convention on the Elimination of All Forms of Racial Discrimination*[108]

In 1985, no additional State became party to the International Convention on the Elimination of All Forms of Racial Discrimination.

In its resolution 40/26 of 29 November 1985,[109] adopted on the recommendation of the Third Committee,[110] the General Assembly requested those States that had not yet become parties to the Convention on the Elimination of All Forms of Racial Discrimination to ratify it or accede thereto; called upon States parties to the Convention to consider the possibility of making the declaration provided for in article 14 of the Convention; and 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.[111] And by its resolution 40/28 of the same date,[112] adopted also on the recommendation of the Third Committee,[113] the Assembly called upon Member States to adopt effective legislative, socio-economic and other measures in order to ensure the prevention or elimination of discrimination based on race, colour, descent or national or ethnic origin; further called upon the States parties to the Convention to protect fully, by the adoption of the relevant legislative and other measures, in conformity with the Convention, the rights of national or ethnic minorities and persons belonging to such minorities, as well as the rights of indigenous populations; and commended the States parties to the Convention on measures taken to ensure, within their jurisdiction, the availability of appropriate recourse procedures for the victims of racial discrimination.

(iii) *International Convention on the Suppression and Punishment of the Crime of Apartheid*[114]

In 1985, two more States became parties to the International Convention on the Suppression and Punishment of the Crime of Apartheid.

By its resolution 40/27 of 29 November 1985,[115] adopted on the recommendation of the Third Committee,[116] the General Assembly appealed once again to those States that had not yet done so to ratify or to accede to the Convention without further delay, in particular those States that had jurisdiction over transnational corporations operating in South Africa and Namibia and without whose cooperation such operations could not be halted; took note with appreciation of the report of the Group of Three of the Commission on Human Rights, established in accordance with article IX of the Convention, and, in particular, of the conclusions and recommendations contained in that report;[117] and requested the Commission on Human Rights to intensify, in cooperation with the Special Committee against Apartheid, its efforts to compile periodically the progressive list of individuals, organizations, institutions and representatives of States deemed responsible for crimes enumerated in article II of the Convention, as well as those against whom or which legal proceedings had been undertaken.

(iv) *Convention on the Elimination of All Forms of Discrimination against Women*[118]

In 1985, 20 more States became parties to the Convention on the Elimination of All Forms of Discrimination against Women.

By its resolution 40/39 of 29 November 1985,[119] adopted on the recommendation of the Third Committee,[120] the General Assembly urged all States that had not yet ratified or acceded to the Convention to do so as soon as possible, taking into account the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace, held at Nairobi from 15 to 26 July 1985; and also urged States parties to make all possible efforts to submit their initial implementation reports in accordance with article 18 of the Convention and the guidelines of the Committee on the Elimination of Discrimination against Women.

(v) *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*[121]

By its resolution 40/128 of 13 December 1985,[122] adopted on the recommendation of the Third Committee,[123] the General Assembly expressed its satisfaction at the number of States that had signed the Convention since it was opened for signature, ratification and accession on 4 February 1985; requested all States that had not yet done so to sign and to ratify the Convention as a matter of priority; and invited all States, upon ratification of or accession to the Convention, to consider the possibility of making the declarations provided for in articles 21 and 22 of the Convention.

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

By its resolution 40/24 of 29 November 1985,[124] adopted on the recommendation of the Third Committee,[125] the General Assembly reaffirmed that the universal realization of the right of all peoples, including those under colonial, foreign and alien domination, to self-determination was a fundamental condition for the effective guarantee and observance of human rights and for the preservation and promotion of such rights. Furthermore, by its resolution 40/25[126] of the same date, adopted also on the recommendation of the Third Committee,[127] the General Assembly called upon all States to implement fully and faithfully all the resolutions of the United Nations regarding the exercise of the right to self-determination and independence by peoples under colonial and foreign domination; reaffirmed the legitimacy of the struggle of peoples for their independence, territorial integrity, national unity and liberation from colonial domination, apartheid and foreign occupation by all available means, including armed struggle; and reaffirmed the inalienable right of the Namibian people, the Palestinian people and all peoples under foreign and colonial domination to self-determination, national independence, territorial integrity, national unity and sovereignty without foreign interference.

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

By its resolution 40/124 of 13 December 1985,[128] adopted on the recommendation of the Third Committee,[129] 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, 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 cooperation 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 of one category of rights should never exempt or excuse States from the promotion and protection of the others; affirmed its profound conviction that equal attention and urgent consideration should be given to the implementation, promotion and protection of both civil and political and economic, social and cultural rights; 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 the 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; expressed concern at the current situation with regard to the achievement of the objectives and goals for the establishment of the new international economic order and its adverse effects on the full realization of human rights, in particular the right to development; and reaffirmed that the right to development was an inalienable human right.

Moreover, by its resolution 40/123 of the same date,[130] adopted also on the recommendation of the Third Committee,[131] the General Assembly emphasized the importance of developing, in accordance with national legislation, effective national institutions for the protection and promotion of human rights, and of maintaining their independence and integrity; and 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.

(4) *Summary or arbitrary executions*

By its resolution 40/143 of 13 December 1985,[132] adopted on the recommendation of the Third Committee,[133] the General Assembly strongly condemned the large number of summary or arbitrary executions, including extra-legal executions, which continued to take place in various parts of the world; demanded that the practice of summary or arbitrary executions be brought to an end; welcomed Economic and Social Council resolution 1985/40 of 30 May 1985, 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-second session; and again requested the Secretary-General to continue to use his best endeavours in cases where the minimum standard of legal safeguards provided for in articles 6, 14 and 15 of the International Covenant on Civil and Political Rights appeared not to be respected.

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

By its resolution 40/130 of 13 December 1985,[134] adopted on the recommendation of the Third Committee,[135] 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 their 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, and, in particular, of the progress made by the Working Group on the drafting, in second reading, of the draft convention.

(6) *Declaration on the Human Rights of Individuals Who Are Not Nationals of the Country in Which They Live*

By its resolution 40/144 of 13 December 1985,[136] adopted on the recommendation of the Third Committee,[137] the General Assembly adopted the Declaration on the Human Rights of Individuals Who Are Not Nationals of the Country in Which They Live, which was annexed to the resolution.

ANNEX

Declaration on the Human Rights of Individuals Who Are Not Nationals of the Country in Which They Live

The General Assembly,

Considering that the Charter of the United Nations encourages universal respect for and observance of the human rights and fundamental freedoms of all human beings, without distinction as to race, sex, language or religion,

Considering that the Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth in that Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Considering that the Universal Declaration of Human Rights proclaims further that everyone has the right to recognition everywhere as a person before the law, that all are equal before the law and entitled without any discrimination to equal protection of the law, and that all are entitled to equal protection against any discrimination in violation of that Declaration and against any incitement to such discrimination,

Being aware that the States parties to the International Covenants on Human Rights undertake to guarantee that the rights enunciated in these Covenants will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Conscious that, with improving communications and the development of peaceful and friendly relations among countries, individuals increasingly live in countries of which they are not nationals,

Reaffirming the purposes and principles of the Charter of the United Nations,

Recognizing that the protection of human rights and fundamental freedoms provided for in international instruments should also be ensured for individuals who are not nationals of the country in which they live,

Proclaims this Declaration:

Article 1

For the purposes of this Declaration, the term "alien" shall apply, with due regard to qualifications made in subsequent articles, to any individual who is not a national of the State in which he or she is present.

Article 2

1. Nothing in this Declaration shall be interpreted as legitimizing the illegal entry into and presence in a State of any alien, nor shall any provision be interpreted as restricting the right of any State to promulgate laws and regulations concerning the entry of aliens and the terms and conditions of their stay or to establish differences between nationals and aliens. However, such laws and regulations shall not be incompatible with the international legal obligations of that State, including those in the field of human rights.

2. This Declaration shall not prejudice the enjoyment of the rights accorded by domestic law and of the rights which under international law a State is obliged to accord to aliens, even where this Declaration does not recognize such rights or recognizes them to a lesser extent.

Article 3

Every State shall make public its national legislation or regulations affecting aliens.

Article 4

Aliens shall observe the laws of the State in which they reside or are present and regard with respect the customs and traditions of the people of that State.

Article 5

1. Aliens shall enjoy, in accordance with domestic law and subject to the relevant international obligations of the State in which they are present, in particular the following rights:

(*a*) The right to life and security of person; no alien shall be subjected to arbitrary arrest or detention; no alien shall be deprived of his or her liberty except on such grounds and in accordance with such procedures as are established by law;

(*b*) The right to protection against arbitrary or unlawful interference with privacy, family, home or correspondence;

(*c*) The right to be equal before the courts, tribunals and all other organs and authorities administering justice and, when necessary, to free assistance of an interpreter in criminal proceedings and, when prescribed by law, other proceedings;

(*d*) The right to choose a spouse, to marry, to found a family;

(*e*) The right to freedom of thought, opinion, conscience and religion; the right to manifest their religion or beliefs, subjects only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others;

(*f*) The right to retain their own language, culture and tradition;

(*g*) The right to transfer abroad earnings, savings or other personal monetary assets, subject to domestic currency regulations.

2. Subject to such restrictions as are prescribed by law and which are necessary in a democratic society to protect national security, public safety, public order, public health or morals or the rights and freedoms of others, and which are consistent with the other rights recognized in the relevant international instruments and those set forth in this Declaration, aliens shall enjoy the following rights:

(*a*) The right to leave the country;

(*b*) The right to freedom of expression;

(*c*) The right to peaceful assembly;

(*d*) The right to own property alone as well as in association with others, subject to domestic law.

3. Subject to the provisions referred to in paragraph 2, aliens lawfully in the territory of a State shall enjoy the right to liberty of movement and freedom to choose their residence within the borders of the State.

4. Subject to national legislation and due authorization, the spouse and minor or dependent children of an alien lawfully residing in the territory of a State shall be admitted to accompany, join and stay with the alien.

Article 6

No alien shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment and, in particular, no alien shall be subjected without his or her free consent to medical or scientific experimentation.

Article 7

An alien lawfully in the territory of a State may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons why he or she should not be expelled and to have the case reviewed by, and be represented for the purpose before, the competent authority or a person or persons specially designated by the competent authority. Individual or collective expulsion of such aliens on grounds of race, colour, religion, culture, descent or national or ethnic origin is prohibited.

Article 8

1. Aliens lawfully residing in the territory of a State shall also enjoy, in accordance with the national laws, the following rights, subject to their obligations under article 4:

(*a*) The right to safe and healthy working conditions, to fair wages and equal remuneration for work of equal value without distinction of any kind, in particular, women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;

(*b*) The right to join trade unions and other organizations or associations of their choice and to participate in their activities. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary, in a democratic society, in the interests of national security or public order or for the protection of the rights and freedoms of others;

(*c*) The right to health protection, medical care, social security, social services, education, rest and leisure, provided that they fulfil the requirements under the relevant regulations for participation and that undue strain is not placed on the resources of the State.

2. With a view to protecting the rights of aliens carrying on lawful paid activities in the country in which they are present, such rights may be specified by the Governments concerned in multilateral or bilateral conventions.

Article 9

No alien shall be arbitrarily deprived of his or her lawfully acquired assets.

Article 10

Any alien shall be free at any time to communicate with the consulate or diplomatic mission of the State of which he or she is a national or, in the absence thereof, with the consulate or diplomatic mission of any other State entrusted with the protection of the interests of the State of which he or she is a national in the State where he or she resides.

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

By its resolution 40/113 of 13 December 1985,[138] adopted on the recommendation of the Third Committee,[139] the General Assembly, convinced that an international convention on the rights of the child would make a positive contribution to ensuring the protection of children's rights and their well-being, invited all Member States to offer their active contribution to the completion of the draft convention on the rights of the child at the forty-second session of the Commission on Human Rights.

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

By its resolution 40/109 of 13 December 1985,[140] adopted on the recommendation of the Third Committee,[141] the General Assembly, reaffirming its resolution 36/55 of 25 November 1981, in which it proclaimed the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief,[142] reaffirmed that freedom of thought, conscience, religion and belief was a right guaranteed to all without discrimination; urged States, therefore, in accordance with their respective constitutional systems, to provide, where they had not already done so, adequate constitu-

tional and legal guarantees of freedom of thought, conscience, religion and belief; and endorsed the request of the Commission on Human Rights to the Secretary-General, contained in its resolution 1985/51 of 14 March 1985,[143] to prepare a compendium of the national legislation and regulations of States on the question of freedom of religion or belief, with particular regard to the measures taken to combat intolerance or discrimination in that field.

(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 40/148 of 13 December 1985,[144] adopted on the recommendation of the Third Committee,[145] the General Assembly again condemned all totalitarian or other ideologies and practices, including Nazi, Fascist and neo-Fascist ideologies, based on racial or ethnic exclusiveness or intolerance, hatred and terror, which deprived people of basic human rights and fundamental freedoms and equality of opportunity, and expressed its determination to combat those ideologies and practices; urged all States to draw attention to the threat to democratic institutions by the above-mentioned 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 and the International Covenants on Human Rights, to prohibit or otherwise deter activities by groups or organizations or whoever was practising those ideologies; and invited Member States to adopt, in accordance with their national constitutional systems and with the provisions of the above-mentioned Declaration and Covenants, 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.

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

By its resolution 40/112 of 13 December 1985,[146] adopted on the recommendation of the Third Committee,[147] the General Assembly 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[148] in order to promote human rights and fundamental freedoms.

Moreover, by its resolution 40/110 of the same date,[149] adopted also on the recommendation of the Third Committee,[150] 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 Subcommission on Prevention of Discrimination and Protection of Minorities to expedite their consideration of the draft body of guidelines, principles and guarantees, 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-second session, through the Economic and Social Council.

(*f*) Crime prevention and criminal justice

(1) *Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders*

By its resolution 40/32 of 29 November 1985,[151] adopted on the recommendation of the Third Committee,[152] the General Assembly expressed its satisfaction with the report of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders;[153] approved the Milan Plan of Action,[154] adopted by consensus by the Seventh Congress, as a useful and effective means of strengthening international cooperation in the field of crime prevention and criminal justice; and recommended the Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order[155] for national, regional and international action, as appropriate, taking into account the political, economic, social and cultural circumstances and traditions of each country on the basis of the principles of the sovereign equality of States and of non-interference in their internal affairs.

Moreover, by its resolution 40/33 of the same date,[156] adopted on the recommendation of the Third Committee,[157] the General Assembly adopted the United Nations Standard Minimum Rules for the Administration of Juvenile Justice recommended by the Seventh Congress, contained in the annex to the resolution, and approved the recommendation of the Congress that the Rules should be known as "the Beijing Rules"; invited Member States to adopt, wherever this was necessary, their national legislation, policies and practices, particularly in training juvenile justice personnel, to the Beijing Rules and to bring the Rules to the attention of relevant authorities and to the public in general; and called upon the Committee on Crime Prevention and Control to formulate measures for the effective implementation of the Beijing Rules, with the assistance of the United Nations institutes on the prevention of crime and the treatment of offenders. Furthermore, by its resolution 40/146 of 13 December 1985,[158] adopted also on the recommendation of the Third Committee,[159] the General Assembly, guided by the principles embodied in articles 3, 5, 9, 10 and 11 of the Universal Declaration of Human Rights, as well as the relevant provisions of the International Covenant on Civil and Political Rights, in particular article 6, which explicitly stated that no one shall be arbitrarily deprived of his life, welcomed the Basic Principles on the Independence of the Judiciary, adopted unanimously by the Seventh Congress,[160] and invited Governments to respect them and to take them into account within the framework of their national legislation and practice; took note with appreciation of the Model Agreement on the Transfer of Foreign Prisoners and recommendations on the treatment of foreign prisoners,[161] also adopted unanimously by the Seventh Congress, and invited Member States to take the Model Agreement into account in establishing treaty relations with other Member States or in revising existing treaty relations; also took note with appreciation of the recommendations made by the Congress with a view to ensuring more effective application of existing standards, in particular the Standard Minimum Rules for the Treatment of Prisoners, the Code of Conduct for Law Enforcement Officials,[162] and safeguards guaranteeing the rights of those facing the death penalty; and called upon Member States to spare no effort in providing for adequate mechanisms, procedures and resources so as to ensure the implementation of those recommendations, both in law and in practice.

(2) *Convention on the Prevention and Punishment of the Crime of Genocide*[163]

By its resolution 40/142 of the 13 December 1985,[164] adopted on the recommendation of the Third Committee,[165] the General Assembly once again strongly condemned the crime of genocide; reaffirmed the necessity of international cooperation in order to liberate mankind from such an odious scourge; took note with appreciation of the fact that many States had ratified the Convention or had acceded thereto; and urged those States that had not yet become parties to the Convention to ratify it or accede thereto without further delay.

(3) *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*

By its resolution 40/34 of 29 November 1985,[166] adopted on the recommendation of the Third Committee,[167] the General Assembly affirmed the necessity of adopting national and international measures in order to secure the universal and effective recognition of, and respect for, the rights of victims of crime and of abuse of power; and adopted the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, annexed to the resolution, which was designed to assist Governments and the international community in their efforts to secure justice and assistance for victims of crime and victims of abuse of power.

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4. LAW OF THE SEA

Status of the United Nations Convention on the Law of the Sea[168]

As of 31 December 1985, 159 States had signed and 25 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 Seabed Authority and the International Tribunal for the Law of the Sea[169]

The Preparatory Commission met twice during 1985. It held its third session at Kingston, Jamaica, from 11 March to 4 April 1985, and a meeting at Geneva, from 12 August to 4 September 1985.

During the Geneva meeting the Commission adopted a Declaration[170] in which it recalled the Declaration of Principles in General Assembly resolution 2749 (XXV) of 17 December 1970 proclaiming that the deep seabed and its resources were the common heritage of mankind, and that article 137 of the Convention on the Law of the Sea proclaimed that "no State or natural or juridical person shall claim, acquire or exercise rights with respect to the minerals recovered from the Area except in accordance with Part IX of the Convention". It expressed its deep concern that some States had undertaken certain actions which undermined the Convention and which were contrary to the mandate of the Preparatory Commission. The Commission declared that any claim, agreement or action regarding the Area and its resources undertaken outside the Preparatory Commission which was incompatible with the United Nations Convention on the Law of the Sea and its related resolutions should not be recognized and rejected "such claim, agreement or action as a basis for creating legal rights and regards it wholly illegal".

The plenary of the Commission completed the second reading of the draft rules of procedure of the Assembly and had provisionally adopted a considerable number of those rules. The plenary also began consideration of the draft rules of procedure of the Council.

The four Special Commissions of the Preparatory Commission had been considering the substantive work allocated to them. Special Commission 1, which was undertaking studies on the problems which would be encountered by developing land-based producer States from seabed mineral production, continued its consideration of the data and information on the mineral market, the identification of developing land-based producer States most likely to be affected and possible measures that might be taken in the event of adverse effects. Special Commission 2, which was preparing for the establishment of the Enterprise, considered a project profile for a deep seabed mining operation. The other important subject discussed was that of training in relation to the manpower requirements of the Enterprise. Special Commission 3, which was preparing the rules, regulations and procedures for the exploration and exploitation of the deep seabed, began consideration of the draft regulations on prospecting, exploration and exploitation of polymetallic nodules in the Area. Special Commission 4, which was dealing with the preparation of recommendations regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea, continued its examination of the draft rules of procedure for the Tribunal. The Commission also considered a draft set of rules dealing with procedures for the prompt release of vessels and crew.

The Secretary-General's report in its part two 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.

Consideration by the General Assembly

By its resolution 40/63 of 10 December 1985,[171] 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 done so to consider ratifying or acceding to the Convention at the earliest possible date; took note of the Declaration adopted by the Preparatory Commission for the Seabed Authority and for the International Tribunal for the Law of the Sea on 30 August 1985; called for an early adoption of the rules for registration of pioneer investors in order to ensure the effective implementation of resolution II of the Third United Nations Conference on the Law of the Sea, including the registration of pioneer investors; and called upon the Secretary-General to continue to assist States in the implementation of the Convention and in the development of a consistent and uniform approach to the new legal regime thereunder, as well as in their national, subregional and regional efforts towards the full realization of

the benefits therefrom and invited the organs and organizations of the United Nations system to cooperate and lend assistance in those endeavours.

5. INTERNATIONAL COURT OF JUSTICE[172,173]

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)*[174]

By a letter dated 18 January 1985, the Agent of the United States made it known that, notwithstanding the Judgment of 26 November 1984, in the view of the United States "the Court is without jurisdiction to entertain the dispute and that the Nicaraguan Application of 9 April 1984 is inadmissible" and that accordingly "the United States intends not to participate in any further proceedings in connection with this case". On 22 January 1985 the Agent of Nicaragua informed the President that his Government maintained its Application and availed itself of the rights provided for in Article 53 of the Statute whenever one of the Parties does not appear before the Court or fails to defend its case.

By an Order dated 22 January 1985,[175] the President fixed time-limits for the filing of pleadings on the merits. The Government of Nicaragua filed its Memorial within the prescribed time-limit (30 April 1985). No Counter-Memorial was filed by the Government of the United States within the time-limit allotted to it, which expired on 31 May 1985, nor did it request any extension of the time-limit.

Between 12 and 20 September 1985, the Court held nine public sittings during which arguments were presented on behalf of Nicaragua. Five witnesses called by Nicaragua gave evidence before the Court. The United States was not represented at the sittings.

(ii) *Continental Shelf (Libyan Arab Jamahiriya/Malta)*[176]

Between 26 November and 14 December 1984, and 4 and 24 February 1985, the Court held 25 public sittings during which speeches were made on behalf of the Libyan Arab Jamahiriya and Malta.

On 3 June 1985, the Court at a public sitting delivered its Judgment,[177] of which a summary outline and the complete text of the operative clause are given below.

Proceedings and Submissions of the Parties (paras. 1-13)

The Court begins by recapitulating the various stages in the proceedings and setting out the provisions of the Special Agreement concluded between the Libyan Arab Jamahiriya and Malta for the purpose of submitting to the Court the dispute between them concerning the delimitation of their respective continental shelves.

By Article 1 of the Special Agreement, the Court is requested to decide the following question:

> "What principles and rules of international law are applicable to the delimitation of the area of continental shelf which appertains to the Republic of Malta and the area of continental shelf which appertains to the Libyan Arab Republic, and how in practice such principles and rules can be applied by the two Parties in this particular case in order that they may without difficulty delimit such area by an agreement as provided in Article III."

According to Article III:

> "Following the final decision of the International Court of Justice the Government of the Republic of Malta and the Government of the Libyan Arab Republic shall enter into negotiations for determining the area of their respective continental shelves and for concluding an agreement for that purpose in accordance with the decision of the Court."

Having described the *geographical context* (paras. 14-17) in which the delimitation of the conti-

nental shelf, the subject of the proceedings, is to be carried out, the Court explains its approach to the *task* which it has to discharge (paras. 18-23).

The Parties agree on the task of the Court as regards the definition of the principles and rules of international law applicable in the case, but disagree as to the way in which the Court is to indicate the practical application of these principles and rules. Malta takes the view that the applicable principles and rules are to be implemented in practice by the drawing of a specific line (in this case, a median line) whereas Libya maintains that the Court's task does not extend to the actual drawing of the delimitation line. Having examined the intentions of the Parties to the Special Agreement, from which its jurisdiction derives, the Court considers that it is not debarred by the terms of the Special Agreement from indicating a delimitation line.

Turning to the scope of the Judgment, the Court emphasizes that the delimitation contemplated by the Special Agreement relates only to areas of continental shelf "which appertain" to the Parties, to the exclusion of areas which might "appertain" to a third State. Although the Parties have in effect invited the Court not to limit its Judgment to the area in which theirs are the sole competing claims, the Court does not regard itself as free to do so, in view of the interest shown in the proceedings by Italy, which in 1984 submitted an Application for permission to intervene under Article 62 of the Statute, an Application which the Court found itself unable to grant. As the Court had previously indicated in its Judgment of 21 March 1984, the geographical scope of the present decision must be limited, and must be confined to the area in which, according to information supplied by Italy, that State has no claims to continental shelf rights. Thus the Court ensures to Italy the protection which is sought to obtain by intervening. In view of the geographical location of these claims the Court limits the area within which it will give its decision, on the east by the 15° 10′ E meridian, including also that part of the meridian which is south of the 34° 30′ N parallel, and on the west by excluding a pentagonal area bounded on the east by the 13° 50′ E meridian. The Parties have no grounds for complaint since, as the Court says, by expressing a negative opinion on the Italian Application to intervene, they had shown their preference for a restriction in the geographical scope of the Judgment which the Court would be required to deliver.

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The Court observes that no decisive role is played in the present case by considerations derived from the *history of the dispute*, or from legislative and exploratory activities in relation to the continental shelf (paras. 24 and 25). In these the Court finds neither acquiescence by either Party to claims by the other, nor any helpful indication of any view of either Party as to what would be equitable differing in any way from the view advanced by that Party before the Court. Its decision must accordingly be based upon the application to the submissions made before it of principles and rules of international law.

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The applicable principles and rules of international law (paras. 26-35)

The two Parties agree that the dispute is to be governed by customary international law. Malta is a party to the 1958 Geneva Convention on the Continental Shelf, while Libya is not; both Parties have signed the 1982 United Nations Convention on the Law of the Sea, but that Convention has not yet entered into force. However, the Parties are in accord in considering that some of its provisions constitute the expression of customary law, while holding different views as to which provisions have this status. In view of the major importance of this Convention—which has been adopted by an overwhelming majority of States—it is clearly the duty of the Court to consider how far any of its provisions may be binding upon the Parties as a rule of customary law.

In this context the Parties have laid some emphasis on a distinction between the law applicable to the *basis of entitlement* to areas of continental shelf and the law applicable to the *delimitation* of areas of shelf between neighbouring States. On the second point, which is governed by article 83 of the 1982 Convention, the Court notes that the Convention sets a goal to be pursued, namely "to achieve an equitable solution", but is silent as to the method to be followed to achieve it, leaving it to States themselves, or to the courts, to endow this standard with specific content. It also points out that both Parties agree that, whatever the status of article 83 of the 1982 Convention, the delimitation is to be effected in accordance with equitable principles and taking account of all relevant circumstances.

