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UNITED NATIONS JURIDICAL YEARBOOK

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

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



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

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Chapter III

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

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

1. DISARMAMENT AND RELATED MATTERS

(a) Comprehensive approaches to disarmament

(i) *United Nations disarmament bodies and their activities in 1988*

The general improvement in the international situation and the optimism regarding the United Nations itself, generated by the active role it had played in 1988 in alleviating regional conflicts and by the fact that its peacekeeping forces had been awarded the Nobel Peace Prize, led many Member States to hope that the Organization's role in disarmament would also be enhanced.

However, following the inconclusive outcome of the third special session of the General Assembly devoted to disarmament, held in 1988, the Assembly, by its resolution 43/75 R of 7 December 1988,¹ requested the Disarmament Commission to continue its consideration of the role of the United Nations in the field of disarmament as a matter of priority at its next substantive session, in 1989, with a view to the elaboration of concrete recommendations and proposals. Furthermore, the General Assembly, by its resolution 43/78 A of the same date,² while commending the Commission for its adoption by consensus of a set of principles of verification on disarmament issues and guidelines for appropriate types of confidence-building measures, called upon the Commission to persevere in its efforts to complete all outstanding items.

The two resolutions adopted on the report of the Conference on Disarmament, 43/78 M³ and 43/78 I,⁴ both of 7 December 1988, reflected the divergence of views among members of the General Assembly concerning the advisability of the Conference's conducting negotiations on all its agenda items. The General Assembly also adopted resolution 43/75 H of 7 December 1988,⁵ wherein it deemed important that all Member States make every effort to facilitate the consistent implementation of General Assembly resolutions in the field of disarmament.

Finally, the General Assembly, by its resolution 43/79 of 7 December 1988,⁶ renewed the mandate of the Ad Hoc Committee on the Indian Ocean and requested it to intensify its work and complete the remaining preparatory work relating to the Conference on the Indian Ocean to enable the convening of the Conference at Colombo in 1990.

(ii) *General and complete disarmament and the comprehensive programme of disarmament*

Although the Conference on Disarmament continued throughout the year with its efforts to negotiate the comprehensive programme of disarmament, Member States focused their attention on specific aspects and interim measures of disarmament. In this regard, the General Assembly, by its resolution 43/75 B of 7 December 1988,⁷ requested the Secretary-General to take action through the appropriate organs, within available resources, for the implementation of the action programme adopted at the International Conference on the Relationship between Disarmament and Development, and to submit a report to the General Assembly at its forty-fourth session. By resolution 43/75 G of the same date,⁸ the General Assembly recommended that all States should implement the international system for the standardized reporting of military expenditures, with the aim of achieving a realistic comparison of military budgets, and invited all Member States to communicate to the Secretary-General measures they have adopted towards those ends, for submission to the Assembly at its forty-fourth session.

The General Assembly, by its resolution 43/75 L of 7 December 1988,⁹ having examined the report of the Chairman of the Disarmament Commission on the substantive consideration of the question of the naval arms race and disarmament during the 1988 session of the Commission, requested the Commission to continue, at its forthcoming session in 1989, the substantive consideration of the question and to report on its deliberations and recommendations to the General Assembly at its forty-fourth session. The General Assembly also adopted resolution 43/75 M of 7 December 1988,¹⁰ concerning the preparations for the Third Review Conference of the Parties to the Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on Sea-Bed and the Ocean Floor and in the Subsoil Thereof.

(iii) *Verification and compliance*

In 1988, the question of verification was pre-eminent in the deliberations of the Disarmament Commission, in those of the General Assembly at its third special session devoted to disarmament and at its forty-third regular session, and in those of the Conference on Disarmament. The General Assembly, by its resolution 43/81 A of 7 December 1988,¹¹ urged all States parties to arms limitation and disarmament agreements to implement and comply with the entirety of the provisions of such agreements, and called upon all Member States to give serious consideration to the implications of non-compliance with those obligations for international security and stability, as well as for the prospects for further progress in the field of disarmament.

(b) *Nuclear disarmament*

(i) *Nuclear arms limitation and disarmament*

The General Assembly, both at its third special session and at its forty-third regular session, devoted attention to nuclear disarmament. No major progress, however, was achieved within the multilateral framework. Once again, in the Conference on Disarmament, there was no agreement to set up an ad hoc committee to deal with the item on nuclear disarmament. On the other hand, with

the entry into force in 1988 of the Treaty between the Union of Soviet Socialist Republics and the United States of America on the Elimination of Their Intermediate-Range and Shorter-Range Missiles (INF Treaty),¹² the two countries expressed their determination to achieve the full implementation of all the provisions of the Treaty.

The General Assembly, by its resolution 43/75 A of 7 December 1988,¹³ called upon the Union of Soviet Socialist Republics and the United States of America to exert every effort to achieve the goal they set themselves of a treaty on a 50 per cent reduction in strategic offensive arms as part of the process leading to the complete elimination of nuclear weapons. By its resolution 43/75 E of the same date,¹⁴ the Assembly urged the USSR and the United States, which possessed the most important nuclear arsenals, further to discharge their special responsibility for nuclear disarmament, to take the lead in halting the nuclear-arms race and to negotiate in earnest with a view to reaching early agreement on the drastic reduction of their nuclear arsenals. The General Assembly, by its resolution 43/76 B of the same date,¹⁵ urged once more the USSR and the United States, as the two major nuclear-weapon States, to agree to an immediate nuclear-arms freeze, which would, *inter alia*, 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; and called upon all nuclear-weapon States to agree, through a joint declaration, to a comprehensive nuclear-arms freeze. By its resolution 43/78 E of the same date,¹⁶ the Assembly reaffirmed that both bilateral and multilateral negotiations on the nuclear and space arms race are by nature complementary to one another; and again requested the Conference on Disarmament to establish an ad hoc committee at the beginning of its 1989 session to elaborate on paragraph 50 of the Final Document of the Tenth Special Session of the General Assembly¹⁷ and to submit recommendations to the Conference as to how it could best initiate multilateral negotiations of agreements, with adequate measures of verification. Finally, by its resolution 43/82 of the same date,¹⁸ the Assembly requested the Secretary-General to render the necessary assistance and to provide such services as may be required for the Fourth Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons and its preparation — the Conference to be convened in 1990.

(ii) *Prevention of nuclear war*

All nations have a vital interest in the negotiation of effective measures for the prevention of nuclear war, since nuclear weapons pose a unique threat to human survival. If nuclear war were to occur, in all certainty its consequences would be global, not simply national. Therefore, the scientific advances that have led to a clearer understanding of the global consequences of a major nuclear war should be pursued internationally.

The General Assembly, by its resolution 43/78 B of 7 December 1988,¹⁹ expressed the hope that those nuclear-weapon States which have not yet done so will consider making declarations with respect to not being the first to use nuclear weapons; and requested the Conference on Disarmament to commence negotiations on the item in its agenda concerning prevention of nuclear war and to consider, *inter alia*, the elaboration of an international instrument of a legally binding character laying down the obligation not to be the first to use nuclear weapons. By

its resolution 43/78 F of the same date,²⁰ the Assembly reiterated its conviction that, in view of the urgency of the matter and the inadequacy or insufficiency of existing measures, it was necessary to devise suitable steps to expedite effective action for the prevention of nuclear war; and 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 that could be negotiated and adopted individually for the prevention of nuclear war and to establish for that purpose an ad hoc committee on the subject at the beginning of its 1989 session. Finally, by its resolution 43/76 E of the same date,²¹ the Assembly, noting with regret that the Conference on Disarmament, during its 1988 session, was not able to undertake negotiations with a view to achieving agreement on an international convention prohibiting the use or threat of use of nuclear weapons under any circumstances, taking as a basis the text annexed to General Assembly resolution 41/60 F of 3 December 1986 and 42/39 C of 30 November 1987, reiterated its request to the Conference on Disarmament to commence negotiations, as a matter of priority, in order to reach agreement on an international convention prohibiting the use or threat of use of nuclear weapons under any circumstances, taking as a basis the draft Convention on the Prohibition of the Use of Nuclear Weapons annexed to resolution 43/76.

(iii) *Cessation of nuclear-weapon tests*

There was not much development in the multilateral or international forums — as compared to the bilateral negotiations between the USSR and the United States — on the cessation of nuclear testing. In other developments, one additional nuclear-weapon State — France — announced its decision to provide data to the United Nations on an annual basis on its underground nuclear tests.

The General Assembly, by its resolution 43/63 A of 7 December 1988,²² urged once more all nuclear-weapon States, in particular the three depositary Powers of the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water²³ and of the Treaty on the Non-Proliferation of Nuclear Weapons,²⁴ to seek to achieve the early discontinuance of all test explosions of nuclear weapons for all time and to expedite negotiations to this end; and appealed to all States Members of the Conference on Disarmament to promote the establishment by the Conference at the beginning of its 1989 session of an ad hoc committee with the objective of carrying out the multilateral negotiation of a treaty on the complete cessation of nuclear-test explosions. By its resolution 43/63 B of the same date,²⁵ the Assembly welcomed the submission to the Depositary Governments of the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water of an amendment proposal (banning underground nuclear tests) for consideration at a conference of the parties to the Treaty convened for that purpose in accordance with article II of the Treaty; and decided to include in the provisional agenda of its forty-fourth session an item entitled “Amendment of the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water.” Finally, the General Assembly, by its resolution 43/64 also of the same date,²⁶ reaffirmed its conviction that a treaty to achieve the prohibition of all nuclear-test explosions by all States in all environments for all time was a matter of fundamental importance; and, in that connection, urged that a comprehensive nuclear-test-ban treaty be concluded at an early date.

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

In 1988, the Conference on Disarmament continued its consideration of the question of effective security guarantees to non-nuclear-weapon States. Although new proposals and ideas were put forward in the Ad Hoc Committee, the differences in the perception of the security interests of the nuclear-weapon and the non-nuclear-weapon States were still pronounced and agreement on a common formula still eluded the Committee. Members did, however, reiterate their readiness to continue the search for such a formula for guarantees, in particular one that could be included in an international instrument of a legally binding nature.

The General Assembly, by its resolution 43/68 of 7 December 1988,²⁷ recommended that the Conference on Disarmament pursue intensive negotiations in its Ad Hoc Committee on Effective International Arrangements to Assure Non-Nuclear-Weapon States against the Use or Threat of Use of Nuclear Weapons at the beginning of its 1989 session, with a view to reaching such an agreement, taking into account the widespread support in the Conference for the conclusion of an international convention.

(v) *Nuclear-weapon-free zones*

A large number of delegations supported the concept and specific proposals in the context of regional disarmament measures and the nuclear non-proliferation regime. Along with the extensive debate on the creation of zones in Africa, the Middle East and South Asia, proposals to create zones in other regions, such as South-East Asia, the Balkans, and Northern and Central Europe, were also commented on. It was stressed that certain conditions should be met in establishing zones in order to ensure their nuclear-free status and to enhance the security both of the regions involved and the entire world. Attention was also drawn to the value of the two existing nuclear-free zones, in Latin America and the South Pacific.

The General Assembly, by its resolution 43/62 of 7 December 1988,²⁸ once more urged France not to delay ratification of the Additional Protocol I of the Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty Tlatelolco),²⁹ since France was the only one of the four States to which the Protocol was open that is not yet party to it.

By its resolution 43/66 of the same date,³⁰ the Assembly urged once again the States of South Asia to continue to make all possible efforts to establish a nuclear-weapon-free zone in South Asia and to refrain, in the meantime, from any action contrary to this objective.

By its resolution 43/71 A of the same date,³¹ the General Assembly reaffirmed that the implementation of the Declaration on the Denuclearization of Africa adopted by the Assembly of Heads of State and Government of the Organization of African Unity would be an important measure to prevent the proliferation of nuclear weapons and to promote international peace and security; called upon all States, corporations, institutions and individuals to desist from further collaboration with the racist regime of South Africa that may enable it to frustrate the objective of the Declaration; demanded once again that the racist regime refrain from manufacturing, testing, deploying, transporting, storing,

using or threatening to use nuclear weapons; and further demanded once again that South Africa submit forthwith all its nuclear installations and facilities to inspection by the IAEA. In resolution 43/71 B of the same date,³² the Assembly reaffirmed that the acquisition of nuclear-weapon capability by the racist regime of South Africa constituted a very grave danger to international peace and security and, in particular, jeopardized the security of African States and increased the danger of the proliferation of nuclear weapons; and demanded that South Africa and all other foreign interests put an immediate end to the exploration for and exploitation of uranium resources in Namibia.

Finally, by its resolution 43/80 also of the same date,³³ the Assembly demanded once more that Israel place all its nuclear facilities under IAEA safeguards; called upon all States and organizations that have not yet done so to discontinue cooperating with and giving assistance to Israel in the nuclear field; and reiterated its request to the IAEA to suspend any scientific cooperation with Israel that could contribute to its nuclear capabilities.

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

Safeguarding the non-proliferation regime and promoting cooperation in the peaceful uses of nuclear energy continued to be dominant concerns of the international community in 1988. With the conclusion of an agreement between China and the IAEA, under which some nuclear facilities in China will be placed under Agency safeguards, all five nuclear-weapon States have now arranged to submit some of their nuclear activities to IAEA safeguards.

The General Assembly, by its resolution 43/16 of 28 October 1988,³⁴ urged all States to strive for effective and harmonious international cooperation in carrying out the work of the Agency, in promoting the use of nuclear energy and the application of the necessary measures to strengthen further the safety of nuclear installations and to minimize risks to life, health and the environment; 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*

In the work of the Conference on Disarmament on the conclusion of a comprehensive ban on chemical weapons, some progress was made in certain areas, such as the definition of a chemical weapons production facility and the destruction of such facilities. Debates during the 1988 session of the Disarmament Commission and the third special session of the General Assembly devoted to disarmament highlighted the timeliness of the issue of chemical weapons. Stress was laid on the urgency of concluding a chemical weapons convention and the need to uphold the authority of the 1925 Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare.³⁵

The General Assembly, by its resolution 43/74 A of 7 December 1988,³⁶ called upon all States that have not yet done so to accede to the 1925 Geneva Protocol; urged the Conference on Disarmament to pursue as a matter of continuing urgency its negotiations on a convention on the prohibition, stockpiling and use of all chemical weapons and on their destruction; and requested the Secretary-General to carry out promptly investigations in response to reports that may be brought to his attention by any Member State concerning the possible use of chemical and bacteriological (biological) or toxin weapons that may constitute a violation of the Geneva Protocol or other rules of customary international law in order to ascertain the facts of the matter, and to report promptly the results of any such investigation to all Member States, in accordance with the procedure established by the General Assembly in its resolution 42/37 C of 30 November 1987.

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

In 1988, the prevention of an arms race in outer space continued to receive attention, both within and outside the United Nations. There was no breakthrough, however, during the year, in efforts to consolidate and reinforce the legal regime applicable to outer space, to negotiate a multilateral outer space agreement (or agreements) in the interest of international peace and security, to adopt effective provisions for verification with a view to preventing an arms race in outer space, and to promote international cooperation in the peaceful use of outer space.

The General Assembly, by its resolution 43/70 of 7 December 1988,³⁷ reaffirmed that general and complete disarmament under effective international control warrants that outer space shall be used exclusively for peaceful purposes and that it shall not become an arena for an arms race; recognized, as stated in the report of the Ad Hoc Committee of the Conference on Disarmament, that the legal regime applicable to outer space by itself did not guarantee the prevention of an arms race in outer space, and that this legal regime played a significant role in the prevention of an arms race in that environment; emphasized that further measures with appropriate and effective provisions for verification to prevent an arms race in outer space should be adopted by the international community; called upon all States, in particular those with major space capabilities, to contribute actively to the objective of the peaceful use of outer space and to take immediate measures to prevent an arms race in outer space in the interest of maintaining international peace and security and promoting international cooperation and understanding; and reiterated that the Conference on Disarmament, as the single multilateral disarmament negotiating forum, had the primary role in the negotiation of a multilateral agreement or agreements, as appropriate, on the prevention of an arms race in outer space in all its aspects.

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

There was no development in the Conference on Disarmament in 1988 regarding the general question of the prohibition of new types of weapons of mass destruction and new systems of such weapons. Issues relevant to the prohibition of radiological weapons in the traditional sense and to the prohibition

of attacks on nuclear facilities were again addressed in the Conference on Disarmament, which re-established the relevant Ad Hoc Committee. Although the work conducted in 1988 contributed further to the clarification of the differing approaches of delegations, considerable differences in substance persisted with regard to both subjects.

The General Assembly, by its resolution 43/72 of 7 December 1988,³⁸ reaffirmed that effective measures should be undertaken to prevent the emergence of new types of weapons of mass destruction, and in this regard requested the Conference on Disarmament to keep the matter under review.

By its resolution 43/75 J of the same date,³⁹ the Assembly reaffirmed that armed attacks of any kind against nuclear facilities were tantamount to the use of radiological weapons, owing to the dangerous radioactive forces that such attacks caused to be released; and requested once again the Conference on Disarmament to intensify further its efforts to reach an agreement prohibiting armed attacks against nuclear facilities.

A new item on the dumping of nuclear and industrial wastes in Africa was placed on the agenda of the General Assembly in 1988 and two resolutions, 43/75 Q⁴⁰ and 43/75 T,⁴¹ were adopted on 7 December 1988 on the subject. By both resolutions, the Conference on Disarmament was requested to take the matter into account in its ongoing negotiations for a convention on the prohibition of radiological weapons.

(d) Consideration of conventional disarmament and other approaches

(i) *Conventional weapons*

In 1988, the traditional priority accorded to nuclear-related issues remained dominant in the debates in the various international forums. At the same time, the trend of the 1980s towards devoting both increased and more immediate attention to conventional armaments and their regulation not only continued but gained momentum.

The General Assembly, by its resolution 43/67 of 7 December 1988,⁴² urged all States that have not yet done so to exert their best endeavours to become parties to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects and the three Protocols annexed thereto.⁴³

By its resolution 43/75 F of the same date,⁴⁴ the Assembly reaffirmed the importance of the efforts aimed at resolutely pursuing the limitation and gradual reduction of armed forces and conventional weapons within the framework of progress towards general and complete disarmament; believed that the military forces of all countries should not be used other than for the purpose of self-defence; and urged countries with the largest military arsenals, which bore a special responsibility in pursuing the process of conventional armaments reductions, and the Member States of the two major military alliances to conduct negotiations on conventional disarmament in earnest through appropriate forums, with a view to reaching early agreement on the limitation and gradual and balanced reduction of armed forces and conventional weapons under effective

international control in their respective regions, particularly in Europe, which had the largest concentration of arms and forces in the world.

Finally, by its resolution 43/75 S also of the same date,⁴⁵ the Assembly again expressed firm support for the United Nations system, and for the Secretary-General in particular, in efforts to find solutions to conflict situations, thereby reaffirming the primary role of the United Nations in promoting peace and disarmament, and for the strict observance of the principles and norms embodied in the Charter of the United Nations.

2. OTHER POLITICAL AND SECURITY QUESTIONS

(a) Review of the implementation of the Declaration on the Strengthening of International Security

The General Assembly, by its resolution 43/88 of 7 December 1988,⁴⁶ adopted on the recommendation of the First Committee,⁴⁷ reaffirmed the validity of the Declaration,⁴⁸ and called upon all States to contribute effectively to its implementation; urged once again all States to abide strictly, in their international relations, by their commitment to the Charter of the United Nations; expressed its conviction that the gradual military disengagement of the great Powers and their military alliances from various parts of the world should be promoted; emphasized the role that the United Nations had in the maintenance of international peace and security and in the economic and social development and progress for the benefit of all mankind; and stressed that there was a need further to enhance the effectiveness of the Security Council in discharging its principal role of maintaining international peace and security and to enhance the authority of enforcement capacity of the Council in accordance with the Charter.

(b) Comprehensive review of the whole question of peace-keeping operations in all their aspects

The General Assembly, by its resolution 43/59 A of 6 December 1988,⁴⁹ adopted on the recommendation of the Special Political Committee,⁵⁰ took note of the report of the Special Committee on Peace-keeping Operations;⁵¹ invited Member States to submit observations and suggestions to the Secretary-General by 1 March 1989 on peace-keeping operations in all their aspects, with particular emphasis on practical proposals to make these operations more effective; and requested the Secretary-General to prepare within existing resources a compilation of this information and to submit it to the Special Committee during its session in 1989.

By its resolution 43/59 B also of 6 December 1988,⁵² adopted on the recommendation of the Special Political Committee,⁵³ decided to increase the membership of the Special Committee on Peace-keeping Operations to thirty-four, adding China.

(c) Question of Antarctica

The General Assembly, by its resolution 43/83 A of 7 December 1988,⁵⁴ adopted on the recommendation of the First Committee,⁵⁵ further expressed its deep regret that the Antarctic Treaty Consultative Parties have proceeded with negotiations and adopted on 2 June 1988 a convention on the regulation of Antarctic mineral resource activities, notwithstanding General Assembly resolutions 41/88 B and 42/46 B, calling for the imposition of a moratorium on negotiations to establish a minerals regime until such time as all members of the international community could fully participate in such negotiations; and reiterated its call upon the Antarctic Treaty Consultative Parties to invite the Secretary-General or his representative to all meetings of the Treaty parties, including their consultative meetings.

By its resolution 43/83 B of the same date,⁵⁶ adopted on the recommendation of the First Committee,⁵⁷ the Assembly appealed once again to the Antarctic Treaty Consultative Parties to take urgent measures to exclude the racist apartheid regime of South Africa from participation in the meetings of the Consultative Parties at the earliest possible date.

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

The Legal Sub-Committee of the Committee on the Peaceful Uses of Outer Space held its twenty-seventh session at the United Nations Office at Geneva from 14 to 31 March 1988.⁵⁸ The Committee on the Peaceful Uses of Outer Space, at its thirty-first session, held at United Nations Headquarters from 13 to 23 June 1988, took note of the report of the Legal Subcommittee and made recommendations concerning the agenda of the Subcommittee for its twenty-eighth session.⁵⁹

In considering the agenda item on the elaboration of draft principles relevant to the use of nuclear power sources in outer space, the Legal Subcommittee re-established its Working Group on the item, which concentrated on those draft principles where consensus had not been recorded. The Committee welcomed the consensus reached on the text of a draft principle related to the applicability of international law (Principle 1). The Legal Subcommittee also re-established its Working Group on the agenda item on 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. No consensus developed during the session of the Subcommittee concerning the question of the definition and delimitation of outer space. However, the Committee noted that there was some progress made towards a convergence of views on the question of the activities of States in the utilization of the geostationary orbit.

The Committee recommended that the Legal Subcommittee should continue consideration of the above-mentioned two items at its next session. The Committee further noted that the Subcommittee had adopted by consensus a new agenda item: "Consideration of the legal aspects related to the application of the principle that the exploration and utilization of outer space should be

carried out for the benefit and in the interests of all States, taking into particular account the needs of developing countries,” and also recommended that the Subcommittee take up consideration of this item at its next session.

The General Assembly, by its resolution 43/56 of 6 December 1988,⁶⁰ adopted on the recommendation of the Special Political Committee,⁶¹ endorsed the report of the Committee on the Peaceful Uses of Outer Space, as well as the work of the Legal Subcommittee; and invited States that have not yet become parties to the international treaties governing the uses of outer space to give consideration to ratifying or acceding to those treaties.

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

(a) Environmental questions

First Special Session of the Governing Council of the United Nations Environment Programme

The First special session of the Governing Council of UNEP was held at UNEP headquarters, Nairobi, from 14 to 18 March 1988,⁶² pursuant to Governing Council decision 14/4 of 18 June 1987 and General Assembly resolution 42/185 of 11 December 1987.

