Extract from:

UNITED NATIONS JURIDICAL YEARBOOK

1996

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

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

Chapter III

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

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

1. DISARMAMENT AND RELATED MATTERS[1]

(*a*) Comprehensive Nuclear-Test-Ban Treaty (1996)[2]

After negotiations and conclusion of a draft treaty by the Conference on Disarmament, during the period from January 1994 to August 1996, the Conference was unable to submit it to the General Assembly because of a lack of consensus. However, capitalizing on the political momentum gained in the negotiations and the heightened international expectation for the finalization of a global ban, an overwhelming majority of Member States of the Assembly adopted, on 10 September 1996,[3] a Treaty identical to that produced by the Conference. As depositary, the Secretary-General opened the Comprehensive Nuclear-Test-Ban Treaty for signature on 24 September.

(*b*) Nuclear non-proliferation and disarmament

While the long-standing objective of the Comprehensive Nuclear-Test-Ban Treaty was finally realized in 1996, there was no comparable progress in negotiations on other fronts in the nuclear field. Reductions in the arsenals of the two major Powers continued on the basis of existing agreements, while START I[4] remained unratified by the Russian Federation and no new reduction talks got under way. Steps towards dismantlement and force reduction were taken by France and the United Kingdom of Great Britain and Northern Ireland and by the end of the year the territories of Belarus, Kazakhstan and Ukraine were free of nuclear weapons. Significant steps were taken by IAEA to strengthen its safeguards system, and the Group of Seven major industrialized countries and the Russia Federation affirmed the necessity of ensuring the safety and security of nuclear material and controlling nuclear trafficking.

Responding to the question "Is the threat or use of nuclear weapons in any circumstance permitted under international law?" posed by General Assembly in its resolution 49/75K of 15 December 1994, the International Court of Justice issued its advisory opinion on the legality of the threat or use of nuclear weapons on 8 July 1996.[5]

The General Assembly took action on 17 draft resolutions in the area of nuclear non-proliferation and disarmament, which if adopted on the recommendation of the First Committee, on 10 December 1996. Among them was resolutions was 51/45A, entitled "Treaty on the Non-Proliferation of Nuclear Weapons:[6] 2000 Review Conference of the Parties to the Treaty on the Non-Prolifera-

tion of Nuclear Weapons and its Preparatory Committee".[7] In the resolution, the Assembly recalled the agreement was recalled whereby Treaty Review Conferences should continue to be held every five years and that, whereby accordingly, the next Review Conference should be held in 2000.

The General Assembly adopted the two resolutions that pertained to existing nuclear-weapon-free zones: Latin America and the Caribbean, and Africa. It also adopted traditional proposals for the establishment of such zones in the regions of the Middle East and South Asia. In addition, it adopted a resolution regarding a nuclear-weapon-free southern hemisphere.

Also, on 10 December 1995, on the recommendation of the First Committee, resolution 51/45 J, entitled, "Prohibition of the dumping of radioactive wastes". During the discussion on the resolution, the United States of America reiterated its position that the First Committee, which dealt with disarmament and related security issues, was not the appropriate forum for dealing with what was essentially an environmental issue, and Australia had attempted without success to have a reference to the Waigani Convention[8] inserted in the preamble to the resolution.

(*c*) Chemical and biological weapons

The eradication of the two categories of weapons of mass destruction was provided for in the 1971 Biological Weapons Convention[9] and the 1992 Chemical Weapons Convention[10] and the United Nations has sought to promote universal participation in, and compliance with them. In 1996, work was carried out to strengthen the Biological Weapons Convention through the elaboration of verification and confidence, building and transparency measures, and efforts were undertaken to prepare for the first session of the Conference of the States parties to the Chemical Weapons Convention. At the same time, under the authority of the Security Council, the United Nations Special Commission (UNSCOM) continued its efforts to identify and dispose of Iraq's biological and chemical weapons, and to monitor its compliance with its obligation not to acquire proscribed weapons and capabilities.

The General Assembly on 10 December 1996, adopted three resolutions within the context of biological and chemical weapons. One of them, resolution 51/54 P[11] concerned measures to uphold the authority of the 1925 Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and Bacteriological Methods of Warfare.[12]

(*d*) Conventional weapons: global and regional approaches

Issues of conventional weapons and regional security figured prominently in 1996. In the Disarmament Commission, Member States agreed upon a balanced set of guidelines for arms transfers was upheld with the issuance of the fourth annual Register of Conventional Arms,[13] and an effort was launched to make the standardized reporting instrument for military budgets more accessible.

The General Assembly adopted eight resolutions in the area of conventional disarmament: two concerning transparency and objective information, one on illicit trafficking, one on practical disarmament measures and four concerning regional disarmament per se.

Regarding the Convention on Certain Conventional Weapons,[14] the General Assembly, on the recommendation of the First Committee, adopted on 10 December 1996, without a vote resolution 51/49, commending the amended Protocol on Prohibitions or Restrictions on the Use of Mines, Booby Traps and Other Devices (Protocol II), and the Protocol on Blinding Laser Weapons (Protocol IV) to all States and called upon States parties to consent to be bound there to with a view to the early entry into force of the Protocols. On the same day the Assembly also adopted by a recorded vote of 155 to none, with 10 abstentions, resolution 51/45 S, entitled "An international agreement to ban anti-personnel landmines", in which, it urged States to pursue an effective, legally binding international agreement to ban the use, stockpiling, production and transfer of anti-personnel landmines.

2. OTHER POLITICAL AND SECURITY QUESTIONS

(*a*) Membership in the United Nations

As at the end of 1996, the number of Member States remained at 185.

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

The Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space held its thirty-fifth session at the Unite Nations Office at Vienna form 18 to 28 March 1996.[15]

Regarding the agenda item on the "Question of early review and possible revision of the principles relevant to the uses of nuclear power sources in outer space", the Subcommittee noted that the item had been considered by the Scientific and Technical Subcommittee in 1996, which had agreed that, revision of the Principles was not warranted at the current stage. The Legal Subcommittee agreed with that assessment and decided not to re-establish its Working Group at the current session, but to retain it on its agenda to give delegations an opportunity to discuss it in plenary meetings.

The Legal Subcommittee re-established its Working Group on the agenda item "Matters relating to the definition and delimitation of outer space and to the character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of the International Telecommunication Union". The Subcommittee endorsed the recommendations of the Working Group that the Secretariat, inter alia, should prepare for the thirty-sixth session of the Legal Subcommittee a comprehensive analysis of the replies to the questionnaire on possible legal issues with regard to aerospace objects, in order to assist the Working Group in its deliberations, and that the Secretariat, in cooperation with the ITU secretariat, should provide, for the next session of the Working Group, an analysis of the compatibility of the approach contained in working paper A/AC.105/C.2/L.200 and Corr. 1 with the existing rules and procedures of ITU relating to the use of the geostationary orbit.

The Legal Subcommittee also re-established its Working Group on the agenda item entitled "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", which submitted a working paper[16] to the Subcommittee.

The Committee on the Peaceful Uses of Outer Space, at its thirty-ninth session held at the United Nations Office at Vienna from 3 to 14 June 1996, took note of the report of the Legal Subcommittee on the work of its thirty-fifth session[17] and made a number of recommendations concerning the work of the Subcommittee, including the adoption of the declaration on international cooperation in the exploration and uses of outer space (see below) and the consideration of possible items for its agenda, e.g., "Review of the status of the five international legal instruments on outer space", "Review of existing norms of international law applicable to space debris" and "Comparison of the norms of space law and those of international environmental law".

Consideration by the General Assembly

On the recommendation of the Special Political and Decolonization Committee (Fourth Committee), the General Assembly on 13 December 1996 adopted resolution 51/123 taking note of the report of the Secretary-General[18] on the implementation of the recommendations of the Second United Nations Conference on the Exploration and Peaceful Uses of Outer Space[19] endorsed the report of the Committee on the Peaceful Uses of Outer Space on the work of its thirty-ninth session[20] and invited States that had not yet become parties to the international treaties governing the uses of outer space[21] to give consideration to ratifying or acceding to them. (UNISPACE II)

On the same date, the General Assembly adopted resolution 51/122, by which it adopted the Declaration on International Cooperation in the Exploration and Use of Outer Space for the Benefit and in the interest of All States, Taking into Particular Account the Needs of Developing Countries, which reads as follows:

Declaration on International Cooperation in the Exploration and Use of Outer Space for the Benefit and in the Interests of All States, Taking into Particular Account the Needs of Developing Countries

1. International cooperation in the exploration and use of outer space for peaceful purposes (hereinafter international cooperation) shall be conducted in accordance with the provisions of international law, including the Charter of the United Nations and the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies. It shall be carried out for the benefit and in the interest of all States, irrespective if their degree of economic, social or scientific and technological development, and shall be the province of all mankind. Particular account should be taken of the needs of developing countries.

2. States are free to determine all aspects of their participation in international cooperation in the exploration and use of outer space on an equitable and mutually acceptable basis. Contractual terms in such cooperative ventures should be fair and reasonable and they should be in full compliance with the legitimate rights and interests of the parties concerned, as, for example, with intellectual property rights.

3. All States, particularly those with relevant space capabilities and with programmes for the exploration and use of outer space, should contribute to promoting and fostering international cooperation on an equitable and mutually acceptable basis. In this context, particular attention should be given to the benefit and the interests of developing countries and countries with incipient space programmes stemming from such international cooperation conducted with countries with more advanced space capabilities.

4. International cooperation should be conducted in the modes that are considered most effective and appropriate by the countries concerned, including inter alia, governmental and non-governmental; commercial and non-commercial; global, multilateral, regional or bilateral; and international cooperation among countries in all levels of development.

5. International cooperation, while taking into particular account the needs of developing countries, should aim, inter alia, at the following goals, considering their need for technical assistance and rational and efficient allocation of financial and technical resources:

(*a*) Promoting the development of space science and technology and of its applications;

(*b*) Fostering the development of relevant and appropriate space capabilities in interested States;

(*c*) Facilitating the exchange of expertise and technology among States on a mutually acceptable basis.

6. National and international agencies, research institutions, organizations for development aid, and developed and developing countries alike should consider the appropriate use of space applications and the potential of international cooperation for reaching tier development space.

7. The Committee on the Peaceful Uses of Outer Space should be strengthened in its role, among others, as a forum for the exchange of information on national and international activities in the field of international cooperation in the exploration and use of outer space.

8. All States should be encouraged to contribute to the United Nations Programme on Space Applications and to other initiatives in the field of international cooperation in accordance with their space capabilities and their participation in the exploration and use of outer space.

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

In its resolution 51/136 of 13 December 1996, adopted on the recommendation of the Special Political and Decolonization Committee (Fourth Committee), the General Assembly taking note of the report of the Secretary-General on the work of the Organization[22] and welcoming the statement of 28 March 1996 by the President of the Security Council on the arrangements for improved consultation and exchange of information with troop-contributing countries[23], welcomed the report of the Special Committee on Peacekeeping operations[24] and endorsed the proposals, recommendations and conclusions of the Special Committee contained in paragraphs 29 to 85 of the report.

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

(*a*) Environmental questions

At the fifty-first session, the General Assembly adopted a number of resolutions concerning the environment, including resolution 51/176 of 16 December 1996, on the implementation of the Programme of Action of the International Conference in Population and Development. In the resolutions the Assembly, having considered the report of the Secretary-General on the implementation of resolution 50/124[25] and noting the action taken so far by Governments and the international community to implement the Programme of Action,[26] reiterated that Governments should continue to commit themselves at the highest political level to achieving goals and objectives and to take the lead role in coordinating the implementation, monitoring and evaluation of the follow-up actions at the national level, and emphasized that international cooperation in the field of population and development was essential for the implementation of the recommendations adopted at the Conference, and in that context called upon the international community to continue to provide, both bilaterally and multilaterally adequate and substantial support and assistance for population and development activities, including through the United Nations Population Fund, other organs and organizations of the United Nations system and the specialized agencies that would be involved in the implementation, at all levels, of the Programme of Action.

On the same date, on the recommendation of the Second Committee, the General Assembly adopted resolution 51/181 on the special session for the purpose of an overall review and appraisal of the implementation of Agenda 21.[27] Recalling its resolution 47/190 of 22 December 1992, in which it had decided to convene, not later than 1997, a special session for the purpose of an overall review and appraisal of the implementation of Agenda 21, the Assembly strongly reaffirmed that the special session would be undertaken on the basis of and full respect of the Rio Declaration on Environment and Development.[28] Furthermore, taking note of the progress report of the Secretary-General on the state of preparations for the 1997 special session,[29] the Assembly decided to convene the special session envisaged in its resolution 47/190 for a duration of one week, from 23 to 27 June 1997, at the highest political level of participation. By the same resolution, the Assembly stressed that there should be no attempt to renegotiate Agenda 21, the Rio Declaration on Environment and Development or the Non-legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of All Types of Forests.[30]

Also on the recommendation of the Second Committee, the General Assembly adopted resolution 51/182 of 16 December 1996 on the 1992 Convention on Biological Diversity.[31] In the resolution, the Assembly welcomed the results of the second meeting of the Conference of the Parties to the Convention,[32] and in that context reaffirmed the need to take concrete action to fulfil the objectives of the Convention and take note of the Jakarta Mandate on the Conservation and Sustainable Use of Marine and Coastal Biological Diversity,[33] which proposed a framework for global action. The Assembly also took note of the second meeting of the Convention's Subsidiary Body on Scientific, Techni-

cal and Technological Advice, held at the seat of the secretariat of the Convention at Montreal, Canada, from 2 to 6 September 1996, and of the work carried out at the first meeting of the Open-ended Ad Hoc Group on Biosafety held at Aarhus, Denmark, from 22 to 26 July 1996.

The General Assembly, by its resolution 51/180 of 16 December 1996, adopted on the recommendation of the Second Committee, welcomed the fact that, in conformity with article 36, paragraph 1, of the United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, particularly in Africa,[34] the Convention would enter into force on 26 December 1996, and called upon more countries to take appropriate action for the ratification, acceptance or approval of or accession to the Convention.

By its resolution 51/185 of 16 December 1996, the General Assembly took note of the report of the Secretary-General on the International Decade for Natural Disaster Reduction,[35] and by its resolution 51/189 of the same date, the Assembly endorsed the Washington Declaration on Protection of the Marine Environment from Land Based Activities[36] and the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities.[37]

Furthermore, in its resolution 51/184 of 16 December 1996, on the protection of global climate for present and future generations of mankind, the General Assembly welcomed the achievements of the second session of the Conference of the Parties to the 1992 United Nations its Framework Convention on Climate Change.[38] The Assembly also recalled that at its second session the Conference of the Parties had taken note without formal adoption of the General Ministerial Declaration[39], which had received majority support among ministers and other heads of delegations attending the Conference, and which, inter alia, called for acceleration of negotiations on the text of a legally binding protocol or another legal instrument to be completed in due time for adoption at the third session of the Conference of the Parties.

(*b*) Corruption and bribery

The General Assembly, on the recommendation of the Second Committee, adopted resolution 51/191 of 16 December 1996, in which it adopted the United Nations Declaration against Corruption and Bribery in International Commercial Transactions and requested the Economic and Social Council and its subsidiary bodies, in particular the Commission on Crime Prevention and Criminal Justice, to examine ways, including through legally binding international instruments, to promote the criminalization of corruption and bribery in international commercial transactions. The text of the Declaration reads as follows:

United Nations Declaration against Corruption and Bribery in International Commercial Transactions

The General Assembly,

Convinced that a stable and transparent environment for international commercial transactions in all countries is essential for the mobilization of investment, finance, technology, skills and other important resources across national borders, in order, inter alia, to promote economic and social development and environmental protection,

Recognizing the need to promote social responsibility and appropriate standards of ethics on the part of private and public corporations, including transnational corporations, and individuals engaged in international commercial transactions, inter alia, through observance of the laws and regulations of the countries in which they conduct business, and taking into account the impact of their activities on economic and social development and environmental protection,

Recognizing also that effective efforts at all levels to combat and avoid corruption and bribery in all countries are essential elements of an improved international business environment, that they enhance fairness and competitiveness in international commercial transactions and form a critical part of promoting transparent and accountable governance, economic and social development and environmental protection in all countries, and that such efforts are especially pressing in the increasingly competitive globalized international economy,

Solemnly proclaims the United Nations Declaration against Corruption and Bribery in International Commercial Transactions as set out below.

Member States, individually and through international and regional organizations, taking actions subject to each State's own constitution and fundamental legal principles and adopted pursuant to national laws and procedures, commit themselves:

1. To take effective and concrete action to combat all forms of corruption, bribery and related illicit practices in international commercial transactions, in particular to pursue effective enforcement of existing laws prohibiting bribery in international commercial transactions, to encourage the adoption of laws for those purposes where they do not exist, and to call upon private and public corporations, including transnational corporations, and individuals within their jurisdiction engaged in international commercial transactions to promote the objectives of the present Declaration;

2. To criminalize such bribery of foreign public officials in an effective and coordinated manner, but without in any way precluding, impeding or delaying international, regional or national actions to further the implementation of the present Declaration;

3. Bribery may include, inter alia, the following elements:

(*a*) The offer, promise or giving of any payment, gift or other advantage, directly or indirectly, by any private or public corporation, including transnational corporation, or individual from a State to any public official or elected representative of another country as undue consideration for performing or refraining from the performance of that official's or representative's duties in connection with an international commercial transaction;

(*b*) The soliciting, demanding, accepting or receiving, directly or indirectly, by any public official or elected representative of a State from any private or public corporation, including a transnational corporation, or individual form another country of any payment, gift or other advantage, as undue consideration for performing or refraining from the performance of that official's or representative's duties in connection with an international commercial transaction;

4. To deny, in countries that do not already do so, the tax deductibility of bribes paid by any private or public corporation or individual of a State to any public official or elected representative of another country and, to that end, to examine their respective modalities for doing so;

5. To develop or maintain accounting standards and practices that improve the transparency of international commercial transactions, and that encourage private and public corporations, including transnational corporations, and individuals engaged in international commercial transactions to avoid and combat corruption, bribery and related illicit practices;

6. To develop or to encourage the development, as appropriate, of business codes, standards or best practices that prohibit corruption, bribery and related illicit practices in international commercial transactions;

7. To examine establishing illicit enrichment by public officials or elected representatives as an offence;

8. To cooperate and afford one another the greatest possible assistance in connection with criminal investigations and other legal proceedings brought in respect of corruption and bribery in international commercial transactions. Mutual assistance shall include, as far as permitted under national laws or as provided for in bilateral treaties or other applicable arrangements of the affected countries, and taking into account the need for confidentiality as appropriate:

(*a*) Production of documents and other information, taking to evidence and service of documents relevant to criminal investigations and other legal proceedings;

(*b*) Notice of the initiation and outcome of criminal proceedings concerning bribery in international commercial transactions to other States that may have jurisdiction over the same offence;

(*c*) Extradition proceedings where and as appropriate;

9. To take appropriate action to enhance cooperation to facilitate access to documents and records about transactions and about identities of persons engaged in bribery in international commercial transactions;

10. To ensure that bank secrecy provisions do not impede or hinder criminal investigations or other legal proceedings relating to corruption, bribery or related illicit practices in international commercial transactions, and that full cooperation is extended to Governments that seek information on such transactions;

11. Actions taken in furtherance of the present Declaration shall respect fully the national sovereignty and territorial jurisdiction of Member States, as well as the rights and obligations of Member States under existing treaties and international law, and shall be consistent with human rights and fundamental freedom;

12. Member States agree that actions taken by them to establish jurisdiction over acts of bribery of foreign public officials in international commercial transactions shall be consistent with the principles of international law regarding the extraterritorial application of a State's laws.

Furthermore, the General Assembly, on the recommendation of the Third Committee, adopted resolution 51/59 of 12 December 1996, concerning action against corruption in which the Assembly took note of the report of the Secretary-General on action against corruption;40 submitted to the Commission Crime Prevention and Criminal Justice at of its forth session, and adopted the International Code of Conduct for Public Officials, which reads as follows:

International Code of Conduct for Public Officials

I. GENERAL PRINCIPLES

1. A public office, as defined by national law, is a position of trust, implying a duty to act in the public interest. Therefore, the ultimate loyalty of public officials shall be in the public interests of their country as expressed through the democratic institutions of government.

2. Public officials shall ensure that they perform their duties and functions efficiently, effectively and with integrity, in accordance with laws or administrative policies. They shall at all times seek to ensure that public resources for which they are responsible are administered in the most effective and efficient manner.

3. Public officials shall be attentive, fair and impartial in the performance of their functions and, in particular, in their relations with the public. They shall at no time afford any undue preferential treatment to any group or individual or improperly discriminate against any group or individual, or otherwise abuse the power and authority vested in them.

II. CONFLICT OF INTEREST AND DISQUALIFICATION

4. Public officials shall not use their official authority for the improper advancement of their own or their family's personal or financial interest. They shall not engage in any transaction, acquire any position or function or have any financial, commercial or other comparable interest that is incompatible with their office, functions and duties or the discharge thereof.

5. Public officials, to the extent required by their position, shall, in accordance with laws or administrative policies, declare business, commercial and financial interests or activities undertaken for financial gain that may raise a possible conflict of interest. In situations of possible or perceived conflict of interest between the duties and private interests of public officials, they shall comply with the measures established to reduce or eliminate such conflict of interest.

6. Public officials shall at no time improperly use public moneys, property, services or information that is acquired in the performance of, or as a result of, their official duties for activities not related to their official work.

7. Public officials shall comply with measures established by law or by administrative policies in order that after leaving their official positions they will not take improper advantage of their previous office.

III. DISCLOSURE OF ASSETS

8. Public officials shall, in accord with their position and as permitted or required by law and administrative policies, comply with requirements to declare or to disclose personal assets and liabilities, as well as, if possible, those of their spouses and/or dependants.

IV. ACCEPTANCE OF GIFTS OR OTHER FAVOURS

9. Public officials shall not solicit or receive directly or indirectly any gift or other favour that may influence the exercise of their functions, the performance of their duties or their judgement.

V. CONFIDENTIAL INFORMATION

10. Matters of a confidential nature in the possession of public officials shall be kept confidential unless national legislation, the performance of duty or the needs of justice strictly require otherwise. Such restrictions shall also apply after separation from service.

VI. POLITICAL ACTIVITY

11. The political or other activity of public officials outside the scope of their office shall, in accordance with laws and administrative policies, not be such as to impair public confidence in the impartial performance of their functions and duties.

(c) Other issues concerning crime prevention and criminal justice

The General Assembly, on the recommendation of the Third Committee, adopted resolution 51/60 of 12 December 1996, in which it approved the United Nations Declaration on Crime and Public Security, which reads as follows:

United Nations Declaration on Crime and Public Security

The General Assembly,

Recalling the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations,[41] the Declaration on Measures to Eliminate International Terrorism[42] and the Naples Political Declaration and Global Action Plan against Organized Transnational Crime[43],

Solemnly proclaims the following United Nations Declaration on Crime and Public Security:

Article 1

Member States shall seek to protect the security and well-being of their citizens and all persons within their jurisdiction by taking effective national measures to combat serious transnational crime, including organized crime, illicit drug and arms trafficking in persons, terrorist crimes and the laundering of proceeds from serious crimes, and shall pledge their mutual cooperation in those efforts.

Article 2

Member States shall promote bilateral, regional, multilateral and global law enforcement cooperation and assistance, including, as appropriate, mutual legal assistance arrangements, to facilitate the detection, apprehension and prosecution of those who commit or are otherwise responsible for serious transnational crimes and to ensure that law enforcement and other competent authorities can cooperate effectively on an international basis.

Article 3

Member States shall take measures to prevent support for and operations of criminal organizations in their national territories. Member States shall, to the fullest possible extent, provide for effective extradition or prosecution of those who engage in serious transnational crimes in order that they find no safe haven.

Article 4

Mutual cooperation and assistance in matters concerning serious transnational crime shall also include, as appropriate, the strengthening of systems for the sharing of information among Member States and the provision of bilateral and multilateral technical assistance to Member States by utilizing training, exchange programmes and law enforcement training academies and criminal justice institutes at the international level.

Article 5

Member States that have not yet done so are urged to become parties as soon as possible to the principal existing international treaties relating to various aspects of the problem of international terrorism. States parties shall effectively implement their provisions in order to fight against terrorist crimes. Member States shall also take measures to implement General Assembly resolution 49/60 of 9 December 1994, on measures to eliminate international terrorism, and the Declaration on Measures to Eliminate International Terrorism contained in the annex to that resolution.

Article 6

Member States that have not yet done so are urged to become parties to the international drug control conventions as soon as possible. States parties shall effectively implement the provisions of the Single Convention on Narcotic Drugs of 196145 as amended by the 1972 Protocol45 the Convention on Psychotropic Substances of 197146 and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 198847 Member States specifically reaffirm that, on the basis of shared responsibility, they shall take all necessary preventive and enforcement measures to eliminate the illicit production of, trafficking in and distribution and consumption of narcotic drugs and psychotropic substances, including measures to facilitate the fight against those criminals involved in this type of transnational organized crime.

Article 7

Member States shall take measures within their national jurisdiction to improve their ability to detect and interdict the movement across borders of those who engage in serious transnational crime, as well as the instrumentalities of such crime, and shall take effective specific measures to protect their territorial boundaries, such as:

(*a*) Adopting effective controls on explosives and against illicit trafficking by criminals in certain materials and their components that are specifically designed for use in manufacturing nuclear, biological or chemical weapons and, in order to lessen risks arising form such trafficking, by becoming parties to and fully implementing all relevant international treaties relating to weapons of mass destruction;

(*b*) Strengthening supervision of passport issuance and enhaneement of protection against tampering and counterfeiting;

(*c*) Strengthening enforcement of regulations on illicit transitional trafficking in firearms, with a view to both suppressing the use of firearms in criminal activities and reducing the likelihood of fuelling deadly conflict;

(*d*) Coordinating measures and exchanging information to combat the organized criminal smuggling of persons across national borders.

Article 8

To combat further the transnational flow of the proceeds of crime, Member States agree to adopt measures, as appropriate, to combat the concealment or disguise of the true origin of proceeds of serious transnational crime and the intentional conversion or transfer of such proceeds for that purpose. Member States agree to require adequate record-keeping by financial and related institutions and, as appropriate, the reporting of suspicious transactions and to ensure effective laws and procedures to permit the seizure and forfeiture of the proceeds of serious transnational crime. Member States recognize the need to limit the application of bank secrecy laws, if any, with respect to criminal operations and to obtain the cooperation of the financial institutions in detecting these and any other operations that may used for the purpose of money-laundering.

Article 9

Member States agree to take steps to strengthen the overall professionalism of their criminal justice, law enforcement and victim assistance systems and relevant regulatory authorities thorough measures such as training, resource allocation and arrangements for technical assistance with other States and to promote the involvement of all elements of society in combating and preventing serious transnational crime.

Article 10

Member States agree to combat and prohibit corruption and bribery, which undermine the legal foundations of civil society, by enforcing applicable domestic laws against such activity. For this purpose, Member States also agree to consider developing concerted measures for international cooperation to curb corrupt practices, as well as developing technical expertise to prevent and control corruption.

Article 11

Actions taken in furtherance of the present Declaration shall fully respect the national sovereignty and territorial jurisdiction of Member States, as well as the rights and obligations of Member States under existing treaties and international law, and shall be consistent with human rights and fundamental freedoms as recognized by the United Nations.

Also, on the recommendation of the Third Committee, the General Assembly adopted resolution 51/62 of 12 December 1996, in which it condemned the practices of smuggling aliens in violation of international and national law or other agreements between States and without regard for the safety, well-being and human rights of the migrants. Furthermore, the Assembly requested the Commission on Crime Prevention and Criminal Justice to consider giving attention to the question of the smuggling of aliens at its sixth session, to be held in 1997, in order to encourage international cooperation to address this problem within the framework of its mandate.

In its resolution 51/63 of 12 December 1996, concerning the strengthening of the United Nations Crime Prevention and Criminal Justice Programme, adopted on the recommendation of the Third Committee, the General Assembly took note of the report of the Secretary-General on the progress made in the implementation of General Assembly resolutions 50/1[45] and 50/1[46] of 21 December 1995.[48] The Assembly also welcomed the upgrading of the Crime Prevention and Criminal Justice Branch of the Secretariat to a division, and requested the Secretary-General to strengthen further the Programme by providing it with the resources necessary for the full implementation of its mandate, including follow-up action to the Naples Political Declaration and Global Action Plan against Organized Transnational Crime[49] and to the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders.[50]

On the same date, the General Assembly, also on the recommendation of the Third Committee, adopted resolution 51/120 in which it requested the Secretary-General invite all States to submit their views on the question of the elaboration of an international convention against organized transnational crime, and requested the Commission on Crime Prevention and Criminal Justice to consider the question, as a matter of priority taking into account the views of all States on the matter.

Finally, by its resolution 51/1 of 15 October 1996, adopted without reference to a Main Committee, the General Assembly decided to invite the International Criminal Police Organization INTERPOL to participate in the sessions and the work of the Assembly in the capacity of observer.

(*d*) International drug control

During the courts of 1996, three more States became parties to the 1961 Single Convention on Narcotic Drugs,[51] bringing the total number of parties to 138; seven more States became Committee, the General Assembly decided to invite the International Criminal Police Organization-INTERPOL to participate in the sessions and the work of the Assembly in the capacity of observer.

Consideration by the General Assembly

In its resolution 51/64 of 12 December 1996, adopted on the recommendation of the Third Committee, the General Assembly reaffirming and stressing the need for increased efforts to implement the comprehensive framework for international cooperation in drug control provide by the existing drug control conventions, the Declaration of the International Conference on Drug Abuse and Illicit Trafficking[56] and the Comprehensive Multidisciplinary Outline of Future Activities in Drug Abuse Control[57] the Political Declaration and Global

Programme of Action[58] adopted by the General Assembly at its seventeenth special session devoted to the question of international cooperation against illicit production, supply, demand, trafficking and distribution of narcotic and psychotropic substances, the Declaration adopted by the World Ministerial Summit to Reduce the Demand for Drugs and to Combat the Cocaine Threat,[59] the United Nations System—wide Action Plan on Drug Abuse Control,[60] the Naples Political Declaration and Global Action Plan against Organized Transnational Crime[61] and other relevant international standards, reaffirmed that the fight against drug abuse and illicit trafficking must be carried out in full conformity with the purposes and principles enshrined in the Charter of the United Nations and international law, in particular respect for the sovereignty and territorial integrity of States and the non-use of force or the threat of force in international relations. In the same resolution, the Assembly took note of the reports of the Secretary-General submitted under the item entitled "International drug control".[62]

(*e*) Human rights questions

(1) *Status and implementation of international instruments*

(i) *International Covenants on Human Rights*

In 1996, two more States became parties to the International Covenant on Economic Social and Cultural Rights of 1966,[63] bringing the total number of States parties to 135; three more States became parties to the International Covenant on Civil and Political Rights of 1966,[64] bringing the total to 136; two more States became parties to the Optional Protocol to the International Covenant on Civil and Political Rights of 1966,[65] bringing the total to 89; and the number of States parties to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, of 1989[66], remained at 29.

(ii) *International Convention on the Elimination of All Forms of Racial Discrimination of 1966*[67]

In 1996, two more States became parties to the International Convention, bringing the total number of States parties to 148.

The General Assembly, by its resolution 51/80 of 12 December 1996, adopted on the recommendation of the Third Committee, took note of the report of the Committee in the Elimination of Racial Discrimination on the work of the forty-eighth and forty-ninth sessions[68] and the report of the Secretary-General on the status of the International Convention.[69]

(iii) *International Convention on the Suppression and Punishment of the Crime of Apartheid of 1973*[70].