However, on the legal basis of title to continental shelf rights the views of the Parties are irreconcilable. For Libya, the natural prolongation of the land territory of a State into the sea remains the fundamental basis of legal title to continental shelf areas. For Malta, continental shelf rights are no longer defined in the light of physical criteria; they are controlled by the concept of distance from the coast.

In the view of the Court, the principles and rules underlying the regime of the exclusive economic zone cannot be left out of consideration in the present case, which relates to the delimitation of the continental shelf. The two institutions are linked together in modern law, and one of the relevant circumstances to be taken into account for the delimitation of the continental shelf of a State is the legally permissible extent of the exclusive economic zone appertaining to that same State. The institution of the exclusive economic zone, with its rule on entitlement by reason of distance, is shown by the practice of States to have become a part of customary law; and although the institutions of the continental shelf and the exclusive economic zone are different and distinct, the rights which the exclusive economic zone entails over the sea-bed of the zone are defined by reference to the regime laid down for the continental shelf. Although there can be a continental shelf where there is no exclusive economic zone, there cannot be an exclusive economic zone without a corresponding continental shelf. It follows that, for juridical and practical reasons, the distance criterion must now apply to the continental shelf as well as to the exclusive economic zone; and this quite apart from the provision as to distance in article 76 of the 1982 Convention. Within 200 miles of the coast, natural prolongation is in part defined by distance from the shore. The concepts of natural prolongation and distance are not opposed but complementary; and both remain essential elements in the juridical concept of the continental shelf. The Court is thus unable to accept the Libyan contention that distance from the coast is not a relevant element for the decision of the present case.

The Libyan "rift zone" argument (paras. 36-41)

The Court goes on to consider Libya's argument based on the existence of a "rift zone" in the region of the delimitation. From Libya's contention that the natural prolongation, in the physical sense, of the land territory into the sea is still a primary basis of title to continental shelf, it would follow that, if there exists a fundamental discontinuity between the shelf area adjacent to one Party and the shelf area adjacent to the other, the boundary should lie along the general line of that fundamental discontinuity. According to Libya, in the present case there are two distinct continental shelves divided by what it calls the "rift zone", and it is "within, and following the general direction of, the Rift Zone" that the delimitation should be carried out.

The Court takes the view that, since the development of the law enables a State to claim continental shelf up to as far as 200 miles from its coast, whatever the geological characteristics of the corresponding seabed and subsoil, there is no reason to ascribe any role to geological or geophysical factors within that distance. Since in the present instance the distance between the coasts of the Parties is less than 400 miles, so that no geophysical feature can lie more than 200 miles from each coast, the "rift zone" cannot constitute a fundamental discontinuity terminating the southward extension of the Maltese shelf and the northward extension of the Libyan as if it were some natural boundary. Moreover, the need to interpret the evidence advanced for and against the Libyan argument would compel the Court first to make a determination upon a disagreement between scientists of distinction as to the more plausibly correct interpretation of apparently incomplete scientific data, a position which it cannot accept. It therefore rejects the so-called "rift zone" argument of Libya.

Malta's argument respecting the primacy of equidistance (paras. 42-44)

Neither, however, is the Court able to accept Malta's argument that the new importance of the idea of distance from the coast has conferred a primacy on the method of equidistance for the purposes of delimitation of the continental shelf, at any rate between opposite States, as is the case with the coasts of Malta and Libya. Malta considers that the distance principle requires that, as a starting-point of the delimitation process, consideration must be given to an equidistance line, subject to verification of the equitableness of the result achieved by this initial delimitation. The Court is unable to accept that, even as a preliminary step towards the drawing of a delimitation line, the equidistance method is one which must necessarily be used. It is neither the only appropriate method of delimitation, nor the

only permissible point of departure. Moreover, the Court considers that the practice of States in this field falls short of proving the existence of a rule prescribing the use of equidistance, or indeed of any method, as obligatory.

Equitable principles (paras. 45-47)

The Parties agree that the delimitation of the continental shelf must be effected by the application of equitable principles in all the relevant circumstances in order to achieve an equitable result. The Court lists some of these principles: the principle that there is to be no question of refashioning geography; the principle of non-encroachment by one Party on areas appertaining to the other; the principle of the respect due to all relevant circumstances; the principle that "equity does not necessarily imply equality" and that there can be no question of distributive justice.

The relevant circumstances (paras. 48-54)

The Court has still to assess the weight to be accorded to the relevant circumstances for the purposes of the delimitation. Although there is no closed list of considerations which a court may invoke, the Court emphasizes that the only ones which will qualify for inclusion are those which are pertinent to the institution of the continental shelf as it has developed within the law, and to the application of equitable principles to its delimitation.

Thus it finds to be unfounded in the practice of States, in the jurisprudence or in the work of the Third United Nations Conference on the Law of the Sea the argument of Libya that the land mass provides the legal justification of entitlement to continental shelf rights, such that a State with a greater land mass would have a more intense natural prolongation. Nor does the Court consider, contrary to the contentions advanced by Malta, that a delimitation should be influenced by the relative economic position of the two States in question. Regarding the security or defence interests of the two Parties, the Court notes that the delimitation which will result from the application of the present Judgment is not so near to the coast of either Party as to make these questions a particular consideration. As for the treatment of islands in continental shelf delimitation, Malta has drawn a distinction between island States and islands politically linked to a mainland State. In this connection the Court merely notes that, Malta being independent, the relationship of its coasts with the coasts of its neighbours is different from what it would be if it were part of the territory of one of them. This aspect of the matter also seems to the Court to be linked to the position of the Maltese islands in the wider geographical context, to which it will return.

The Court rejects another argument of Malta, derived from the sovereign equality of States, whereby the maritime extensions generated by the sovereignty of each State must be of equal juridical value, whatever the length of the coasts. The Court considers that if coastal States have an equal entitlement, *ipso jure* and *ab initio*, to their continental shelves, this does not imply an equality in the extent of these shelves, and thus reference to the length of coasts as a relevant consideration cannot be excluded *a priori*.

Proportionality (paras. 55-59)

The Court then considers the role to be assigned in the present case to proportionality, Libya having attached considerable importance to this factor. It recalls that, according to the jurisprudence, proportionality is one possibly relevant factor among several others to be taken into account, without ever being mentioned among "the principles and rules of international law applicable to the delimitation" or as "a general principle providing an independent source of rights to areas of continental shelf". Libya's argument, however, goes further. Once the submission relating to the rift zone has been dismissed, there is no other element in the Libyan submissions, apart from the reference to the lengths of coastline, which is able to afford an independent principle and method for drawing the boundary. The Court considers that to use the ratio of coastal lengths as self-determinative of the seaward reach and area of continental shelf proper to each is to go far beyond the use of proportionality as a test of equity, in the sense employed in the case concerning the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*. Such use finds no support in the practice of States or their public statements, or in the jurisprudence.

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The delimitation operation and the drawing of a provisional equidistance line (paras. 60-64)

In order to apply the equitable principles which were elicited by taking account of the relevant circumstances, the Court proceeds by stages; it begins by making a provisional delimitation, which it then compares with the requirements derived from other criteria which may call for an adjustment of this initial result.

Stating that the law applicable to the present dispute is based on the criterion of distance in relation to the coast (the principle of adjacency measured by distance), and noting that the equitableness of the equidistance method is particularly marked in cases where the delimitation concerns States with opposite coasts, the Court considers that the tracing of a median line between the coasts of Malta and Libya, by way of a provisional step in a process to be continued by other operations, is the most judicious manner of proceeding with a view to the eventual achievement of an equitable result. The equidistance method is not the only possible method, and it must be demonstrated that it in fact leads to an equitable result—this can be ascertained by examining the result to which it leads in the context of applying other equitable principles to the relevant circumstances. At this stage, the Court explains that it finds it equitable not to take account of the uninhabited Maltese island of Filfla in the construction of the provisional median line between Malta and Libya, in order to eliminate the disproportionate effect which it might have on the course of this line.

Adjustment of the equidistance line, taking account especially of the lengths of the respective coasts of the Parties (paras. 65-73)

The Court examines whether, in assessing the equitableness of the result, certain relevant circumstances may carry such weight as to justify their being taken into account, requiring an adjustment of the median line which has provisionally been drawn.

One point argued before the Court has been the considerable disparity in the lengths of the relevant coasts of the Parties. Here, the Court compares Malta's coasts with the coasts of Libya between Ras Ajdir (the boundary with Tunisia) and Ras Zarruq (15° 10′) and notes that there is a marked disparity between the lengths of these coasts, since the Maltese coast is 24 miles long and the Libyan coast 192 miles long. This is a relevant circumstance which warrants an adjustment of the median line, to attribute a greater area of shelf to Libya. However, it remains to determine the extent of this adjustment.

A further geographical feature must be taken into consideration as a relevant circumstance: this is the southern location of the coasts of the Maltese islands, within the general geographical context in which the delimitation is to be effected. The Court points to a further reason for not accepting the median line, without adjustment, as an equitable boundary: namely that this line is to all intents and purposes controlled on each side, in its entirety, by a handful of salient points on a short stretch of the coast (two points 11 miles apart for Malta; several points concentrated immediately east of Ras Tadjoura for Libya).

The Court therefore finds it necessary that the delimitation line be adjusted so as to lie closer to the coasts of Malta. The coasts of the Parties being opposite to each other, and the equidistance line lying broadly west to east, this adjustment can be satisfactorily and simply achieved by transposing it in an exactly northward direction.

The Court then establishes what should be the extreme limit of such a transposition. It reasons as follows: were it supposed that the Maltese islands were part of Italian territory, and that there was a question of the delimitation of the continental shelf between Libya and Italy, the boundary would be drawn in the light of the coasts of Libya to the south and of Sicily to the north. However, account would have to be taken of the islands of Malta, so that this delimitation would be located somewhat south of the median line between Sicily and Libya. Since Malta is not part of Italy, but is an independent State, it cannot be the case that, as regards continental shelf rights, it will be in a worse position because of its independence. It is therefore reasonable to assume that an equitable boundary between Libya and Malta must be to the south of a notional median line between Libya and Sicily. That line intersects the 15° 10′ E meridian at a latitude of approximately 34° 36′ N. The median line between Malta and Libya (drawn to exclude the islet of Filfla) intersects the 15° 10′ E meridian at a latitude of

approximately 34° 12′ N. A transposition northwards of 24′ of latitude of the Malta-Libya median line would therefore be the extreme limit of such an adjustment.

Having weighed up the various circumstances in the case as previously indicated, the Court concludes that a shift of about two thirds of the distance between the Malta-Libya median line and the line located 24′ further north gives an equitable result, and that the delimitation line is to be produced by transposing the median line northwards through 18′ of latitude. It will intersect the 15° 10′ E meridian at approximately 34° 30′ N. It will be for the Parties and their experts to determine the exact position.

The test of proportionality (paras. 74-75)

While considering that there is no reason of principle why a test of proportionality, based on the ratio between the lengths of the relevant coasts and the areas of shelf attributed, should not be employed to verify the equity of the result, the Court states that there may be certain practical difficulties which render this test inappropriate. They are particularly evident in the present case, *inter alia*, because the area to which the Judgment will apply is limited by reason of the existence of claims of third States, and to apply the proportionality test simply to the areas within these limits would be unrealistic. However, it seems to the Court that it can make a broad assessment of the equity of the result without attempting to express it in figures. It concludes that there is certainly no manifest disproportion between areas of shelf attributed to each of the Parties, such that it might be claimed that the requirements of the test of proportionality as an aspect of equity are not satisfied.

The Court presents a *summary of its conclusions* (paras. 76-78) and its decision, the full text of which follows (para. 79):

Operative clause (para. 79)

"For these reasons,

THE COURT,

by fourteen votes to three,

finds that, with reference to the areas of continental shelf between the coasts of the Parties within the limits defined in the present Judgment, namely the meridian 13° 50′ E and the meridian 15° 10′ E:

A. The principles and rules of international law applicable for the delimitation, to be effected by agreement in implementation of the present Judgment, of the areas of continental shelf appertaining to the Socialist People's Libyan Arab Jamahiriya and to the Republic of Malta respectively, are as follows:

(1) the delimitation is to be effected in accordance with equitable principles and taking account of all relevant circumstances, so as to arrive at an equitable result;

(2) the area of continental shelf to be found to appertain to either Party not extending more than 200 miles from the coast of the Party concerned, no criterion for delimitation of shelf areas can be derived from the principle of natural prolongation in the physical sense.

B. The circumstances and factors to be taken into account in achieving an equitable delimitation in the present case are the following:

(1) the general configuration of the coasts of the Parties, their oppositeness, and their relationship to each other within the general geographical context;

(2) the disparity in the lengths of the relevant coasts of the Parties and the distance between them;

(3) the need to avoid in the delimitation any excessive disproportion between the extent of the continental shelf areas appertaining to the coastal State and the length of the relevant part of its coast, measured in the general direction of the coastlines.

C. In consequence, an equitable result may be arrived at by drawing, as a first stage in the process, a median line every point of which is equidistant from the low-water mark of the relevant coast of Malta (excluding the islet of Filfla), and the low-water mark of the relevant coast of

Libya, that initial line being then subject to adjustment in the light of the above-mentioned circumstances and factors.

D. The adjustment of the median line referred to in subparagraph C above is to be effected by transposing that line northwards through eighteen minutes of latitude (so that it intersects the meridian 15° 10′ E at approximately latitude 34° 30′ N), such transposed line then constituting the delimitation line between the areas of continental shelf appertaining to the Socialist People's Libyan Arab Jamahiriya and to the Republic of Malta respectively.

IN FAVOUR: *President* Elias; *Vice-President* Sette-Camara; *Judges* Lachs, Morozov, Nagendra Singh, Ruda, Ago, El-Khani, Sir Robert Jennings, de Lacharrière, Mbaye, Bedjaoui; *Judges* ad hoc Valticos, Jiménez de Aréchaga.

AGAINST: *Judges* Mosler, Oda and Schwebel."

*

Judge El-Khani appended a declaration to the Judgment,[178] Judges Ruda and Bedjaoui, and Judge *ad hoc* Jiménez de Aréchaga appended a joint opinion,[179] Judge Mbaye and Judge *ad hoc* Valticos each appended separate opinions,[180] Judges Mosler, Oda and Schwebel appended dissenting opinions to the Judgment.[181]

(iii) *Application for Revision and Interpretation of the Judgment of 24 February 1982 in the case concerning the Continental Shelf (Tunisia/Libyan Arab Jamahiriya) (Tunisia v. Libyan Arab Jamahiriya)*[182]

Between 13 and 18 June 1985 the Court held six public sittings during which arguments were presented on behalf of Tunisia and the Libyan Arab Jamahiriya.

The Court was composed as follows: Judge Nagendra Singh, *President*; Judge G. L. de Lacharrière, *Vice-President*; Judges M. Lachs, J. M. Ruda, T. O. Elias, S. Oda, R. Ago, J. Sette-Camara, S. M. Schwebel, K. Mbaye, M. Bedjaoui, Ni Zhengyu; Judges *ad hoc* S. Bastid, E. Jiménez de Aréchaga.

On 10 December 1985, the Court delivered its Judgment[183] at a public sitting. A summary outline of the Judgment and the complete text of the operative clause are given below.

Procedure and Submissions of the Parties (paras. 1-10)

In the Application instituting proceedings which it filed on 27 July 1984, Tunisia submitted to the Court several separate requests: a request for revision of the Judgment delivered by the Court on 24 February 1982[184] (hereinafter "the 1982 Judgment") submitted on the basis of Article 61 of the Statute of the Court; a request for interpretation of that Judgment, submitted under Article 60 of the Statute; and a request for correction of an error. To these was later added a request for the Court to order an expert survey. The Court dealt with these requests in a single Judgment.

Question of the admissibility of the application for revision (paras. 11-40)

Under Article 61 of the Statute, proceedings for revision are opened by a judgment of the Court declaring the application admissible on the grounds contemplated by the Statute. Proceedings on the merits are only undertaken if the Court has found the application admissible. Accordingly, the Court must deal first with the admissibility of the application for revision of the 1982 Judgment submitted by Tunisia. The conditions of admissibility are set out in Article 61, paragraphs 1, 4 and 5 of which read as follows:

"1. 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 to the party claiming revision, always provided that such ignorance was not due to negligence.

.....

4. The application for revision must be made at latest within six months of the discovery of the new fact.

5. No application for revision may be made after the lapse of ten years from the date of the judgment."

The fact which, according to Tunisia, was unknown either to the Court or to itself before the delivery of the 1982 Judgment was the text of the Resolution of the Libyan Council of Ministers of 28 March 1968, which determined the "real course" of the north-western boundary of a petroleum concession, granted by Libya, known as Concession No. 137, to which reference was made in the Judgment, especially in the operative part.

Tunisia affirmed that the real course of that boundary was very different from that resulting from the various descriptions given by Libya to the Court during the proceedings leading up to the 1982 Judgment. It also observed that the delimitation line passing through point 35° 55′ N 12° E would allocate to Libya areas of continental shelf lying within the Tunisian permit of 1966, contrary to what has been clearly decided by the Court, whose entire decision, according to Tunisia, was based on the idea of alignment between the permits and concessions granted by the two Parties and on the resultant absence of any overlapping of claims up to 1974.

Without disputing the geographic facts as to the positions of the boundaries of the relevant concessions, as stated by Tunisia, Libya emphasized that it did not present a misleading picture of its concessions. It refrained from making any statement as to the precise connection between Libyan Concession No. 137 and the Tunisian permit of 1966, and confined itself to indicating the existence of a boundary common to both these concessions, following a direction of approximately 26° from Ras Ajdir.

However, Libya disputed the admissibility of the Application for revision, for reasons of fact and law. According to Libya, the Application failed to comply with any of the conditions stated in Article 61 of the Statute, with the exception of the condition as to the ten-year limit laid down in paragraph 5. It contended

—that the fact now relied on was known to Tunisia at the time when the 1982 Judgment was delivered, or at all events earlier than six months before the filing of the Application,

—that if the fact was unknown to Tunisia, that ignorance was due to negligence on its part, and

—that Tunisia had failed to show that the fact discovered was "of such a nature as to be a decisive factor".

The Court recalled that everything known to the Court must be taken to be known also to the party seeking revision, and a party cannot claim to have been unaware of a fact regularly brought before it.

The Court examined the question raised by Tunisia, on the basis of the idea that the fact supposedly unknown in 1982 related solely to the coordinates defining the boundary of Concession No. 137, since the existence of an overlap between the north-western edge of Libyan Concession No. 137 and the south-eastern edge of the Tunisian permit could hardly have escaped Tunisia. It noted that, according to Libya, the information supplied to the Court was accurate as far as it went, but the exact coordinates of Concession No. 137 were not supplied to the Court by either Party, so that Tunisia would not have been able to ascertain the exact location of the Libyan Concession from the pleadings and other material then before the Court. The Court must, however, consider whether the circumstances were such that means were available to Tunisia to ascertain the exact coordinates of the Concession from other sources; and indeed whether it was in Tunisia's own interests to do so. If such were the case, it did not appear to the Court that it was open to Tunisia to rely on those coordinates as a fact unknown to it within the meaning of Article 61, paragraph 1, of the Statute. Having considered the opportunities available to Tunisia to obtain this information, and arguing from these that the exact concession boundary coordinates were obtainable by Tunisia and that it was in its interests to obtain them, the Court concluded that one of the essential conditions of admissibility of a request for revision, laid down in Article 61, paragraph 1, of the Statute—ignorance of a new fact not due to negligence—was lacking.

The Court found it useful to consider also whether the fact relating to the Concession coordinates was "of such a nature as to be a decisive factor", as required by Article 61, paragraph 1. It pointed out that, according to Tunisia, the coincidence of the boundaries of the Libyan concessions and of the Tunisian Permit of 1966 was "an essential element [of] the delimitation . . . and, in truth the *ratio*

decidendi of the Judgment". The view of Tunisia as to the decisive character of that coincidence derived from its interpretation of the operative part of the 1982 Judgment. That operative clause, however, according to the Court, fell into two distinct parts. In the first part, the Court established the starting-point of the delimitation line, that point being at the intersection of the limit of the territorial sea of the Parties and a line which it called the "determining line", drawn from the frontier point of Ras Ajdir through the point 33° 55′ N 12° E. In the second part, the Court added that the line ran at a specified approximate bearing, and that that bearing corresponded to the angle formed by the boundary of the concessions mentioned. It then defined the actual delimitation line as running from that intersection point north-east on that same bearing (approximately 26°) through the point 33° 55′ N 12° E.

The Court found that in the operative clause of the Judgment there was a single precise criterion for the drawing of the delimitation line, namely that it was to be drawn through two specifically defined points. The other considerations were not mentioned as part of the description of the delimitation line itself; they appear in the operative clause only as an explanation, not a definition, of the "determining line".

The Court then considered whether it would have arrived at another decision if it had known the precise coordinates of Concession No. 137. Here it made three observations. First, the line resulting from the grant of petroleum concessions was by no means the sole consideration taken into account by the Court, and the method indicated by the Court for achieving an equitable delimitation derived in fact from a balance struck between a number of considerations.

Secondly, the argument of Tunisia that the fact that the Libyan concessions did not match the Tunisian boundary on the west would have induced the Court, had it been aware of it, to adopt a different approach proceeded from a narrow interpretation of the term "aligned" employed in the operative clause of the 1982 Judgment. It was evident that by using that word, the Court did not mean that the boundaries of the relevant concessions formed a perfect match in the sense that there was neither any overlap nor any seabed area left open between the boundaries. Moreover, from what had been said during the proceedings, it knew that the Libyan boundary was a straight line (at a bearing of 26°) and the Tunisian boundary a stepped line, creating either open areas or areas of overlap. The Tunisian boundary followed a general direction of 26° from Ras Ajdir and, according to the Court, the boundary of the Libyan concession was aligned with that general direction.

Thirdly, what was significant for the Court in the "alignment" of the concession boundaries was not merely the fact that Libya had apparently limited its 1968 concession so as not to encroach on Tunisia's 1966 permit. It was the fact that both parties had chosen to use as boundary of the permits or concessions granted by them a line corresponding roughly to a line drawn from Ras Ajdir at 26° to the meridian. Their choice was an indication that, at the time, a 26° line was considered equitable by both States.

From the foregoing it followed that the Court's reasoning in 1982 was wholly unaffected by the evidence now produced as to the boundaries of Concession No. 137. This did not mean that if the coordinates of Concession No. 137 had been clearly indicated to the Court, the 1982 Judgment would have been identically worded. Some additional details might have been given. But in order for an application for revision to be found admissible, it was not sufficient that the new fact relied on might, had it been known, have made it possible for the Court to be more specific in its decision; it must also have been a fact "of such a nature as to be a decisive factor". Yet, far from constituting such a fact, the details of the correct coordinates of Concession No. 137 would have not changed the decision of the Court as to the first sector of the delimitation. Accordingly, the Court must conclude that the application by Tunisia for a revision of the 1982 Judgment was not admissible according to the terms of Article 61 of the Statute.

Request for interpretation in the first sector of the delimitation (paras. 41-50)

In the event that the Court did not find admissible its Application for revision, Tunisia had submitted a subsidiary request for interpretation as regarded the first sector of the delimitation line, based on Article 60 of the Statute. The Court first dealt in this respect with a jurisdictional objection raised by Libya. The latter claimed that, if explanations or clarifications were necessary, the Parties must go

back together to the Court in accordance with Article 3 of the Special Agreement on the basis of which the Court was originally seized.[185] The question therefore arose of the link between the procedure contemplated in article 3 of the Special Agreement, and the possibility of either of the Parties unilaterally requesting interpretation of a judgment under Article 60 of the Statute. Having examined the contentions of the Parties, the Court concluded that the existence of article 3 of the Special Agreement did not pose an obstacle to the request for interpretation submitted by Tunisia on the basis of Article 60 of the Statute.

The Court went on to consider whether the Tunisian request fulfilled the conditions for admissibility. It considered that a dispute indeed existed between the Parties as to the meaning and scope of the 1982 Judgment, since they did not agree as to whether the indication in the 1982 Judgment that the line should pass through the point 33° 55′ N 12° E did or did not constitute a matter decided with binding force; Libya argued that it did; Tunisia that it did not. The Court therefore concluded that the Tunisian request for interpretation in relation to the first sector was admissible.

The Court went on to specify the significance of the principle of *res judicata* in the case. In particular, it observed that even though the Parties did not entrust it with the task of drawing the delimitation line itself, they undertook to apply the principles and rules indicated by the Court in its Judgment. As for the figures given by the Court, each element must be read in its context, to establish whether the Court intended it as a precise statement, or merely as an indication subject to variation.

Tunisia stated that, in the first sector, the object of its request for interpretation was "to obtain some clarifications, notably as regards the hierarchy to be established between the criteria adopted by the Court, having regard to the impossibility of simultaneously applying these criteria to determine the starting-point of the delimitation line . . ." It argued that the boundary to be taken into consideration for the establishment of a delimitation line could only be the south-eastern boundary of the Tunisian Permit of 1966. The Court had already explained, in connection with the request for revision, that the 1982 Judgment laid down for the purposes of the delimitation a single precise criterion for the drawing of the line, namely that it was to be a straight line drawn through two specifically defined points. The Tunisian request for interpretation was therefore founded upon a misreading of the purport of the relevant passage of the operative clause of the 1982 Judgment. The Court therefore found that it could not uphold Tunisia's submission concerning the interpretation of the Judgment in that respect, and that there was nothing to be added to what it had already said, in its reasoning on the admissibility of the request for revision, as to the meaning and scope of the 1982 Judgment.[186]

Request for the correction of an error in the first sector of the delimitation (paras. 51 and 52)

As regarded the Tunisian request for the correction of an error, submitted as a subsidiary request to replace the coordinates 35° 55′ N 12° E with other coordinates, the Court considered that it was based upon the view expressed by Tunisia that the choice of that point by the Court resulted from the application of a criterion whereby the delimitation line was not to encroach upon the Tunisian Permit of 1966. However, this was not the case; the point in question was chosen as a convenient concrete means of defining the 26° line from Ras Ajdir. Accordingly, Tunisia's request in this regard appeared to be based on a misreading, and had thus become without object. Thus no decision thereon was called for.