By its decision SS.I/1,⁶³ entitled “Programme policy and implementation”, the Governing Council resolved to exercise fully the role expected of it, *inter alia*, with respect to the follow-up of the Environmental Perspective to the Year 2000 and Beyond,⁶⁴ approved by the General Assembly in its resolution 42/186 of 11 December 1987; with respect to the report of the World Commission on Environment and Development entitled *Our Common Future*,⁶⁵ welcomed by the General Assembly in its resolution 42/187 also of 11 December 1987; and with respect to the system-wide medium-term environment programme for the period 1990-1995, in accordance with section I, paragraph 2(b), of General Assembly resolution 2997 (XXVII) of 15 December 1972. By its decision SS.I/2, entitled “The 1990 state-of-the-environment report”, the Council decided that the topic of the state-of-the-environment report for 1990 should be “Children and the environment”, and requested the Executive Director to prepare the report in close cooperation with the United Nations Children’s Fund. Furthermore, the Governing Council, by its decision SS.I/3, approved the system-wide medium-term environment programme for the period 1990-1995, as submitted by the Administrative Committee on Co-ordination (ACC) and with amendments proposed by the Bureau. It also decided that at its fifteenth session it would provide the ACC with its views as policy guidance for a revision of the system-wide medium-term environment programme for the period 1990-1995 to be presented to the Council at its sixteenth session.

Moreover, the Council, by its decision SS.I/4, entitled "Regional and sub-regional programmes in Latin America and the Caribbean", decided that in developing the medium-term plan of the United Nations Environment Programme for the period 1990-1995, priority should continue to be given, within the oceans and coastal areas programme, to the Action Plan for the Protection of the Marine Environment and Coastal Areas of the South-East Pacific and the Action Plan for the Caribbean Environment Programme. Finally, by its decision SS.I/5, the Council noted with appreciation UNEP's involvement in and support for the Cairo Programme for African Cooperation; and urged the Executive Director to continue to give priority to the implementation of the Cairo Programme in the next three programme budgets of UNEP.

Consideration by the General Assembly

At its forty-third session, the General Assembly, by its resolution 43/196 of 20 December 1988,⁶⁶ adopted on the recommendation of the Second Committee,⁶⁷ decided to consider at its forty-fourth session the question of the convening of a United Nations conference on the environment and development no later than 1992, with a view to taking an appropriate decision at that session on the exact scope, title, venue and date of such a conference and on the modalities and financial implications of holding the conference.

Furthermore, by its resolution 43/53 of 6 December 1988,⁶⁸ adopted on the recommendation of the Second Committee,⁶⁹ the Assembly recognized that climate change was a common concern of mankind, since climate was an essential condition which sustained life on earth, endorsed the action of the World Meteorological Organization and UNEP in jointly establishing an Intergovernmental Panel on Climate Change to provide internationally coordinated scientific assessments of the magnitude, timing and potential environmental and socio-economic impact of climate change and realistic response strategies; encouraged the convening of conferences on climate change, particularly on global warming, at the regional, national and global levels in order to make the international community better aware of the importance of dealing effectively and in a timely manner with all aspects of climate change resulting from certain human activities; and called upon Governments and intergovernmental organizations to collaborate in making every effort to prevent detrimental effects on climate and activities which affected the ecological balance, and also called upon non-governmental organizations, industry and other productive sectors to play their due role.

Finally, by its resolution 43/212 of 20 December 1988,⁷⁰ adopted on the recommendation of the Second Committee,⁷¹ the Assembly urged all States, bearing in mind their respective responsibilities, to take the necessary legal and technical measures in order to halt and prevent the illegal international traffic in, and the dumping and resulting accumulation of, toxic and dangerous products and wastes; also urged all States to prohibit all transboundary movement of toxic and dangerous wastes carried out without the prior consent of the competent authorities of the importing country or without full recognition of the sovereign rights of transit countries; further urged all States in this connection to prohibit such movement without prior notification in writing of the competent authorities of all countries concerned, including transit countries, and to provide all information required to ensure the proper management of the wastes

and full disclosure of the nature of the substances to be received or transported; urged all States generating toxic and dangerous wastes to make every effort to treat and dispose of them in the country of origin to the maximum extent possible consistent with environmentally sound disposal; and requested the Ad Hoc Working Group of Legal and Technical Experts with a Mandate to Prepare a Global Convention on the Control of the Transboundary Movements of Hazardous Wastes, established by UNEP, to give due consideration to the present resolution and to take into account the various views expressed during the forty-third session of the General Assembly on the respective responsibilities for the prevention of the illegal international traffic in, and the dumping and resulting accumulation of, toxic and dangerous products and wastes.

(b) Reverse transfer of technology

The General Assembly, by its resolution 43/184 of 20 December 1988,⁷² adopted on the recommendation of the Second Committee,⁷³ convinced that the continuing outflow of skilled personnel from developing countries seriously hampered their development and had implications of global concern, took note of the outcome of the Fourth Meeting of Governmental Experts on the Reverse Transfer of Technology, held at Geneva from 14 to 18 March 1988;⁷⁴ requested the Secretary-General of the United Nations Conference on Trade and Development to make the necessary arrangements so that future work on the reverse transfer of technology could be considered by the Committee on Transfer of Technology in the context of the elaboration of its work programme; and invited other relevant organs and bodies to the United Nations system and other relevant international organizations to take into consideration in their work, as appropriate, individually and in the context of the work of the Inter-Agency Group on Reverse Transfer of Technology, the economic, social and developmental aspects of the reverse transfer of technology and international policy initiatives in this area at the multilateral level.

(c) Report of the Committee on the Development and Utilization of New and Renewable Sources of Energy

By its resolution 43/192 of 20 December 1988,⁷⁵ adopted on the recommendation of the Second Committee,⁷⁶ the General Assembly took note of the report of the Committee on the Development and Utilization of New and Renewable Sources of Energy at its fourth session,⁷⁷ and endorsed the resolutions and decision contained therein; and reaffirmed the importance of the Nairobi Programme of Action for the Development and Utilization of New and Renewable Sources of Energy⁷⁸ as the basic framework for action in that field and called for its speedy and full implementation.

(d) Report of the Trade and Development Board

The General Assembly, by its resolution 43/188 of 20 December 1988,⁷⁹ adopted on the recommendation of the Second Committee,⁸⁰ noting that the 1988 Trade and Development Report⁸¹ had made a constructive contribution to the consideration by the Trade and Development Board, at the first part of

its thirty-fifth session, of the interdependence of problems of trade, development finance and the international monetary system, as well as to the Board's consideration of the debt and development problems of the developing countries; took note of the report of the Trade and Development Board on the second part of its thirty-fourth session,⁸² and the first part of its thirty-fifth session;⁸³ welcomed the review of the implementation of the guidelines contained in the annex to Board Resolution 222 (XXI) of 27 September 1980⁸⁴ undertaken by the Board at its thirty-fifth session and urged the Governments concerned to implement fully the relevant provisions contained in Board Resolution 358 (XXXV) of 5 October 1988;⁸⁵ and further urged all Governments, bearing in mind their particular contributions, commensurate with their economic weight, and their commitments as embodied in the Final Act,⁸⁶ to give full and prompt effect to the policies and measures agreed to therein through continuing action, individually and collectively and in competent international organizations, in pursuit of the objective of revitalizing development, growth and international trade. The Assembly also stressed that it was important that the Uruguay Round of multilateral trade negotiations respond positively to the interests and concerns of all parties thereto, in accordance with its objectives, and that it promote growth and development, particularly in developing countries; and invited the Board to continue to follow closely developments and issues in the Uruguay Round that are of particular concern to the developing countries.

(e) External debt crisis and development: towards a durable solution of the debt problem

By its resolution 43/198 of 20 December 1988,⁸⁷ adopted on the recommendation of the Second Committee,⁸⁸ the General Assembly expressed its appreciation to the Secretary-General for his involvement in the debt issue and for his report entitled "Towards a durable solution of the debt problem";⁸⁹ stressed that a supportive international economic environment, together with a growth-oriented development approach, was needed for supporting the efforts of debtor developing countries in dealing with their external indebtedness and alleviating the political and social costs of structural adjustment programmes and adjustment fatigue, thus contributing to the restoration of their economic growth, development and credit-worthiness; urged the international community to continue to search, through dialogue and shared responsibility, for a durable, equitable and mutually agreed growth-oriented and development-oriented solution to the external indebtedness of developing countries; and invited the multilateral financial institutions to continue to review conditionality criteria, taking into account, *inter alia*, social objectives, growth and development priorities of developing countries and changing conditions of the world economy, and stressed further the need for increased cooperation between the International Monetary Fund, the World Bank and other multilateral financial institutions, which should not lead to cross-conditionality.

(f) Examination of the long-term trends in economic and social development

The General Assembly, by its resolution 43/194 of 20 December 1988,⁹⁰ adopted on the recommendation of the Second Committee,⁹¹ took note with interest of the report of the Secretary-General on the overall socio-economic perspective of the world economy to the year 2000.⁹²

(g) International drug control

Status of international instruments

In the course of 1988, two more States became parties to the 1961 Single Convention on Narcotic Drugs,⁹³ bringing the total number of States parties to 118; three more States became parties to the 1971 Convention on Psychotropic Substances,⁹⁴ bringing the total to 92; one more State became a party to the 1972 Protocol amending the Single Convention on Narcotic Drugs, 1961,⁹⁵ bringing the total to 82; three 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, 1961,⁹⁶ bringing the total to 83; and no State became a party to the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances,⁹⁷ the Convention having been adopted by a United Nations Conference for its adoption, held in Vienna, from 25 November to 20 December 1988.

Consideration by the General Assembly

By its resolution 43/121 of 8 December 1988,⁹⁸ adopted on the recommendation of the Third Committee,⁹⁹ the General Assembly strongly condemned drug trafficking in all its forms, particularly those criminal activities which involved children in the use, production and illicit sale of narcotic drugs and psychotropic substances; urged all States to join together in order to establish national and international programmes to protect children from illicit consumption of drugs and psychotropic substances and from involvement in illicit production and trafficking; and appealed to competent international agencies and the United Nations Fund for Drug Abuse Control to assign high priority to financial support for prevention campaigns and programmes to rehabilitate drug-addicted minors conducted by government bodies dealing with such matters.

The General Assembly, by its resolution 43/122 also of 8 December 1988,¹⁰⁰ adopted on the recommendation of the Third Committee,¹⁰¹ took note of the report of the Secretary-General on the international campaign against drug abuse and illicit trafficking,¹⁰² and reiterated its condemnation of international drug trafficking as a criminal activity, and encouraged all States to continue to demonstrate the political will to enhance international cooperation to stop illicit trafficking in narcotic drugs and psychotropic substances, including illicit production and consumption. The Assembly also took note of the report of the Secretary-General relating to the International Conference on Drug Abuse and Illicit Trafficking;¹⁰³ urged Governments and organizations to adhere to the principles

set forth in the Declaration of the International Conference on Drug Abuse and Illicit Trafficking¹⁰⁴ and to utilize the recommendations of the Comprehensive Multidisciplinary Outline of Future Activities in Drug Abuse Control¹⁰⁵ in developing national and regional strategies, particularly to promote bilateral, regional and international cooperative arrangements; and requested the Secretary-General, within the available resources, to review current information systems in the United Nations drug control units and to develop an information strategy and submit it, with its financial implications, to the Commission on Narcotic Drugs at its thirty-third session.

(h) Crime prevention and criminal justice

The General Assembly, by its resolution 43/99 of 8 December 1988,¹⁰⁶ adopted on the recommendation of the Third Committee,¹⁰⁷ took note with appreciation of the report of the Secretary-General on the implementation of its resolution 42/59 of 30 November 1987¹⁰⁸ and of the relevant recommendations contained therein made by the Committee on Crime Prevention and Control at its tenth session, during which, *inter alia*, it reviewed the results of the interregional preparatory meetings for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders and endorsed the recommendations; and welcomed the efforts made by Member States and the Secretary-General to translate into action the recommendations contained in the Milan Plan of Action, adopted by the Seventh Congress, and urged those Governments which had not yet done so to provide relevant information to the Secretary-General on the implementation of those recommendations. The Assembly further called upon the specialized agencies, in particular, the International Labour Organization, the United Nations Educational, Scientific and Cultural Organization, the World Health Organization, the International Civil Aviation Organization and the International Maritime Organization and other organizations of the United Nations system to give the necessary attention and priority to national, regional and international measures aimed at fighting crime and improving the quality of the administration of justice; invited Member States to contribute to the United Nations Trust Fund for Social Defence as a means of supporting the work of the United Nations in the field of crime prevention and criminal justice and to forward to the Secretary-General proposals for its revitalization; and encouraged Member States and relevant organizations, in particular, the World Bank, the United Nations Development Programme, the Department of Technical Co-operation for Development of the Secretariat and the regional commissions to support and complement the technical cooperation activities in the field of crime prevention and criminal justice, including the programmes of the United Nations for interregional and regional cooperation for crime prevention, and to provide financial assistance to the regional institutes for the prevention of crime and the treatment of offenders.

(i) Office of the United Nations High Commissioner
for Refugees (UNHCR)¹⁰⁹

During the reporting period, following an agreement signed between Afghanistan and Pakistan in April 1988 UNHCR was requested to cooperate and provide assistance in the repatriation of Afghan refugees. In South-East Asia,

Hong Kong was the first in the region to institute a refugee determination procedure for Vietnamese arrivals, and UNHCR was involved in the setting up of those procedures and closely monitored their implementation. Moreover, several hundred applications from Vietnamese people wishing to return home were received by UNHCR, which on 13 December 1988, concluded a memorandum of understanding with the Socialist Republic of Viet Nam on the matter.

Africa witnessed large movements of voluntary repatriation organized under the auspices of UNHCR. Additionally, in accordance with Security Council resolution 435 (1978) and other relevant Security Council resolutions, arrangements were made for the repatriation of Namibian refugees, and the process commenced during the reporting period.

The situation of refugees in Central America continued to be of concern to UNHCR. The region continued to see an outflow of refugees, the majority of whom were concentrated in camps and not usually granted the full treatment outlined in the provisions of the 1951 Convention relating to the Status of Refugees.¹¹⁰ The refugee problem in Central America was addressed at the Esquipulas II Summit Meetings.¹¹¹ Moreover, the Special Plan of Economic Cooperation for Central America, adopted by the General Assembly in 1988,¹¹² made assistance to refugees, returnees and displaced persons a "priority" and recognized that, unless the conditions for development in the area were created, there would be no long-term solutions to refugee problems in Central America.

In Europe and North America, important changes occurred, during the reporting period, in national legislation relating to asylum-seekers and refugees in a number of countries in the region. In view of those new legal developments, several countries requested the assistance of UNHCR in training officials dealing with requests for asylum. Furthermore, UNHCR has continued to attach high priority to dialogue within governmental and regional forums in order to ensure that efforts at harmonization of asylum policies within the European Community were based on internationally accepted humanitarian standards and principles.

Consideration by the General Assembly

By its resolution 43/117 of 8 December 1988,¹¹³ adopted on the recommendation of the Third Committee,¹¹⁴ the General Assembly strongly reaffirmed the fundamental nature of the function of the United Nations High Commissioner for Refugees to provide international protection and the need for Governments to cooperate fully with his Office in order to facilitate the effective exercise of this 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*; and condemned all violations of the rights and safety of refugees and asylum-seekers, in particular, those perpetrated by military or armed attacks against refugee camps and settlements and other forms of violence. The Assembly further noted the close connection between the problems of refugees and of stateless persons and invited States actively to explore and promote measures favourable to stateless persons in accordance with international law; recognized the importance of fair and expeditious procedures for determining refugee status and/or granting asylum in order, *inter alia*, to protect refugees and asylum-seekers from unjustified or unduly pro-

longed detention or stay in camps, and urged States to establish such procedures; and also recognized the importance of achieving durable solutions to refugee problems and, in particular, the need to address in this process the root causes of refugee movements in order to avert new flows of refugees, taking into account the report of the Group of Governmental Experts on International Cooperation to Avert New Flows of Refugees,¹¹⁵ and to facilitate the solution of existing problems. The Assembly further recognized with appreciation the work done by the High Commissioner to put into practice the concept of development-oriented assistance to refugees and returnees, as initiated at the Second International Conference on Assistance to Refugees in Africa¹¹⁶ and reaffirmed in the Oslo Declaration and Plan of Action adopted by the International Conference on the Plight of Refugees, Returnees and Displaced Persons in Southern Africa,¹¹⁷ urged the High Commissioner to continue that process, wherever appropriate, in full cooperation with appropriate international agencies, and further urged Governments to support those efforts; and welcomed the various initiatives undertaken by the High Commissioner in regard to the promotion and dissemination of the principles of refugee law and protection and called upon his Office, in cooperation with Governments, to intensify its activities in this area, bearing in mind the need, in particular, to develop practical applications of refugee law and principles and to continue to organize training courses for governmental and other officials involved in refugee activities.

(j) Human rights questions

(1) *Status and implementation of international instruments*

(i) *International Covenants on Human Rights*

In 1988, one State became a party to the International Covenant on Economic, Social and Cultural Rights (1966),¹¹⁸ bringing the total number of States parties to 90; no State became a party to the International Covenant on Civil and Political Rights (1966),¹¹⁹ letting stand the total number of States parties at 85; and three more States became parties to the Optional Protocol to the International Covenant on Civil and Political Rights (1966),¹²⁰ bringing the total to 43.

The General Assembly, by its resolution 43/114 of 8 December 1988,¹²¹ adopted on the recommendation of the Third Committee,¹²² took note with appreciation of the report of the Human Rights Committee on its thirty-first, thirty-second and thirty-third sessions.¹²³

(ii) *Convention on the Elimination of All Forms of Discrimination against Women (1979)*¹²⁴

In 1988, one State became a party to the Convention, bringing the total number of States parties to 93.

The General Assembly, by its resolution 43/100 of 8 December 1988,¹²⁵ adopted on the recommendation of the Third Committee,¹²⁶ took note with concern of the declining rate of ratification of or accession to the Convention; also took note of the report of the Secretary-General on the status of the Convention;¹²⁷ and emphasized the importance of the strictest compliance by States parties with their obligations under the Convention.

(iii) *International Convention on the Elimination of All Forms of Racial Discrimination (1966)*¹²⁸

In 1988, three more States became parties to the Convention, bringing the total to 125.

By its resolution 43/95 of 8 December 1988,¹²⁹ adopted on the recommendation of the Third Committee,¹³⁰ the General Assembly took note of the report of the Secretary-General on the status of the Convention.¹³¹

(iv) *International Convention on the Suppression and Punishment of the Crime of Apartheid (1973)*¹³²

In 1988, two States became parties to the Convention, bringing the total number of States parties to 65.

The General Assembly, by its resolution 43/97 of 8 December 1988,¹³³ adopted on the recommendation of the Third Committee,¹³⁴ took note of the report of the Secretary-General on the status of the Convention;¹³⁵ appealed once again to those States which had not yet done so to ratify or to accede to the Convention without further delay, in particular, those States which had jurisdiction over transnational corporations operating in South Africa and Namibia and without whose cooperation such operations could not be halted; and drew the attention of all States to the opinion expressed by the Group of Three in its report that transnational corporations operating in South Africa and Namibia must be considered accomplices in the crime of apartheid in accordance with article III(b) of the Convention.

(v) *Convention on the Prevention and Punishment of the Crime of Genocide (1948)*¹³⁶

In 1988, two more States became parties to the Convention, bringing the total to 98.

By its resolution 43/138 of 8 December 1988,¹³⁷ adopted on the recommendation of the Third Committee,¹³⁸ the General Assembly took note of the report of the Secretary-General.¹³⁹

(vi) *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)*¹⁴⁰

In 1988, ten more States became parties to the Convention, bringing the total number of States parties to 37.

The General Assembly, by its resolution 43/132 of 8 December 1988,¹⁴¹ adopted on the recommendation of the Third Committee,¹⁴² took note with appreciation of the report of the Secretary-General on the status of the Convention.¹⁴³

(2) *Reporting obligations of States parties to international instruments on Human Rights and effective functioning of bodies established pursuant to such instruments*

By its resolution 43/115 of 8 December 1988,¹⁴⁴ adopted on the recommendation of the Third Committee,¹⁴⁵ the General Assembly, taking note of the con-

clusions and recommendations of the meeting of persons chairing the Human Rights treaty bodies, held at Geneva from 10 to 14 October 1988,¹⁴⁶ once again urged States parties to international instruments on human rights with reports overdue to make every effort to present their reports as soon as possible and to take advantage of opportunities whereby such reports could be consolidated; and requested the Secretary-General to consider, as a matter of priority, the finalization of the detailed reporting manual to assist States parties in the fulfillment of their reporting obligations and to allow each of the treaty bodies the opportunity to comment on the draft manual.

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

The General Assembly, by its resolution 43/112 of 8 December 1988,¹⁴⁷ adopted on the recommendation of the Third Committee,¹⁴⁸ requested the Commission on Human Rights to give the highest priority to the draft convention on the rights of the child and to make every effort at its session in 1989 to complete it and to submit it, through the Economic Social Council, to the General Assembly at the forty-fourth session.

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

The General Assembly, by its resolution 43/146 of 8 December 1988,¹⁴⁹ adopted on the recommendation of the Third Committee,¹⁵⁰ took note with satisfaction of the two most recent reports of the Working Group on the Drafting of an International Convention on the Protection of the Rights of All Migrant Workers and Their Families¹⁵¹ and, in particular, of the progress made by the Working Group on the drafting, in second reading, of the draft convention.

(5) *Human rights and scientific and technological developments: the right to life*

By its resolution 43/111 of 8 December 1988,¹⁵² adopted on the recommendation of the Third Committee,¹⁵³ the General Assembly reaffirmed that all people have an inherent right to life; and called upon all States, appropriate United Nations bodies, the specialized agencies and intergovernmental and non-governmental organizations concerned to take the necessary measures to ensure that the results of scientific and technological progress, the material and intellectual potential of mankind, are used for the benefit of mankind and for promoting and encouraging universal respect for human rights and fundamental freedoms.

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

The General Assembly, by its resolution 43/110 of 8 December 1988,¹⁵⁴ adopted on the recommendation of the Third Committee,¹⁵⁵ 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,¹⁵⁶ in order to promote human rights and fundamental freedoms; called upon all States to make every effort to use the achievements of science and technology in order to promote peaceful social, economic and cultural development and progress and to put an

end to the use of those achievements for military purposes; and also called upon States to take all necessary measures to place all the achievements of science and technology at the service of mankind and to ensure that they did not lead to the degradation of the natural environment.

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

The General Assembly, by its resolution 43/105 of 8 December 1988,¹⁵⁷ adopted on the recommendation of the Third Committee,¹⁵⁸ 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 effective guarantee and observance of human rights and for the preservation and promotion of such rights; and requested the Commission on Human Rights to continue to give special attention to the violation of human rights, especially the right to self-determination, resulting from foreign military intervention, aggression or occupation.

(8) *Right to development*

By its resolution 43/127 of 8 December 1988,¹⁵⁹ adopted on the recommendation of the Third Committee,¹⁶⁰ the General Assembly having considered the report of the Working Group of Governmental Experts on the Right of Development,¹⁶¹ and all other relevant documents submitted to it at its forty-third session, endorsed the agreement reached by the Commission that future work on the question of the right to development should proceed step by step and in stages; and called upon the Working Group, at its twelfth session, to study the analytical compilation to be prepared by the Secretary-General of all replies received in response to Commission resolution 1988/26, if necessary together with the individual replies themselves, and to submit to the Commission at its forty-fifth session its final recommendations on those proposals which would best contribute to the further enhancement and implementation of the Declaration on the Right to Development¹⁶² at the individual, national and international levels, and especially on the views of the Secretary-General and of Governments on the means of establishing an evaluation system on the implementation and further enhancement of the Declaration.