In 1996, one State became a party to the International Convention, bringing the total number of States parties to 100.

(iv) *Convention on the Elimination of All Forms of Discrimination against Women of 1979*[71]

In 1996, three more States became parties to the Convention, bringing the total number of States parties to 154.

In its resolution 51/68 of 12 December 1996, adopted on the recommendation of the Third Committee the General Assembly, recalling the Vienna Declaration and Programme of Action 1993,[72] in which the Conference reaffirmed that the human rights of women and the girl child were an inalienable, integral and indivisible part of universal human rights, and having considered the reports of the Committee on the Elimination of Discrimination against Women on its fourteenth[73] and fifteenth[74] sessions, welcomed the report of the Open-ended Working Group on the Elaboration of a Draft Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women.[75]

The General Assembly, on 12 December 1996, in its decision 51/417, took note of the report of the Secretary-General on the status of the Convention.[76]

(v) *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1984*[77]

In 1996, eight more States became parties to the Convention, bringing the total number of States parties to 101.

The General Assembly, by its resolution 51/86 of 12 December 1996, adopted on the recommendation of the Third Committee, welcomed the report of the Committee against Torture,[78] submitted in accordance with the provision of article 24 of the Convention.

(vi) *Convention on the Rights of the Child of 1989*[79]

In 1996, three more States became parties to the Convention, bringing the total number of States parties to 188.

(vii) *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families of 1990*[80]

In 1996, two more States became parties to the International Convention, bringing the total number of States parties to eight.

In its resolution 51/85 of 12 December 1996, adopted on the recommendation of the Third Committee, the General Assembly bearing in mind the principles and norms established within the framework of the International Labour Organization and the importance of the work done in connection with migrant workers and members of their families in other specialized agencies and in various organs of the United Nations, took note of the report of the Secretary-General.[81]

(2) *Report of the United Nations High Commissioner for Human Rights*

The General Assembly, by its resolution 51/119 of 12 December 1996, adopted on the recommendation of the Third Committee, took note of the report of the United Nations High Commissioner for Human Rights[82] on the effective promotion and protection of all human rights.

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

In its resolution 51/87 of 12 December 1996, entitled "Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights adopted on the recommendation of the Third Committee, the General Assembly reaffirming that the full and effective implementation of United Nations human rights instruments was of major importance to the efforts of the Organization, pursuant to the Charter of the United Nations and the Universal Declaration of Human Rights[83] to promote universal respect for and observance of human rights and fundamental freedoms, and taking note of the report of the Secretary-General,[84] welcomed the report of the persons chairing the human rights treaty bodies on their seventh meeting, held at Geneva from 16 to 20 September 1996,[85] and took note of their conclusions and recommendations.

(4) *Strengthening the rule of law*

The General Assembly, by its resolution 51/96 of 12 December 1996, adopted on the recommendation of the Third Committee, took note with satisfaction of the report of the Secretary-General[86] and took further note of the proposals contained in the report of the Secretary-General for strengthening the programme of advisory services and technical assistance of the Centre for Human Rights of the Secretariat in order to comply fully with the recommendations of the World Conference on Human Rights concerning assistance to States in strengthening their institutions which upheld the rule of law.

(5) *Extrajudicial summary or arbitrary executions*

In its resolution 51/92 of 12 December 1996, adopted on the recommendation of the Third Committee, the General Assembly demanded all Governments ensure that the practice of such executions was brought to an end; reiterated the obligation of all Governments to conduct exhaustive and impartial investigations into all suspected cased of extrajudicial, summary or arbitrary executions, to identify and bring to justice those responsible, to grant adequate compensation to the victims or their families and to adopt all necessary measures to prevent the recurrence of such executions; and took note of the interim report of the Special Rapporteur on the subject.[87]

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

Status of international instruments

During 1996, three more States became parties to the Convention Relating to the Status of Refugees of 1951,[88] bringing the total number of States parties to 128; and two more States became parties to the Protocol Relating to the Status of Refugees of 1967,[89] bringing the total number of States parties to 128.

Two more States became parties to the Convention Relating to the Status of Stateless Persons of 1954[9] bringing the total number of States parties to 43; and three more States became parties to the Convention on the Reduction of Statelessness of 1961[9] bringing the total number of States parties to 19.

Consideration by the General Assembly

At its fiftieth session, the in its resolution 51/75 of 12 December 1996, adopted on the recommendation of the Third Committee, the General Assembly having considered the report of the United Nations Commissioner for Refugees on the activities of her Office[92] and the report of the Executive Committee of Programme of the High Commissioner on the work of its forty-seventh session,[93] strongly reaffirmed the fundamental importance and the purely humanitarian and non-political character of the function of United Nations High Commissioner for Refugees of providing international protection to refugees and seeking permanent solutions to the problem of refugees and the need for States to cooperate fully with the Office in order to facilitate the effective exercise of that function; and urged States to ensure access, consistent with relevant international and regional instruments, for all asylum-seekers to fair and efficient procedures for the determination of refugee status and the granting of asylum to eligible persons.

The General Assembly on 12 December 1996 adopted several additional resolutions concerning refugees: In resolution 51/70 the Assembly took note of the report of the Secretary-General on the follow-up to the Regional Conference to Address the Problems of Refugees, Displaced Persons, Other Forms of Involuntary Displacement and Returnees in the Countries of the Commonwealth of Independent States and Relevant Neighbouring States.[94] In resolution 51/71, it took note of the report of the Secretary-General on assistance to refugees, returnees and displaced persons in Africa,[95] and reiterated that the Plan of Action adopted by the 1995 Regional Conference on Assistance to Refugees, Returnees and Displaced Persons in the Great Lakes Region as endorsed by the General Assembly in its resolution 50/149 of 21 December 1995 continued to be a viable framework for the resolution of the refugee and humanitarian problems in that region. Finally, in resolution 51/73, the Assembly took note of the report of the Secretary-General on assistance to unaccompanied refugee minors,[96] and conscious of the importance of family unity, called upon UNHCR to incorporate in its programmes policies aimed at preventing refugee family separation.

(g) New international humanitarian order

In its resolution 51/74 of 12 December 1996, adopted on the recommendation of the Third Committee, the General Assembly taking note oft the report of the Secretary-General[97] containing comments and views of Governments, the specialized agencies and non-governmental organizations regarding the promotion of a new international humanitarian order, requested Governments to make available to the Secretary-General, on a voluntary basis, information and expertise on humanitarian issues of special concern to them, in order to identify opportunities for future action.

(*h*) International ad hoc criminal Tribunals

At the fiftieth session, the General Assembly adopted decisions in which it took note of the reports of both the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991[98] and the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States 1 January and 31 December 1994.[99]

(*i*) Report of the World Commission on Culture and Development

In its resolution 51/179 of 16 December 1996, adopted on the recommendation of the Second Committee, the General Assembly noting that the Director-General of UNESCO had sent the report of the World Commission on Culture and Development entitled Our Creative Diversity[100] to the States of members of UNESCO for their comments, as well as to many non-governmental and academic bodies, requested the Secretary-General, in cooperation with the Director-General of UNESCO to stimulate further international debate on culture and development.

4. LAW OF THE SEA

Status of the United Nations Convention on the Law of the Sea of 1982[101]

During 1996, 26 more States became parties to the Law of the Sea Convention, bringing the total number of States parties to 110.

Report of the Secretary General[102]

The 1996 report of the Secretary-General on the agenda item entitled "law of the sea" included information on the Convention and the implementing agreements; meetings of States parties to the Convention; actions taken by States; actions taken by the Secretary-General; developments concerning the institutions created by the Convention (International Seabed Authority, International Tribunal for the Law of the Sea and Commission on the Limits of the Continental Shelf); legal developments under related treaties and instruments and related actions of international organizations and bodies; maritime disputes and conflicts; crimes at sea; development of non-living marine resources; marine science and technology; and technical cooperation and capacity-building in the law of the sea and ocean affairs.

The International Tribunal for the Law of the Sea was constituted with the election of its 21 members, and its initial budget was approved by the States parties. The judges held their first executive session from 1 to 30 October 1996 and were sworn in on 18 October at an inaugural session of the Tribunal at its seat at Hamburg, Germany.

Consideration by the General Assembly

In its resolution 51/34 of 9 December 1996, adopted without reference to a Main Committee, the General Assembly conscious of the strategic importance of the Convention as a framework for national, regional and global action in the marine sector, as recognized also by the United Nations Conference on Environment and Development in chapter 17 of Agenda 21,[103] noting the recommendation of the Commission on Sustainable Development,[104] endorsed by the Economic and Social Council,[105] concerning international cooperation and coordination in the implementation of chapter 17 of Agenda 21; and noting also the Washington Declaration and the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities,[106] called upon all States that had not done so to become parties to the United Nations Convention on the Law of the Sea and to ratify, confirm formally or accede to the Agreement relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982[107] in order to achieve the goal of universal participation; and also called upon States to harmonize their national legislation with the provisions of the Convention, to ensure the consistent application of those provisions and to ensure also that any declarations or statements that they had made or would make when signing ratifying or acceding were in conformity with the Convention.

On the same date, also without reference to a Main Committee, the General Assembly adopted resolution 51/35 on the Agreement for the Implementation of the Provision of the United Nations Convention on the Law of the Sea of 10 December 1982, relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks,[108] in which the Assembly took note of the report of the Secretary-General on the subject,[109] as well as resolution 51/36 on large-scale pelagic drift-net fishing, unauthorized fishing in zones of national jurisdiction and fisheries by-catch and discards. In that resolution the Assembly, taking note of the report of the Secretary-General,[110] reaffirmed the importance it attached to compliance with its resolution 46/215 of 20 December 1991, in particular to those provisions calling for full implementation of a global moratorium on all large-scale pelagic drift-net fishing on the high seas of world's oceans and seas, including enclosed seas and semi-enclosed seas. The Assembly, furthermore noted that a growing number of States and other entities as well as relevant regional and subregional fisheries management organizations and arrangements had adopted legislation, established regulations or applied other measures to ensure compliance with resolution 46/215 and resolution 49/116 of 19 December 1994, and urged them to enforce fully such measures; urged all authorities of members of the international community that had not done so to take greater enforcement responsibility to ensure full compliance with resolution 46/215 and to impose appropriate sanctions, consistent with their obligations under international law, against acts contrary to the terms of that resolution; called upon States to take the responsibility, consistent with their obligations under international law as reflected in the United Nations Convention on the Law of the Sea and resolution 49/116, to take measures to ensure that no fishing vessels entitled to fly their national flags fished, in areas under the national jurisdiction of other States unless duly authorized by the competent authorities of the coastal State or States concerned—such authorized fishing operations should be carried out in accordance with the conditions set out in the

authorization; and urged States, relevant international organizations and regional and subregional fisheries management organizations and arrangements to take action to adopt policies, apply measures, including through assistance to developing countries, collect and exchange data and develop techniques to reduce by-catches, fish discards and post-harvest losses consistent with international law and relevant international instruments, including the Code of Conduct for Responsible Fisheries.

The General Assembly also adopted, on 24 October 1996, resolution 51/6, in which it decided to invite the International Seabed Authority to participate in the deliberations of the General Assembly in the capacity of observer.

5. INTERNATIONAL COURT OF JUSTICE[111] [112]

Cases before the Court[113]

(*a*) CONTENTIOUS CASES BEFORE THE FULL COURT

(i) *Aerial Incident of 3 July 1988*

(*Islamic Republic of Iran v. United States of America*)

By a letter of 22 February 1996, the Agents of the two Parties jointly notified the Court that their Governments had agreed to discontinue the case because they had entered into "an agreement in full and final settlement of all disputes, differences, claims, counterclaims and matters directly or indirectly raised by or capable of arising out of, or directly or indirectly related to or connected with, this case". By an Order of the same day,[114] the Court placed on record the discontinuance and directed that the case be removed from the list.

(ii) *Maritime Delimitation and Territorial Questions between Qatar and Bahrain* (*Qatar v. Bahrain*)

By an Order of 28 April 1995,[115] the Court, having ascertained the views of Qatar and having given Bahrain an opportunity of stating its views, fixed 29 February 1996 as the time limit for the filing by each of the Parties of a Memorial on the merits. On the request of Bahrain, and after the views of Qatar had been ascertained, the Court, by an Order of 1 February 1996,[116] extended that time limit to 30 September 1996. The two Memorials were filed within the thus extended time limit.

By an Order of 30 October 1996,[117] the President of the Court, taking into account the views of the Parties, fixed 31 December 1997 as the time limit for the filing by each of the Parties of a Counter-Memorial on the merits.

As Judge ad hoc Valticos had resigned, Bahrain chose Mr. Mohamed Shahabuddeen to sit as judge ad hoc.

(iii) *Oil Platforms (Islamic Republic of Iran v. United States of America)*

Public sittings to hear the oral arguments of the Parties on the preliminary objection filed by the United States of America were held between 16 and 24 September 1996.

At a public sitting held on 12 December 1996, the Court delivered its judgment on the preliminary objection[118], a summary of which is given below followed by the text of the operative paragraph:

Institution of proceedings and history of the case

The Court began by outlining the history of the case as set out above. It recalled that the following final submissions were presented by the Parties with regard to the preliminary objection raised by the United States:

On behalf of the United States,

> "The United States of America requests that the Court uphold the objection of the United States to the jurisdiction of the Court in the case concerning Oil Platforms (Islamic Republic of Iran v. United States of America)."

On behalf of Iran,

> "In the light of the facts and arguments set out above, the Government of the Islamic Republic of Iran requests the Court to adjudge and declare:
>
> 1. That the preliminary objection of the United States is rejected in its entirety;
> 2. That, consequently, the Court has jurisdiction under article XXI (2) of the Treaty of Amity to entertain the claims submitted by the Islamic Republic of Iran in its Application and Memorial as they relate to a dispute between the Parties as to the interpretation or application of the Treaty;
> 3. That, on a subsidiary basis in the event the preliminary objection is not rejected outright, it does not possess, in the circumstances of the case, an exclusively preliminary character within the meaning of Article 79 (7) of the Rules of Court; and
> 4. Any other remedy the Court may deem appropriate."

Article XXI, paragraph 2, of the Treaty of 1955 and the nature of the dispute

After summarizing the arguments put forward by Iran in the Application and in the course of the subsequent proceedings, the Court concluded that Iran claimed only that article I, article IV, paragraph 1, and article X, paragraph 1, of the Treaty of 1955 had been infringed by the United States and that the dispute thus brought into being fell within the jurisdiction of the Court pursuant to article XXI, paragraph 2, of the same Treaty.

The United States for its part maintained that the Application of Iran bore no relation to the Treaty of 1955. It stressed that, as a consequence, the dispute that had arisen between itself and Iran did not fall within the provisions of article XXI, paragraph 2, of the Treaty an deduced form this that the Court had to find that it laced jurisdiction to deal with it.

The Court pointed out, to begin with, that the Parties did not contest that the Treaty of 1955 was in force at the date of the filing of the Application of Iran and was moreover still in force. The Court recalled that it had decided in 1980 that the Treaty of 1955 was applicable at that time;119 and stressed that none of the circumstances brought to its knowledge in the instant case would cause it currently to depart from that view.

By the terms of article XXI, paragraph 2, of that Treaty:

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

It was not contested that several of the conditions laid down by this text had been met in the instant case: a dispute had arisen between Iran and the United States; it had not been possible to adjust that dispute by diplomacy and the two States had not agreed "to settlement by some other pacific means" as contemplated by article XXI. On the other hand, the Parties differed on the question whether the dispute between the two States with respect to the lawfulness of the actions carried out by the United States against the Iranian oil platforms was a dispute "as to the interpretation of application" of the Treaty of 1955. In order to answer that question, the Court could not limit itself to noting that one of the Parties maintained that such a dispute existed, and the other denied it. It had to ascertain whether the violations of the Treaty of 1955 pleaded by Iran did or did not fall within the provisions of the Treaty and whether, as a consequence, the dispute was one which the Court had jurisdiction ratione materiae to entertain, pursuant to article XXI, paragraph 2.

Applicability of the Treaty of 1955 in the event of the use of force

The Court first dealt with the Respondent's argument that the Treaty of 1955 did not apply to questions concerning the use of force. In that perspective, the United States contended that, essentially, the dispute related toe the lawfulness of actions by naval forces of the United States that "involved combat operations" and that there was simply no relationship between the wholly commercial and consular provisions of the Treaty and Iran's Application and Memorial, which focused exclusively on allegations of unlawful uses of armed force.

Iran maintained that the dispute that had arisen between the Parties concerned the interpretation or application of the Treaty of 1955. It therefore requested that the preliminary objection be rejected, or, on a subsidiary basis, if it was not rejected outright, that it should be regarded as not having an exclusively preliminary character within the meaning of Article 79, paragraph 7, of the Rules of Conduct.

The Court noted in the first place that the Treaty of 1955 contained no provision expressly excluding certain matters from the jurisdiction of the Court. It took the view that the Treaty of 1955 imposed on each of the Parties various obligations on a variety of matters. Any action by one of the Parties that was incompatible with those obligations was unlawful, regardless of the means by which it had been brought about. A violation of the rights of one party under the Treaty by means of the use of force was as unlawful as would have been a violation by administrative decision or by any other means. Matters relating to the use of force were therefore not per se excluded from the reach of the Treaty of 1955. The arguments put forward on this point by the United States had therefore to be rejected.

Article I of the Treaty

In the second place, the Parties differed as to the interpretation to be given to article I, article IV, paragraph 1, and article X, paragraph 1, of the Treaty of 1955. According to Iran, the actions which it alleged against the United States were such as to constitute a breach of those provisions and the Court consequently had jurisdiction ratione materiae to entertain the Application. According to the United States, this was not the case.

Article I of the Treaty of 1955 provided that: "There shall be firm and enduring peace and sincere friendship between the United States...and Iran."

According to Iran this provision did not "merely formulate a recommendation or desire..., but imposed actual obligations on the Contracting Parties, obliging them to maintain long-lasting peaceful and friendly relations"; it would have imposed upon the Parties "the minimum requirement...to conduct themselves with regard to the other in accordance with the principles and rules of general international law in the domain of peaceful and friendly relations".

The United States considered, on the contrary, that Iran read "far too much into article I". That text, according to the Respondent, "contain[ed] no standards", but only constituted a "statement of aspiration". That interpretation was called for in the context and on account of the "purely commercial and consular" character of the Treaty.

The Court considered that the general formulation of article I could not be interpreted in isolation from the object and purpose of the Treaty in which it was inserted. There were some Treaties of Friendship which contained not only a provision on the lines of that found in article I but, in addition, clauses aimed at clarifying the conditions of application. However, that did not apply to the instant case. Article I was in fact inserted not into a treaty of that type, but into a treaty of "Amity, Economic Relations and Consular Rights" whose object was, according to the terms of the preamble, the "encouraging [of] mutually beneficial trade and investments and closer economic intercourse generally" as well as "regulating consular relations" between the two States. The Treaty regulated the conditions of residence of nationals of one of the parties on the territory of the other (art. II), the status of companies and access to the courts and arbitration (art. III), safeguards for the nationals and companies of each of the contracting parties as well as their property and enterprises (art. IV), the conditions for the purchase and sale of real property and protection of intellectual property

(art. V), the tax system (art. VI), the system of transfers (art. VII), customs duties and other import restrictions (arts. VIII and IX), freedom of commerce and navigation (arts. X and XI), and the rights and duties of Consuls (arts. XII-XIX).

It followed that the object and purpose of the Treaty of 1955 was not to regulate peaceful and friendly relations between the two States in a general sense. Consequently, article I could not be interpreted as incorporating into the Treaty and all of the provisions of international law concerning such relations. Rather, by incorporating into the body of the Treaty the form of words used in article I, the two States had intended to stress that peace and friendship constituted the precondition for a harmonious development of their commercial, financial and consular relations and that such a development would in turn reinforce that peace and that friendship. It follows that article I had to be regarded as fixing an objective, in the light of which the other Treaty provisions were to be interpreted and applied. The Court further observed that it did not have before it any Iranian document in support of Iran's position. As for the United States documents introduced by the two Parties, they showed that at no time did the United States regard article I as having meaning currently given to it by the Applicant. Nor did the practice followed by the Parties in regard to the application of the Treaty lead to any different conclusions.

In the light of the foregoing, the Court considered that the objective of peace and friendship proclaimed in article I of the Treaty of 1955 was such as to throw light on the interpretation of the other Treaty provisions, and in particular of article IV and X. Article I was thus not without legal significance for such an interpretation, but could not, taken in isolation, be a basis for the jurisdiction of the Court.

Article IV, paragraph 1, of the Treaty

Article IV, paragraph 1, of the Treaty of 1955 provided that:

> "Each High Contracting Party shall at all times accord fair and equitable treatment to nationals and companies of the other High Contracting Party, and to their property and enterprises; shall refrain from applying unreasonable or discriminatory measures that would impair their legally acquired rights and interests; and shall assure that their lawful contractual rights are afforded effective means of enforcement, in conformity with the applicable laws."

The Court, with regard to the arguments advanced by the Parties, observed that article IV, paragraph 1, unlike the other paragraphs of the same article, did not include any territorial limitation. It further pointed out that the detailed provisions of that paragraph concerned the treatment by each party of the nationals and companies of the other party, as well as their property and enterprises. Such provisions did not cover the relevant actions carried out by the United States against Iran. Article IV, paragraph 1, thus did not lay down any norms applicable to the instant case, and could not therefore form the basis of the Court's jurisdiction.

Article X, paragraph 1, of the Treaty

Article X, paragraph 1, of the Treaty of 1955 read as follows: "Between the territories of the two High Contracting Parties there shall be freedom of commerce and navigation."

It had not been alleged by the Applicant that any military action had affected its freedom of navigation. Therefore, the question the Court had to decide, in order to determine its jurisdiction, was whether the actions of the United States complained of by Iran had the potential to affect "freedom of commerce" as guaranteed by the provision quoted above.

Iran had argued that article X, paragraph 1, did not contemplate only maritime commerce, but commerce in general; while according to the United States the word "commerce" had to be understood as being confined to maritime commerce; as being confined to commerce between the United States and Iran; and as referring solely to the actual sale or exchange of goods.

Having regard to other indications in the Treaty of an intention of the parties to deal with trade and commerce in general, and taking into account the entire range of activities dealt with in the Treaty, the view that the word "commerce" in article X, paragraph 1, was confined to maritime commerce did not commend itself to the Court.

In the view of the Court, there was nothing to indicate that the parties to the Treaty had intended to use the word "commerce" in any sense different from that which it generally bore. The word "commerce", whether taken in its ordinary sense or in its legal meaning, at the domestic or international level, had a broader meaning than the mere reference to purchase and sale. The Court noted in that connection that the Treaty of 1955 dealt, in its general articles, with a wide variety of matters ancillary to trade and commerce; and referred to the Oscar Chinn case in which the expression "freedom of trade" had been seen by the Permanent Court as contemplating not only the purchase and sale of goods, but also industry, and in particular the transport business.

The Court further pointed out that it sought not in any event to overlook the fact that article X, paragraph 1, of the Treaty of 1955 did not strictly speaking protect "commerce" but "freedom of commerce". Any act such as the destruction of goods destined to be exported, or capable of affecting their transport and their storage with a view to export, which impeded that "freedom", was thereby prohibited. The Court point out in this respect that the oil pumped form the platforms attacked in October 1987 passed from there by subsea line to the oil terminal on Lavan Island and that the Salman complex, object of the attack of April 1988, was also connected to the oil terminal on Lavan by subsea line.

The Court found that on the material currently before it, it was indeed not able to determine if and to what extent the destruction of the Iranian oil platforms had had an effect upon the export trade in Iranian oil; it noted nonetheless that their destruction had been capable of having such an effect and, consequently, of having an adverse effect upon the freedom of commerce as guaranteed by article X, paragraph 1, of the Treaty of 1955. It followed that its lawfulness could be evaluated in relation to that paragraph.

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In the light of the foregoing, the Court concluded that there existed between the Parties a dispute as to the interpretation and application of article X, paragraph 1, of the Treaty of 1955; that the dispute fell within the scope of the compromissory clause in article XXI, paragraph 2, of the Treaty; and that as a consequence the Court had jurisdiction to entertain the dispute.

The Court noted that since it had to reject the preliminary objection raised by the United States, the submissions whereby Iran had requested it, on a subsidiary basis, to find that the objection did not possess, in the circumstances of the case, an exclusively preliminary character, no longer had any object.

Operative paragraph

"For these reasons,

THE COURT,

(1) Rejects, by fourteen votes to two, the preliminary objection of the United States of America according to which the Treaty of 1955 does not provide any basis for the jurisdiction of the Court;

IN FAVOUR: President Bedjaoui; Judges Guillaume, Shahabuddeen, Weramantry, Ranjeva, Herczegh, Shi, Fleischhauer, Koroma, Vereshchetin, Ferrari Bravo, Higgins, Parra-Aranguren; Judge ad hoc Rigaux;

AGAINST: Vice-President Schwebel; Judge Oda;

(2) Finds, by fourteen votes to two, that it has jurisdiction, on the basis of Article XXI, paragraph 2, of the Treaty of 1955, to entertain the claims made by the Islamic Republic of Iran under Article X, paragraph 1, of that Treaty.

IN FAVOUR: President Bedjaoui; Judges Guillaume, Shahabuddeen, Weramantry, Ranjeva, Herczegh, Shi, Fleischhauer, Koroma, Vereshchetin, Ferrari Bravo, Higgins, Parra-Aranguren; Judge ad hoc Rigaux;

AGAINST: Vice-President Schwebel; Judge Oda;

*

Judges Shahabuddeen, Ranjeva, Higgins and Parra-Aranguren and Judge ad hoc Rigaux appended separate opinions to the Judgment of the Court;[120] Vice-President Schwebel and Judge Oda appended dissenting opinions[121]

By an Order of 16 December 1996,[122] the President of the Court, taking into account the agreement of the Parties, fixed 23 June 1997 as the time limit for the filing of the Counter-Memorial of the United States of America. Within the time limit thus fixed, the United States filed the Counter-Memorial and a counter-claim, requesting the Court to adjudge and declare:

"1. That in attacking vessels, laying mines in the Gulf and otherwise engaging in military actions in 1987–1988 that were dangerous and detrimental to maritime commerce, the Islamic Republic of Iran breached its obligations to the United States under article X of the 1955 Treaty, and

"2. That the Islamic Republic of Iran is accordingly under an obligation to make full reparation to the United States for violating the 1955 Treaty in a form and amount to be determined by the Court at a subsequent stage of the proceedings."

(iv) *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia)*

Public sittings to hear the oral arguments of the Parties on the preliminary objection raised by Yugoslavia were held between 29 April and 3 May 1996.

At a public sitting held on 11 July 1996, the Court delivered its judgment on the preliminary objections raised by Yugoslavia, finding that,[123] on the basis of article XI of the Convention on the Prevention and Punishment of the Crime of Genocide, it had jurisdiction; dismissed the additional basis of jurisdiction invoked by Bosnia and Herzegovina and found that the Application was admissible.

Judge Oda appended a declaration to the judgment of the Court;[124] Judges Shi and Vereshchetin appended a joint declaration;[125] Judge ad hoc Lauterpacht also appended a declaration;[126] Judges Shahabuddeen, Weeramantry and Parra-Aranguren appended separate opinions to the judgment;[127] Judge ad hoc Kreca appended a dissenting opinion.[128]

By an Order of 23 July 1996,[129] the President of the Court, taking into account the views expressed by the Parties, fixed 23 July 1997 as the time limit for the filing of the Counter-Memorial of Yugoslavia. The Counter-Memorial was filed within the prescribed time limit. It included counter claims, by which Yugoslavia requested the Court to adjudge and declare:

"3. Bosnia and Herzegovina is responsible for the acts of genocide committed against the Serbs in Bosnia and Herzegovina and for other violations of the obligations established by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide:

— Because it has incited acts of genocide by the 'Islamic Declaration', and in particular by the position contained in it that 'there can be no peace or coexistence between Islamic faith' and non-Islamic social and political institutions';

— Because it has incited acts of genocide by the Novi Vox, paper of the Muslim youth, and in particular by the verses of a 'Patriotic Song' which reads as follows:

'Dear mother, I'm going to plant willows,
We'll hang Serbs from them.
Dear mother, I'm going to sharpen knives,
We'll soon fill pits again';

— Because it has incited acts of genocide by the paper Zmaj of Bosne, and in particular by the sentence in an article published in it that 'Each Muslim must name a Serb and take oath to kill him';

— Because public calls for the execution of Serbs were broadcast on radio 'Hajat' and thereby acts of genocide were incited;

— Because the armed forces of Bosnia and Herzegovina, as well as other organs of Bosnia and Herzegovina, have committed acts of genocide and other acts prohibited by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, against the Serbs in Bosnia and Herzegovina, which have been stated in chapter seven of the Counter-Memorial;

— Because Bosnia and Herzegovina has not prevented the acts of genocide and other acts prohibited by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, against the Serbs on its territory, which have been stated in chapter seven of the Counter-Memorial.

4. Bosnia and Herzegovina has the obligation to punish the persons held responsible for the acts of genocide and other acts prohibited by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide.

5. Bosnia and Herzegovina is bound to take necessary measures so that the said acts would not be repeated in the future.

6. Bosnia and Herzegovina is bound to eliminate all consequences of the violation of the obligations established by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide and provide adequate compensation."

(v) *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria)*

By an Order of 10 January 1996,[130] the President of the Court, taking into account the views expressed by the Parties at a meeting between the President and the Agents of the Parties held on 10 January 1996, fixed 15 May 1996 as the time limit within which Cameroon might present a written statement of its observations and submissions on the preliminary objections raised by Nigeria. Cameroon filed such statement within the prescribed time limit.

On 12 February 1996, the Registry of the International Court of Justice received from Cameroon a request for the indication of provisional measures, with reference to "serious armed incidents" which had taken place between Cameroonian and Nigerian forces in the Bakassi Peninsula beginning on 3 February 1996.

In its request Cameroon referred to the submissions made in its Application of 29 May 1994, supplemented by an Additional Application of 6 June of that year, as also summed up in its Memorial of 16 March 1995, and requested the Court to indicate the following provisional measures:

"(1) The armed forces of the Parties shall withdraw to the position they were occupying before the Nigerian armed attack of 3 February 1996;

(2) The Parties shall abstain from all military activity along the entire boundary until the judgment of the Court has taken place;

(3) The Parties shall abstain from any act or action which might hamper the gathering of evidence in the present case".

Public sittings to hear the oral observations of the Parties on the request for the indication of provisional measures were held between 5 and 8 March 1996.

At a public sitting, held on 15 March 1996, the President of the Court read the Order on the request for provisional measures made by Cameroon[131], by which the Court indicated that "both Parties should ensure that no action of any kind, and particularly no action by their armed forces, is taken which might prejudice the rights of the other in respect of whatever judgment the Court may render in the case, or which might aggravate or extend the dispute before it"; that they "should observe the agreement reached between the Ministers for Foreign Affairs in Kara, Togo, on 17 February 1996, for the cessation of all hostilities in the Bakassi peninsula"; that they "should ensure that the presence of any armed forces in the Bakassi peninsula does not extend beyond the positions in which they were situated prior to 3 February 1996"; that they "should take all necessary steps to conserve evidence relevant to the present case within the disputed area"; and that they "should lend every assistance to the fact-finding mission which the Secretary-General of the United Nations has proposed to send to the Bakassi peninsula".