Request for interpretation in the second sector of the delimitation (paras. 53-63)

The Court then turned to the request made by Tunisia for an interpretation of the 1982 Judgment as it concerned the second sector of the delimitation. According to that Judgment, the delimitation line in the first sector was to be drawn "to the point of intersection with the parallel passing through the most westerly point of the Tunisian coastline between Ras Kaboudia and Ras Ajdir, that is to say, the most westerly point of the shoreline (low-water mark) of the Gulf of Gabès". Beyond that parallel, the delimitation line was to reflect the radical change in direction of the Tunisian coastline marked by the Gulf of Gabès. No coordinates, even approximate, were indicated in the operative part of the Judgment to identify what in the Court's view was the most westerly point of the Gulf of Gabès. According to the Judgment, "the precise coordinates of this point will be for the experts to determine, but it appears to the Court that it will be approximately 34° 10′ 30″ north".

Tunisia maintained that the coordinate 34° 10′ 30″ N given in the Judgment was not binding on the Parties, since it was not repeated in the operative part. Libya, on the other hand, argued that since the Court had already made its own calculations, the exact plotting of the point by the experts involved a margin "perhaps of seconds" at most. That being so, the Court took the view, for the purposes of the conditions of admissibility which it had initially to examine, that there was certainly a dispute between the Parties as to what in the 1982 Judgment had been decided with binding force. It also seemed to it that the real purpose of Tunisia's request was to obtain a clarification by the Court of "the meaning and scope of what the Court has decided" on that question in the 1982 Judgment. It therefore found admissible the Tunisian request for interpretation in respect of the second sector.

Tunisia attached great importance to the fact that the parallel 34° 10′ 30″ indicated by the Court met the coastline in the mouth of a wadi. While recognizing that there was a point in the region of that parallel where tidal waters extended as far as a more westerly longitude than any of the other points considered, Tunisia disregarded this, and fixed the most westerly point on the shoreline of the Gulf of Gabès at 34° 05′ 20″ N (Carthage). Explaining its grounds for rejecting this, the Court said that by "the most westerly point on the shoreline (low-water mark) of the Gulf of Gabès", it simply meant the point on the shoreline which was further to the west than any other point on the same shoreline and had the advantage of being open to objective definition. As for the presence of a wadi at approximately the latitude referred to by the Court, the Court referred merely to the familiar concept of the "low-water mark". It did not intend to refer to the most westerly point on the baselines from which the breadth of the territorial sea was, or might be, measured; and the idea that it might have referred to such baselines to exclude from its definition of the "most westerly point" a point located in the mouth of a wadi must be regarded as untenable.

As to the significance to be attached to the Court's reference in the 1982 Judgment to the latitude 34° 10′ 30″ N, the Court explained that it took that latitude as a practical definition of the point in relation to which the bearing of the delimitation line was to change. The definition was not binding upon the Parties, and it was significant in that respect that the word "approximately" was used to describe the latitude, also that the operative part of the Judgment made no mention of it. Moreover, the task of determining the precise coordinates of the "most westerly point" was left to the experts. It followed that the Court could not uphold Tunisia's submission that the most westerly point was situated at 34° 05′ 20″ N (Carthage). It expressly decided in 1982 that the precise coordinates were to be determined by the experts, and it would not be consistent with that decision for the Court to state that a specific coordinate constituted the most westerly point of the Gulf of Gabès.

That being so, the Court gave some indications for the experts, saying that they were to identify the most westerly point on the low-water mark by using the available maps, disregarding any straight baselines, and proceeding if necessary to a survey *in loco*, whether or not that point was situated in a channel or in the mouth of a wadi, and whether or not it could be considered as marking a change in direction of the coastline.

Request for an expert survey (paras. 64-68)

During the oral proceedings, Tunisia made a subsidiary submission for the ordering of an expert survey for the purpose of ascertaining the exact coordinates of the most westerly point of the Gulf of Gabès. The Court commented in that respect that it could only accede to the request of Tunisia if the determination of the coordinates of this point were required to enable it to give judgment on the matter submitted to it. However, the Court was seized of a request for interpretation of a previous judgment, and in 1982 it stipulated that it did not purport to determine these coordinates with accuracy, that task being left for the experts of the Parties. At that time, it refrained from appointing an expert itself, what was at issue being a necessary element in its decision as to the practical methods to be used. Its decision in that respect was covered by the force of *res judicata*. However, this did not prevent the Parties from returning to the Court to present a joint request that it should order an expert survey, but they would have to do so by means of an agreement. The Court concluded that there is no cause at present for it to order an expert survey for the purpose of ascertaining the exact coordinates of the most westerly point of the Gulf of Gabès.

For the future, the Court recalled that the Parties were obliged to conclude a treaty for the purpose

of the delimitation. They must ensure that the 1982 Judgment is implemented so that the dispute is finally disposed of, and must consequently act in such a way that their experts engage in a sincere exercise to determine the coordinates of the most westerly point, in the light of the indications furnished in the Judgment.

Operative clause (para. 69)

"THE COURT,

A. Unanimously,

Finds inadmissible the request submitted by the Republic of Tunisia for revision, under Article 61 of the Statute of the Court, of the Judgment given by the Court on 24 February 1982;

B. Unanimously,

(1) *Finds admissible* the request submitted by the Republic of Tunisia for interpretation, under Article 60 of the Statute of the Court, of the Judgment of 24 February 1982 as far as it relates to the first sector of the delimitation contemplated by that Judgment;

(2) *Declares*, by way of interpretation of the Judgment of 24 February 1982, that the meaning and scope of that part of the Judgment which relates to the first sector of the delimitation are to be understood according to paragraphs 32 to 39 of the present Judgment;

(3) *Finds* that the submission of the Republic of Tunisia of 14 June 1985, relating to the first sector of the delimitation, cannot be upheld;

C. Unanimously,

Finds that the request of the Republic of Tunisia for the correction of an error is without object and that the Court is therefore not called upon to give a decision thereon;

D. Unanimously,

(1) *Finds admissible* the request submitted by the Republic of Tunisia for interpretation, under Article 60 of the Statute of the Court, of the Judgment of 24 February 1982 as far as it relates to the 'most westerly point of the Gulf of Gabès';

(2) *Declares*, by way of interpretation of the Judgment of 24 February 1982,

(a) that the reference in paragraph 124 of that Judgment to approximately 34° 10′ 30″ north is a general indication of the latitude of the point which appeared to the Court to be the most westerly point on the shoreline (low-water mark) of the Gulf of Gabès, it being left to the experts of the Parties to determine the precise coordinates of that point; that the latitude of 34° 10′ 30″ was therefore not intended to be itself binding on the Parties but was employed for the purpose of clarifying which was decided with binding force in paragraph 133 C (3) of that Judgment;

(b) that the reference in paragraph 133 C (2) of that Judgment to "the most westerly point of the Tunisian coastline between Ras Kaboudia and Ras Ajdir, that is to say, the most westerly point on the shoreline (low-water mark) of the Gulf of Gabès', and the similar reference in paragraph 133 C (3) are to be understood as meaning the point on that shoreline which is furthest to the west on the low-water mark; and

(c) that it will be for the experts of the Parties, making use of all available cartographic documents and, if necessary, carrying out an *ad hoc* survey *in loco*, to determine the precise coordinates of that point, whether or not it lies within a channel or the mouth of a wadi, and regardless of whether or not such point might be regarded by the experts as marking a change in direction of the coastline;

(3) *Finds* that the submission of the Republic of Tunisia, that the most westerly point of the Gulf of Gabès lies on latitude 34° 05′ 20″ N (Carthage), cannot be upheld;

E. Unanimously,

Finds that, with respect to the submission of the Republic of Tunisia of 14 June 1985, there is at the present time no cause for the Court to order an expert survey for the purpose of ascertaining the precise coordinates of the most westerly point of the Gulf of Gabès."

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Judges Ruda, Oda, Schwebel and Judge *ad hoc* Bastid appended separate opinions to the Judgment.[187]

B. CONTENTIOUS CASES BEFORE A CHAMBER

Frontier Dispute (Burkina Faso/Mali)[188]

On 14 October 1983 the Governments of the Republic of Upper Volta (since renamed Burkina Faso) and the Republic of Mali jointly notified to the Registrar a Special Agreement concluded by them on 16 September 1983, having entered into force on that same day and registered with the United Nations Secretariat, by which they submitted to a chamber of the Court the question of the delimitation of part of the land frontier between the two States.

The Special Agreement provided for the seizin of a chamber under Article 26, paragraph 2, of the Statute of the Court. This Article states that the Court may form a chamber for dealing with a particular case.

On 14 March 1985 the Parties, duly consulted by the President, indicated that they desired the formation of a chamber of five members, of whom two would be judges *ad hoc* chosen by themselves in accordance with Article 31 of the Statute, and confirmed that they desired the Court to proceed immediately to the formation of the chamber.

Both States chose a judge *ad hoc* under Article 31 of the Statute of the Court. Burkina Faso appointed Mr. F. Luchaire, and Mali appointed Mr. G. Abi-Saab.[189]

On 3 April 1985 the Court unanimously adopted an Order whereby it acceded to the request of the two Governments to form a Special Chamber of five judges to deal with the frontier dispute between them.[190] It declared that it had elected Judges Lachs, Ruda and Bedjaoui to form, with the judges *ad hoc* appointed by the Parties, the Chamber to be seized of the case.

The Chamber formed to deal with the case elected as its President Judge M. Bedjaoui. Its composition is as follows: President M. Bedjaoui; Judges M. Lachs and J. M. Ruda; Judges *ad hoc* F. Luchaire and G. Abi-Saab.

On 29 April 1985 the Chamber held its first public sitting at which Judges *ad hoc* Luchaire and Abi-Saab made the solemn declaration required by the Statute and the Rules of Court.

The Parties having confirmed the indications given in the Special Agreement and the Chamber having been consulted, the President of the Court, by an Order made on 12 April 1985[191] fixed 3 October 1985 as the time-limit for the filing of Memorials by both Parties. Those pleadings were filed within the prescribed time-limit.

By an Order of 3 October 1985, the President of the Chamber fixed 2 April 1986[192] as the time-limit for the filing of Counter-Memorials by the Parties.

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6. INTERNATIONAL LAW COMMISSION[193]

THIRTY-SEVENTH SESSION OF THE COMMISSION[194]

The International Law Commission held its thirty-seventh session at Geneva from 6 May to 26 July 1985. The Commission considered all items on its agenda except for item "International liability for injurious consequences arising out of acts not prohibited by international law".

On the question of the draft Code of Offences against the Peace and Security of Mankind, the Commission had before it the third report on the topic submitted by the Special Rapporteur.[195] In his third report the Special Rapporteur presented to the Commission a possible outline of the future Code and indicated his intention to follow the Commission's decision at its thirty-sixth session that the draft Code should be limited at that stage to offences committed by individuals, without prejudice to subsequent consideration of the possible application to States of the notion of international criminal responsibility and to include the offences covered by the 1954 code with appropriate modification of form

and substance. Following its discussion of the topic, the Commission decided to refer to the Drafting Committee the following articles submitted by the Special Rapporteur: article 1 on scope; the first alternative for article 2, on persons covered by the draft Code; both alternatives for article 3, on the definition of an offence against the peace and security of mankind; and article 4, section A, on aggression.

Regarding the question of State responsibility, the Commission had before it the Special Rapporteur's sixth report.[196] The report set out the four draft articles with commentaries, already provisionally adopted by the Commission at its thirty-fifth session, and the remaining 12 draft articles with commentaries proposed by the Special Rapporteur at the thirty-sixth session, intended together to constitute Part Two of the draft articles on State responsibility. In the discussion the overall structure of the set of draft articles for Part Two was generally considered acceptable, though several members expressed the opinion that the special legal consequences of international crimes should be further elaborated in the draft articles. The Commission, at the conclusion of its discussions, decided to refer articles 7 to 16 to the Drafting Committee and, having considered the report of the Drafting Committee, provisionally adopted draft article 5. In view of the shortage of time the Drafting Committee was unable to give consideration to articles 6 to 16.

With respect to the question of the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier, the Commission considered the sixth report submitted by the Special Rapporteur.[197] The report contained proposed or revised texts of and explanations to draft articles 23, 36, 37, 38, 39, 42 and 43. The Commission decided to refer draft articles 23 and 36 to 43 to the Drafting Committee. After discussing the report of the Drafting Committee, the Commission also provisionally adopted draft articles 18, 21, 22, 23, 24, 25, 26 and 27 and commentaries thereto, as well as decided on the deletion of the brackets from paragraph 2 of article 12 and the adoption of a new commentary to that paragraph.

Regarding the question of jurisdictional immunities of States and their property, the Commission had before it articles 19 and 20 which remained from the sixth report[198] submitted by the Special Rapporteur at the thirty-sixth session of the Commission. Those two draft articles completed Part III of the draft. In addition, the Commission had before it the seventh report submitted by the Special Rapporteur[199] introducing the last two remaining Parts of the outline of his topic, namely Part IV entitled "State immunity in respect of property from attachment and execution" and Part V entitled "Miscellaneous provisions". Owing to lack of time the Commission was not in a position to take up Part V and limited its discussion to draft articles 19 and 20 from Part III and draft articles 21 to 24 from Part IV. The Commission decided to refer draft articles 19 to 24 to the Drafting Committee and, on the recommendation of that Committee, provisionally adopted draft articles 19 and 20.

On the question of the topic entitled "Relations between States and international organizations", the Commission had before it second report[200] submitted by the Special Rapporteur. In his second report the Special Rapporteur examined the question of the notion of an international organization and possible approaches to the scope of the future draft articles on the topic, as well as the question of the legal personality of international organizations and the legal powers deriving from it. The Commission also had before it a supplementary study prepared at the Commission's request by the Secretariat on the basis of replies received to the questionnaire sent by the Legal Counsel of the United Nations to the legal counsels of the specialized agencies and IAEA on the practice of such organizations concerning their status, privileges and immunities.[201] The short time available for the discussion of the topic at the session did not enable the Commission to take a decision on the draft article submitted by the Special Rapporteur and made it advisable to resume the discussion at the Commission's next session to enable more members to express their views on the matter.

Regarding the question of the law of the non-navigational uses of international watercourses, the Commission appointed a new Special Rapporteur for the topic. The Commission also requested the new Special Rapporteur to prepare a preliminary report indicating the status of the topic to date and lines of further action. The Special Rapporteur accordingly submitted a preliminary report[202] which reviewed the Commission's work on the topic to date, emphasizing the discussion thereof in the Commission and the Sixth Committee of the General Assembly in 1984, and indicated his preliminary views as to the general lines along which the Commission's work on the topic could proceed. Having

considered the preliminary report, the Commission agreed in general with the Special Rapporteur's proposals concerning the manner in which the Commission might proceed with the work on the topic. Members of the Commission also generally expressed support for and confidence in the Special Rapporteur's intention, indicated in his preliminary report, to build as much as possible on the progress already achieved, aiming at further concrete progress in the form of the provisional adoption of draft articles.

Consideration by the General Assembly

At its fortieth session, the General Assembly had before it the report of the International Law Commission on the work of its thirty-seventh session.[203] By its resolution 40/75 of 11 December 1985,[204] adopted on the recommendation of the Sixth Committee,[205] the General Assembly took note of the report of the International Law Commission on the work of its thirty-seventh session; recommended that the International Law Commission should continue its work on the topics in its current programme, bearing in mind the clear desirability of achieving as much progress as possible in the preparation of draft articles on specific topics before the conclusion of the term of office of the present membership; and expressed its satisfaction with the conclusions and intentions of the Commission concerning its procedures and methods of work, as reflected in paragraphs 297 to 306 of its report. Moreover, by its resolution 40/69 of the same date,[206] adopted also on the recommendation of the Sixth Committee,[207] the Assembly invited the International Law 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-seventh session, as well as the views expressed during the fortieth session of the General Assembly.

7. UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW[208]

EIGHTEENTH SESSION OF THE COMMISSION[209]

The United Nations Commission on International Trade Law held its eighteenth session at Vienna, from 3 to 21 June 1985.

In connection with the question of international commercial arbitration, the Commission had before it a report of the Secretary-General containing an analytical compilation of comments by Governments and international organizations on the draft text of a model law on international commercial arbitration[210] and a report of the Secretary-General containing an analytical commentary on the draft text.[211]

After consideration of the individual articles of the draft model law by the Commission, they were submitted to the Drafting Group for implementation of the decisions taken by the Commission and revision to ensure consistency within the text and between language versions. The Commission then, after consideration of the text of the draft model law as revised by the Drafting Group, adopted the UNCITRAL Model Law on International Commercial Arbitration.[212]

With respect to international payments, the Commission had before it the report of the Working Group on the work of its thirteenth session, dealing with the draft Convention on International Bills of Exchange and International Promissory Notes.[213] The Commission agreed that, in the light of the progress made in solving the major controversial issues, namely the concepts of holder and protected holder, the effect of forged endorsements and the liability of the transferor by mere delivery or by endorsement, it was reasonable to request the Working Group to complete the consideration of the other major controversial issues and, to the extent possible, the remaining issues, with a view to submitting a draft Convention to the Commission in a form suitable for consideration at its nineteenth session. Moreover, the Commission considered a report of the Secretary-General containing the remaining draft chapters of the legal guide on electronic funds transfers.[214] The Commission was of the view that the draft legal guide was of particular importance because of the existing legal vacuum in that rapidly evolving area of activity. It was noted that there was a close link between the draft legal guide and the report on the legal value of computer records[215] and it was suggested that the final version of the legal guide should include a chapter on the question of evidence. After discussion, the Commission

decided to request the Secretary-General to send the draft legal guide on electronic funds transfers to Governments and interested international organizations for comment.

With regard to the question of the new international economic order, the Commission took note of the reports of the Working Group on the New Economic International Order on the work of the sixth and seventh sessions,[216] dealing with the preparation of the draft legal guide on drawing up international contracts for construction of industrial works. The Commission requested the Working Group to continue its work expeditiously and to submit a report on its eighth session to the next session of the Commission. The Commission also considered a note by the Secretariat entitled "Further work of the Commission in the area of international contracts for construction of industrial works[217] The Commission took note of the intention of the Secretariat to submit to a future session of the Commission a report setting forth proposals on how the value of the legal guide might be enhanced by the preparation of some annexes thereto.

The Commission also discussed the report of the Working Group on International Contract Practices on the work of its eighth session,[218] which set forth the deliberations and decisions of the Working Group with respect to its method of work for carrying out the task of preparing uniform rules on the liability of operators of transport terminals, and with respect to issues arising in connection with the subject. The Commission expressed its satisfaction with the work thus far accomplished, expressed its appreciation to the Working Group for the progress made and requested the Working Group to proceed with its work expeditiously.

The Commission also had before it a report on the legal value of computer records.[219] The Commission welcomed that first report prepared by the Secretariat in implementation of the decision at its seventeenth session to place the subject of legal problems arising out of the use of automatic data processing in international trade on the programme of work as a priority item. After deliberation, the Commission decided to adopt the following recommendation:

"*The United Nations Commission on International Trade Law*,

"*Noting* that the use of automatic data processing (ADP) is about to become firmly established throughout the world in many phases of domestic and international trade as well as in administrative services,

"*Noting also* that legal rules based upon pre-ADP paper-based means of documenting international trade may create an obstacle to such use of ADP in that they lead to legal insecurity or impede the efficient use of ADP where its use is otherwise justified,

"*Noting further* with appreciation the efforts of the Council of Europe, the Customs Cooperation Council and the United Nations Economic Commission for Europe to overcome obstacles to the use of ADP in international trade arising out of these legal rules,

"*Considering* at the same time that there is no need for a unification of the rules of evidence regarding the use of computer records in international trade, in view of the experience showing that substantial differences in the rules of evidence as they apply to the paper-based system of documentation have caused so far no noticeable harm to the development of international trade,

"*Considering also* that the developments in the use of ADP are creating a desirability in a number of legal systems for an adaptation of existing legal rules to these development is, having due regard, however, to the need to encourage the employment of such ADP means that would provide the same or greater reliability as paper-based documentation,

1. *Recommends* to Governments:

"(*a*) to review the legal rules affecting the use of computer records as evidence in litigation in order to eliminate unnecessary obstacles to their admission, to be assured that the rules are consistent with developments in technology, and to provide appropriate means for a court to evaluate the credibility of the data contained in those records;

"(*b*) to review legal requirements that certain trade transactions or trade-related documents be in writing, whether the written form is a condition to the enforceability or to the

validity of the transaction or document, with a view to permitting, where appropriate, the transaction or document to be recorded and transmitted in computer-readable form;

"(*c*) to review legal requirements of a handwritten signature or other paper-based method of authentication on trade-related documents with a view to permitting, where appropriate, the use of electronic means of authentication;

"(*d*) to review legal requirements that documents for submission to Governments be in writing and manually signed with a view to permitting, where appropriate, such documents to be submitted in computer-readable form to those administrative services which have acquired the necessary equipment and established the necessary procedures;

2. *Recommends* to international organizations elaborating legal texts related to trade to take account of the present Recommendation in adopting such texts and, where appropriate, to consider modifying existing legal texts in line with the present Recommendation."[220]

With respect to training and assistance, the Commission considered a report of the Secretary-General[221] which described the measures taken by the Secretariat to implement the decisions of the Commission and of the General Assembly in that field. There was general agreement that the sponsorship of symposia and seminars on international trade law in general, and the activities of the Commission in particular, should be continued and strengthened.

Consideration by the General Assembly

At its fortieth session, the General Assembly, by its resolution 40/71 of 11 December 1985,[222] adopted on the recommendation of the Sixth Committee,[223] commended the Commission for the progress made in its work and for having reached its decisions by consensus; called upon the Commission to continue to take account of the relevant provisions of the resolutions concerning the new international economic order, as adopted by the General Assembly at its sixth and seventh special sessions, and reaffirmed the importance, in particular for developing countries, of the work carried out by the Working Group on the New International Economic Order on a legal guide on the drawing up of international contracts for construction of industrial works; welcomed the work of the Commission on the legal implications of automated data processing on the flow of international trade as an activity of vital importance to States at all levels of economic development, and in that connection commended the Commission for its recommendation on the legal value of computer records and called upon Governments and international organizations to take action, where appropriate, in conformity with the Commission's recommendations, so as to ensure legal security in the context of the widest possible use of automated data processing in international trade; reaffirmed the mandate of the Commission, as the core legal body within the United Nations system in the field of international trade law, to coordinate legal activities in that field in order to avoid duplication of effort and to promote efficiency, consistency and coherence in the unification and harmonization of international trade law; and stressed the importance of bringing into effect the conventions emanating from the work of the Commission for the global unification and harmonization of international trade law. Moreover, by its resolution 40/72 of the same date,[224] adopted also on the recommendation of the Sixth Committee,[225] the General Assembly, noting that the Model Law on International Commercial Arbitration had been adopted by the United Nations Commission on International Trade Law at its eighteenth session, and convinced that the Model Law, together with the Convention on the Recognition and Enforcement of Foreign Arbitral Awards[226] and the Arbitration Rules of the United Nations Commission on International Trade Law[227] recommended by the General Assembly in its resolution 31/98 of 15 December 1976, significantly contributed to the establishment of a unified legal framework for the fair and efficient settlement of disputes arising in international commercial relations, requested the Secretary-General to transmit the text of the Model Law, together with the *travaux préparatoires* from the eighteenth session of the Commission, to Governments and to arbitral institutions and other interested bodies and recommended that all States give due consideration to the Model Law, in view of the desirability of uniformity of the law of arbitral procedures and the specific needs of international commercial arbitration practice.

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

(*a*) Measures to prevent international terrorism which endangers or takes innocent human lives or jeopardizes fundamental freedoms and study of the underlying causes of those forms of terrorism and acts of violence which lie in misery, frustration, grievance and despair and which cause some people to sacrifice human lives, including their own, in an attempt to effect radical changes

By its resolution 40/61 of 9 December 1985,[228] adopted on the recommendation of the Sixth Committee,[229] the General Assembly unequivocally condemned, as criminal, all acts, methods and practices of terrorism wherever and by whomever committed, including those which jeopardized friendly relations among States and their security; appealed to all States that had not yet done so to consider becoming party to the existing international conventions relating to various aspects of international terrorism; invited all States to take all appropriate measures at the national level with a view to the speedy and final elimination of the problem of international terrorism, such as the harmonization of domestic legislation with existing international conventions, the fulfilment of assumed international obligations, and the prevention of the preparation and organization in their respective territories of acts directed against other States; called upon all States to fulfil their obligations under international law to refrain from organizing, instigating, assisting or participating in terrorist acts in other States, or acquiescing in activities within their territory directed towards the commission of such acts; urged all States to cooperate with one another more closely, especially through the exchange of relevant information concerning the prevention and combating of terrorism, the apprehension and prosecution or extradition of the perpetrators of such acts, the conclusion of special treaties and/or the incorporation into appropriate bilateral treaties of special clauses, in particular regarding the extradition or prosecution of terrorists; and called upon all States to observe and implement the recommendations of the Ad Hoc Committee on International Terrorism contained in its report to the General Assembly at its thirty-fourth session.[230]

(*b*) Consideration of the draft articles on most-favoured-nation clause

By its resolution 40/65 of 11 December 1985,[231] adopted on the recommendation of the Sixth Committee,[232] the General Assembly, bearing in mind the importance of facilitating international trade and the development of economic cooperation among all States on the basis of equality, mutual advantage and non-discrimination in the establishment of the new international economic order and bearing in mind also complexity of codification or progressive development of the international law on most-favoured-nation clauses at a time of rapid development of new forms of economic cooperation, notably those in favour of developing countries, called upon Member States, interested organs of the United Nations and interested intergovernmental organizations to review the questions related to the most-favoured-nation clauses and the draft articles thereon so that the General Assembly, at its forty-third session, might decide on the action to be taken on the draft articles.