(9) *The impact of property on the enjoyment of human rights and fundamental freedoms*

By its resolution 43/124 of 8 December 1988,¹⁶³ adopted on the recommendation of the Third Committee,¹⁶⁴ the General Assembly took note of the report of the Secretary-General;¹⁶⁵ and called upon States to ensure that their national legislation with regard to all forms of property shall preclude any impairment of the enjoyment of human rights and fundamental freedoms, without prejudice to their right freely to choose and develop their political, social, economic and cultural systems.

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

The General Assembly, by its resolution 43/153 of 8 December 1988,¹⁶⁶ adopted on the recommendation of the Third Committee,¹⁶⁷ reaffirmed the importance of the full implementation of United Nations norms and standards on

human rights in the administration of justice; urged Member States to develop strategies for the practical implementation of those standards, in particular: (a) to adopt in national legislation and practice existing international standards relating to human rights in the administration of justice, and to make them available to all persons concerned, (b) to design realistic and effective mechanisms for the full implementation of those standards and to provide the necessary administrative and judicial structures for their continuous monitoring, (c) to devise measures to promote the observance of those standards, as well as public awareness about their important role, in particular, through their widespread dissemination and through educational and promotional activities, (d) to include, where appropriate, references to the implementation of those standards in their reports under the various international human rights instruments, and to increase, as far as possible, their support to technical cooperation and advisory services at all levels for the more effective implementation of those standards, either directly or through international funding agencies such as the United Nations Development Programme, when developing countries include specific projects in their country programmes.

(11) *International cooperation in solving international problems of a social, cultural or humanitarian character, and in promoting and encouraging universal respect for, and observance of, human rights and fundamental freedoms*

The General Assembly, by its resolution 43/155 of 8 December 1988,¹⁶⁸ adopted on the recommendation of the Third Committee,¹⁶⁹ called upon Member States to implement fully the universally recognized standards for the protection and promotion of human rights enshrined, in particular, in the Charter of the United Nations, the Universal Declaration of Human Rights,¹⁷⁰ the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and other relevant international instruments; urged all States to cooperate fully with the relevant bodies of the United Nations system as well as other intergovernmental forums dealing with the protection and promotion of human rights and fundamental freedoms in any part of the world; and considered that a world public information campaign on human rights would contribute to the promotion and improvement of understanding of human rights.

(12) *Regional arrangements for the promotion and protection of human rights*

The General Assembly, by its resolution 43/152 of 8 December 1988,¹⁷¹ adopted on the recommendation of the Third Committee,¹⁷² took note of the report of the Secretary-General;¹⁷³ noted with interest that various contacts between regional bodies and commissions and the United Nations have continued to be pursued and strengthened through advisory services and technical assistance activities, particularly, those relating to the organization of regional and subregional training courses in the field of human rights; and requested the Secretary-General to continue to consider the possibility of encouraging those developments; and invited States in areas where regional arrangements in the field of human rights did not yet exist to consider concluding agreements with a view to the establishment within their respective regions of suitable regional machinery for the promotion and protection of human rights.

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

There were two resolutions addressing this issue: 43/125¹⁷⁴ and 43/126,¹⁷⁵ both dated 8 December 1988 and adopted on the recommendations of the Third Committee.¹⁷⁶ In resolution 43/126, the General Assembly stressed that the achievement of the right to development required a concerted international and national effort to eliminate economic deprivation, hunger and disease in all parts of the world without discrimination, in accordance with the Declaration and the Programme of Action on the Establishment of a New International Economic Order,¹⁷⁷ the International Development Strategy for the Third United Nations Development Decade¹⁷⁸ and the Charter of Economic Rights and Duties of States.¹⁷⁹

(k) *Implementation of the International Plan of Action on Aging and related activities*

The General Assembly, by its resolution 43/93 of 8 December 1988,¹⁸⁰ adopted on the recommendation of the Third Committee,¹⁸¹ recalling its resolution 37/51 of 3 December 1982, by which it endorsed the International Plan of Action on Aging, adopted by consensus by the World Assembly on Aging,¹⁸² took note of the report of the Secretary-General on the question of aging,¹⁸³ expressed its satisfaction that the International Institute on Aging had been established in Malta in cooperation with the United Nations and was officially inaugurated by the Secretary-General on 15 April 1988; stressed the imperative need to increase the impetus of the implementation of the Plan of Action at national, regional and international levels, and appealed for resources to be provided commensurate with the requirements; urged the Secretary-General, in compliance with the views of Member States as reflected in his report, to maintain and strengthen the existing programmes on aging and to strengthen the United Nations system-wide coordination of policies and programmes on aging, with the Centre for Social Development and Humanitarian Affairs continuing in its role as focal point in the United Nations system for activities relating to aging; and requested the Commission on the Status of Women to pay particular attention to the specific problems faced by elderly women and to the discrimination suffered by those women because of their sex and age.

(l) *Question of youth*

By its resolution 43/94 of 8 December 1988,¹⁸⁴ adopted on the recommendation of the Third Committee,¹⁸⁵ the General Assembly requested the Secretary-General to promote and monitor intensively, by using the Centre for Social Development and Humanitarian Affairs of the Secretariat as a focal point, the inclusion of youth-related projects and activities in the programmes of the United Nations bodies and of the specialized agencies, specifically, on such themes as communication, health, housing, culture, youth employment and education; and called upon Member States, United Nations bodies, the specialized agencies and other governmental and intergovernmental organizations to implement fully the guidelines relating to the channels of communication adopted by the General Assembly in its resolutions 32/135 of 16 December 1977 and 36/17 of 9 December 1981, not only in general terms but also by concrete measures that take into account the issues of importance to young people.

(m) New International Humanitarian Order

The General Assembly, by its resolution 43/129 of 8 December 1988,¹⁸⁶ adopted on the recommendation of the Third Committee,¹⁸⁷ taking note of the report of the Secretary-General,¹⁸⁸ and convinced of the need for an active follow-up to the recommendations and suggestions made by the Independent Commission and of the importance of the role being played in this regard by the Independent Bureau for Humanitarian Issues set up for that purpose, decided to review at its forty-fifth session the question of a new international humanitarian order.

4. LAW OF THE SEA

*Status of the United Nations Convention on the Law of the Sea (1982)*¹⁸⁹

As of 31 December 1988, there were 158 signatories to the Convention, and 37 States and the United Nations Council for Namibia had ratified the Convention.

*Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea*¹⁹⁰

The Preparatory Commission met twice during 1988. It held its sixth session at Kingston, Jamaica, from 14 March to 8 April, and a meeting in New York from 15 August to 2 September.

At its sixth session, the Preparatory Commission focused its attention on the obligations of the pioneer investors and the certifying States of the International Seabed Authority (India, France, Japan and the USSR were registered in 1987), establishing an informal consultative group to deal with the obligations that flowed from registration under resolution II of the Third United Nations Conference on the Law of the Sea.

The plenary of the Commission completed consideration of the draft rules of procedure of the Legal and Technical Commission and of the Economic Planning Commission, and provisionally approved all of them with a few exceptions. Moreover, the four Special Commissions continued their work in their respective substantive areas, i.e., studies on the problems encountered by the developing land-based producer States likely to be most seriously affected by seabed mineral production; establishment of the Enterprise, the operational arm of the Authority; draft regulations on the transfer of technology; preparation of recommendations regarding arrangements for the establishment of the International Tribunal for the Law of the Sea.

Regarding the International Tribunal for the Law of the Sea, the delegation of the Federal Republic of Germany communicated to the Special Representative of the Secretary-General for the Law of the Sea its intention to hold an international architectural competition for the construction and design of the building to house the International Tribunal in Hamburg.

The report of the Secretary-General further provided in its part two an overview of the activities of the United Nations Office for Ocean Affairs and the Law of the Sea, which, *inter alia*, served as the secretariat for the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea.

Consideration by the General Assembly

By its resolution 43/18 of 1 November 1988,¹⁹¹ adopted without reference to a Main Committee,¹⁹² the General Assembly called upon all States that had not done so to consider ratifying or acceding to the Convention at the earliest possible date to allow the effective entry into force of the new legal regime for the uses of the sea and its resources; further called upon States to observe the provisions of the Convention when enacting their national legislation; also called upon States to desist from taking actions which undermined the Convention or defeated its object and purpose; and noted the progress being made by the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea in all areas of its work.

5. INTERNATIONAL COURT OF JUSTICE^{193 194}

Cases before the Court¹⁹⁵

A. CONTENTIOUS CASES BEFORE THE FULL COURT

(i) *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*¹⁹⁶

After having ascertained the views of the Government of Nicaragua and having afforded the Government of the United States of America an opportunity of stating its views, the Court, by an Order of 18 November 1987 (*I.C.J. Reports 1987*, p. 188), fixed time limits for written proceedings on the question of the form and amount of reparation to be made in the case, namely, 29 March 1988 for a Memorial of Nicaragua and 29 July 1988 for a Counter-Memorial of the United States.

The Memorial of the Republic of Nicaragua was duly filed on 29 March 1988. The United States of America did not file a Counter-Memorial within the prescribed time limit.

(ii) *Border and Transborder Armed Actions (Nicaragua v. Honduras)*¹⁹⁷

On 21 March 1988 Nicaragua filed a request for the indication of interim measures of protection. By a letter of 31 March 1988, however, Nicaragua withdrew its request. The President of the Court, on that same day, made an Order recording the withdrawal (*I.C.J. Reports 1988*, p. 9).

At the request of Honduras, and with the agreement of Nicaragua, 6 June 1988 was fixed for the opening of the oral proceedings on the issues of jurisdiction and admissibility. At six public sittings, held between 6 and 15 June 1988, statements were made on behalf of Honduras and of Nicaragua.

At a public sitting held on 20 December 1988 the Court delivered a Judgment on its jurisdiction and the admissibility of the Application (*I.C.J. Reports 1988*, p. 69). An analysis of the Judgment is given below, followed by the text of the operative clause.

Proceedings and submissions of the Parties (paras. 1-15)

The Court began by recapitulating the various stages in the proceedings, recalling that the case concerned a dispute between Nicaragua and Honduras regarding the alleged activities of armed bands, said to be operating from Honduras, on the border between Honduras and Nicaragua and in Nicaraguan territory. At the suggestion of Honduras, agreed to by Nicaragua, the current phase of the proceedings was devoted, in accordance with an Order made by the Court on 22 October 1986, solely to the issues of the jurisdiction of the Court and the admissibility of the Application.

Burden of proof (para. 16)

I. *The question of the jurisdiction of the Court to entertain the dispute* (paras. 17-48)

A. *The two titles of jurisdiction relied on* (paras. 17-27)

Nicaragua referred, as the basis of the jurisdiction of the Court, to “the provisions of article XXXI of the Pact of Bogotá and to the Declarations made by the Republic of Nicaragua and by the Republic of Honduras respectively, accepting the jurisdiction of the Court as provided for in Article 36, paragraphs 1 and 2, respectively of the Statute”.

Article XXXI of the Pact of Bogotá provides as follows:

“In conformity with Article 36, paragraph 2, of the Statute of the International Court of Justice, the High Contracting Parties declare that they recognize, in relation to any other American State, the jurisdiction of the Court as compulsory *ipso facto*, without the necessity of any special agreement so long as the present Treaty is in force, in all disputes of a juridical nature that arise among them concerning:

- (a) The interpretation of a treaty;
- (b) Any question of international law;
- (c) The existence of any fact which, if established, would constitute the breach of an international obligation;
- (d) The nature or extent of the reparation to be made for the breach of an international obligation.”

The other basis of jurisdiction relied on by Nicaragua was constituted by the declarations of acceptance of compulsory jurisdiction made by the Parties

under Article 36 of the Statute of the Court. Nicaragua claimed to be entitled to found jurisdiction on a Honduran Declaration of 20 February 1960, while Honduras asserted that that Declaration had been modified by a subsequent Declaration, made on 22 May 1986 and deposited with the Secretary-General of the United Nations prior to the filing of the Application by Nicaragua.

Since in relations between the States parties to the Pact of Bogotá, that Pact is governing, the Court first examined the question whether it had jurisdiction under article XXXI of the Pact.

B. *The Pact of Bogotá* (paras. 28-47)

Honduras maintained in its Memorial that the Pact “does not provide any basis for the jurisdiction of the ... Court” and put forward two series of arguments in support of that statement.

(i) *Article XXXI of the Pact of Bogotá* (paras. 29-41)

First, its interpretation of article XXXI of the Pact was that, for a State party to the Pact which has made a declaration under Article 36, paragraph 2, of the Statute, the extent of the jurisdiction of the Court under article XXXI of the Pact was determined by that declaration, and by any reservations appended to it. It also maintained that any modification or withdrawal of such a declaration which was valid under Article 36, paragraph 2, of the Statute was equally effective under article XXXI of the Pact. Honduras had, however, given two successive interpretations of Article XXXI, claiming initially that to afford jurisdiction it must be supplemented by a declaration of acceptance of compulsory jurisdiction and subsequently that it could be so supplemented but need not be.

The Court considered that the first interpretation advanced by Honduras — that article XXXI must be supplemented by a declaration — was incompatible with the actual terms of the article. As regards the second Honduran interpretation, the Court noted the two readings of article XXXI proposed by the Parties: as a treaty provision conferring jurisdiction in accordance with Article 36, paragraph 1, of the Statute or as a collective declaration of acceptance of compulsory jurisdiction under paragraph 2 of that Article. Even on the latter interpretation, however, the declaration, having been incorporated into the Pact of Bogotá, could only be modified in accordance with the rules provided for in the Pact itself. However, article XXXI nowhere envisaged that the undertaking entered into by the parties to the Pact might be amended by means of a unilateral declaration made subsequently under the Statute, and the reference to Article 36, paragraph 2, of the Statute was insufficient in itself to have that effect.

The fact that the Pact defined with precision the obligations of the parties lent particular significance to the absence of any indication of that kind. The commitment in article XXXI applied *ratione materiae* to the disputes enumerated in that text; it related *ratione personae* to the American States parties to the Pact; it remained valid *ratione temporis* for as long as that instrument itself remained in force between those States. Moreover, some provisions of the Treaty (arts. V, VI and VII) restricted the scope of the parties’ commitment. The commitment in article XXXI could only be limited by means of reservations to the Pact itself, under article LV thereof. It was an autonomous commitment, independent of any other which the parties might have undertaken or might undertake by depositing with the United Nations Secretary-General a declaration of

acceptance of compulsory jurisdiction under Article 36, paragraphs 2 and 4, of the Statute.

Further confirmation of the Court's reading of article XXXI was to be found in the *travaux préparatoires* of the Bogotá Conference. The text which was to become article XXXI was discussed at the meeting of Committee III of the Conference held on 27 April 1948. It was there accepted that, in their relations with the other parties to the Pact, States which wished to maintain reservations included in a declaration of acceptance of compulsory jurisdiction would have to reformulate them as reservations to the Pact. That solution was not contested in the plenary session, and article XXXI was adopted by the Conference without any amendments on the point. That interpretation, moreover, corresponded to the practice of the parties to the Pact since 1948. They had not, at any time, linked together article XXXI and the declarations of acceptance of compulsory jurisdiction made under Article 36, paragraphs 2 and 4, of the Statute.

Under these circumstances, the Court had to conclude that the commitment in article XXXI of the Pact was independent of such declarations of acceptance of compulsory jurisdiction as might have been made under Article 36, paragraph 2, of the Statute. The Honduran argument as to the effect of the reservation to its 1986 Declaration on its commitment under article XXXI of the Pact therefore could not be accepted.

(ii) *Article XXXII of the Pact of Bogotá* (paras. 42-47)

The second objection of Honduras to jurisdiction was based on article XXXII of the Pact of Bogotá, which reads as follows:

“When the conciliation procedure previously established in the present Treaty or by agreement of the parties does not lead to a solution, and the said parties have not agreed upon an arbitral procedure, either of them shall be entitled to have recourse to the International Court of Justice in the manner prescribed in Article 40 of the Statute thereof. The Court shall have compulsory jurisdiction in accordance with Article 36, paragraph 1, of the said Statute.”

It was the contention of Honduras that articles XXXI and XXXII must be read together. The first was said to define the extent of the Court's jurisdiction and the second to determine the conditions under which the Court might be seised. According to Honduras it followed that the Court could only be seised under article XXXI if, in accordance with article XXXII, there had been a prior recourse to conciliation and lack of agreement to arbitrate, which was not the situation in the present case. Nicaragua on the other hand contended that article XXXI and article XXXII were two autonomous provisions, each of which conferred jurisdiction upon the Court in the cases for which it provided.

Honduras's interpretation of article XXXII ran counter to the terms of that article. Article XXXII makes no reference to Article XXXI; under that text the parties have, in general terms, an entitlement to have recourse to the Court in cases where there has been an unsuccessful conciliation. It is, moreover, quite clear from the Pact that the purpose of the American States in drafting it was to reinforce their mutual commitments with regard to judicial settlement. This was also confirmed by the *travaux préparatoires* of the Bogotá Conference: the

Subcommittee which had prepared the draft took the position “that the principal procedure for the peaceful settlement of conflicts between the American States had to be judicial procedure before the International Court of Justice”. Honduras’s interpretation would however imply that the commitment, at first sight firm and unconditional, set forth in article XXXI would, in fact, be emptied of all content if, for any reason, the dispute were not subjected to prior conciliation. Such a solution would be clearly contrary to both the object and the purpose of the Pact. In short, articles XXXI and XXXII provide for two distinct ways by which access may be had to the Court. The first relates to cases in which the Court can be seised directly and the second to those in which the parties initially resort to conciliation. Nicaragua was currently relying upon article XXXI, not article XXXII.

C. *Finding* (para. 48)

Article XXXI of the Pact of Bogotá thus conferred jurisdiction upon the Court to entertain the dispute submitted to it. For that reason, the Court did not need to consider whether it might have jurisdiction by virtue of the declarations of acceptance of compulsory jurisdiction by Nicaragua and Honduras referred to above.

II. *The question of the admissibility of Nicaragua’s Application* (paras. 49-95)

Four objections had been raised by Honduras to the admissibility of the Nicaraguan Application, two of which were general in nature and the remaining two presented on the basis of the Pact of Bogotá.

The *first ground of inadmissibility* (paras. 51-54) put forward was that the Application “is a politically-inspired, artificial request which the Court should not entertain consistently with its judicial character”. As regards the alleged political inspiration of the proceedings the Court observed that it could not concern itself with the political motivation which might lead a State at a particular time, or in particular circumstances, to choose judicial settlement. As to Honduras’s view that the overall result of Nicaragua’s action was “an artificial and arbitrary dividing up of the general conflict existing in Central America”, the Court recalled that, while there was no doubt that the issues of which the Court had been seised might be regarded as part of a wider regional problem, “no provision of the Statute or Rules contemplates that the Court should decline to take cognizance of one aspect of a dispute merely because that dispute has other aspects, however important”, as the Court observed in the case concerning *United States Diplomatic and Consular Staff in Tehran* (I.C.J. Reports 1980, p. 19, para. 36).

The *second ground of inadmissibility* (paras. 55-56) put forward by Honduras was that “the Application is vague and the allegations contained in it are not properly particularized”. The Court found in this respect that the Nicaraguan Application in the present case met the requirements of the Statute and Rules of Court that an Application indicate “the subject of the dispute”, specify “the precise nature of the claim” and in support thereof give no more than “a succinct statement of the facts and grounds on which the claim is based”.

Accordingly none of these objections of a general nature to admissibility could be accepted.

The *third ground of inadmissibility* (paras. 59-76) put forward by Honduras was based upon article II of the Pact of Bogotá which reads:

“The High Contracting Parties recognize the obligation to settle international controversies by regional pacific procedures before referring them to the Security Council of the United Nations.

Consequently, in the event that a controversy arises between two or more signatory States which, in the opinion of the parties [in the French text “de l’avis de l’une des parties”], cannot be settled by direct negotiations through the usual diplomatic channels, the parties bind themselves to use the procedures established in the present Treaty, in the manner and under the conditions provided for in the following articles, or, alternatively, such special procedures as, in their opinion, will permit them to arrive at a solution.”

The submission of Honduras on the application of article II was as follows:

“Nicaragua has failed to show that, in the opinion of the Parties, the dispute cannot be settled by direct negotiations, and thus Nicaragua fails to satisfy an essential precondition to the use of the procedures established by the Pact of Bogotá, which include reference of disputes to the International Court of Justice.”

The contention of Honduras was that the precondition to recourse to the procedures established by the Pact was not merely that both parties should hold the opinion that the dispute could not be settled by negotiation, but that they should have “manifested” that opinion.

The Court noted a discrepancy between the four texts (English, French, Portuguese and Spanish) of article II of the Pact, the reference in the French text being to the opinion of *one* of the parties. The Court proceeded on the hypothesis that the stricter interpretation should be used, i.e., that it would be necessary to consider whether the “opinion” of both Parties was that it was not possible to settle the dispute by negotiation. For this purpose the Court did not consider that it was bound by the mere assertion of the one Party or the other that its opinion was to a particular effect: it should, in the exercise of its judicial function, be free to make its own determination of that question on the basis of such evidence as was available to it.

The critical date for determining the admissibility of an application was the date on which it was filed (cf. *South West Africa, Preliminary Objections, I.C.J. Reports 1962*, p. 344), and in this case was thus 28 July 1986.

To ascertain the opinion of the Parties, the Court was bound to analyse the sequence of events in their diplomatic relations; it first found that in 1981 and 1982 the Parties had engaged in bilateral exchanges at various levels including that of the Heads of States. Broadly speaking, Nicaragua sought a bilateral understanding while Honduras increasingly emphasized the regional dimension of the problem and held out for the multilateral approach, eventually producing a plan of internationalization which led to abortive Nicaraguan counter-proposals. The Court then examined the development of what has become known as the Contadora process; it noted that a draft of a “Contadora Act for Peace and Co-operation in

Central America” was presented by the Contadora Group to the Central American States on 12 and 13 September 1985. None of the Central American States fully accepted the draft, but negotiations continued, to break down in June 1986.

The Court had to ascertain the nature of the procedure followed, and ascertain whether the negotiations in the context of the Contadora process could be regarded as direct negotiations through the usual diplomatic channels within the meaning of article II of the Pact. While there were extensive consultations and negotiations between 1983 and 1986, in different forms, both among the Central American States themselves and between those States and those belonging to the Contadora Group, these were organized and carried on within the context of mediation to which they were subordinate. At this time, the Contadora process was primarily a mediation, in which third States, on their own initiative, endeavoured to bring together the viewpoints of the States concerned by making specific proposals to them. That process therefore, which Honduras had accepted, was as a result of the presence and action of third States, markedly different from a “direct negotiation through the usual diplomatic channels”. It thus did not fall within the relevant provisions of article II of the Pact of Bogotá. Furthermore, no other negotiation which would meet the conditions laid down in the text was contemplated on 28 July 1986, the date of filing of the Nicaraguan Application. Consequently Honduras could not plausibly maintain at that date that the dispute between itself and Nicaragua, as defined in the Nicaraguan Application, was at that time capable of being settled by direct negotiation through the usual diplomatic channels.

The Court therefore considered that the provisions of article II of the Pact of Bogotá relied on by Honduras did not constitute a bar to the admissibility of Nicaragua’s Application.

