Extract from:

UNITED NATIONS JURIDICAL YEARBOOK

1997

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

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

CONTENTS (*continued*)

CONTENTS (*continued*)

Chapter III

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

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

1. DISARMAMENT AND RELATED MATTERS[1]

(*a*) Nuclear disarmament issues

The most recent global instrument concerning nuclear tests is the Comprehensive Nuclear-Test-Ban Treaty,[2] concluded and opened for signature in 1996, which prohibits any nuclear-weapon test explosion or any other nuclear explosion in any environment. The Treaty has been signed by a large number of States, including the five nuclear-weapon States, and eight had ratified it by the end of 1997.

At the bilateral level, the negotiations known as strategic arms reduction talks (START), between the Russian Federation and the United States of America, led to the signing of two treaties: START I and START II. The former, signed in 1991, provides for a signature reduction of the Russian and the United States strategic nuclear weapons over seven years. The latter, signed in 1993, provides for the elimination of MIRVed[3] ICBMs[4] and for the reduction of strategic nuclear warheads to no more than 3,000 to 3,500 each by the year 2003. The START II Treaty was ratified by the United States on 26 January 1996, and while the Russian Federation has not yet done so, the two States reached an understanding that once START II enters into force, they would immediately begin negotiations on START III, which would establish lower levels of their strategic nuclear warheads.

The most important instrument concerning nuclear non-proliferation is the Treaty on the Non-Proliferation of Nuclear Weapons of 1968, on the basis of which a global non-proliferation regime has been established.[5]

The safeguards system of the International Atomic Energy Agency (IAEA) is a crucial aspect of the non-proliferation regime and steps have been taken over the years to reinforce it. IAEA made a major change in its safeguards system by adopting the draft Model Protocol Additional to Safeguards Agreements,[6] which is expected to increase its ability to detect undeclared nuclear activities. The five nuclear-weapon States expressed their intention to apply those measures provided for in the Model Protocol as regards their obligations under the Non-Proliferation Treaty.

The Nuclear Monitoring Group of IAEA, assisted by and in coordination with the United Nations Special Commission (UNSCOM), continued to imple-

ment an ongoing plan for monitoring and verifying Iraq's compliance with relevant Security Council resolutions. The deterioration in the relations between Iraq and UNSCOM also affected the work of the IAEA inspection teams. The IAEA General Conference, on 3 October 1997, adopted a resolution[7] on the implementation of the United Nations Security Council resolutions relating to Iraq, by which it stressed Iraq's obligation to hand over without further delay currently undisclosed nuclear-weapon-related equipment, material and information and to allow IAEA inspectors unconditional and unrestricted rights of access, in accordance with Security Council resolution 707 (1991).

In the field of safety, the Agency opened for signature the 1997 Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management.[8] The Joint Convention applies to spent fuel and radioactive waste resulting from civilian nuclear reactors and applications and to spent fuel and radioactive waste from military or defence programmes if and when such materials are transferred permanently to and managed within exclusively civilian programmes, or when declared as spent fuel or radioactive waste for the purpose of the Convention.

A number of positive developments took place with respect to existing nuclear-weapon-free zones, and the 1995 Treaty on the South-east Asia Nuclear-Weapon-Free Zone (Bangkok Treaty)[9] entered into force on 27 March 1997. The States parties to the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco)[10] marked its thirtieth anniversary, and during the year the countries of the region continued to take concrete steps to consolidate the regime of military denuclearization established by the Treaty. Regarding the 1985 South Pacific Nuclear-Free Zone Treaty (Treaty of Rarotonga),[11] the United Kingdom ratified all three protocols to the Treaty. The status of the 1995 African Nuclear-Weapon-Free Zone Treaty (Pelindaba Treaty)[12] remained almost unchanged from 1996.

Consideration by the General Assembly

At its fifty-second session, the General Assembly, on 9 December 1997, adopted a total of 14 resolutions dealing with the subject of nuclear disarmament. Several of them are discussed below.

By its resolution 52/38 O, the General Assembly, recalling the advisory opinion of the International Court of Justice on the *Legality of the Threat or Use of Nuclear Weapons*, issued on 8 July 1996,[13] underlined once again the unanimous conclusion of the Court that 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; and called once again upon all States immediately to fulfil that obligation by commencing multilateral negotiations in 1998 leading to an early conclusion of a nuclear weapons convention prohibiting the development, production, testing, deployment, stockpiling, transfer, threat or use of nuclear weapons and providing for their elimination. The Assembly also requested all States to inform the Secretary-General of the efforts and measures they had taken on the implementation of the resolution on nuclear disarmament, and requested the Secretary-General to apprise the General Assembly of that information at its fifty-third session.

By its resolution 52/41, the General Assembly, noting that Israel remained the only State in the Middle East that had not yet become a party to the Treaty on

the Non-Proliferation of Nuclear Weapons, called upon that State to become party to the Treaty.

Resolutions adopted regarding nuclear-weapon-free zones included the traditional proposals for the establishment of such zones in the regions of the Middle East and South Asia, as well as a new proposal for a zone in Central Asia. The General Assembly also adopted a resolution on a nuclear-weapon-free southern hemisphere. Additionally, the Assembly adopted resolution 52/44, on the implementation of the Declaration of the Indian Ocean as a Zone of Peace.