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

By its resolution 40/66 of 11 December 1985,[233] adopted on the recommendation of the Sixth Committee,[234] the General Assembly authorized the Secretary-General to carry out in 1986 and 1987 the activities specified in his report on the implementation of the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law;[235] urged all Governments to encourage the inclusion of courses on international law in the programmes of legal studies offered at institutions of higher learning; and requested the Secretary-General to continue to publicize the Programme and periodically to invite Member States, universities, philanthropic foundations and other interested national and international institutions and organizations, as well as individuals, to make voluntary contributions towards the financing of the Programme or otherwise to assist in its implementation and possible expansion.

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

By its resolution 40/67 of 11 December 1985,[236] adopted on the recommendation of the Sixth Committee,[237] the General Assembly, considering the close link between the establishment of a just and equitable international economic order and the existence of an appropriate legal framework, and recognizing the need for a systematic and progressive development of the principles and norms of international law relating to the new international economic order, recommended that the consideration of the most appropriate procedure for completing the elaboration of the process of progressive development of the relevant principles and norms of international law, and of the forum which would be entrusted with the task, be undertaken by the General Assembly at its forty-first session, with a view to making a final decision.

(*e*) Peaceful settlement of disputes between States

By its resolution 40/68 of 11 December 1985,[238] adopted on the recommendation of the Sixth Committee,[239] the General Assembly again urged all States to observe and promote in good faith the provisions of the Manila Declaration on the Peaceful Settlement of International Disputes[240] in the settlement of their international disputes; 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 1986, to continue its work on the question of the peaceful settlement of disputes between States; and stressed the need to continue efforts to strengthen the process of the peaceful settlement of disputes through progressive development and codification of international law and through enhancing the effectiveness of the United Nations in that field.

(*f*) Enhancing the effectiveness of the principles of non-use of force in international relations

In accordance with General Assembly resolution 39/81 of 13 December 1989, the Special Committee on Enhancing the Effectiveness of the Principle of the Non-Use of Force in International Relations met at United Nations Headquarters from 28 January to 22 February 1985.[241] 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,[242] as well as comments and suggestions of Governments.[243] In addition, the Committee's 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 of Great Britain and Northern Ireland,[244] 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)[245] and proposals submitted by the Chairman at the 1982 session of the Committee.[246] After a general exchange of views by the Special Committee, the Committee's Working Group examined the headings in the above-mentioned proposals of the Chairman. Since the Committee had not completed its work, it generally recognized the desirability of further consideration of the question before it and that such efforts should be undertaken on the basis of the broadest possible agreement.

At its fortieth session, the General Assembly, by its resolution 40/70 of 11 December 1985,[247] adopted on the recommendation of the Sixth Committee,[248] decided that the Special Committee should continue its work with the goal of drafting a world treaty on the non-use of force in international relations and, at the earliest possible date, as an intermediate stage, a declaration 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 invited the Committee, in drafting the declaration, to take into consideration the results of work done in the preparation of the working paper containing the main elements of the principle of non-use of force in international relations, as well as the suggestions submitted to it and the efforts undertaken at its previous session.

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

By its resolution 40/73 of 11 December 1985,[249] on the recommendation of the Sixth Committee,[250] 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; called upon States to take all necessary measures at the national and international levels to prevent any acts of violence against diplomatic and consular missions and representatives, as well as against missions and representatives to international intergovernmental organizations and officials of such organizations, and, in accordance with national law and international treaties, to prosecute or extradite those who perpetrated such acts; 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; 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 40/74 of 11 December 1985,[251] adopted on the recommendation of the Sixth Committee,[252] the General Assembly, recognizing that the activities of mercenaries were contrary to fundamental principles of international law, such as non-interference in the internal affairs of States, territorial integrity and independence, and seriously impeded the process of self-determination of peoples struggling against colonialism, racism and apartheid and all forms of foreign domination, and considering that the progressive development and codification of the rules of international law on mercenaries would contribute immensely to the implementation of the purposes and principles of the Charter, took note of the report of the Ad Hoc Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries[253] and the progress made by the Ad Hoc Committee, especially during its fifth session; and requested the Ad Hoc Committee, in the fulfilment of its mandate, to use the draft articles contained in chapter V of its report, entitled "Consolidated negotiating basis of a convention against the recruitment, use, financing and training of mercenaries", as a basis for future negotiation on the text of the proposed international convention.

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

By its resolution 40/76 of 11 December 1985,[254] adopted on the recommendation of the Sixth Committee,[255] the General Assembly, recalling its resolution 37/112 of 16 December 1982, by which it had decided that an international convention should be concluded on the basis of 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,[256] decided *that*, in addition to the organizations referred to in paragraph 2 (*e*) of General Assembly resolution 39/86 of 13 December 1984, the United Nations should participate in the Conference; decided to transmit to the Conference and to recommend that it adopt the draft rules of procedure for the Conference, worked out during the informal consultations and annexed to the resolution as annex I, taking into account that those draft rules had been drafted for the specific use of that Conference in view of its particular nature

and the subject-matter to be considered by it; decided further to transmit to the Conference for its consideration and action, as appropriate, a list of draft articles of the basic proposal, for which substantive consideration was deemed necessary and which were annexed to the resolution as annex II; and referred to the Conference for its consideration the draft of final clauses presented by the co-Chairmen on which an exchange of views had been held and which were annexed to the resolution as annex III.

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

In accordance with General Assembly resolution 39/88 A of 13 December 1984, the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization met at United Nations Headquarters from 4 to 29 March 1985.[257] With respect to the topic of the peaceful settlement of disputes between States, the Special Committee held a full and in-depth discussion of the proposal contained in the working papers on the establishment of a commission for good offices, mediation and conciliation submitted to the General Assembly by Nigeria, the Philippines and Romania.[258] Moreover, the Committee examined the progress report of the Secretary-General on the elaboration of the draft handbook on the peaceful settlement of disputes between States,[259] reaching an agreement on the modality by which the Secretariat should periodically consult the representative group of members of the permanent missions in the preparation of the draft handbook. Furthermore, the Special Committee had given additional clarifications regarding certain aspects of the draft handbook on which the Secretariat had needed guidance.

Dealing with the topic of the maintenance of international peace and security, the Special Committee discussed the revised working paper submitted at the previous session by Belgium, the Federal Republic of Germany, Italy, Japan, New Zealand and Spain entitled "Prevention and removal by the United Nations of situations which may lead to international friction or give rise to a dispute and of matters which may threaten the maintenance of international peace and security",[260] thereby completing its second reading.

With regard to the topic of the rationalization of existing procedures of the United Nations, the Special Committee held a brief discussion by way of reviewing the question in general, and with the help of a working paper submitted by France and the United Kingdom of Great Britain and Northern Ireland.[261]

At its fortieth session the General Assembly, by its resolution 40/78 of 11 December 1985,[262] adopted on the recommendation of the Sixth Committee,[263] requested the Special Committee at its 1986 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; (*b*) to continue its work on the question of the peaceful settlement of disputes between States and, in that 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 progress report of the Secretary-General on the elaboration of the draft handbook on the peaceful settlement of disputes between States; also requested the Committee to keep the question of the rationalization of the procedures of the United Nations under active review; and requested the Secretary-General to continue the preparation of a draft handbook on the peaceful settlement of disputes between States, 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, and to report to the Special Committee at its session in 1986 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.

(*k*) Report of the Committee on Relations with the Host Country[264]

In accordance with its resolution 39/87 of 13 December 1984, the General Assembly decided that the Committee on Relations with the Host Country should continue its work, in conformity with Assembly resolution 2819 (XXVI) of 15 December 1971.

In its report to the General Assembly at its fortieth session, the Committee included a set of recommendations whereby it urged the host country to take all necessary 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; 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; took note of the positions of the Secretary-General of the United Nations and of the host country regarding the application by the host country of measures pertaining to the travel of certain members of the Secretariat and urged the host country and the Secretary-General to seek a solution that was in accord with the Headquarters Agreement and took into consideration the concerns expressed; took note of the information provided by the host country to the contact group on immunities of members of missions to the United Nations and expressed its appreciation for its efforts, which would help to clarify procedures in the prosecution of lawbreakers committing illegal acts against diplomatic missions and their personnel; and appealed to the host country to review the measures relating to diplomatic vehicles with a view to facilitating the needs of the diplomatic community and to consult with the Committee on matters relating to transportation.

The General Assembly, by its resolution 40/77 of 11 December 1985,[265] adopted on the recommendation of the Sixth Committee,[266] endorsed the recommendations of the Committee on Relations with the Host Country contained in paragraph 56 of its report; strongly condemned any terrorist and criminal acts violating the security of missions accredited to the United Nations and the safety of their personnel; and urged the host country and the Secretary-General to seek a solution that was in accord with the Headquarters Agreement with regard to the recent legislation adopted by the host country.

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

By its resolution 40/258 C of 18 December 1985,[267] adopted on the recommendation of the Fifth Committee,[268] the General Assembly, recalling Articles 100 and 105 of the Charter of the United Nations, took note with concern of the report submitted to it by the Secretary-General on behalf of the Administrative Committee on Coordination;[269] called upon all Member States that currently had United Nations officials under arrest or detention to review those cases and to coordinate efforts with the Secretary-General to resolve each case with all due speed; called upon the staff of the United Nations and the specialized agencies and related organizations to comply with the obligations resulting from the Staff Regulations and Rules of the United Nations, in particular regulation 1.8, and from the equivalent provisions governing the staff of the other agencies; and called upon the Secretary-General 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, and to take all necessary measures to implement the mandates of the General Assembly as reflected in paragraphs 7 and 8 of resolution 39/244 of 18 December 1984.

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10. COOPERATION BETWEEN THE UNITED NATIONS AND THE ASIAN-AFRICAN LEGAL CONSULTATIVE COMMITTEE

By its resolution 40/60 of 9 December 1985,[270] the General Assembly noted with satisfaction the further progress achieved towards strengthening the existing cooperation between the United Nations and the Asian-African Legal Consultative Committee and took note with appreciation of the study on the strengthening of the role of the United Nations prepared by the Committee on the occasion of the

fortieth anniversary of the United Nations,[271] as well as the study on the role of the International Court of Justice[272] and other efforts of the Committee in the continuation of its programme of support to the work of the United Nations in several areas.

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11. UNITED NATIONS INSTITUTE FOR TRAINING AND RESEARCH[273]

As a consequence of the financial difficulties of UNITAR, the Institute continued to concentrate its activities on training, and there was a steady reduction of research activities financed through the General Fund.

UNITAR's training programme included courses in multilateral diplomacy, international law and international cooperation for diplomats, government and United Nations officials, as well as workshops on the structure, retrieval and use of United Nations documentation, international legal instruments and international negotiation.

Under UNITAR's research programme, a study entitled "The Prevention of Nuclear War: A United States Approach"[274] was published. Moreover, in conjunction with the fortieth anniversary of the Organization, UNITAR organized a meeting of Presidents of the General Assembly, which took place at United Nations Headquarters from 6 to 10 June 1985. The conclusions of that meeting, together with addresses made at the opening and closing sessions of the meeting and background documents, were published in a UNITAR report on the meeting, entitled "Presidents of the United Nations General Assembly Speak Out".[275]

At its fortieth session, the General Assembly, by its resolution 40/214 of 17 December 1985,[276] adopted on the recommendation of the Second Committee,[277] reaffirmed the continuing relevance of the mandate entrusted to the United Nations Institute for Training and Research, namely, to enhance the effectiveness of the United Nations, and took note of the view of the Secretary-General that the mandate continued to be essential to the functioning of the Organization at the time; and stressed the need to take a final decision on the long-term financing and future of the Institute at the latest at the forty-first session of the Assembly and, to that end, requested the Secretary-General to prepare comprehensive specific plans for the future of the Institute based on two options contained in his report.[278]

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

1. INTERNATIONAL LABOUR ORGANISATION[279]

The International Labour Conference (ILC), which held its 71st session at Geneva in June 1985, adopted the following instruments: a Convention and a Recommendation concerning Labour Statistics;[280] and a Convention and a Recommendation concerning Occupational Health Services.[281]

The Committee of Experts on the Application of Conventions and Recommendations met at Geneva from 14 to 27 March 1985 and presented its report.[282]

The Governing Body Committee on Freedom of Association met at Geneva and adopted reports No. 238[283] (229th session of the Governing Body, February-March 1985); reports Nos. 239 and 240[284] (230th session of the Governing Body, May-June 1985) and reports Nos. 241 and 242[285] (231st session of the Governing Body, November 1985).

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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)[286] held its forty-sixth session from 29 April to 3 May 1985. At the session CCLM considered the question of FAO's immunity from legal process and measures of execution in Italy; the preparations relating to a possible request for an advisory opinion from the International Court of Justice; and the desirability of accepting the host Government's services to defend FAO's immunity.[287] At its forty-seventh session (14 and 15 October 1985), CCLM considered the question of the reimbursement of travel expenses of Council members (rule XXV.6 of the General Rules of the organization).[288]

a. *FAO's immunity from legal process and measures of execution in Italy*

The question of the organization's immunity from legal process in Italy has been under consideration by the governing bodies of the organization since 1982.

At its forty-sixth session, in April/May 1985, CCLM noted that, through the good offices of the Italian Permanent Representative, the long-standing rental dispute between the organization and the landlords of building F, Istituto Nazionale di Previdenza per i Dirigenti di Aziende Industriali (INPDAI), had been the subject of further negotiations and was close to settlement. The Committee was also informed that no attempts had been made to apply measures of execution against the organization and that, on 27 February 1985, the Permanent Representative of Italy had forwarded to the Director-General the draft of a law concerning measures of execution against the property of foreign States or international organizations.

CCLM observed that, however desirable it might be to ensure that FAO should enjoy every kind of legal guarantee against attempts to subject it to measures of execution, the fundamental problem remained that of safeguarding FAO's immunity from every form of legal process. The question of measures of execution would normally arise only where the organization's immunity from legal process had already been disregarded.

As no other measures appeared to have been taken by the host Government to safeguard the organization's immunity in general, CCLM reiterated the concern regarding FAO's position in Italy that it had expressed at previous sessions and which had also been expressed by the Council in various resolutions since 1982. CCLM recommended that the Council once more invite the host Government to promulgate legislation that would ensure that FAO would in fact be immune from "every form of legal process", as provided in section 16 of the headquarters Agreement.

b. *Preparations relating to a possible request for an advisory opinion from the International Court of Justice on the interpretation of sections 16 and 17 of the headquarters Agreement*

The possibility of requesting an advisory opinion from the International Court of Justice in connection with the problems concerning the organization's immunity from legal process and measures of execution in Italy had first been raised at the twenty-second session of the Conference (November 1983).[289]

CCLM examined the question at its forty-fourth session, in May 1984, and recommended that the Council consider "the desirability of the Conference requesting an advisory opinion" from the International Court of Justice.[290]

At its eighty-sixth session (November 1984), the Council recognized that "its interpretation of section 16 of the headquarters Agreement was clearly at variance with the Corte di Cassazione's interpretation[291] 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".[292]

In carrying out the preparations requested by the Council, the Director-General referred the matter to CCLM for consideration. The Committee concluded that the basic legal question hinged on the interpretation of section 16 and proposed the questions[293] that could be submitted to the International Court of Justice for an advisory opinion.

c. *Desirability of accepting the host Government's services to defend the organization's immunity in the Italian courts*

This matter was first raised at the eighty-sixth session of the Council, in November 1984. At that time the Council, in resolution 4/86, invited the Director-General to submit to CCLM for further examination the question whether to accept the services offered by the host Government to defend the organization's immunity in the Italian courts without cost to the organization. CCLM noted that when the Council had first considered the question of FAO's immunity from legal process at its eighty-second session, in November/December 1982, shortly after the Corte di Cassazione's judgement in the action brought by INPDAI against FAO had become available,[294] it "gave the Director-General its full support for his position that FAO was immune from the jurisdiction of the Italian courts, and considered that he should avoid any participation in the proceedings before the Italian courts that was inconsistent with this status".[295] Since that time, other actions had been brought against FAO in the Italian courts. The Council's instructions had consistently been followed and the organization had refrained from putting in an appearance in court.

CCLM was informed that, in principle, appearance in court by FAO could be for the purpose of (i) pleading on the merits of a case; (ii) contesting the court's jurisdiction on grounds other than the organization's immunity under sections 16 and 17 of the headquarters Agreement; or (iii) contesting the court's jurisdiction on the basis of the organization's immunity under sections 16 and 17 of the headquarters Agreement.

CCLM was of the opinion that it was only the third hypothesis which was relevant to the task entrusted to it by the Council. Thus, the question before it was whether it was desirable for the organization to have recourse to the services of the Avvocatura Generale dello Stato to plead its immunity in court.

In conclusion, CCLM felt that the organization's availing itself of the services of the Avvocatura Generale dello Stato and putting in an appearance in court should not be totally excluded. Accordingly, CCLM felt that the Council might wish to consider giving the Director-General discretionary authority to decide, on a case-by-case basis, whether the organization should appear in court.

d. *Action taken by the Council and the Conference in 1985 regarding* (a) *to* (c) *above*

The report of the forty-sixth session of CCLM was submitted to the Council at its eighty-seventh session (June 1985). The Council noted that considerable progress had been made in settling outstanding disputes and that legislation was before the Italian Parliament regarding the immunity from measures of execution of foreign States and international organizations. However, the Council considered that these developments did not resolve the fundamental problem of ensuring that the organization enjoyed full immunity from legal process as provided in section 16 of the headquarters Agreement. The Council therefore invited the host Government to take the necessary measures to that end.[296]

As regards preparations for the Conference to request an advisory opinion from the International Court of Justice, the Council "*agreed* that every effort should be pursued to develop the dialogue with the host Government in depth before having recourse to an advisory opinion from the International Court of Justice but felt that the organization must be prepared to go to the Court if necessary."[297] The Council endorsed CCLM's view that it was not necessary to raise the question of the interpretation of section 17 of the headquarters Agreement and agreed that the questions that might be submitted to the Court should be formulated as follows:

"(*a*) Does section 16 of the headquarters Agreement concluded between FAO and the

Italian Republic mean that in Italy FAO is immune from every form of legal process in all cases in which it has not expressly waived its immunity?

"(*b*) If the answer to (*a*) is negative, what are the specific exceptions to FAO's immunity from every form of legal process under section 16?"

The Council transmitted the above questions to the Conference for consideration.[298]

With respect to the use of the services of the Avvocatura Generale dello Stato to defend the organization before the Italian courts, the Council decided not to modify the position that it had taken at its eighty-second session to the effect that the Director-General should avoid any participation in the proceedings before the Italian courts that was inconsistent with the organization's status whereby it enjoyed immunity from jurisdiction.[299]

The Conference, at its twenty-third session (November 1985), considered the question of the organization's immunity from legal process in Italy on the basis of a note by the Director-General[300] and an extract from the report of the eighty-seventh session of the Council.[301] It noted that an out-of-court settlement had been reached in the course of 1985 with the landlords of building F and with plaintiffs in other lawsuits brought against FAO in the Italian courts since 1982; no further lawsuits were pending. The Conference also noted the legal and practical considerations advanced by the Italian delegation and the efforts made by the Italian authorities to overcome FAO's practical problems. It nevertheless recognized the importance of finding a solution that was mutually agreeable to FAO and the Italian Government, with a view to guaranteeing the organization's immunity from legal process as soon as possible. The Conference considered the determination of the appropriate interpretation of section 16 of the headquarters Agreement would be the best approach.

The representative of the host Government underlined the readiness of the Italian authorities to pursue actively their efforts to reach a viable legal solution to the matter. The suggestion was made that it should be left to the Council to decide whether FAO should seek an advisory opinion of the International Court of Justice. Nevertheless, the Conference agreed that it would not be desirable at that stage to submit the questions forwarded to it by the Council to ICJ and that it would be preferable to reconsider the matter, as necessary, in the light of a report by the Director-General on developments, at its next session.[302]

e. *Reimbursement of travel expenses of Council members (rule XXV.6 of the General Rules of the organization)*

At the eighty-seventh session of the Council, questions had been raised as to the practice of the organization concerning the reimbursement of travel expenses[303] in application of rule XXV.6 of the General Rules of the Organization (GRO), reading as follows:

"The travelling expenses of the representative of each member of the Council properly incurred in travelling, by the most direct route, from the representative's capital city or duty station, whichever is less, to the site of the Council session and return to his capital city or duty station, shall be borne by the organization."

In the above connection, the Council had been informed that under rule XXV.6 GRO the travel of the representative of each member of the Council from his or her capital city or duty station, whichever was the less, to the site of the Council's session, was reimbursed by the organization. The Council "noted with concern that rule XXV.6 GRO apparently precluded the reimbursement of the travel expenses of any member of a delegation attending the Council when a permanent representative to the organization residing in Rome was designated as the representative to the Council".[304] Accordingly, it requested the Director-General to examine the situation and to refer the matter to CCLM "to determine whether rule XXV.6 GRO may be interpreted to allow reimbursement to any one member of a delegation for travel to the Council".[305]

CCLM noted that:

(i) Since the establishment of the Council in 1948, member nations that were on the Council had been entitled to only one "representative";

(ii) The provisions specifically dealing with the reimbursement of travel expenses permitted such payment only as regards the "representative" of a member nation, and no provision had ever

been made for the reimbursement of the travel expenses of the other members of a member nation's delegation—i.e., alternates, associates or advisers.

Moreover, CCLM noted that the organization's practice, as reported to the Council at its eighty-seventh session, had been consistent with the above. Thus, travel expenses were reimbursed only when the designated representative of a member nation was obliged to travel from outside Italy to the Council.

In the light of the above, CCLM concluded that it was not legally possible to interpret rule XXV.6 as permitting the reimbursement of the travel expenses of any one member of a delegation to the Council. Consequently, in accordance with the Council's instructions, CCLM went on to consider the amendments to the Basic Texts of the organization that would be necessary to allow such reimbursement, if member nations desired to effect such a change.

CCLM proposed to the Council a draft resolution containing an amendment to rule XXV.6. At its eighty-eighth session (November 1985), the Council recommended the draft resolution, which was adopted by the Conference at its twenty-third session (November 1985) as resolution 14/85.[306]

(ii) *Amendments to the Basic Texts of the organization*

a. *Amendment to the Spanish text of rules XII.9*(a) *and XII.17 of the General Rules of the organization*[307]

When reviewing certain rules governing voting procedures of the Council and the Conference, CCLM, at its forty-fifth session (October 1984), had found that the Spanish text of rule XII.9(a) GRO made use of the term "por aclamación", which did not entirely correspond with the terms used in the English text ("by clear general consent") and in the French text ("par consentement général manifeste"). CCLM had therefore recommended that the Spanish text of rule XII.9(*a*) GRO be amended by deleting the words "por aclamación" and replacing them by the words "por evidente consenso general". On the same occasion CCLM had recommended that a similar amendment be made to paragraph 17 of rule XII GRO, in which the words "por aclamación" would be replaced by the words "por consenso général", so as to be consistent with the terms "by general consent" and "par consentement général" used in the English and French texts respectively.

The Council, at its eighty-sixth session (November 1984),[308] endorsed CCLM's recommendations that the Spanish text of the General Rules of the organization be amended in the manner indicated above.

The Conference, at its twenty-third session, agreed with the views expressed by CCLM and the Council concerning the need to amend the Spanish text of rules XII.9(a) and XII.17 GRO, and adopted resolution 13/85 to that effect.[309]

b. *Amendment to rule XXV.6 of the General Rules of the organization*

Following review by the Committee on Constitutional and Legal Matters and recommendation by the Council, the Conference at its twenty-third session adopted resolution 14/85, by which it amended rule XXV.6 of the General Rules of the organization.[310]

c. *Amendment to rule VII.2 of the rules of procedure of the Council (Travel Council representatives)*[311]

The Council noted the decision of the Conference at its twenty-third session to amend rule XXV.6 GRO to permit the travel expenses of any one member of a delegation representing a member of the Council at Council sessions, to be borne by the organization. It also noted that the Conference had invited the Council to amend rule VII.2 of its rules of procedure, in the way recommended by CCLM, in order to bring that provision in line with the amendment to rule XXV.6 GRO. The Council therefore decided to amend rule VII.2 of its rules of procedure.

(iii) *Review of the rules governing voting procedures of the Conference and the Council*[312]

At the twenty-second session of the Conference (November 1983),[313] some delegations expressed concern at the fact that rule XII.9(a) GRO provided for a vote by secret ballot 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 example, in the election of the Independent Chairman of the Council. The Conference agreed that the Council should review the rules governing the voting procedures where there was the same number of candidates as places to be filled in the Conference or, the Council, with a view to accelerating procedures and thus saving valuable time.

The Council, at its eighty-fifth session,[314] decided that the question should be submitted for examination to CCLM.

The Conference, at its twenty-third session, noted that CCLM had pointed out that under rule XII.9(a) GRO it was mandatory to have 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 had expressed the view that the said four cases related to some highly sensitive matters, for which the secrecy of voting was intended to afford member nations the possibility of expressing their choice without any constraint or embarrassment, and had concluded that no amendment to rule XII.9(a) GRO was called for.