The *fourth ground of inadmissibility* (paras. 77-94) put forward by Honduras was that:

“Having accepted the Contadora process as a ‘special procedure’ within the meaning of article II of the Pact of Bogotá, Nicaragua is precluded both by article IV of the Pact and by elementary considerations of good faith from commencing any other procedure for pacific settlement until such time as the Contadora process has been concluded; and that time has not arrived.”

Article IV of the Pact of Bogotá, upon which Honduras relied, reads as follows:

“Once any pacific procedure has been initiated, whether by agreement between the parties or in fulfillment of the present Treaty or a previous pact, no other procedure may be commenced until that procedure is concluded.”

It was common ground between the Parties that the proceedings before the Court were a “pacific procedure” as contemplated by the Pact of Bogotá, and that therefore if any other “pacific procedure” under the Pact had been initiated and not concluded, the proceedings were instituted contrary to article IV and should therefore be found inadmissible. The disagreement between the Parties was whether the Contadora process was or was not a procedure contemplated

by article IV.

It was clear that the question whether or not the Contadora process could be regarded as a “special procedure” or a “pacific procedure” within the meaning of articles II and IV of the Pact would not have to be determined if such a procedure had had to be regarded as “concluded” by 28 July 1988, the date of filing of the Nicaraguan Application.

For the purpose of article IV of the Pact, no formal act was necessary before a pacific procedure could be said to be “concluded”. The procedure in question did not have to have failed definitively before a new procedure could be commenced. It was sufficient if, at the date on which a new procedure was commenced, the initial procedure had come to a standstill in such circumstances that there appeared to be no prospect of its being continued or resumed.

In order to decide that issue, the Court resumed its survey of the Contadora process. It considered that from that survey it was clear that the Contadora process was at a standstill at the date on which Nicaragua filed its Application. That situation continued until the presentation in February 1987 of the Arias Plan and the adoption by the five Central American States of the Esquipulas II Accord, which, in August 1987, set in train the procedure frequently referred to as the Contadora-Esquipulas II process.

The question therefore arose whether this latter procedure should be regarded as having ensured the continuation of the Contadora process without interruption, or whether on 28 July 1986 that process should have been regarded as having “concluded” for the purposes of article IV of the Pact of Bogotá, and a process of a different nature as having got under way thereafter. That question was of crucial importance, since on the latter hypothesis, whatever might have been the nature of the initial Contadora process with regard to article IV, that article would not have constituted a bar to the commencement of a procedure before the Court on that date.

After having noted the views expressed by the Parties as to the continuity of the Contadora process, which however could not be seen as a concordance of views as to the interpretation of the term “concluded”, the Court found that the Contadora process, as it operated in the first phase, was different from the Contadora-Esquipulas II process initiated in the second phase. The two differed with regard both to their object and to their nature. The Contadora process initially constituted a mediation in which the Contadora Group and Support Group played a decisive part. In the Contadora-Esquipulas II process, on the other hand, the Contadora Group of States played a fundamentally different role. The five countries of Central America set up an independent mechanism of multilateral negotiation, in which the role of the Contadora Group was confined to the tasks laid down in the Equipulas II Declaration, and had effectively shrunk still further subsequently. Moreover, it was during a gap of several months between the end of the initial Contadora process and the beginning of the Contadora-Esquipulas II process that Nicaragua had filed its Application.

The Court concluded that the procedures employed in the Contadora process up to 28 July 1986, the date of filing of the Nicaraguan Application, had been “concluded”, within the meaning of article IV of the Pact of Bogotá, at that

date. That being so, the submissions of Honduras based on article IV of the Pact had to be rejected, and it was unnecessary for the Court to determine whether the Contadora process was a “special procedure” or a “pacific procedure” for the purpose of articles II and IV of the Pact and whether that procedure had the same object as the one in progress before the Court.

The Court had also to deal with the contention, made in the fourth submission of Honduras on the admissibility of the Application, that Nicaragua was precluded also “by elementary considerations of good faith” from commencing any other procedure for pacific settlement until such time as the Contadora process had been concluded. In this respect, the Court considered that the events of June/July 1986 constituted a “conclusion” of the initial procedure both for purposes of article IV of the Pact and in relation to any other obligation to exhaust that procedure which might have existed independently of the Pact.

In conclusion the Court noted, by reference in particular to the terms of the Preamble to successive drafts of the Contadora Act, that the Contadora Group did not claim any exclusive role for the process it set in train.

Operative clause (para. 99)

“THE COURT,

(1) Unanimously,

Finds that it has jurisdiction under article XXXI of the Pact of Bogotá to entertain the Application filed by the Government of the Republic of Nicaragua on 28 July 1986;

(2) Unanimously,

Finds that the Application of Nicaragua is admissible.”

* * *

Judge Lachs appended a declaration to the Judgment (*I.C.J. Reports 1988*, p. 108). Separate opinions were appended to the Judgment by Judges Oda (*ibid.*, pp. 109-125), Schwebel (*ibid.*, pp. 126-132) and Shahabuddeen (*ibid.*, pp. 133-156).

* * *

(iii) *Maritime Delimitation in the Area between Greenland and Jan Mayen*¹⁹⁸

On 16 August 1988, the Government of Denmark filed in the Registry of the Court an Application instituting proceedings against Norway.

In its Application, Denmark explained that despite negotiations conducted since 1980, it had not been possible to find an agreed solution to a dispute with regard to the delimitation of Denmark’s and Norway’s fishing zones and continental shelf areas in the waters between the east coast of Greenland and the Norwegian island of Jan Mayen, where there is an area of some 72,000 square kilometers to which both Parties lay claim.

It therefore requested the Court:

“to decide, in accordance with international law, where a single line of delimitation shall be drawn between Denmark’s and Norway’s fishing zones and continental shelf areas in the waters between Greenland and Jan Mayen”.

Under the provisions of Article 31 of the Statute, Denmark appointed Mr. P. H. Fischer as judge *ad hoc*.

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

B. CONTENTIOUS CASES BEFORE CHAMBERS

(i) *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras)*¹⁹⁹

On 8 May 1987 the Court made an Order whereby it acceded to the request of the two Governments to form a special Chamber of five judges to deal with the dispute between them (*I.C.J. Reports 1987*, p. 10). It declared that it had elected Judges Shigeru Oda, José Sette-Camara and Sir Robert Jennings to form, with the judges *ad hoc* chosen by the Parties, the Chamber to deal with the case. By an Order of 27 May 1987 (*I.C.J. Reports 1987*, p. 15), the Court, having consulted the Chamber, fixed 1 June 1988 as the time limit for the filing of a Memorial by each of the Parties.

The Chamber, at a private meeting on 29 May 1987, elected Judge Sette-Camara as its President. By an Order of the same date (*I.C.J. Reports 1987*, p. 176), the Chamber, taking into account the wishes of the Parties as expressed in the Special Agreement, fixed 1 February 1989 as the time limit for the filing of a Counter-Memorial by each of the Parties and 1 August 1989 for the filing of the Replies.

On 9 November 1987 the inaugural public sitting of the Chamber was held, at which the solemn declaration required by the Statute and Rules of Court was made by Judges *ad hoc* Valticos and Virally (the latter is now deceased, see p. 14).

Each of the Parties filed a Memorial within the time limit of 1 June 1988 fixed by the Court in its Order of 27 May 1987.

(ii) *Elettronica Sicula S.p.A. (ELSI)*²⁰⁰

By an Order of 20 December 1988 (*I.C.J. Reports 1988*, p. 158), the Court declared that at an election held the same day Judge Ruda was elected a Member of the Chamber to fill the vacancy left by the death of Judge Nagendra Singh. In accordance with Article 18, paragraph 2, of the Rules of Court, President Ruda became President of the Chamber.

6. INTERNATIONAL LAW COMMISSION²⁰¹

FORTIETH SESSION OF THE COMMISSION²⁰²

The International Law Commission held its fortieth session at Geneva from 9 May to 29 July 1988 and considered all of its agenda items except the item entitled “Relations between States and international organizations (second part of the topic)”.

On the topics of “State responsibility” and “Jurisdictional immunities of States and their property”, the Special Rapporteurs for those topics presented their preliminary reports²⁰³ to the Commission.

On the question of the “Status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier”, discussions were held on the basis of the eighth report²⁰⁴ submitted by the Special Rapporteur. The Commission had completed the first reading of the draft articles on the topic at its thirty-eighth session, and at the present session discussed the proposals made by the Special Rapporteur for the second reading.

For the topic “Draft Code of Crimes against the Peace and Security of Mankind”, a draft of which was first formulated in 1954, discussions were held on the basis of the sixth report²⁰⁵ submitted by its Special Rapporteur. At the conclusion of the discussions, the Commission provisionally adopted, on the recommendation of the Drafting Committee: article 4 (obligation to try or extradite), article 7 (*non bis in idem*), article 8 (non-retroactivity), article 10 (responsibility of the superior), article 11 (official position and criminal responsibility) and article 12 (aggression).

On the topic “The law of the non-navigational uses of international water-courses”, discussions were held on the basis of the fourth report²⁰⁶ submitted by the Special Rapporteur. At the conclusion of the discussions, the Commission referred four draft articles to the Drafting Committee, and the Commission furthermore provisionally adopted, on the recommendation of the Drafting Committee, 14 draft articles on the topic, with commentaries thereto.

On the topic of “International liability for injurious consequences arising out of acts not prohibited by international law”, discussions were held on the basis of the fourth report²⁰⁷ submitted by the Special Rapporteur. The Special Rapporteur, in introducing his report, pointed out that the general debate was completed and that it was time to concentrate on specific articles. At the conclusion of the discussions, articles 1 to 10 were referred to the Drafting Committee.

Consideration by the General Assembly

At its forty-third session, the General Assembly had before it the report of the International Law Commission on the work of its fortieth session.²⁰⁸ By its resolution 43/169 of 9 December 1988,²⁰⁹ adopted on the recommendation of the Sixth Committee,²¹⁰ the General Assembly took note of the report and recommended that the International Law Commission should continue its work on the topics in its current programme. The Assembly also decided that the Sixth Committee, in structuring its debate on the report of the International Law Commission at its forty-fourth session of the General Assembly, should bear in mind

the possibility of reserving time for informal exchanges of views on matters relating to the Commission; and urged Governments and, as appropriate, international organizations to respond in writing as fully and expeditiously as possible to the requests of the Commission for comments, observations and replies to questionnaires and for materials on topics in its programme of work. Furthermore, the General Assembly, by its resolution 43/164 also of 9 December 1988,²¹¹ adopted on the recommendation of the Sixth Committee,²¹² invited the International Law Commission to continue its work on the elaboration of the draft Code of Crimes against the Peace and Security of Mankind including the elaboration of a list of crimes, taking into account the progress made at its fortieth session, as well as the views expressed during the forty-third session of the General Assembly; and noted the approach currently envisaged by the Commission in dealing with the judicial authority to be assigned for the implementation of the provisions of the draft Code, and encouraged the Commission to explore further all possible alternatives on the question.

7. UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW²¹³

TWENTY-FIRST SESSION OF THE COMMISSION²¹⁴

The United Nations Commission on International Trade Law (UNCITRAL) held its twenty-first session at New York, from 11 to 20 April 1988.

On the issue of electronic funds transfers, the Commission had before it the report of the Working Group on International Payments on the work of its sixteenth session,²¹⁵ at which the Working Group had undertaken the preparation of the Model Rules on electronic funds transfers. There were discussions on whether the Model Rules should be restricted to international funds transfers, and the Commission agreed that a decision to also include domestic funds transfers should be made at a later date.

Regarding the draft Convention on International Bills of Exchange and International Promissory Notes, the Commission considered some procedural aspects of the implementation of General Assembly resolution 42/153 of 7 December 1987 in which the Assembly had requested the Secretary-General to request all States to submit observations and proposals they wished to make on the draft Convention by 30 April 1988. The Commission noted that the General Assembly had decided to consider, at its forty-third session, the draft Convention with a view to its adoption at that session, and in the light of the fact that the draft Convention had been prepared over a 16-year period, the view was expressed that the Commission should recommend to the General Assembly that the project be brought to completion at its forthcoming session.

The Commission considered the report of the Secretary-General on standby letters of credit and guarantees,²¹⁶ and agreed with the conclusions of the report that a greater degree of certainty and uniformity was desirable in the regulation of these two instruments and that future work be envisaged in two

stages, the first relating to contractual rules or model terms and the second pertaining to statutory law. In this regard, the Commission welcomed the work undertaken by the International Chamber of Commerce (ICC) in preparing draft Uniform Rules on Guarantees, and supported the suggestion that one session of the Working Group on International Contract Practices would be devoted to a review of the ICC draft Rules, while at the same time noting that this would be the first time that a working group of the Commission would review a text prepared by another organization. Concerning the second stage, it was agreed that a final decision on the need for a uniform law dealing with matters that could not effectively be regulated by agreement of the parties, such as fraud or manifest abuse, should be taken at a later stage.

The Commission also had before it the report of the Working Group on International Contract Practices on the work of its eleventh session.²¹⁷ The Commission noted that the Working Group had completed its task of preparing a draft text of uniform rules on the liability of operators of transport terminals and that the Working Group had recommended the adoption of the uniform rules in the form of a convention. The Commission decided to consider at its twenty-second session, with a view to its adoption, the draft Convention on the Liability of Operators of Transport Terminals in International Trade as prepared by the Working Group.

Since its nineteenth session in 1986, the Commission, in the context of its discussions on the new international economic order, had considered the topic of countertrade. At the current session, the Commission had before it a report entitled "Preliminary study of legal issues in international countertrade",²¹⁸ which contained a description of contractual approaches to countertrade and an enumeration of some of the more important legal issues involved in that type of trade. After discussions, the Commission decided to prepare a legal guide on drawing up countertrade contracts that, however, would not duplicate the work of other organizations.

Also, at the nineteenth session, the Commission had entrusted the topic of procurement to the Working Group on the New International Economic Order, and the Commission noted that the Working Group would commence its work on the topic at the Working Group's tenth session, from 17 to 28 October 1988.

The Commission also had before it, for discussion, a note which had been requested from the Secretariat on the future programme of work of the Commission,²¹⁹ and a report of the Secretary-General that sets forth a register of international organizations engaged in activities in the field of international trade law.²²⁰

Consideration by the General Assembly

By its resolution 43/166 of 9 December 1988,²²¹ adopted on the recommendation of the Sixth Committee,²²² the General Assembly took note of the report of the United Nations Commission on International Trade Law on the work of its twenty-first session; reaffirmed the importance, in particular for developing countries, of the work of the Commission concerned with training and assistance in the field of international trade law and the desirability for it to sponsor seminars and symposia, in particular those organized on a regional basis, to promote such training and assistance, and, in this connection, expressed

its appreciation to Lesotho and the Preferential Trade Area of Eastern and Southern African States for their collaboration with the secretariat of the Commission in organizing the seminar on international trade law held at Maseru and to the Governments whose contributions enabled the seminar to take place; repeated its invitation to those States which had not yet done so to consider ratifying or acceding to the following conventions: (a) Convention on the Limitation Period in the International Sale of Goods, of 14 June 1974;²²³ (b) Protocol amending the Convention on the Limitation Period in the International Sale of Goods, of 11 April 1980;²²⁴ (c) United Nations Convention on Contracts for the International Sale of Goods, of 11 April 1980;²²⁵ and (d) the United Nations Convention on the Carriage of Goods by Sea, of 31 March 1978.²²⁶ The Assembly further welcomed the decision of the Commission to collect and disseminate court decisions and arbitral awards relating to legal texts emanating from its work so as to further the uniformity of their application in practice. Moreover, the General Assembly, by its resolution 43/165 also of 9 December 1988,²²⁷ adopted on the recommendation of the Sixth Committee,²²⁸ expressed its appreciation to UNCITRAL for preparing the text of the draft Convention on International Bills of Exchange and International Promissory Notes,²²⁹ and adopted and opened for signature or accession the Convention contained in the annex to the present resolution.

8. LEGAL QUESTIONS DEALT WITH BY THE SIXTH COMMITTEE OF THE GENERAL ASSEMBLY AND BY AD HOC LEGAL BODIES^{230 231}

(a) Report of the Committee on Relations with the Host Country

The General Assembly, by its resolution 43/172 of 9 December 1988,²³² adopted on the recommendation of the Sixth Committee,²³³ having considered the report of the Committee on Relations with the Host Country,²³⁴ endorsed the recommendations and conclusions of the Committee contained in paragraph 81 of the report; urged the host country, the United States, to take all necessary measures to continue to prevent criminal acts, including harassment and violations of the security of missions and the safety of their personnel or infringements of the inviolability of their property, in order to ensure the existence and functioning of all missions; reiterated its request to the parties concerned to follow consultations with a view to reaching solutions to the issues raised by certain Member States concerning the size of their missions; urged the host country, in the light of the consideration by the Committee of travel regulations issued by the host country, to continue to honour its obligations to facilitate the functioning of the United Nations and the missions accredited to it. Moreover, by its resolution 43/48 of 30 November 1988,²³⁵ adopted on the recommendation of the Sixth Committee,²³⁶ the General Assembly, having been apprised that the Palestine Liberation Organization (PLO), in conformity with the usual practice, had requested through the Secretary-General an entry visa for Mr. Yasser

Arafat, Chairman of the Executive Committee of the PLO, in order to participate in the forty-third session of the General Assembly; having been informed of the decision of the host country to deny the requested visa, in violation of its international legal obligations under the Agreement between the United Nations and the United States regarding the Headquarters of the United Nations,²³⁷ and endorsing the opinion of the Legal Counsel of the United Nations,²³⁸ affirmed the right of the Palestine Liberation Organization freely to designate the members of its delegation to participate in the sessions and the work of the General Assembly; deplored the failure by the host country to approve the granting of the requested entry visa; considered that this decision by the Government of the United States, the host country, constituted a violation of the international legal obligations of the host country under the Agreement; and urged the host country to abide scrupulously by the provisions of the Agreement and to reconsider and reverse its decision.

(b) Declaration on the Prevention and Removal of Disputes and Situations Which May Threaten International Peace and Security and on the Role of the United Nations in this Field

The General Assembly, by its resolution 43/51 of 5 December 1988,²³⁹ adopted on the recommendation of the Sixth Committee,²⁴⁰ taking note of the report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization,²⁴¹ which completed a draft Declaration on the Prevention and Removal of Disputes and Situations Which May Threaten International Peace and Security and on the Role of the United Nations in this Field, approved the text of the Declaration, and requested the Secretary-General to inform the Governments of the States Members of the United Nations or members of specialized agencies, and the Security Council, of the adoption of the Declaration. The text of the Declaration follows:

Declaration on the Prevention and Removal of Disputes and Situations Which May Threaten International Peace and Security and on the Role of the United Nations in this Field

The General Assembly,

Recognizing the important role that the United Nations and its organs can play in the prevention and removal of international disputes and situations which may lead to international friction or give rise to an international dispute, the continuance of which may threaten the maintenance of international peace and security (hereafter: “disputes” or “situations”), within their respective functions and powers under the Charter of the United Nations,

Convinced that the strengthening of such a role of the United Nations will enhance its effectiveness in dealing with questions relating to the maintenance of international peace and security and in promoting the peaceful settlement of international disputes,

Recognizing the fundamental responsibility of States for the prevention and removal of disputes and situations,

Recalling that the peoples of the United Nations are determined to practise tolerance and live together in peace with one another as good neighbours,

Bearing in mind the right of all States to resort to peaceful means of their own choice for the prevention and removal of disputes or situations,

Reaffirming the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, the Manila Declaration on the Peaceful Settlement of International Disputes and the Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations,

Recalling that it is the duty of States to refrain in their international relations from military, political, economic or any other form of coercion against the political independence or territorial integrity of any State,

Calling upon States to cooperate fully with the relevant organs of the United Nations and to support actions taken by them in accordance with the Charter relating to the prevention or removal of disputes and situations,

Bearing in mind the obligation of States to conduct their relations with other States in accordance with international law, including the principles of the United Nations,

Reaffirming the principle of equal rights and self-determination of peoples,

Recalling that the Charter confers on the Security Council the primary responsibility for the maintenance of international peace and security, and that Member States have agreed to accept and carry out its decisions in accordance with the Charter,

Recalling also the important role conferred by the Charter on the General Assembly and the Secretary-General in the maintenance of international peace and security,

1. *Solemnly declares* that:

1. States should act so as to prevent in their international relations the emergence or aggravation of disputes or situations, in particular by fulfilling in good faith their obligations under international law;

2. In order to prevent disputes or situations, States should develop their relations on the basis of the sovereign equality of States and in such a manner as to enhance the effectiveness of the collective security system through the effective implementation of the provisions of the Charter of the United Nations;

3. States should consider the use of bilateral or multilateral consultations in order better to understand each other's views, positions and interests;

4. States party to regional arrangements or members of agencies referred to in Article 52 of the Charter should make every effort to prevent or remove local disputes or situations through such arrangements and agencies;

5. States concerned should consider approaching the relevant organs of the United Nations in order to obtain advice or recommendations on preventive means for dealing with a dispute or situation;

6. Any State party to a dispute or directly concerned with a situation, particularly if it intends to request a meeting of the Security Council, should approach the Council, directly or indirectly, at an early stage and, if appropriate, on a confidential basis;

7. The Security Council should consider holding from time to time meetings, including at a high level with the participation, in particular, of Ministers for Foreign Affairs, or consultations to review the international situation and search for effective ways of improving it;

8. In the course of the preparation for the prevention or removal of particular disputes or situations, the Security Council should consider making use of the various means at its disposal, including the appointment of the Secretary-General as rapporteur for a specified question;

9. When a particular dispute or situation is brought to the attention of the Security Council without a meeting being requested, the Council should consider holding consultations with a view to examining the facts of the dispute or situation and keeping it under review, with the assistance of the Secretary-General when needed; the States concerned should have the opportunity of making their views known;

10. In such consultations, consideration should be given to employing such informal methods as the Security Council deems appropriate, including confidential contacts by its President;

11. In such consultations, the Security Council should consider, *inter alia*:

(a) Reminding the States concerned to respect their obligations under the Charter;

(b) Making an appeal to the States concerned to refrain from any action which might give rise to a dispute or lead to the deterioration of the dispute or situation;

(c) Making an appeal to the States concerned to take action which might help to remove, or to prevent the continuation or deterioration of, the dispute or situation;

12. The Security Council should consider sending, at an early stage, fact-finding or good offices missions or establishing appropriate forms of United Nations presence, including observers and peace-keeping operations, as a means of preventing the further deterioration of the dispute or situation in the areas concerned;

13. The Security Council should consider encouraging and, where appropriate, endorsing efforts at the regional level by the States concerned or by regional arrangements or agencies to prevent or remove a dispute or situation in the region concerned;

14. Taking into consideration any procedures that have already been adopted by the States directly concerned, the Security Council should consider recommending to them appropriate procedures or methods of settlement of disputes or adjustment of situations, and such terms of settlement as it deems appropriate;

15. The Security Council, if it is appropriate for promoting the prevention and removal of disputes or situations, should, at an early stage, consider making use of the provisions of the Charter concerning the possibility of requesting the International Court of Justice to give an advisory opinion on any legal question;

16. The General Assembly should consider making use of the provisions of the Charter in order to discuss disputes or situations, when appropriate, and, in accordance with Article 11 and subject to Article 12 of the Charter, making recommendations;

17. The General Assembly should consider, where appropriate, supporting efforts undertaken at the regional level by the States concerned or by regional arrangements or agencies, to prevent or remove a dispute or situation in the region concerned;

18. If a dispute or situation has been brought before it, the General Assembly should consider including in its recommendations making more use of fact-finding capabilities, in accordance with Article 11 and subject to Article 12 of the Charter;

19. The General Assembly, if it is appropriate for promoting the prevention and removal of disputes or situations, should consider making use of the provisions of the Charter concerning the possibility of requesting the International Court of Justice to give an advisory opinion on any legal question;

20. The Secretary-General, if approached by a State or States directly concerned with a dispute or situation, should respond swiftly by urging the States to seek a solution or adjustment by peaceful means of their own choice under the Charter and by offering his good offices or other means at his disposal, as he deems appropriate;

21. The Secretary-General should consider approaching the States directly concerned with a dispute or situation in an effort to prevent it from becoming a threat to the maintenance of international peace and security;

22. The Secretary-General should, where appropriate, consider making full use of fact-finding capabilities, including, with the consent of the host State, sending a representative or fact-finding missions to areas where a dispute or a situation exists; where necessary, the Secretary-General should also consider making the appropriate arrangements;

23. The Secretary-General should be encouraged to consider using, at as early a stage as he deems appropriate, the right that is accorded to him under Article 99 of the Charter;

24. The Secretary-General should, where appropriate, encourage efforts undertaken at the regional level to prevent or remove a dispute or situation in the region concerned;

25. Should States fail to prevent the emergence or aggravation of a dispute or situation, they shall continue to seek a settlement by peaceful means in accordance with the Charter;

2. *Declares* that nothing in the present Declaration shall be construed as prejudicing in any manner the provisions of the Charter, including those contained in Article 2, paragraph 7, thereof, or the rights and duties of States, or the scope of the functions and the powers of United Nations organs under the Charter, in particular those relating to the maintenance of international peace and security;

3. *Also declares* that nothing in the present Declaration could in any way prejudice the right of self-determination, freedom and independence of peoples

forcibly deprived of that right and referred to in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, particularly peoples under colonial or racist regimes or other forms of alien domination.