(*b*) The chemical and biological weapons conventions

During the year, efforts continued within the Ad Hoc Group to strengthen the 1971 Biological Weapons Convention[14] through the elaboration of verification and confidence-building and transparency measures. In order to assist the Ad Hoc Group in its discussions in this regard, the Chairman submitted a document entitled "Rolling text of a protocol to the Convention".[15]

The General Assembly adopted on 9 December 1997, on the recommendation of the First Committee, resolution 52/47, in which the Assembly welcomed the information and data provided to date and reiterated its call upon all States parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction to participate in the exchange of information and data agreed to in the Final Declaration of the Third Review Conference of the Parties to the Convention.[16] The Assembly also welcomed the progress made by the Ad Hoc Group towards fulfilling the mandate established by the Special Conference of the States Parties to the Convention on 30 September 1994, and urged the Ad Hoc Group to intensify its work with a view to completing it as soon as possible before the commencement of the Fifth Review Conference and to submit its report, to be adopted by consensus, to the States parties to be considered at a special conference. The Assembly further welcomed in that context the steps taken by the Ad Hoc Group, as encouraged by the Fourth Review Conference, to review its methods of work and, in particular, the start of negotiations on a rolling text of a protocol to the Convention.

The entry into force of the 1992 Chemical Weapons Convention[17] was a major event in the field of disarmament in 1997. After the Convention entered into force, two sessions of the Conference of States parties were held and measures were taken to set up the Organization for the Prohibition of Chemical Weapons.

The General Assembly adopted two resolutions on the prohibition of chemical weapons: resolution 52/38 T, adopted on 9 December 1997 on the recommendation of the First Committee, entitled "Status of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction"; and resolution 51/230, adopted on 22 May 1997 without reference to a Main Committee, entitled "Cooperation between the United Nations and the Organization for the Prohibition of Chemical Weapons".

UNSCOM continued its inspection activities in connection with the proscribed chemical and biological weapons and missile programmes of Iraq, as requested under various Security Council resolutions. However, towards the end of the year, the relationship between the Commission and Iraq deteriorated, and the question of free access to all sites in Iraq remained unresolved.

(*c*) Global approaches to conventional weapons issues

During 1997, increasing attention was focused on small arms and light weapons, and on practical disarmament measures that could be applied to operations in which the United Nations was involved, especially in the peace-building phase. Through the study completed in 1997 and prepared by the Panel of Governmental Experts appointed by the Secretary-General,[18] which also examined the problem of illicit trafficking and the work of the Disarmament Commission on conventional arms limitation, the Organization began the delicate task of finding common ground in an area that touches the national security concerns of the majority of its Member States.

Reflecting the interest in the matter of practical measures on the part of Member States and the general public, the Secretary-General submitted a report on the consolidation of peace through practical disarmament measures,[19] in which he stressed the importance of various elements to the maintenance and consolidation of peace and security in areas that had suffered from conflict and underlined the role of the United Nations in providing a political framework for such practical disarmament measures.

During the year, the annual report of the Register of Conventional Arms for 1996[20] and the report on the continuing operation of the Register and its further development[21] were issued.

The General Assembly, at its fifty-second session, adopted five resolutions covering the conventional weapons area, among them resolution 52/32, entitled "Objective information on military matters, including transparency of military expenditures", and resolution 52/38 J, entitled "Small arms", in which the Assembly, inter alia, endorsed the recommendations contained in the report on small arms,[22] which had been approved unanimously by the Panel of Governmental Experts on Small Arms.

(*d*) Anti-personnel mines

In 1996, the parties to the Convention on Certain Conventional Weapons[23] amended its Protocol II,[24] on prohibitions or restrictions on the use of mines, booby traps and other devices, by extending its scope of application to cover both international and internal armed conflicts, by prohibiting the use of non-detectable anti-personnel mines (albeit with a nine-year deferral period from entry into force) and their transfer, and by prohibiting the use of non-self-destructing and non-self-deactivating mines outside marked areas. In addition, it provided for broader protection for peacekeeping and other missions of the United Nations and required parties to enforce compliance with its provisions within their jurisdiction. It also instituted annual conferences for review.

However, a number of Governments, international agencies, the International Campaign to Ban Landmines[25] and other NGOs wished to move beyond the compromise represented by amended Protocol II towards a comprehensive ban on anti-personnel mines. This initiative resulted in the conclusion of the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction, opened for signature in Ottawa in December 1997,[26] which represents the first treaty to ban outright and mandate the destruction of a conventional weapon that has been a staple component of the arsenals of most States.

Consideration by the General Assembly

The General Assembly, on 9 December 1997, on the recommendation of the First Committee, adopted three resolutions pertaining in whole or in part to anti-personnel mines: resolution 52/38 A on the Ottawa Convention; resolution 52/38 H on contributions towards banning anti-personnel landmines; and resolution 52/42 on the Convention on Certain Conventional Weapons. Additionally, on 18 December 1997, the Assembly adopted, without reference to a Main Committee, resolution 52/173, entitled "Assistance in mine clearance", in which it expressed its appreciation to Governments and regional organizations for their financial contributions to the Voluntary Trust Fund for Assistance in Mine Clearance and other demining programmes, and took note of the convening of the Mine Action Forum at Ottawa in December 1997 and of the development there of An Agenda for Mine Action.

(*e*) Regional and other approaches

Throughout 1997, Member States continued to make determined efforts, within their respective regional contexts, to devise and strengthen appropriate approaches to curb the flow of small arms and light weapons, to introduce and promote confidence-building and transparency measures, to adjust security structures to respond effectively to threats to peace, to resolve conflicts, increasingly of an intra-State nature, and to take measures to consolidate peace.[27] The United Nations has been involved in these endeavours.

In considering the item entitled "The situation in Africa", the Security Council met on 25 September, at the level of foreign ministers,[28] to consider the need for concerted international effort to promote peace and security in Africa. While noting that African States had made significant strides towards democratization, economic reform and protection of human rights, the Council remained gravely concerned by the number and intensity of armed conflicts in Africa which threatened regional peace, caused massive human dislocation and suffering, perpetuated instability and diverted resources from long-term development. The Council requested the Secretary-General to develop a "comprehensive response" to those challenges and to submit a report by February 1998 containing concrete recommendations on ways to prevent and address those conflicts and how to lay the foundation for durable peace and economic growth.