The Conference noted that the Council, at its eighty-sixth session (November 1984),[315] had concurred with CCLM's conclusion that the provision in question was appropriate since it protected the interests of member nations, and that therefore no amendment to rule XII.9(a) GRO was necessary. The Conference agreed with the Council's conclusions and decided not to amend rule XII.9(a) GRO.[316]

(iv) *Increase in the number of Vice-Chairmen of the Conference*

Upon the recommendation of the eighty-eighth session of the Council (November 1985), the Conference decided to suspend, during its twenty-third session, the application of the provision of rule VIII GRO, which established at three the number of Vice-Chairmen of the Conference. The Conference then approved the appointment of four Vice-Chairmen.[317]

(v) *Invitations to non-member nations to attend FAO sessions*

At its eighty-seventh session (June 1985), the Council was informed that the Director-General had invited the Union of Soviet Socialist Republics, a non-member State, to attend the eighth session of the Committee on Agriculture (Rome, March 1985), the sixteenth session of the Committee on Fisheries (Rome, April 1985) and the twenty-sixth session of the European Commission for the Control of Foot-and-Mouth Disease (Rome, April 1985). The invitations had been sent in accordance with paragraphs B.1 and B.2 of the Statement of Principles relating to the Granting of Observer Status to Nations.[318]

During the same session, the Council approved the Director-General's proposal to invite Brunei Darussalam, Kiribati, Nauru, Singapore and Tuvalu to the Conference of Plenipotentiaries on the Adoption of an Agreement on the Establishment of the Intergovernmental Organization for Marketing Information and Technical Advisory Services for Fishery Products in the Asia and Pacific Region (INFOFISH).

The Conference, at its twenty-third session (November 1985), approved the invitation by the Director-General of the applicants for membership (Cook Islands and Solomon Islands) to be represented by observers until their admission to the organization. The Conference confirmed the invitation sent by the Director-General to the Government of the USSR to attend the session in an observer capacity. It also approved the invitations issued by the Director-General to the Palestine Liberation Organization (PLO) and those African liberation movements recognized by the Organization of African Unity (OAU) to attend the session as observers.[319]

At its eighty-ninth session (November 1985), the Council agreed[320] to the request made by the USSR to send an observer to specific technical meetings of the organization relating to fisheries.

(vi) *Applications for membership in the organization*

At its eighty-seventh session, the Council took cognizance of the application for membership

submitted by Cook Islands. Pending a decision by the Conference on the application and pursuant to rule XXV.11 of the General Rules of the organization and paragraphs B.1, B.2 and B.5 of the Statement of Principles relating to the Granting of Observer Status to Nations, the Council authorized the Director-General to invite Cook 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.

Moreover, at the same session, the Council decided that Cook Islands as well as Solomon Islands, which had applied for membership in 1984, would have a minimum assessment rate of 0.01 per cent.

The Conference, at its twenty-third session (November 1985), admitted Cook Islands and Solomon Islands to membership of the organization.

(vii) *Treaties concluded at plenipotentiary conferences convened by the organization*

a. *Protocol to amend the Agreement for the Establishment of a Regional Centre on Agrarian Reform and Rural Development of Latin America and the Caribbean*[321]

A conference of plenipotentiaries convened by the Director-General of FAO met at Panama City on 16 and 17 July 1985. The Conference agreed upon a Protocol in respect of which the Director-General of FAO is the depositary.

b. *Agreement for the Establishment of the Intergovernmental Organization for Marketing Information and Technical Advisory Services for Fishery Products in the Asia and Pacific Region*

A conference of plenipotentiaries on the adoption of an agreement on the establishment of INFOFISH, convened by the Director-General of FAO, met at Kuala Lumpur from 9 to 13 December 1985. The Conference adopted the above-mentioned Agreement, in respect of which the Director-General of FAO is the depositary.

(viii) *Status of conventions and agreements and amendments thereto for which the Director-General of FAO acts as depositary*

(*a*) In 1985 the Constitution of the International Rice Commission (IRC), approved by the Conference of FAO at its fourth session, in 1948, was accepted by Mauritania, Senegal and Suriname.

(*b*) In 1985 Algeria, Grenada and Niger became parties to the International Plant Protection Convention (IPPC) approved by the Conference at its sixth session, in 1951. Algeria, Brazil, the Federal Republic of Germany and Grenada accepted the amendments to the Convention approved by the FAO Conference at its twentieth session, in November 1979.

(*c*) In 1985 Sri Lanka accepted the amendments to the Plant Protection Agreement for the Asia and Pacific Region, approved by the Council at its eighty-fourth session, in November 1983.

(*d*) In 1985 Mauritius notified its withdrawal from the Agreement for the Establishment of a Regional Animal Production and Health Commission for Asia, the Far East and the South-West Pacific (APHCA), approved by the FAO Council at its sixtieth session, in June 1973.

(*e*) In 1985 Japan, Senegal, South Africa and Uruguay accepted the Protocol to amend the International Convention for the Conservation of Atlantic Tunas (ICCAT), adopted at a plenipotentiaries conference held in Paris in 1984.

(*f*) In 1985 Botswana and Cape Verde notified their withdrawal from the Agreement for the Establishment of a Centre on Integrated Rural Development for Africa (CIRDAfrica), adopted at a government consultation held at Arusha, United Republic of Tanzania, in 1979.

(*g*) In 1985 the Protocol to amend the Agreement for the Establishment of a Regional Centre on Agrarian Reform and Rural Development of Latin America and the Caribbean (CARRDLA), adopted at a conference of plenipotentiaries held on 17 July 1985, was signed on that date by Colombia, Cuba, Ecuador, El Salvador, Grenada, Guatemala, Honduras, Nicaragua, Panama and Saint Kitts and Nevis. Also in 1985, the Protocol was ratified by Panama.

(*h*) In 1985 Egypt and Tunisia became parties to the Agreement for the Establishment of a

Regional Centre on Agrarian Reform and Rural Development for the Near East (CARRDNE), adopted at a conference of plenipotentiaries which met in Rome in September 1983. The Agreement was signed by Cyprus.

(ix) *Follow-up of Conference resolutions 8/83 and 9/83 on plant genetic resources*[322]

The Conference, at its twenty-third session (November 1985) reaffirmed the significance of plant genetic resources in continued agricultural development and in ensuring food security. It noted that, following the adoption of Conference resolution 8/83 on the International Undertaking on Plant Genetic Resources, 85 member nations had officially responded, and of these 77 had agreed in principle to adhere to, or had expressed support for, the Undertaking. In addition, two non-member nations of FAO had responded positively.

Appeals were made to all countries which had not yet subscribed to the Undertaking to do so. In this connection, countries were urged to spell out clearly their reservations to the Undertaking, in order to establish a constructive dialogue to ensure widest possible adherence. Various members, in reiterating their reservations to the Undertaking, indicated that their national legislation, including plant breeders' rights and other domestic considerations, determined the degree to which they could adhere to the Undertaking. A number of members were of the view that were the Undertaking to be modified, a greater number of countries could adhere to it. A few members reiterated that they could not adhere to the Undertaking in its current form on grounds of principle.

(x) *International Code of Conduct on the Distribution and Use of Pesticides*[323]

In view of the urgency of reducing pesticide hazards, the Conference, at its twenty-third session (November 1985), adopted resolution 10/85 by which it adopted a voluntary International Code of Conduct on the Distribution and Use of Pesticides, the text of which had been prepared following a formal request by the Second FAO Government Consultation on International Harmonization of Pesticide Registration Requirements, held in Rome from 11 to 15 October 1982. The Conference, which emphasized the voluntary nature of the Code, recommended that it be used as a basis for national legislation where so required.

(xi) *World Food Security Compact*[324]

At its twenty-third session (November 1985), the Conference adopted the World Food Security Compact, which had been approved by the Council at its eighty-seventh session.

The proposal for a World Food Security Compact had been put forward by the Director-General to the Committee on World Food Security at its eighth session. The Director-General had further elaborated the proposal at the Committee's ninth and tenth sessions, before it was approved by the Council.

The Compact is based on the broader concept of world food security adopted by the Conference at its twenty-second session, which dealt with three interrelated aspects, namely, expanding production, increasing stability in the flow of supplies and ensuring access to food by the poor.

(xii) *Agreements and arrangements with intergovernmental organizations and bodies*

In 1985 the organization established relations on the basis of a cooperation agreement or an exchange of letters with the following intergovernmental organizations: Permanent Commission for the South Pacific; International Pepper Community; Preferential Trade Area for Eastern and Southern African States; North American Plant Protection Organization; Organización Latinoamericana de Desarrollo Pesquero (OLDEPESCA); Sistema Económico Latinoamericano (SELA).

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

(i) *Hard fibres*

At its twentieth session, in September 1985, the FAO Intergovernmental Group on Hard Fibres

agreed to maintain the indicative prices for the major grades of African and Brazilian fibre. The Group recommended that the quota system should be maintained in principle, although the global and national quotas should remain suspended. The Group also agreed, with the exception of one consuming country, to reduce the indicative price for sisal and henequen baler twine. For abaca, the Group decided to reinstate the indicative price range at the level of December 1984, when it had been temporarily suspended. It was further suggested that the mechanism triggering automatic consultation between producers and consumers, when the indicator price was approaching either end of the range, should remain suspended.

(ii) *Jute, kenaf and allied fibres*

a. *Informal price arrangements for jute and kenaf*

At its twenty-first session, in December 1985, the FAO Intergovernmental Group on Jute, Kenaf and Allied Fibres reactivated the informal indicative price arrangement for jute and kenaf which had been temporarily suspended in the previous season due to abnormal market developments.

b. *Support to activities of the International Jute Organization*

FAO continued to extend its support to the activities of the International Jute Organization (IJO). A document on factors causing year-to-year instability in the jute market and possible options to combat them was provided.

(c) Activities of legal interest relating to fisheres

(i) *Committee on Fisheries*

The Committee on Fisheries (COFI) held its sixteenth session from 22 to 26 April 1985.

a. *Establishment of a new COFI Subcommittee on Fish Trade*

The Committee decided to establish a Subcommittee on Fish Trade and approved its terms of reference and membership. The Subcommittee will provide a forum for consultations on technical and economic aspects of international trade in fish and fishery products, including pertinent aspects of production and consumption. Membership in the Subcommittee is open to all member nations of FAO. States not members of the organization, which are Members of the United Nations, of any of its specialized agencies or of the International Atomic Energy Agency (IAEA), may be admitted by the Council to membership in the Subcommittee.

b. *Possible adoption of a standardized marking system of fishing vessels*

The Committee noted that an expert consultation on fishing vessel markings had been organized by Canada with the cooperation of FAO. The Consultation had recommended the use of the International Telecommunication Union Radio Call Signs, without prejudice to international conventions, national practices or requirements, as the basis for marking fishing vessels.

The Committee was of the view that further studies would be required to prepare technical specifications and examine ways in which such a marking system could be used by countries. It therefore invited the Director-General to carry out such further consultations as might be necessary and to report to the Committee at its seventeenth session, with a view to the possible adoption of a standardized marking system.

(ii) *Advisory Committee of Experts on Marine Resources Research*

The Committee held its eleventh session from 21 to 24 May 1985.

a. *Statutes*

The Committee noted that under its present Statutes its competence was in principle restricted to marine resources research. In practice, it was rather difficult to deal with those problems in isolation from the questions raised by aquaculture and inland fisheries. Furthermore, since the Committee's

establishment, the priorities and areas of knowledge of fisheries research had undergone some changes. Its advice had already been sought on these related matters. The Committee therefore proposed that the Director-General consider broadening the Committee's terms of reference (specifically, paragraph 1 of article II of the Revised Statutes) to enable it to offer advice on FAO's research not only on marine fisheries, but also on other living aquatic resources, including inland fisheries, aquaculture and other subjects which accounted for a significant part of FAO's research programme.

b. *Rules of procedure*

The Committee adopted the amendments to its rules of procedures prepared by the secretariat and requested the Secretary to submit them to the Director-General for approval.

(iii) *Indian Ocean Fishery Commission*

The Indian Ocean Fishery Commission (IOFC) held its eighth session from 2 to 6 July 1985.

a. *Proposed amendments to the IOFC statutes*

At its seventh session, IOFC had discussed the question whether the Commission's statutes should be amended in order to cover inland fisheries and aquaculture. The secretariat had then been requested to draft the text of the amendments that would be necessary if the terms of reference were thus to be expanded.

At its eighth session, the Commission noted that most of the IOFC member countries bordering the western part of the Indian Ocean were also members of the FAO Committee for Inland Fisheries of Africa. Moreover, most of the IOFC member countries bordering the north-east and the eastern part of the Indian Ocean were members of the Indo-Pacific Fishery Commission (IPFC) and were cooperating in aquaculture and inland fisheries within the framework of two working parties established by IPFC. It was stressed that, in the spirit of TCDC, the current composition of the two working parties allowed for a very fruitful exchange of information among experts from Indian Ocean coastal countries and other Asian countries with considerable experience in these matters.

Delegations from some member countries bordering the northern part of the Indian Ocean indicated that they would have preferred to develop cooperation among themselves in aquaculture and inland fisheries under the aegis of IOFC. Other member countries pointed out that it was essential to avoid duplication. After an exchange of views, the Commission resolved not to propose any amendment to its statutes.

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

By 1985 membership of the Joint FAO/WHO Codex Alimentarius Commission had reached 129 countries. During that year the Commission held its sixteenth session, at which further food commodity standards, codes of practice and maximum pesticide residue limits were adopted. The Commission endorsed regulatory guidelines aimed at assisting Governments in overcoming legal, administrative and other obstacles which prevented countries from fully implementing the Codex maximum residue limits (ref. CAC/PR 9-1986). The Commission reviewed progress on the implementation of the Code of Ethics for International Trade in Food (ref. CAC/RCP 20-1979). A new development was the establishment of a Codex Committee on Residues of Veterinary Drugs in Food, to be hosted by the Government of the United States of America. The first session of the new Committee was to be held in Washington in 1986. Discussion focused on the question of the regulation of food packaging materials, the role and status of Codex standard methods of analysis and sampling and the amount of technical detail included in Codex standards. The future direction of the work of the Codex Alimentarius Commission was considered and the Codex Committee on General Principles was requested to discuss the topic in greater depth at its eighth session, to be held in 1986. That Committee was also requested to consider how best to promote the implementation of Codex recommendations.

(e) Legislative matters

(i) *Activities connected with international meetings*

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

Ad Hoc Working Group of Experts for the Exchange of Information on Potentially Harmful Chemicals, Rome, January–February 1985;

Workshop on Product Liability in Food Law, organized by the European Food Law Association, Italian Section, Parma, Italy, May 1985;

Meeting of Experts on the Legal and Institutional Aspects of Water Resources Management, organized by the Organisation for Economic Co-operation and Development (OECD) and the Government of Spain, Madrid, 29-31 May 1985;

OLDEPESCA/FAO/UNCTC Training Workshop on the Negotiation of Joint Ventures and other Commerical Arrangements in Fisheries, Lima, 1-6 September 1985;

Colloquium on Agrarian Law (water resources for agricultural use; associations of farmers in the marketing of their produce; limitation of agricultural production), organized by the Comité Européen de Droit Rural (CEDR), Tenerife, Spain, 23-27 September 1985;

Forum on the Environmental Impact Assessment Process, CESIA, Rome, 18 and 19 November 1985;

Meeting on plant variety protection systems and transfer of technology, Buenos Aires, 16-20 December 1985.

(ii) *Legislative assistance and advice in the field*

During 1985, legislative assistance and advice were given to various countries on the following topics:

(*a*) Agrarian legislation and agrarian law:

- (i) Paraguay: assistance in management and conservation of soil and related natural resources;
- (ii) Cape Verde: assistance in land reform and water legislation;
- (iii) Sudan: assistance in land use planning legislation;

(*b*) National water legislation:

- (i) Morocco: assistance in water legislation;
- (ii) Guyana: assistance in water resources legislation;
- (iii) Western Samoa: drafting of national water resources legislation;
- (iv) Tonga: drafting of national water resources legislation;
- (v) Ethiopia: drafting of water resources regulations;

(*c*) International water law:

Organisation pour la mise en valeur du fleuve Gambie (OMVG) (advice on international legal questions concerning the development of the Gambia river basin);

(*d*) Fisheries legislation:

Angola, Bahamas, Barbados, Cape Verde, Colombia, Comoros, Congo, Equatorial Guinea, Fiji, Gabon, Guinea, Guinea-Bissau, Guyana, Honduras, Madagascar, Mauritania, Mauritius, Morocco, Seychelles, Sierra Leone, Solomon Islands, Togo, Democratic Yemen, Zaire;

(*e*) Forestry legislation:

Costa Rica, Morocco, Papua New Guinea, Sao Tome and Principe;

(*f*) Environment legislation:

Honduras.

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

Advice or documentation was furnished to Governments, agencies or educational centres, at

their request, on the following topics: food standards for fish (Chile); food legislation (Argentina, Netherlands, Spain, Zimbabwe); pesticide residues (Brazil, Spain); plant protection legislation (Federal Republic of Germany, Italy); seed legislation (Mauritania, United States of America); sanitary regulations for imported marine products (India); food standards for bakery products (Spain); legislation on edible oils (Switzerland); livestock joint ventures (Kenya); food standards (Venezuela).

(iv) *Legislative research and publications*

Research was conducted, *inter alia*, on:

(*a*) Legal aspects of the management of estuarine zones;

(*b*) Flag State control of fishing vessels; coastal State requirements for foreign fishing; compendia of fisheries legislation;

(*c*) Impact of non-forestry laws on forestry;

(*d*) Pesticide labelling and advertising legislation;

(*e*) Land ownership, tenancy and redistribution in Central American and Mexican legislation.

(v) *Training*

Within the framework of the Programme for Professional Training for Agricultural Development (PTAD), training (including a month-long mission in Brussels) was provided for six months to a fellow in the area of food law and EEC import/export regulations of the European Economic Community (EEC).

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

In 1985 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 31 December 1985, the notices of withdrawal from the organization which the United Kingdom of Great Britain and Northern Ireland and Singapore had given, respectively, on 5 and 12 December 1984 took effect under the terms of article II (6) of the Constitution of UNESCO.[325]

(*b*) International regulations

(i) *Entry into force of instruments previously adopted*

In accordance with the terms of its article 18, the Regional Convention on the Recognition of Studies, Diplomas and Degrees in Higher Education in Asia and the Pacific, adopted on 16 December 1983 at Bangkok, entered into force on 23 October 1985, that is, one month after the deposit with the Director-General of the second instrument of ratification, approval or acceptance.

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

Revised Recommendation concerning International Standardization of Statistics on the Production and Distribution of Books, Newspapers and Periodicals (adopted at Sofia on 1 November 1985)

(c) 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, in Paris, from 23 April to 3 May and 2 to 6 September 1985, 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 48 communications, of which 41 were examined with a view towards their admissibility and 7 were examined on their substance. Of the 41 communications examined as to admissibility, none was declared admissible, 12 were declared irreceivable and 5 were struck from the list since they was considered as having been settled or did not appear to warrant further action. The examination of 31 communications was suspended. The Committee presented its report to the Executive Board at its one hundred twenty-first session.

At its fall session, the Committee had before it 35 communications, of which 28 were examined as to their admissibility and 7 were examined on their substance. Of the 28 communications examined as to their admissibility, 1 was declared admissible, none was declared irreceivable and 4 were struck from the list since they were ill founded or were considered as having been settled. The examination of 30 communications was suspended. The Committee presented its report on its examination of these communications to the Executive Board at its one hundred twenty-second session.

(d) Copyright and neighbouring rights

(i) *Universal Copyright Convention*

The Intergovernmental Committee (IGC) of the Universal Copyright Convention (UCC) held its sixth ordinary session (sitting together with the Executive Committee of the Berne Union) at UNESCO headquarters from 17 to 25 June 1985. The Subcommittee of the Committee established at the second extraordinary session of the committee (1983) met at headquarters from 15 to 19 April 1985 to study prospective amendments to the Committee's rules of procedure.[326]

The items on the agenda of the Committee alone included: (i) application of the Universal Copyright Convention; (ii) legal and technical assistance to States to develop national legislation and infrastructures in the field of copyright; (iii) study of the changes to be made to the rules of procedure of the Committee regarding distribution of seats in accordance with article XI of UCC; (iv) General Regulation for the Safeguarding of Folklore; (v) General Regulation concerning the Safeguarding of Works in the Public Domain; and (vi) partial renewal of the Committee. The common agenda of the two Committees included the following topics: (i) membership of (a) the Rome Convention, (b) the Phonogram Convention and (c) the Satellite Convention, and acceptance of the Multilateral Convention for the Avoidance of Double Taxation of Copyright Royalties; (ii) development of law and practice connected with the transmission by cable of television programmes; (iii) copyright problems raised by the access by handicapped persons to protected works; (iv) protection of expressions of folklore; (v) consideration of a study on guiding principles on the operation of "droit de suite"; (vi) progress report on the question of salaried authors; and (vii) consideration of the reports of: (*a*) the Group of Experts on the Copyright Aspects of the Protection of Computer Software; (*b*) the Group of Experts on Copyright Problems Arising from the Rental of Phonograms and Videograms; (c) the Group of Experts on the Copyright Aspects of Direct Broadcasting by Satellite; (*d*) the Group of Experts on Unauthorized Private Copying of Recordings, Broadcasts and Printed Matter; and (*e*) the Working Group on Model Provisions for National Laws on Publishing Contracts for Literary Works.[327]

(ii) *International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention)*

The Intergovernmental Committee of the Rome Convention held its tenth ordinary session (Paris, 26-28 June 1985) devoted to agenda items, *inter alia*: (i) Membership of the Rome Convention, the Phonogram Convention and the Satellite Convention; (ii) assistance and training to promote the protection of the beneficiaries of the Rome Convention; and (iii) problems arising with regard to

the Rome Convention through developments in law and practice concerning transmission by cable and by satellite.[328]

(iii) *Safeguarding of folklore*

The Second Committee of Governmental Experts on the Safeguarding of Folklore (Paris, 14-18 January 1985) proposed a general definition accompanied by a list of the various types of folklore, and measures aimed at facilitating the identification, conservation, preservation, diffusion and utilization of folklore. The Committee unanimously agreed that any future international regulations on the topic should take the form of a recommendation to member States rather than an international convention.[329]

(iv) *Safeguarding of works in the public domain*

The Second Committee of Governmental Experts on the Safeguarding of Works in the Public Domain (UNESCO headquarters, 11-15 February 1985) discussed the range and scope of possible international regulations concerning the safeguarding of works in the public domain and suggested certain general approaches in this regard.[330]

(v) *Protection of computer software*

A Group of Experts on the Copyright Aspects of the Protection of Computer Software, convened jointly by UNESCO and WIPO, met at Geneva (25 February–1 March 1985). The discussions, based on a survey and analysis of national legislation and case law, reflected a general recognition of the need for adequate protection of computer programs both nationally and internationally. The experts suggested further study of the question.[331]

(vi) *Direct broadcasting by satellite*

A Group of Experts on the Copyright Aspects of Direct Broadcasting by Satellite, meeting under the joint auspices of UNESCO and WIPO (headquarters, 18-22 March 1985) agreed that direct broadcasting by satellite of works protected by copyright constituted broadcasting in the sense of both the Berne and the Universal Copyright conventions and suggested that various aspects of the application of those conventions in relation to broadcasting effected by direct broadcasting satellite should be further studied by the secretariats, including: the applicability of non-voluntary licensing and of remedies under criminal and civil law other than the law of copyright; differences between, and common characteristics of, fixed-satellite and broadcasting satellite services; and links between satellite broadcasting and cable distribution.[332]

(vii) *Model provisions for national laws on publishing contracts for literary works*

Convened jointly by UNESCO and WIPO, a Committee of Governmental Experts on Model Provisions for National Laws on Publishing Contracts for Literary Works, met in Paris from 2 to 6 December 1985. The Committee examined in detail the draft annotated model provisions for national laws in publishing contracts for literary works in book form, prepared by the two secretariats (taking into account the deliberations of the 1984 UNESCO–WIPO Joint Working Group on the subject), covering the relevant questions regarding basic elements and form of the contract, grant of rights, warranty, publication of the work, determination of selling price, moral rights, remuneration, statement and accounts of sales, termination of contract, etc. A second Committee of Governmental Experts is expected to continue the work (perhaps in 1988).[333]

4. INTERNATIONAL CIVIL AVIATION ORGANIZATION

(*a*) Work in the legal field

There was no legal meeting during 1985; however, the implementation of the general work programme of the Legal Committee and of the decisions of the Council of ICAO called for legal studies to be prepared by the secretariat in 1985. On 16 November 1984, the Council had considered the report of the Subcommittee on the Preparation of a Draft Instrument on the Interception of Civil Aircraft and requested a preliminary study of appropriate action to implement the Subcommittee's recommendations. During its one hundred fourteenth session, in March 1985, the Council considered the preliminary study prepared by the secretariat and agreed that no new rules should be drafted relating to the aftermath of the landing of an intercepted aircraft pending the entry into force of article 3 *bis* of the Chicago Convention.[334] At its one hundred sixteenth session, in December 1985, the Council decided that the item should remain on the General Work Programme of the Legal Committee with the understanding that no work should be undertaken pending the entry into force of article 3 *bis*.

During its one hundred thirteenth session, in November 1984, the Council considered reports on the comments received from States and international organizations on the secretariat studies on the following subjects: "United Nations Convention on the Law of the Sea—implications, if any, for the application of the Chicago Convention, its annexes and other international air law instruments", and "Liability of air traffic control agencies". The Council noted the reports and the determination of the Chairman of the Legal Committee to appoint a Rapporteur for each subject, with the task of making suggestions concerning the future course of action. At its one hundred sixteenth session, in December 1985, the Council noted the reports of the Rapporteurs. These items will be considered by the Legal Committee at its twenty-sixth session.

During the same session, in December 1985, the Council considered a Model Clause on Aviation Security for bilateral air agreements, prepared by the secretariat, and decided to send it to States and international organizations for comments.

The following items remain on the General Work Programme of the Legal Committee:

(1) United Nations Convention on the Law of the Sea[335]—implications, if any, for the application of the Chicago Convention, its annexes and other international air law instruments;

(2) Liability of air traffic control agencies;

(3) Study of the instruments of the Warsaw system;

(4) Preparation of a draft instrument on the interception of civil aircraft.

(*b*) Unlawful interference with international civil aviation and its facilities

The Committee on Unlawful Interference with International Civil Aviation and its Facilities held 12 meetings during the year.

In response to recent alarming and grave incidents of unlawful seizure of aircraft and acts of sabotage, the Committee was instructed by the Council to undertake a complete review of annex 17 (Security—safeguarding international civil aviation against acts of unlawful interference) and related documents, with the assistance of an Ad Hoc Group of Experts, and to report to the Council at its one hundred sixteenth session on those provisions which might be immediately introduced, upgraded to Standards, strengthened or improved. In view of the urgency of the matter, the Committee was requested to convene meetings as necessary between the one hundred fifteenth and one hundred sixteenth sessions of the Council.