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

The General Assembly adopted, on 9 December 1988, resolutions 43/160 A²⁴² and 43/160 B,²⁴³ on the recommendation of the Sixth Committee.²⁴⁴ By resolution 43/160 A, the Assembly, taking note of the report of the Secretary-General,²⁴⁵ decided that the Palestine Liberation Organization (PLO) and the South West Africa People's Organization (SWAPO) were entitled to have their communications relating to the sessions and work of the General Assembly issued and circulated directly, and without intermediary, as official documents of the Assembly; decided also that the PLO and SWAPO were entitled to have their communications relating to the sessions and work of all international conferences convened under the auspices of the General Assembly of the United Nations issued and circulated directly, and without intermediary, as official documents of those conferences; and authorized the Secretariat to issue and circulate as official documents of the United Nations, under the appropriate symbol of other organs or conferences of the United Nations, communications submitted directly, without intermediary, by the PLO and SWAPO, on matters relative to the work of those organs and conferences. By resolution 43/160 B, the Assembly urged all States that have not done so, in particular those which acted as host to international organizations or to conferences convened by, or held under the auspices of, international organizations of a universal character, to consider as soon as possible ratifying, or acceding to, the Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character;²⁴⁶ and called once more upon the States concerned to accord to the delegations of the national liberation movements recognized by the Organization of African Unity and/or by the League of Arab States and accorded observer status by international organizations, the facilities, privileges and immunities necessary for the performance of their functions, in accordance with the provisions of the Vienna Convention.

- (d) Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts

The General Assembly, by its resolution 43/161 of 9 December 1988,²⁴⁷ adopted on the recommendation of the Sixth Committee,²⁴⁸ having considered the report of the Secretary-General,²⁴⁹ noted with appreciation the virtually universal acceptance of the Geneva Conventions of 1949²⁵⁰ and the increasingly wide acceptance of the two additional Protocols of 1977;²⁵¹ appealed to all States parties to the Geneva Conventions of 1949 that have not yet done so to consider becoming parties also to the additional Protocols at the earliest possible date; and called upon all States becoming parties to Protocol I to consider making the declaration provided for under article 90 of that Protocol.

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

By its resolution 43/162 of 9 December 1988,²⁵² adopted on the recommendation of the Sixth Committee,²⁵³ the General Assembly, recalling the analytical study²⁵⁴ submitted to the General Assembly at its thirty-ninth session by the United Nations Institute for Training and Research, noted with appreciation the views and comments submitted by Governments pursuant to resolutions 40/67, 41/73 and 42/149;²⁵⁵ requested the Secretary-General: (a) to continue to seek proposals of Member States concerning the most appropriate procedures to be adopted with regard to the consideration of the analytical study, as well as the codification and progressive development of the principles and norms of international law relating to the new international economic order, and (b) to include the proposals received in accordance with subparagraph (a) above in a report to be submitted to the General Assembly at its forty-fourth session; and recommended that the Sixth Committee should consider making a final decision at the forty-fourth session of the General Assembly on the question of the appropriate forum within its framework which would undertake the task of completing the elaboration of the process of codification and progressive development of the principles and norms of international law relating to the new international economic order, taking into account the proposals and suggestions which have been or will be submitted by Member States on the matter.

- (f) Peaceful settlement of disputes between States

The General Assembly, by its resolution 43/163 of 9 December 1988,²⁵⁶ adopted on the recommendation of the Sixth Committee,²⁵⁷ taking note with interest of the report of the Secretary-General,²⁵⁸ again urged all States to observe and promote in good faith the provisions of the Manila Declaration on the Peaceful Settlement of International Disputes²⁵⁹ in the settlement of their international disputes; requested the Secretary-General to submit to the General Assembly at its forty-fourth session a further report containing the replies of Member States, relevant United Nations bodies and specialized agencies, regional intergovernmental organizations and interested international legal bodies on the implementation of the Manila Declaration and on ways and means of increasing the effectiveness of this instrument.

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

By its resolution 43/167 of 9 December 1988,²⁶⁰ adopted on the recommendation of the Sixth Committee,²⁶¹ the General Assembly took note of the report of the Secretary-General;²⁶² strongly condemned 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 emphasized that such acts could never be justified; and urged States to observe, implement and enforce the principles and rules of international law governing diplomatic and consular relations and, in particular, to ensure, in

conformity with their international obligations, the protection, security and safety of the missions, representatives and officials mentioned above officially present in territories under their jurisdiction, including practical measures to prohibit in their territories illegal activities of persons, groups and organizations that encourage, instigate, organize or engage in the perpetration of acts against the security and safety of such missions, representatives and officials.

- (h) Report of the Ad Hoc Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries

The General Assembly, by its resolution 43/168 of 9 December 1988,²⁶³ adopted on the recommendation of the Sixth Committee,²⁶⁴ 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;²⁶⁵ and decided to renew the mandate of the Ad Hoc Committee with a view to completing as soon as possible a draft international convention against the recruitment, use, financing and training of mercenaries.

- (i) Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

The General Assembly, by its resolution 43/170 of 9 December 1988,²⁶⁶ adopted on the recommendation of the Sixth Committee,²⁶⁷ took note of the report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization;²⁶⁸ decided that the Special Committee should hold its next session from 27 March to 14 April 1989; further decided that the Special Committee should accept the participation of the observers of Member States, including in the meetings of its working group; and requested the Secretary-General to continue, on a priority basis, the preparation of the draft handbook on the peaceful settlement of disputes between States, and to report to the Special Committee at its session in 1989 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.

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

The General Assembly adopted, on 9 December 1988, resolutions 43/171 A²⁶⁹ and 43/171 B,²⁷⁰ on the recommendation of the Sixth Committee.²⁷¹ In resolution 43/171 A, the Assembly took note of the report of the Subcommittee on Good-Neighbourliness,²⁷² established by the Sixth Committee during the forty-third session of the General Assembly. In resolution 43/171 B, the Assembly reaffirmed that good-neighbourliness fully conformed with the purposes of the United Nations and should be founded upon the strict observance of the principles of the United Nations as embodied in the Charter and in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,²⁷³ and so presupposed the rejection of any acts seeking to establish zones of influence or domination.

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

The General Assembly, by its resolution 43/173 of 9 December 1988,²⁷⁴ adopted on the recommendation of the Sixth Committee,²⁷⁵ approved the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, the text of which follows:

Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment

SCOPE OF THE BODY OF PRINCIPLES

These principles apply for the protection of all persons under any form of detention or imprisonment.

USE OF TERMS

For the purposes of the Body of Principles:

(a) “Arrest” means the act of apprehending a person for the alleged commission of an offence or by the action of an authority;

(b) “Detained person” means any person deprived of personal liberty except as a result of conviction for an offence;

(c) “Imprisoned person” means any person deprived of personal liberty as a result of conviction for an offence;

(d) “Detention” means the condition of detained persons as defined above;

(e) “Imprisonment” means the condition of imprisoned persons as defined above;

(f) The words “a judicial or other authority” mean a judicial or other authority under the law whose status and tenure should afford the strongest possible guarantees of competence, impartiality and independence.

Principle 1

All persons under any form of detention or imprisonment shall be treated in a humane manner and with respect for the inherent dignity of the human person.

Principle 2

Arrest, detention or imprisonment shall only be carried out strictly in accordance with the provisions of the law and by competent officials or persons authorized for that purpose.

Principle 3

There shall be no restriction upon or derogation from any of the human rights of persons under any form of detention or imprisonment recognized or existing in any State pursuant to law, conventions, regulations or custom on the pretext that this Body of Principles does not recognize such rights or that it recognizes them to a lesser extent.

Principle 4

Any form of detention or imprisonment and all measures affecting the human rights of a person under any form of detention or imprisonment shall be ordered by, or be subject to the effective control of, a judicial or other authority.

Principle 5

1. These principles shall be applied to all persons within the territory of any given State, without distinction of any kind, such as race, colour, sex, language, religion or religious belief, political or other opinion, national, ethnic or social origin, property, birth or other status.

2. Measures applied under the law and designed solely to protect the rights and special status of women, especially pregnant women and nursing mothers, children and juveniles, aged, sick or handicapped persons shall not be deemed to be discriminatory. The need for, and the application of, such measures shall always be subject to review by a judicial or other authority.

Principle 6

No person under any form of detention or imprisonment shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.* No circumstance whatever may be invoked as a justification for torture or other cruel, inhuman or degrading treatment or punishment.

Principle 7

1. States should prohibit by law any act contrary to the rights and duties contained in these principles, make any such act subject to appropriate sanctions and conduct impartial investigations upon complaints.

2. Officials who have reason to believe that a violation of this Body of Principles has occurred or is about to occur shall report the matter to their superior authorities and, where necessary, to other appropriate authorities or organs vested with reviewing or remedial powers.

3. Any other person who has ground to believe that a violation of this Body of Principles has occurred or is about to occur shall have the right to report the matter to the superiors of the officials involved as well as to other appropriate authorities or organs vested with reviewing or remedial powers.

Principle 8

Persons in detention shall be subject to treatment appropriate to their unconvicted status. Accordingly, they shall, whenever possible, be kept separate from imprisoned persons.

*The term “cruel, inhuman or degrading treatment or punishment” should be interpreted so as to extend the widest possible protection against abuses, whether physical or mental, including the holding of a detained or imprisoned person in conditions which deprive him, temporarily or permanently, of the use of any of his natural senses such as: sight or hearing, or of his awareness of place or the passing of time.

Principle 9

The authorities which arrest a person, keep him under detention or investigate the case shall exercise only the powers granted to them under the law and the exercise of these powers shall be subject to recourse to a judicial or other authority.

Principle 10

Anyone who is arrested shall be informed at the time of his arrest of the reason for his arrest and shall be promptly informed of any charges against him.

Principle 11

1. A person shall not be kept in detention without being given an effective opportunity to be heard promptly by a judicial or other authority. A detained person shall have the right to defend himself or to be assisted by counsel as prescribed by law.

2. A detained person and his counsel, if any, shall receive prompt and full communication of any order of detention, together with the reasons therefor.

3. A judicial or other authority shall be empowered to review as appropriate the continuance of detention.

Principle 12

1. There shall be duly recorded:

- (a) The reasons for the arrest;
- (b) The time of the arrest and the taking of the arrested person to a place of custody as well as that of his first appearance before a judicial or other authority;
- (c) The identity of the law enforcement officials concerned;
- (d) Precise information concerning the place of custody.

2. Such records shall be communicated to the detained person, or his counsel, if any, in the form prescribed by law.

Principle 13

Any person shall, at the moment of arrest and at the commencement of detention or imprisonment, or promptly thereafter, be provided by the authority responsible for his arrest, detention or imprisonment, respectively, with information on and an explanation of his rights and how to avail himself of such rights.

Principle 14

A person who does not adequately understand or speak the language used by the authorities responsible for his arrest, detention or imprisonment is entitled to receive promptly in a language which he understands the information referred to in principle 10, principle 11, paragraph 2, principle 12, paragraph 1, and principle 13 and to have the assistance, free of charge, if necessary, of an interpreter in connection with legal proceedings subsequent to his arrest.

Principle 15

Notwithstanding the exceptions contained in principle 16, paragraph 4, and principle 18, paragraph 3, communication of the detained or imprisoned person with the outside world, and in particular his family or counsel, shall not be denied for more than a matter of days.

Principle 16

1. Promptly after arrest and after each transfer from one place of detention or imprisonment to another, a detained or imprisoned person shall be entitled to notify or to require the competent authority to notify members of his family or other appropriate persons of his choice of his arrest, detention or imprisonment or of the transfer and of the place where he is kept in custody.

2. If a detained or imprisoned person is a foreigner, he shall also be promptly informed of his right to communicate by appropriate means with a consular post or the diplomatic mission of the State of which he is a national or which is otherwise entitled to receive such communication in accordance with international law or with the representative of the competent international organization, if he is a refugee or is otherwise under the protection of an intergovernmental organization.

3. If a detained or imprisoned person is a juvenile or is incapable of understanding his entitlement, the competent authority shall on its own initiative undertake the notification referred to in the present principle. Special attention shall be given to notifying parents or guardians.

4. Any notification referred to in the present principle shall be made or permitted to be made without delay. The competent authority may however delay a notification for a reasonable period where exceptional needs of the investigation so require.

Principle 17

1. A detained person shall be entitled to have the assistance of a legal counsel. He shall be informed of his right by the competent authority promptly after arrest and shall be provided with reasonable facilities for exercising it.

2. If a detained person does not have a legal counsel of his own choice, he shall be entitled to have a legal counsel assigned to him by a judicial or other authority in all cases where the interests of justice so require and without payment by him if he does not have sufficient means to pay.

Principle 18

1. A detained or imprisoned person shall be entitled to communicate and consult with his legal counsel.

2. A detained or imprisoned person shall be allowed adequate time and facilities for consultations with his legal counsel.

3. The right of a detained or imprisoned person to be visited by and to consult and communicate, without delay or censorship and in full confidentiality, with his legal counsel may not be suspended or restricted save in exceptional circumstances, to be specified by law or lawful regulations, when it is considered indispensable by a judicial or other authority in order to maintain security and good order.

4. Interviews between a detained or imprisoned person and his legal counsel may be within sight, but not within the hearing, of a law enforcement official.

5. Communications between a detained or imprisoned person and his legal counsel mentioned in the present principle shall be inadmissible as evidence against the detained or imprisoned person unless they are connected with a continuing or contemplated crime.

Principle 19

A detained or imprisoned person shall have the right to be visited by and to correspond with, in particular, members of his family and shall be given adequate opportunity to communicate with the outside world, subject to reasonable conditions and restrictions as specified by law or lawful regulations.

Principle 20

If a detained or imprisoned person so requests, he shall if possible be kept in a place of detention or imprisonment reasonably near his usual place of residence.

Principle 21

1. It shall be prohibited to take undue advantage of the situation of a detained or imprisoned person for the purpose of compelling him to confess, to incriminate himself otherwise or to testify against any other person.

2. No detained person while being interrogated shall be subject to violence, threats or methods of interrogation which impair his capacity of decision or his judgement.

Principle 22

No detained or imprisoned person shall, even with his consent, be subjected to any medical or scientific experimentation which may be detrimental to his health.

Principle 23

1. The duration of any interrogation of a detained or imprisoned person and of the intervals between interrogations as well as the identity of the officials who conducted the interrogations and other persons present shall be recorded and certified in such form as may be prescribed by law.

2. A detained or imprisoned person, or his counsel when provided by law, shall have access to the information described in paragraph 1 of the present principle.

Principle 24

A proper medical examination shall be offered to a detained or imprisoned person as promptly as possible after his admission to the place of detention or imprisonment, and thereafter medical care and treatment shall be provided whenever necessary. This care and treatment shall be provided free of charge.

Principle 25

A detained or imprisoned person or his counsel shall, subject only to reasonable conditions to ensure security and good order in the place of detention or imprisonment, have the right to request or petition a judicial or other authority for a second medical examination or opinion.

Principle 26

The fact that a detained or imprisoned person underwent a medical examination, the name of the physician and the results of such an examination shall be duly recorded. Access to such records shall be ensured. Modalities therefore shall be in accordance with relevant rules of domestic law.

Principle 27

Non-compliance with these principles in obtaining evidence shall be taken into account in determining the admissibility of such evidence against a detained or imprisoned person.

Principle 28

A detained or imprisoned person shall have the right to obtain within the limits of available resources, if from public sources, reasonable quantities of educational, cultural and informational material, subject to reasonable conditions to ensure security and good order in the place of detention or imprisonment.

Principle 29

1. In order to supervise the strict observance of relevant laws and regulations, places of detention shall be visited regularly by qualified and experienced persons appointed by, and responsible to, a competent authority distinct from the authority directly in charge of the administration of the place of detention or imprisonment.

2. A detained or imprisoned person shall have the right to communicate freely and in full confidentiality with the persons who visit the places of detention or imprisonment in accordance with paragraph 1 of the present principle, subject to reasonable conditions to ensure security and good order in such places.

Principle 30

1. The types of conduct of the detained or imprisoned person that constitute disciplinary offences during detention or imprisonment, the description and duration of disciplinary punishment that may be inflicted and the authorities competent to impose such punishment shall be specified by law or lawful regulations and duly published.

2. A detained or imprisoned person shall have the right to be heard before disciplinary action is taken. He shall have the right to bring such action to higher authorities for review.

Principle 31

The appropriate authorities shall endeavour to ensure, according to domestic law, assistance when needed to dependent and, in particular, minor members of the families of detained or imprisoned persons and shall devote a particular measure of care to the appropriate custody of children left without supervision.

Principle 32

1. A detained person or his counsel shall be entitled at any time to take proceedings according to domestic law before a judicial or other authority to challenge the lawfulness of his detention in order to obtain his release without delay, if it is unlawful.

2. The proceedings referred to in paragraph 1 of the present principle shall be simple and expeditious and at no cost for detained persons without adequate means. The detaining authority shall produce without unreasonable delay the detained person before the reviewing authority.

Principle 33

1. A detained or imprisoned person or his counsel shall have the right to make a request or complaint regarding his treatment, in particular in case of torture or other cruel, inhuman or degrading treatment, to the authorities responsible for the administration of the place of detention and to higher authorities and, when necessary, to appropriate authorities vested with reviewing or remedial powers.

2. In those cases where neither the detained or imprisoned person nor his counsel has the possibility to exercise his rights under paragraph 1 of the present principle, a member of the family of the detained or imprisoned person or any other person who has knowledge of the case may exercise such rights.

3. Confidentiality concerning the request or complaint shall be maintained if so requested by the complainant.

4. Every request or complaint shall be promptly dealt with and replied to without undue delay. If the request or complaint is rejected, or in case of inordinate delay, the complainant shall be entitled to bring it before a judicial or other authority. Neither the detained or imprisoned person nor any complainant under paragraph 1 of the present principle shall suffer prejudice for making a request or complaint.

Principle 34

Whenever the death or disappearance of a detained or imprisoned person occurs during his detention or imprisonment, an inquiry into the cause of death or disappearance shall be held by a judicial or other authority, either on its own motion or at the instance of a member of the family of such a person or any

person who has knowledge of the case. When circumstances so warrant, such an inquiry shall be held on the same procedural basis whenever the death or disappearance occurs shortly after the termination of the detention or imprisonment. The findings of such inquiry or a report thereon shall be made available upon request, unless doing so would jeopardize an ongoing criminal investigation.

Principle 35

1. Damage incurred because of acts or omissions by a public official contrary to the rights contained in these principles shall be compensated according to the applicable rules on liability provided by domestic law.

2. Information required to be recorded under these principles shall be available in accordance with procedures provided by domestic law for use in claiming compensation under the present principle.

Principle 36

1. A detained person suspected of or charged with a criminal offence shall be presumed innocent and shall be treated as such until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

2. The arrest or detention of such a person pending investigation and trial shall be carried out only for the purposes of the administration of justice on grounds and under conditions and procedures specified by law. The imposition of restrictions upon such a person which are not strictly required for the purpose of the detention or to prevent hindrance to the process of investigation or the administration of justice, or for the maintenance of security and good order in the place of detention shall be forbidden.

Principle 37

A person detained on a criminal charge shall be brought before a judicial or other authority provided by law promptly after his arrest. Such authority shall decide without delay upon the lawfulness and necessity of detention. No person may be kept under detention pending investigation or trial except upon the written order of such an authority. A detained person shall, when brought before such an authority, have the right to make a statement on the treatment received by him while in custody.

Principle 38

A person detained on a criminal charge shall be entitled to trial within a reasonable time or to release pending trial.

Principle 39

Except in special cases provided by law, a person detained on a criminal charge shall be entitled, unless a judicial or other authority decides otherwise in the interest of the administration of justice, to release pending trial subject to the conditions that may be imposed in accordance with the law. Such authority shall keep the necessity of detention under review.

General clause

Nothing in this Body of Principles shall be construed as restricting or derogating from any right defined in the International Covenant on Civil and Political Rights.

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

The General Assembly, by its resolution 43/225 of 21 December 1988,²⁷⁶ adopted on the recommendation of the Fifth Committee,²⁷⁷ took note with concern of the report of the Secretary-General,²⁷⁸ submitted on behalf of the Administrative Committee on Coordination, and of the developments indicated therein, in particular, the significant number of new cases of arrest and detention and those regarding previously reported cases under this category; also took note with concern of the restrictions on duty travel of officials as indicated in the report of the Secretary-General; further took note with concern of the information contained in the report of the Secretary-General related to taxation and the status, privileges and immunities of officials; deplored the increase in the number of cases where the functioning, safety and well-being of officials had been adversely affected; also deplored the increasing number of cases in which the lives and well-being of officials had been placed in jeopardy during the exercise of their official functions; called upon all Member States scrupulously to respect the privileges and immunities of all officials of the United Nations and the specialized agencies and related organizations and to refrain from any acts that would impede such officials in the performance of their functions, thereby seriously affecting the proper functioning of the Organization; also 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 further called upon the Secretary-General, as chief administrative officer of the United Nations, to continue personally to act as the focal point in promoting and ensuring the observance of the privileges and immunities of officials of the United Nations and the specialized agencies and related organizations by using all such means as are available to him.