Significant achievements were recorded in the promotion of peace and security in the Americas in 1997. As part of ongoing regional efforts to combat the illicit trafficking of small arms, the Organization of American States (OAS), at its twenty-seventh General Assembly held in Lima from 2 to 6 June, approved the draft of an Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials,[29] submitted by the Rio Group. The final text of the Convention[30] was submitted to OAS member States in the autumn and opened for signature in Washington, D.C., in November.

Throughout most of 1997, the East Asia region remained the second-largest arms market after the Middle East.[31] Despite concerns expressed over the potential for an arms race, most States in the region continued with their respective weapons acquisition programmes.

There were several developments during the year that had an impact on European security: plans to enlarge the North Atlantic Treaty Organization (NATO); negotiations on the NATO-Russian Founding Act; Vienna negotiations on the adaptation of the 1990 Treaty on Conventional Armed Forces in Europe (CFE) Treaty[32] to the newly created security environment in the region; and the activities within the Organization for Security and Cooperation in Europe (OSCE).[33]

On 9 December 1997, the General Assembly, on the recommendation of the First Committee, took action on a number of resolutions in this area: "Regional disarmament" (resolution 52/38 P); "Conventional arms control at the regional and subregional levels" (resolution 52/38 Q); "Regional confidence-building measures" (resolution 52/39 B); "Assistance to States for curbing the illicit traffic in small arms and collecting them" (resolution 52/38 C); "United Nations Regional Centre for Peace and Disarmament in Asia and the Pacific" (resolution 52/39 A); "Strengthening of security and cooperation in the Mediterranean region" (resolution 52/43); and "Development of good-neighbourly relations among Balkan States" (resolution 52/48).

(*f*) Other disarmament issues

In 1997, there were a number of issues that had, in most instances, been before the international community for some time but for a variety of reasons had not been directly addressed to any great extent in the different disarmament forums. They were, however, the subject of resolutions in the General Assembly.

On 9 December 1997, the General Assembly, on the recommendation of the First Committee, adopted resolution 52/37, entitled "Relationship between disarmament and development"; resolution 52/33, entitled "The role of science and technology in the context of international security and disarmament"; resolution 52/30, entitled "Compliance with arms limitation and disarmament and non-proliferation agreements"; resolution 52/31, entitled "Verification in all its aspects, including the role of the United Nations in the field of verification"; and resolution 52/38 E, entitled "Observance of environmental norms in the drafting and implementation of agreements on disarmament and arms control". The Assembly similarly adopted resolutions 52/40 C, entitled "Role of the United Nations in disarmament", and 52/38 F, entitled "Convening of the fourth special session of the General Assembly devoted to disarmament".

---

2. OTHER POLITICAL AND SECURITY QUESTIONS

(*a*) Membership in the United Nations

As at the end of 1997, 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-sixth session at the United Nations Office at Vienna from 1 to 8 April 1997.[34]

On the agenda item regarding the question of review and possible revision of the principles relevant to the use of nuclear power sources in outer space, the Legal Subcommittee decided not to re-establish its Working Group, based largely on the conclusion of the Scientific and Technical Subcommittee at its thirty-fourth session in 1997 that the revision of the Principles at the current stage was not necessary.[35]

The Legal Subcommittee did re-establish its Working Group for the agenda item on matters relating to the definition and delimitation of outer space and to the character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of the International Telecommunication Union. At its current session, the Subcommittee had before it, inter alia, a document entitled "Questionnaire on possible legal issues with regard to aerospace objects: replies from Member States",[36] and a note by the Secretariat entitled "Comprehensive analysis of the replies to the questionnaire on possible legal issues with regard to aerospace objects".[37] Also submitted at the current session was a working paper entitled "An analysis of the compatibility of the approach contained in the working paper entitled 'Some considerations concerning the utilization of the geostationary satellite orbit' with the existing regulatory procedures of the International Telecommunication Union relating to the use of the geostationary orbit".[38]

Regarding other business, the Subcommittee agreed to recommend that a new agenda item entitled "Review of the status of the five international treaties governing outer space" should be included in its agenda beginning with the session in 1998.[39]

The Committee on the Peaceful Uses of Outer Space, at its fortieth session, held at the United Nations Office at Vienna from 2 to 10 June 1997, took note of the report of the Legal Subcommittee on the work of its thirty-sixth session and made a number of recommendations and decisions regarding the work of the Subcommittee.[40]

Consideration of the General Assembly

On the recommendation of the Special Political and Decolonization Committee (Fourth Committee), the General Assembly, on 10 December 1997, adopted resolution 52/56, in which it took note of the report of the Secretary-General[41] on the implementation of the recommendations of the Second United Nations Conference on the Exploration and Peaceful Uses of Outer Space,[42] and, having considered the report of the Committee on the Peaceful Uses of Outer Space on the work of its fortieth session,[40] it endorsed that report, as well as the recommendations of the Committee regarding the Legal Subcommittee, taking into account the concerns of all countries, particularly those of developing countries.

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

The General Assembly, by its resolution 52/69, of 10 December 1997, adopted on the recommendation of the Special Political and Decolonization Committee (Fourth Committee), took note of the report of the Secretary-General on the work of the Organization[43] and welcomed the report of the Special Com-

mittee on Peacekeeping Operations.[44] It further endorsed the proposals, recommendations and conclusions of the Special Committee, contained in paragraphs 34 to 91 of its report, and urged Member States, the Secretariat and relevant organs of the United Nations to take all necessary steps to implement the proposals, recommendations and conclusions of the Special Committee.

The General Assembly also decided that the Special Committee should continue its efforts for a comprehensive review of the whole question of peacekeeping operations in all their aspects and should review the implementation of its previous proposals and consider any new proposals.