After an in-depth study of a number of proposals presented by the Ad Hoc Group of Experts and modified by a Working Group of the Whole, the Committee recommended the adoption of specific amendments to annex 17 in the light of comments received from Contracting States and international organizations which had been consulted on the matters. As a result of the Committee's recommendations, the Council adopted amendment 6 to annex 17 on 19 December.

In October and November, the Committee also considered proposals for a new comprehensive

Work Programme as well as recommendations for a formal review of the Committee's terms of reference; the aim of the review was to enable the Committee to play a more effective role in assisting and advising the Council on all ICAO activities in the field of aviation security. The recommendations of the Committee were approved by the Council on 3 December.

In response to specific directives of the Council, the Committee considered proposals for a consolidation of all ICAO Assembly resolutions in force relating to various aspects of aviation security. The Committee noted that the objective of such a "consolidated statement of continuing ICAO policies related to the safeguarding of international civil aviation against acts of unlawful interference" was to facilitate the implementation and practical application of those resolutions by making their texts more readily available, understandable and logically organized and also to ensure that such a consolidated statement would remain up to date and thus reflect the policies of the organization as they existed at the end of each triennial Assembly session. On 16 December, the Council approved the text of the "consolidated statement" proposed by the Committee and agreed to present it to the Assembly at its twenty-sixth session for approval.

Finally, the Committee considered proposals presented by the Secretary-General to develop a model clause on aviation security that could be used in the bilateral air agreements governing the exchange of traffic rights. The Committee discussed the general concept as well as the specific drafting of the proposed model clause and presented a summary of its views and comments to the Council (see sect. (a) above).

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5. WORLD HEALTH ORGANIZATION

(*a*) Constitutional and legal developments

During 1985, Brunei Darussalam became a member of WHO, as of 25 March 1985, by the deposit of an instrument of acceptance of the Constitution, as provided for in articles 4 and 79 (b) of the Constitution. As of 31 December 1985 there were 166 States members and one associate member of WHO.

The amendment to article 74 of the Constitution[336] adopted in 1978 by the thirty-first World Health Assembly to include an Arabic version among the authentic texts, was accepted by two further members, bringing the total number of acceptances to 30.

In 1985, the thirty-eighth World Health Assembly considered a proposal to increase the membership of the Executive Board from 31 to 32, and requested the Director-General to propose the appropriate draft amendments to the Constitution for consideration by the thirty-ninth World Health Assembly, in 1986.[337]

(*b*) Health legislation

Four issues of the *International Digest of Health Legislation* were published in 1985 in separate English and French editions. The journal covers significant national and international legal instruments in the health and environmental protection fields. The "News and views" section includes signed contributions on the background to important legislative developments as well as reports on noteworthy conferences and meetings and other events. Reviews and notes on new books and publications appear in the "Book reviews" and "In the literature" sections.

From time to time, in-depth analyses on specific areas of health legislation are published under the rubric "Current problems in health legislation". Two were published in 1985, viz., "Traditional and alternative systems of medicine: a comparative review of legislation" (by J. Stepan) (vol. 36, No. 2) and "The International Code of Marketing of Breast-milk Substitutes" (by S. Shubber) vol. 36, No. 4). WHO also published *The regulation of pharmaceuticals in developing countries: legal issues and approaches* (by D.C. Jayasuriya).

The information transfer activities of WHO in the health legislation field include a computerized system for the notification of significant new legislation in the European region, designed to meet the

special requirements of member States in that region. The Copenhagen-based WHO Regional Office for Europe operates the system; it also commissioned the preparation, by J.-M. Auby, of an inventory of teaching and training programmes in health legislation in Europe (published by Masson, Paris, under the title *Legislation sanitaire : programmes et moyens de formation en Europe*).

As in previous years, WHO continued to cooperate with member States in the strengthening of national capacities in the field of health legislation. A number of developing countries were provided, at their request, with the services of consultants, whose task generally consists of reviewing, in conjunction with national counterparts, existing legislation and proposing the reforms needed to align it with reoriented health policies.

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6. WORLD BANK

(*a*) Proposed multilateral investment guarantee agency

During 1985, the Bank continued its work on the establishment of the Multilateral Investment Guarantee Agency (MIGA).[338] On the basis of a draft Convention Establishing MIGA (MIGA Convention), consultations were held with member Governments of the Bank during late 1984 and early 1985. The consultations resulted in a revised draft of the MIGA Convention, which was circulated to member Governments in March 1985.[339]

Between June and September 1985, the Executive Directors of the Bank held 20 sessions as a "Committee of the Whole" under the chairmanship of the Bank's Vice-President and General Counsel, in order to discuss the March 1985 draft of the MIGA Convention. Assisted by experts from member Governments and by a drafting team from the Bank's Legal Department, the Committee agreed on a text of the MIGA Convention and of the Official Commentary thereon on 5 September 1985. On 12 September 1985, the Executive Directors formally approved the documents and decided to submit them to the Bank's Board of Governors with the recommendation that the Governors adopt a resolution approving the MIGA Convention and commentary for transmittal to member Governments of the Bank and the Government of Switzerland and inviting those Governments to sign the MIGA Convention.

At its annual meeting held at Seoul, the Board of Governors adopted such a resolution on 11 October 1985.[340] Three Government members of the Bank signed the MIGA Convention on the same day.

Article 61 of the MIGA Convention provides that the Convention will enter into force upon ratification by at least five Category One (capital-exporting) countries and at least 15 Category Two (capital-importing) countries, provided that the total subscriptions of these countries amount to not less than one third of the Agency's authorized capital, or approximately $360 million.

The Governors' resolution also directs the President of the Bank to convene a preparatory committee of the signatory countries once the MIGA Convention has been signed by the minimum number of countries whose ratification is required for entry into force. That committee is to prepare, for eventual consideration by MIGA's governing bodies, the draft by-laws, rules and regulations required for the initiation of the Agency's operations.

By 31 December 1985, five countries had signed the MIGA Convention, and it was expected that during 1986 the Convention would be signed by the number of countries required to convene the preparatory committee.

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

(i) *Signatory States and Contracting States*

During 1985, Haiti and Thailand signed the Convention on the Settlement of Investment Dis-

putes between States and Nationals of Other States (the ICSID Convention)[341] bringing the total number of signatory States to 92. There were no new ratifications of the ICSID Convention in 1985. Thus, as of 31 December 1985, the number of Contracting States remained at 87—five signatory States having not yet deposited their instruments of ratification.[342]

(ii) *Disputes before the Centre*[343]

The proceeding in *Swiss Aluminium Ltd. (ALUSUISSE) and Icelandic Aluminium Co. Ltd. (ISAL) v. Government of Iceland* (case ARB/83/1) was formally discontinued on 6 March 1985.

In 1984, an Ad Hoc Committee was constituted in accordance with article 52 of the ICSID Convention to consider an application to annul the award rendered by the arbitral tribunal in the case of *Klöckner Industrie-Anlagen GmbH, Klöckner Belge, S.A. and Klöckner Handelsmaatschappij B.V. v. United Republic of Cameroon and Société Camerounaise des Engrais* (case No. ARB/81/2). On 3 May 1985, the Ad Hoc Committee issued a decision annulling the award.[344] Also in 1985, the dispute was resubmitted to a new arbitral tribunal pursuant to article 52 (6) of the Convention.

On 18 March 1985, the Secretary-General registered an application to annul another arbitral award, the award rendered in the case of *Amco Asia Corp., Pan American Development, Ltd. and P. T. Amco Indonesia v. Government of Indonesia* (case No. ARB/81/4).

The sole Conciliator in *Tesoro Petroleum Corp. v. Government of Trinidad and Tobago* (case No. CONC/83/1) issued his report on 27 November 1985 and closed the proceeding.[345]

As of 31 December 1985, eight proceedings were pending before the Centre. These were the resubmission of the *Klöckner* case and the annulment proceeding in the *Amco Asia* case, mentioned above, and the following six further arbitrations:

(*a*) *Société Ouest Africaine des Bétons Industriels (SOABI) v. State of Senegal* (case No. ARB/82/1);

(*b*) *The Liberian Eastern Timber Corp. (LETCO), Letco Lumber Industry Corp. (LLIC) v. Government of the Republic of Liberia* (case No. ARB/83/2);

(*c*) *Atlantic Triton Co. Ltd. v. People's Revolutionary Republic of Guinea* (case No. ARB/84/1);

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

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

(*f*) *Maritime International Nominees Establishment (MINE) v. Republic of Guinea* (case No. ARB/84/4).

(iii) *ICSID and the Courts*

In the case of *Republic of Guinea and its Public Institutions v. Maritime International Nominees Establishment*, a Belgian court decided on 27 September 1985 to vacate attachments of assets of a party to an ICSID proceeding on the ground that under article 26 of the ICSID Convention consent to ICSID arbitration is deemed to exclude any other remedy, and accordingly domestic courts in Contracting States should decline to entertain claims brought before them by one of the parties.[346]

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7. INTERNATIONAL MONETARY FUND

MEMBERSHIP

During the year ended 31 December 1985, the membership of the Fund increased from 148 to 149; Tonga became a member on 13 September 1985 with a quota of SDR 3.25 million, raising the total of Fund quotas to SDR 89,305.1 million. All of the 149 members are participants in the SDR Department.

Overdue payments to the Fund

The increase in overdue financial obligations to the Fund led the Executive Board to take a number of related decisions during 1985 as part of the overall policy and procedures with respect to members in protracted arrears to the Fund. In February 1985, the Executive Board adopted a decision under which a member's right to purchase under stand-by and extended arrangements is suspended when it has overdue financial obligations to the Fund or is failing to meet a repurchase expectation pursuant to the Guidelines on Corrective Action with respect to a noncomplying purchase. The Executive Board also amended rule G-4 of the Rules and Regulations of the Fund so that instructions for the transfer of currency for any purchase, other than a reserve tranche purchase, may be rescinded during the period between the issuance of the instructions and the value date for the purchase if, during that period, the member requesting the purchase has any overdue financial obligation to the Fund or is failing to meet a repurchase expectation pursuant to the Guidlines on Corrective Action with respect to a noncomplying purchase.

In March 1985 the Executive Board decided that charges on the use of Fund resources from members that were overdue in meeting financial obligations for six months or more would not be included in accrued income, and that those charges would instead be reported as deferred income.

The Executive Board enunciated, by its decisions of March and June 1985, the policies governing publicity upon the declaration of a member's ineligibility to use the Fund's general resources and reporting by the Fund of overdue obligations. Under those decisions the Fund shall issue a press release upon the declaration of a member's ineligibility to use the general resources and thereafter upon the restoration of the member's eligibility, and shall include the information contained in such press releases in the annual reports for the year concerned. The Executive Board also decided that overdue financial obligations to the Fund of members having obligations overdue for six months or more will be reported in aggregate by category of obligations but without identifying the members involved in the Fund's publications.

Special charges on overdue financial obligations to the Fund

The Executive Board decided in December 1985 that with effect from 1 February 1986 a special charge would be levied on overdue obligations of members. When the SDR interest rate is greater than the rate of charge, the rate of special charge to be imposed on overdue repurchases would be equal to the difference between the SDR interest rate and the rate of charge on ordinary resources. The rate of special charge levied on overdue charges owed to the General Resources Account is equal to the SDR interest rate.

Charges

For the financial year that began 1 May 1985, the Executive Board decided to maintain the rate of charge at 7 per cent per annum, as in the previous year. Owing primarily to the uncertainty of the amount of deferred income from members overdue in their financial obligations to the Fund, it was expected at the mid-year review of the Fund's income position that the net income target would not be met for the year as a whole. In accordance with rule I-6 (4) (*b*) of the Fund's Rules and Regulations, the rate of charge on the use of the Fund's ordinary resources was raised as of 1 November 1985 from 7 per cent per annum to 7.87 per cent per annum. In the light of the improvement in the income position and the payment by some members of significant amounts of overdue repurchases and deferred charges, however, the Executive Board in April 1986 decided to reduce the rate of charge, retroactively to 1 November 1985, to the previous level of 7 per cent per annum. Consequently, for the year 1985 as a whole, the rate of charge was 7 per cent per annum.

Compensatory financing of fluctuations in the cost of cereal imports

In May 1985 the Executive Board reviewed the 1981 decision relating to the compensation of the cost of cereal imports and decided to extend it for a further period of four years, until May 1989, with

provision for a review of the decision by the Executive Board not later than 13 May 1987. The Executive Board decided to retain, however, at 83 per cent of quota, the limit on amounts members may draw either in respect of shortfalls in receipts from exports or in respect of excess in the cost of cereal imports. For members making use of compensatory financing for both export shortfalls and excesses in cereal import costs, the overall limit of 105 per cent of quota has been maintained.

Policy on Enlarged Access

The Executive Board in December 1985 completed its review of the policy on enlarged access and took a decision with regard to its extension and implementation in 1986 to give effect to conclusions reached by the Interim Committee at its meeting held at Seoul on 6 October 1985. Under the decision, access by members to the Fund's general resources under arrangements approved under the policy on enlarged access during 1986 will be subject to annual limits of 90 or 110 per cent of quota, three-year limits of 270 or 330 per cent of quota, and cumulative limits, net of scheduled repurchases, of 400 or 440 per cent of quota, depending on the seriousness of the member's balance-of-payments needs and the strength of its adjustment efforts.

These 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 member, and the Fund will continue to be able to approve stand-by and extended arrangements that provide for amounts in excess of these access limits in exceptional circumstances.

Supplementary Financing Facility Subsidy Account

In May 1985 the Executive Board decided to suspend further transfers to the Supplementary Financing Facility Subsidy Account of the interest on the repayment of Trust Fund loans paid into the Special Disbursement Account. This decision was taken because the assets in hand or pledged to the subsidy account were estimated to be sufficient for the amount to make all expected remaining subsidy payments at the maximum permissible rates of subsidy and to discharge the known liabilities of the subsidy account. Following the suspension of transfers to the subsidy account, further repayments of and interest on Trust Fund loans were retained in the Special Disbursement Account under an investment policy adopted in May 1985.

Special Disbursement Account

An investment policy for the Special Disbursement Account similar to that of the Supplementary Financing Facility Subsidy Account was adopted by the Executive Board in May 1985. Under this policy, the assets of the account are to be invested in SDR-denominated deposits with the Bank for International Settlements (BIS) pending their use. In July 1985 the Executive Board authorized the Managing Director to invest with the Federal Reserve Bank of New York the United States dollars held by the Special Disbursement Account pending placement in SDR-denominated investments with BIS.

SDRs

In December 1985 the Executive Board adopted the guidelines for the calculation of currency amounts in the SDR valuation basket. Under these guidelines, the currency units will be determined, under all circumstances, in a manner that would ensure that the value of SDR calculated on 31 December on the basis of the new basket will be the same as that actually prevailing on that day. Furthermore, the currency amounts calculated for the new basket will be expressed in two significant digits provided that the deviation of the percentage share of each currency in the value of SDR, resulting from the

application of the average exchange rates for October–December, from the percentage weight as determined under the decision of 1980 is the minimum on average and will not exceed one half of one percentage point for any currency.

8. UNIVERSAL POSTAL UNION[347]

UPU continued to study the juridico-administrative questions entrusted to the Executive Council (EC) by the 1984 Hamburg Congress. Among the most important problems likely to be of interest to other organizations, the following studies may be noted:[348]

(*a*) Contacts with international organization representing customers of the postal service;

(*b*) Study on international postal regulations;

(*c*) Agreements concerning the postal financial services;

(*d*) Credentials of delegates to the Congress;

(*e*) Geographical distribution of Executive Council seals;

(*f*) Duration of the Congress;

(*g*) Non-attendance of members of the Executive Council and Consultative Council for Postal Studies in meetings of those bodies.

In order to ensure the best possible participation by members of the Executive Council and the Consultative Council for Postal Studies (CCPS) in meetings of those bodies, it had been proposed at the Hamburg Congress that penalties should be imposed on those members who did not ensure their representation at meetings of those bodies. As the Congress had entrusted the examination of those proposals to EC, the latter decided in favour of maintaining the status quo. It considered that the penalties proposed would be applied too infrequently (a single case in 20 years) to warrant regulations on the subject, and that the solutions suggested would raise many problems without improving the work of EC and CCPS. However, in order to obviate absenteeism by some members of EC and CCPS, the Council recommended that the Restricted Unions draw the attention of those of their member countries which were candidates for membership of EC and CCPS to the obligations their election to those bodies would entail.

9. WORLD METEOROLOGICAL ORGANIZATION

(*a*) Constitutional and regulatory matters

(i) *Procedures for amending the WMO Convention*

The Executive Council examined the study prepared at its request by the Secretary-General concerning procedures for amending the Convention[349] and requested him to prepare for its next session a compilation of all the decisions which had been taken by Congress regarding the implementation of article 28 of the Convention and which were currently reflected in the general summary of several reports and in various resolutions.

The Executive Council decided to postpone to its next session the study of possible additional procedures regarding the voting by correspondence of amendments to the Convention.

(ii) *Procedures for secret voting by correspondence*

The Executive Council examined the report prepared by the Secretary-General at its request on

possible procedures for secret voting by correspondence. The Council noted that, as currently drafted, the General Regulations did not contain specific provisions for a secret ballot in a vote by correspondence other than for an election. It recognized the difficulties of the procedures, if provisions for secret ballot were introduced into voting by correspondence. It considered that the second paragraph of regulation 76 of the General Regulations was aimed at protecting the confidentiality of the vote, upon the request of two or more members invited to participate in the vote.

The Executive Council, therefore, decided to submit to Congress an amendment to regulation 73 of the General Regulations which would exclude explicitly the possibility of secret ballot in a vote by correspondence other than for election. This amendment would consist in the addition of regulations 59 to 61 to the list of regulations which are not applicable in the case of votes conducted by correspondence.

(iii) *Proposed amendment to regulation 141 of the General Regulations*

The Executive Council considered an amendment to regulation 141 of the General Regulations, prepared at its request by the Secretary-General, to cover the statement on the application of that regulation adopted by EC-XXXVI. The statement was adopted as a possible solution to the problem of the interpretation of the term "designated" in regulation 141 of the General Regulations.

Some members were of the view that such an amendment was not necessary and that the provisions of rule 15 of the Rules of Procedure of the Executive Council concerning the designation of acting members was sufficient to cover the point raised at the Ninth Congress. Other members pointed out that the aforementioned statement would have to be reviewed by the Tenth Congress in accordance with the provisions of regulation 2 (*f*) of the General Regulations.

The Executive Council decided to defer consideration of the matter to its next session.

(iv) *Granting of consultative status*

The Executive Council examined the study prepared by the Secretary-General at the request of its thirty-sixth session, on the question of the compatibility of working arrangements concluded between WMO and an international organization to which the former had previously granted consultative status. The Executive Council agreed that the substance of working arrangements amplified and reinforced the consultation mechanism provided for in the WMO definition of consultative status and provided for closer cooperation between WMO and the international organizations concerned.

The Executive Council, therefore, decided that working arrangements should supersede the consultative status granted by WMO to a non-governmental international organization once the organization entered into such working arrangements with WMO. Consequently, the Executive Council agreed that the name of such an organization should be deleted from the list of those organizations which had been granted consultative status as given in WMO publication No. 60 entitled *Agreements and Working Arrangements with other International Organizations*.

The Executive Council further decided that in such circumstances the organization concerned should be advised of these arrangements.

The Executive Council examined a request for consultative status submitted to the Secretary-General by the Management Professionals Association. The Council considered that the application by that association for consultative status with WMO did not appear to meet the qualifications and procedural requirements of the organization. It therefore decided not to grant consultative status to the Management Professionals Association.

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

The Executive Council noted the report submitted by the Secretary-General in response to the request by EC-XXXVI on the practical and financial implications of WMO's hosting the permanent secretariat of the Convention for the Protection of the Ozone Layer. The Executive Council was cognizant of the fact that the Ozone Convention secretariat would not be formed until after the entry into

force of the Vienna Convention for the Protection of the Ozone Layer and the first ordinary meeting of the Contracting Parties. It noted with appreciation that, in the interim, UNEP would continue its very effective work in support of the Convention and possible protocols. There was wide support for WMO to offer to host the permanent secretariat, and the Executive Council decided that it was not too early for discussions of arrangements. It requested the Secretary-General to proceed with such discussions wherever appropriate.

The Executive Council endorsed the Secretary-General's proposal that the cost of forming and operating the Ozone Convention secretariat, other than the provision of the partial time of a WMO officer already working on ozone layer activities, as Convention Secretary, should be borne by the Contracting Parties. The administrative overheads incurred by WMO in this connection should be recovered.

(*b*) Staff matters

Amendments to the Staff Rules

The Executive Council noted the amendments to the Staff Rules, applicable to secretariat staff and to technical assistance project personnel, which had been made by the Secretary-General since the thirty-sixth session of the Council.

(*c*) Membership of the organization

Following the deposit of its instrument of accession, the Solomon Islands became a member of the organization on 5 June 1985. The membership of the organization was thereby increased to 154 member States and five member territories.

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10. INTERNATIONAL MARITIME ORGANIZATION

(*a*) Consideration of the question of salvage, in particular the revision of the 1910 Convention on Salvage and Assistance at Sea[350] and related issues

The Legal Committee continued its examination of the draft articles for a new convention on salvage and assistance at sea to replace the 1910 Convention on the subject. The Committee also gave consideration to certain public law matters, with special reference to the notification requirements in respect of salvage operations in incidents which pose a threat of pollution damage.

The Legal Committee noted the work in progress in the Marine Environment Protection Committee (MEPC), in connection with the new reporting requirements under the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 thereto (MARPOL 1973/78). The Legal Committee made suggestions which it considered would ensure that the new requirements adopted by MEPC would also meet the requirements of coastal States in the context of salvage operations.

(*b*) Consideration of work in respect of maritime liens and mortgages and related subjects

The Legal Committee considered a proposal by the UNCTAD Working Group on International Shipping Legislation concerning the possible convening of a joint IMO/UNCTAD group of experts to study aspects of the subject of maritime liens and mortgages and related issues. The Legal Committee agreed to make an appropriate recommendation with regard to the proposal in the light of the views and decisions of the relevant UNCTAD bodies. The observations and recommendations of the Legal Committee were to be submitted to the Council at its fifty-sixth session, in June 1986.

(c) Consideration of a report on the draft convention on liability and compensation in connection with the carriage of noxious and hazardous substances by sea

The Committee considered a report by the Secretariat on the draft convention on liability in connection with the carriage of noxious and hazardous substances by sea (draft HNS Convention). The report, which had been prepared at the request of the Council, identified and analysed the fundamental issues on which wide differences of opinion remained at the diplomatic conference convened by IMO in April/May 1984 to consider the draft HNS Convention.

The Committee held an exchange of views on the need for an HNS Convention, the feasibility of reaching agreement in the near future on a convention which would be widely acceptable and the most effective procedure to be followed in preparing such a convention. The majority of the Legal Committee was of the view that it was necessary to develop an HNS Convention at the earliest possible time. The Committee, therefore, agreed to recommend to the Council that the subject be retained on the work programme of the Committee as a priority item.

With regard to the procedure to be followed for further work on the draft HNS Convention, the Legal Committee agreed that, subject to the approval by the Council of the recommendation to maintain the draft Convention on the work programme, it would give consideration to the subject, preferably at its second session during 1986. In the meantime, it was hoped that Governments and interested organizations might, through informal consultations where appropriate, consider possible new approaches and solutions to the fundamental issues identified in the secretariat's report and submit concrete proposals for consideration by the Legal Committee.

The decisions of the Committee were endorsed by the Council.

(d) Changes in status of IMO Conventions

(i) *International Convention on Maritime Search and Rescue (SAR) 1979*[351]

The conditions for the entry into force of the Convention were met on 21 June 1984. Accordingly, the Convention entered into force on 22 June 1985, viz. 12 months after the conditions for entry into force were met.

(ii) *Convention on Limitation of Liability for Maritime Claims (LLMC), 1976*[352]

The conditions for the entry into force of the Convention were met on 1 November 1985 with the deposit of an instrument of accession by the Government of Benin. Pursuant to article 17.1 thereof, the Convention will enter into force on 1 December 1986.

(iii) *Convention on the International Maritime Satellite Organization (INMARSAT)*[353]

Amendments to the Convention and the Operating Agreement of the International Maritime Satellite Organization were adopted and confirmed on 16 October 1985 by the Assembly of INMARSAT at its fourth session.