10. UNITED NATIONS INSTITUTE FOR TRAINING AND RESEARCH

The General Assembly, by its resolution 43/201 of 20 December 1988,²⁷⁹ adopted on the recommendation of the Second Committee,²⁸⁰ took note of the report of the Secretary-General²⁸¹ prepared in response to resolution 42/197 of 11 December 1987 and the report of the Executive Director of the United Nations Institute for Training and Research;²⁸² reaffirmed the continuing validity and relevance of the mandate of the Institute, as contained in the amended statute;²⁸³ reaffirmed also the continuing validity of resolution 42/197 and called for the early implementation of all its provisions; and took note of the amendment to the statute of the Institute regarding the designation of alternates to members of the Board of Trustees who are unable to attend any meeting of the Board.²⁸⁴

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

1. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

I. CONSTITUTIONAL AND GENERAL LEGAL MATTERS

A. Interpretation of the rule on the convening of special sessions of the Finance Committee

At its ninety-fourth session, the Council examined the issue of the interpretation of rule XXVII.8(b) of the General Rules of the Organization (GRO) and concluded that it was implicit that a Member Nation requesting the convening of a special session of the Finance Committee could also indicate a period, reasonable in the circumstances, within which it would wish it to be convened. The Council recommended that, in order to clarify the matter in the future, the Finance Committee adopt a new provision in its Rules of Procedure providing as follows:

“Where the required number of requests for the calling of a session of the Finance Committee is received under rule XXVII.8(a) or (b) GRO and such requests indicate that the session should be called on a specific date or within a specified time limit, the Chairman and the Director-General shall consult each other and the Members of the Committee with a view to the calling of the session on the date or within the time limit specified, bearing in mind the relevant factors, including the context and urgency of the request, the availability of the Chairman and the majority of the members of the Committee, conflicting meeting schedules and the preparations necessary for convening the session.

Any session called pursuant to such requests shall be called as soon as possible and at the latest within a period which shall not exceed 50 days from

the date of receipt of the third request under subparagraph (a) or the fifth request under subparagraph (b).”²⁸⁵

B. *Regional representation on the Programme and Finance Committees*

Conference resolution 11/87 adopted in November 1987 called on members of the Council, when electing members of the Programme and Finance Committees, to bear in mind the need for just and equitable representation of the various regions, the fact that all regions that so wish should be represented and the importance of rotation among the countries in each Region.

Taking note that certain regions were still underrepresented or not represented at all on the Programme and Finance Committees, the Council decided in its ninety-fourth session to refer the matter once more to the Committee on Constitutional and Legal Matters (CCLM).

C. *African Forestry Commission*

The Council approved in its ninety-fourth session the change of name of the “African Forestry Commission” to “African Forestry and Wildlife Commission”. The change of title did not entail any change in the terms of reference of the Commission.

II. ACTIVITIES OF LEGAL INTEREST RELATING TO COMMODITIES

A. *Hard fibres*

The Intergovernmental Group on Hard Fibres held its twenty-second session in October 1988. It agreed to revise upwards the indicative price of sisal fibre upon recommendation by the Sub-Group of Sisal and Henequen Producing Countries. It recommended that the quota system should be maintained in principle, although the global and national quotas should remain suspended. The Group also agreed, with the exception of two consuming countries, to raise the indicative price for sisal baler twines. For abaca, the Group recommended to raise the indicative price range for the composite of three major grades of Philippine fibre. It decided, however, that the mechanism triggering automatic consultations between producers and consumers when the indicator price was approaching either limit of the range should remain suspended.

B. *Jute, kenaf and allied fibres*

(a) *Informal price arrangements for jute and kenaf*

The informal price arrangements operated under the auspices of the FAO Intergovernmental Group on Jute, Kenaf and Allied Fibres were maintained in 1988. At its twenty-fourth session in 1988, the Group agreed not to change the indicative prices set at its previous session for Bangladesh jute and Thai kenaf.

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

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

- (i) Technical assistance in developing and implementing its projects on jute agriculture and primary processing;
- (ii) Supply of statistical and economic information on jute and its competing synthetic materials;
- (iii) Regular participation in the work of the biannual sessions of its Council and Committee on Projects.

III. ACTIVITIES OF LEGAL INTEREST RELATING TO PLANT PROTECTION

FAO is developing a network of base collections, as requested by article 7 of the International Undertaking on Plant Genetic Resources and recommended by the Commission on Plant Genetic Resources. In this respect, a letter was sent by the Director-General to Governments and selected institutions to ascertain the readiness to bring their base collections to this network. More than 20 Governments and institutions provided positive replies. Fifteen more Governments expressed further their wish to join the network during the third session of the Commission. A further four Governments have offered space in their gene banks to store international collections. FAO is negotiating with the government of Norway for the establishment and operation of a permafrost international gene bank in Spitsbergen.

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

IV. LEGISLATIVE MATTERS

A. *Activities connected with international meetings*

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

- Meeting of the GFCM, Technical Consultation on Red Coral of the Mediterranean, Torre del Greco, Italy, 27-30 September 1988;
- Meeting of the Sub-regional Commission on Fisheries — North-West Africa, Bissau, 12-14 December 1988;
- United National Interregional Meeting on River and Lake Basin Development, with emphasis on the Africa region, Addis Ababa, Ethiopia, 10-15 October 1988;
- “The coastal countries of the Fishery Committee for the Eastern Central Atlantic (CECAF) and the New Law of the Sea”, Workshop organized by the CECAF Subcommittee on Management of Resources within the limits of National Jurisdiction, Tenerife, Spain, 12-14 September 1988;
- European Food Law Association, Brussels, November 1988;

- Implementation of the International Code of Conduct on the Distribution and Use of Pesticides in the South East Asia and the Pacific Region, Bangkok, 14-25 November 1988.

B. *Legislative assistance and advice in the field*

During 1988 legislative assistance and advice were given to various countries on the following topics:

(i) *Agrarian law*

Burkina Faso (legal aspects of Nouhao Valley Development Programme), Guinea (rural land law), Lesotho (food self-sufficiency), Rwanda (marshlands management), West Africa (Meat and Livestock Economic Community: legal aspects of the transhumance in the agro-pastoral zones).

(ii) *Water legislation*

Antigua and Barbuda, Dominica, Grenada, Indonesia, St. Vincent and the Grenadines.

(iii) *Animal legislation*

CEPGL (Convention zoosanitaire entre les Etats membres de la Communauté Economique des Pays des Grands Lacs), Laos.

(iv) *Plant protection legislation*

Argentina, Cameroon, CEPGL (Convention sur la protection des végétaux entre les Etats membres de la Communauté Economique des Pays des Grands Lacs).

(v) *Plant production and seed legislation*

Pakistan (Cotton Standard Institute).

(vi) *Food Legislation*

CEPGL.

(vii) *Fisheries legislation*

Belize, Gambia, Guinee-Bissau (investment in fisheries, chartering of fishing vessels), Indonesia, Mozambique, Rwanda, Tonga.

(viii) *Forestry and wildlife legislation*

Antigua and Barbuda, Dominica, Grenada, Guinea, Indonesia, Malaysia, Montserrat, St. Lucia, St. Vincent and the Grenadines, Togo.

(ix) *Environment legislation*

Gabon, Ghana.

C. *Legal assistance and advice not involving field missions*

Advice or documentation was furnished to governments, agencies or education centres, at their request, on a range of topics including:

implementation of the international code on pesticides (Asia and the Pacific region); fisheries, forestry and water legislation.

D. *Legislative Research*

Research was conducted, *inter alia*, on

- Pesticide labeling legislation;
- Coastal State Requirements for foreign fishing;
- National legislation on coral fishing.

E. *Collection, Translation and Dissemination of Legislative Information*

In 1988 FAO published the annual *Food and Agricultural Legislation* (Recueil de législation: alimentation et agriculture; Colección Legislativa agricultura y alimentación). Annotated lists of relevant laws and regulations relating to food legislation were also published in the semi-annual *Food and Nutrition Review* (Revue alimentation et nutrition; Revista alimentación y nutrición).

2. INTERNATIONAL ATOMIC ENERGY AGENCY

Amendment to article VI.A.1 of the IAEA Statute

During 1988, 14 more Member States — Argentina, Burma, Cyprus, Ecuador, Islamic Republic of Iran, Malaysia, Mauritius, New Zealand, Senegal, Sierra Leone, Syrian Arab Republic, United States of America, Zambia and Zimbabwe — accepted the amendment, bringing the total number of acceptances to 68. The amendment will enter into force when it has been accepted by two thirds of all member States.

*Convention on the Physical Protection of Nuclear Material*²⁸⁶

1. Three more States — Austria, Japan and Mexico — expressed consent to be bound by the Convention. By the end of 1988, 46 States and one regional organization — Euratom — had signed the Convention and 24 States were party to it.

*Convention on Early Notification of a Nuclear Accident*²⁸⁷

*Convention on Assistance in the Case of a Nuclear Accident or
Radiological Emergency*²⁸⁸

1. Eleven more States — Austria, Bangladesh, Bulgaria, Egypt, Guatemala, India, Iraq, Mexico, Poland, Switzerland and United States of America — expressed consent to be bound by the Notification Convention. The same States, with the exception of Austria, also acceded to the Assistance Convention. One international organization — World Health Organization — acceded to both Conventions.

2. By the end of 1988, the status of the Conventions was as follows: 72 States had signed the Notification and 31 States and one international organization had become party to it; 70 States had signed the Assistance Convention and 27 States and one international organization had become parties.

*The Vienna Convention on Civil Liability for Nuclear Damage, 1963*²⁸⁹

1. The Convention was signed by one State — Chile. By the end of 1988, 10 States had signed the Convention and there were ten parties to it.

*The Joint Protocol Relating to the Application of the Vienna Convention and
the Paris Convention*²⁹⁰

1. On 21 September 1988, an international conference jointly convened in Vienna by the International Atomic Energy Agency and the OECD Nuclear Energy Agency adopted the Joint Protocol Relating to the Application of the Vienna Convention and the Paris Convention. It establishes a link between the two Conventions by way of extending mutually the civil liability regime under each Convention and eliminating conflicts of law which might arise from their simultaneous application in the event of a nuclear accident involving parties to both Conventions.

2. On the date of adoption, the Joint Protocol was signed by the following 18 countries at the Conference: Argentina, Belgium, Chile, Denmark, Egypt, Finland, Germany (Federal Republic of), Greece, Italy, Morocco, Netherlands, Norway, Philippines, Portugal, Spain, Sweden, Switzerland, Turkey and United Kingdom of Great Britain and Northern Ireland. On 7 December 1988 it was signed by Cameroon. Pursuant to Article VII of the Joint Protocol, accession of at least five States parties to the Vienna Convention and five States parties to the Paris Convention is required for its entry into force.

Examination of the question of liability for nuclear damage

In 1988, IAEA continued consideration of the question of liability for nuclear damage, including State liability. On 23 September 1988, the thirty-second session of the IAEA General Conference adopted by consensus resolution GC(XXXII)/RES/491, in which it requested the Board of Governors, *inter alia*, to convene in 1989 an open-ended working group to study all aspects of liability for nuclear damage.

Safeguards Agreements

1. During 1988, Safeguards Agreements were concluded between IAEA and four member States: Nigeria, Panama, India and China. The agreement with Nigeria was concluded pursuant to the Treaty on the Non-Proliferation of Nuclear Weapons;²⁹¹ the agreement with Panama was concluded on the basis of the Non-Proliferation Treaty, and the Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco).²⁹²

2. The agreements with Nigeria²⁹³ and with India²⁹⁴ entered into force, as well as the Safeguards Agreement concluded in 1986 with Albania.²⁹⁵ One Safeguards Agreement with Spain ceased to be in force under the terms of the Agreement. By the end of 1988, the total number of non-nuclear-weapon States with agreements in force pursuant to the Non-Proliferation Treaty and/or the Treaty of Tlatelolco was 82, and the total number of all Safeguards Agreements in force with IAEA was 168.

3. The above-mentioned agreements with China and Panama were signed by the parties but had not yet entered into force.

Regional cooperation agreements

By the end of 1988, one more State — Singapore — had accepted the agreement, bringing to 14 the number of States which had notified their acceptance of the 1987 Regional Cooperation Agreement for Research, Development and Training Related to Nuclear Science and Technology.

Advisory services in nuclear legislation

As part of the IAEA Technical Cooperation Programme, further advice on nuclear legislation and regulatory activities was provided to China, Morocco and Tunisia to supplement advice previously provided to the competent authorities of those States.

Agreements relating to nuclear safety

In 1988, IAEA continued to compile texts of bilateral, regional and multi-lateral agreements on cooperation in the field of nuclear safety to which its member States were party, with a view to publishing a compilation of the texts in its Legal Series.

3. INTERNATIONAL CIVIL AVIATION ORGANIZATION

1. Legal Meetings

International Conference on Air Law

The International Conference on Air Law, convened by the decision of the Council of 3 June 1987, met at Montreal from 9 to 24 February; 81 States and 8 observer delegations were represented. The purpose of the Conference was to

consider, with a view to adopting, the draft articles prepared by the 26th Session of the Legal Committee for inclusion in a draft instrument for the suppression of unlawful acts of violence at airports serving international civil aviation. As a result of its deliberations, the Conference adopted by consensus and without vote the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, Done at Montreal on 23 September 1971.²⁹⁶ The Protocol was opened for signature at Montreal on 24 February 1988 and on that day was signed by the delegations of 47 States. By the end of 1988, the Protocol had been signed by 61 States.

The basic features of the Protocol are: The Protocol supplements the Montreal Convention of 1971²⁹⁷ and, as between the Parties to the Protocol, the Montreal Convention and the Protocol are to be read and interpreted together as one single instrument. The purpose of the Protocol is not to amend the basic principles of the Montreal Convention of 1971 but to add to its definition of “offence” unlawful and intentional acts of violence against persons at an airport serving international civil aviation which cause or are likely to cause serious injury or death; similarly, destruction or serious damage to the facilities of such an airport, to an aircraft not in service located thereon or disruption of the services of the airport will constitute offences punishable by severe penalties; the qualifying element of such offences is the fact that such an act endangers or is likely to endanger safety at that airport. Furthermore, under the Protocol Contracting States shall be obliged to establish jurisdiction over the offences defined in the Protocol not only in the case where the offence was committed in their territory but also in the case where the alleged offender is present in their territory and is not extradited to the State where the offence took place.

The Final Act of the Conference which was signed on behalf of 77 States includes the text of a Resolution which addresses the important aspect of preventive measures and urges all States to take all possible measures for the suppression of acts of violence at airports serving international civil aviation, including such preventive measures as are required or recommended under annex 17 to the Chicago Convention. The Resolution also urges the Council of ICAO to continue to attach top priority to the adoption of effective measures for the prevention of acts of unlawful interference and to keep up to date the provisions of annex 17 to the Chicago Convention²⁹⁸ to this end. Finally, the Resolution urges the international community to consider increasing technical, financial and material assistance to States in need of such assistance to improve security at their airports through bilateral and multilateral effort, in particular, through the ICAO Technical Assistance mechanism.

2. Legal aspects of aviation security

On 25 March 1988 the Council adopted a Resolution relating to the destruction by an act of sabotage of a Korean Air civil aircraft during a scheduled international flight. In this Resolution the Council reaffirmed its determination to continue to treat aviation security as a matter of top priority and instructed the Committee on Unlawful Interference to advise it what changes to the relevant ICAO

aviation security documents are required, in particular, in relation to the security control of transit passengers and the detection of explosive substances. The Council also urged all States to follow faithfully the principles and spirit of the Convention on International Civil Aviation and the relevant Assembly Resolutions so as to assure the safety and regularity of international civil aviation.

On 29 March 1988 the Council considered a progress report presented by the Secretary General on the action taken in the legal and related fields regarding the implementation of Assembly resolution A26-7: Consolidated statement of continuing ICAO policies related to the safeguarding of international civil aviation against acts of unlawful interference. The Council noted the increase of parties to the Tokyo,²⁹⁹ the Hague³⁰⁰ and the Montreal Conventions; these three aviation security conventions continue to rank among the most widely accepted multilateral international conventions.

The Council further noted the pertinent information on recent occurrences of unlawful interference received from States concerned pursuant to article 11 of The Hague Convention and article 13 of the Montreal Convention, as well as the information received on the domestic legislative implementation of those two conventions. Furthermore, the Council noted the information presented by Contracting States on cooperation with other States in the suppression of acts of unlawful interference with civil aviation in the different regions of the world, including information on practical instances and modalities of inserting into their bilateral air services agreements a clause on aviation security along the lines of the "model clause" recommended by the Council in its Resolution of 25 June 1986.

On 17 June 1988 the Council adopted a statement on the subject of detaining unlawfully seized aircraft on the ground and not allowing them to continue their hazardous journey. In this statement the Council urges each Contracting State to take measures, as it may find practicable, to ensure that an aircraft subjected to an act of unlawful seizure which has landed in its territory is detained on the ground unless its departure is necessitated by the overriding duty to protect human life.

During its 125th session in December 1988, the Council considered a model agreement for bilateral or regional cooperation in the field of aviation security, prepared by the Secretariat, and decided to send it to Contracting States for comments.

4. INTERNATIONAL LABOUR ORGANIZATION

Legal activities of the Organization³⁰¹

1. The International Labour Conference (ILC), which held its 75th Session in Geneva in June 1988, adopted the following instruments: a Convention and a Recommendation concerning Safety and Health in Construction;³⁰² and a Convention and a Recommendation concerning Employment Promotion and Protection against Unemployment.³⁰³

2. The Committee of Experts on the Application of Conventions and Recommendations met at Geneva from 10 to 23 March 1988 and presented its report.³⁰⁴

3. The Governing Body Committee on Freedom of Association met at Geneva and adopted Reports Nos. 254³⁰⁵ and 255³⁰⁵ (239th Session of the Governing Body, February-March 1988); Report Nos. 256,³⁰⁶ 257³⁰⁶ and 258³⁰⁸ (240th Session of the Governing Body, May-June 1988); and Reports Nos. 259,³⁰⁷ 260,³⁰⁷ and 261³⁰⁷ (241st Session of the Governing Body, November 1988).

5. INTERNATIONAL MONETARY FUND

Compensatory and Contingency Financing Facility

The Executive Board established in August 1988 a Compensatory and Contingency Financing Facility (CCFF), adapting the existing compensatory and cereals facilities, and introducing an external contingency financing policy to help maintain the momentum of Fund-supported growth-oriented adjustment programs in the face of unexpected adverse external shocks. These enhancements of the Fund's financing facilities are designed to meet the needs of the membership in a changing economic environment, and to strengthen the institution's contribution to the international adjustment process.

The new facility replaces the Compensatory Financing Facility for Export Fluctuations (established in 1963), and the Facility for Compensatory Financing of Fluctuations in the Cost of Cereal Imports (established in 1981), which were designed to help members deal with balance of payments difficulties deemed to be of a temporary and reversible character and, therefore, requiring financing more than adjustment. The CCFF will provide financial assistance to member countries that encounter balance of payments difficulties that arise out of (i) temporary export shortfalls, (ii) adverse external contingencies, or (iii) excess costs of cereal imports. External contingency financing will be available to a member facing unanticipated changes in key external variables covering a substantial proportion of the exogenous components of the member's current account. Disbursements under the CCFF will be financed with the Fund's ordinary resources.

The amounts of financing available are 40 per cent of quota each on account of the export shortfall and the external contingency elements, and 17 per cent of quota for the cereal import costs element; in addition, there is an optional tranche of 25 per cent of quota available to supplement any one of these elements, at the choice of the member. In case a member has a satisfactory balance of payments position except for the effect of an export shortfall or an excess in cereal import costs, the limit of 83 per cent of quota under either element has been maintained. In addition, there is a combined limit of 105 per cent of quota on the use of any two of the three elements of the CCFF, and a combined limit of 122 per cent of quota on the use of all three elements.

External contingency financing will be provided in association with a stand-by or extended arrangement, or in association with a Structural Adjustment Facility (SAF) or an Enhanced Structural Adjustment Facility (ESAF) arrangement. External contingency financing will generally not exceed 70 per cent of the amount of the associated arrangement. The applicable contingencies would include unanticipated changes in the exogenous components of export earnings, import prices, and international benchmark interest rates. Other current account transactions (such as tourist receipts and migrant workers' remittances) could also be covered where they are of particular importance. Every effort will be made to obtain contingent financing from sources other than the Fund when the member requests contingency financing coverage from the Fund.

The contingency financing element envisages an appropriate blend of adjustment and financing, as well as symmetry in its application, and in the case of a favorable deviation from a baseline projection specified at the inception of a program, the member will be expected to set aside part of it, preferably by increasing international reserves, or alternatively by either foregoing purchases from the Fund under the associated arrangement, or by making early repurchases of previous contingency financing purchases. Purchases will be phased to coincide with drawings under the associated arrangement, and, for a purchase to take place, the member's performance under the associated arrangement from the Fund must be satisfactory and the member must be prepared to adapt its adjustment policies, if necessary, to ensure the viability of the program supported by the associated arrangement.

Enhanced Structural Adjustment Facility

The Fund, as Trustee under the Instrument to Establish the Enhanced Structural Adjustment Facility Trust (ESAF Trust), decided in April 1988 that the initial maximum limit on access of each eligible member to the resources of the Trust shall be set at 250 per cent of the member's quota in the Fund, minus any remaining access of the member to the resources of the Structural Adjustment Facility, and minus resources committed to the member for loans in association with Trust loans.

The Fund also decided, as Trustee under the Instrument, that the interest rate on loans from the Trust shall be set at 0.5 per cent effective April 20, 1988.

Pursuant to section III, paragraph 2, of the Instrument mentioned above, the Fund, in its capacity as Trustee of that Trust, approved a number of agreements with governments, central banks and other financial institutions for the financing of the ESAF Trust and with respect to associated lending.

Extended Fund Facility

In June 1988, the Fund amended its decision on the Extended Fund Facility with respect to the period of arrangements. Under the amended decision, the period of an extended arrangement will normally be three years, but, where appropriate, and at the request of the member, the period of the existing extended arrangement may be lengthened up to four years.

Policy on Enlarged Access

The Fund also amended its decision on Enlarged Access Policy in June 1988 with respect to the use of ordinary and borrowed resources. Under the amended decision, purchases will be made, in case of a stand-by arrangement, with ordinary and borrowed resources in the ratio of 2 to 1 in the first credit tranche, and 1 to 2 in the next three credit tranches. Thereafter, purchases will be made with borrowed resources only. In case of an extended arrangement, purchases by a member will be made with ordinary resources until the outstanding use of ordinary resources in the upper credit tranches and under the extended Fund facility equals 140 per cent of the member's quota. Thereafter, purchases will be made with borrowed resources.

General Arrangements to Borrow (GAB)

Pursuant to article VII, section 1, of the Articles of Agreement of the Fund, the Managing Director was authorized in June 1988 to propose a renewal of the 1983 borrowing agreement with Saudi Arabia in association with the General Arrangements to Borrow (GAB) for a period of five years from 26 December 1988.

The reply was received from Saudi Arabia accepting the proposed renewal and thus the agreement on the renewal entered into force on December 26, 1988.

SDRs

The Fund decided in July 1988 that a participant or prescribed holder, by agreement with a prescribed holder and at the instruction of the Fund, may transfer SDRs to that prescribed holder in effecting a payment due to or from the Fund in connection with financial operations under the ESAF Trust or under an administered account established for the benefit of the ESAF Trust.

Structural Adjustment Facility

The Fund decided in July 1988 that the potential access of each eligible member to the resources of the Structural Adjustment Facility as of 29 July 1988 shall be 63.5 per cent of quota; no more than 20 per cent of quota shall be disbursed under the first annual arrangement, no more than 30 per cent of quota shall be disbursed under the second annual arrangement, and no more than 13.5 per cent of quota shall be disbursed under the third annual arrangement.

Burden Sharing and Adjustment in the Rate of Charge and Rate of Remuneration

The Fund adopted a decision in April 1988 on the principles of "burden sharing," rate of charge, amount for the Special Contingent Account and the net income target, and implementation of burden sharing for fiscal year 1989.

The Fund reviewed the operation of this decision in July 1988, and decided that the adjustment in the rate of charge for the quarter ended 31 July 1988 shall be limited so as to generate an amount equal to the amount generated through the reduction in remuneration for that quarter; the resulting shortfall shall be deemed deferred income in the quarter ending 31 October 1988, and shall be financed through an adjustment of the rate of charge and the rate of remuneration for that quarter.