Judges Oda, Shahabuddeen, Ranjeva and Koroma appended declarations to the Order of the Court,[132] Judges Weeramantry, Shi and Vereshchetin appended a joint declaration,[133] Judge ad hoc Mbaye also appended a declaration,[134] and Judge Ajibola appended a separate opinion to the Order.[135]

(vi) *Fisheries Jurisdiction* (*Spain* v. *Canada*)

Taking into account an agreement concerning the procedure reached between the Parties at a meeting with the President of the Court, held on 27 April 1995, the President, by an Order of 2 May 1995,[136] decided that the written proceedings should first be addressed to the question of the jurisdiction of the Court to entertain the dispute and fixed 29 September 1995 as the time limit for the filing of the Memorial of the Kingdom of Spain and 29 February 1996 for the filing of the Counter-Memorial of Canada. The Memorial and Counter-Memorial were filed within the prescribed time limits.

Spain chose Mr. Santiago Torres-Bernardez and Canada the Honourable Marc Lalonde to sit as judges ad hoc.

The Spanish Government subsequently expressed its wish to be authorized to file a Reply; the Canadian Government opposed this. By an Order of 8 May 1996,[137] the Court, considering that it was "sufficiently informed, at this stage, of the contentions of fact and law on which the Parties rely with respect to its jurisdiction in the case and whereas the presentation by them of other written pleadings on that question therefore does not appear necessary", decided, by fifteen votes to two, not to authorize the filing of a Reply by the Applicant and a Rejoinder by the Respondent on the question of jurisdiction.

Judge Vereshchetin and Judge ad hoc Torres-Bernardez voted against; the latter appended a dissenting opinion to the Order.[138]

The written proceedings on the question of the jurisdiction of the Court to entertain the dispute were thus concluded.

(vii) *Kasikili/Sedudu Island (Botswana/Namibia)*

On 29 May 1996 the Government of the Republic of Botswana and the Government of the Republic of Namibia notified jointly to the Registrar of the Court a Special Agreement between the two States signed at Gaborone on 15 February 1996, which came into force on 15 May 1996, for the submission to the Court of the dispute existing between them concerning the boundary around Kasikili/Sedudu Island and the legal status of that island.

The Special Agreement refers to a Treaty between Great Britain and Germany respecting the spheres of influence of the two countries, signed on 1 July 1890, and to the appointment, on 24 May 1992, of a Joint Team of Technicial Experts "to determine the boundary between Namibia and Botswana around Kasikili/Sedudu Island" on the basis of that Treaty and of the applicable principles of international law. Unable to reach a conclusion on the question, the Joint Team of Technical Experts recommended "recourse to the peaceful settlement of the dispute on the basis of the applicable rules and principles of international law". At the Summit Meeting held in Harare, Zimbabwe, on 15 February 1995, President Masire of Botswana and President Nujoma of Namibia agreed "to submit the dispute to the International Court of Justice for a final and binding determination".

Under the terms of the Special Agreement, the Parties ask the Court to:

> "determine, on the basis of the Anglo-Germany Treaty of 1 July 1890 and the rules and principles of international law, the boundary between Namibia and Botswana around Kasikili/Sedudu Island and the legal status of the island".

By an Order of 24 June 1996,[139] the Court fixed 28 February and 28 November 1997 respectively as the time limits for the filing by each of the Parties of a Memorial and a Counter-Memorial. A Memorial was filed by each of the Parties within the prescribed time limit.

(*b*) REQUESTS FOR ADVISORY OPINION

(i) *Legality of the Use by a State of Nuclear Weapons in Armed Conflict*

At a public sitting held on 8 July 1996, the Court delivered its Advisory Opinion,140 a summary of which is given below, followed by the text of the final paragraph.

Submission of the request and subsequent procedure

The Court began by recalling that by a letter dated 27 August 1993, filed in the Registry on 3 September 1993, the Director-General of the World Health Organization had officially communicated to the Registrar a decision taken by the World Health Assembly to submit a question to the Court for advisory opinion. The question set forth in resolution WHA46.40, adopted by the Assembly on 14 May 1993, read as follows:

"In view of the health and environmental effects, would the use of nuclear weapons by a State in war or other armed conflict be a breach of its obligations under international law including the WHO Constitution?"

The Court then recapitulated the various stages of the proceedings.

Jurisdiction of the Court

The Court began by observing that, in view of Article 65, paragraph 1, of its Statute and of Article 96, paragraph 2, of the Charter of the United Nations, three conditions had to be satisfied in order to found the jurisdiction of the Court when a request for an advisory opinion was submitted to it by a specialized agency: the agency requesting the opinion had to be duly authorized, under the Charter, to request opinions from the Court; the opinion requested had to be on a legal question; and that question had to be one arising within the scope of the activities of the requesting agency.

Authorization of WHO to request advisory opinions

Where WHO was concerned, the above-mentioned texts were reflected in article 76 of that Organization's Constitution, and in paragraph 2 of article X of the Agreement of 10 July 1948 between the United Nations and WHO which the Court found to have left no doubt that WHO had been duly authorized, in accordance with Article 96, paragraph 2, of the Charter, to request advisory opinions of the Court.

"Legal question"

The Court observed that it had already had occasion to indicate that questions

"framed in terms of law and rais[ing] problems of international law...are by their very nature susceptible of a reply based on law...[and] appear...to be questions of a legal character".141

It found that the question put to the Court by the World Health Assembly did in fact constitute a legal question, as in order to rule on the question submitted to it, the Court needed to identify the obligations of States under the rules of law invoked and assess whether the behaviour in question conformed to those obligations, thus giving an answer to the question posed based on law.

The fact that the question also had political aspects, as, in the nature of things, was the case with so many questions which arose in international life, did not suffice to deprive it of its character as a "legal question" and to "deprive the Court of a competence expressly conferred on it by its Statute". Nor was the political nature of the motives which might be said to have inspired the request, or the political implications that the opinion given might have had, of relevance in the establishment of the Court's jurisdiction to give such an opinion.

Question arising "within the scope of the activities" of WHO

The Court observed that, in order to delineate the field of activity or the area of competence of an international organization, one needed to refer to the relevant rules of the organization and, in the first place, to its constitution. From

a form standpoint, the constituent instruments of international organizations were multilateral treaties, to which the well-established rules of treaty interpretation applied. But they were also treaties of a particular type; their object was to create new subjects of law endowed with a certain autonomy, to which the parties entrusted the task of realizing common goals. Such treaties could raise specific problems of interpretation owing, inter alia, to their character which was conventional and at the same time institutional; the very nature of the organization created, the objectives which had been assigned to it by its founders, the imperatives associated with the effective performance of its functions, as well as its own practice, were all elements which might deserve special attention when the time came to interpret those constituent treaties.

According to the customary rule of interpretation as expressed in article 31 of the 1969 Vienna Convention on the Law of Treaties, the terms of a treaty had to be interpreted "in their context and in the light of its object and purpose" and there were to be

> "taken into account, together with the context:
>
> (*b*) any subsequent practice in the application of the treaty which establishes the agreement of the parties regarding its interpretation".

The Court had had occasion to apply that rule of interpretation several times and would also apply it in the instant case.

Interpretation of the WHO Constitution

The Court pointed out that the functions attributed to WHO were listed in 22 subparagraphs (subparagraphs (*a*) to (v)) in article 2 of its Constitution. None of those subparagraphs expressly referred to the legality of any activity hazardous to health; and none of the functions of WHO was dependent upon the legality of the situations upon which it was bound to act. Moreover, it was stated in the introductory sentence of article 2 that the Organization discharged its functions "in order to achieve its objective". The objective of the Organization was defined in article 1 as being "the attainment by all peoples of the highest possible level of health".

Also referring to the preamble to the Constitution, the Court concluded that, interpreted in accordance with their ordinary meaning, in their context and in the light of the object and purpose of the WHO Constitution, as well as of the practice followed by the Organization, the provisions of its article 2 might be read as authorizing the Organization to deal with the effects on health of the use of nuclear weapons, or of any other hazardous activity, and to take preventive measures aimed at protecting the health of populations in the event of such weapons being used or such activities engaged in.

It went on to observe that the question put to the Court in the instant case related, however, not to the effects of the use of nuclear weapons on health, but to the legality of the use of such weapons in view of their health and environmental effects. And the Court pointed out that whatever those effects might be, the competence of WHO to deal with them was not dependent on the legality of the acts that caused them. Accordingly, it did not seem to the Court that the provisions of article 2 of the WHO Constitution, interpreted in accordance with

the criteria referred to above, could be understood as conferring upon the Organization a competence to address the legality of the use of nuclear weapons, and thus in turn a competence to ask the Court about that matter.

In the view of the Court, none of the functions referred to in the resolution by which the Court had been seized of this request for an opinion had a sufficient connection with the question before it for that question to be capable of being considered as arising "within the scope of [the] activities" of WHO. The causes of the deterioration of human health were numerous and varied; and the legal or illegal character of those causes was essentially immaterial to the measures which WHO had in any case to take in an attempt to remedy their effects. In particular, the legality or illegality of the use of nuclear weapons in no way determined the specific measures, regarding health or otherwise (studies, plans, procedures, etc.), which might be necessary in order to seek to prevent or cured some of their effects. The reference in the question put to the Court to the health and environmental effects, which according to WHO the use of a nuclear weapon would always occasion, did not make the question one that fell within WHO's functions.

The Court went on to point out that international organizations were subjects of international law which did not, unlike States, possess a general competence. International organizations were governed by the "principle of specialty", that is to say, they were invested by the States which created them with powers, the limits of which were a function of the common interests whose promotion those States entrusted to them.

The powers conferred on international organizations were normally the subject of an express statement in their constituent instruments. Nevertheless, the necessities of international life might point to the need for organizations, in order to achieve their objectives, to possess subsidiary powers which were not expressly provided for in the basic instruments which governed their activities. It was generally accepted that international organizations could exercise such powers, known as "implied" powers.

The Court was of the opinion, however, that to ascribe to WHO the competence to address the legality of the use of nuclear weapons-even in view of their health and environmental effects-would be tantamount to disregarding the principle of specialty; for such competence could not be deemed a necessary implication of the Constitution of the Organization in the light of the purposes assigned to it by its member States.

WHO was, moreover, an international organization of a particular kind. As indicated in the preamble and confirmed by article 69 of its Constitution, "the Organization shall be brought into relation with the United Nations as one of the specialized agencies referred to in Article 57 of the Charter of the United Nations". As its Articles 57, 58 and 63 demonstrated, the Charter had laid the basis of a "system" designed to organize international cooperation in a coherent fashion by bringing the United Nations, invested with powers of general scope, into relationship with various autonomous and complementary organizations, invested with sectorial powers.

If, according to the rules on which that system was based, WHO had, by virtue of Article 57 of the Charter, "wide international responsibilities", those responsibilities were necessarily restricted to the sphere of "public health" and cold not encroach on the responsibilities of other parts of the United Nations

system. And there was no doubt that questions concerning the use of force, the regulation of armaments and disarmament were within the competence of the United Nations and lay outside that of the specialized agencies.

For all those reasons, the Court considered that the question raised in the request for an advisory opinion submitted to it by WHO did not arise "within the scope of [the] activities" of that Organization as defined by its Constitution.

WHO's practice

A consideration of the practice of WHO bore out these conclusions. None of the reports and resolutions referred to in the preamble to World Health Assembly resolution WHA46.40, nor resolution WHA46.40 itself, could be taken to express, or to amount on its own to a practice establishing an agreement between the members of the Organization to interpret its Constitution as empowering it to address the question of the legality of the use of nuclear weapons, nor could, in the view of the Court, such a practice be inferred from isolated passages of certain resolutions of the World Health Assembly cited during the current proceedings.

The Court further considered that the insertion of the worlds "including the WHO Constitution" in the question put to the Court did not change the fact that WHO was not empowered to seek an opinion on the interpretation of its Constitution in relation to matters outside the scope of its functions.

Other arguments

The Court finally considered that other arguments put forward in the proceedings to found the jurisdiction of the Court-concerning the way in which World Health Assembly resolution WHA46.40 had been adopted and concerning the reference to that resolution in General Assembly resolution 49/75 K – did not affect the conclusions reached by the Court concerning the competence of WHO to request an opinion on the question raised.

Having arrived at the view that the request for an advisory opinion submitted by WHO did not relate to a question arising "within the scope of [the] activities" of that Organization in accordance with Article 96, paragraph 2, of the Charter, the Court found that an essential condition of founding its jurisdiction in the present case was absent and that it could not, accordingly, give the opinion requested.

Final paragraph

"For these reasons,

THE COURT,

By eleven votes to three,

Finds that it is not able to give the advisory opinion which was requested of it under World Health Assembly resolution WHA46.40 dated 14 May 1993.

IN FAVOUR: President Bedjaoui; Vice-President Schwebel; Judges Oda, Guillaume, Ranjeva, Herczegh, Shi, Fleischhauer, Vereshchetin, Ferrari, Bravo, Higgins.

AGAINST: Judges Shahabuddeen, Weeramantry, Koroma."

*

Judges Ranjeva and Ferrari Bravo appended declarations to the Advisory Opinion;142 Judge Oda appended a separate opinion;[143] and Judges Shahabuddeen, Weeramantry and Koroma appended dissenting opinions.[144]

(ii) *Legality of the Threat or Use of Nuclear Weapons*

At a public sitting held on 8 July 1996, the Court delivered its advisory opinion,[145] a summary of which is given below, followed by the text of the final paragraph.

Submission of the request and subsequent procedure

The Court began by recalling that by a letter dated 19 December 1994, filed in the Registry on 6 January 1995, the Secretary-General of the United Nations had officially communicated to the Registrar the decision taken by the General Assembly to submit a question to the Court for an advisory opinion. The final paragraph of resolution 49/75 K, adopted by the General Assembly on 15 December 1994, which set forth the question, provides that the General Assembly

> "Decides, pursuant to Article 96, paragraph 1, of the Charter of the United Nations, to request the International Court of Justice urgently to render its advisory opinion on the following question: 'Is the threat or use of nuclear weapons in any circumstance permitted under international law?'"

The Court then recapitulated the various stages of the proceedings.

Jurisdiction of the Court

The Court first considered whether it had the jurisdiction to give a reply to the request of the General Assembly for an advisory opinion and whether, should the answer be in the affirmative, there was any reason it should decline to exercise any such jurisdiction.

The Court observed that it drew its competence in respect of advisory opinions from Article 65, paragraph 1, of its Statute, while Article 96, paragraph 1, of the Charter provides that:

> "The General Assembly or the Security Council may request the International Court of Justice to give and advisory opinion on any legal question."

Some States which opposed the giving of an opinion by the Court argued that the General Assembly and the Security Council might ask for an advisory opinion on any legal question only within the scope of their activities. In the view of the Court, it mattered little whether this interpretation of Article 96, paragraph 1, was or was not correct; in the present case, the General Assembly had competence in any event to seize the Court. Referring to Articles 10, 11 and 13 of the Charter, the Court found that, indeed, the question put to the Court had a relevance to many aspects of the activities and concerns of the General Assembly including those relating to the threat or use of force in international relations, the disarmament process, and the progressive development of international law.

"Legal question"

The Court observed that it had already had occasion to indicate that questions

> "framed in terms of law and rais[ing] problems of international law...are by their very nature susceptible of a reply based on law...[and] appear...to be questions of a legal character"[146]

It found that the question put to the Court by the General Assembly was indeed a legal one, since the Court was asked to rule on the compatibility of the threat or use of nuclear weapons with the relevant principles and rules of international law. To do that, the Court had to identify the existing principles and rules, interpret them and apply them to the threat or use of nuclear weapons, thus offering a reply to the question posed based on law.

The fact that the question also had political aspects, as, in the nature of things, was the case with so many questions which arose in international life, did not suffice to deprive it of its character as a "legal question" and to "deprive the Court of a competence expressly conferred on it by its Statute". Nor were the political nature of the motives which might be said to have inspired the request or the political implications that the opinion given might have of relevance in the establishment of the Court's jurisdiction to give such an opinion.

Discretion of the Court to give an advisory opinion

Article 65, paragraph 1, of the Statute provides: "The Court may give an advisory opinion..." (emphasis added) This was more than an enabling provision. As the Court had repeatedly emphasized, the Statue left a discretion as to whether or not the Court would give an advisory opinion that had requested of it, once it had established its competence to do so. In that context, the Court had previously noted as follows:

> "The Court's Opinion is given not to the States, but to the organ which is entitled to request it; the reply of the Court, itself an 'organ of the United Nations', represents its participation in the activities of the Organization, and, in principle, should not be refused."[147]

In the history of the present Court there had been no refusal, based on the discretionary power of the Court, to act upon a request for advisory opinion; in the case concerning the Legality of the Use by a State of Nuclear Weapons in Armed Conflict the refusal to give the World Health Organization the advisory opinion requested by it had been justified by the Court's lace of jurisdiction in the case.

Several reasons were adduced in the proceedings in order to persuade the Court that in the exercise of its discretionary power it should decline to render the opinion requested by the General Assembly. Some States, in contending that the question put to the Court was vague and abstract, appeared to mean by this that there existed no specific dispute on the subject matter of the question. In order to respond to this argument, it was necessary to distinguish between requirements governing contentious procedure and those applicable to advisory opinions. The purpose of the advisory function was not to settle – at least directly – disputes between States, but to offer legal advice to the organs and

institutions requesting the opinion. The fact that the question put to the Court did not relate to a specific dispute should consequently not lead the Court to decline to give the opinion requested. Other arguments concerned the fear that the abstract nature of the question might lead the Court to make hypothetical or speculative declarations outside the scope of its judicial function; the fact that the General Assembly had not explained to the Court for what precise purposes it sought the advisory opinion; that a reply from the Court in this case might adversely affect disarmament negotiations and would, therefore, be contrary to the interest of the United Nations; and that in answering the question posed, the Court would be going beyond its judicial role and would be taking upon itself a lawmaking capacity.

The Court did not accept those arguments and concluded that it had the authority to deliver an opinion on the question posed by the General Assembly, and that there existed no "compelling reasons" which would lead the Court to exercise its discretion not to do so. It pointed out, however, that it was an entirely different question whether, under the constraints placed upon it as a judicial organ, it would be able to give a complete answer to the question asked of it. But that was a different matter from a refusal to answer to all.

Formulation of the question posed

The Court found it unnecessary to pronounce on the possible divergences between the English and French texts of the question put. Its real objective was clear: to determine the legality or illegality of the threat or use of nuclear weapons. And the argument concerning the legal conclusions to be drawn from the use of the word "permitted", and the questions of burden of proof to which it was said to give rise, were found by the Court to be without particular significance for the disposition of the issues before it.

The applicable law

The Court observed that, in seeking to answer the question put to it by the General Assembly, it had to decide, after consideration of the great corpus of international law norms available to it, what might be the relevant applicable law.

The Court considered that the question whether a particular loss of life, through the use of a certain weapon in warfare, was to be considered an arbitrary deprivation of life contrary to article 6 of the International Covenant on Civil and Political Rights, as argued by some of the proponents of the illegality of the use of nuclear weapons, could only be decided by reference to the law applicable in armed conflict and not deduced from the terms of the Covenant itself. The Court also pointed out that the prohibition of genocide would be pertinent in the present case if the recourse to nuclear weapons did indeed entail the element of intent, towards a group as such, required by article II of the Convention on the Prevention and Punishment of the Crime of Genocide. In the view of the Court, it would only be possible to arrive at such a conclusion after having taken due account of the circumstances specific to each case. And the Court further found that while the existing international law relating to the protection and safeguarding of the environment did not specifically prohibit the use of nuclear weapons, it indicated important environmental factors that were properly to be taken into account in the context of the implementation of the principles and rules of the law applicable in armed conflict.

In the light of the foregoing the Court concluded that the most directly relevant applicable law governing the question of which it was seized was that relating to the use of force enshrined in the United Nations Charter and the law applicable in armed conflict which regulates the conduct of hostilities, together with any specific treaties on nuclear weapons that the Court might determine to be relevant.

Unique characteristics of nuclear weapons

The Court noted that in order correctly to apply to the case before it the Charter law on the use of the force and the law applicable in armed conflict, in particular humanitarian law, it was imperative for it to take account of the unique characteristics of nuclear weapons, and in particular their destructive capacity, their capacity to cause untold human suffering and their ability to cause damage to generations to come.

Provisions of the Charter relating to the threat or use of force

The Court then addressed the question of the legality or illegality of recourse to nuclear weapons in the light of the provisions of the Charter relating to the threat or use of force.

In Article 2, paragraph 4, the Charter, the use of force against the territorial integrity or political independence of another State or in any other manner inconsistent with the purposes of the United Nations was prohibited.

This prohibition of the use of force was to be considered in the light of other relevant provisions of the Charter. In Article 51, the Charter recognized the inherent right of individual or collective self-defence in case of an armed attack. A further lawful use of force was envisaged in Article 42, whereby the Security Council might take military enforcement measures in conformity with Chapter VII of the Charter.

These provisions did not refer to specific weapons. They applied to any use of force, regardless of the weapons employed. The Charter neither expressly prohibited, nor permitted, the use of any specific weapon, including nuclear weapons.

The entitlement to resort to self-defence under Article 51 was subject to the conditions of necessity and proportionality. As the Court had stated in the case concerning Military and Paramilitary Activities in and against Nicaragua:148 "there is a specific rule whereby self-defence would warrant only measures which are proportional to the armed attack and necessary to respond to it, a rule well established in customary international law".

The proportionality principle might thus not in itself exclude the use of nuclear weapons in self-defence in all circumstances. But at the same time, a use of force that was proportionate under the law of self-defence should, in order to be lawful, also meet the requirements of the law applicable in armed conflict which comprised in particular the principles and rules of humanitarian law. And the Court noted that the very nature of all nuclear weapons and the profound risks associated therewith were further considerations to be borne in mind by States believing they could exercise a nuclear response in self-defence in accordance with the requirements of proportionality.

In order to lessen or eliminate the risk of unlawful attack, States sometimes signaled that they possessed certain weapons to use in self-defence against any State violating their territorial integrity or political independence. Whether a signaled intention to use force if certain events occurred was or was not a "threat" within Article 2, paragraph 4, of the Charter depended upon various factors. The notions of "threat" and "use" of force under Article 2, paragraph 4, of the Charter stood together in the sense that if the use of force itself in a given case was illegal – for whatever reason – the threat to use such force would likewise be illegal. In short, if it was to be lawful, the declared readiness of a State to use force had to be a use of force that was in conformity with the Charter. For the rest, no State- whether or not it defended the policy of deterrence – had suggested to the Court that it would be lawful to threaten to use force if the use of force contemplated would be illegal.

Rules on the lawfulness or unlawfulness of nuclear weapons as such

Having dealt with the Charter provisions relating to the threat or use of force, the Court turned to the law applicable in situations of armed conflict. It first addressed the question whether there were specific rules in international law regulating the legality or illegality of recourse to nuclear weapons per se, it then examined the question put to it in the light of the law applicable in armed conflict proper, i.e. the principles and rules of humanitarian law applicable in armed conflict, and the law of neutrality.

The Court noted by way of introduction that international customary and treaty law did not contain any specific prescription authorizing threat or use of nuclear weapons or any other weapon in general or in certain circumstances, in particular those of the exercise of legitimate self-defence. Nor, however, was there any principle or rule of international law which would make the legality of the threat or use of nuclear weapons or of any other weapons dependent on a specific authorization. State practice showed that the illegality of the use of certain weapons as such did not result from an absence of authorization but, on the contrary, was formulated in terms of prohibition.

It did not seem to the Court that the use of nuclear weapons could be regarded as specifically prohibited on the basis of certain provisions of the Second Hague Declaration of 1899, the Regulations annexed to the Hague Convention IV of 1907 or the 1925 Geneva Protocol. The pattern had been for weapons of mass destruction to be declared illegal by specific instruments. But the Court did not find any specific prohibition of recourse to nuclear weapons in treaties expressly prohibiting the use of certain weapons of mass destruction; and observed that, although, in the last two decades, a great many negotiations had been conducted regarding nuclear weapons, they had not resulted in a treaty of general prohibition of the same kind as for bacteriological and chemical weapons.

The Court noted that the treaties dealing exclusively with the acquisition, manufacture, possession, deployment and testing of nuclear weapons, without specifically addressing their threat or use, certainly pointed to an increasing concern in the international community with those weapons; it concluded from this that those treaties could therefore be seen as foreshadowing a future general prohibition of the use of such weapons, but that they did not constitute such a prohibition by themselves. As to the treaties of Tlatelolco and Rarotonga and

their Protocols, and also the declarations made in connection with the indefinite extension of the Treaty on the Non-Proliferation of Nuclear Weapons, it emerged from these instruments that:

(*a*) A number of States had undertaken not to use nuclear weapons in specific zones (Latin America; the South Pacific) or against certain other States (non-nuclear-weapon States which were parties to the Treaty on the Non-Proliferation of Nuclear Weapons);

(*b*) Nevertheless, even within this framework, the nuclear-weapon States had reserved the right to use nuclear weapons in certain circumstances; and

(*c*) These reservations had met with on objection from the parties to the Tlatelolco or Rarotonga treaties or from the Security Council.

The Court then turned to an examination of customary international law to determine whether a prohibition of the threat or use of nuclear weapons as such flowed from that source of law.

It noted that the members of the international community were profoundly divided on the matter of whether non-recourse to nuclear weapons over the past 50 years constituted the expression of an opinio juris. Under those circumstances the Court did not consider itself able to find that there was such an opinio juris. It pointed out that the adoption each year by the General Assembly, by a large majority, of resolutions recalling the content of resolution 1653 (XVI), and requesting the Member States to conclude a convention prohibiting the use of nuclear weapons in any circumstance, revealed the desire of a very large section of the international community to take, by a specific and express prohibition of the use of nuclear weapons, a significant step forward along the road to complete nuclear disarmament. The emergence, as lex lata, of a customary rule specifically prohibiting the use of nuclear weapons as such was hampered by the continuing tensions between the nascent opinio juris on the one hand, and the still strong adherence to the doctrine of deterrence (in which the right to use those weapons in the exercise of the right to self-defence against an armed attack threatening the vital security interests of the State was reserved) on the other.

International humanitarian law

Not having found a conventional rule of general scope, nor a customary rule specifically proscribing the threat or use of nuclear weapons per se, the Court then dealt with the question whether recourse to nuclear weapons should be considered as illegal in the light of the principles and rules of international humanitarian law applicable in armed conflict and of the law of neutrality.

After sketching the historical development of the body of rules which originally were called "laws and customs of war" and later came to be termed "international humanitarian law", the Court observed that the cardinal principles contained in the texts constituting the fabric of humanitarian law were the following: The first was aimed at the protection of the civilian population and civilian objects and established the distinction between combatants and non-combatants; States should never make civilians the object of attack and should consequently never use weapons that were incapable of distinguishing between civilian and military targets. According to the second principle, it was prohibited to cause unnecessary suffering to combatants: it was accordingly prohibited to use

weapons causing them such harm or uselessly aggravating their suffering. In application of the second principle, States did not have unlimited freedom of choice of means in the weapons they used.

The Court also referred to the Martens Clause, which was first included in the Hague Convention II with Respect to the Laws and Customs of War on Land of 1899 and which had proved to be an effective means of addressing the rapid evolution of military technology. A modern version of that clause was to be found in article 1, paragraph 2, of Additional Protocol I of 1977, which reads as follows:

> "In cases not covered by this Protocol or by other international agreements, civilians and combatants remain under the protection and authority of the principles of international law derived from established custom, from the principles of humanity and from the dictates of public conscience."

The Extensive codification of humanitarian law and the extent of the accession to the resultant treaties, as well as the fact that the denunciation clauses that existed in the codification instruments had never been uses, had provided the international community with a corpus of treaty rules the great majority of which had already become customary and which had already become customary and which reflected the most universally recognized humanitarian principles. Those rules indicated the normal conduct and behaviour expected of States.

Turning to the applicability of the principles and rules of humanitarian law to a possible threat or use of nuclear weapons, the Court noted that nuclear weapons had been invented after most of the principles and rules of humanitarian law applicable in armed conflict had already come into existence; the Conferences of 1949 and 1974-1977 had left those weapons aside, and there was a qualitative as well as quantitative difference between nuclear weapons and all conventional arms. However, in the Court's view, it could not be concluded from this that the established principles and rules of humanitarian law applicable in armed conflict did not apply to nuclear weapons. Such a conclusion would have been incompatible with the intrinsically humanitarian character of the legal principles and rules of humanitarian law applicable in armed conflict did not apply to nuclear weapons. Such a conclusion would have been incompatible with the intrinsically humanitarian character of the legal principles in question, which permeated the entire law of armed conflict and applied to all forms of warfare and to all kinds of weapons: those of the past, those of the present and those of the future. In that respect it seemed significant that the thesis that the rules of humanitarian law did not apply to the new weaponry, because of the newness of the latter, had not been advocated in the course of the proceedings.

The principle of neutrality

The Court found that as in the case of the principles of humanitarian law applicable in armed conflict, international law left no doubt that the principle of neutrality, whatever its content, which was of a fundamental character similar to that of the humanitarian principles and rules, was applicable (subject to the relevant provisions of the Charter of the United Nations), to all international armed conflict, whatever type of weapons might be used.

Conclusions to be drawn from the applicability of international humanitarian law and the principle of neutrality

The Court observed that, although the applicability of the principles and rules of humanitarian law and the principle of neutrality to nuclear weapons was hardly disputed, the conclusions to be drawn from that applicability were, on the other hand, controversial.

According to one point of view, the fact that recourse to nuclear weapons was subject to and regulated by the law of armed conflict did not necessarily mean that such recourse was as such prohibited. Another view held that recourse to nuclear weapons, in view of the necessarily indiscriminate consequence of their use, could never be compatible with the principles and rules of humanitarian law and was therefore prohibited. A similar view had been expressed with respect to the effects of the principle of neutrality. Like the principles and rules of humanitarian law, that principle had therefore been considered by some to rule out the use of a weapon the effects of which simply could not bed contained within the territories of the contending States.

The Court observed that, in view of the unique characteristics of nuclear weapons, to which the Court had referred earlier, the use of such weapons in fact seemed scarcely reconcilable with respect for the requirements of the law applicable in armed conflict. It considered nevertheless, that it did not have sufficient elements to enable it to conclude with certainty that the use of nuclear weapons would necessarily be at variance with the principles and rules of law applicable in armed conflict in any circumstance. Furthermore, the Court could not lose sight of the fundamental right of every State to survival, and thus its right to resort to self-defence, in accordance with Article 51 of the Charter, when its survival was as stake. Nor could it ignore the practice referred to as "policy of deterrence", to which an appreciable section of the international community had adhered for many years.

Accordingly, in view of the current state of international law viewed as a whole, as examined by the Court, and of the elements of fact at its disposal, the Court was led to observe that it could not reach a definitive conclusion as to the legality or illegality of the use of nuclear weapons by a State in an extreme circumstance of self-defence, in which its very survival would be at stake.

Obligation to negotiate nuclear disarmament

Given the eminently difficult issues that had arisen in applying the law on the use of force and above all the law applicable in armed conflict to nuclear weapons, the Court considered that it needed to examine one further aspect of the question before it, seen in a broader context.

In the long run, international law, and with it the stability of the international order which it was intended to govern, were bound to suffer from the continuing difference of views with regard to the legal status of weapons as deadly as nuclear weapons. It was consequently important to put an end to this state of affairs: the long-promised complete nuclear disarmament appeared to be the most appropriate means of achieving that result.