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11. WORLD INTELLECTUAL PROPERTY ORGANIZATION

(a) Constitutional and procedural questions

(i) *Membership*

During 1985, the following States became parties to the Convention establishing the World Intel-

lectual Property Organization or[354] of the other treaties administered by WIPO or took certain action in respect of those treaties:

(*a*) *Convention establishing the World Intellectual Property Organization.* Angola (15 April 1985); Bangladesh (11 May 1985); Nicaragua (5 May 1985). At the end of 1985, the number of States members of WIPO was 112;

(*b*) *Paris Convention for the Protection of Industrial Property.*[355] Barbados (12 March 1985); China (19 March 1985); Mongolia (21 April 1985). At the end of 1985, the number of States party to the Paris Convention was 97;

(*c*) *Berne Convention for the Protection of Literary and Artistic Works.*[356] On 30 October 1985, the Netherlands deposited a declaration extending the effects of its ratification of the Paris Act (1971) of the Berne Convention (which had entered into force in respect of the Netherlands on 10 January 1975 but had been limited to articles 22 to 38) to articles 1 to 21 and the Appendix of the said Act. That extension took effect on 30 January 1986. At the end of 1985, the number of States party to the Berne Convention was 76;

(*d*) *Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations.*[357] Monaco (6 December 1985); Peru (7 August 1985). At the end of 1985, the number of States party to the Rome Convention was 29;

(*e*) *Geneva Convention for the Protection of Producers of Phonograms against Unauthorized Duplication of their Phonograms.*[358] Czechoslovakia (15 January 1985); Peru (24 August 1985). At the end of 1985, the number of States party to the Phonograms Convention was 39;

(*f*) *Brussels Convention relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite.*[359] Panama (25 September 1985); Peru (7 August 1985); United States of America (7 March 1985). At the end of 1985, the number of States party to the Brussels Convention was 11;

(*g*) *Nairobi Treaty on the Protection of the Olympic Symbol.*[360] Bolivia (11 August, 1985); Cyprus (11 August 1985); Italy (25 October 1985). Argentina deposited its instrument of ratification on 10 December 1985 and became a party to the Nairobi Treaty on 10 January 1986. On that date, the number of States party to the Nairobi Treaty was 28;

(*h*) *Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure.*[361] Denmark (1 July 1985); Finland (1 September 1985). Norway deposited its instrument of ratification on 1 October 1985 and became party to the Budapest Treaty on 1 January 1986. Italy deposited its instrument of ratification on 23 December 1985 and became a party to the Budapest Treaty on 23 March 1986. On that date, the number of States party to the Budapest Treaty was, with these countries, 19;

(*i*) *Madrid Agreement concerning the International Registration of Marks.*[362] Bulgaria (1 August 1985); Mongolia (21 April 1985). At the end of 1985, the number of States party to the Madrid Union was 28;

(*j*) *Vienna Agreement establishing an International Classification of the Figurative Elements of Marks.*[363] As a result of the deposit by Tunisia of its instrument of accession, the Vienna Agreement entered into force on 9 August 1985, in respect of France, Luxembourg, the Netherlands, Sweden and Tunisia.

(ii) *Amendments*

In October 1985, the Vienna Union Assembly unanimously adopted, at its first ordinary session, amendments to the Vienna Agreement establishing an International Classification of the Figurative Elements of Marks, pursuant to which amendments, the ordinary sessions of the Assembly and the budgets of the Union would have the same periodicity, i.e., biennial, as the sessions of the assemblies and budgets of the other Unions administered by WIPO.

(*b*) Development of the legislative infrastructure and institution building in developing countries in the field of industrial property and copyright and neighboring rights

WIPO continued to cooperate, on request, with Governments or groups of Governments of developing countries on the adoption of new laws and regulations, or the modernization of existing

ones, in the fields of industrial property and copyright and neighboring rights, and on the creation or modernization of industrial property institutions.[364]

(c) Collection of intellectual property laws and treaties

WIPO continued to keep up to date its collection of the texts of laws and regulations of all countries and treaties dealing with industrial property, copyright and neighboring rights, both in their original languages and in English and French translations. The texts concerning industrial property were published in "Industrial Property Laws and Treaties" and in the monthly periodical *Industrial Property*, whereas the texts concerning copyright and neighboring rights were published in the monthly periodical *Copyright*. Summaries of the latter texts were also published in "Copyright Law Survey".

(d) Revision of the Paris Convention for the Protection of Industrial Property

In June 1985, the First Consultative Meeting on the Revision of the Paris Convention took place in Geneva pursuant to the decision taken at the ninth session, in September 1984, of the Assembly of the Paris Union that the machinery for consultations, designed to prepare, on substance, the next session of the Diplomatic Conference on the Revision of the Paris Convention for the Protection of Industrial Property, would consist of consultative meetings of up to 10 representatives of States, including the spokesman, for each group of countries (Group of 77, Group B, Group D) and China.[365] The meeting dealt with one article only, namely, article 5A, which concerns compulsory licences, and with forfeiture of patents.[366]

(e) *Intellectual property questions of topical interest*

(i) *Industrial property questions*

International registration of marks. The Committee of Experts on the International Registration of Marks held two sessions at Geneva in 1985, in February and in December, to discuss a proposed new treaty.[367]

Integrated circuits (often referred to as "microchips"). In June 1985, the WIPO International Bureau published the text of the first version of a draft treaty on the protection of intellectual property in respect of integrated circuits.[368] The draft treaty was discussed at the first session of the Committee of Experts on Intellectual Property in respect of Integrated Circuits, which was held at Geneva in November 1985.[369]

Harmonization of certain provisions in laws for the protection of inventions. In July 1985, the Committee of Experts on this topic held its first session at Geneva.[370]

Industrial property protection of biotechnological inventions. In July 1985, the International Bureau of WIPO published a study, prepared by a WIPO consultant, entitled "Industrial property protection of biotechnological inventions".[371] In November 1985, the International Bureau issued a report also entitled "Industrial property protection of biotechnological inventions",[372] which was based in part on the above-mentioned study. The report was the subject of discussions at the second session of the Committee of Experts on Biotechnological Inventions and Industrial Property, which took place in February 1986.[373]

(ii) *Copyright questions of topical interest*

Expressions of folklore. Model Provisions for National Laws on the Protection of Folklore against Illicit Exploitation and Other Prejudicial Actions was published jointly by WIPO and UNESCO in April 1985 and sent to all member States and interested organizations.[374]

Copyright aspects of the protection of computer software. A Group of Experts met at Geneva in February and March 1985.[375]

Copyright aspects of direct broadcasting by satellite. A group of Experts met in Paris in March 1985.[376]

International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention). In June 1985, the Intergovernmental Committee held its tenth ordinary session in Paris.[377]

Model provisions for national laws and publishing contracts for literary works. In December 1985, a Committee of Governmental Experts met in Paris.[378]

Decisions of WIPO governing bodies

Matters of general interest in the field of intellectual property. The WIPO Convention contains a provision that the WIPO Conference shall discuss matters of general interest in the field of intellectual property and may adopt recommendations relating to such matters, having regard for the competence and autonomy of the Unions. At its 1985 session, the Conference took action under the said provision for the first time; it discussed, and unanimously adopted, two recommendations, one concerning piracy[379] and the other cable television.[380] Both recommend that member States provide information through the International Bureau to the 1987 session of the Conference concerning developments related to the said matters.

Counterfeit goods. The Governing Bodies concerned discussed the role of WIPO concerning counterfeit goods, on the basis of a report by the Director General dealing, *inter alia*, with the relevant activities carried out within GATT. The WIPO General Assembly adopted a decision inviting the Director General to convene an intergovernmental group of experts to examine the relevant provisions of the Paris Convention in order to determine to what extent such provisions can adequately provide for the efficient protection of industrial property and to recommend provisions for national legislation. The results of the group of experts are to be reported to the WIPO General Assembly in 1987.[381]

Agreements with intergovernmental organizations; admission of observers. The WIPO Coordination Committee approved an agreement among WIPO and the African Regional Centre for Technology (ARCT), the Arab Industrial Information Bank (ARIFO) and the African Intellectual Property Organization (OAPI), and agreements with the Arab League Educational, Cultural and Scientific Organization (ALECSO), the permanent secretariat of the General Treaty on Central American Economic Integration (SIECA) and the Latin American Integration Association (ALADI).[382] The Governing Bodies concerned accorded observer status to ARCT, the European Association of Advertising Agencies (EAAA), the European Tape Industry Council (ETIC), the Ibero-American Television Organization (OTI), the Max Planck Institute for Foreign and International Patent, Copyright and Competition Law and the World Blind Union (WBU).[383]

International Year of Peace. The WIPO General Assembly noted with approval activities performed or planned in respect of various resolutions and decisions of the General Assembly of the United Nations. In particular, the WIPO General Assembly adopted a resolution on the International Year of Peace (1986, as proclaimed by the General Assembly of the United Nations[384]) and unanimously approved measures to mark the Year: dissemination of the text of the resolution; speech by the Director General; issuance of a WIPO medal inscribed "Authors and Inventors for World Peace"; publication of a collection of articles.[385]

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12. INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT

(*a*) Membership

The International Fund for Agricultural Development had a total membership of 139 countries. Two new applications for membership were considered during 1985. The applications for membership of Antigua and Barbuda and Saint Kitts and Nevis were considered by the IFAD Executive Board, which recommended to the IFAD Governing Council that, with respect to the categories specified in article 3.3 (a) of the Agreement establishing the Fund,[386] Antigua and Barbuda and Saint Kitts and Nevis be classified in category III (developing recipient countries). In accordance with article 3.2

(b) of the Agreement, the Governing Council, at its ninth session, approved the membership of Antigua and Barbuda and Saint Kitts and Nevis and decided that those States be classified in category III.[387]

(*b*) Second replenishment of IFAD's resources

The Governing Council considered the report on the second replenishment of IFAD's resources and adopted a draft resolution on the second replenishment, presented in connection therewith at its ninth session.[388] The resolution was adopted pursuant to article 4.3 of the Agreement, which provides that, in order to assure continuity of the Fund's operations, the Governing Council shall periodically review the adequacy of the resources available to the Fund and, if necessary, invite members to make additional contributions to the resources of the Fund.

The resolution, *inter alia*, invites members to make additional contributions to the resources of the Fund under the second replenishment and any complementary contributions not forming part of the second replenishment. The Fund is authorized thereunder to accept from members:

(i) Additional contributions to the resources of the Fund in amounts not less than those indicated for the respective member in attachment A to the resolution;

(ii) An increase in contribution to the resources of the Fund for the second replenishment. According to the resolution, the desired level of the second replenishment is US$ 500,000,000, with category I members' (countries members of the Organization for Economic Cooperation and Development (OECD)) contributions totalling US$ 300,000,000 and category II members' (countries members of the Organization of Petroleum Exporting Countries) contributions totalling US$ 200,000,000. Attachment A of the resolution indicates the pledges at the time the resolution was adopted. The pledges for members of category I and category II total US$ 276,000,000 and US$ 184,000,000 respectively. To reach the desired level of category I pledges of US$ 300,000,000, category I members have agreed to increase on a pro rata basis their individual contributions, as shown in attachment A, to the extent that the current contributions of category II Members, as shown in attachment A, are increased up to a level of US$ 200,000,000 not later than 19 February 1986 and in the same proportion, as between the current pledges of US$ 276,000,000 for category I members and US$ 184,000,000 for category II members. Upon receipt of formal notifications of increases in pledges of category II members, the President is required to communicate a revised attachment A to all members of the Fund not later than 20 February 1986 (para. 3 (b) of the resolution);

(iii) Complementary contributions, not forming part of attachment A to the resolution, for use in its operations in accordance with its applicable policies.

The second replenishment period is 1985-1987. It shall come into effect on the date when the instruments of contribution (written commitments whereby a member confirms its intention to make additional contribution to the resources of the Fund under the second replenishment) relating to contributions from categories I and II have been deposited with the Fund in the aggregate total amount equivalent to at least 50 per cent of the respective total contribution of each such category as set forth in attachment A to the resolution, as it may be amended pursuant to subparagraph 3 (b) thereof. During the course of 1985, a total of US$ 66 million in pledges and US$ 46 million in payments was received as advance contributions by the Fund.

Under the second replenishment, the Fund may, during the replenishment period, accept special contributions from non-member States and from other sources with the approval of the Executive Board. The Executive Board had previously adopted a resolution concerning private contributions to IFAD's resources whereby it authorized the President of IFAD to accept any special contributions provided that there were no conditions attached to them that could conflict with any provisions of the Agreement or any of the relevant policies of IFAD. Special contributions are acceptable under article 4, section 1 (iii), of the Agreement in accordance with the provisions of article 4, section 6 thereof.

(*c*) Lending operations

Resource constraints forced IFAD to reduce its level of operations for the third year in succession. IFAD provided SDR 136.9 million in 1985 (as compared to the originally approved programme

of work of SDR 300 million), a reduction of 34 per cent in the level of operations of 1984.

During 1985, the Executive Board approved 17 projects and 23 technical assistance grants.

Six projects were approved for Africa (Nigeria, Guinea, United Republic of Tanzania, Equatorial Guinea, Ethiopia and Mauritania) for SDR 49.8 million, bringing the total to 63 projects in 38 countries for SDR 514.2 million. Four projects were approved for Asia (Bhutan, Sri Lanka, Indonesia and Nepal) for SDR 38.7 million, bringing the total to 48 projects in 16 countries for SDR 726.0 million. Two projects were approved for Latin America and the Caribbean (Belize and Panama) for SDR 7.7 million, bringing the total to 33 projects in 21 countries for SDR 252.8 million. Five projects were approved for the Near East and North Africa (Sudan, Somalia, Djibouti, Syrian Arab Republic and Tunisia) for SDR 30.9 million, bringing the total to 33 projects in 12 countries for SDR 315.7 million.

In 1985, IFAD provided technical assistance support for agricultural research programmes of international and regional centres totalling US$ 6.9 million. In providing financial support to ongoing agricultural research programmes, the Fund also provided support for two newly initiated agricultural research programmes.[389] A grant was made to the Organization of African Unity for the Agricultural Management Training Programme for Africa (AMTA). A total of US$ 1.5 million in grants for project preparation was also granted to eight member countries: Bangladesh, Bolivia, Ethiopia, Haiti, Lesotho, Pakistan, Yemen and Zambia. Furthermore, two grants were provided for a total of SDR 910,000 - SDR 110,000 to Nepal and SDR 800,000 to Equatorial Guinea.

(*d*) Special programme for Sub-Saharan African countries

Following the decision by the Governing Council at its eighth session, the Executive Board at its twenty-third session considered the draft resolution submitted by the Government of the Niger calling for the creation of a special fund for Sub-Saharan Africa. The Board, in its decision, *inter alia*, requested the President to submit a report and recommendation on the matter to the Executive Board for its further consideration. The President accordingly presented a report entitled "IFAD Special Programme for Sub-Saharan African Countries affected by Drought and Desertification". The second special session of the Executive Board held in 1985 considered and endorsed the Special Programme and resolved, *inter alia*, that:

(i) The Fund shall proceed with the technical elaboration of the Special Programme with a view to identifying and formulating country programmes and projects for submission to the Executive Board for its approval;

(ii) The President shall approach potential donors to mobilize additional funds, outside the framework of the second replenishment, to help finance the preparation and implementation of the proposed Special Programme;

(iii) The contributions so received shall be used exclusively or jointly with other resources for implementing the Special Programme, consistent with the Agreement establishing IFAD;

(iv) The principle to be applied in the accounting of the expenditures related to the Special Programme would be that its records of operations shall be kept and accounted for separately;

(v) A progress report on the implementation of this resolution shall be submitted by the President to the Board at its twenty-fifth session.

A "Proposed Basic Framework on Special Resources for Sub-Saharan Africa" was also prepared and along with recommendations of the Executive Board put before the Governing Council together with the Special Programme.

The Governing Council, at its ninth session, adopted two resolutions on: A Special Programme and the Basic Framework on Special Resources for Sub-Saharan African Countries affected by Drought and Desertification.[390] These resolutions, *inter alia*, approved the objectives and activities of the Special Programme and Basic Framework and resolved (i) to appeal to all members in a position to do so to contribute generously to the resources needed to carry out the Special Programme in order to achieve the target of US$ 300 million for the Special Programme over a period of three years, and (ii) to authorize the Executive Board and the President to implement the Special Programme in accordance with the Basic Framework. The President has been requested to report back to the Governing

Council through the Executive Board on the implementation of the Special Programme.

The Basic Framework establishes the Special Resources for Sub-Saharan Africa (SRS) which are open to contributions from all members. IFAD, with the approval of, and on such terms and conditions as may be specified by, the Executive Board, may accept contributions to SRS from non-member countries and other sources. The accepted contributions are required (i) to be free of limitations on the use thereof, or (ii) to indicate that the use of the contribution will be for given countries provided that either not less than US$ 10,000,000 or not less than 20 per cent of the contribution will be free of limitations on the use thereof. The SRS are required to be used for the objectives of the Special Programme outlined in the resolution adopted by the Executive Board, at its second special session, on 18 May 1985. The Executive Board may, taking into account future developments, make such changes therein as it may deem necessary to achieve the objectives of the Special Programme. The SRS are required to be used by IFAD (i) to make loans and grants to the countries of the Sub-Saharan region of Africa on terms and conditions prescribed by IFAD's "Lending policies and criteria" and in accordance with such provisions as may be decided upon by the Executive Board in the context of the Special Programme, and (ii) to meet the cost of salaries, employee benefits and related services and other associated costs of SRS. Contributions to SRS are required to be used for the procurement of goods and services necessary for the Special Programme in accordance with the procedures laid down in IFAD's "Procurement guidelines". The said procurement is, however, limited to those members of IFAD that have deposited instruments of contribution (a letter from the authorized representative of a contributor, or any other arrangements satisfactory to IFAD, by which such contributor confirms its contribution or its firm intention to contribute to the SRS) to the SRS and developing States members of IFAD. A separate account is required to be maintained for SRS. That account is subject to an audit by IFAD's External Auditor, and the audit report is required to be submitted to the Executive Board.

In operating the Special Programme, the President is required to act in conformity with the Agreement and the policies and procedures applicable to the use of resources defined in article 4 thereof, except as provided in the Basic Framework or as provided for by decisions of the Executive Board. Periodic consultations are required to be held between the contributors and IFAD with respect to the mobilization of SRS and to exchange information on the implementation of the Special Programme, including procurement. The President is required to report to the Executive Board on these consultations as appropriate.

With certain exceptions, operations under the Special Programme cannot commence until such time as IFAD has received instruments of contribution to SRS from at least three members. Commitment of the funds of SRS for the purposes of making loans and grants will cease on a date determined by the Executive Board on the recommendation of the President. The disbursement of the funds of SRS will cease on such date as all funds of SRS committed to projects, programmes and technical assistance under the Special Programme have been disbursed. The Special Programme will, unless otherwise decided by the Executive Board on the recommendation of the President, terminate on the date on which disbursements have ceased. Any funds remaining in SRS upon the winding up of the operations of the Special Programme will be transferred to the resources of IFAD as described in article 4 of the Agreement, and loans under the SRS will be treated as part of IFAD's regular lending portfolio. Consequently, if any commitments of SRS remain undisbursed, IFAD will provide for the disbursement of these funds as required from its article 4 resources. IFAD will take into account the funds of SRS transferred to article 4 resources in the allocation of future resources of IFAD to countries of the Sub-Saharan region of Africa.

(*e*) IFAD's future financial basis and structure

With the second replenishment negotiations having been completed, the President has been entrusted the task of taking the necessary steps to start deliberations on the future financial basis of IFAD.

The Governing Council, at its ninth session, took note of a preliminary report on IFAD's future financial basis and structure. The President has been requested to report on IFAD's future financial basis, through the Executive Board, to the Governing Council for necessary action.[391]

(*f*) Headquarters Agreement

The President presented a report on the status of the headquarters Agreement between the Fund and the Government of Italy at the ninth session of the Governing Council. The Governing Council, while taking note of the President's report, adopted a draft resolution which, *inter alia*, resolved "that the Government of Italy should be urged to take quick and decisive action to provide the Fund with its permanent headquarters building, as a matter of urgency."[392]

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13. INTERNATIONAL ATOMIC ENERGY AGENCY

COMMITTEE ON ASSURANCES OF SUPPLY

The Committee on Assurances of Supply, established by the Board of Governors in 1980, held its fourteenth to seventeenth sessions in January, March, May and November respectively. It continued consideration of principles of international cooperation in the field of nuclear energy, with the focus of discussion on the linkage between non-proliferation assurances and assurances of supply.

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

The Third Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) met from 27 August to 21 September 1985 at Geneva to review the operation of the Treaty during the 15 years since its entry into force. At the request of the Preparatory Committee for the Conference, the IAEA secretariat had submitted comprehensive documentation on the Agency's activities in connection with articles III, IV and V of the Treaty. The Conference adopted by consensus a Final Declaration containing several proposals relevant to the Agency's activities.

SAFEGUARDS

The IAEA and the USSR concluded an agreement relating to the latter's voluntary offer to place some of its peaceful nuclear installations under Agency safeguards. The Agreement entered into force on 10 June 1985.

AMENDMENT TO ARTICLE VI.A.1 OF THE STATUTE

An amendment ot article VI.A.1 of the Agency's statute[393] 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" had been accepted by 30 member States by the end of 1985. 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 1985, the Convention on the Physical Protection of Nuclear Material[394] was signed by one more State—Niger—and ratified by five more States—Brazil, Guatemala, Norway, Paraguay and Turkey. By the end of the year, 39 States and one regional organization had signed the Convention and 15 States had ratified it. The Convention requires 21 ratifications or acceptances for its entry into force.

At its twenty-ninth regular session, in September 1985, the General Conference adopted a resolution in which it expressed the hope "that the Convention will enter into force at the earliest possible date and that it will obtain the widest possible adherence".

HEADQUARTERS SEAT AGREEMENTS

On 20 December 1985, IAEA, the United Nations and UNIDO exchanged notes with Austria

providing for the continued application of the existing agreements regarding the headquarters area common to the Agency and the other organizations located at the Vienna International Centre, pending the conclusion of new headquarters agreements between Austria and UNIDO. Such new agreements are required on account of the conversion of UNIDO into a specialized agency as of 1 January 1986.

REGIONAL SEMINAR ON NUCLEAR LAW

A regional seminar on nuclear law and safety regulations for developing countries in Africa was held at Cairo, in May with the cooperation of the Egyptian Atomic Energy Authority and its Nuclear Regulatory and Safety Centre. The seminar provided an overview of the scope and components of nuclear legislation and an exchange of information on practices, experiences and current developments in the regulation of peaceful nuclear activities. More than 40 participants from 11 member States participated in the seminar, for which lecturers were provided cost-free by France, the Federal Republic of Germany, Spain and the United States of America.

ADVISORY SERVICES IN NUCLEAR LEGISLATION

Advice and assistance in the framing of legislation and regulations required for the implementation of a nuclear power programme was provided to Egypt and Morocco. Jamaica was assisted in the elaboration of an act regulating the development of nuclear energy for peaceful purposes.

NOTES

[1]Adopted by a recorded vote of 109 to 19, with 17 abstentions.

[2]*Official Records of the General Assembly, Tenth Special Session, Supplement No. 4* (A/S-10/4), sect. III.

[3]*Official Records of the General Assembly, Twelfth Special Session, Annexes*, agenda items 9 to 13, document A/S-12/32.

[4]Adopted without a vote.

[5]Adopted by a recorded vote of 133 to 2, with 18 abstentions.

[6]Adopted without a vote.

[7]Adopted by a recorded vote of 71 to 19, with 59 abstentions.

[8]*Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XVII (United Nations publication, Sales No. E.84.V.3), document A/CONF. 62/122.

[9]Adopted without a vote.

[10]General Assembly resolution 2660 (XXV), annex.

[11]Adopted by a recorded vote of 99 to none, with 53 abstentions.

[12]Adopted without a vote.

[13]Adopted by a recorded vote of 76 to none, with 12 abstentions.

[14]Adopted by a recorded vote of 117 to 19, with 11 abstentions.

[15]Adopted by a recorded vote of 131 to 16, with 6 abstentions.

[16]Adopted by a recorded vote of 70 to 11, with 65 abstentions.

[17]Adopted by a recorded vote of 123 to 19, with 7 abstentions.

[18]Adopted by a recorded vote of 136 to 3, with 14 abstentions.

[19]Adopted by a recorded vote of 126 to 17, with 6 abstentions.

[20]General Assembly resolution 2373 (XXII), annex.

[21]*Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, Final Document* (NPT/CONF.III/64/I, NPT/CONF.III/64/II and NPT/CONF.III/64/III), Geneva, 1985.

[22]Adopted by a recorded vote of 138 to none, with 11 abstentions.

[23]Adopted by a recorded vote of 124 to 3, with 21 abstentions.

[24]Adopted by a recorded vote of 121 to 3, with 24 abstentions.

[25]Adopted by a recorded vote of 120 to 3, with 29 abstentions.

[26]Adopted by a recorded vote of 131 to 10, with 8 abstentions.

[27]Adopted by a recorded vote of 126 to 12, with 10 abstentions.

[28]Adopted by a recorded vote of 142 to none, with 6 abstentions.

[29]Adopted by a recorded vote of 101 to 19, with 25 abstentions.

[30]United Nations, *Treaty Series*, vol. 634, p. 281.
[31]Adopted by a recorded vote of 139 to none, with 7 abstentions.
[32]Adopted by a recorded vote of 135 to 4, with 14 abstentions.
[33]Adopted without a vote.
[34]Adopted by a recorded vote of 104 to 3, with 41 abstentions.
[35]Adopted without a vote.
[36]Adopted without a vote.
[37]Adopted without a vote.
[38]Adopted by a recorded vote of 93 to 15, with 41 abstentions.
[39]Adopted by a recorded vote of 112 to 16, with 22 abstentions.
[40]Adopted by a recorded vote of 151 to none, with 2 abstentions.
[41]Adopted by a recorded vote of 128 to 1, with 21 abstentions.
[42]Adopted without a vote.
[43]Adopted by a recorded vote of 128 to none, with 8 abstentions.
[44]Adopted without a vote.
[45]Adopted without a vote.
[46]Adopted by a recorded vote of 113 to 13, with 15 abstentions.
[47]Adopted without a vote.
[48]General Assembly resolution 2734 (XXV); also reproduced in *Juridical Yearbook, 1970*, p. 62.
[49]Adopted by a recorded vote of 127 to none, with 26 abstentions.
[50]See A/40/1028.
[51]For the report of the Subcommittee, see A/AC.105/352.
[52]A/AC.105/C.2/L.150.
[53]WG/RS(1985)/WP.1.
[54]A/AC.105/C.2/L.144.
[55]See *Official Records of the General Assembly, Fortieth Session, Supplement No. 20* (A/40/20), chap. II, sect. C.
[56]A/AC.105/L.158.
[57]Adopted without a vote.
[58]See A/40/1023.
[59]Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (resolution 2222 (XXI), annex); Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space (resolution 2345 (XXII), annex); Convention on International Liability for Damage Caused by Space Objects (resolution 2777 (XXVI), annex); Convention on Registration of Objects Launched into Outer Space (resolution 3235 (XXIX), annex); Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (resolution 34/68, annex).
[60]Adopted by a recorded vote of 96 to none, with 11 abstentions.
[61]See A/40/996.
[62]A/39/583 (Part I) and Corr.1-3 and A/39/583 (Part II) and Corr.1, vols. I-III.
[63]Adopted by a recorded vote of 92 to none, with 14 abstentions.
[64]See A/40/996.
[65]For detailed information, see *Official Records of the General Assembly, Fortieth Session, Supplement No. 25* (A/40/25).
[66]Ibid., annex.
[67]*International Legal Materials*, vol. 26, p. 1529.
[68]UNEP/WG.120/3.
[69]UNEP/G.C.10/5/Add.2, annex, chapter II.
[70]UNEP/GC.13/9/Add.1.
[71]See UNEP/GC.6/17, annex, pp. 9-14.
[72]UNEP/GC.9/5/Add.5, annex III.
[73]*International Legal Materials*, vol. 19, p. 15.
[74]UNEP/GC.13/10.
[75]Adopted by a recorded vote of 149 to none, with 6 abstentions.
[76]See A/40/989/Add.6.
[77]Adopted without a vote.
[78]See A/40/989/Add.3.
[79]TD/CODE TOT/49, sect. IV.
[80]For detailed information, see *Official Records of the General Assembly, Fortieth Session, Supplement No. 12* (A/40/12) and *ibid., Supplement No. 12A* (A/40/12/Add.1).
[81]United Nations, *Treaty Series*, vol. 189, p. 137.