Supplementary Financing Facility Subsidy Account

In August 1988 the Fund amended section 10 of the Instrument establishing the Supplementary Financing Facility Subsidy Account so that for the purpose of the calculation of charges under (a) and (b) of the provision, any adjustment in the rate of charge referred to in rule I-6(4) that may be made to cover deferred income and placements to the Special Contingent Account should not be taken into consideration.

The Fund also decided that additional subsidy payments should be made with respect to charges paid on holdings of currency referred to in section 7 of the Instrument for the period 17 May 1987 through 30 June 1988.

6. UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

International Regulations

Entry into force of instruments previously adopted

Within the period covered by this review, no multilateral conventions or agreements adopted under the auspices of UNESCO entered into force.

Copyright and neighbouring rights

1. The Subcommittee set up at the second extraordinary session of the Intergovernmental Copyright Committee (1983) met at its third session in Paris, on 21 April 1988, to study prospective amendments to the Committee Rules of Procedure with a view to creating a system of distribution of seats which takes into account the interests set forth in article II of the Universal Copyright Convention.³⁰⁸

2. *Photographic Works*: Convened jointly by UNESCO and WIPO, a Committee of Governmental Experts on Photographic Works met at UNESCO Headquarters from 18 to 22 April 1988. The Committee discussed a number of "principles" submitted by the Secretariats which, together with comments, could offer guidance to Governments when they had to deal with those issues.

The results of the Committee were reported to the Executive Committee of the Berne Union and the Intergovernmental Committee of the Universal Copyright Convention in 1989.³⁰⁹

3. Convened jointly by UNESCO and WIPO, the Committee of Governmental Experts on the evaluation and synthesis of Principles on various categories of Works met at Geneva from 27 June to 1 July 1988. The principles drawn up for nine categories of works (Audiovisual Works and Phonograms; Works of Architecture; Works of Visual Arts; Dramatic, Choreographic and Musical Works; Works of Applied Art; the Printed Word [photographic works]) were considered by this Committee on the basis of the memorandum on the evaluation and syn-

thesis of principles on the protection of copyright and neighbouring rights in respect of various categories of works prepared by the Secretariats.

It was stressed that the “principles” have no binding force and their purpose was merely to indicate directions that seemed reasonable in the search for solutions which, by safeguarding the rights of authors and other owners of rights, gave them fair treatment and promoted creative activity.

The results of the Committee were reported by the Executive Committee of the Berne Union and the Intergovernmental Committee of the Universal Copyright Convention in 1989.³¹⁰

7. UNITED NATIONS INDUSTRIAL DEVELOPMENT ORGANIZATION

In addition to providing legal advice and assistance to the principal organs of UNIDO, the Director-General and various departments in the organization, the Legal Service of UNIDO continued to deal with subjects related to the completion of the conversion of UNIDO into a specialized agency. These activities can be summed up as follows:

(a) Constitutional matters

In 1988, 2 States (Albania and the Maldives) became members of UNIDO by acceding to the Constitution,³¹¹ bringing the membership in UNIDO to 152 at the end of 1988.³¹² However, in accordance with article 6 of the Constitution, Australia withdrew its membership with effect from the end of 31 December 1988.³¹³

(b) Agreements with inter-governmental, non-governmental, governmental and other organizations

Based on the Guidelines regarding Relationship Agreements with Organizations of the United Nations System other than the United Nations, and with other Intergovernmental and Governmental Organizations, and regarding Appropriate Relations with Non-governmental and other Organizations, adopted by the General Conference,³¹⁴ UNIDO concluded the following agreements:

(i) As approved by the Industrial Development Board at its second session,³¹⁵ UNIDO concluded relationship agreements with the following intergovernmental organizations not in the United Nations system:³¹⁶

- Cooperation agreement with the African Development Bank (AfDB), signed on 6 February 1988;
- Relationship agreement with the African Regional Centre for Technology (ARCT), signed on 13 August 1988;
- Relationship agreement with the Arab Organization for Mineral Resources (AOMR), signed on behalf of UNIDO on 22 August 1988;

- Relationship agreement with the Arab Organization for Standardization and Metrology (ASMO), signed on 31 May and 15 June 1988;
- Relationship agreement with the Asian and Pacific Coconut Community (APCC), signed on 25 March 1988;
- Relationship agreement with the Central African Customs and Economic Union (CACEU), signed on 23 September 1988;
- Relationship agreement with the Intergovernmental Committee for Migration (ICM), signed on 22 April 1988;
- Relationship agreement with the International Center for Public Enterprises in Developing Countries (ICPE), signed on 12 May 1988;
- Relationship Agreement with the Organization for the Development of the Senegal River (OMVS), signed on 12 August 1988.

(ii) UNIDO also concluded an agreement with the Centre for Development of Industry, Brussels (Belgium), a Memorandum of Understanding with the European Group for Development of Enterprises through International Cooperation, Bischheim (France), and a Cooperation Agreement with the University of Paris I Panthéon-Sorbonne.³¹⁶

(iii) UNIDO concluded agreements or working arrangements with the following Governments or governmental organizations:³¹⁶

- Agreement with India on basic terms and conditions governing UNIDO projects envisaged by the interim programme for the International Centre for Genetic Engineering and Biotechnology, together with a Trust fund agreement and an Exchange of Letters on basic terms and conditions in connection with the above agreement. Agreement with Italy on basic terms and conditions governing the UNIDO project concerning the preparatory phase for the establishment of an International Centre for Science and High Technology;
- Memorandum of Understanding with the Philippines on cooperation in the field of low-cost building materials technologies and construction systems. Memorandum of Understanding with Portugal to cooperate in carrying out industrial development programmes for the benefit of developing countries, with special emphasis on those having Portuguese as their official language; at the same time the parties signed a Note of Understanding on their cooperation for the establishment of the Centre for Pharmaceutical Technology Information Training and Development (ITPT) and a Note of Understanding on training;
- Protocol regarding procurement by UNIDO of equipment, supplies and other property pursuant to the agreement for technical services on training under the Sudan sugar rehabilitation project (signed on 14 June and 14 September 1987);
- “Communiqué final” on the Director-General’s visit to Cameroon from 17 to 21 July 1988 to discuss cooperation between Cameroon and UNIDO in the field of industrial development; joint communiqué on the official visit of the Minister of Industry of the Sudan to UNIDO headquarters, 30 November-2 December 1988.

(c) Agreements with the United Nations or its organs

(i) on 11 March 1988 the Agreement on the Transfer of Assets between the United Nations and UNIDO was signed.^{317 318}

(ii) As in 1986 and 1987, UNIDO concluded an agreement with the United Nations on Arrangements for the Sale of UNIDO Publications.

(iii) On 28 May 1988 UNIDO and ECA signed a Working Arrangement on cooperation and consultation within the overall framework set forth by the Relationship Agreement between the United Nations and UNIDO of 18 December 1985. In October 1984, UNIDO signed a Letter of Agreement with the United Nations Fund for Drug Abuse Control (UNFDAC) concerning the continued participation of UNIDO in the implementation of UNFDAC-funded law enforcement and other drug control projects in 1989.

(d) Trust Fund Agreements with Governments on Associate Experts

In 1988 such an Agreement was concluded with the Government of Japan in the form of an Exchange of Letters.

(e) Standard Basic Cooperation Agreement

Such Agreements were concluded with Bolivia, Chile, Morocco, the Niger, the Sudan, and the United Arab Emirates.

(f) Regulations and Rules

(i) *Financial Rules*: Based on the UNIDO Financial Regulations, which were approved by the General Conference at its second session in 1987 and came into force on 1 January 1988,³¹⁹ the Director-General issued the Financial Rules of UNIDO,³²⁰ which also became effective on 1 January 1988.

(ii) *Staff Rules*

In accordance with staff regulation 13.49,³¹⁹ the Director-General elaborated the Staff Rules of UNIDO, which entered into effect on 1 July 1988.^{321 322}

(g) Secretariat procedures with regard to international treaties and agreements

In July 1988, UNIDO issued instructions³²³ on the Procedures of the Secretariat concerning the registration, filing and recording, and publication of treaties and international agreements to which the United Nations Industrial Development Organization is a party, pursuant to Article 102 of the Charter of the United Nations and the Regulations adopted by the General Assembly to give effect to Article 102.

(h) UNIDO emblem

At its 4th session, the Industrial Development Board decided to select the emblem and seal used provisionally since January 1986 as the official emblem and seal of UNIDO.^{318 324}

(i) Agreements with publishing houses regarding UNIDO publications

The Legal Service has elaborated — together with the UNIDO Publications Board — a model agreement to be used in negotiations with outside publishers for the editing, printing and publication of books, industrial review series or other publications prepared by UNIDO's officials or consultants. On the basis of this model, UNIDO concluded an agreement in 1988 with Cassell Tycooly, London.

8. UNIVERSAL POSTAL UNION

The Universal Postal Union has continued to study the legal and administrative problems which the 1984 Hamburg Congress assigned to the Executive Council. The following are among the most important problems which would be of interest to other organizations.

(a) International postal regulations

The Executive Council decided to submit to the Washington Congress of 1989:

- A proposal aimed at relaxing the procedure provided for in article 102, paragraph 6(r), of the General Regulations, for the introduction of new services or practices;
- Proposals intended to introduce into rule 15 of the Rules of Procedure for Congresses two procedures concerning referral to the Executive Council of proposals to amend the Detailed Regulations;
- Proposals resulting from the decisions taken in 1986 and 1987 on the problem of the legislative competence of the Executive Council.

It also requested the International Bureau to carry out the following studies in 1989:

- To pursue the question of the authentication of the Detailed Regulations based on the practice of other United Nations bodies;
- To analyse whether it was appropriate to state reservations before or after authentication of the aforementioned Detailed Regulations;
- To study the possibility of replacing the terms “delegate” and “plenipotentiary” by the term “representative” in the Acts of the UPU;
- To analyse whether or not it was appropriate to put into force immediately the new mechanism for the revision of the Acts of the UPU, in particular, the legislative competence of the Executive Council in that regard.

(b) Amendment of article 6 of the Universal Postal Union Convention

Since the Executive Council believes that this article concerns only the establishment of new services, it has not subscribed to the idea of including in it provisions expressly confirming the maintenance, between Administrations which so desire, of Agreements or parts thereof that have been terminated by UPU. On the other hand, it will submit to the 1989 Washington Congress a draft resolution which will afford the Administrations concerned the possibility of maintaining or reintroducing between themselves at a later date all or part of the Agreements terminated by UPU.

(c) Credentials of delegates

Two solutions reflecting the two trends which were evident at the 1986 and 1987 sessions were discussed by the Executive Council. The first recommended a certain degree of flexibility concerning irregular or missing credentials, while the second proposed that delegates whose credentials were not in order should forfeit the right to vote.

In the end, it opted for the first solution, supplemented by measures it had already taken in 1987 (decision CE 10/1987), which were aimed at facilitating the deposit of credentials and speeding up the procedure for their approval. This decision requested the International Bureau in particular:

- To prepare model credentials which would be annexed to the invitation to the Congress;
- To approach the Ministries of Foreign Affairs of member countries calling their attention to the special requirements of the UPU with regard to credentials (especially the power of signature);
- To take measures to expedite and accelerate the deposit of credentials so that the Secretariat may have adequate time in which to prepare the documents for the Credentials Committee;
- To provide for the Credentials Committee to meet immediately after the beginning of Congress and to submit its initial report during the first week of Congress.

(d) Function of the depositary of the Acts of the Union and participation of the Swiss Government in the case of accession and admission to and withdrawal from the Union

Pursuant to the request by the Swiss Government, the Executive Council will submit to the 1989 Washington Congress the proposed amendments to the Acts, whereby those residual functions exercised thus far by Switzerland would be transferred to the International Bureau.

The Council has also instructed the International Bureau to review the provisions of article 21, paragraph 4, of the Constitution³²⁵ on the determination of the contribution class of new countries acceding to the Union, provisions which no longer correspond to current practice.

- (e) Transfer to the International Bureau of the power to invite applications for the posts of Director-General and Deputy Director-General of the International Bureau

Having considered the practice of other specialized agencies of the United Nations, the Executive Council has decided to transfer to the International Bureau the power to invite applications for the posts of Director-General and Deputy Director-General of the International Bureau. Accordingly, it will submit to the 1989 Washington Congress a proposal to amend article 108, paragraph 2, of the General Regulations.

- (f) Possible accession of UPU to the 1986 Vienna Convention on the Law of Treaties between States and International Bureau Organizations or between International Organizations³²⁶

The Executive Council has decided to request the International Bureau to prepare a supplementary report in 1989 on the advisability of acceding to the 1986 Vienna Convention.

- (g) Suggestions regarding the functioning of the Union

In view of the important suggestions made by the International Bureau with regard to adapting the operation of the UPU to the present commercial and technical demands, the Executive Council established a Working Party to consider the matter with a view to preparing proposals for submission to the Congress, or, if possible, proposals applicable before Congress (decision CE 8/1988).

9. WORLD BANK³²⁷

- (a) International Bank for Reconstruction and Development

Amendment of the Articles of Agreement

On 30 June 1987 the Board of Governors of the Bank adopted a resolution amending article VIII(a) of the Bank's Articles of Agreement, increasing the majority of the total voting power of members required to accept further amendments of the Articles of Agreement from 80 to 85 per cent.³²⁸

Article VIII of the Bank's Articles of Agreement establishes a two-stage procedure for amending the Articles. A proposed amendment must first be approved by the Board of Governors (by a majority of the votes cast) and thereafter must be accepted by the members. With the exception of amendments of a few provisions of the Articles which must be accepted by all members, amendments must be accepted by three fifths of the members having four fifths (i.e., 80 per cent) of the total voting power.

On 15 November 1988, the Bank formally certified to the members that the required acceptances had been received and that, pursuant to the Articles of Agreement and the resolution, the amendment would come into force for all members on 16 February 1989, three months after the Bank's formal communication.

1988 General capital increase

On 27 April 1988, the Board of Governors of the Bank adopted two resolutions increasing the authorized capital of the Bank. The first resolution (No. 425) increased the authorized capital by 620,000 shares having a par value of \$100,000 in terms of 1944 gold dollars.

Pursuant to the interpretation of article II, section 2(a), of the Articles of Agreement made by the Executive Directors on 14 October 1986, pursuant to article IX of the Articles, the shares are valued on the basis of the Special Drawing Right (SDR) introduced by the International Monetary Fund, as the SDR was valued in terms of United States dollars immediately before the introduction of the basket method of valuing the SDR on 1 July 1974, such value being equal to \$1.20635 for one SDR.³²⁹

Members of the Bank are authorized to subscribe their proportionate share of the increase within a period extending to 30 September 1993. Subscribing members will pay 0.3 per cent of the price of shares in United States dollars and 2.7 per cent in their currency. The balance of the price of shares will be part of the Bank's callable capital, which may be called only to meet the Bank's obligations on its borrowings and its guarantees. The increase in capital will support an increase in the Bank's lending operations.

The second resolution (No. 426) increased the authorized capital by an additional 14,000 shares, to accommodate new members. Shares authorized under resolution No. 426 have the same par value as shares authorized under resolution No. 425. The terms and conditions of payment will be specified at the time of subscription by new members.

(b) International Development Association

Eighth Replenishment

On 4 March 1988, the Eighth Replenishment of the Association's resources became effective, the Association having received notification of participation from donors whose aggregate contributions amounted to 80% of the replenishment. The amount of the replenishment is \$11.5 billion, which, together with supplementary contributions of certain donors, brings the total amount of resources available to IDA for lending through June 1990 to over \$12 billion.

(c) Multilateral Investment Guarantee Agency

On 12 April 1988, the Convention Establishing the Multilateral Investment Guarantee Agency (MIGA)³³⁰ came into force, creating MIGA as the newest affiliate of the World Bank. MIGA seeks to encourage the flow of investment among its member countries, and in particular to its developing member countries, by issuing guarantees against non-commercial risks and carrying out a wide range of consultative and advisory activities.

The Council of Governors of MIGA held its inaugural meeting on 8 June 1988, during which it adopted the By-Laws of the Agency³³¹ and elected MIGA's Directors.

The Board of Directors held its first meeting on 22 June 1988 and adopted three further sets of regulations and rules. These are the Financial Regulations, the Rules of Procedure for Meetings of the Board of Directors and MIGA's Operational Regulations.³³²

At its initial meeting, the Board of Directors also designated the President of the World Bank, who under the MIGA Convention is ex officio the Chairman of MIGA's Board, to serve as President of MIGA as well.

As of 31 December 1988, the MIGA Convention had been signed by 72 countries. Forty-eight of these had also ratified the Convention and were members of MIGA.

The texts of MIGA's By-Laws, Financial Regulations, Rules of Procedure and Operational Regulations approved by the Council and Board at their respective initial meetings are identical in most respects to those adopted in September 8 1986 by a Preparatory Committee of signatory States of the Convention. For further details on the work of this committee, see *Juridical Yearbook, 1986*, pp. 168-169.

Also by the end of 1988, MIGA had registered 21 guarantee applications submitted by investors from 6 countries for projects in 11 other countries.

(d) International Centre for Settlement of Investment Disputes

(i) *Signatory States and Contracting States*

As of 31 December 1988, 92 States had signed the Convention on the Settlement of Investment Disputes Between States and Nationals of Other States (the ICSID Convention).³³³ Of the signatory States, 89 had also ratified the ICSID Convention.

(ii) *Disputes before the Centre*

In *Klöckner/Cameroon* (case ARB/81/2), the dispute had been submitted to a new ICSID tribunal in 1986 following the annulment of the award previously rendered in that case. During 1988, the new tribunal rendered its award. Awards were also issued in 1988 in *Maritime International Nominees Establishment (MINE) v. Republic of Guinea* (case ARB/84/4) and in *Société Ouest Africaine des Bétons Industriels v. State of Senegal* (case ARB/82/1).

Annulment proceedings were subsequently instituted in respect of the award in the *MINE* case and in respect of the second award in the *Klöckner* case.

Also during 1988, the arbitration in *Dr. Gaïth R. Pharaon v. Republic of Tunisia* (case ARB/86/1) was discontinued following an amicable settlement by the parties of their dispute.

As of 31 December 1988, there were nine cases pending before the Centre. These included the two annulment proceedings mentioned above and the following seven further arbitrations:

- *Amco/Indonesia* (case ARB/81/1);
- *Colt Industries Operating Corp., Firearms Division v. Government of the Republic of Korea* (case ARB/84/2);
- *SPP (Middle East) v. Arab Republic of Egypt* (case ARB/84/3);
- *Société d'Etudes de Travaux et de Gestion (SETIMEG) S.A. v. Republic of Gabon* (case ARB/87/1);
- *Mobil Oil Corp., Mobil Petroleum Co., Inc. and Mobil Oil New Zealand Ltd. v. New Zealand Government* (case ARB/87/2);
- *Asian Agricultural Products Ltd. v. Democratic Socialist Republic of Sri Lanka* (case ARB/87/3); and
- *Occidental of Pakistan Inc. v. Islamic Republic of Pakistan* (case ARB/87/4).³³⁴

10. WORLD HEALTH ORGANIZATION

(a) Constitutional and legal developments

The amendments to articles 24 and 25 of the Constitution, adopted in 1986 by the Thirty-ninth World Health Assembly to increase the membership of the Executive Board from 31 to 32, now total 39 acceptances by member States.

During the year 1988, two member States (Antigua and Barbuda, and Dominica) acceded to the Convention on the Privileges and Immunities of the Specialized Agencies. By the end of the year, the total number of member States that had acceded to the Convention with respect to WHO was 93.

The Forty-first World Health Assembly requested the Director-General to make arrangements for the Organization's accession to the Convention on Early Notification of a Nuclear Accident³³⁵ and the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency,³³⁶ adopted in Vienna on 26 September 1986. To fulfil one of the conditions laid down by the Conventions and in accordance with the Assembly's decision, the instruments of accession, deposited on 28 July 1988, stated that the World Health Organization was competent to act as the directing and coordinating authority in international health work in matters covered by the Conventions, and to provide related assistance upon the request or acceptance of governments, without prejudice to the national competence of each of its member States.

(b) Health legislation

The publication of the quarterly *International Digest of Health Legislation* (and its French-language counterpart, the *Recueil international de législation sanitaire*) has continued. Each volume contains legislation on all aspects of health (including the human environment, bioethics, pharmaceuticals, etc.) from 80 or so jurisdictions (including international organizations), as well as reviews of or notices on new books and other publications on health law and allied topics, reports on conferences, etc. The transmission of information on legislative matters to WHO's member States is another routine yet vital activity that was continued during 1988.

Legislative developments in the field of AIDS and HIV infection continued to receive high priority. There is no precedent for the unabated flow of new laws, regulations, and other legal instruments dealing with many aspects of what has now been recognized as a pandemic. WHO's Health Legislation Unit plays a supportive role to the Global Programme on AIDS, and helps to disseminate information on those products of the Global Programme that have legal or legislative implications. A product that has been widely welcomed is the annotated listing of HIV/AIDS legislation, which is now being updated at least twice a year.³⁷ WHO continued to monitor HIV- and AIDS-related restrictions on international travel. WHO's Regional Office for Europe will convene an International Consultation on Health Legislation and Ethics in the Field of AIDS and HIV Infection (Oslo, 26-29 April 1989).

WHO continued to provide support to developing countries, at their request, in the review and revision of health legislation. Consultant missions were conducted to a number of countries. WHO staff members played an active role in the Second National Workshop on Health Legislation, held in Shanghai in April 1988; a group of Chinese experts undertook a Study Tour on Health Legislation to four European countries (August-September 1988). The Organization was represented at a number of major international meetings, including the VIIIth World Congress on Medical Law, held at Prague from 21 to 25 August 1988.

NOTES

¹Adopted without a vote.

²Adopted without a vote.

³Adopted by a vote of 136 to 3, with 14 abstentions.

⁴Adopted by a vote of 9 to none, with 53 abstentions.

⁵Adopted by a vote of 131 to 2, with 20 abstentions.

⁶Adopted without a vote.

⁷Adopted without a vote.

⁸Adopted by a vote of 130 to none, with 10 abstentions.

⁹Adopted by a vote of 152 to 1, with 1 abstention.

¹⁰Adopted without a vote.

¹¹Adopted without a vote.

¹²*International Legal Materials*, vol. XXVII, No. 1 (January 1988), p. 84.

¹³Adopted by a vote of 141 to none, with 12 abstentions.