In those circumstances, the Court appreciated the full importance of the recognition of article VI of the Treaty on the Non-Proliferation of Nuclear Weapons of an obligation to negotiate in good faith a nuclear disarmament. The legal

import of that obligation of conduct; the obligation involved here was an obligation to achieve a precise result – nuclear disarmament in all its aspects – by adopting a particular course of conduct, namely, the pursuit of negotiations on the matter in good faith. This twofold obligation to pursue and to conclude negotiations formally concerned the 182 States parties to the Treaty on the Non-Proliferation of Nuclear Weapons, or, in other words, the vast majority of the international community. Indeed, any realistic search for general and complete disarmament, especially nuclear disarmament, necessitated the cooperation of all States.

The Court finally emphasized that its reply to the question put to it by the General Assembly rested on the totality of the legal grounds set forth by the Court above, each of which was to be read in the light of the others. Some of these grounds were not such as to form the object of formal conclusions in the final paragraph of the Opinion; they nevertheless retained, in the view of the Court, all their importance.

Final paragraph

"For these reasons,

THE COURT,

(1) By thirteen votes to one,

Decides to comply with the request for an advisory opinion;

IN FAVOUR: President Bedjaoui; Vice-President Schwebel; Judges Guillaume, Shahabuddeen, Weeramantry, Ranjeva, Herczegh, Shi, Fleischhauer, Koroma, Vereshchetin, Ferrari Bravo, Higgins;

AGAINST: Judge Oda.

(2) Replies in the following manner to the question put by the General Assembly:

A. Unanimously,

There is in neither customary nor conventional international law any specific authorization of the threat or use of nuclear weapons;

B. By eleven votes to three,

There is in neither customary nor conventional international law any comprehensive and universal prohibition of the threat or use of nuclear weapons as such;

IN FAVOUR: President Bedjaoui; Vice-President Schwebel; Judges Oda, Guillaume, Ranjeva, Herczegh, Shi, Fleischhauer, Vereshchetin, Ferrari Bravo, Higgins;

AGAINST: Judges Shahabuddeen, Weeramantry, Koroma.

C. Unanimously,

A threat of use of force by means of nuclear weapons that is contrary to Article 2, paragraph 4, of the United Nations Charter and that fails to meet all the requirements of Article 51, is unlawful;

D. Unanimously,

A threat or use of nuclear weapons should also be compatible with

the requirements of the international law applicable in armed conflicts, particularly those of the principles and rules of international humanitarian law, as well as with specific obligations under treaties and other undertakings which expressly deal with nuclear weapons;

E. By seven votes to seven, by the President'scasting vote,

It follows from the above-mentioned requirements that the threat or use of nuclear weapons would generally be contrary to the rules of international law applicable in armed conflict, and particular the principles and rules of humanitarian law;

However, in view of the current state of international law, and of the elements of fact at its disposal, the Court cannot conclude definitively whether the threat or use of nuclear weapons would be lawful or unlawful in an extreme circumstance of self-defence, in which the very survival of a State would be at stake;

IN FAVOUR: President Bedjaoui; Judges Ranjeva, Herczegh, Shi, Fleischhauer, Vereshchetin, Ferrari Bravo;

AGAINST: Vice-President Schwebel; Judges Oda, Guillaume, Shahabuddeen, Weeramantry, Koroma, Higgins.

F. Unanimously,

There exists an obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international control."

*

President Bedjaoui, Judges Herczegh, Shi, Vereshchetin and Ferrari Bravo Appended declarations to the Advisory Opinion of the Court;[149] Judges Guillaume, Ranjeva and Fleischhauer appended separate opinions;[150] Vice-President Schwebel, Judges Oda, Shahabuddeen, Weeramantry, Koroma and Higgins appended dissenting opinions.[151]

Consideration by the General Assembly

The General Assembly, by its decision 51/405 of 15 October 1996, took note of the report of the International Court of Justice[152]

6. INTERNATIONAL LAW COMMISSION[153]

Forty-eighth session of the Commission[154]

The International Law Commission held its forty-eighth session at its permanent seat at the United Nations Office at Geneva from 6 May to 26 July 1996. The Commission considered the following agenda items:

Regarding the draft Code of Crimes against the Peace and Security of Mankind, the Commission considered the report of the Drafting Committee[155] and adopted the final text of a set of 20 draft articles constituting the Draft Code of Crimes against the Peace and Security of Mankind. Furthermore, the Commission considered various forms the Draft Code could take, e.g., inclusion in an international Convention, adoption by a plenipotentiary conference or by the General

Assembly; incorporation of the Code in the statue of an international criminal court; or adoption of the Code as a declaration by the General Assembly.

Concerning the item of State responsibility, the Commission had before it the eighth report of the Special Rapporteur.[156] The report dealt with problems relating to the regime of internationally wrongful acts singled out as "crimes" based on article 19 of part one as well as some other issues to which the Special Rapporteur deemed it necessary to all the attention of the Commission. The Drafting Committee completed the first reading of draft articles of parts two and three on State responsibility, and the Commission considered the report of the Drafting Committee.[157] Subsequently, the International Law Commission decided to transmit the draft articles, through the Secretary-General, to Governments for comments and observations, with the request that they be submitted to the Secretary-General by 1 January 1998.

The item "State succession and its impact on the nationality of natural and legal persons" was considered by the Commission, which had before it the second report of the Special Rapporteur.[158] The report was, in particular, designed to facilitate the task of the Working Group on the topic in its preliminary consideration, at the current session, of the questions of the nationality of legal persons, the choices open to the Commission when embarked on the substantive study of the topic, and a possible timetable. After consideration by the Working Group, the Commission, in accordance with the Working Group's conclusions, recommended to the General Assembly that it should take note of the completion of the preliminary study of the topic and that request the Commission to undertake the substantive study of the topic "Nationally in relation to the succession of States".

For its consideration of the item on international liability for injurious consequences arising out of acts not prohibited by international law, the Commission had before it the twelfth report of the Special Rapporteur,[159] which reviewed the various liability regimes proposed by the Special Rapporteur in his previous reports. The Commission also had before it a Secretariat study entitled "Survey of liability regimes relevant to the topic of international liability for injurious consequences arising out of acts not prohibited by international law."[160] A Working Group was established; it submitted a report to the Commission, which was unable to examine the draft articles at the current session but was of the opinion that, in principle, the proposed draft articles provided a basis for examination by the General Assembly at its fifty-first session.

Regarding the topic of reservations to treaties, the Commission had before it the Special Rapporteur's second report on the item.[161] The report contained a draft resolution on reservations to multilateral normative treaties, including human rights treaties, which was submitted to the General Assembly for the purpose of drawing attention to clarifying the legal aspects of the matter. However, owing to lack of time, the Commission was unable to consider the report and the draft resolution and decided to defer the debate on the topic until the following year.

Consideration by the General Assembly

The General Assembly, by its resolution 51/160 of 16 December 1996, adopted on the recommendation of the Sixth Committee, took note of the report of the International Law Commission on the work of its forty-eighth session.[162] The Assembly also invited the Commission to examine the topics "Diplomatic protection" and "Unilateral acts of States".

7. UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW[163]

Twenty-ninth session of the Commission[164]

The United Nations Commission on International Trade Law held its twenty-ninth session at United Nations Headquarters in New York form 28 of May to 14 June 1996.

On the topic of international commercial arbitration, the Commission had before it a revision of the draft Notes on Organizing Arbitral Proceedings,[165] which it finalized during the current session, with the title "UNCITRAL Notes on Organizing Arbitral Proceedings".

At the current session, the Commission resumed its consideration of the draft Model Law on Legal Aspects of Electronic Data Exchange and Related Means of Communication[166] and discussed the draft Guide to Enactment of the Model Law[167] which would assist States in enacting and applying the draft Model Law. After consideration, the Commission adopted the UNCITRAL Model Law[168] and requested the Secretary-General to transmit the text of the UNCITRAL Model Law, together with the Guide prepared by the Secretariat, to Governments and other interested bodies.

The Commission also had before it a report prepared by the Secretariat on build-operate-transfer (BOT) projects,[169] containing information on work on BOT being undertaken by other organizations, as well as an outline on issues covered by national laws on BOT and similar arrangements, followed by proposals for work by the Commission. The Commission subsequently endorsed the proposals and considered that any preparatory work should aim at providing legislative guidance to States preparing or modernizing their legislation relating to BOT projects.

At the current session, the Commission had before it the report of the Working Group on International Contract Practices on preparation of a uniform law on assignment in receivables financing.[170] The Commission noted that the Working Group had requested the Secretariat to prepare a revised version of the draft uniform rules.

The Commission also had before it the reports of the Working Group on Insolvency Law[171] concerning judicial cooperation and access and recognition in cross-border insolvency.[172] The Commission expressed the hope that the Working Group would be able to submit a draft legislative text for consideration by the Commission at its thirtieth session in 1997.

Furthermore, it was reported that 32 replies had been received to the questionnaire[173] designed to obtain information relating to the implementation of the 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards.[174]

The Commission called upon States parties to the Convention that had not yet replied to the questionnaire to do so, in order that the findings of the survey of national legislation incorporating the Convention could be published, and to determine whether the preparation of a guide for the implementation of the Convention was warranted.

Concerning case law on UNCITRAL texts (CLOUT), the Commission noted that, since its twenty-eighth session in 1995 two additional sets of abstracts with court decisions and arbitral awards had been published relating to the 1980 United Nations Convention on Contracts for the International Sale of Goods and the UNCITRAL Model Law on International commercial Arbitration.[175]

The Commission also noted that a thesaurus of the United Nations Convention on Contracts for the International Sale of Goods (i.e., an analytical list of issues arising in the context of the Convention) had been published.[176] The Commission further noted that the Secretariat was currently preparing a thesaurus for the UNCITRAL Model Law on International Commercial Arbitration and requested the Secretariat to expedite the preparation of that thesaurus.[177]

Consideration of the General Assembly

The General Assembly, by its resolution 51/161 of 16 December 1996, adopted on the recommendation by the Sixth Committee, took note of the report of UNCITRAL on the work of its twenty-ninth session,[178] reaffirmed the mandate of the Commission as the core legal body within the United Nations system in the field of international trade law to coordinate legal activities in the field; and also reaffirmed the importance, in particular for developing countries, of the work of the Commission concerned with training and technical assistance in the field of international trade law, such as assistance in the preparation of national legislation based on legal texts of the Commission.

On the same date, also on the recommendation of the Sixth Committee the General Assembly also adopted resolution 51/162, in which it which recommendation that all efforts should be made to ensure that the Model Law on Electronic Commerce, together with the Guide to Enactment of the Model Law, became generally known and available. The Model Law reads as follows:

Model Law on Electronic Commerce of the United Nations Commissions on International Trade Law

PART ONE, ELECTRONIC COMMERCE IN GENERAL CHAPTER I. GENERAL PROVISIONS

Article 1

Sphere of application[179]

This Law[180] applies to any kind of information in the form of a data message used in the context[181] of commercial[182] activities.

Article 2

Definitions

For the purposes of this Law:

(*a*) "Data message" means information generated, sent, received or stored by electronic, optical or similar means including, but not limited to, electronic data interchange (EDI), electronic mail, telegram, telex, or telecopy;

(*b*) "Electronic data interchange (EDI)" means the electronic transfer from computer to computer of information using an agreed standard to structure the information;

(*c*) "Originator" of a data message means a person by whom, or on whose behalf, the data message purports to have been sent or generated prior to storage, if any, but it does not include a person acting as an intermediary with respect to that data message;

(*d*) "Addressee" of a data message means a person who is intended by the originator to receive the data message, but does not include a person acting as an intermediary with respect to that data message;

(*e*) "Intermediary", with respect to a particular data message, means a person who, on behalf of another person, sends, receives or stores that data message or provides other services with respect to that data message;

(*f*) "Information system" means a system for generating, sending, receiving, storing or otherwise processing data messages.

Article 3

INTERPRETATION

1. In the interpretation of this Law, regard is to be had to its international origin and to the need to promote uniformity in its application and the observance of good faith.

2. Questions concerning matters governed by this Law that are not expressly settled in it are to be settled in conformity with the general principles on which this Law is based.

Article 4

VARIATION BY AGREEMENT

1. As between parties involved in generating, sending, receiving, storing or otherwise processing data messages, and except as otherwise provided, the provisions of chapter III may be varied by agreement.

2. Paragraph 1 does not affect any right that may exist to modify by agreement any rule of law referred to in chapter II.

CHAPTER II. APPLICATION OF LEGAL REQUIREMENTS TO DATA MESSAGES

Article 5

LEGAL RECOGNITION OF DATA MESSAGES

Information shall not be denied legal effect, validity or enforceability solely on the grounds that it is the form of a data message.

Article 6

WRITING

1. Where the law requires information to be in writing, that requirement is met by a data message if the information contained therein is accessible so as to be usable for subsequent reference.

2. Paragraph 1 applies whether the requirement therein is in the form of an obligation or whether the law simply provides consequences for the information not being in writing.

3. The provisions of this article do not apply to the following:[...].

Article 7

SIGNATURE

1. Where the law requires a signature of a person, that requirement is met in relation to a data message if:

(*a*) A method is used to identify that person and to indicate that person's approval of the information contained in the data message; and

(*b*) That method is as reliable as was appropriate for the purpose for which the data message was generated or communicated, in the light of all the circumstances, including any relevant agreement.

2. Paragraph 1 applies whether the requirement therein is in the form of an obligation or whether the law simply provides consequences for the absence of a signature.

3. The provisions of this article do not apply to the following:[...].

Article 8

ORIGINAL

1. Where the law requires information to be presented or retained in its original form, that requirement is met by a data message if:

(*a*) There exists a reliable assurance as to the integrity of the information from the time when it was first generated in its final form, as a data message or otherwise; and

(*b*) Where it is required that information be presented, that information is capable of being displayed to the person to whom it is to be presented.

2. Paragraph 1 applies whether the requirement therein is in the form of an obligation or whether the law simply provides consequences for the information not being presented or retained in its original form.

3. For the purposes of subparagraph (*a*) of paragraph 1:

(*a*) The criteria for assessing integrity shall be whether the information has remained complete and unaltered, apart from the addition of any endorsement and any change which arises in the normal course of communication, storage, and display; and

(*b*) The standard reliability required shall be assessed in the light of the purpose for which the information was generated and in the light of all the relevant circumstances.

4. The provisions of this article do not apply to the following:[...].

Article 9

ADMISSIBILITY AND EVIDENTIAL WEIGHT OF DATA MESSAGES

1. In any legal proceedings, nothing in the application of the rules of evidence shall apply so as to deny the admissibility of a data message in evidence:

(*a*) On the sole ground that it is a data message; or

(*b*) If it is the best evidence that the person adducing it could reasonably be expected to obtain, on the grounds that it is not in its original form.

2. Information in the form of a data message shall be given due evidential weight of a data message, regard shall be had to the reliability of the manner in which the data message was generated, stored or communicated, to the reliability of the manner in which the integrity of the information was maintained, to the manner in which its originator was identified, and to any other relevant factor.

Article 10

RETENTION OF DATA MESSAGES

1. Where the law requires that certain documents, records or information be retained, that requirement is met by retaining data messages, provided that the following conditions are satisfied:

(*a*) The information contained therein is accessible so as to be usable for subsequent reference; and

(*b*) The data message is retained in the format in which it was generated, sent or received, or in a format which can be demonstrated to represent accurately the information generated, sent or received; and

(*c*) Such information, if any, is retained as enables the identification of the origin and destination of a data message and the date and time when it was sent or received.

2. An obligation to retain documents, records or information in accordance with paragraph 1 does not extend to any information the sole purpose of which is to enable the message to be sent or received.

3. A person may satisfy the requirement referred to in paragraph 1 by using the services of any other person, provided that the conditions set forth in subparagraphs (*a*), (*b*) and (*c*) of paragraph 1 are met.

CHAPTER III. COMMUNICATION OF DATA MESSAGES

Article 11

FORMATION AND VALIDITY OF CONTRACTS

1. In the context of contract formation, unless otherwise agreed by the parties, an offer and the acceptance of an offer may be expressed by means of data messages. Where a data message is used in the formation of a contract, that contract shall not be denied validity or enforceability on the sole ground that a data message was used for that purpose.

2. The provisions of this article do not apply to the following: [...].

Article 12

RECOGNITION BY PARTIES OF DATA MESSAGES

1. As between the originator and the addressee of a data message, a declaration of will or other statement shall not be denied legal effect, validity or enforceability solely on the grounds that it is in the form of a data message.

2. The provisions of this article do not apply to the following: [...].

Article 13

ATTRIBUTION OF DATA MESSAGES

1. A data message is that of the originator if it was sent by the originator itself.

2. As between the originator and the addresses, a data message is deemed to be that of the originator if it was sent:

(*a*) By a person who had the authority to act on behalf of the originator in respect of that data message; or

(*b*) By an information system programmed by or on behalf of the originator to operate automatically.

3. As between the originator and the addressee, an addressee is entitled to regard a data message as being that of the originator, and to act on that assumption, if:

(*a*) In order to ascertain whether the data message was that of the originator, the addressee properly applied a procedure previously agreed to by the originator for that purpose; or

(*b*) The data message as received by the addressee resulted from the actions of a person whose relationship with the originator or with any agent of the originator enabled that person to gain access to a method used by the originator to identify data messages as its own.

4. Paragraph 3 does not apply:

(*a*) As of the time when the addressee has both received notice from the originator that the data message is not that of the originator and has had reasonable time to act accordingly; or

(*b*) In a case within paragraph 3 (*b*), at any time when the addressee knew or should have known, had it exercised reasonable care or use any agreed procedure, that the data message was not that of the originator.

5. Where a data message is that of the originator or is deemed to be that of the originator, or the addressee is entitled to act on that assumption, then, as between the originator and the addressee. That presumption does not imply that the data message corresponds to the message received.

6. Where the received acknowledgement states that the related data message met technical requirements, either agreed upon or set forth in applicable standards, it is presumed that those requirements have been met.

7. Except insofar as it related to the sending or receipt of the data message, this article is not intended to deal with the legal consequences that may flow either from that data message or from the acknowledgement of its receipt.

Article 15

TIME AND PLACE OF DISPATCH AND RECEIPT OF DATA MESSAGE

1. Unless otherwise agreed between the originator and the addressee, the dispatch of a data message occurs when it enters an information system outside the control of the originator or of the person who sent the data message on behalf of the originator.

2. Unless otherwise agreed between the originator and the addressee, the time of receipt of a data messages, receipt occurs:

(*a*) If the addressee has designated an information system for the purpose of receiving data messages, receipt occurs:

(i) At the time when the data message enters the designated information system; or

(ii) If the data message is sent to an information system of the addressee that is not the designated information system, at the time when the data message is retrieved by the addressee;

(*b*) If the addressee has not designated an information system, receipt occurs when the data message enters an information system of the addressee.

3. Paragraph 2 applies notwithstanding the fact that the place where the information system is located may be different from the place where the data message is deemed to be received under paragraph 4.

4. Unless otherwise agreed between the originator and the addressee, a data messaged is deemed to be dispatched at the place where the originator has its place of business, and is deemed to be received at the place where the addressee has its place of business. For the purposes of this paragraph:

(*a*) If the originator or the addressee has more than one place of business, the place of business is that which has the closest relationship to the underlying transaction or, where there is no underlying transaction, the principal place of business;

(*b*) If the originator or the addressee does not have a place of business, reference is to be made to its habitual residence.

5. The provisions of this article do not apply to the following: [...].

PART TWO. ELECTRONIC COMMERCE IN SPECIFIC AREAS

CHAPTER I. CARRIAGE OF GOODS

Article 16

ACTIONS RELATED TO CONTRACTS OF CARRIAGE OF GOODS

Without derogating from the provisions of part one of this Law, this chapter applies to any action in connection with, or in pursuance of, a contract of carriage of goods, including but not limited to:

(*a*) (i) Furnishing the marks, number, quantity or weight of goods;

(ii) Stating or declaring the nature or value of goods;

(iii) Issuing a receipt of goods;

(iv) Confirming that goods have been loaded;

(*b*) (i) Notifying a person of terms and conditions of the contract;

(ii) Giving instructions to a carrier;

(*c*) (i) Claiming delivery of goods;

(ii) Authorizing release of goods;

(iii) Giving notice of loss of, or damage to, goods;

(*d*) Giving any other notice or statement in connection with the performance of the contract;

(*e*) Undertaking to deliver goods to a named person or a person authorized to claim delivery;

(*f*) Granting, acquiring, renouncing, surrendering, transferring or negotiating rights in goods;

(*g*) Acquiring or transferring rights and obligations under the contract.

Article 17

TRANSPORT DOCUMENTS

1. Subject to paragraph 3, where the law requires that any action referred to in article 16 be carried out in writing or by using a paper document, that requirement is met if the action is carried out by using one or more data messages.

2. Paragraph 1 applies whether the requirement therein is in the form of an obligation or whether the law simply provides consequences for failing either to carry out the action in writing or to use a paper document.

3. If a right is to be granted to, or an obligation is to be acquired by, one person and no other person, and if the law requires that, in order to effect this, the right or obligation must be conveyed to that person by the transfer, or use of, a paper document, that requirement is met if the right or obligation is conveyed by using one or more data messages, provided that a reliable method is used to render such data message or messages unique.

4. For the purposes of paragraph 3, the standard of reliability required shall be assessed in the light of the purpose for which the right or obligation was conveyed and in the light of all the circumstances, including any relevant agreement.

5. Where one or more data messages are used to effect any action in subparagraphs (*f*) and (*g*) or article 16, no paper document used to effect any such action is valid unless the use of data messages has been terminated and replaced by the use of paper documents. A paper document issued in these circumstances shall contain a statement of such termination. The replacement of data messages by paper documents shall not affect the rights or obligations of the parties involved.

6. If a rule of law is compulsorily applicable to a contract of carriage of goods which is in, or is evidenced by, a paper document, that rule shall not be inapplicable to such a contract of carriage of goods that is evidenced by one or more data messages by reason of the fact that the contract is evidenced by such data message or message instead of by a paper document.

7. The provisions of this article do not apply to the following: [...].

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

In addition to the report of the International Law Commission and the resolutions regarding international trade law matters, dealt with separately in the above sections, the Sixth Committee also considered additional topics and submitted its recommendations thereon to the General Assembly at its fifty-first session. The Assembly subsequently adopted the following resolutions:

(*a*) *Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts.*

In its resolution 51/155 of 16 December 1996, the General Assembly, having considered the report of the Secretary-General[183] on the status of the Protocols[184] Additional to the Geneva Conventions of 1949[185] and relating to the protection of victims of armed conflicts, recalling the possibility of making use of the International Fact-Finding Commission in relation to an armed conflict, pursuant to article 90 of Protocol I, appreciated the virtually universal acceptance of the Geneva Conventions of 1949 and the increasingly wide acceptance of the two Additional Protocols of 1977; appealed to all States parties to the Geneva Conventions of 1949 that had not yet done so to consider becoming parties to the Additional Protocols at the earliest possible date; called upon all States that were already parties to Protocol I, or those States not parties, on becoming parties to Protocol I, to make the declaration provided for under article 90 of that Protocol; noted with satisfaction that the Twenty-sixth International Conference for the Protection of War Victims,[186] adopted on 1 September 1993, which reaffirmed the necessity of making the implementation of international humanitarian law more effective; and further noted that the Twenty-sixth International Conference had also endorsed the recommendations elaborated by an intergovernmental group of experts aimed at translating the Final Declaration into concrete measures, including the recommendation that the depositary of the Geneva Conventions of 1949 should organize periodic meetings of States parties to those Conventions to consider general problems regarding the application of international humanitarian law.

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

The General Assembly, by its resolution 51/156 of 16 December 1996, took note of the report of the Secretary-General,[187] strongly condemned acts of violence against diplomatic and consular missions and representatives, as well as against missions and representatives of international governmental organizations and officials of such organizations, and emphasized that such acts could never be justified; urged States to strictly 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 above mentioned missions, representatives and officials 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, organized or engaged in the perpetration of acts against the security and safety of such missions, representatives and officials; and also urged States to take all necessary measures at the national and international levels to prevent any acts of violence against the above-mentioned missions, representatives and officials and to bring offenders to justice.

By the same resolution, the General Assembly recommended that States should cooperate closely through, inter alia, contacts between the diplomatic and consular missions and the receiving State with regard to practical measures designed to enhance the protection, security and safety of diplomatic and consular missions and representatives and with regard to the exchange of information on the circumstances of all serious violations thereof; urged States to take all appropriate measures, in accordance with international law, at the national and international levels to prevent any abuse of diplomatic or consular privileges and immunities, in particular serious abuses, including those involving acts of violence; further recommended that States should cooperate closely with the State in whose territory abuses of diplomatic and consular privileges and immunities might have occurred, including by exchanging information and providing assistance to its judicial authorities in order to bring offenders to justice; and called upon States that had not yet done so to consider becoming parties to the instruments relevant to the protection, security and safety of diplomatic and consular missions and representatives.

The General Assembly also called upon States, in cases where a dispute arose in connection with a violation of their international obligations concerning the protection of the missions or the security of the representatives and officials mentioned above, to make use of the means for the peaceful settlement of disputes, including the good offices of the Secretary-General, and to request the Secretary-General, when he deemed it appropriate, to offer his good offices to the States directly concerned.

(*c*) *United Nations Decade of International Law*

The General Assembly, by its resolution 51/157 of 16 December 1996, recalling that the main purposes of the Decade, according to resolution 44/23 of 17 November 1989, should be, inter alia:

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

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

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

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

having considered the report of the Secretary-General[188] and the oral report presented by the Chairman of the Working Group to the Sixth Committee;[189] adopted the programme for the activities for the final term (1997-1999) of the Decade,[190]

(*d*) *Electronic treaty database*

The General Assembly in its resolution 51/158 of 16 December 1996, welcomed the statement of objective of developing a comprehensive electronic database containing all depositary and registration information and disseminating electronically treaties and treaty law-related information from the database, including through online access, as contained in the report of the Secretary-General on the United Nations Decade of International Law,[191] requested the Secretary-General to continue to give priority to the implementation of the computerization programme in the Treaty Section of the Office of Legal Affair of the Secretariat, and also to ensure that all necessary support was provided to expedite the publication of the printed version of the United Nations Treaty Series through the prompt provision of the necessary equipment and translation services; endorsed the proposed Internet dissemination of the United Nations Treaty Series, following the same rules applicable to the printed version of the publication, in addition to the current access to the Multilateral Treaties deposited with the Secretary-General, and recognized that Internet access to treaties and treaty law-related information was particularly valuable in countries where the cost of maintaining complete collections of treaties in bound volume form was relatively high.

(*e*) *Action to be taken in 1999 dedicated to the centennial of the first International Peace Conference and to the closing of the United Nations Decade of International Law*

In its resolution 51/159 of 16 December 1996, the General Assembly, noting that the year 1999 would mark the one-hundredth anniversary of the historic first International Peace Conference, held at The Hague on the initiative of Russia; recalling its resolution 44/23 of 17 November 1989 by which it had proclaimed the United Nations Decade of International Law, to begin in 1990 and conclude in 1999, marking the centennial of the first International Peace Conference to the settling or resolving of international disputes or situations which could cause the infringement of peace, by its adoption of the Convention for the Pacific Settlement of International Disputes[192] and the establishment of the Permanent Court of Arbitration; and recalling that the Final Act of the second International Peace Conference[193] had incorporated a proposal to convene a third

international peace conference; considered it desirable to draft a programme of action dedicated to the centennial of the first International Peace Conference and to the closing of the United Nations Decade of International Law in 1999; and invited the Governments of the Russian Federation and the Netherlands to arrange, as a matter of urgency, a preliminary discussion with other interested Member States on the substantive content of action to be taken in 1999 and to seek, in that respect, the cooperation of the International Court of Justice, The permanent Court of Arbitration as well as other relevant organizations.

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

In its resolution 51/163 of 16 December 1996, the General Assembly, having considered the report of the Committee on Relations with the Host Country,[194] and recalling Article 105 of the Charter of the United Nations, the Convention on the Privileges and Immunities of the United Nations,[195] and the Agreement between the United Nations and the United States of American regarding the Headquarters of the United Nations,[196] and the responsibilities of the host country; endorsed the recommendations and conclusions of the Committee on Relations with the Host Country contained in paragraph 65 of its report; expressed its appreciation for the efforts made by the host country, and hoped that the concerns raised at the meetings of the Committee would continue to be resolved in a spirit of cooperation and in accordance with international law; and noted with appreciation the efforts of the Committee which had contributed to a decrease in the amount of diplomatic indebtedness, stressed that existing indebtedness continued to be a matter of significant concern to the United Nations and that non-payment of just debts tarnished the image of the Organization itself, and reaffirmed that non-compliance with contractual obligations could not be condoned or justified. The Assembly resolution also welcomed the efforts of the Committee aimed at identifying affordable health care programmes for the diplomatic community; once again urged the host country to consider lifting travel controls with regard to certain missions and to staff members of the Secretariat of certain nationalities, and in at regard noted the positions of the affected States, the Secretary-General and the host country; noted with satisfaction the steps taken by the host country at John F. Kennedy International Airport with regard to special passages for members of the United Nations community, and urged the host country to continue to take appropriate action in that regard to ensure application of those procedures; and called upon the host country to review measures and procedures relating to the parking of diplomatic vehicles, with a view to responding to the growing needs of the diplomatic community, and to consult with the Committee on those issues.

(*g*) *Convention on the law of the non-navigational uses of international watercourses*

The General Assembly, by its resolution 51/206 of 17 December 1996, took note of the report of the Working Group of the Whole and decided to convene a second session of the Working Group of the Whole,[197] for a period of two weeks from 24 March to 4 April 1997, to elaborate a framework convention on the law of the non-navigational uses of international watercourses.

(*h*) *Establishment of an international criminal court*

In its resolution 51/207 of 17 December 1996, the General Assembly, recalling that the International Law Commission at its forty-sixth session had adopted a draft statue for an international criminal court[198] and decided to recommend that an international conference of plenipotentiaries should be convened to study the draft statute and to conclude a convention on the establishment of an international criminal court;[199] recalling also its resolution 49/53 of 9 December 1994, in which it had decided to establish an ad hoc committee, open to all States Members of the United Nations or members of specialized agencies, to review the major substantive and administrative issues arising out of the draft statute prepared by the International Law Commission and, in the light of that review, to consider arrangements for the convening of and international conference of plenipotentiaries; and recalling further its resolution 50/46 if 11 December 1995, in which it had decided, in the light of the report of the Ad Hoc Committee on the Establishment of an International Criminal Court,[200] to establish a preparatory committee, open to all States Members of the United Nations or members of specialized agencies or of the International Atomic Energy Agency, to discuss further the major substantive and administrative issues arising out of the draft statute prepared by the International Law Commission and, taking into account the different views expressed during the meetings, to draft texts, with a view to preparing a widely acceptable consolidated text of a convention for an international criminal court as a next step towards consideration by a conference of plenipotentiaries, and had also decided that the work of the Preparatory Committee should be based on the draft statute prepared by the International Law Commission and should take into account the report of the Ad Hoc Committee and the written comments[201] submitted by States to the Secretary-General on the draft statute for an international criminal court pursuant to paragraph 4 of General Assembly resolution 49/53 and, as appropriate, contributions of relevant organizations; took note of the report of the Preparatory Committee on the Establishment of an International Criminal Court,[202] including the recommendations contained therein, and expressed its appreciation to the Preparatory Committee for the useful work done and the progress made in fulfilling its mandate; and decided that a diplomatic conference of plenipotentiaries should be held in 1998, with a view to finalizing and adopting a convention on the establishment of an international criminal court.