(*d*) Supplement to an Agenda for Peace

By its resolution 51/242, adopted on 15 September 1997 without reference to a Main Committee, the General Assembly, taking note of the reports of the Secretary-General entitled "An Agenda for Peace"[45] and "Supplement to an Agenda for Peace",[46] as well as the Statement on the Supplement to an Agenda for Peace made by the President of the Security Council on 22 February 1995,[47] adopted the texts on coordination and the question of sanctions imposed by the United Nations, and noted the progress made in the areas of post-conflict peace-building and preventive diplomacy and peacemaking. The texts on coordination and the question of sanctions follow:

Coordination

1. COORDINATION BETWEEN THE UNITED NATIONS AND MEMBER STATES

1. The States that constitute the United Nations membership have a central role to play in the prevention and resolution of conflicts, including through their participation in and support for United Nations efforts to those ends, in accordance with the Charter of the United Nations. The General Assembly underlines the need to strengthen the role of the Assembly in improving coordination, in accordance with its role and responsibilities under the Charter. Governments are responsible for the financing and provision of personnel, equipment and other support to mandated United Nations efforts to maintain international peace and security, whether through preventive diplomacy, peacemaking, peacekeeping or peace-building. Coordination of efforts and sharing of information between the United Nations and Member States is therefore of fundamental importance.

2. Transparency, communication and consultation between the United Nations and Member States is vital in the coordination of decisions and activities under the Charter aimed at maintaining and enhancing international peace and security. Governments should ensure that their policies in relation to the various parts and agencies of the United Nations system are consistent and in accordance with those aims, while the United Nations must ensure that its activities are in conformity with the purposes and principles of the Charter, and that States are kept fully informed, and are supportive, of the United Nations efforts.

3. Suitable arrangements for regular and timely consultations between members of the Security Council, assisted by the Secretariat, and States contributing troops to peacekeeping operations, as well as prospective troop contributors, are essential in enhancing transparency and coordination between the United Nations and Member States. Such consultations provide troop-contributing States with a channel for communication and for ensuring that their views are taken into consideration before decisions are made by the Council. The General Assembly welcomes the establishment of this consultation mechanism, which should remain under review with the aim of improving it further so as to strengthen the support for and the effectiveness of peacekeeping operations. In this connection, the As-

sembly stresses the importance of respecting the principles agreed upon in the Special Committee on Peacekeeping Operations and endorsed unanimously by the Assembly.

4. Among other possible forms of coordination between the United Nations and Member States is the support and assistance given to the Secretary-General by individual States or informal groups of Member States, created on an ad hoc basis, with respect to his efforts in the area of the maintenance of international peace and security. Operating within the framework of the Charter, groups such as the "Friends of the Secretary-General" can be resorted to whenever feasible, and can be considered as a valuable tool for the Secretary-General in his efforts, supporting the mandate entrusted to him by relevant United Nations bodies. There should be contact with the concerned State or States, and care should be taken to ensure the necessary information and transparency in relation to other Member States and to avoid duplication or overlapping of efforts.

II. COORDINATION WITHIN THE UNITED NATIONS SYSTEM

5. In order to improve the capacity of the United Nations in the maintenance of international peace and security, particularly in conflict prevention and resolution, the General Assembly stresses the need to ensure an integrated approach to considering, planning and conducting activities in the sphere of peace in all their aspects, through all phases of a potential or actual conflict to post-conflict peace-building, at the various levels within the United Nations system. In coordinating such activities, the distinct mandates, functions and impartiality of the various United Nations entities involved should be respected. On the understanding that action to secure global peace, security and stability will be futile unless the economic and social needs of people are addressed, the Assembly also stresses the need to strengthen coordination with those departments, agencies and bodies responsible for development activities, in order to improve the effectiveness and efficiency of the United Nations system for development.

A. *Coordination within the United Nations Secretariat*

6. Within the Secretariat in New York, coordination is required between and among all the various departments involved in peacemaking, as well as in peace-building activities and peacekeeping operations which can be multifunctional, so that they function as an integrated whole under the authority of the Secretary-General. The General Assembly notes that the Secretary-General has entrusted the main responsibility in this regard to the Task Force on United Nations Operations and interdepartmental groups at the working level on each major conflict where the United Nations is playing a peacemaking or peacekeeping role. The Assembly welcomes these moves to strengthen coordination, and emphasizes the requirement for transparency. Efforts should be made, inter alia, to further harmonize the interaction between operational units within the Secretariat so as to avoid duplication in similar fields of action.

7. The General Assembly notes the work being done within the Framework for Coordination mechanism to ensure that the pertinent departments of the Secretariat coordinate their respective activities in the planning and implementing of such operations, through sharing of information, consultations and joint action. The Assembly furthermore notes that an important element of the Framework for Coordination is the provision for staff-level consultations by the relevant departments and other parts of the Organization to undertake joint analyses and to formulate joint recommendations. The Assembly welcomes the establishment of a standing interdepartmental framework oversight group to support and ensure the initiation of such consultations and encourages the implementation, further development and improvement of the Framework for Coordination mechanism.

B. *Coordination within the United Nations system as a whole*

8. The responsibilities involved in peacemaking, as well as in peace-building activities and peacekeeping operations which can be multifunctional, transcend the competence

and expertise of any one department, programme, fund, office or agency of the United Nations. Short-term and long-term programmes need to be planned and implemented in a coordinated way in order to consolidate peace and development. Coordination is therefore required within the United Nations system as a whole and between United Nations Headquarters and the head offices of United Nations funds, programmes, offices and agencies. In this regard, the General Assembly would encourage improved coordination of efforts, for example the establishment of coordination procedures between the United Nations and other agencies involved, to facilitate and coordinate measures to contribute to the prevention of conflicts as well as the transition from peacekeeping to peace-building. The Assembly would encourage representatives of the United Nations Secretariat and other relevant United Nations agencies and programmes, as well as the Bretton Woods institutions, to meet and work together to develop arrangements that would ensure coordination and increased cooperation with respect to the provision of assistance to institution-building and social and economic development. The aim should be to develop a network for programme coordination, involving the United Nations system, bilateral donors and, whenever appropriate, non-governmental organizations, both at the headquarters and in the regional and field offices.