- ¹⁴Adopted without a vote.
- ¹⁵Adopted by a vote of 135 to 12, with 3 abstentions.
- ¹⁶Adopted by a vote of 135 to 13, with 5 abstentions.
- ¹⁷General Assembly resolution S-10/2.
- ¹⁸Adopted by a vote of 137 to none, with 11 abstentions.
- ¹⁹Adopted by a vote of 127 to 17, with 6 abstentions.
- ²⁰Adopted by a vote of 136 to 3, with 14 abstentions.
- ²¹Adopted by a vote of 133 to 17, with 4 abstentions.
- ²²Adopted by a vote of 136 to 4, with 13 abstentions.
- ²³United Nations, *Treaty Series*, vol. 480, p. 43.
- ²⁴*Ibid.*, vol. 729, p. 161.
- ²⁵Adopted by a vote of 127 to 3, with 21 abstentions.
- ²⁶Adopted by a vote of 146 to 2, with 6 abstentions.
- ²⁷Adopted by a vote of 117 to 17, with 16 abstentions.
- ²⁸Adopted by a vote of 149 to none, with 5 abstentions.
- ²⁹*Arms Control and Disarmament Agreements* (United States Arms Control and Disarmament Agency), 1996 edition, p. 59.
- ³⁰Adopted by a vote of 116 to 3, with 34 abstentions.
- ³¹Adopted by a vote of 151 to none, with 4 abstentions.
- ³²Adopted by a vote of 138 to 4, with 12 abstentions.
- ³³Adopted by a vote of 99 to 2, with 51 abstentions.
- ³⁴Adopted without a vote.
- ³⁵League of Nations, *Treaty Series*, vol. XCIV, p. 65.
- ³⁶Adopted without a vote.
- ³⁷Adopted by a vote of 154 to 1, with no abstentions.
- ³⁸Adopted by a vote of 152 to none, with 2 abstentions.
- ³⁹Adopted by a vote of 116 to 2, with 29 abstentions.
- ⁴⁰Adopted by a vote of 129 to 1, with 10 abstentions.
- ⁴¹Adopted by a vote of 141 to none, with 13 abstentions.
- ⁴²Adopted without a vote.
- ⁴³United Nations, *Treaty Series*, vol. 1342, p. 137.
- ⁴⁴Adopted without a vote.
- ⁴⁵Adopted by a vote of 125 to none, with 23 abstentions.
- ⁴⁶Adopted by a vote of 128 to one, with 22 abstentions.
- ⁴⁷See A/43/913.
- ⁴⁸General Assembly resolution 2734 (XXV); reproduced in *Juridical Yearbook*, 1970, p. 62.
- ⁴⁹Adopted without a vote.
- ⁵⁰See A/43/795.
- ⁵¹See A/43/566.
- ⁵²Adopted without a vote.
- ⁵³See A/43/795.
- ⁵⁴Adopted by a vote of 100 to none, with 6 abstentions.
- ⁵⁵See A/43/911.
- ⁵⁶Adopted by a vote of 111 to none, with 10 abstentions.
- ⁵⁷See A/43/911.
- ⁵⁸For the report of the Subcommittee, see A/AC.105/411.
- ⁵⁹For the report of the Committee, see *Official Records of the General Assembly, Forty-third Session, Supplement No. 20 (A/43/20)*.
- ⁶⁰Adopted without a vote.

⁶¹See A/43/767.

⁶²For detailed information, see *Official Records of the General Assembly, Forty-third Session, Supplement No. 25* (A/43/25).

⁶³All decisions of the Governing Council referred to in this section were adopted by consensus.

⁶⁴General Assembly resolution 42/186, annex.

⁶⁵A/42/427, annex.

⁶⁶Adopted without a vote.

⁶⁷See A/43/915/Add.7.

⁶⁸Adopted without a vote.

⁶⁹See A/43/905.

⁷⁰Adopted without a vote.

⁷¹See A/43/919.

⁷²Adopted without a vote.

⁷³See A/43/915/Add.2.

⁷⁴*Official Records of the General Assembly, Forty-third Session, Supplement No. 15* (A/43/15), vol. I, annex III.

⁷⁵Adopted without a vote.

⁷⁶See A/43/915/Add.4.

⁷⁷*Official Records of the General Assembly, Forty-third Session, Supplement No. 36* (A/43/36).

⁷⁸*Report of the United Nations Conference on New and Renewable Sources of Energy, Nairobi, 10-21 August 1981* (United Nations publication, Sales No. E.81.I.24), chap. I, sect. A.

⁷⁹Adopted without a vote.

⁸⁰See A/43/915/Add.2.

⁸¹United Nations publication, Sales No. E.88.II.D.8 and corrigendum.

⁸²*Official Records of the General Assembly, Forty-third Session, Supplement No. 15* (A/43/15), vol. I.

⁸³*Ibid.*, vol. II.

⁸⁴*Ibid.*, *Thirty-fifth Session, Supplement No. 15* (A/35/15), vol. II, annex I.

⁸⁵*Ibid.*, *Forty-third Session, Supplement No. 15* (A/43/15), vol. II, sect. II.A.

⁸⁶See TD/350.

⁸⁷Adopted by a vote of 150 to 1, with 1 abstention.

⁸⁸See A/43/916.

⁸⁹A/43/647.

⁹⁰Adopted without a vote.

⁹¹See A/43/915/Add.6.

⁹²A/43/554.

⁹³United Nations, *Treaty Series*, vol. 520, p. 151.

⁹⁴*Ibid.*, vol. 1019, p. 175.

⁹⁵*Ibid.*, vol. 976, p. 3.

⁹⁶*Ibid.*, p. 105.

⁹⁷E/CONF.82/215, Corr. 1 and 2; issued also as a United Nations publication (Sales No. E.91.XI.6); see also text of the Convention in chap. IV.A of this *Yearbook*.

⁹⁸Adopted without a vote.

⁹⁹See A/43/875.

¹⁰⁰Adopted without a vote.

¹⁰¹See A/43/875.

¹⁰²A/43/684.

¹⁰³A/43/679.

¹⁰⁴*Report of the International Conference on Drug Abuse and Illicit Trafficking, Vienna, 17-26 June 1987* (United Nations publication, Sales No. E.87.I.18), chap. I, sect. B.

¹⁰⁵*Ibid.*, sect. A.

¹⁰⁶Adopted without a vote.

¹⁰⁷See A/43/811.

¹⁰⁸A/43/572.

¹⁰⁹For detailed information, see *Official Records of the General Assembly, Forty-third Session, Supplement No. 12* (A/43/12).

¹¹⁰United Nations, *Treaty Series*, vol. 189, p. 137.

¹¹¹A/42/521-S/19085, annex, sect. 8.

¹¹²A/42/949.

¹¹³Adopted without a vote.

¹¹⁴See A/43/874.

¹¹⁵A/41/324, annex.

¹¹⁶See A/41/572, annex.

¹¹⁷See A/43/717 and Corr. 1, annex.

¹¹⁸United Nations, *Treaty Series*, vol. 993, p. 3.

¹¹⁹*Ibid.*, vol. 999, p. 171.

¹²⁰*Ibid.*

¹²¹Adopted without a vote.

¹²²See A/43/872.

¹²³*Official Records of the General Assembly, Forty-third Session, Supplement No. 40* (A/43/40).

¹²⁴United Nations, *Treaty Series*, vol. 1249, p. 13.

¹²⁵Adopted without a vote.

¹²⁶See A/43/812.

¹²⁷A/43/605.

¹²⁸United Nations, *Treaty Series*, vol. 660, p. 195.

¹²⁹Adopted without a vote.

¹³⁰See A/43/777.

¹³¹A/43/517.

¹³²United Nations, *Treaty Series*, vol. 1015, p. 243.

¹³³Adopted by a vote of 128 to 1, with 26 abstentions.

¹³⁴See A/43/777.

¹³⁵A/43/516.

¹³⁶United Nations, *Treaty Series*, vol. 78, p. 277.

¹³⁷Adopted without a vote.

¹³⁸See A/43/868.

¹³⁹A/43/478.

¹⁴⁰United Nations, *Treaty Series*, vol. 1465, p. 85.

¹⁴¹Adopted without a vote.

¹⁴²See A/43/878.

¹⁴³A/43/519.

¹⁴⁴Adopted without a vote.

¹⁴⁵See A/43/873.

¹⁴⁶See HRI/MC/1988/CRP.1.

¹⁴⁷Adopted by a vote of 133 to none, with 24 abstentions.

¹⁴⁸See A/43/871.

¹⁴⁹Adopted by a vote of 154 to 1, with 2 abstentions.

- ¹⁵⁰See A/43/868.
- ¹⁵¹A/C.3/43/1 and A/C.3/43/7.
- ¹⁵²Adopted without a vote.
- ¹⁵³See A/43/870.
- ¹⁵⁴Adopted by a vote of 133 to none, with 24 abstentions.
- ¹⁵⁵See A/43/870.
- ¹⁵⁶General Assembly resolution 3384 (XXX).
- ¹⁵⁷Adopted without a vote.
- ¹⁵⁸See A/43/778.
- ¹⁵⁹Adopted without a vote.
- ¹⁶⁰See A/43/876.
- ¹⁶¹E/CN.4/1988/10.
- ¹⁶²General Assembly resolution 41/128, annex.
- ¹⁶³Adopted by a vote of 129 to 24, with 1 abstention.
- ¹⁶⁴See A/43/876.
- ¹⁶⁵A/43/739.
- ¹⁶⁶Adopted without a vote.
- ¹⁶⁷See A/43/868.
- ¹⁶⁸Adopted without a vote.
- ¹⁶⁹See A/43/868.
- ¹⁷⁰General Assembly resolution 217 A (III).
- ¹⁷¹Adopted without a vote.
- ¹⁷²See A/43/868.
- ¹⁷³A/43/328.
- ¹⁷⁴Adopted by a vote of 130 to 1, with 25 abstentions.
- ¹⁷⁵Adopted by a vote of 135 to 8, with 14 abstentions.
- ¹⁷⁶See A/43/876.
- ¹⁷⁷General Assembly resolutions 3201 (S-VI) and 3202 (S-VI).
- ¹⁷⁸General Assembly resolution 35/56, annex.
- ¹⁷⁹General Assembly resolution 3281 (XXIX).
- ¹⁸⁰Adopted without a vote.
- ¹⁸¹See A/43/808.
- ¹⁸²See *Report of the World Assembly on Aging, Vienna, 26 July-6 August 1982* (United Nations publication, Sales No. E.82.I.16), chap. VI, sect. A.
- ¹⁸³A/43/583.
- ¹⁸⁴Adopted without a vote.
- ¹⁸⁵See A/43/809.
- ¹⁸⁶Adopted without a vote.
- ¹⁸⁷See A/43/877.
- ¹⁸⁸A/43/734.
- ¹⁸⁹A/CONF.62/122 and Corr. 111.
- ¹⁹⁰For detailed information on the work on the Preparatory Commission, see the report of the Secretary-General (A/43/718).
- ¹⁹¹Adopted by a vote of 135 to 2, with 6 abstentions.
- ¹⁹²See A/43/L.18 and Add.1.
- ¹⁹³For the composition of the Court, see General Assembly decision 43/327.
- ¹⁹⁴As of 31 December 1988, the number of States recognizing the jurisdiction of the Court as compulsory in accordance with declarations filed under Article 36, para. 2, of the Statute of the International Court of Justice stood at 49.

- ¹⁹⁵For complete text of cases, see *I.C.J. Yearbook*, 1987-88 and *ibid.*, 1988-1989.
- ¹⁹⁶See *I.C.J. Yearbook*, 1988-89, No. 43, pp. 132-133.
- ¹⁹⁷*Ibid.*, pp. 133-143.
- ¹⁹⁸*Ibid.*, p. 143.
- ¹⁹⁹*Ibid.*, pp. 145-146.
- ²⁰⁰*Ibid.*, pp. 146-158.
- ²⁰¹For the membership of the Commission, see *Official Records of the General Assembly, Forty-third Session, Supplement No. 10* (A/43/10), chap. I.A.
- ²⁰²For detailed information, see *Yearbook of the International Law Commission*, 1988, vol. I (United Nations publication, Sales No. E.90.V.4); *ibid.*, vol. II Part One (United Nations publication, Sales No. E.90.V.5 (Vol. II/Part I); and *ibid.*, Part Two (United Nations publication, Sales No. E.90.V.5 (Part II)).
- ²⁰³*Yearbook of the International Law Commission*, 1988, vol. II Part One, A/CN.4/416 and Add.1, p. 6, and A/CN.4/415, p. 96, respectively.
- ²⁰⁴*Ibid.*, A/CN.4/417, p. 163.
- ²⁰⁵*Ibid.*, A/CN.4/411, p. 197.
- ²⁰⁶*Ibid.*, A/CN.4/412 and Add.1 and 2, p. 205.
- ²⁰⁷*Ibid.*, A/CN.4/413, p. 251.
- ²⁰⁸*Official Records of the General Assembly, Forty-third Session, Supplement No. 10* (A/43/10).
- ²⁰⁹Adopted without a vote.
- ²¹⁰See A/43/885.
- ²¹¹Adopted by a vote of 137 to 5, with 13 abstentions.
- ²¹²See A/43/883.
- ²¹³For the membership of the Commission, see *Official Records of the General Assembly, Forty-third Session, Supplement No. 17*, chap. I.B, para. 4.
- ²¹⁴For detailed information, see *Yearbook of the United Nations Commission on International Trade Law*, vol. XIX: 1988 (United Nations publication, Sales No. E.89.V.8).
- ²¹⁵*Yearbook of the United Nations Commission on International Trade Law*, vol. XIX: 1988, A/CN.9/297, p. 25.
- ²¹⁶*Ibid.*, A/CN.9/301, p. 46.
- ²¹⁷*Ibid.*, A/CN.9/298, p. 63.
- ²¹⁸*Ibid.*, A/CN.9/302, p. 87.
- ²¹⁹*Ibid.*, A/CN.9/300, p. 163.
- ²²⁰*Ibid.*, A/CN.9/303, p. 149.
- ²²¹Adopted without a vote.
- ²²²See A/43/820.
- ²²³*Official Records of the United Nations Conference on Prescription (Limitation) in the International Sale of Goods, New York, 20 May-14 June 1974* (United Nations publication, Sales No. E.74.V.8), p. 101.
- ²²⁴*Official Records of the United Nations Conference on Contracts for the International Sale of Goods, Vienna, 10 March-11 April 1980* (United Nations publication, Sales No. E.82.V.5), p. 191.
- ²²⁵*Ibid.*, p. 178.
- ²²⁶*Official Records of the United Nations Conference on the Carriage of Goods by Sea, Hamburg, 6-31 March 1978* (United Nations publication, Sales No. E.80.VIII.1), document A/CONF.89/13, annex publication, Sales No. E.80.VIII.1), document A/CONF.89/13, annex I.
- ²²⁷Adopted without a vote.
- ²²⁸See A/43/820.
- ²²⁹See text of the Convention in chap. IV.A of this *Yearbook*.
- ²³⁰See also section 6, International Law Commission, and section 7, UNCITRAL,

above.

²³¹Unless otherwise indicated, the text that follows presents information on action taken by the General Assembly on agenda items recommended to it by the Sixth Committee.

²³²Adopted without a vote.

²³³See A/43/900/Add.1.

²³⁴*Official Records of the General Assembly, Forty-third Session, Supplement No. 26 and addendum (A/43/26 and Add.1).*

²³⁵Adopted by a vote of 151 to 2, with 1 abstention.

²³⁶See A/43/900.

²³⁷United Nations, *Treaty Series*, vol. 11, p. 11.

²³⁸A/C.6/43.7; for text of the legal opinion, see chap. VI.A of this *Yearbook*; see also chaps. VII and VIII.3.a of this *Yearbook*.

²³⁹Adopted without a vote.

²⁴⁰See A/43/886.

²⁴¹*Official Records of the General Assembly, Forty-third Session, Supplement No. 33 (A/43/33).*

²⁴²Adopted by a vote of 117 to 2, with 31 abstentions.

²⁴³Adopted by a vote of 124 to 9, with 18 abstentions.

²⁴⁴See A/43/880.

²⁴⁵A/43/528 and Add.1 and 2.

²⁴⁶See *Official Records of the United Nations Conference on the Representation of States in Their Relations with International Organizations, Vienna, 4 February-14 March 1975*, vol. II (United Nations publication, Sales No. E.75.V.12), document A/CONF.67/15, annex.

²⁴⁷Adopted without a vote.

²⁴⁸See A/43/819.

²⁴⁹A/43/532.

²⁵⁰United Nations, *Treaty Series*, vol. 75, Nos. 970-973.

²⁵¹*Ibid.*, vol. 1125, p. 3.

²⁵²Adopted by a vote of 129 to none, with 24 abstentions.

²⁵³See A/43/881.

²⁵⁴A/39/504/Add.1, annex III.

²⁵⁵A/42/536, A/42/483 and Add.1 and 2, and A/43/529 and Add.1.

²⁵⁶Adopted by a vote of 132 to none, with 22 abstentions.

²⁵⁷See A/43/882.

²⁵⁸A/43/530 and Add.1 and 2.

²⁵⁹General Assembly resolution 37/10.

²⁶⁰Adopted without a vote.

²⁶¹See A/43/821.

²⁶²See A/43/527 and Add.1-3.

²⁶³Adopted without a vote.

²⁶⁴See A/43/884.

²⁶⁵*Official Records of the General Assembly, Forty-third Session, Supplement No. 43 (A/43/43).*

²⁶⁶Adopted without a vote.

²⁶⁷See A/43/886.

²⁶⁸*Official Records of the General Assembly, Forty-third Session, Supplement No. 33 (A/43/33).*

²⁶⁹Adopted by a vote of 67 to 9, with 65 abstentions.

²⁷⁰Adopted by a vote of 124 to 8, with 22 abstentions.

²⁷¹See A/43/887.

²⁷²See A/C.6.43.L.11.

²⁷³General Assembly resolution 2625 (XXV).

²⁷⁴Adopted without a vote.

²⁷⁵See A/43/889.

²⁷⁶Adopted without a vote.

²⁷⁷See A/43/954.

²⁷⁸A/C.5/43/18.

²⁷⁹Adopted without a vote.

²⁸⁰See A/43/892.

²⁸¹A/43/697 and Add.1.

²⁸²*Official Records of the General Assembly, Forty-third Session, Supplement No. 14 (A/43/14).*

²⁸³See A/43/697/Add.1.

²⁸⁴*Ibid.*, art. III, para.1(e).

²⁸⁵The Finance Committee adopted the recommended amendment by consensus at its ninety-fifth session, held in June 1989.

²⁸⁶Reproduced in IAEA document INFCIRC/274/Rev. 1.

²⁸⁷Reproduced in IAEA document INFCIRC/335.

²⁸⁸Reproduced in IAEA document INFCIRC/336.

²⁸⁹United Nations, *Treaty Series*, vol. 1063, p. 265.

²⁹⁰Reproduced in IAEA document INFCIRC/402.

²⁹¹United Nations, *Treaty Series*, vol. 729, p. 161.

²⁹²*Ibid.*, vol. 634, 281.

²⁹³Reproduced in IAEA document INFCIRC/358.

²⁹⁴Reproduced in IAEA document INFCIRC/360.

²⁹⁵Reproduced in IAEA document INFCIRC/359.

²⁹⁶*International Legal Materials*, vol. XXVII, No. 3, p. 627; see also text of the Protocol in this *Yearbook*, chap. IV.B.

²⁹⁷United Nations, *Treaty Series*, vol. 974, p. 177.

²⁹⁸*Ibid.*, vol. 15, p. 295.

²⁹⁹*Ibid.*, vol. 704, p. 219.

³⁰⁰*Ibid.*, vol. 860, p. 105.

³⁰¹With 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.

³⁰²*Official Bulletin*, vol. LXXI, 1988, Series A, No. 2, pp. 69-80, 92-99; English, French, Spanish. Regarding preparatory work see: *First Discussion* — Safety and Health in Construction, ILC, 73rd Session (1987), 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), 91 and 82 pages respectively; English, French, German, Russian, Spanish. See also ILC, 73rd Session (1987) *Record of Proceedings* No. 23; No. 31, pp. 2-7; English, French, Spanish. *Second Discussion* — Safety and Health in Construction, ILC, 75th Session (1988), Report IV(1), Report IV(2A) and Report IV(2B), 83, 90, and 43 pages respectively; English, French, German, Russian, Spanish. See also ILC, 75th Session (1988) *Record of Proceedings*, No. 25; No. 25A; No. 25B; No. 31, pp. 1-5; No. 35, pp. 8-9; English, French, Spanish.

³⁰³*Official Bulletin*, vol. LXXI, 1988, Series A, No. 2, p. 59, pp. 80-92, 99-104; English, French, Spanish. Regarding preparatory work see: *First Discussion* — Employment Promotion and Social Security, ILC, 73rd Session (1987), Report IV(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 IV(2), 156 and 108 pages respectively; English, French, German, Russian, Spanish. See also ILC, 73rd Session (1987), *Record of Proceedings*, No. 26; No. 32, pp. 1-8; English, French, Spanish. *Second Discussion* — Employment promotion and social security, ILC, 75th Session (1988), Report V(1), Report V(2A) and Report V(2B), 74, 69 and 27 pages respectively; English, French, German, Russian, Spanish. See also ILC, 75th Session (1988) *Record of Proceedings*, No. 27; No. 27A; No. 27B; No. 35, pp. 8-9; No. 36, pp. 4-5, 11-16; English, French, Spanish.

³⁰⁴This report has been published as Report III (Part 4) to the 75th Session of the Conference and comprises two volumes: Vol. A: “General Report and Observations concerning Particular Countries” (Report III (Part 4A)), 421 pages; English, French, Spanish. Vol. B: “Equality in Employment and Occupation, General Survey of the Reports on the Discrimination (Employment and Occupation) Convention (No. 111) and Recommendation (No. 111), 1958” (Report III (Part 4B)), 259 pages; English, French, Spanish.

³⁰⁵Official Bulletin, vol. LXXI, 1988, Series B, No. 1.

³⁰⁶*Ibid.*, vol. LXXI, 1988, Series B, No. 2.

³⁰⁷*Ibid.*, vol. LXXI, 1988, Series B, No. 3.

³⁰⁸IGC (1971)/SC.II/5/9.

³⁰⁹UNESCO/WIPO/CGE/PEW/4.

³¹⁰UNESCO/WIPO/CGE/SYN/4.

³¹¹United Nations, *Treaty Series*, vol. 1401, p. 3.

³¹²IDB/S.2/3.

³¹³IDB.5/12 (PBC.5/18).

³¹⁴GC.1/INF.6 (transmitted with contribution for 1986 *Yearbook*).

³¹⁵GC.2/2 (transmitted with contribution for 1986 *Yearbook*).

³¹⁶Annual report of UNIDO 1988 (IDB.5/10), appendix J.

³¹⁷IDB.4/34.

³¹⁸GC.3/2.

³¹⁹GC.2/INF.

³²⁰UNIDO/DG/B.74.

³²¹UNIDO/DG/B/Staff Rules and Corr.1 and Amend.1-5.

³²²UNIDO/DG/B.82/Rev.1.

³²³UNIDO/DG/B.86.

³²⁴IDB.4/21.

³²⁵United Nations, *Treaty Series*, vol. 611, p. 7.

³²⁶A./CONF.129/15.

³²⁷The World Bank is comprised of the International Bank for Reconstruction and Development (IBRD), the International Finance Corporation (IFC) and the International Development Association (IDA).

³²⁸*Juridical Yearbook*, 1987, p. 105.

³²⁹*Juridical Yearbook*, 1986, p. 167-168.

³³⁰The MIGA Convention is reprinted in 1 *ICSID Review — Foreign Investment Law Journal* 145 (1986); see also *International Legal Materials*, vol. XXIV, No. 6 (1985), p. 1607.

³³¹The By-Laws cover such diverse topics as meetings of MIGA’s Council and the terms of service of the Agency’s President and Directors and also contain a delegation by the Council to the Board of all of the former’s delegable powers.

³³²The Operational Regulations set out details for the conduct of MIGA’s guarantee operations and consultative and advisory activities. These Regulations are reprinted at 3 *ICSID Review — Foreign Investment Law Journal* 264 (1988).

³³³The ICSID Convention is reproduced in *Juridical Yearbook*, 1966, p. 196.

³³⁴Further details on disputes before the Centre appear in ICSID’s semi-annual newsletter, *News from ICSID*.

³³⁵*International Legal Materials*, vol. XXV, No. 5 (September 1986), p. 1370.

³³⁶*Ibid.*, No. 6 (September 1986), p. 1377.

³³⁷The current version is WHO/GPA/HLE/89/1.