(*i*) *Implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions*

The General Assembly, by its resolution 51/208 of 17 December 1996, recalling:

(*a*) The report of the Secretary-General entitled "An Agenda for Peace"[203] in particular paragraph 41 thereof;

(*b*) Its resolution 47/120 A of 18 December 1992, entitled "An Agenda for Peace: preventive diplomacy and related matters", and its resolution 47/120 B of 20 September 1993, entitled "An Agenda for Peace", in particular section IV thereof, entitled "Special economic problems arising from the implementation of preventive or enforcement measures";

(*c*) The position paper of the Secretary-General entitled "Supplement to an Agenda for Peace",[204]

(*d*) The statement by the President of the Security Council of 22 February 1995;[205]

(*e*) The report of the Secretary-General[206] prepared pursuant to the note by the President of the Security Council[207] regarding the question of special economic problems of States as a result of sanctions imposed under Chapter VII of the Charter;

(*f*) The reports of the Secretary-General on economic assistance to States affected by the implementation of the Security Council resolutions imposing sanctions against the Federal Republic of Yugoslavia (Serbia and Montenegro),[208]

(*g*) The 1994,[209] 1995[210] and 1996[211] reports of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization containing sections on the consideration by the Committee of the proposals submitted on the question of the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter;

(*h*) The report of the Secretary-General on the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter,[212] and taking note of the report of the Secretary-General submitted in accordance with General Assembly resolution 50/51 of 11 December 1995,[213] underlined the importance of consultations under Article 50 of the Charter of the United Nations, as early as possible, with third States which were or might be confronted with special economic problems arising from the carrying out of preventive or enforcement measures imposed by the Security Council under Chapter VII of the Charter and of early and regular assessments, as appropriate, of their impact on such States; and welcomed the further measures taken by the Security Council since the adoption of General Assembly resolution 50/51 aimed at increasing the effectiveness and transparency of the sanctions committees.

By the same resolution, the General Assembly requested the Secretary-General to ensure that the competent units within the Secretariat that he had designated to carry out the functions stipulated in paragraph 3 of resolution 50/51 were developed, the capacity and modalities for providing better information and expert assessments for the Security Council and its organs, at their request, about actual or potential effects of sanctions on third States which invoked Article 50 of the Charter; also requested the Secretary-General to continue, on the basis of the work already done, efforts with a view to developing a possible methodology for assessing the adverse consequences actually incurred by third States as a result of preventive or enforcement measures, and to utilize for that purpose all the expertise available throughout the United Nations system, including that of the international financial and trade institutions—that methodology, upon appropriate approval, should be made available to interested States which might wish to use it in preparing the data to be annexed to their applications under Article 50, as well as to the United Nations system, the international financial institutions and the donor community for use in considering requests for assistance; and further requested the Secretary-General to continue, on a regular basis, to collate and coordinate information about international assistance available to third States affected by the implementation of sanctions and to initiate

action to explore innovative practical measures of assistance to the affected third States, inter alia, through cooperation with relevant institutions and organizations inside and outside the United Nations system.

The General Assembly also reaffirmed the important role of the General Assembly, the Economic and Social Council and the Committee for Programme and Coordination in mobilizing and monitoring, as appropriate, the economic assistance efforts by the international community and the United Nations system to States confronted with special economic problems arising from the carrying out of preventive or enforcement measures imposed by the Security Council and, as appropriate, in identifying solutions to the special economic problems of those States; and invited the organizations of the United Nations system, international financial institutions, other international organizations, regional organizations and Member States to continue to address more specifically and directly, where appropriate, special economic problems of third States affected by sanctions imposed under Chapter VII of the Charter and, for this purpose, to consider improving procedures for consultations to maintain a constructive dialogue with such States, including through regular and frequent meetings as well as, where appropriate, special meetings between the affected third States and the donor community, with the participation of United Nations agencies and other international organizations.

(*j*) *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 51/209 of 17 December 1996, recalling its resolution 47/62 of 11 December 1992 on the question of equitable representation on and increase in the membership of the Security Council, and taking note of the report of the Open-ended Working Group on the Question of Equitable Representation on the Increase in the Membership of the Security Council and Other Matters Related to the Security Council[214] and the report of the Open-ended High-level Working Group on the Strengthening of the United Nations System,[215] and also taking note of the report of the Secretary-General submitted in accordance with resolution 51/51,[216] 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,[217] requested the Special Committee, as its session in 1997, in accordance with paragraph 5 of resolution 50/52 of 11 December 1995:

(*a*) To accord appropriate time for the consideration of all proposals concerning the question of the maintenance of international peace and security in all its aspects in order to strengthen the role of the United Nations, including the working paper on the draft declaration on the basic principles and criteria for the work of the United Nations peacekeeping missions and mechanisms for the prevention and settlement of crises and convlict,[218]

(*b*) To continue to consider on a priority basis the question of the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter, taking into consideration the reports of the Secretary-General,[219]

(*c*) To continue its work on the question of the peaceful settlement of disputes between States and, in that context, to continue its consideration of

proposals relating to the peaceful settlement of disputes between States, including the proposal on the establishment of a dispute settlement service offering or responding with its services early in disputes and those proposals relating to the enhancement of the role of the International Court of Justice;

(*d*) To continue to consider proposals concerning the Trusteeship Council in the light of the report of the Secretary-General submitted in accordance with resolution 50/55 of 11 December 1995[220] and the views expressed by the States on the subject during the fifty-first session of the General Assembly.

By the same resolution, the General Assembly requested the Secretary-General, taking into account the views expressed and the practical suggestions made during the debate held within the framework of the Sixth Committee,[221] to expedite the preparation and publication of the supplements to the Repertoire of the Practice of the Security Council and the Repertory of Practice of United Nations Organs and to submit a progress report on the matter to the General Assembly before its fifty-second session; and invited the Special Committee at its session in 1997 to continue to identify new subjects for consideration in its future work with a view to contributing to the revitalization of the work of the United Nations.

(*k*) *Measures to eliminate international terrorism*

The General Assembly, by its resolution 51/210 of 17 December 1996, having examined the report of the Secretary-General,[222] reiterated that criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes were in any circumstance unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or other nature might be invoked to justify them; called upon all States to adopt further measures in accordance with the relevant provisions of international law, including international standards of human rights, to prevent terrorism and to strengthen international cooperation in combating terrorism and, to that end, to consider the adoption of measures such as those contained in the official document adopted by the Group of Seven major industrialized countries and the Russian Federation at the Ministerial Conference on Terrorism, held in Paris on 30 July 1996,[223] and the plan of action adopted by the Inter-American Specialized Conference on Terrorism, held at Lima form 23 to 26 April 1996 under the auspices of the Organization of American States,[224] also called upon all States, with the aim of enhancing the efficient implementation of relevant legal instruments, to intensify, as and where appropriate, the exchange of information on facts related to terrorism and, in so doing, to avoid the dissemination of inaccurate or unverified information; and reiterated its call upon States to refrain from financing, encouraging, providing training for or otherwise supporting terrorist activities.

By the same resolution, the General Assembly urged all States that had not yet done so to consider, as a matter of priority, becoming parties to the Convention on Offences and Certain Other Acts Committed on Board Aircraft,[225] signed at Tokyo on 14 September 1963, the Convention for the Suppression of Unlawful Seizure of Aircraft,[226] signed at The Hague on 16 December 1970, the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation,[227] concluded at Montreal on 23 September 1971, the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons,

including Diplomatic Agents,[228] adopted in New York on 14 December 1973, the International Convention against the Taking of Hostages,[229] adopted in New York on 17 December 1973, adopted in New York on 17 December 1979, the Convention on the Physical Protection of Nuclear Material,[230] signed at Vienna on 3 March 1980, 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,[231] signed at Montreal on 24 February 1988, the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation,[232] done at Rome on 10 March 1988, the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf,[233] done at Rome on 10 March 1988, and the Convention on the Marking of Plastic Explosives for the Purpose of Detection,[234] done at Montreal on 1 March 1991, and called upon all States to enact, as appropriate, domestic legislation necessary to implement the provisions of those Conventions and Protocols, to ensure that the jurisdiction of their courts enabled them to bring to trial the perpetrators of terrorist acts and to provide support and assistance to other Governments for those purposes. The General Assembly also reaffirmed the Declaration on Measures to Eliminate International Terrorism contained in the annex to its resolution 49/60 of 9 December 1994, and approved the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism, the which reads as follows:

Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations,

Recalling the Declaration on Measures to Eliminate International Terrorism adopted by the General Assembly by its resolution 49/60 of 9 December 1994,

Recalling also the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations,[76]

Deeply distributed by the worldwide persistence of acts of international terrorism in all its forms and manifestations, including those in which States are directly or indirectly involved, which endanger or take innocent lives, have a deleterious effect on international relations and may jeopardize the security of States.

Underlining the importance of States developing extradition agreements or arrangements as necessary in order to ensure that those responsible for terrorist acts are brought to justice,

Noting that the Convention relating to the Status of Refugees,[234] done at Geneva on 28 July 1951, does not provide a basis for the protection of perpetrators of terrorist acts, noting also in this context articles 1, 2, 32 and 33 of the Convention, and emphasizing in this regard the need for States parties to ensure the proper application of the Convention,

Stressing the importance of full compliance by States with their obligations under the provisions of the 1951 Convention[235] and the 1967 Protocol relating to the Status of Refugees,[236] including the principle of non-refoulement of refugees to places where their life or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group or political opinion, and affirming that the present Declaration does not affect the protection afforded under the terms of the Convention and Protocol and other provisions of international law,

Recalling article 4 of the Declaration on Territorial Asylum adopted by the General Assembly by its resolution 2312 (XXII) of 14 December 1967,

Stressing the need further to strengthen international cooperation between States in order to prevent, combat and eliminate terrorism in all its forms and manifestations,

Solemnly declares the following:

1. The States Members of the United Nations solemnly reaffirm their unequivocal condemnation of all acts, methods and practices of terrorism as criminal and unjustifiable, wherever and by whomsoever committed, including those which jeopardize friendly relations among States and peoples and threaten the territorial integrity and security of States;

2. The States Members of the Untied Nations reaffirm that acts, methods and practices of terrorism are contrary to the purposes and principles of the United Nations; they declare they knowingly financing, planning and inciting terrorist acts are also contrary to the purposes and principles of the United Nations;

3. The States Members of the United Nations reaffirm that States should take appropriate measures in conformity with the relevant provisions of national and international law, including international standards of human rights, before granting refugee status, for the purpose of ensuring that the asylum-seeker has not participated in terrorist acts, considering in this regard relevant information as to whether the asylum-seeker is subject to investigation for or is charged with or has been convicted of offences connected with terrorism and, after granting refugee status, for the purpose of ensuring that that status is not used for the purpose of preparing or organizing terrorist acts intended to be committed against other States or their citizens;

4. The States Members of the United Nations emphasize that asylum-seekers who are awaiting the processing of their asylum applications may not thereby avoid prosecution for terrorist acts;

5. The States Members of the United Nations reaffirm the importance of ensuring effective cooperation between Member States so that those who have participated in terrorist acts, including their financing, planning or incitement, are brought to justice; they stress their commitment, in conformity with the relevant provisions of international law, including international standards of human rights, to work together to prevent, combat and eliminate terrorism and to take all appropriate steps under their domestic laws either to extradite terrorists or to submit the cases to their competent authorities for the purpose of prosecution;

6. In this context, and while recognizing the sovereign rights of States in extradition matters, States are encouraged, when concluding or applying extradition agreements, not to regard as political offences excluded from the scope of those agreements offences connected with terrorism which endanger or represent a physical threat to the safety and security of persons, whatever the motives which may be invoked to justify them;

7. States are also encouraged, even in the absence of at treaty, to consider facilitating the extradition of persons suspected of having committed terrorist acts, insofar as their national laws permit;

8. The States Members of the United Nations emphasize the importance of taking steps to share expertise and information about terrorists, their movements, their support and their weapons and to share information regarding the investigation and prosecution of terrorist acts.

By the same resolution, the General Assembly decided to establish an Ad Hoc Committee, open to all States Members of the United Nations or members of specialized agencies or of the International Atomic Energy Agency, to elaborate an international convention for the suppression of terrorist bombings and, subsequently, an international convention for the suppression of acts of nuclear terrorism, to supplement related existing international instruments, and thereafter to address means of further developing a comprehensive legal framework of conventions dealing with international terrorism.

9. UNITED NATIONS INSTITUTE FOR TRAINING AND RESEARCH[237]

During 1996, the United Nations Institute for Training and Research, in conjunction with the International Court of Justice, held an international colloquium to celebrate the fiftieth anniversary of the Court. The colloquium to celebrate the fiftieth anniversary of the Court. The colloquium, entitled "Increasing the effectiveness of the Court", was attended by eminent international lawyers and legal advisers from States Members of the United Nations.

During the year, UNITAR organized a number of training programmes, including the annual Fellowships Programme in International Law, which is held in conjunction with the Hague Academy of International Law programmes in public and private international law. The UNITAR Programme of Correspondence Instruction was established in response to the recommendations made by the United Nations Special Committee for Peacekeeping Operations that distance-training methodology should be used in the training of peacekeepers. In this connection, in 1996, Commanding United Nations Peacekeeping Operations was released.

CONSIDERATION BY THE GENERAL ASSEMBLY

In its resolution 50/188 of 16 December 1996, adopted on the recommendation of the Second Committee, the General Assembly, having considered the report of the Secretary-General,[238] report of the Acting Executive Director of the UNITAR on the activities of the Institute,[239] and the report of the Joint Inspection Unit,[240] reaffirmed the relevance of UNITAR, particularly in view of the growing importance of training within the United Nations and the training requirements of all Member States, and the pertinence of research activities related to the training undertaken by the Institute within its mandate.

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

The General Assembly, by its resolution 51/11 of 4 November 1996, adopted without reference to a Main Committee, took note of the report of the report of the Secretary-General,[241] and noted with satisfaction the continuing efforts of the Asian-African Legal Consultative Committee towards strengthening the role of the United Nations and its various organs, including the International Court of Justice, through programmes and initiatives undertaken by the Consultative Committee.

B. General review of the legal activities of intergovernmental Organizations related to the United Nations[241]

1. INTERNATIONAL LABOUR ORGANIZATION

1. The International Labour Conference (ILC) held its 83rd session and its 84th session (Maritime) at Geneva from 4 to 20 June 1996 and from 8 to 22 October 1996, respectively.

2. At its 83rd session, the Conference adopted a Convention (No. 177) and a Recommendation (No. 184) concerning Home Work.[242]

3. At its 84th session (Maritime), the Conference adopted seven instruments: Convention (No. 178) and Recommendation (No. 185) concerning the Inspection of Seafarers' Working and Living Conditions;[243] Convention (No. 179) and Recommendation (No. 186) concerning the Recruitment and Placement of Seafarers;[244] Convention (No. 180) concerning Seafarers' Hours of Work and the Manning of Ships and Recommendation (No. 187) concerning Seafarers' Wages and Hours of Work and the Manning of Ships[245]; as well as the Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention (No. 147), 1976.[246]

4. The Committee of Experts on the Application of Conventions and Recommendations met at Geneva from 28 November to 13 December 1996 to adopt its report to the 85th session of the International Labour Conference (1997).[247]

5. Representations were lodged under article 24 of the Constitution of the International Labour Organization alleging non-observance by Congo of the Protection of Wages Convention, 1949 (No. 95);[248] by Peru of the Right of Association (Agriculture) Convention, 1921 (No. 11), the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), the Right to Organize and Collective Bargaining Convention, 1949 (No. 98), the Equal Remuneration Convention, 1958 (No. 111) and the Employment Policy Convention, 1964 (No. 122);[249] by Senegal of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and the Abolition of Forced Labour Convention, 1957 (No. 105);[250] by Turkey of the Termination of Employment Convention, 1982 (No. 158);[251] by Peru of the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), the Equal Remuneration Convention, 1951 (No. 100) and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111);[252] by Venezuela of the Protection of Wages Convention, 1949 (No. 95) and the Termination of Employment Convention, 1982 (No. 158)[254]; by Brazil of the Termination of Employment Convention, 1982 (No. 158)[255]; and by Austria, Belgium, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, the Netherlands, Norway, Portugal, Spain, Sweden and United Kingdom of Great Britain and Northern Ireland of the Employment Policy Convention, 1964 (No. 122).[256]

6. A complaint was also lodged under article 26 of the Constitution of the International Labour Organization alleging non-observance by Myanmar of the Forced Labour Convention, 1930 (No. 29).[257]

7. The Governing Body of the International Labour Office, which met at Geneva, considered and adopted the following reports of its Committee on Freedom of Association: the 302nd and 303rd reports (265th Session, March 1996),[258] the 304th report, (266th session, June 1996);[259] and the 305th Report (267th session, November 1996).[260]

8. The Working Party on the Social Dimensions of the Liberation of International Trade, constituted by the Governing Body of ILO at its 260th session (June 1994), held two meetings in 1996 during the 265th[261] (March 1996) and 267th (November 1996)[262] sessions of the Governing Body.

9. The Working Party on Policy regarding the Revision of Standards, constituted within the Committee on Legal Issues and International Labour Standards by the Governing Body of ILO at its 262nd session (March-April 1995),

held two meetings in 1996 during the 265th, (November 1996)[263] and 267th[264] sessions of the Governing Body of ILO. Among other issues, the Working Party considered the question of the possible amendments to the Constitution and the Conference Standing Orders to enable the Conference to abrogate or otherwise terminate obsolete international labour Conventions.

10. As a result of the discussion of the Director General's report to the session International Labour Conference at its 82nd in 1994, the Committee on Legal Issues and International Labour Standards of the Governing Body of266 ILO considered during the latter's 265th, (March 1996)[265] AND 267th (November 1996)[266] sessions the question of the strengthening of ILO's supervisory system.

11. At its 265th session (March 1996), the Governing Body of ILO adopted a set of amendments to the Regulations of the International Institute for Labour Studies,[267] and at its 267th session (November 1996), adopted a set a Rules for the new Regional Meetings[268], which are to replace the former regional conferences convened by ILO.

2. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

(*a*) MEMBERSHIP

On 21 December 1995, the Organization received a notice from the United States Department of State regarding the withdrawal for the Commonwealth of Puerto Rico from its associate membership in the Organization. In accordance with the provisions of article XIX of the FAO Constitution, the Commonwealth of Puerto Rico consequently ceased to be an Associate Member of FAO on 21 December 1996.

(*b*) CONSTITUTIONAL AND LEGAL MATTERS

(i) *World Food Summit*

Between 13 and 17 November 1996, nearly 10,000 delegates and journalists converged on FAO headquarters in Rome for the World Food Summit. Heads of State and Government, Ministers of Agriculture and other distinguished delegates from 186 countries joined representatives of NGOs, United Nations, agencies and other internatioal bodies for the Summit proceedings. NGOs, parliamentarians, farmers associations and the private sector held parallel meetings in Rome, as did some 500 young people gathered for a four-day international Youth Forum on food security.

The aim of the World Food Summit an unprecedented gathering in the history of the United Nations and the world, was to raise awareness about issues surrounding world hunger, namely, the fact that more than 800 million human begins are not able to meet their most basic nutritional needs. The Summit's overriding goal was to garner high-level political support for making concrete progress in achieving global food security. Two documents were adopted at the opening session: the Rome Declaration on World Food Security and the World Food Summit Plan of Action, which details the Declaration's policy statements.

Both documents were carefully crafted and agreed by consensus during meetings of the FAO Committee on World Food Security over a two-year period, with the input of all the member countries of FAO. Reaffirming the right of every person to be free from hunger, the Heads of State and Government pledged their political will and shared commitment to ensuring that "all people, at all times, have physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life", with an "immediate view to reducing the number of undernourished people to half their present level no later than 2015."

The commitments contained in the Plan of Action are intended to lay the foundations for diverse paths to a common objective – food security and a significant decrease in chronic hunger – at the individual, household, national, regional and global levels. These commitments cover seven interrelated areas for Governments to address: (*a*) general conditions for economic and social progress conducive to food security; (*b*) policies aimed at poverty eradication and access to adequate food; (*c*) sustainable increases in food production; (*d*) consideration of the contribution of trade to food security; (*e*) prevention of, preparedness for and response to food emergencies; (*f*) optimal investment in human resources sustainable production capacity and development; and (*g*) cooperation in implementing and monitoring the Plan of Action. The Rome Declaration and the Plan of Action call upon Governments to cooperate actively with one another, with international organizations and in partnership with civil society and the private sector, in a worldwide "Food for All" campaign, symbolized by the FAO motto and emblem: fiat panis.

(ii) *Decisions by the Council*

At its 111th session (October 1996), the Council adopted resolution 2/111, in which it broadened the mandate and changed the title of the Advisory Committee on Pulp and Paper to Advisory Committee on Paper and Wood Products, and abolished the Committee on Wood-based Panel Products.

(*c*) LEGISLATIVE MATTERS

(i) *Agrarian legislation*

Eritrea (land registration legislation); Guinea (land law); Mauritania (oasis legislation); Mozambique (land law); Paraguay (agrarian law).

(ii) *Water Legislation*

El Salvador (water legislation); Guatemala (water legislation) Guinea (water law); Honduras (waster legislation); Iran (Islamic Republic) (water law); Malaysia (irrigation and drainage legislation).

(iii) *Forestry and Wildlife Legislation*

Benin (forestry and wildlife); Bolivia (forestry regulations), Cambodia (forestry); Congo (forestry); Cuba (forestry); Indonesia (forest management); Mauritania (forestry and wildlife); Mozambique (forestry and wildlife); Namibia (forestry); Suriname (forestry); United Republic of Tanzania (forestry of Zanzibar).

(iv) *Environmental legislation*

Cameroon (environmental institutions) Cyprus (nature conservation legislation); Laos (environmental legislation); United Republic of Tanzania (national park legislation; environmental legislation for Zanzibar).

(v) *Fisheries legislation*

Burundi; Central African Republic; Dominica; Ecuador; El Salvador (fish and aquaculture); Estonia (fish and policy framework and development options); Ethiopia; Guinea (institutional aspects); Guyana; Jamaica; Namibia; United Republic of Tanzania, Zaire, and Zambia (institutional choices for cooperation).

(vi) *Animal legislation*

Guinea (institutional), Cattle, Meat and Halieutic Resources Economic Community

(vii) *Food legislation*

Cambodia; Cameroon (rurak) (micro-enterprises); Gabon; Latvia (food); Lebanon; Malta; Romania; Senegal; Slovakia (food standards); Venezuela (food; commercial agriculture; institutional).

(viii) *Pesticides legislation*

Central America (Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama).

(ix) *Plant legislation*

Caribbean Community (CARICOM) countries and Suriname; Cyprus (quarantine); Eritrea (research and extension); Ghana (quarantine); Kyrgyzstan (seed); Lithuania (seed and plant breeders' rights); Malaysia (production and marketing); Slovakia; Tonga (quarantine).

(x) *Other*

Burkina Faso (rural radio); Slovakia (agriculture and rural development).

(*d*) CONVENTIONS AND AGREEMENTS CONCLUDED UNDER ARTICLE XIV OF THE FAO CONSTITUTION

The 1993 Agreement for the Establishment of the Indian Ocean Tuna Commission,[269] which approved by the Governing Council in November 1993, entered into force on 27 March 1996.

(*e*) CONVENTIONS AND AGREEMENTS CONCLUDED OUTSIDE THE FRAMEWORK OF FAO IN RESPECT OF WHICH THE DIRECTOR-GENERAL EXERCISES DEPOSITARY FUNCTIONS

Amendments to the 1985 Agreement for the Establishment of the Intergovernmental Organization for Marketing Information and Technical Advisory Services for Fishery Products in the Asia and Pacific Region (INFOFISH),[270] which were adopted by the Governing Council in Kuala Lumpur in December 1995, entered into force on 14 January 1996.

3. UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

(*a*) INTERNATIONAL REGULATIONS

Preparatory work on new instruments

During 1996, preparatory work was undertaken on a proposed declaration on the protection of the human genome, on a proposed declaration on the safeguarding of future generations, on a possible joint UNESCO – Council of Europe convention on the recognition of qualifications in higher education and European region, on a proposed instrument for the protection of the underwater cultural heritage and on a proposed improvement of the 1954 Hague Convention on the Protection of Cultural Property in the Event of Armed Conflict.[271]

(*b*) HUMAN RIGHTS

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

The Committee on Conventions and Recommendations met in private session at UNESCO headquarters form 16 to 19 April and form 8 to 11 October 1996, to examine communications which had been transmitted to it in accordance with Executive Board decision 104 EX/3.3.

At its April session, the Committee examined 25 communications, of which 14 were examined with the view to determining their admissibility or otherwise and 2 were examined as regards their substance; 9 were examined for the first time.

Of the communications examined, 2 were declared irreceivable and 2 were struck from the list because they were considered as having been settled. The examination of 21 communications was suspended. The Committee presented its report to the Executive Board at its 149th session.

At its October session, the Committee had before it 23 communications of which 19 were examined as to their admissibility and 2 were examined from the standpoint of their substances; 2 were examined for the first time. Of the communications examined, 1 was declared irreceivable and 2 were struck from the list since they were considered as having been settled. The examination of 19 communications was suspended. The Committee presented its report on its examination of these communications to the Executive Board at its 150th session.

4. WORLD HEALTH ORGANIZATION

(*a*) CONSTITUTIONAL AND LEGAL DEVELOPMENTS

In 1996, no new member state joined the Organization. Thus, at the end of 1996, there were 190 State members and two Associate Members of WHO.

On 1 January 1996, the joint and Co-sponsored United Nations Programme on HIV/AIDS (UNAIDS) began its activities to further mobilize the global response to the HIV/AIDS epidemic. WHO is one of the six co-sponsors of UNAIDS, the other five being: UNICEF, UNDP, UNFPA, UNESCO and International Bank for Reconstruction and Development

In May 1993, WHO had requested the International Court of Justice to give an advisory opinion on the following question: "In view of the health and environmental effects, would the use of nuclear weapons by a State in war or other armed conflict be a breach of its obligations under international law, including the WHO Constitution?" In July 1996, the Court arrived at the view that the request for an advisory opinion submitted by WHO "did not relate to a question which arises within the scope of [the] activities of WHO", and therefore, the Court found that an essential condition of founding its jurisdiction was absent and that it could not, accordingly, give the opinion requested. Consequently, the Court was not called upon to examine the arguments which were laid before it with regard to the exercise of its discretionary power to give an opinion.

In October 1996, during a ceremony convened by UNDP and the Republic of Korea, WHO signed the Agreement on the Establishment of the International Vaccine Institute. The Institute is meant to be an instrument to contribute to achieving the goals of the Children's Vaccine Initiative (CVI), which is co-sponsored by WHO, UNICEF, UNDP, and the World Bank and the Rockefeller Foundation, and is dedicated to ensuring the availability of safe, effective and affordable vaccines, the development and introduction of improved and new vaccines and strengthening the capacity of developing countries in vaccine development, production and use in immunization programmes.

WHO/Regional Office for the Americas (AMRO)/PAHO. Approximately 175 agreements, both with (Pan American Health Organization PAHO) member States and donors, were opened and a total of 500 agreements required some action in 1996. A Model Technical Cooperation Agreement to assist in the preparation of such agreements was drafted. The computerized database for agreements, containing the most up-to-date information on relevant aspects of signed agreements and status information of agreements under negotiation, was maintained and upgraded.

(*b*) Health legislation

At an inter-agency meeting held in Geneva in April 1996, WHO issued new international Guidelines for Drug Donations. In May 1996, the World Health Assembly adopted resolution WHA49.17 on the international framework convention for tobacco control requesting, inter alia, the Director General to initiate the development of framework convention in accordance with article 19 of the WHO Constitution and to include as part of this framework convention a strategy to encourage member States to move progressively towards the adoption of comprehensive tobacco control policies and also to deal with aspects of tobacco control that transcend national boundaries.

5. WORLD BANK

(*a*) IBRD, IFC AND IDA-MEMERBERSHIP

On 1 April 1996, Bosnia and Herzegovina fulfilled the requirements of the resolutions of the Boars of Directors of the Bank, IFC and IDA of 25 February 1993 on the succession to the membership of the former Socialist Federal Republic of Yugoslavia and became a member of the Bank, IFC and IDA as of 25 February 1993. During 1996, St Kitts and Nevis became a member of the International Finance Corporation. As of 31 December 1996, IBRD had 180 members; IFC, 170; and IDA, 159.

(*b*) WORLD BANK INSPECTION PANEL

Review of resolution

The resolution establishing the Inspection Panel calls for a review after two yeas from the date of appointment of the first panel members. On 17 October 1996, the Executive Directors of the Bank and IDA completed the review process (except for the question of inspection of World Bank Group private sector projects) by considering and endorsing the clarifications recommended by management on the basis of the discussions of the Executive Directors' Committee on Development Effectiveness (CODE). The Inspection Panel and management are requested by the Executive Directors to observe the clarifications in their application of the resolution.

In general, the clarifications confirm the text of the resolution and the decisions on its interpretation and application that had been made in individual cases. In particular, the clarifications confirm that the Executive Directors will continue to have authority to: (*a*)interpret the resolution; and (*b*) authorize inspections. The clarifications also confirm that: (*a*) the "affected party", which the resolution describes as "a community of persons such as an organization, association, society or other grouping of individuals", includes any two or more persons who share some common interests or concerns; (*b*) the word "project" as used in the resolution has the same meaning as it generally has in the Bank's practice, and includes projects under consideration by Bank management as well as projects already approved by the Executive Directors; (*c*) the Panel's mandate does not extend to reviewing the consistency of the Bank's practice with any of its policies and procedures, but, as stated in the Resolution, is limited to cases of alleged failure by the Bank to follow its operational policies and procedures with respect to the design, appraisal and/or implementation projects, including cases of alleged failure by the bank to follow up on the borrowers' obligations under loan agreements, with respect to such policies and procedures; and (*d*) no procurement action is subject to inspection by the Panel, whether taken by the Bank or by a borrower. A separate mechanism is available for addressing procurement-related complaints.

The clarifications also deal with the distinction between the two phases of the inspection process, namely the eligibility of the request and the inspection itself. Since the resolution limits the first phase of the inspection process to ascertaining the eligibility of the request, this phase should normally be com-

pleted within the 21 days stated in the resolution. However, in cases where the Inspection Panel believes that it would be appropriate to undertake a "preliminary assessment" of the damages alleged by the requester (in particular when such preliminary assessment could lead to a resolution of the matter without the need for a full investigation), the Panel may undertake the preliminary assessment and indicate to the Board the date on which it would present its findings and recommendations as to the need, if any, for a full investigation. If such a date is expected by the Panel to exceed eight weeks from the date of receipt of management's comments, the Panel should seek Board approval for the extension, possible on a "no-objection" basis. The clarifications add that what is needed at this preliminary stage is not to establish that a serious violation of the Bank's policy has actually resulted in damages suffered by the affected party, but rather to establish whether the complaint is prima facie justified and warrants a full investigation because it is eligible under the resolution.

Cases brought to the Panel in 1996[272]

Request No. 6: Bengaldesh: Jamuna Multi-purpose Bridge Project
Request No. 7: Argentina/Paraguay: Yacyreta Hydroelectric Project
Request No. 8: Bangaldesh: Jute Sector Adjustment Credit

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

Signatories and members

The 1985 Convention Establishing the Multilateral Investment Guarantee Agency[273] was opened for signature to member countries of the World Bank and Switzerland in October 1985.As of December 1996, the Convention had been signed by 158 countries, 139 of which had also completed membership requirements. During 1996, requirements for membership were completed by Albania, Eritrea, Guatemala, Qatar, Sierra Leone and Yemen.