9. The General Assembly welcomes the efforts of the Secretary-General to make more effective the Administrative Committee on Coordination, which periodically brings together the heads of the specialized agencies, to achieve better coordination of the activities of the various United Nations bodies, including towards the consolidation of peace and security. The Assembly also supports the role of the Inter-Agency Standing Committee in ensuring a coordinated and timely response to the humanitarian needs arising in complex emergencies.

C. *Coordination in the field*

10. The General Assembly notes that the composition and administration of United Nations operations in the field vary considerably from one country situation to another, depending upon the political security and humanitarian dimensions of a particular crisis. In certain cases, including where the Security Council has authorized a peacekeeping operation, the Secretary-General may appoint a special representative. The special representative, working under the operational control of the Secretary-General, exercises on his behalf clearly defined authority over all the mission components. To strengthen cohesion and effective control of the military component of multifunctional peacekeeping operations, which is the central and fundamental part of such operations, the Assembly would stress the necessity of establishing and respecting clear lines of military command, as well as open channels of communication and sharing of information between the field and United Nations Headquarters, and coordinated guidance from United Nations Headquarters to the field. The Assembly underlines the need to adhere to United Nations mandates and to respect United Nations operational control and the unity of command in United Nations peacekeeping operations. In peacekeeping operations that include humanitarian elements, a field-based humanitarian coordinator who works under the overall authority of the special representative of the Secretary-General may be appointed. The Assembly considers it essential that all agencies and programmes active in the field extend their full cooperation to the special representative and encourages the efforts of the Secretary-General to ensure this. The Assembly notes the important role that the United Nations resident coordinator can play in coordinating United Nations activities in post-conflict peace-building. Furthermore, the Assembly would refer to the possibility of nominating a United Nations special coordinator while numerous agencies and programmes are working in the field during the period of transition to peace, even when there is no peacekeeping operation.

III. COOPERATION WITH REGIONAL ARRANGEMENTS OR AGENCIES

11. The General Assembly stresses that, on the subject of cooperation between the United Nations and regional arrangements or agencies, the relevant tasks and responsibilities should be carried out with full respect for the provisions of Chapter VIII of the Charter,

relevant decisions of the Security Council and of the General Assembly, as well as the respective mandates of regional arrangements or agencies and the Declaration on the Enhancement of Cooperation between the United Nations and Regional Arrangements or Agencies in the Maintenance of International Peace and Security, approved by the General Assembly in its resolution 49/57 of 9 December 1994.

12. The General Assembly considers that practical cooperation between the United Nations and regional arrangements and agencies, including the recognition of the variety of mandates, scope and composition of regional arrangements or agencies, has been and can be developed further through a number of means, including consultation by working-level contacts and high-level meetings, diplomatic and operational support, staff exchanges, and joint and cooperative operations. The Assembly notes the proposals that the Secretary-General has made in respect of Africa in his report on improving preparedness for conflict prevention and peacekeeping in Africa,[48] and encourages him to pursue consultations with the Organization of African Unity on the matter.

13. While recalling its resolution 49/57, the General Assembly also notes the principles identified by the Secretary-General upon which cooperation between the United Nations and regional arrangements or agencies should be based, in particular the primacy of the United Nations as set out in the Charter, the defined and agreed division of labour and consistency by members of regional arrangements or agencies. The Assembly considers it important to develop further such principles, in cooperation with regional arrangements or agencies. The Assembly also agrees with the Secretary-General that, given the varied nature of regional arrangements or agencies, establishment of a universal model for their relationship with the United Nations would not be appropriate.

14. The General Assembly notes the meetings organized and arranged by the Secretary-General with regional arrangements or agencies, most recently in February 1996, and would encourage the continuation and further development of this practice on a regular basis. The Assembly underlines the importance of informing it about such meetings.

IV. Cooperation and dialogue between the United Nations and non-governmental organizations

15. Non-governmental organizations can play an important role in support of United Nations activities. Appropriate cooperation and dialogue between the United Nations system and non-governmental organizations can contribute to ensuring that the efforts of those organizations are consistent with, and properly coordinated with, the activities and objectives of the United Nations. Such coordination should not compromise the impartiality of the United Nations or the non-governmental nature of the organizations.

Question of sanctions imposed by the United Nations

1. An effectively implemented regime of collective Security Council sanctions can operate as a useful international policy tool in the graduated response to threats to international peace and security. As Security Council action under Chapter VII of the Charter of the United Nations, sanctions are a matter of the utmost seriousness and concern. Sanctions should be resorted to only with the utmost caution, when other peaceful options provided by the Charter are inadequate. The Council should give as thorough consideration as possible to the short-term and long-term effects of sanctions, having due regard to the need for the Council to act speedily in certain cases.

2. Sanctions should be established in strict conformity with the Charter, with clear objectives, provision for regular review and precise conditions for their lifting. The implementation of sanctions must adhere to the terms of the applicable Security Council resolutions. In this context, the Council must act in accordance with Article 24, paragraph 2, of the Charter. At the same time, the Council's ability to act speedily, in the objective interest of maintaining international peace and security, must be recognized.

3. The Security Council has the ability to determine the time frame of sanctions. This question is of the greatest importance and should be seriously considered in connection with

the objective of changing the behaviour of the target party while not causing unnecessary suffering to the civilian population. The Council should define the time frame for sanctions regimes taking these considerations into account.