[82]Ibid., vol. 606, p. 267.

[83]See *Official Records of the General Assembly, Thirty-fifth Session, Supplement No. 12A* (A/35/12/Add.1), para. 48.

[84]See ibid., *Fortieth Session, Supplement No. 12A* (A/40/12/Add.1), para. 115 (5).

[85]Adopted without a vote.

[86]See A/40/934.

[87]United Nations, *Treaty Series*, vol. 1019, p. 175.

[88]Ibid., vol. 976, p. 3.

[89]Ibid., vol. 976, p. 105.

[90]Adopted without a vote.

[91]See A/40/984.

[92]Adopted without a vote.

[93]See A/40/984.

[94]Adopted without a vote.

[95]See A/40/984.

[96]See General Assembly resolution 2200 A (XXI), annex; also reproduced in *Juridical Yearbook, 1966*, p. 170.

[97]United Nations, *Treaty Series*, vol. 993, p. 3.

[98]Ibid., vol. 999, p. 171.

[99]Ibid.

[100]Adopted without a vote.

[101]See A/40/983.

[102]*Official Records of the General Assembly, Fortieth Session, Supplement No. 40* (A/40/40).

[103]Adopted by a recorded vote of 134 to one, with 19 abstentions.

[104]See A/40/983.

[105]Adopted without a vote.

[106]See A/40/983.

[107]A/40/600, sect. II, and A/40/600/Add.1, annex.

[108]See General Assembly resolution 2106 A (XX), annex; also reproduced in *Juridical Yearbook, 1965*, p. 63; see also United Nations, *Treaty Series*, vol. 660, p. 195.

[109]Adopted without a vote.

[110]See A/40/914.

[111]See General Assembly resolution 38/14.

[112]Adopted by a recorded vote of 136 to one, with 9 abstentions.

[113]See A/40/914.

[114]Adopted by a recorded vote of 120 to one, with 24 abstentions.

[115]See General Assembly resolution 3068 (XXVIII); also reproduced in *Juridical Yearbook, 1973*, p. 70; see also United Nations, *Treaty Series*, vol. 1015, p. 243.

[116]See A/40/914.

[117]See E/CN.4/1985/27, sect. V.

[118]See General Assembly resolution 34/180; also reproduced in *Juridical Yearbook, 1979*, p. 114.

[119]Adopted without a vote.

[120]See A/40/927.

[121]See General Assembly resolution 39/46, annex; also reproduced in *Juridical Yearbook, 1984*, p. 135.

[122]Adopted without a vote.

[123]See A/40/982.

[124]Adopted without a vote.

[125]See A/40/863.

[126]Adopted by a recorded vote of 118 to 17, with 9 abstentions.

[127]See A/40/863.

[128]Adopted by a recorded vote of 130 to one, with 22 abstentions.

[129]See A/40/970.

[130]Adopted without a vote.

[131]See A/40/970.

[132]Adopted without a vote.

[133] See A/40/1007.

[134]Adopted without a vote.

[135]See A/40/1007.

[136]Adopted without a vote.

[137]See A/40/1007.

[138]Adopted without a vote.
[139]See A/40/971.
[140]Adopted without a vote.
[141]See A/40/968.
[142]The text of the Declaration was reproduced in *Juridical Yearbook, 1981*, p. 63.
[143]See *Official Records of the Economic and Social Council, 1985, Supplement No. 2* (E/1985/22), chap. II, sect. A.
[144]Adopted by a recorded vote of 121 to two, with 27 abstentions.
[145]See A/40/1007.
[146]Adopted by a recorded vote of 131 to none, with 22 abstentions.
[147]See A/40/969.
[148]General Assembly resolution 3384 (XXX) of 10 November 1975.
[149]Adopted without a vote.
[150]See A/40/969.
[151]Adopted without a vote.
[152]See A/40/881.
[153]*Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985; report prepared by the Secretariat* (United Nations publication, Sales No. E.86.IV.1).
[154]Ibid., chap. I, sect. A.
[155]Ibid., sect. B.
[156]Adopted without a vote.
[157]See A/40/881.
[158]Adopted without a vote.
[159]See A/40/1007.
[160]*Seventh United Nations Congress*, op. cit., chap. I, sect. D.2.
[161]Ibid., sect. D.I.
[162]General Assembly resolution 34/169, annex.
[163]United Nations, *Treaty Series*, vol. 78, p. 277.
[164]Adopted without a vote.
[165]See A/40/1007.
[166]Adopted without a vote.
[167]See A/40/881.
[168]*Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XVII (United Nations publication, Sales No. E.84.V.3), document A/CONF.62/122; see also *The Law of the Sea: United Nations Convention on the Law of the Sea with Index and Final Act of the Third United Nations Conference on the Law of the Sea* (United Nations publication, Sales No. E.83.V.5).
[169]For detailed information on the work of the Preparatory Commission, see the report of the Secretary-General (A/40/923).
[170]Document LOS/PCN/72; the Declaration was adopted without a vote following an understanding between its sponsors, the Group of 77, and a number of other delegations on the text of the following statement which the Chairman read out at the time of the adoption:

"After consultation with delegations, it is my understanding that the draft declaration contained in document LOS/PCN/L.21 of 12 August 1985 commands a large majority in the Preparatory Commission. I, therefore, take it that consequently the draft declaration has been approved and has been adopted.

"I note that a number of delegations, while appreciating the preoccupation of that majority, could not give support to the declaration because of their concerns about some aspects of the substance and the effect of the declaration."

[171]Adopted by a recorded vote of 140 to 2, with 5 abstentions.
[172]For the composition of the Court, see General Assembly decision 39/307.
[173]As of 31 December 1985, the number of States recognizing the jurisdiction of the Court as compulsory in accordance with declarations filed under Article 36, paragraph 2, of the Statute of the International Court of Justice stood at 46.
[174]For detailed information, see *I.C.J. Yearbook 1984-1985*, No. 39; and *I.C.J. Yearbook 1985-1986*, No. 40.
[175]*I.C.J. Reports 1985*, p. 3.
[176]For detailed information, see *I.C.J. Yearbook 1984-1985*, No. 39, p. 149.
[177]*I.C.J. Reports 1985*, p. 13.
[178]*I.C.J. Reports 1985*, p. 59.
[179]Ibid., pp. 76-92.
[180]Ibid., pp. 93-113.

[181]Ibid., pp. 114-187.

[182]For detailed information, see *I.C.J. Yearbook 1985-1986*, No. 40, p. 127.

[183]*I.C.J. Reports 1985*, p. 192.

[184]*I.C.J. 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.

[185]Article 3 of the Special Agreement is worded as follows: "In case the agreement mentioned in Article 2 is not reached within a period of three months, renewable by mutual agreement from the date of delivery of the Court's judgement, the two Parties shall together go back to the Court and request any explanations or clarifications which would facilitate the task of the two delegations to arrive at the line separating the two areas of the continental shelf, and the two Parties shall comply with the judgement of the Court and with its explanations and clarifications."

[186]See paragraphs 32-39 of the Judgment.

[187]*I.C.J. Reports 1985*, pp. 232, 236, 246 and 247.

[188]For detailed information, see *I.C.J. Yearbook 1985-1986*, No. 40, p. 161.

[189]Ibid., pp. 37 and 38.

[190]*I.C.J. Reports 1985*, p. 6.

[191]Ibid., p. 10.

[192]Ibid., p. 189.

[193]For the membership of the Commission, see *Official Records of the General Assembly, Fortieth Session, Supplement No. 10* (A/40/10), chap. I.

[194]For detailed information, see *Yearbook of the International Law Commission, 1985*, vol. I (United Nations publication, Sales No. E.86.V.4); ibid., vol. II, Part One (United Nations publication, Sales No. E.86.V.5 (Part I)); and ibid., Part Two (United Nations publication, Sales No. E.85.V.5 (Part II)).

[195]*Yearbook of the International Law Commission, 1985*, vol. II (Part One) (United Nations publication, Sales No. E.86.V.5 (Part I)), document A/CN. 4/387.

[196]Ibid., document A/CN.4/389.

[197]Ibid., document A/CN.4/390.

[198]*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.4/376 and Add.1 and 2.

[199]*Yearbook of the International Law Commission, 1985*, vol. II (Part One) (United Nations publication, Sales No. E.86.V.5 (Part I)), document A/CN. 4/388.

[200]Ibid., document A/CN.4/391 and Add.1.

[201]A/CN.4/L.383 and Add.1-3.

[202]*Yearbook of the International Law Commission, 1985*, vol. II (Part One) (United Nations publication, Sales No. E.86.V.5 (Part I)), document A/CN. 4/393.

[203]*Official Records of the General Assembly, Fortieth Session, Supplement No. 10* (A/40/10).

[204]Adopted without a vote.

[205]See A/40/961.

[206]Adopted by a recorded vote of 127 to 6, with 9 abstentions.

[207]See A/40/1000.

[208]For the membership of the Commission, see *Official Records of the General Assembly, Fortieth Session, Supplement No. 17* (A/40/17), chap. I.B, para. 4.

[209]For detailed information, see *Yearbook of the United Nations Commission on International Trade Law*, vol. XVI: 1985 (United Nations publication, Sales No. E.87.V.4).

[210]*Yearbook of the United Nations Commission on International Trade Law*, vol. XVI: 1985 (United Nations publication, Sales No. E.87.V.4), part two, chap. I, sect. A, document A/CN.9/263 and Add.1-3.

[211]Ibid., sect. B. document A/CN.9/264.

[212]Ibid., part one, document A/40/17, annex I.

[213]Ibid., part two, chap. II, sect. A, document A/CN.9/261.

[214]Ibid., sect. B, document A/CN.9/266 and Add.1 and 2.

[215]Ibid., chap. V, document A/CN.9/265.

[216]Ibid., chap. III, sect. A.1, document A/CN.9/259, and sect. B.1, document A/CN.9/262, respectively.

[217]Ibid., sect. C, document A/CN.9/268

[218]Ibid., chap. IV, sect. A, document A/CN.9/260.

[219]Ibid., chap. V, document A/CN.9/265.

[220]Ibid., part one, document A/40/17, para. 360.

[221]Ibid., part two, chap. VIII, document A/CN.9/270.

[222]Adopted without a vote.

[223]See A/40/935.

[224]Adopted without a vote.

[225]See A/40/935.
[226]United Nations, *Treaty Series*, vol. 330, p. 38.
[227]United Nations publication, Sales No. E.77.V.6.
[228]Adopted without a vote.
[229]See A/40/1003.
[230]*Official Records of the General Assembly, Thirty-fourth session, Supplement No. 37* (A/34/37).
[231]Adopted without a vote.
[232]See A/40/977.
[233]Adopted without a vote.
[234]See A/40/1010.
[235]A/40/893.
[236]Adopted by a recorded vote of 125 to none with 19 abstentions.
[237]See A/40/978.
[238]Adopted without a vote.
[239]See A/40/999.
[240]General Assembly resolution 37/10, annex; the text of the Declaration was also reproduced in *Juridical Yearbook, 1982*, p. 103.
[241]For the report of the Special Committee, see *Official Records of the General Assembly, Fortieth Session, Supplement No. 41* (A/40/41).
[242]Ibid., *Thirty-fourth Session, Supplement No. 41* (A/34/41 and Corr.1), annex.
[243]A/AC.193/6 and Add.1, A/39/440 and A/AC.193/7.
[244]*Official Records of the General Assembly, Thirty-fourth Session, Supplement No. 41* (A/34/41 and Corr.1), para. 129.
[245]Ibid., *Thirty-sixth Session, Supplement No. 41*, (A/36/41), para. 259.
[246]Ibid., *Thirty-seventh Session, Supplement No. 41* (A/37/41), para. 372.
[247]Adopted by a recorded vote of 119 to 14, with 12 abstentions.
[248]See A/40/1001.
[249]Adopted without a vote.
[250]See A/40/936.
[251]Adopted without a vote.
[252]See A/40/979.
[253]*Official Records of the General Assembly, Fortieth Session, Supplement No. 43* (A/40/43).
[254]Adopted without a vote.
[255]See A/40/952.
[256]*Official Records of the General Assembly, Thirty-seventh session, Supplement No. 10* (A/37/10), chap. II, sect. D.
[257]For the report of the Special Committee, see *Official Records of the General Assembly, Fortieth Session, Supplement No. 33* (A/40/33 and Corr.1).
[258]A/38/343, annex, and A/39/C.6/L.2.
[259]A/AC.182/L.42.
[260]A/AC.182/L.38/Rev.1.
[261]A/CN.182/L.43.
[262]Adopted without a vote.
[263]See A/40/1013.
[264]For detailed information, see *Official Records of the General Assembly, Fortieth Session, Supplement No. 26* (A/40/26).
[265]Adopted without a vote.
[266]See A/40/1012.
[267]Adopted without a vote.
[268]See A/40/1067.
[269]A/C.5/40/25.
[270]Adopted without a vote.
[271]A/40/726 and Corr.1, annex.
[272]A/40/682, annex.
[273]For detailed information, see *Official Records of the General Assembly, Forty-first Session, Supplement No. 14* (A/41/14); the report covers the period from 1 July 1984 to 30 June 1986 (it is the first biennial report submitted to the General Assembly).
[274]William H. Lewis, *The Prevention of Nuclear War: A United States Approach* (UNITAR: Sales No. E.85.XV.RR/32).
[275]For the conclusions, see also A/40/377, annex.

[276]Adopted without a vote.

[277]See A/40/1042.

[278]A/40/788, para. 5.

[279]With regard to the adoption of instruments, information on the preparatory work which, by virtue of the double discussion procedure, normally covers a period of two years, is given, in order to facilitate reference work, in the year during which the instrument was adopted.

[280]*Official Bulletin*, vol. LXVIII, 1985, Series A, No. 2, pp. 49-54, 60-63; English, French, Spanish. Regarding preparatory work see *First Discussion*—Revision of the Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63), ILC, 70th session (1984), 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), 85 and 106 pages respectively; Arabic, Chinese, English, French, German, Russian, Spanish. See also ILC, 70th session (1984) *Record of Proceedings*, No. 29; No. 42, pp. 2-6; English, French, Spanish. *Second Discussion*—Revision of the Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63), ILC, 71st session (1985), report V (1) and report V (2), 58 and 107 pages respectively; Arabic, Chinese, English, French, German, Russian, Spanish. See also ILC 71st session (1985), *Record of Proceedings*, No. 25; No. 35, pp. 1-5; No. 38, pp. 8-14; English, French, Spanish.

[281]*Official Bulletin*, vol. LXVIII, 1985, Series A, No. 2, pp. 55-60, pp. 63-71; English, French, Spanish. Regarding preparatory work see *First Discussion*—Occupational Health Services, ILC, 70th session (1984), report V (1) (this report contains, *inter alia*, details of the action which led to the placing of the question on the agenda of the Conference), and report V (2), 87 and 142 pages respectively; Arabic, Chinese, English, French, German, Russian, Spanish. See also ILC, 70th session (1984) *Record of Proceedings*, No. 36; No. 42, pp. 5-7; No. 43, pp. 1-3; English, French, Spanish. *Second Discussion*—Occupational Health Services, ILC, 71st session (1985), report IV (1) and report IV (2), 69 and 111 pages respectively; Arabic, Chinese, English, French, German, Russian, Spanish. See also ILC, 71st session (1985) *Record of Proceedings*, No. 28; No. 35, pp. 6-12; No. 39, pp. 4, 11-16; English, French, Spanish.

[282]This report has been published as report III (part 4) to the 71st session of the Conference and comprises two volumes: vol. A: "General Report and Observations concerning Particular Countries" (report III (part 4A)), 401 pages; English, French, Spanish; vol. B: "General Survey of the Reports on the Labour Inspection Convention (No. 81) and Recommendation (No. 81), the Labour Inspection (Mining and Transport) Recommendation (No. 82) and the Labour Inspection (Agriculture) Convention (No. 129) and Recommendation (No. 133)" (report III (part 4B)), 186 pages; English, French, Spanish.

[283]*Official Bulletin*, vol. LXVIII, 1985, Series B, No. 1.

[284]Ibid., No. 2.

[285]Ibid., No. 3.

[286]At its eighty-ninth session (November 1985), the Council elected as members the following countries: El Salvador, Italy, Philippines, Poland, Senegal, Sudan, United States of America.

[287]Report of the forty-sixth session of CCLM, documents CL 87/5 and CL 87/5-Sup. 1.

[288]Report of the forty-seventh session, document CL 88/5.

[289]C 83/REP, para. 344.

[290]CL 86/5, para. 21.

[291]CL 86/REP, para. 194.

[292]CL 86/REP, para. 196.

[293]See d. below "Action taken by the Council and the Conference in 1985".

[294]A summary of the judgement in the case is reproduced in *Juridical Yearbook, 1982*, p. 234.

[295]CL 82/REP, para. 212.

[296]CL 87/REP, paras. 270-274.

[297]CL 87/REP, para. 274.

[298]Ibid., paras. 275-277.

[299]Ibid., paras. 279 and 280.

[300]C 85/LIM/10.

[301]C 85/LIM/15. See also C 85/LIM/28; C 85/III/PV/1 and PV/5; C 85/PV/22.

[302]C 85/REP, paras. 356-360.

[303]CL 87/REP, para. 254.

[304]Ibid., para. 255.

[305]Ibid.

[306]C 85/REP, paras. 347-350.

[307]C 85/26; C 85/LIM/13; C 85/III/PV/3; C 85/III/PV/5; C 85/PV/22.

[308]CL 86/REP, para. 180.

[309]C 85/REP, para. 346.

[310]See (i)e above.

[311]CL 89/REP, paras. 14 and 15; CL 89/LIM/6; CL 89/PV/1.
[312]C 85/LIM/8; C 85/III/PV/3; C/85/III/PV/5; C 85/PV/22.
[313]C 83/REP, para. 371.
[314]CL 85/REP, paras. 16 and 17.
[315]CL 86/REP, para. 179.
[316]C 85/REP, paras. 351-355.
[317]C 85/REP, paras. 13-14.
[318]See Basic Texts, vol. II, sect. L.
[319]C 85/13; C 85/13-Sup.1; C 85/14.
[320]CL 89/REP, para. 16; CL 89/5; CL 89/PV/1.
[321]For reference to the Agreement, see *Juridical Yearbook 1981*, p. 81.
[322]C 85/24; C 85/LIM/18; C 85/II/PV/11; C 85/II/PV/12; C 85/II/PV/16; C 85/PV/24.
[323]C 85/25-Rev.1.
[324]C 85/23; C 85/23-Corr.1; C 85/REP, paras. 164-169.
[325]For the text of the UNESCO Constitution, see United Nations, *Treaty Series*, vol. 4, p. 275.
[326]IGC(1971)/SC.II/3.
[327]IGC(1971)/VI/22.
[328]ILO/UNESCO/WIPO/ICR.10/10.
[329]UNESCO/PRS/CLT/TPC/II/5.
[330]PRS/CPY/DP/CEG/II/4.
[331]UNESCO/WIPO/GE/CCS/3.
[332]UNESCO/WIPO/GE/DBS/I/4.
[333]UNESCO/WIPO/CGE/PC/4.
[334]For the text of the Convention, see United Nations, *Treaty Series*, vol. 15, p. 295.
[335]United Nations publication, Sales No. E.83.V.5.
[336]For the text of the Constitution, see United Nations, *Treaty Series*, vol. 14, p. 185.
[337]Resolution WHA38.14.
[338]The background to the initiative of the Bank to establish MIGA, a globally operating investment guarantee agency which will also carry out a wide range of advisory and promotional activities, as well as the previous steps taken by the Bank in this regard and the main features of the proposed new Agency, are described in *Juridical Yearbook, 1984*, p. 112.
[339]This draft of the MIGA Convention in published in *International Legal Materials*, vol. XXIV, p. 688 (1985).
[340]The resolution is published in IBRD, IFC, IDA 1985 Annual Meetings of the Boards of Governors, *Summary Proceedings*, p. 244 (1986). The text of the MIGA Convention and of the commentaries thereto are published in *ICSID Review—Foreign Investment Law Journal*, vol. 1, p. 145 (1986), and in *International Legal Materials*, vol. XXIV, p. 1598 (1985).
[341]United Nations, *Treaty Series*, vol. 575, p. 159; also reproduced in *Juridical Yearbook, 1966*, p. 196.
[342]The Centre's "List of Contracting States and Signatories of the Convention" appears in document ICSID/3.
[343]Document ICSID/16, entitled "ICSID cases, 1972-1984", and *News from ICSID*, a semi-annual publication, contain further information on disputes before the Centre.
[344]The full text of this decision is published in English translation in *ICSID Review—Foreign Investment Law Journal*, vol. 1, p. 89 (1986).
[345]A detailed summary of this conciliation proceeding appears in *ICSID Review—Foreign Investment Law Journal*, Vol. 1, No. 2 (1986), in an article by Lester Nurick and Stephen J. Schably entitled "The first ICSID Conciliation: *Tesoro Petroleum Corporation v. Government of Trinidad and Tobago*."
[346]The decision is published in English translation in *International Legal Materials*, vol. XXIV, p. 1639 (1986) and in *ICSID Review—Foreign Investment Law Journal*, vol. 1, No. 2 (1986).
[347]English translation prepared by the Secretariat of the United Nations on the basis of a French version provided by UPU.
[348]For a brief commentary on these studies, see *Juridical Yearbook 1984*, p. 117.
[349]Convention on the World Meterological Organization, signed at Washington on 11 October 1947; United Nations, *Treaty Series*, vol. 77, p. 143.
[350]United Kingdom Command Paper No. 6677.
[351]United Kingdom Command Paper No. 7994.
[352]*International Legal Materials*, vol. XVI, p. 606.
[353]United States Treaties and Other International Agreements, vol. 31; Treaties and Other International Acts Series, No. 9605.
[354]United Nations, *Treaty Series*, vol. 828, p. 3.

[355]Ibid., vol. 825, p. 305.
[356]Ibid., vol. 828, p. 221.
[357]Ibid., vol. 496, p. 43.
[358]Ibid., vol. 866, p. 67.
[359]Ibid., vol. 1144, p. 3.
[360]WIPO/297.
[361]*International Legal Materials*, vol. XVII, p. 285.
[362]United Nations, *Treaty Series*, vol. 828, p. 389.
[363]*International Treaties on Intellectual Property*, Marshall A. Leaffer, ed. (BNA Book, 1990), p. 548.
[364]For the details of this cooperation, see "Activities in the Year 1985, Report of the Director General," document AB/XVII/2, paras. 10-533 and 713-773.
[365]See the report adopted by the Paris Union Assembly, document P/A/IX/3, 2 October 1984.
[366]See the report of the First Consultative Meeting, document PR/CM/I/3, June 1985.
[367]Documents IRM/CE/I/3 and IRM/CE/II/3.
[368]IPIC/CE/I/2.
[369]IPIC/CE/I/7.
[370]HL/CE/I/5.
[371]BIG/281.
[372]BIOT/CE/II/2.
[373]BIOT/CE/II/3.
[374]Uncoded document, UNESCO, OMPI/WIPO 1985.
[375]UNESCO/WIPO/GE/CCS/3.
[376]UNESCO/WIPO/GE/DBS/I.4.
[377]ILO/UNESCO/WIPO/ICR 10/10.
[378]UNESCO/WIPO/CGE/PC/4.
[379]AB/XVI/23, para. 128.
[380]Ibid., para. 132.
[381]Ibid., para. 159.
[382]WO/CC/XIX/4.
[383]AB/XVI/23, paras. 195, 197.
[384]General Assembly resolution 40/3, annex.
[385]WO/GA/VIII/3, para. 15.
[386]United Nations, *Treaty Series*, vol. 1059, p. 191.
[387]IFAD Governing Council, resolution on the approval of non-original members of the Fund (resolution 35/IX, dated 21 January 1986).
[388]IFAD Governing Council, resolution on the second replenishment (resolution 37/IX, dated 23 January 1986).
[389]Technical assistance grants in support of an Africa-wide Project for Biological Control of Cassava Pests through the International Institute of Tropical Agriculture (IITA), and a grant in support of a research programme on irrigation water management for the International Irrigation Management Institute (IIMI) in Sri Lanka.
[390]IFAD Governing Council, resolution on a Special Programme for Sub-Saharan African Countries affected by Drought and Desertification (resolution 38/IX, dated 23 January 1986), and resolution on the basic framework on special resources for Sub-Saharan African countries affected by drought and desertification (resolution 39/IX, dated 23 January 1986).
[391]See paragraph IV of the resolution on the second replenishment, note 388 above.
[392]IFAD Governing Council resolution on the headquarters Agreement between the Fund and the Government of Italy (resolution 40/IX, dated 24 January 1986).
[393]United Nations, *Treaty Series*, vol. 276, p. 3.
[394]United Kingdom Command Paper No. 7994.