Guarantee operations

MIGA issues investment guarantees (insurance) to eligible foreign investors in its developing member countries against the political (i.e. noncommerciak) risks of expropriation, currency transfer restriction, breach of contract, and war and civil disturbance. As of 31 December 1996, MIGA had issued 244 contracts of guarantee, totaling US $2.9 billion in maximum contingent liability. Aggregate foreign direct investment facilitated by all MIGA-insured projects was established to be more than $15.0 billion.

Host country investment agreements between MIGA and its member states

As directed by article 23(*b*)(ii) of the Convention, the Agency concluded bilateral legal protection agreements with developing member countries to ensure that MIGA is afforded treatment no less favourable than that accorded by the member country concerned to any State or other public entity in an investment protection treaty or any other agreement relating to foreign investment with respect to the rights to which MIGA may succeed as subrogee of a compensated guarantee holder. In 1996, the Agency concluded agreements with

Armenia, Bolivia, Costa Rica, Croatia, Guinea, Jordan, Oman, the Republic of Moldova, Togo, Trinidad and Tobago, the United Arab Emirates, Viet Nam and Yemen. As of 31 December 1996, 77 such agreements were in force.

In accordance with the directives of article 18(*c*) of the Convention, the Agency also negotiates agreements on the use of local currency. These agreements enable MIGA to dispose of local currency in exchange for freely usable currency acquired by it in settlement of claims with insured investors. In 1996, the Agency concluded agreements with Armenia, Bolivia, Brazil, Costa Rica, Croatia, Guinea, Jordan, Oman, Togo, the Republic of Moldova, Trinidad and Tobago, the United Arab Emirates, Viet Nam and Yemen. As of 31 December 1996, 80 such agreements were in force.

Article 15 of the Convention requires that before issuing a guarantee MIGA must obtain the approval of the host member country in which the investment is contemplated. In order to expedite the process, MIGA negotiates arrangements with host country Governments that provide a degree of automaticity in the approval procedure. IN 1996, the Agency concluded agreements with Bahrain, Bolivia, the Czech Republic, Dominica, Gambia, Guatemala and St. Lucia. As of 31 December 1995, 85 such agreements were in force.

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

Signatures and ratifications

During 1996, the 1965 Convention on the Settlement of Investment Disputes between States and Nationals of Other States (the ICSID Convention[274] was ratified by three countries: Algeria, Bahrain and Panama. There were no new signatories. With the new ratifications, the number of the signatory States remained at 139 and the number of Contracting States reached 126.

Disputes before the Centre

During 1996, arbitration proceedings were instituted in three new cases, Compania del Desarrollo de Santa Elena S.A. v. Government of Costa Rica (case No. ARB/96/1), Misima Mines Pty. Ltd. v. Independent State of Papua New Guinea (case No. ARB/96/2) and Fedax N.V. v. Republic of Venezuela (case No. ARB/96/3). One arbitral proceeding, Philippe Gruslin v. Government of Malaysia (case No. ARB/94/1), was settled by the parties before the rendition of an award and one conciliation proceeding, SEDITEX Engineering Beratungsgesellschaft fur die Textilindustrie m.b.H. v. Government of Madagascar (case No. CONC/94/1), was closed following the rendition of the Conciliation Commission's report.

As of 31 December 1996, five other cases were pending before the Centre: American Manufacturing & Trading, Inc. v. Republic of Zaire (case No. ARB/93/1), Tradex Hellas S.A. v. Republic of Albania (case No. ARB/94/2), Leaf Tobacco A. Michaelides S.A. and Greek-Albania Leaf Tobacco & Co., S.A. v. Republic of Albania (case No. ARB/95/1), Cable Televisioin of St. Kitts and Nevis (case No. ARB/95/2) and Antoine Goetz and others v. Republic of Burundi (case No. ARB/95/3).

6. INTERNATIONAL MONETARY FUND

(*a*) ISSUES CONCERNING MEMBERSHIP OBLIGATIONS

1. *Status and obligations under article VIII or article XIV of the Fund's Articles of Agreement*

Under article VIII, sections 2, 3 and 4 of the Fund's Articles of Agreement, members of the Fund may not, without the Fund's approval: (*a*) impose restrictions on the making of payments and transfers for current international transactions; or (*b*) engage in any discriminatory currency arrangements or multiple currency practices. Notwithstanding the above-mentioned provisions, pursuant to articles XIV, section 2, of the Articles of Agreement of member that notifies the Fund that it intends to avail itself of the transitional arrangements thereunder may maintain and adapt to changing circumstances the restrictions on payments and transfers for current international transactions that were in effect on the date on which it became a member. Article XIV does not, however, permit a transfers for current international transactions without the approval of the Fund.

Members that avail themselves of the transitional arrangements of article XIV, section 2, consult with the Fund annually on the restrictions maintained thereunder. The Fund generally encourages such members to remove these restrictions and to formally accept the obligations of article VIII, sections 2, 3 and 4. Where necessary, and if requested by a member, the Fund also provides technical assistance to help the member remove these restrictions.

In 1996, the following 24 countries formally accepted the obligations of article VIII, sections 2, 3 and 4, raising the total number of countries who have accepted these obligations (as of 31 December 1996) to 138: Benin, Burkina Faso, Cameroon, Chad, China, Comoros, Congo, Côte d'Ivoire, Equatorial Guinea, Gabon, Georgia, Hungary, Kazakhstan, Madagascar, Mali, Mongolia, Namibia, Niger, Russian Federation, Senegal, Togo, Ukraine, United Republic of Tanzania, Yemen.

2. *Overdue financial obligations to the Fund*

As of 31 December 1996, seven members were in protracted arrears to the Fund, i.e., financial obligations to the Fund that were overdue by six months or more (an increase of one member from 31 December 1995).

Article XXVI, section 2(*a*), of the Fund's Articles of Agreement provides that if "a member fails to fulfill any of its obligations under this Agreement, the Fund may declare the member ineligible to use the general resources of the Fund." Of the seven members with protracted arrears to the Fund, declarations under article XXVI, section 2(*a*), remained in effect in 1996 with respect to Liberia, Somalia, the Sudan and Zaire.[275]

3. *Suspension of voting rights and compulsory withdrawal – Sudan and Zaire*

(*a*) *Sudan*

In 1996, Sudan's voting and related rights remained suspended in accordance with article XXVI, section 2(*b*), of the Fund's Articles of Agreement (suspension was effective 9 August 1993). Subsequently, on 8 April 1994, the Managing Director issued a complaint under article XXVI, section 2(*c*), of the Fund's Articles of Agreement, thereby initiating the procedure for the compulsory withdrawal of Sudan form the Fund. During 1996, this complaint was considered by the Executive Board, which decided to review the complaint again in 1997.

(*b*) *Zaire*

Zaire's voting and related rights were suspended effective 6 August 1993. In reviewing the decision to suspend Zaire's voting rights, the Executive Board decided, on 3 August 1995, that unless Zaire resumed active cooperation with the Fund in the areas of policy implementation and payments performance, it would consider initiating the procedure for Zaire's compulsory withdrawal from the Fund. Such procedure was not initiated in 1996.

(*b*) ISSUES PERTAINING TO REPRESENTATION AT THE FUND

1. *Afghanistan*

Afghanistan has overdue financial obligations to the Fund. In 1996, the matter was last discussed by the Fund's Executive Board on 13 March. In August/September 1996, the Government of President Rabbani was overthrown in Kabul by Taliban forces. However, the military and political situation in Afghanistan immediately following that event was highly unstable, with the Taliban forces controlling little of the territory outside the capital. Therefore, at the Fund's 1996 annual meeting, Afghanistan was represented by a delegation whose members were appointed before the overthrow of President Rabbani.

2. *Somalia*

Somalia continues to have overdue financial obligations to the Fund. In October 1992, the Executive Board of the Fund confirmed that, given the domestic situation in Somalia, there was no effective government for Somalia with which the Fund could carry on its activities. Since then, there has been no Governor and Alternate Governor for Somalia at the Fund and the Fund has had no contacts with the authorities of the country. At the Fund's 1996 annual meeting, Somalia was not represented.

3. *Sudan*

As stated in section (*a*)3.a above, the Fund suspended the voting and related rights of Sudan effective 9 August 1993. In the case of a suspension of the voting rights of a member, paragraph 3(*a*) of schedule L of the Fund's Articles of Agreement provides that the "Governor and Alternate Governor appointed by the member shall cease to hold office." Consequently, the Governor and Alternate Governor positions of the Sudan for the Fund were vacant in 1996 and Sudan was not represented at the Fund's annual meeting that year. The Sudan

was also not represented at the Executive Board of the Fund during 1996, save on the occasions when the Executive Board was considering a matter particularly affecting that country. On those occasions, a representative of the Sudan was allowed to attend the Executive Board meetings, pursuant to paragraph 4 of schedule L of the Articles of Agreement.

4. *Zaire*

As with the Sudan, in view of the suspension of Zaire's voting and related rights with effect form 6 August 1993, the Governor and the Alternate Governor appointed by Zaire ceased to hold office on that date. Zaire therefore was not represented at the 1996 annual meeting of the Fund.

5. *Successor States of the Socialist Federal Republic of Yugoslavia*

In December 1992, the Fund decided that the Socialist Federal Republic of Yugoslavia had ceased to exist as a member and established a mechanism under which, when certain conditions were met, each of the five successor States of[275] could succeed to its membership in the Fund. In accordance with these decisions, by 1996, four of the successor States of the Socialist Federal Republic of Yugoslavia had become members of the Fund. As of the end of 1996, the Federal Republic of Yugoslavia (Serbia and Montenegro) had not succeeded to membership of the Socialist Federal Republic of Yugoslavia in the Fund.

(*c*) Fund facilities and operational guidelines

Enhanced Structural Adjustment Facility (ESAF) Trust – Expansion of Eligibility and extension of commitment period

The ESAF Trust is designed to render financial assistance to low-income developing members. On 19 August 1996, the Executive Board decided to add Bosnia and Herzegovina to the list of members eligible for assistance under this facility. In addition, the Instrument to Establish the ESAF Trust was also amended on 9 December 1996 to enable the Fund to make commitments under the Trust up to 31 December 2000.

(*d*) Opening of Fund archives

Article IX, section 5, of the Fund's Articles of Agreement provides that the "archives of the Fund shall be inviolable." In this connection, on 17 January 1996, the Executive Board of the Fund decided that "outside person, on request, will be given access to documentary materials maintained in the Fund's archives that are over 30 years old, provided, however, that access to Fund documents originally classified as 'secret' or 'strictly confidential' will be granted only upon the Managing Director's consent to their declassification." However, access to the following will not be granted: "(*a*) legal documents and records maintained by the Legal Department of the Fund that are protected by attorney-client privilege; (*b*) documentary materials furnished to the Fund by external parties, including member countries, their instrumentalities and agencies and central banks, that bear confidentiality markings, unless such external parties consent to their declassification; (*c*) personnel files and medical or other records per-

taining to individuals; and (*d*) documents and proceedings of the Grievance Committee of the Fund."

(*e*) Cooperation Agreement with the World Trade Organization

On 9 December 1996, the Fund signed a cooperation agreement with the World Trade Organization. The agreement includes the following main provisions: (*a*) the Fund and WTO shall consult each other with a view to achieving greater coherence in global economic policy-making; (*b*) the Fund agrees to continue participating in consultations which are carried out by WTO on measures taken by a WTO member to safeguard its balance of payments; (*c*) the staff of the Fund and members of the WTO secretariat will be granted observer status in designated entities of the other organizations; (*d*) each organization may communicate its views in writing on matters of mutual interest to the other organization or any of its organs or bodies (excluding WTO's dispute settlement panels), and the views so communicated shall become part of the official record of such organs and bodies; (*e*) the Fund shall inform in writing the relevant WTO body (including dispute, settlement panels) considering exchange measures within the Fund's jurisdiction whether such measures are consistent with the Fund's Articles of Agreement; and (*f*) the two organizations shall enhance information and documents sharing between them.

7. INTERNATIONAL CIVIL AVIATION ORGANIZATION

During 1996, Western Samoa adhered to the 1994 Convention on International Civil Aviation (Chicago Convention),[277] and there was an increase in the number of States parties to the Protocols on the Authentic Trilingual and Quadrilingual Texts of the Chicago Convention, to the International Air Services Transit Agreement as well as to a number of other international multilateral air law instruments.

The Panel of Legal and Technical Experts on the Experts on the Establishment of a Legal Framework with regard to the global navigation satellite systems (GNSS) held its first meeting in Montreal from 25 to 30 November 1996.

(*a*) Work Programme of the Legal Committee

The General Work Programme of the Legal Committee, as decided by the Council at the 3rd meeting of its 146th session on 15 November 1995, comprised the following subjects in the order of priority indicated:

(i) Consideration, with regard to global navigation satellite systems (GNSS), of the establishment of a legal framework;

(ii) Modernization of the Warsaw System and review of the question of the ratification of international air law instruments;

(iii) Liability rules which might be applicable to air traffic services (ATS) providers as well as to other potentially liable parties – liability of air traffic control agencies;

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

On 3 June, at the 6th meeting of its 148th session, the Council added the following item to the general work programme:

"Acts or offences of concern to the international aviation community and not covered by existing air law instruments."

(*b*) LEGAL MEETINGS

Regarding item (*i*) above, the Panel of Legal and Technical Experts on the Establishment of a Legal Framework with regard to GNSS decided at its 1st meeting, held from 25 to 30 November, to set up two working groups: the first was mandated to develop draft provisions of a charter formulating the fundamental principles for GNSS, while the second will analyse and, as appropriate, draft legal principles or where possible provisions on the subjects of certification, liability, administration, financing and cost recovery, and future operating structures.

Regarding item (ii) above, the Secretariat Study Group established to assist the Legal Bureau in developing a mechanism within the framework of ICAO to accelerate the modernization of the Warsaw System held its 1st meeting in Montreal on 12 and 13 February. The Study Group's report, which included recommendations calling, inter alia, for the development and adoption of a new international legal instrument, were submitted to the Council. The Council on 14 March decided inter alia, to refer the matter to the Legal Committee. The Study Group held a 2nd meeting from 10 to 12 June and reviewed a draft text developed by the Legal Bureau of a new international legal instrument which would modernize and consolidate the Warsaw System. On 19 September, a Rapporteur was appointed on the subject.

8. UNIVERSAL POSTAL UNION

(*a*) PRIVILEGES AND IMMUNITIES

Ninety-six member States extend to representatives of member States, staff members of the International Bureau of UPU and experts the privileges and immunities provided for the 1947 Convention on the Privileges and Immunities of the Specialized Agencies,[278] adopted by the General Assembly of the United Nations on 21 November 1947.

(*b*) GENERAL REVIEW OF LEGAL ACTIVITIES

The general review of the legislative activities of the Universal Postal Union, begun in 1995, was continued in 1996. This important study covers the following areas:

(*a*) Study of the legal, regulatory, technological and commercial environment in relation to the single postal territory;

(*b*) Study of the relationship between certain international agreements and the concept of free circulation of postal items;

(*c*) The status of UPU members and the representation of the parties involved in postal activity;

(*d*) The mission on the Universal Postal Union;

(*e*) Revision of the Acts.

(*c*) Treaties concluded under the auspices of UPU

The Acts of UPU (Constitution, General Regulations, Convention and Agreements), which were signed at Seoul in 1994, entered into force on 1 January 1996.

9. INTERNATIONAL MARITIME ORGANIZATION

(*a*) Membership of the Organization

During 1996, the following countries became members of the International Maritime Organization: Samoa (25 October 1996) and Mongolia (11 December 1996). As at 31 December 1996, the number of members of IMO was therefore 155. There are also two Associate Members.

(*b*) Technical Cooperation subprogramme for maritime legislation

The Legal Committee received information and a progress report on the implementation of the subprogramme for maritime legislation in the Integrated Technical Cooperation Programme from July 1995 to May 1996.

(*c*) Compensation for pollution from ships' bunkers

The Legal Committee at its seventy-fourth session in October 1996 considered a number of submissions and discussed the need for the adoption of an international regime for liability and compensation for damage caused by oil from ships' bunkers.[279] Leaving aside the form of a prospective instrument, the Committee expressed preliminary views on the main issues to be discussed in connection with the possible adoption of international regulations in this regard, namely, vessels to which it should apply and period of application, with particular emphasis on the possible inclusion of a bunkering operation, risks to be covered, channeling of liability and compulsory insurance.

Although the Committee did not reach agreement as to the need of an international instrument, it decided that the subject should be considered at its next session and it was included in the work programme for 1997.

(*d*) Compulsory insurance

The Legal Committee, at its seventy-first session in October 1994, in the light of the discussions on the limitations of liability for passenger claims, had agreed to include the subject of compulsory insurance in its work programme

for the 1996-1997 biennium. At its seventy-fourth session in October 1996, the Committee considered submissions regarding the need for an international instrument on the issue. While there was a strong call to continue consideration of the item, problems were identified regarding the compelling need for an international regime.

The Committee decided that the issue of compulsory insurance warranted further consideration and established a correspondence group, with the mandate to consider suitable measures for introducing rules or evidence of financial security for vessels and requested the Correspondence Group to report to the Legal Committee at its seventy-fifth (April 1997) session. It further agreed to retain the subject as one of the priority subjects in its 1997 work programme.

(*e*) Consideration of the possible review of the International Convention for the Unification of Certain Rules relating to the Arrest of Seagoing Ships, 1952[280]

The Joint Intergovernmental Group of Experts on Maritime Liens and Mortgages and Related Subjects, established by (IMO) and (UNCTAD) at the ninth session of UNCTAD held in Geneva from 2 to 6 December 1996, concluded its work on the revised draft articles for the International Convention for the Unification of Certain Rules relating to the Arrest of Seagoing Ships, 1952, prepared by the secretariats of the two organizations.

The Group agreed to recommend to the IMO Council and to the Trade and Development Board of UNCTAD that they should consider favourably proposing to the General Assembly of the United Nations the convening of a diplomatic conference to consider and adopt a convention on certain rules relating to the arrest of seagoing ships on the basis of the draft articles prepared by the Group of Experts.

(*f*) Draft convention on wreck removal

The Legal Committee, at its seventy-third session, in October 1995, had received a draft international convention on wreck removal prepared by Germany, the Netherlands and the United Kingdom. At its seventy-fourth, session in October 1996, the Committee considered submissions relating thereto. While some delegations were of the view that there was a need for an international regime, others indicated that, although they did not consider that such an instrument was needed at the current stage, they would not object to the matter being considered further by the Committee. In that connection the Committee specifically discussed the geographic scope of application of the treaty, as well as its relationship with other conventions.

The Committee decided to establish a correspondence group to consider issues relating to the scope of application, the relationship between public international law and private law provisions and the relationship with other conventions. The committee decided that the subject should be included in its work programme for 1997 and requested the Correspondence Group to report to the CHCE at its seventy-fifth session (April 1997).

(g) HNS Convention

The International Conference on Hazardous and Noxious Substances and Limitation of Liability, 1996 was held at IMO headquarters from 15 April to 3 May 1996. The Conference was attended by representatives of 73 States, observers form 1 Associate member, representatives form 1 organization of the United Nations system and observers from 4 intergovernmental organizations and 23 non-governmental organizations in consultative status.

As a result of its deliberations the Conference adopted the International Convention on Liability and Compensation for Damage in connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 (HNS Convention).[281]

The HNS Convention establishes a system of compensation for liability for damage caused by hazardous and noxious substances. It covers in principle all kinds of hazardous and noxious substances and defines its scope of application by reference to existing lists of such substances, such as the International Maritime Dangerous Goods Code (IMDG Code) and Annex II of MARPOL.[282] It goes further in its scope than the oil pollution compensation regime in that it covers not only pollution but also the risks of fire and explosion.

The Convention introduces a two-tier system, providing for strict liability of the shipowner, and a system of compulsory insurance. This is supplemented by a second tier, the HNS Fund, financed by cargo interests. In principle, compensation will be paid form the HNS Fund when the shipowner's liability is insufficient to provide full compensation or when no liability arises under the first tier. Contributions to the second tier will levied on persons in the Contracting States who receive a certain minimum quantity of HNS cargo during a calendar year. The tier will consist of one general account for chemicals and three separage accounts has been seen as a way to avoid cross-subsidization between different HNS substances. The general account includes two sectors, the first with contributions in respect of gaseous, liquid and solid chemicals, the second form large-volume and low-volume hazard substances.

The unit of account used in the Convention is the Special Drawing Right (SDR) of the International Monetary Fund. At the time of adoption 1 SDR was roughly equivalent to 1 pound sterling. The liability limits contained in the first tier are based on the gross registered tonnage of the ship concerned. Once these liability limits are reached, compensation would be paid from the second tier, the HNS Fund, which will be limited to 250 million SDRs.

During the course of the Conference it was decided that radioactive materials should not be included in the scope of the Convention. It was considered that most are already covered by other instruments and that the remainder represented a relatively low risk.

Another outstanding issue was whether coal should be included in the scope of the Convention. Many delegations supported its exclusion, indicating that reliable statistics showed that coal could not cause any damage to the environment or outside the ship and expressing concern that its inclusion would substantially increase transport and insurance costs, thus causing serious disadvantages to the national economies of several countries. Other delegations favoured the retention of coal, pointing out that coal had been included in the draft not only to compensate for HNS damage to the environment but also to cover fire

and explosion risks. As a compromise it was suggested that, owing to the low hazard ratio, coal and other substances in appendix B of the Code of Safe Practice for Solid Bulk Cargoes (BC Code) would initially not be required to contribute to the second tier as long as those materials kept their present safety records. In the end the Conference decided that coal and certain other low-hazard bulk cargoes should be excluded from the Convention.

The Conference also considered the issue of the linkage between the HNS Convention and existing treaties on limitation of liability. However, the difficulties of achieving a satisfactory solution were so great that it might even threaten the outcome of the entire Conference with failure. The HNS Convention therefore is not linked to other treaties.

The Conference decided that the Convention was to be deposited with the Secretary-General of IMO. The Secretary-General and the Organization were assigned certain responsibilities in respect of the treaty instrument. The Convention was opened for signature at IMO headquarters from 1 October 1996 until 30 September 1997 and thereafter will remain open for accession. The HNS Convention will enter into force 18 months after the date on which (*a*) at least 12 States, including 4 States each with not less than 2 million units of gross tonnage, have expressed their consent to be bound by it; and (*b*) the Secretary-General has been informed that a total quantity of at least 40 million tones of cargo contributing to the general account of the International Hazardous and Noxious Substances Fund established by the Convention has been received in those States during the preceding calendar year.

(*h*) Protocol of 1996[283] to amend the Convention on Limitation of Liability for Maritime Claims, 1976[284]

The Conference also considered a draft protocol to amend the Convention on Limitation of Liability for Maritime Claims, 1976 (LLMC). The scope of revision extended only to the limits and procedures for amendments.

The Conference agreed to update the limits of compensation for passenger claims to correspond to the Protocol of 1990[285] to amend the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974 (Athens Convention).[286] It further decided to remove the overall ceiling per incident in respect of passenger claims for death and personal injury. This has the effect that individual passenger claims will only be limited in accordance with the Athens Convention and corresponding regimes. A new provision permits States parties to set higher limits of liability for personal injury or loss of life in respect of passengers in their national law than those prescribed in the Protocol.

As a result of its deliberations, the Conference adopted the Protocol of 1996 to amend the Convention on Limitation of Liability for Maritime Claims, 1976. The Conference decided that the Protocol was to be deposited with the Secretary-General of IMO. The Secretary-General and the Organization were assigned certain responsibilities in respect of the treaty instrument. The Protocol was opened for signature at IMO headquarters from 1 October 1996 until 30 September 1997 and thereafter will remain open for accession. The Protocol will enter into force 90 days following the date on which 10 States have expressed their consent to be bound by it.

(*i*) 1996 Protocol[287] to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972[288]

The Special Meeting of Contracting Parties to consider and adopt the 1996 Protocol to the London Convention 1972, held in London from 28 October to 8 November 1996, adopted the 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972.

A general obligation under the Protocol requires parties to apply a precautionary approach to environmental protection from dumping whereby preventative measures are taken when there is reason to believe that dumping is likely to cause harm even when there is no conclusive evidence to prove a causal relation between dumping and its effects. The Protocol is more restrictive in that dumping of wastes is prohibited, with the exception of those wastes listed in Annex 1 to the Protocol. Furthermore, incineration at sea is fully prohibited, as well as export of wastes to other countries for dumping or incineration at sea.

The Protocol will be open for signature by States at IMO headquarters from 1 April 1997 to 31 March 1998.

(*j*) Amendments to treaties

(*i*) *1996 amendments to the International Convention for the Safety of Life at Sea (SOLAS) 1974*

The Maritime Safety Committee, at sixty-sixth session (June 1996), adopted by resolution MSC.47(66) amendments to the following chapters of the 1974 SOLAS Convention:

Chapter II-I: Construction – subdivision and stability, machinery and electrical installations;

Chapter III: Life-saving appliances and arrangements;

Chapter IV: Carriage of cargoes;

Chapter XI: Special measures to enhance maritime safety.

The most important are the amendments to chapter III which make mandatory the provisions of the International Life-Saving Appliance (LSA) Code. The Code was adopted by the Maritime Safety Committee at the same session. In accordance with the tacit amendment procedure provided for in article VIII(b)(vii)(2) of the Convention, the amendments shall enter into force on 1 July 1988 unless, prior to 1 January 1998, more than one third of Contracting Governments to the Convention, or Contracting Governments the combined merchant fleets of which constitutes not less than 50 per cent of the gross tonnage of the world's merchant fleet, have notified their objections to the amendments.

At the same session the Maritime Safety Committee adopted by resolution MSC.50(66) amendments to the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (IBC Code). The Committee determined in accordance with the tacit amendment procedure referred to above that the amendments shall enter into force on 1 July 1998 provided the amendments are deemed to have been accepted on 1 January 1998.

At the same session, the Maritime Safety Committee adopted by resolution MSC.49(66) amendments to the Guidelines on the enhanced programme of inspections during surveys of bulk carriers and oil tankers (resolution A.744(18)). The Committee determined in accordance with the tacit amendment procedure referred to above that the amendments shall enter into force on 1 July 1998 provided the amendments are deemed to have been accepted on 1 January 1998.

The Maritime Safety Committee, at its sixty-seventh session (December 1996), adopted by resolution MSC.57(67) amendments to the following chapters of the 1974 SOLAS Convention:

II-1: Construction – subdivision and stability, machinery and electrical installations;

II-2: Construction – fire protection, fire detection and fire extinction;

V: Safety of navigation

By virtue of these amendments the provisions of the International Code for Application of Fire Test Procedures (FTP Code) are made mandatory under the 1974 SOLAS Convention. At same session, the Maritime Safety Committee adopted the Code, the text of which is set out in the annex to resolution MSC.61(67). In accordance with the tacit amendment procedure provided in article VIII(b)(viii)(2) of the Convention, the amendments shall enter into force on 1 July 1998 unless, prior to 1 January 1998, more than one third of Contracting Governments to the Convention, or Contracting Governments the combined merchant fleets of which constitute not less than 50 per cent of the gross tonnage of the world's merchant fleet, have notified their objections to the amendments.

At the same time the Maritime Safety Committee adopted by resolution MSC.58(67) amendments to the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (IBC Code). In accordance with the tacit amendment procedure referred to above the amendments shall enter into force on 1 July 1998 provided the amendments are deemed to have been accepted on 1 January 1998.

At the same session the Maritime Safety Committee adopted by resolution MSC.59(67) amendments to the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk (IGC Code.) In accordance with the tacit amendment procedure referred to above, the amendments shall enter into force on 1 July 1998 provided the amendments are deemed to have been accepted on 1 January 1998.

(*ii*) *1996 amendments to the Annex to the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, (MARPOK) 1973*

The Marine Environment Protection Committee, at its thirty-eighth session (July 1996), adopted by resolution MEPC.68(38) amendments to the Annex to the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973 (amendments to Protocol I). The amendments concern the requirements for reports of incidents involving oil or harmful substances to be made and the conditions requiring reports when an incident involves damages, failure or breakdown of a ship of 15 metres in length or above. In accordance with the tacit amendment procedure provided for in ar-

ticle 16(2)(*f*)(iii) and g(ii) of the 1973 MARPOL Convention, the amendments shall enter into force on 1 January 1998 provided the amendments are deemed to have been accepted on 1 July 1997.

At the same session, the Marine Environment Protection Committee adopted by resolution MEPC.69(38) amendments to the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (IBC Code). In accordance with the tacit amendment procedure referred to above, the amendments shall enter into force on 1 July 1998, provided the amendments are deemed to have been accepted on 1 January 1998.

At the same session, the Marine Environment Protection Committee adopted by resolution MEPC.70(38) amendments to the Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (BCH Code). In accordance with the tacit amendment procedure referred to above, the amendments shall enter into force 1 July 1998, provided the amendments are deemed to have been accepted on 1 January 1998.

(*iii*) *1996 amendments to the Protocol relating to the Intervention on the High Seas in Cases of Marine Pollution by Substances other than Oil, 1973*

The Marine Environment Protection Committee, at its thirty-eighth session (July 1996), adopted by resolution MEPC.73(38), in accordance with article III of the Protocol, an amended list of substances to be annexed to the Protocol. The amended list shall be deemed to have been accepted at the end of the period of six months after it has been communicated, unless, within the period, an objection to the amendments has been communicated to the Organization by not less than one third of the parties. The amended list will enter into force three months after it has been deemed to have been accepted.

(*iv*) *1996 amendments to the Convention on Facilitation of International Maritime Traffic, 1965*

The Facilitation Committee, at its twenty-fourth session (January 1996), adopted by resolution FAL.5(24) a number of amendments to the Annex to the Convention on Facilitation of International Maritime Traffic, 1965. The amendments concern the passenger list, inadmissible persons, pre-import information and national facilitation committees. The Committee determined, in accordance with article VII(2)(*b*) of the Convention, that the amendments shall enter into force on 1 May 1997 unless, prior to 1 February 1997, at least one third of the Contracting Governments to the Convention have notified the Secretary-General in writing that they do not accept the amendments.

(*b*) AMENDMENTS

(*i*) *Amendments to the Annex to the Protocol of 1978 (MARPOL)*

These amendments dealing with port State control on operational requirements were adopted by the Conference of the Parties to the International Convention for the Prevention of Pollution form Ships, 1973, as modified by the

Protocol of 1978 relating thereto, on 2 November 1994. The conditions for their entry into force were met on 3 September 1995 and the amendments entered into force on 3 March 1996.

SOLAS (chapters V, II-2)

These amendments were adopted by the Maritime Safety Committee on 23 May 1994 by resolution MSC.31(63). The conditions for the entry into force of the amendments set out in annex 1 the resolution were met on 1 July 1995 and the amendments entered into force on 1 January 1996.

SOLAS (new chapters IX, X and XI)

These amendments were adopted by the Conference of Contracting Governments to the International Convention for the Safety of Life at Sea, 1974 on 24 May 1994 by resolution 1 of the Convention. The conditions for the entry into force of the amendments sets out in annex 1 to the resolution were met on 1 July 1995 and the amendments entered into force on 1 January 1996.

SOLAS (chapters VI and VII)

These amendments were adopted by the Maritime Safety Committee on 9 December 1994 by resolution MSC.42(64). The conditions for their entry into force were met on 1 January 1996 and the amendments entered into force on 1 July 1996.

SOLAS (chapter V)

These amendments were adopted by the Maritime Safety Committee at its sixty-fifth session (May 1995) by resolution MSC.46(65). The conditions for their entry into force were met on 1 July 1996 and the amendments will enter into force on 1 January 1997.