4. While there is a need to maintain the effectiveness of sanctions imposed in accordance with the Charter, unintended adverse side effects on the civilian population should be minimized by making the appropriate humanitarian exceptions in the Security Council resolutions. Sanctions regimes must also ensure that appropriate conditions are created for allowing an adequate supply of humanitarian material to reach the civilian population.

5. The purpose of sanctions is to modify the behaviour of a party that is threatening international peace and security and not to punish or otherwise exact retribution. Sanctions regimes should be commensurate with these objectives.

6. Clarity should be a goal in the formulation of Security Council resolutions imposing sanctions. The steps required from the target country for the sanctions to be lifted should be precisely defined.

7. Before sanctions are applied, a clear warning could be expressed in unequivocal language to the target country or party.

8. The Security Council could also provide for imposing sanctions that may be partially lifted, in the event the target country or party complies with previously defined requirements imposed by specific resolutions. It could also consider the possibility of introducing a range of sanctions and lifting them progressively as each target is achieved.

9. Sanctions shall be implemented in good faith and uniformly by all States. Violations must be brought to the attention of the general membership of the United Nations through the appropriate channels.

10. Just as the Security Council periodically reviews sanctions, it should also consider whether they are being fully implemented by all States.

11. It bears recalling that monitoring and compliance is first and foremost the responsibility of individual Member States. Member States should endeavour to prevent or correct activities in violation of the sanctions measures within their jurisdiction.

12. International monitoring by the Security Council or by one of its subsidiary organs of compliance with sanctions measures, in accordance with relevant Security Council resolutions, can contribute to the effectiveness of United Nations sanctions. States that may require assistance in the implementation and monitoring of sanctions may seek the assistance of the United Nations or relevant regional organizations.

13. States should be encouraged to cooperate in exchanging information about the legislative, administrative and practical implementation of sanctions.

14. Sanctions often have a serious negative impact on the development capacity and activity of target countries. Efforts should continue to be made to minimize unintended side effects of sanctions, especially with regard to the humanitarian situation and the development capacity that has a bearing on the humanitarian situation. In some instances the application of sanctions may not be compatible, however, with bilateral and multilateral development programmes.

15. Humanitarian assistance should be provided in an impartial and expeditious manner. Means should be envisaged to minimize the particular suffering of the most vulnerable groups, keeping in mind emergency situations, such as mass refugee flows.

16. With a view to addressing the humanitarian impact of sanctions, the assistance of concerned international financial and other intergovernmental and regional organizations should be sought for providing an assessment of the humanitarian needs and the vulnerabilities of target countries at the time of the imposition of sanctions and regularly thereafter while they are being implemented. The appropriate department of the Secretariat could play a coordinating role in this context.

17. Guidelines for the formulation of the humanitarian exceptions mentioned in paragraph 4 above should be developed, bearing in mind that the humanitarian require-

ments may differ according to the stage of development, geography, natural resources and other features of the target country.

18. Foodstuffs, medicines and medical supplies should be exempted from United Nations sanctions regimes. Basic or standard medical and agricultural equipment and basic or standard educational items should also be exempted; a list should be drawn up for that purpose. Other essential humanitarian goods should be considered for exemption by the relevant United Nations bodies, including the sanctions committees. In this regard it is recognized that efforts should be made to allow target countries to have access to appropriate resources and procedures for financing humanitarian imports.

19. The work of United Nations humanitarian agencies should be facilitated in accordance with applicable Security Council resolutions and sanctions committee guidelines.

20. The concept of "humanitarian limits of sanctions" deserves further attention and standard approaches should be elaborated by the relevant United Nations bodies.

21. The target country should exert all possible efforts to facilitate equitable distribution and sharing of humanitarian assistance.

22. Having assumed great importance for a large number of countries, specific sanctions regimes would necessitate the submission of special reports by the Security Council to the General Assembly for its consideration.

23. The Secretary-General in his "Supplement to an Agenda for Peace" noted that there was an urgent need for action to respond to the expectations raised by Article 50 of the Charter. He also noted that sanctions were measures taken collectively and that the costs involved in their application should be borne equitably by all Member States.

24. More frequently resorted to in the recent past, sanctions have been causing problems of an economic nature in third countries. The importance of the subject has been reflected in intensive consideration of the question in its conceptual and specific forms by the General Assembly in the last few years.

25. Taking into account the importance of the resolutions adopted by consensus, the Security Council, the General Assembly and other relevant organs should intensify their efforts to address the special economic problems of third countries affected by sanctions regimes. They should also take into consideration the proposals presented on the subject during the debate in the Informal Open-Ended Working Group of the General Assembly on an Agenda for Peace and other relevant bodies.

26. Bearing in mind that this question has been under intensive discussion in the Sixth Committee and that those discussions are to continue during the fifty-second session of the General Assembly, it is agreed that this aspect should be addressed in an appropriate manner by the Sixth Committee during that session.

27. Security Council resolutions should include more precise mandates for sanctions committees, including a standard approach to be followed by the committees.

28. The mandates of sanctions committees should be such that they can be fulfilled in practical terms.

29. While noting the improvements in the functioning of the sanctions committees following upon the notes by the President of the Security Council of 29 March 1995,[49] 31 May 1995[50] and 24 January 1996,[51] and that all committees are already working on the basis of those notes, it is recognized that the process needs to be encouraged and further developed.

30. The sanctions committees should give priority to handling applications for the supply of humanitarian goods meant for the civilian population. Those applications should be dealt with expeditiously.

31. The sanctions committees should give priority to the humanitarian problems that could arise from the application of sanctions. Whenever they consider that a humanitarian problem is about to arise in a target country, such a situation should immediately be brought to the attention of the Security Council. The committees may suggest changes in specific

sanctions regimes to address particular humanitarian issues with a view to taking urgent corrective steps.

32. Likewise, when a committee considers that a sanctions enforcement problem has arisen, it should bring the situation to the attention of the Security Council. The committees may suggest changes in specific sanctions regimes to address particular enforcement issues with a view to taking urgent corrective steps.

33. Further improvements in the working methods of sanctions committees that promote transparency, fairness and effectiveness and help the committees to speed up their deliberations are necessary.

34. Measures additional to those contemplated in the aforementioned notes by the President of the Security Council might include, among others, improvements in the decision-making procedures of the sanctions committees and the possibility for affected States to implement more effectively their right to make representation to the committees against their decisions.

35. Improvements in the "authorized signatory system" should be sought so that delays in clearing proposals may be avoided. The reasons for putting applications on hold or blocking them should be immediately communicated to the applicant.

36. The practice of hearing technical presentations of information by organizations assisting in the enforcement of Security Council sanctions during closed meetings of the sanctions committees should be continued, while respecting the existing procedures followed by such committees. The target or affected countries, as well as concerned organizations, should be better able to exercise the right of explaining or presenting their points of view to the sanctions committees. The presentations should be expert and comprehensive.

37. Sanctions committee secretariats should be adequately staffed, from within existing resources. This is necessary to expedite the processing of applications and the giving of clearances.

38. Sanctions committees could analyse available information so as to determine whether regimes are being effectively implemented. They could bring their conclusions and, if appropriate, recommendations in this respect to the attention of the Security Council.

39. Clarifying statements and decisions by the sanctions committees are an important contribution to the uniform application of a given sanctions regime. Such statements and decisions must be consistent with Security Council resolutions and with one another.

---

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

(*a*) Environmental questions

Nineteenth session of the Governing Council of the United Nations Environment Programme[52]

The Governing Council held its nineteenth session at UNEP headquarters, Nairobi, in two parts: from 27 January to 7 February and on 3 and 4 April 1997. During the session, a number of decisions were adopted, including one on the development of an international legally binding instrument for the application of the prior informed consent procedure for certain hazardous chemicals and pesticides in international trade (decision 19/13 A), in which the Council requested the Executive Director, together with the Director-General of FAO, to convene a diplo-

matic conference in 1997 for the purpose of adopting and signing such an international legally binding instrument.

Other decisions concerned the development of an international legally binding instrument regarding persistent organic pollutants (decision 19/13 C) and the report of the Executive Director of UNEP on the mid-term review of the Programme for the Development and Periodic Review of Environmental Law for the 1990s and the further development of international environmental law aiming at sustainable development (decision 19/20).[53] As regards the latter, the Governing Council took note of the position paper on international environmental law aiming at sustainable development[54] and of the preliminary study on the need for and feasibility of international environmental instruments aiming at sustainable development.[55] It endorsed the observations and recommendations made by the Meeting of Senior Government Officials Expert in Environmental Law for the Mid-Term Review of the Programme for the Development and Periodic Review of Environmental Law for the 1990s on specific programme areas of the Montevideo Programme II[56] and requested the Executive Director to use them as guidance in further implementing the Programme.

Consideration by the General Assembly

At its fifty-second session, the General Assembly, on the recommendation of the Second Committee, adopted a number of resolutions concerning the environment, including resolution 52/198 of 18 December 1997, in which the Assembly, inter alia, took note of the reports of the Intergovernmental Negotiating Committee for the Elaboration of an International Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, particularly in Africa, on its tenth session, held in New York from 6 to 17 January,[57] and its resumed tenth session, held at Geneva from 18 to 22 August 1997,[58] and the report of the Conference of the Parties on its first session;[59] welcomed the selection by the Conference of the Parties at its first session[60] of the International Fund for Agricultural Development to house the Global Mechanism; and, in accordance with the decision of the Conference,[61] invited the Fund, as the lead organization, to cooperate fully with the United Nations Development Programme and the World Bank. The General Assembly, also on 18 December 1997, adopted resolution 52/201, in which, recalling the recommendations made at the third session of the Commission on Sustainable Development on the review of chapter 15 of Agenda 21 on the conservation of biological diversity,[62] it welcomed the results of the third meeting of the Conference of the Parties to the Convention on Biological Diversity,[63] held at Buenos Aires from 4 to 15 November 1996, as reflected in the report of the meeting,[64] submitted in accordance with Assembly resolution 51/182 of 16 December 1996, and in that context reaffirmed the need to take concrete action to fulfil the three objectives of the Convention; and also took note of the decision of the Conference of the Parties on the conservation and sustainable use of agricultural biological diversity and the programme of work contained therein,[65] as well as the development of a focused work programme for forest biological diversity.[66]

(*b*) Population and development

On 18 December 1997, the General Assembly, on the recommendation of the Second Committee, adopted resolution 52/188, in which it took note of the re-

port of the Secretary-General concerning the process and modalities for the review and appraisal of the implementation of the Programme of Action of the International Conference on Population and Development;[67] decided to convene a special session for a duration of three days from 30 June to 2 July 1999, at the highest possible level of participation, in order to review and appraise the implementation of the Programme of Action of the International Conference on Population and Development; and welcomed the operational review of the implementation of the Programme of Action to be undertaken under the auspices of the United Nations Population Fund, in cooperation with all relevant organizations of the United Nations system and other relevant international organizations. It also noted that the report and outcome of the international forum in 1999 would be submitted to the Commission on Population and Development at its thirty-second session and to the Executive Board of the United Nations Development Programme/United Nations Population Fund.