(*ii*) *1994 amendments to the International Convention for the Safety of Life at Sea, 1974*

SOLAS (chapters V, II-2)

These amendments were adopted by the Maritime Safety Committee on 23 May 1994 by resolution MSC.31(63). The conditions for the entry into force of the amendments set out in annex 1 to the resolution (ship reporting systems, emergency towing arrangements on tankers) were met on 1 July 1995 and the amendments entered into force on 1 January 1996.

New chapters IX, X and XI

These amendments were adopted by the Conference of Contracting Governments to the International Convention for Safety of Life at Sea, 1974 on 24 May 1994 by resolution 1 of the Conference. The conditions for the entry into force of the amendments set out in annex 1 to the resolution (new chapter X, -"Safety measures for high-speed craft, new chapter XI, -Special measures to enhance maritime safety") were met on 1 July 1995 and the amendments entered into force on 1 January 1996.

SOLAS (chapters VI and VII)

These amendments were adopted by the Maritime Safety Committee on 9 December 1994 by resolution MSC.42(64). The conditions for their entry into force were met on 1 January 1996 and the amendments will enter into force on 1 July 1996.

(iii) 1994 amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978

These amendments were adopted by the Maritime Safety Committee on 23 May 1994 by resolution MSC.33(63). The amendments deal with training requirements for personnel on tankers. The conditions for their entry into force were met on 1 July 1995 and the amendments entered into force on 1 January 1996.

(iv) 1995 amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978

These amendments, together with the Seafarer's Training, Certification and Watchkeeping (STCW) Code, were adopted by the Conference of the Parties to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 on 7 July 1995. The amendments represent a major revision of the Convention. One of the key features is the adoption of the new STCW Code, to which many of the technical regulations have been transferred. Part of the Code is mandatory and part of it contains recommendations only. Under the tacit acceptance procedure, the conditions for entry into force of the amendments were met on 1 August 1996 and the amendments will enter into force on 1 February 1997.

10. WORLD INTELLECTUAL PROPERTY ORGANIZATION

The year 1996, which was the first of a new programming biennium (1996-97), was marked by a high level of WIPO activities in its three main fields of work: cooperation with developing countries in the strengthening of their intellectual property systems (development cooperation); promotion of the adoption of new, or the revision of existing, norms for the protection of intellectual property at the national, regional and multilateral levels (norm-setting); and facilitating the acquisition of intellectual property protections, through international registration systems (registration activities).

(*a*) DEVELOPMENT COOPERATION ACTIVITIES

The resources for development cooperation are double in the Organization's budget of what they were in the 1994-1995 budget in order to meet the ever increasing needs of assistance of developing countries.

The main forms in which WIPO provided assistance to developing countries I the fields of industrial property and copyright and neighboring rights continued to be the development of human resources, the provision of legal advice and technical assistance for the automation of administrative procedures, and the retrieval of technological information.

Many of the development cooperation activities were carried out by WIPO with particular attention to the new needs of developing countries in the context of the 1994 Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS Agreement).[289] Thus, the training programs organized by WIPO in 1996

(training courses, seminars, workshops and similar meetings at the national, regional and global levels) systematically covered the TRIPS Agreement, as did the terms of reference of WIPO officials and consultants undertaking advisory missions to developing countries.

During the year, WIPO organized four regional mega-symposiums entirely devoted to the subject of the implications of the TRIPS Agreement for developing countries: one for English-speaking African countries in Pretoria, one for French-speaking African countries in Abidjan, one for the countries of Asia and the Pacific region in Jakarta, and one for the Latin American and Caribbean countries in Caracas. A similar mega-symposium for Arab countries had been organized by WIPO in December 1995, in Cairo. The travel costs of some 200 persons at these meetings were borne by WIPO. Furthermore, in September 1996, WIPO organized in Geneva, in cooperation with the World Trade Organization, a workshop on "TRIPS and Border Enforcement" which was attended by 120 participants from government departments concerned with intellectual property enforcement issues in various countries as well as permanent missions in Geneva.

During the period under review, a total of 120 developing countries, one Territory and nine intergovernmental organizations of developing countries benefited from WIPO's development cooperation programme. Furthermore, 144 courses, seminars or other meetings were held at the global, regional, or national levels, providing training or information to some 12,000 (9,500 in 1995) persons coming from the government and private sectors of developing countries. The travel and living expenses of some 1,200 persons were borne by WIPO. Individual training was organized for 109 nationals of developing countries (89 in 1995). In addition, eight long-term fellowships were granted by WIPO to government officials of developing countries for academic training in institutions of higher learning.

The subjects covered by training activities included the implications of the TRIPS Agreement and legislative, enforcement, administrative, economic and technological aspects of intellectual property. Special training programmes were designed for specific groups, such as policy makers and lawmakers, government officials in charge of the administration of intellectual property, legal practitioners, the judiciary, law enforcement officials, scientists, researchers, academics and entrepreneurs. The subject of the valuation of intellectual property assets was also addressed for the first time in the seminar held at Beijing in November 1996.

A special feature of WIPO's activities for developing countries continued to be the holding of sessions of the "WIPO Academy". In 1996, there were two two-week sessions for middle- and senior-level government officials form 28 countries. The aim of each session was to present, for reflection and discussion, current intellectual property issues in such a way as to highlight the policy considerations behind them and thereby enable the participants in the Academy, on their return to their countries, to better formulate appropriate policies for their Governments.

In the area of legal and technical advice to developing countries, 213 advisory missions were undertaken to 73 developing countries in a variety of fields, including the implications of the TRIPS Agreement, the enactment of laws or the revision of existing ones (particularly to comply with the obligations arising

from the Agreement, (the modernization of national industrial property and copyright administrative infrastructure, including streamlining and computerization of administrative procedures, strengthening of links between national industrial property administrations and the private sector, promotion of invention and innovation, collective copyright management, the establishment of industrial property information services and the creation of national facilities for intellectual property teaching. A number of such advisory missions also provided on-the-job training to staff of national administrations on specialized industrial property areas such as patent and trademark examination and classification and assisted I the installation of computer equipment and software. In total, 330 consultants were engaged either for advisory missions or as lecturers in courses and seminars, representing a 20 per cent increase over 1995.

With regard to the provision of computer software and hardware, 80 developing countries received CD-ROM workstations, personal computers or other modern office equipment and CD-ROMs containing legislative and patent information.

In carrying out its development cooperation programme, WIPO received funds-in-trust from France and Japan and executed projects financed by the United Nations Development Programme, the European Patent Office and the Commission of the European Communities.

Cooperation with developing countries at the regional or subregional level was further strengthened by the continued cooperation with the African Intellectual Property Organization (OAPI), the African Regional Industrial Property Organization (ARIPO), the Association of South East Asian Nations (ASEAN), the Board of the Cartagena Agreement (JUNAC), the Islamic Educational, Scientific and Cultural Organization (ISESCO), the Latin American Economic System (SELA), the Organization of African Unity (OAU), the Permanent Secretariat of the General Treaty on Central American Economic Integration (SIECA) and the Southern Common Market (MERCOSUR).

A special feature of the development cooperation programme in 1996 was the planning and implementation of WIPO-financed country projects for a number of developing countries. For each project, the assistance needs of a given developing country in the field of intellectual property are identified jointly by WIPO and the authorities of the country. A plan of action is then prepared, on a pluri-annual basis by those authorities and WIPO and implemented.

In July 1996, at WIPO's initiative, cooperation between WIPO and the World Customs Organization was formalized through an exchange of letters. Such cooperation consists of an exchange of information, as well as periodic consultations between the two organizations to establish a schedule of activities of common interest.

(*b*) Norm-setting activities

In the area of norm-setting the year was marked by the entry into force of the 1994 Trademark Law Treaty[290] on 1 August 1996 and the adoption of two new treaties in the field of copyright and neighboring rights in December 1996 (see below). The year 1996 also witnessed decisions on future work relating to the development of the 1995 Hague Agreement concerning the International Deposit of Industrial Designs[291] and the draft Treaty on the Settlement of Intel-

lectual Property Disputes between States. There was progress in the work of the Committee of Experts for the planned Patent Law Treaty, and international discussions on a more effective protection of well-known marks and the commencement of examination of questions concerning trademarks and Internet domain names.

The WIPO Diplomatic Conference on Certain Copyright and Neighboring Rights Questions, convened by the Director General of WIPO, was held at Geneva from 2 to 20 December 1996. The Conference adopted two treaties, the 1996 WIPO Copyright Treaty (WCT)[292] and the 1995 WIPO Performances and Phonograms Treaty (WPPT)[293]. One hundred and thirty countries and 83 organizations, represented by some 762 delegates participated.[293] The new treaties clarify existing rights or establish new rights for authors, performing artists (mainly in the aural fixations of their performances) and producers of sound recordings, especially when their works, fixed sound performances or phonograms are used by digital means, as in the Internet.

The Diplomatic Conference urged the continuation of WIPO's efforts for the conclusion of an "Audiovisual Protocol" to complement the WPPT in respect of the rights of performers in the audio-visual fixations of their performance, and a "Database Treaty" for providing a sui generis protection for databases even if they do not qualify for copyright protection.

In the patent area, the Committee of Experts on the Patent Law Treaty (PLT) held two sessions, in June and November 1996, respectively. The Committee considered draft provisions for the proposed PLT and its Regulations, and agreed that, with respect to application formalities, the PLT should follow, to the maximum extent possible, the solutions provided for in the 1970 Patent Cooperation Treaty (PCT)[294] and the PCT Regulations.

Concerning the settlement of intellectual property disputes between States, following a session of a Committee of Experts in July 1996, the WIPO General Assembly decided in September/October 1996 that the draft programme and budget for the 1998-1999 biennium would contain an interim for the holding of a diplomatic conference in the first half of 1998 and that the International Bureau should prepare, by April 1997, a revised draft treaty and draft regulations to serve as the basic proposal for a diplomatic conference.

As regards well-known marks, draft provisions for improved protection of this category of marks were examined in October 1996 by the CHCE of Experts at a second session. The Committee's work will continue in 1997.

As concerns the exploration of new areas of concern for the protection of intellectual property, the Governing Board at the September/October 1996 session requested the International Bureau: (*a*) study the feasibility of an "international deposit" system for nucleotide and/or amino acid sequence listings; (*b*) to study the need for, and feasibility of, the establishment of an international centralized system for recording assignments of patent applications and of patents; (*c*) to conduct a preliminary study concerning a possible new treaty on intellectual property in respect of integrated circuits, which should be in conformity with the provisions of the TRIPS Agreement; and (*d*) to study international intellectual property issues arising from the new global information infrastructure, including the Internet. As regards the latter point, in the fall of 1996 WIPO started preparations for the first meeting, to be held in February 1997, of a group of consultants on trademarks and Internet domain names.

Several new publications were prepared and issued by WIPO in 1996. They included a study on the implications of the TRIPS Agreement on treaties administered by WIPO[295] model provisions on protection against unfair competition.[296] A special brochure was also published containing the text of the WIPO/WTO Cooperation Agreement, accompanied by the text of the TRIPS Agreement and the texts of the provisions mentioned in the TRIPS Agreement of the Paris Convention (1967), the Berne Convention (1971), the Rome Convention (1961), the Treaty on Intellectual Property in Respect of Integrated Circuits (1989), the General Agreement on Tariffs and Trade 1994 (GATT 1994) and the WTO Dispute Settlement Understanding (1994).[297]

(c) International registration activities

Regarding the 1970 Patent Cooperation Treaty (PCT), the increase in the number of international applications filed under the PCT continued in 1996, with a record number of 47,291 international applications filed in 1996, representing a 21.6% increase over 1995 and the equivalent of some 2.5 million national applications. Training seminars and other information meetings on the advantages of the PCT system and its use continued to be organized by WIPO in 40 different countries, in 10 different languages, for an audience of some 7,700 actual and potential PCT users.

The weekly publication of the PCT Gazette, in separate English and French editions, continued in 1996. In May, two special issues of the PCT Gazette were published, one containing the amended list of PCT minimum documentation (list of periodicals), and another containing the amended list of PCT minimum documentation (list of periodicals), and another containing the consolidated text of the Administrative Instructions under the PCT, as in force from May 6, 1996. The PCT Applicant's Guide, which contains information on the filing of international applications and the procedure during the international phase as well as information on the filing of international applications and the procedure during the international phase as well as information on the national phase and the procedure before the designated (or elected) Offices, was updated twice in 1996 to include the many changes that had occurred during the year in respect of the PCT.

Concerning the Madrid system, the total number of international trademark registrations recorded in the International Register in 1996 was 18,485 and the combined total of international trademark registrations and renewals was 22,995, which represented an increase of 1.5% compared to 1995.

As an average of 10.79 countries were designated by registration, the 18,485 and the combined total of international trademark registrations and renewals was 22,995, which represented an increase of 1.5% compared to 1995.

As an average of 10.79 countries were designated by registration, the 18,485 registrations were equivalent to some 200,000 national registrations. Operations under the 1989 Madrid Protocol[298] stated on April 1, 1996,[299] which was also the date of entry into force of the Common Regulations under the 1991 Madrid Agreement and Protocol including the Schedule of Fees, which had been adopted by an extraordinary session of the Madrid Assembly in January 1996.

The April 1, 1996, date, it is observed, coincided with the date of entry into operation of the Community Trade Mark System. In connection with the entry into force of the Madrid Protocol and of the said Common Regulations, WIPO officials gave presentations on the Madrid system at 32 seminars and training courses in 15 countries. Furthermore, WIPO organized, in June, two seminars entirely devoted to the subject of the Madrid system. Also, study visits to the International Register of Marks were organized by WIPO for officials from 57 countries. Furthermore, WIPO organized, in June, two seminars entirely devoted to the subject of the Madrid system. Also, study visits to the International Register of Marks were organized by WIPO for officials from 57 countries. A new guide to the international registration of marks under the Madrid Agreement and the Madrid Protocol was published by WIPO in April 1996 for the benefit of users and administrations. In June 1996, WIPO started to publish, on a biweekly basis, the bilingual publication Gazette OMPI des marques internationales/WIPO Gazette of International Marks, which covers the registrations, renewals and modifications received by the International Bureau under the new Madrid system.

Regarding the Hague system the total of international industrial design deposits, renewals and prolongations was 5,830 in 1996, representing an increase of 3.9% compared to 1995. Work continued in order to make the Hague system accessible to more countries. The Committee of Experts reviewed, in October 1996, the drafts of the International Bureau for a new Act of the Hague Agreement.

(*d*) COUNTRIES IN TRANSITION TO A MARKET-ECONOMY SYSTEM

Since its entry into force, on January 1, 1996, the 1994 Eurasian Patent Convention[300] allows an individual, irrespective of nationality or domicile, to obtain a Eurasian patent, which has effect in all the Contracting States, by filing a single application with, and making a single payment to, the Eurasian Patent Office, which is located in Moscow. By December 31, 1996, nine States, Armenia, Azerbaijan, Belarus, Kazakastan, Kyrgyszstan, the Republic of Moldova, the Russian Federation, Tajikistan and Turkmenistan, had deposited with the Director General of WIPO, who is the depositary of the Convention, their instruments of adherence to the Eurasian Patent Convention. It is to be noted that only countries party to the Paris Convention[301] and the PCT may adhere to the Eurasian Patent Convention.

Technical cooperation with countries in transition to a market-economy system continued in 1996. Nine national and regional seminars and other meetings in the fields of industrial property and copyright and neighboring rights were organized by WIPO for 960 individuals from government and other interested circles. WIPO officials and consultants undertook seven missions to countries in order to provide advice, in particular, on the revision of existing, or the drafting of new, intellectual property legislation (including the implications of the TRIPS Agreement on national legislation), the advantages of adherence to WIPO-administered treaties and the establishment or strengthening of national infrastructure for the administration of intellectual property. In several instances, following the missions, WIPO prepared and sent to the governments concerned draft laws and/or regulations, with commentaries.

(e) WIPO Arbitration and Medication Centre

In 1996, the WIPO Arbitration and Medication Centre continued to undertake a number of promotional activities on the features and advantages of this new space, including a conference on mediation in March, two training programs on mediation in intellectual property disputes in May, and a workshop for arbitrators in November. The third meeting of the WIPO Arbitration and Medication Council, held in November, reviewed the activities of the Center over the 12 preceding months, and examined proposed WIPO Emergency Relief Rules prepared by the International Bureau, with the assistance of a group of experts.

(f) Cooperation with the World Trade Organization

The period under review was marked by the entry into force, on January 1, 1996, of the 1995 Cooperation Agreement between WIPO and the WTO.[302] The Agreement establishes arrangements for cooperation between WIPO and the WTO in respect of the following three areas: (*a*) as far as the texts of the intellectual property laws and regulations of WTO Members notified to the WTO are concerned, the collection of such texts, assistance in their translation where translation is required, furnishing of copies of such texts and translations, and making them accessible through WIPO's computerized database of the said texts and translations; (*b*) as far as the State emblems of WTO Members notified to the WTO are concerned, their notification and publication (also in CD-ROM form); and (*c*) as far as legal-technical assistance to developing countries that are WTO Members is concerned, organizing meetings and missions for the promotion of the implementation of the TRIPS Agreement.

In 1996, WIPO gave to the WTO copies of some 300 intellectual property laws, regulations and/or translations, which a WTO Member had stated to be available in the collection of WIPO. During the same year, WIPO received from the WTO the text of some 500 intellectual property laws and regulations which had been notified to the WTO, and integrated these into WIPO's collection. During the same period, WIPO designed a computerized bibliographic database of intellectual property laws and regulations notified by WTO Members. Also, work started in the International Bureau for the creation of a WIPO full-text computerized database of the said intellectual property laws and regulations. Numerous translations of intellectual property legal texts continued to be carried out by WIPO, mainly for the purpose of publication in paper and electronic format.

(g) New adherences to treaties

The growing importance given to the effective protection of intellectual property was evidenced by the growing membership in WIPO-administered treaties.

In 1996, the following States became party to the following treaties (the figures in parenthesis indicate the total number of States party to the treaties as at 31 December 1996):

WIPO Convention: [303] Mozambique (158);

Paris Convention: [304] Colombia, Nicaragua, Panama, United Arab Emirates (140);

Berne Convention: [305] Haiti, Panama, Republic of Korea, Turkey (119);

Budapest Treaty: [306] Canada, Estonia, Israel (38);

Rome Convention: [307] Saint Lucia, Slovenia, Venezuela (52);

Geneva (Phonograms) Convention: [308] Slovenia (54);

Brussels (Satellites) Convention: [309] Portugal, Trinidad and Tobago (21);

Nairobi Treaty: [310] Poland (37);

Strasbourg Agreement: [311] Canada, Cuba, Malawi, Trinidad and Tobago (21);

Nice Agreement: [312] Estonia, Guinea, Trinidad and Tobago, Turkey (48);

Locarno Agreement: [313] China, Estonia, Guinea, Trinidad and Tobago (28);

Vienna Agreement: [314] Guinea (8);

Patent Cooperation Treaty (PCT): [315] Bosnia and Herzegovina, Cuba, Israel, Saint Lucia, Turkey (87);

Madrid Protocol: [316] Czech Republic, Democratic People's Republic of Korea, Denmark, Finland, Germany, Monaco, Norway (12);

Hague Agreement: [317] Bulgaria (26);

Trademark Law Treaty: [318] Czech Republic, Monaco, Republic of Moldova, Sri Lanka, Ukraine, United Kingdom of Great Britain and Northern Ireland (6);

Eurasian Patent Convention; 319 Armenia, Kyrgyzstan, Republic of Moldova (9).

(*h*) INTERNET

In September 1996, WIPO opened its own web site on the Internet. The site contains, among other things, general information on WIPO, its catalogue of publications, the status of membership of WIPO and the treaties administered by it. In December 1996, on the occasion of the Diplomatic Conference on Certain Copyright and Neighboring Rights Questions, all conference documents, press releases and texts of the treaties and statements which were adopted by the Conference were made available through the Internet.

11. INTERNATIONAL FUND FOR AGICULTURAL DEVELOPMENT

(*a*) MEMBERSHIP

At its nineteenth session (17-18 January 1996), the Governing Council approved the non-original membership IFAD of the Republic of Moldova and South Africa, and decided that both States should be classified as members of category III in accordance with articles 3.2 (*b*), 3.3 (*a*), 4.2 (*b*) and 13.1 (*c*) of the 1976 Agreement Establishing IFAD[320] and section 10 of the By-laws for the Conduct of Business of the Fund.

(*b*) Review of IFAD's resource requirements and related governance issues

At its nineteenth session, the Governing Council, adopted on 17 January 1996, resolution 93/XIX on the Amendment of Governing Council Resolutions 86/XVIII and 87/XVIII.[321] Resolution/XVIII, was adopted on 26 January 1995 on the Amendment of the Agreement Establishing IFAD, the By-laws for the Conduct of Business of IFAD and other Basic Legal Instruments of the Fund, was adopted on 26 January 1995. Resolution 87/XVIII, on the Fourth Replenishment of IFAD's Resources, was adopted on 26 January 1995.

Resolution 93/XIX amended paragraph VIII(*b*) of resolution 86/XVIII as follows (the deleted text is placed between square brackets, and the added text is in italics):

> Nothwithstanding anything specified to the contrary above, the election of members and alternate members to the Executive Board at the annual session of the Governing Council following or coinciding with the completion of resolution 87/VXIII shall be conducted in accordance with the amendments to the Agreement Establishing IFAD, the By-laws for the Conduct of Business of IFAD, the Rules and Procedure of the Governing Council and Governing Council resolution 77/2.

The resolution also amended paragraph III of resolution 87/XVIII as follows (the deleted text is placed between square brackets and the added text is in italics.

> In view of the urgency of completing the Replenishment, [t]he Executive Board, taking into account the report of the President of IFAD, is requested to take action at the earliest possible time to complete this resolution in accordance with its provisions, including the allocation of the amounts pledged contributions in attachment A hereto. The Executive Board shall take such action only at the moment that pledges shall have been received equaling at least ninety per cent (90%) of the four hundred and twenty million dollars (US$ 420,000,000) target of the former category I member countries and eighty-five per cent (85%) of the combines one hundred and fifty million dollars (US$ 150,000,000) target of the former category II and III member countries. In the event that such pledges do not reach the above-mentioned target levels, the President shall convene a meeting of the Consultation at an appropriate time. The Consultation shall then recommend what further action shall be taken."

Resolution 86/XVIII required amendment because its entry into force was dependent upon completion of resolution 87/XVIII; as resolution 86/SVIII had not entered into force by the nineteenth session of the Governing Council, the date of which the new composition of, and system for electing members to, the Executive Board needed to be prolonged.

Resolution 87/XVIII had not been "completed" by the scheduled date of the nineteenth session of the Governing Council; as such, it needed to be extended.

(*c*) IFAD'S LENDING TERMS AND CONDITIONS

At its nineteenth session, the Governing Council, on 18 January 1996, adopted, resolution 94/XIX on the Amendment of the Lending Policies and Criteria. The amendment changes paragraph 33 (*b*) of IFAD's Lending Policies and Criteria as follows (the deleted text is placed between square brackets and the added text is in italics)"

33. The Executive Board shall:

(*b*) decided, annually, the rate of interest to be applied, respectively, to loans on intermediate and ordinary terms. For that purpose, it shall review annually the rates of interest applicable to loans on intermediate and ordinary terms and revise such rates, if necessary, on the basis of the reference rate of interest in effect on 1 July of each year.

The above-mentioned amendment to the Lending Terms and Criteria entered into force immediately upon its adoption and came into effect as from 1 January 1996.

The purpose of resolution 94/XIX is to allow IFAD to set its reference rate of interest for each calendar year on the basis of the International Bank for Reconstruction and Development's interest rate for the immediately preceding period of July-December. This modification allows for simplification of administration procedures and for IFAD's borrowing member States to be notified in advance of the rate that will apply in any calendar year.

(*d*) PROJECT SUPERVISION

After having considered the follow-up report on project supervision, the Governing Council, at its nineteenth session, decided to request the Executive Board at its fifty-seventh session to consider draft terms of reference for the review of supervision-related issues.

The Executive Board, at its fifty-seventh session (17-18 April 1996), endorsed the terms of reference contained in the Policy Paper on Supervision Issues for IFAD-Financed Projects: Scope and Organization of a Joint Review with the Cooperating Institutions." The Executive Board suggested that the terms of reference should be further elaborated, and that the final recommendations form the review process should be submitted to it at its fifty-ninth session in December 1996.

The Executive Board, at its fifty-ninth Session (4-5 December 1996), considered the report of the Joint Review on Supervision Issues for IFAD-financed Projects and recommended forwarding the report to the Governing Council at its twentieth session along with a brief summary of the Executive Board's comments, including the reservation of several Executive Board Directors on the recommendation to have IFAD undertake direct supervision of a small number of projects: some Directors felt that direct supervision by IFAD should not be undertaken before efforts to improve the existing system were made.

(e) Cooperation Agreements

The Executive Board, at its fifty-seventh session, approved the establishment of two Cooperation Agreements: one with the African Export-Import Bank (Afreximbank), and one with the Permanent Interstate Committee for Drought Control in the Sahel (CILSS).

12. WORLD TRADE ORGANIZATION

(a) Membership

During 1996, the following nine States became original members pursuant to article XI of the 1994 Marrakesh Agreement Establishing the World Trade Organization (WTO Agreement):[322] Fiji, Haiti, Benin, Rwanda, Solomon Islands, Chad, Gambia, Angola and Niger. In addition, Qatar, Ecuador, St.Kitts and Nevis, Grenada, United Arab Emirates, Papua New Guinea and Bulgaria acceded to the WTO Agreement, making the total membership at the end of the year 128.

(b) Dispute settlement

In December 1996, the Dispute Settlement Body (DSB) adopted the Rules of Conduct for the Understanding on Rules and Procedures Governing the Settlement of Disputes.[323]

During 1996, 39 requests for consultations were received pursuant to article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) and a corresponding provision in the Agreement on Textiles and Clothing.[324] The DSB established panels regarding the following cases:

Brazil – Measures Affecting Desiccated Coconut, complaint by the Philippines[325]

United States – Restriction on Imports of Cotton and Man-Made Fibre Underwear, complaint by Costa Rica[326]

United States – Measures Affecting Imports of Women's and Girls' Wool Coats, complaint by India[327]

United States – Measure Affecting Imports of Woven Wool Shirts and Blouses, complaint by India[328]

European Communities – Regime for the Importation, Sale and Distribution of Bananas, complaints by Ecuador, Guatemala, Honduras, Mexico and the United States[329]

European Communities – Measures Concerning Meat and Meat Products (Hormones), complaint by the United States[330] and Canada[331]

Canada – Certain Measures Concerning Periodicals, complaint by the United States[332]

Japan – Measures Affecting Consumer Photographic Film and Paper, complaint by the United States[333]

United States – The Cuban Liberty and Democratic Solidarity Act, complaint by the European Communities[334]

India – Patent Protection for Pharmaceutical and Agricultural Chemical Products, complaint by the United States[325]

During 1996, the DSB adopted panel and Appellate Body reported on the following cases:

United States – Standards for Reformulated and Conventional Gasoline, complaints by Venezuela[336] and Brazil[337]

Japan – Taxes on Alcoholic Beverages, complaints by the European Communities,[338] Canada[339] and the United States of America[340]

13. INTERNATIONAL ATOMIC ENERGY AGENCY

(*a*) PRIVILEGES AND IMMUNITIES

During 1996, the only change in the status of the 1959 Agreement on the Privileges and Immunities of the International Atomic Energy Agency[341] was that the Czech Republic withdrew its reservation. At the end of 1996, there were 65 parties.

(*b*) LEGAL INSTRUMENTS

Convention on the Physical Protection of Nuclear Material, 1979[342]

During 1996, Ecuador, Monaco, the former Yugoslav Republic of Macedonia and Tajikistan adhered to the Convention. By the end of the year, there were 57 parties.

Convention on Early Notification of a Nuclear Accident, 1986[343]

During 1996, the former Yugoslav Republic of Macedonia adhered to the Convention. By the end of the year, there were 76 parties.

Convention on Assistance in the Case of Nuclear Accident or Radiological Emergency,[344] *1986*

In 1996, the former Yugoslav Republic of Macedonia adhered to the Convention. By the end of the year, there were 72 parties.

Vienna Convention on Civil Liability for Nuclear Damage, 1963[345]

During 1996, Ukraine acceded to, and the Russian Federation signed the Convention. By the end of the year, there were 27 parties.

Joint Protocol Relating to the Application of the Vienna Convention and the Paris Convention Paris Convention in Third Party Liability in the Field of Nuclear Energy of 1960,[326] *1988*

During 1996, the status of the Convention remained unchanged, with 20 parties.

Convention on Nuclear Safety,[347] *1994*

The Convention on Nuclear Safety entered into force on 24 October 1996. By the end of 1996, there were 65 signatories, and 32 States had consented to be bound to the Convention, namely: Australia, Bangladesh, Bulgaria, Canada, Chile, China, Croatia, Czech Republic, Finland, France, Hungary, Ireland, Japan, Latvia, Lebanon, Lithuania, Mali, Mexico, Netherlands, Norway, Poland, Republic of Korea, Romania, Russian Federation, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Turkey, United Kingdom of Great Britain and Northern Ireland.[348]

Extension of the African Regional Cooperative Agreement for Research, Development and Training Related to Nuclear Science and Technology[349] *(AFRA), 1990*

In 1996, the Libyan Arab Jamahiriya and Mali accepted the extension of the Agreement, making a total of 20 parties.

Agreement to Extend the Regional Cooperative Agreement for Research, Development and Training Related to Nuclear Science and Technology, 1987 (RCA)[350]

During 1996, the status of the Agreement remained unchanged, with 17 parties.

(*c*) Safeguards Agreements[351]

During 1996, Safeguards Agreements pursuant to the 1968 Treaty on the Non-Proliferation of Nuclear Weapons[352] entered into force with Dominica[353], Monaco,[354] and St. Kitts and Nevis[355] Austria acceded to the Non-Proliferation Treaty Safeguards Agreement between the non-nuclear-weapon States of Euratom, Euratom and the Agency.[356] Two additional Safeguards Agreements pursuant to the Non-Proliferation Treaty were concluded with Algeria and the Czech Republic, but have not yet entered into force.

Safeguards Agreements pursuant to the Non-Proliferation Treaty and the 1967 Treaty of Taltelolco[357] entered into force with Antigua and Barbauda,[358] Grenada[359] and Barbados.[360].

A project agreement with Nigeria covering the supply of a research reactor and enriched uranium also entered into force in 1996.[361]

[348] For the United Kingdom of Great Britain and Northern Ireland, the Bailiwick of Guernsey, the Bailiwick of Jersey and the Isle of Man.

An agreement through an exchange of letters was concluded between Chile and the Agency[362] confirming that the Safeguards Agreement concluded pursuant to the Treaty of Tlatelolco satisfied the obligations of Chile under article III of the Non-Proliferation Treaty. An agreement through an exchange of letters was concluded between St. Lucia and the Agency[363] confirming that the Safeguards Agreement concluded pursuant to the Non-Proliferation Treaty satisfied the obligations of St. Lucia under article 13 of the Treaty of Tlatelolco.

A protocol suspending the application of safeguards under the Safeguards Transfer Agreement relating to an agreement between the Agency, Brazil and the United States of America[364] entered into force. A similar protocol relating to a bilateral agreement between Argentina and the United States was signed, but has not entered into force.

By the end of 1996, there were 214 Safeguards Agreements in force with 131 States, 111 of which had been concluded pursuant to the Non-Proliferation Treaty and/or the Tlatelolco Treaty with 114 non-nuclear-weapon States. Voluntary offer agreements are in force with all five nuclear-weapon States.

(*d*) Liability for nuclear damage

In 1996, the Standing Committee on Liability for Nuclear Damage held three sessions, during which it resolved most of the outstanding issues regarding both the draft protocol to amend the Vienna Convention and the draft convention on supplementary funding. In particular, experts agreed on such important issues as the amounts of liability, definition of damage and related provisions, structure of supplementary funding, as well as phasing-in mechanisms which would allow a State to join the revised Vienna Convention and Convention on Supplementary Funding with interim, lower amounts of liability.

At its sixteenth session, in October 1996, the Standing Committee prepared the full texts of both drafts instruments. Only a few provisions remained outstanding in the draft Supplementary Funding Convention.

The Standing Committee concluded that, as a package, each text reflected what was possible to achieve in the Committee without further guidance. It was agreed that the texts and the substantive package they reflected should be referred to Governments for detailed scrutiny. To take into account the views of Governments thereof, a final meeting of the Standing Committee was scheduled for February 1997, when the Committee expected to adopt final texts for submission to the Board of Governors so that the latter could then take a decision regarding the convening of a diplomatic conference later in the year.

(*e*) Safety of radioactive waste management

The Open-ended Group of Legal and Technical Experts on a Convention on the Safety of Radioactive Waste Management met three times in 1996. The Group agreed on most of the technical aspects of the Convention and made considerable progress regarding some specific elements, such as: the subject of spent fuel, transboundary movement of spent fuel or radioactive waste and the relation of the draft Convention with the Convention on Nuclear Safety.

It is expected that the draft text of the Convention will be put before a Diplomatic Conference in 1997.

NOTES

[1] For detailed information, see The United Nations Disarmament Yearbook, vol. 21: 1996 (United Nations publication, Sales No. 97.IX.1).

[2] A/50/1027.

[3] General Assembly resolution 50/245.

[4] The bilateral negotiation known as strategic arms reduction talks (START), conducted by the Russian Federation and the United States of America, led to the signing of two treaties: START I and START II. The former, signed on 31 July 1991, provides for a significant reduction of the Russian and United States strategic nuclear weapons over seven years. A letter signed on 3 January 1993, provides inter alia, for the reduction of strategic nuclear workheads to no more than 3,000 to 3,500 each by 2003.

[5] A/51/218; see also chap. VII of this Yearbook for the text of the opinion.

[6] See Status of Multilateral Arms Regulation and Environment Agreements, 4th edition: 1992, vol. 1 93.IX.1 (Vol. 1)

[7] Adopted by a recorded vote of 167 to none, with two abstentions.

[8] Convention to ban the Importation into Forum Island Countries of Hazardous and Radioactive Wastes and to Control the Transboundary Movement and Management of Hazardous Wastes within the South Pacific Region. Signed at Waigani, Papeile, New Guina, on 16 September 1995.

[9] Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biologicak) and Toxin Weapons and on their Destruction: General Assembly resolution 2826 (XXVI), annex.

[10] Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction: Document CD/CW/WP.400/Rev.1.

[11] Adopted by a recorded vote of 165 to none with 7 abstentions.

[12] League of Nations, Treaty Series, vol. XCIV (1929), No. 2138.

[13] The United Nations Register of Conventional Arms was established in 1992 for the purpose of enhancing levels of transparency regarding arms transfers. During 1996, 134 States participated in the Register.

[14] 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: See Status of Multilateral Arms Regulation...(see note 5 above).

[15] For the report of the Subcommittee, see A/AC.105/639.

[16] A/AC.105/C.2/L.202.

[17] For the report of the Committee, see Official Records of the General Assembly, Fifty-first Session, Supplement No. 20 (a51/20).

[18] A/51/276.

[19] See Report of the Second United Nations Conference on the Exploration and Peaceful Uses of Outer Space, Vienna, 9-21 August 1982 and corrigenda (A/CONF.101/10 and Corr. 1 and 2).

[20] Official Records of the General Assembly, Fifty-first Session Supplement No. 20 (A/51/20).

[21] Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (resolution 2222 (XXI), annex; Agreement on the Return of Astronauts and the Return of Objects Launched into Outer Space (resolution 2345 (XXII), annex); Convention on International Liability for Damage Caused by Space Objects (resolution 277 XXVI), annex); Convention on Registration of Objects Launched into Outer Space (resolution 3235 (XXIX), annex); Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (resolution 34/68, annex).

[22] Official Records of the General Assembly, Fifty-first Session, Supplement No. 1 (A/51/1/).

[23] *Official Records of the Security Council, Fifty-first year, Resolutions and decisions of the Security Council, 1996*, document S/PRST/1996/13.

[24] A/51/130 and Corr.1.

[25] A/51/350.

[26] Report of the International Conference on Population and Development, Cairo, 5-13 September 1994 (United Nations publication, Sales No. E 95. XIII.18), chap. I, resolution I, annex.

[27] Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992 (United Nations publication, Sales No. E.93.I.8 and corrigenda), vol. I: Resolutions Adopted by the Conference, resolution 1, annex II.

[28] Ibid. annex 1.

[29] A/51/420.

[30] Supra note 28.

[31] UNEP/Bio. Div/N.7-INC.5/4.

[32] See A/51/312.

[33] Ibid. annex II, decision II/10.

[34] A/AC.241/15/Rev.3.

[35] A/51/186-E/1996/80.

[36] A/51/116, annex 1, appendix II.

[37] Ibid., annex II.

[38] Decision 1/CP.3 of the Conference of the Parties to the Convention at its first session. See FCCC/CP/1996/15/Add.1.

[39] Ibid., annex.

[40] E/CN.15/1996/5.

Ref 41-47: See pp 243-244

[41] Resolution 50/6.

[42] Resolution 49/60, annex.

[43] See resolution 49/159.

[48] A/51/327.

[49] See A/49/748, annex, sect. I.A.

[50] A/CONF.169/16.

[51] United Nations, Treaty Series, vol. 520, p. 151.

[52] Ibid., vol. 1019, p. 175.

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

[54] Ibid., p. 105.

[55] E/CONF.82/15 and Corr.2; United Nations publication (Sales No.E.91.XI.6).

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

[57] Ibid., sect. A.

[58] Resolution S-17/2, annex.

[59] A/45/262, annex.

[60] See A/49/139-E/1994/57.

[61] See A/49/748, annex, sect. I.A

[62] A/51/129-E/1996/53, A/51/436, A/51/437 and A/51/469.

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

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

[65] Ibid.

[66] General Assembly resolution 44/128, annex.

[67] Resolution 2106 A (XX), annex; United Nations, Treaty Series, vol. 660, p. 195.

[68] Official Decade of the General Assembly, Fifty-first Session, Supplement No. 18 (A/51/18).

[69] A/51/435.

[70] Resolution 3068 (XXVIII) annex; United Nations, Treaty Series, vol. 1015, p. 243.

[71] Resolution 34/180, annex; United Naitons, Treaty Series, vol. 1249, p. 13.

[72] A/CONF. 157/24 (Part I), chap. III.

[73] Official Decade of the General Assembly, Fiftieth Session Supplement No. 38 (A/50/38)

[74] Ibid., Fifty-first Session, Supplement No. 38 (A/51/38).

[75] Official Records of the Economic and Social Council, 1996, Supplement No. 6 (E/1996/26), annex III.

[76] A/51/227 and Corr. 1.

[77] General Assembly res 39/46, annex; United Nations, Treaty Series, vol. 1465, p. 85.

[78] Official Records of the General Assembly, Fifty-first Session, Supplement No. 44 (A/51/44).

[79] General Assembly resolution 44/25, annex.

[80] General Assembly resolution 45/158, annex.

[81] General Assembly resolution A/51/415.

[82] Official Records of the General Assembly Fifty-first Session, Supplement No. 36 (A/51/36).

[83] General Assembly resolution 217 A (III).

[84] A/51/425.

[85] A/51/482, annex.

[86] A/51/555.

[87] A/51/457 annex, annex.

[88] United Nations, Treaty Series, vol. 189, p. 137

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

[90] Ibid., vol. 360, p. 117.

[91] Ibid., vol. 989, p. 175.

[92] Official Records of the General Assembly, Fifty-first Session, Supplement No. 12, (A/51/12).

[93] A/51/12/Add. 1 and Corr.

[94] A/51/341.

[95] A/51/367.

[96] A/51/329.

[97] A/51/454.

[98] Decision 51/409; A/51/292-S/1996/665; Official Records of the Security Council, Fifty-first Year, Supplement for July, August and September 1996, document S/1996/665.

[99] Decision 51/410; A/51/399-S/1996/778, annex; Official Records of the Security Council, Fifty-first Year, Supplement for July, August and September 1996, document S/1996/778.

[100] For a summary version of the report, see A/51/451 annex.

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

[102] For detailed information, see the 1996 report of the Secretary-General agenda item on the "law of the sea", A/51/645 and Add. 1 & 2

[103] Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992 (United Nations publication, Sales No. E.93,1.8 and corrigenda, vol I: Resolutions Adopted by the Conference, resolution 1, annex II.

[104] See Official Records of the Economic and Social Council, 1996, Supplement No. 8 (E/1996/28), chap. I, sect. A, para. 1.

[105] Official Records of the General Assembly, Fifty-first Session, Supplement No. 3, (A/51/3/Rev. 1), chap. V, sect B.1, para, 122, resolution 1996/1.

[106] A/51/116, annex I, appendix II, and annex II.

[107] General Assembly resolution 48/263, annex.

[108] A/CONF. 164/37; see also A/50/550, annex I.

[109] A/51/383.

[110] A/51/404.

[111] For the composition of the Court, see General Assembly decision 51/308.

[112] As at 31 December 1996, the number of States recognizing the jurisdiction of the Court as compulsory, in accordance with declarations filed under Article 36, paragraph 2, of the Statute of the International Court of Justice, had increased by one, bringing the total to 61.

[113] For detailed information, see I.C.J. Yearbook, 1995-1996, No. 50, and I.C.J. Yearbook, 1996-1997, No. 51.

[114] I.C.J. Reports 1996, p. 9.

[115] I.C.J. Reports 1995, p. 83.

[116] I.C.J. Reports 1996, p. 6.

[117] Ibid., p. 800.

[118] Ibid., p. 803.

[119] United States Diplomatic and Consular Staff in Tehran, Judgment, I.C.J. Reports 1980, p. 28, para. 54.

[120] I.C.J. Reports 1996, pp. 822-841, 842-846, 847-861, 862-863 and 864-873.

[121] Ibid., pp. 874-889 and 890-900.

[122] Ibid., p. 902.

[123] Ibid., p. 595.

[124] Ibid., pp. 625-630.

[125] Ibid., pp. 631-632.

[126] Ibid., p. 633.

[127] Ibid., pp. 634-639, 640-655 & 656-657.

[128] Ibid., pp. 658-795.

[129] Ibid., p. 797.
[130] Ibid., p. 3.
[131] Ibid., p. 13
[132] Ibid., pp. 26-27, 28, 29 and 30.
[133] Ibid., p. 31.
[134] Ibid., pp. 32-34.
[135] Ibid., p. 35-36.
[136] I.C.J. Reports 1995, p. 87.
[137] I.C.J. Reports 1996, p. 58.
[138] Ibid., p. 61.
[139] Ibid., p. p. 63.
[140] Ibid., p. 66.
[141] I.C.J. Reports 1975, p. 18, para. 15.
[142] I.C.J. Reports 1996, pp. 86 & 87.
[143] Ibid., pp.88-96.
[144] Ibid., pp. 97-100, 101-171 & 172-224.
[145] Ibid., p. 236.
[146] Western Sahara, Advisory Opinion, I.C.J. Reports 1975, p. 18, para. 15.
[147] Interpretation of Peace Treaties with Bulgaria, Hungary and Romania, First Phase, Advisory Opinion, I.C.J. Reports 1950, p. 71.
[148] Nicaragua v. United States of America, I.C.J. Reports 1986, p. 94, para. 176.
[149] I.C.J. Reports 1996, pp. 268-274; 275-276, 277-278, 279-281 and 282-286.
[150] Ibid., pp. 287-293, 294-304 and 305-310.
[151] Ibid., pp. 311-329, 330-374, 375-428, 429-555, 556-582 & 583-593.
[152] Official Records of the General Assembly, Fifty-first Session, Supplement No. 4 (A/51/4).]
[153] For the membership of the Commission, see Official Records of the General Assembly, Fifty-first Session, Supplement No. 10 (A/51/10), chap. I, sect. A.
[154] For detailed information, see Official Records of the General Assembly, Fifty-first Session, Supplement No. 10 and Corr. (A/51/10 and Corr. 1).
[155] A/CN.4/L.522 and Corr. 1.
[156] A/CN.4/476 and Corr. 1 and Add. 1.
[157] For the report of the Drafting Committee, see A/CN.4/L.524.
[158] A/CN.4/474 and Corr. 1.
[159] A/CN.4.475.
[160] A/CN.4/471.
[161] A/CN.4.477 and Add. 1.
[162] Official Records of the General Assembly, Fifty-first Session, Supplement No. 10 (A/51/10) and corrigendum (A/51/10 and Corr. 1).
[163] For the membership of the Commission, see Official Records of the General Assembly, Fifty-first Session, Supplement No. 17 (A/51/17, chap. II, sect. B.
[164] For detailed information, see Yearbook of the United Nations Commission on International Trade Law, vol. XXVII:1996.
[165] A/CN.9/423.
[166] A/CN.9/406,annex.
[167] A/CN.9/426.
[168] See A/51/17, annex I.
[169] A/CN.9/424.
[170] A/CN.9/420.
[171] Previously titled "Working Group on the New International Economic Order"
[172] A/CN.9/419 and Corr. 1 and A/CN.9/422.
[173] Official Records of the General Assembly, Fiftieth Sessions, Supplement No. 17 (A/50/17), paras. 401-404.
[174] Also known as the 1958 New York Convention.
[175] A/CN.9/SER.C/ABSTRACTS/7 and 8.
[176] A/CN.9/SER.C/INDEX/1.
[177] A/CONF. 97/18.
[178] Official Records of the General Assembly, Fifty-first Session, Supplement No. 17 (A/51/17).
[179]The Commission suggests the following text for States that might wish to limit the applicability of this Law to international data messages:
"This Law applies to a data message as defined in paragraph 1 of article 2 where the data message relates to international commerce."

[180]This Law does not override any rule of law intended for the protection of consumers.

[181]The Commission suggests the following text for States that might wish to extend the applicability of this Law:

"This Law applies to any kind of information in the form of a data message, except in the following situations:[...]".

[182]The term "commercial" should be given a wide interpretation so as to cover matters arising from all relationships of a commercial nature, whether contractual or not. Relationships of a commercial nature include, but are not limited to, the following transactions: any trade transaction for the supply or exchange of goods or services; distribution agreement; commercial representation or agency; factoring; leasing; construction of works; consulting; engineering; licensing; investment; financing; banking; insurance; exploitation agreement or concession; joint venture and other forms of industrial or business cooperation; carriage of goods or passengers by air, sea, rail or road.

[183] A/51/215 and Corr. 1 and Add. 1.

[184] United Nations, Treaty Series, Vol. 1125, pp. 3 and 609.

[185] Ibid, vol. 75, p. 3.

[186] A/48/742, annex.

[187] A/51/257 and Add. 1.

[188] A/51/278 and Add. 1.

[189] (A/C.6/51/SR.48).

[190] General Assembly resolution 51/157, annex.

[191] A/15/278, para 91.

[192] See Carnegie Endowment for International Peace, The Hague Conventions and Declarations of 1899 and 1907 (New York, Oxford University press, 1915).

[193] Ibid.

[194] Official Records of the General Assembly, Fifty-first Session, Supplement, No. 26 (A/51/21).

[195] United Nations, Treaty Series, vol. I, p. 15.

[196] Ibid., vol. 11, p. 11.

[197] A/C.6/51/L.3.

[198] Official Records of the General Assembly, Forty-ninth Session, Supplement No. 10 (A/40/10), para. 91.

[199] Ibid., para. 90.

[200] Ibid., Fiftieth Session, Supplement No. 22 (A/50/22).

[201] See A/AC.244/1 and Add. 1-4.

[202] Official Records of the General Assembly, Fifty-first Session, Supplement No. 22 (A/51/22), vols. I and II.

[203] A/47/277-S/24111; see Official Records of the Security Council, Forty-seventh Year, Supplement for April, May and June 1992, document S/24111.

[204] A/50/60-S/24111; see Official Records of the Security Council, Fiftieth Year, Supplement for January, February and March 1995, document S/1995/1.

[205] See Official Records of the Security Council, Fiftieth Year, Resolutions and Decisions of the Security Council, 1995, document S/PRST/1995/9.

[206] A/48/573-S/26705; see Official Records of the Security Council, Forty-eighth Year, Supplement for October, November and December 1993, document S/26705.

[207] See Official Records of the Security Council, Forty-seventh Year, Supplement for October, November and December 1992, S/25306.

[208] A/49/356, A/50/423 and A/51/356.

[209] Official Records of the General Assembly, Forty-ninth Session, Supplement No. 33 (A/49/33).

[210] Ibid., Fiftieth Session, Supplement No. 33 (A/50/33).

[211] Ibid., Fifty-first Session, Supplement No. 33 (A/51/33).

[212] A/50/361.

[213] A/51/317.

[214] Official Records of the General Assembly, Fiftieth Session, Supplement No. 47, (A/50/47).

[215] Supplement No. 33 (A/51/33).

[216] A/51/317.

[217] Official Records of the General Assembly, Fifty-first Session, Supplement No. 33 (A/51/33).

[218] Ibid., para. 47.

[219] A/48/573-S/26705 (see Official Records of the Security Council, Forty-eighth Year, Supplement for October, November and December 1993), A/49/356, A/50/60-S/1995/1 (see Official Records of the Security Council, Fiftieth Year, Supplement for January, February and March 1995), A/50/423, A/50/361 and A/51/317.

[220] A/50/1011.

[221] See A/C.6/51/SR.5.

[222] A/51/336 and Add. 1.

[223] A/51/261, annex.

[224] See A/51/336, para. 57.

[225] United Nations, Treaty Series, vol. 704, p. 219.

[226] Ibid., vol. 860, p. 105.

[227] Ibid., vol. 974, p. 177.

[228] Ibid., vol. 1035, No. 167.

[229] General Assembly resolution 34/146, annex.

[230] United Nations, Treaty Series, vol. 1456, p. 101.

[231] ICAO document DOC 9518.

[232] IMO document SUA/CONF/15/Rev. 1.

[233] IMO document SUA/CONF/16/Rev. 2.

[234] S/22393, annex I; see Official Records of the Security Council, Forty-sixth year, Supplement for January, February and March 1991.

[235] United Nations, Treaty Series, vol. 189, p. 137.

[236] Ibids., vol. 606, p. 267.

[237] For detailed information, see Official Records of the of the General Assembly, Fiftieth Session, Supplement No. 14 (A/51/14/Rev. 1) and ibid., Fifty-Third Session, Supplement no. 14). These reports report of the Acting Executive Director of UNITAR cover the periods from 1 July 1994 to 30 June 1996 and from 1 July 1996 to 30 June 1998.

[238] A/51/554.

[239] See Official Records of the General Assembly, Fifty-first Session, Supplement No. 14.

[240] See A/51/642 and Add. 1.

[241] A/51/360.

[242] Official Bulletin of the ILO, vol. LXXIX, 1996, Series A, N° 2; English, French, Spanish. (Information on the preparatory work for the adoption of instruments, which by virtue of the double discussion procedure normally covers a period of two years, is given in order to facilitate reference work.) Regarding the preparatory work, see: First discussion – Home Work, ILC, 82nd Session (1995); report V(1) and V(2), pp. 94 and 165 respectively; Arabic, Chinese, English, French, German, Russian, Spanish. See also ILC, 82nd Session (1995), Record of Proceedings, No. 25; No. 27, pp. 19-45; English, French, Spanish. Second discussion – Home Work, ILC, 83rd Session (1996); report IV (1), report IV (2A), report IV (2B); pp. 17, 112 and 20 respectively; Arabic, Chinese, English, French, German, Russian, Spanish. See also ILC, 83rd Session (1996), Record of Proceedings, No. 10; Proceedings, pp. 228-232; English, French, Spanish.

[243] Official Bulletin of the ILO, vol. LXXIX, 1966, Series A, N° 3; English, French, Spanish. (Information on the preparatory work for the adoption of instruments, which, by virtue of the double discussion procedure normally covers a period of two years, is given in order to facilitate reference work.) Regarding the preparatory work, see: First discussion – Revision of the Labour Inspection (Seamen) Recommendation, 1926 (No. 28), Tripartite Meeting on Maritime Labour Standards, Geneva, November 1994; report I, 66 p., English, French, Spanish. See also report TMMLS/1994/14; English, French, Spanish. Second discussion – Revision of the Labour Inspection (Seamen) Recommendation, 1926 (No. 28), ILC, 84th Session (Maritime); report I, 41 p. Arabic, Chinese, English, French, German, Russian, Spanish. See also ILC 84th Session (Maritime) (1996), Record of Proceedings, No. 4; Proceedings, pp. 40-45; English, French, Spanish.

[244] Official Bulletin of the ILO, vol. LXXIX, 1966, Series A, N° 3; English, French, Spanish. (Information on the preparatory work for the adoption of instruments, which by virtue of the double discussion procedure normally covers a period of two years, is given in order to facilitate reference work.) Regarding the preparatory work, see: First discussion – Revision of the Placing of Seamen Convention, 1920 (No. 9), Tripartite Meeting on Maritime Labour Standards, Geneva, November 1994; report III, 47 p.; English, French, Spanish. See also report TMMLS/1994/12; English, French, Spanish. Second discussion – Revision of the Placing of Seamen Convention, 1920 (No. 9), ILC, 84th Session (Maritime) (1996); report III, 37 p.; Arabic, Chinese, English, French, German, Russian, Spanish. See also ILC 84th Session (Maritime) (1996), Record of Proceedings, No. 7, Proceedings, pp. 14-21; English, French and Spanish.

[245] Official Bulletin of the ILO, vol. LXXIX, 1966, Series A, N° 3; English, French, Spanish. (Information on the preparatory work for the adoption of instruments, which by virtue of the double discussion procedure normally covers a period of two years, is given in order to facilitate reference work.) Regarding the preparatory work, see: First discussion – Revision of the Wages, Hours of Work and Manning (Sea) Convention (Revised), 1958 (No. 109), and Recommendation, 1958 (No. 109), Tripartite Meeting on Maritime Labour Standards, Geneva, November 1994; report II, 71 p.; English, French, Spanish. See also report TMMLS/1994/15; English, French, Spanish. Second discussion-Revision of the Wages, Hours of Work and Manning (Sea) Convention (Revised), 1958 (No. 109), and Recommendation, 1958 (No. 109), ILC, 84th Session (Maritime); report II, 76 p.; Arabic, Chinese, English, French, German, Russian, Spanish. See also ILC 84th Session (Maritime) (1996), Record of Proceedings, No. 6; Proceedings, pp. 22-31 and 34-39; English, French, Spanish.

[246] Official Bulletin of the ILO, vol. LXXIX, 1966, Series A, N° 3; English, French, Spanish. (Information on the preparatory work for the adoption of instruments, which by virtue of the double discussion procedure normally covers a period of two years, is given in order to facilitate reference work.) Regarding the preparatory work, see: First discussion – Partial revision of the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147), Tripartite Meeting on Maritime Labour Standards, Geneva, November 1994; report IV, 19 p.; English, French, Spanish. See also Report TMMLS/1994/14; English, French, Spanish. Second discussion – Partial revision of the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147), ILC, 84th Session (Maritime) (1996); report IV, 19 p.; Arabic, Chinese, English, French, German, Russian, Spanish. See also ILC 84th Session (Maritime) (1996), Record of Proceedings, No. 5, Proceedings, pp. 45-49; English, French, Spanish.

[247] The report has been published as report III to the 85th session of the Conference (1997) and comprises two volumes: vol. 1A, General report and observations concerning particular countries (report III (Part 1A), 469 p; English, French, Spanish, and vol. 1B, General survey of the Labour Administration Convention (No. 150) and Recommendation (No. 158), 1978 (report III (Part 1B), 102 p.; English, French, Spanish.

[248] GB.265/13/1.

[249] GB.265/13/2.

[250] GB.265/13/3.

[251] GB.265/13/4.

[252] GB.266/9/2.

[253] GB.266/9/3.

[254] GB.267/16/1.

[255] GB.267/16/3.

[256] GB.267/16/4.

[257] GB.267/16/2.

[258] Official Bulletin of the ILO, vol. LXXIX, 1996, series B, No. 1.

[259] Ibid., vol. LXXIX, 1996, Series B, No. 2.

[260] Ibid., vol. LXXIX, 1996, Series B, No. 3.

[261] GB.265/WP/SDL/1/1; GB.265/WP/SDL/1/2; GB.265/WP/SDL/1/3; GB.265/11.

[262] GB.267/WP/SDL/1/1; GB.267/WP/SDL/1/2; GB.267/WP/SDL/1/3;GB.267/WP/SDL/1/4; GB.267/WP/SDL/2; GB.267/WP/SDL/3.

[263] GB.265/LILS/WP/PRS/1; GB.265/LILS/WP/PRS/2; GB.265/LILS/5; GB.265/8/2.

[264] GB.267/LILS/WP/PRS/1; GB.267/LILS/SP/PRS/2; GB.267/LILS/4/1; GB.267/LILS/4/2; GB.267/9/2.

[265] GB.265/LILS/7; GB.265/8.

[266] GB.267/LILS/5; GB.267/9/2.

[267] GB.265/13/5.

[268] Official Bulletin of the ILO, vol. LXXIX, 1996, Series A, No. 3.

[269] United Nations, Treaty Series, vol. 1927, no. 32888.

[270] Ibid., vol., 1458, p. 3.

[271] Ibid., vol. 249, p. 215.

[272] The Inspection Panel, Annual Report August 1, 1996 to July 31, 1997, published for the Inspection Panel of the World Bank, Washington, DC, 1997.

[273] United Nations, Treaty Series, vol. 1508, p. 100.

[274] Ibid., vol. 575, p. 159.

[275] The official name of Zaire was changed to Democratic Republic of the Congo on 17 May 1997.

[276] The five successor states of the Socialist Federal Republic of Yugoslavia are Federal Republic of Yugoslavia (Serbia and Montenegro), Bosnia and Herzegovina, Republic of Croatia, Republic of Slovenia and the former Yugoslav Republic of Macedonia.

[277] United Nations, Treaty Series, vol. 15, p. 295.

[278] Ibid., vol. 33, p. 261.

[279] For the report of the Legal Committee at its session in 1996, is LEG 74/13.

[280] United Nations, Treaty Series, vol. 439, p. 193.

[281] International Legal Materials, vol. 35, No. 6 (1996), p. 1406

[282] United Nations, Treaty Series, vol. 1340, p. 61.

[283] International Legal Materials, vol. 35, no. 6 (1996), p. 1433

[284] United Nations, Treaty Series, vol. 1456, p. 221.

[285] IMO document LEG/CONF.8/10

[286] United Nations, Treaty Series, vol. 1463, p. 19.

[287] Ibid., p. 137.

[288] Ibid., p. 120.

[289] Ibid, vol. 1869, p. 299.

[290] WIPO publication no. 225

[291] League of Nations, Treaty Series, vol. 74, p. 341.

[292] International Legal Materials, vol. 36 (1997), p. 65 See chap. IV of this Yearbook for the text of the Treaty.

[293] Ibid., p. 76. See chap. IV of this Yearbook for text of Treaty.

[294] United Nations, Treaty Series, vol. 1160, p. 231.

[295] WIPO publication No. 464.

[296] WIPO publication No. 832.

[297] WIPO publication No. 223.

[298] WIPO publication No. 204.

[299] 1891 Paris Convention for the Protection of Industrial Property (last amended 1979), United Nations, Treaty Series, vol. 828, p. 107.

[300] WIPO publications No. 222.

[301] 1883 Paris Convention for the Protection of Industrial Property (last amended 1979), United Nations, Treaty Series, vol. 828, p. 107.

[302] International Legal Materials, vol. 35 (1996), p. 754.

[303] 1967 Convention establishing the World Intellectual Property Organization: United Nations, Treaty Series, vol. 828, p. 3.

[304] See note 10 above.

[305] 1971 Berne Convention for the Protection of Literary and Artistic Works (last amended in 19798), United Nations, Treaty Series, vol. 828, p. 221.

[306] 1977 Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Potent Procedure (last amended in 1980), International Legal Materials, vol. 17, (1978), p. 285.

[307] 1961 International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, United Nations, Treaty Series, vol. 496, p. 43.

[308] 1971 Convention for the Protection of Producers of Phonograms against Unauthorized Duplication of their Phonograms, ibid., vol. 866, p. 67.

[309] 1974 Convention relating to the Distribution of Programmes – Carrying Signals Transmitted by Satellite; ibid., vol. 1144, p. 3.

[310] 1981 Nairobi Treaty on the Protection of the Olympic Symbol. WIPO publication No. 297.

[311] 1971 Strasbourg Agreement concerning the International Patent Classification (last amended in 1979), United Nations, Treaty Series, vol. 1160, p. 483.

[312] 1957 Nice Agreement concerning the International Patent Classification (last amended in 1979), vol. 828, p. 191.

[313] 1968 Locarno Agreement Establishing an International Classification for Industrial Designs (last amended in 1979): ibid., p. 435.

[314] 1973 Vienna Agreement Establishing an International Classification (last amended in 1979), vol. 828, p. 191.

[315] See note 297 above.

[316] See note 298 above.

[317] See note 291 above.

[318] See note 290 above.

[319] See note 300 above.

[320] United Nations, Treaty Series, vol. 1059, p. 191.

[321] For resolutions 86/XVIII and 87/XVIII, see Judicial Yearbook, 1995, chap. III.B.12.
[322] *United Nations, Treaty Series, vol. 1867, p. 3; continued in vols. 1868 & 1869.*
[323] WT/DSB/RC/1.
[324] United Nations, Treaty Series, vol. 1868, p. 14.
[325] WT/DS22.
[326] WT/DS24.
[327] WT/DS32.
[328] WT/DS33.
[329] WT/DS27.
[330] WT/DS26.
[331] WT/DS48.
[332] WT/DS31.
[333] WT/DS44.
[334] WT/DS38.
[335] WT/DS50.
[336] WT/DS32.
[337] WT/DS4.
[338] WT/DS8.
[339] WT/DS10.
[340] WT/DS11.
[341] INFCIRC/9/Rev.2.
[342] INFCIRC/274/Rev.1.
[343] INFCIRC/335.
[344] INFCIRC/336.
[345] INFCIRC/500.
[346] INFCIRC/402.
[347] INFCIRC/449.
[349] INFCIRC/377.
[350] INFCIRC/167; last extended 1997.
[351] See also chap. II.B.5 (*c*) of this yearbook.
[352] United Nations, Treaty Series, vol. 729, p. 161.
[353] INFCIRC/513.
[354] INFCIRC/524.
[355] INFCIRC/514.
[356] INFCIRC/193.
[357] Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco); United Nations, Treaty Series, vol. 634, p. 281.
[358] INFCIRC/528
[359] INFCIRC/525.
[360] INFCIRC/527.
[361] INFCIRC/526.
[362] INFCIRC/476/Mod. 1.
[363] INFCIRC/379/Mod. 1.
[364] INFCIRC/110/Mod. 2.