The General Assembly further decided that the Commission on Population and Development, which was currently scheduled to consider at its thirty-second session a comprehensive report of the Secretary-General on the outcome of the quinquennial review and appraisal of the implementation of the Programme of Action, should serve as the preparatory body for the final preparations for the special session for the overall review and appraisal of the implementation of the Programme of Action. In that regard it noted that the comprehensive report of the Secretary-General should also contain an overall assessment of the progress achieved and constraints faced in the implementation of the Programme of Action, as well as recommendations for future action. It encouraged Governments to undertake reviews of the progress achieved and the constraints faced therein in the implementation of the Programme of Action at the level of international cooperation, with a view to contributing to the preparations for the special session.

(*c*) Economic issues

At the fifty-second session, the General Assembly, on the recommendation variously of the Second Committee and of the Third Committee, adopted a number of resolutions pertaining to economic issues, among them resolution 52/179 on the global partnership for development: high-level intergovernmental consideration of financing for development; resolution 52/180 on global financial flaws and their impact on the developing countries; resolution 52/181 on unilateral economic measures as a means of political and economic coercion against developing countries; resolution 52/185 on enhancing international cooperation towards a durable solution to the external debt problem of developing countries; resolution 52/186 on renewal of the dialogue on strengthening international economic cooperation for development through partnership; resolution 52/193 on the First United Nations Decade for the Eradication of Poverty; and resolution 52/194 on the role of microcredit in the eradication of poverty.

(*d*) Crime prevention

On 12 December 1997, the General Assembly, on the recommendation of the Third Committee, adopted a number of resolutions on crime prevention. In resolution 52/85, the Assembly took note of the reports of the Secretary-General submitted to the Commission on Crime Prevention and Criminal Justice at its sixth session on the implementation of the Naples Political Declaration and

Global Action Plan against Organized Transnational Crime[68] and on the question of the elaboration of an international convention against organized transnational crime.[69] It also took note of the 40 recommendations elaborated and endorsed by the Senior Experts Group on Transnational Organized Crime (Lyon, France, 27-29 June 1996), contained in annex I to Economic and Social Council resolution 1997/22 of 21 July 1997; and also took note of the report of the informal meeting on the question of the elaboration of an international convention against organized transnational crime (Palermo, Italy, 6-8 April 1997).[70] By the same resolution, the General Assembly decided to establish an inter-sessional open-ended intergovernmental group of experts for the purpose of elaborating a preliminary draft of a possible comprehensive international convention against organized transnational crime. In its resolution 52/86, the Assembly took note of the report of the Secretary-General on the elimination of violence against women,[71] and adopted the Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice, the text of which follows:

Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice

1. The multifaceted nature of violence against women suggests that different strategies are required for different manifestations of violence and the various settings in which it occurs. The practical measures, strategies and activities described below can be introduced in the field of crime prevention and criminal justice to deal with the problem of violence against women. Except where otherwise specified, the term "women" encompasses "girl children".

2. Recalling the definition of violence against women contained in the Declaration on the Elimination of Violence against Women[72] and reiterated in the Platform for Action adopted by the Fourth World Conference on Women,[73] the Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice build upon the measures adopted by Governments in the Platform for Action, bearing in mind that some groups of women are especially vulnerable to violence.

3. The Model Strategies and Practical Measures specifically acknowledge the need for an active policy of bringing into the mainstream a gender perspective in all policies and programmes related to violence against women and of achieving gender equality and equal and fair access to justice, as well as establishing the goal of gender balance in areas of decision-making related to the elimination of violence against women. The Model Strategies and Practical Measures should be applied as guidelines in a manner consistent with relevant international instruments, including the Convention on the Elimination of All Forms of Discrimination against Women,[74] the Convention on the Rights of the Child [75] and the International Covenant on Civil and Political Rights,[76] with a view to furthering their fair and effective implementation.

4. The Model Strategies and Practical Measures should be implemented by Member States and other entities, without prejudice to the principle of gender equality before the law, in order to facilitate the efforts by Governments to deal with the various manifestations of violence against women within the criminal justice system.

5. The Model Strategies and Practical Measures are aimed at providing de jure and de facto equality between women and men. The Model Strategies and Practical Measures do not give preferential treatment to women but are aimed at ensuring that any inequalities or forms of discrimination that women face in achieving access to justice, particularly in respect of acts of violence, are redressed.

I. CRIMINAL LAW

6. Member States are urged:

(*a*) To periodically review, evaluate and revise their laws, codes and procedures, especially their criminal laws, to ensure their value and effectiveness in eliminating violence against women and to remove provisions that allow for or condone violence against women;

(*b*) To review, evaluate and revise their criminal and civil laws, within the framework of their national legal systems, in order to ensure that all acts of violence against women are prohibited and, if not, to adopt measures to do so;

(*c*) To review, evaluate and revise their criminal laws in order to ensure that:

(i) Persons who are brought before the courts on judicial matters in respect of violent crimes or who are convicted of such crimes can be restricted in their possession and use of firearms and other regulated weapons, within the framework of their national legal systems;

(ii) Individuals can be prohibited or restrained, within the framework of their national legal systems, from harassing, intimidating or threatening women.

II. CRIMINAL PROCEDURE

7. Member States are urged to review, evaluate and revise their criminal procedure, as appropriate, in order to ensure that:

(*a*) The police have, with judicial authorization where required by national law, adequate powers to enter premises and conduct arrests in cases of violence against women, including confiscation of weapons;

(*b*) The primary responsibility for initiating prosecutions lies with prosecution authorities and does not rest with women subjected to violence;

(*c*) Women subjected to violence have an opportunity to testify in court proceedings equal to that of other witnesses and that measures are available to facilitate such testimony and to protect their privacy;

(*d*) Rules and principles of defence do not discriminate against women and such defences as honour or provocation do not allow perpetrators of violence against women to escape all criminal responsibility;

(*e*) Perpetrators who commit acts of violence against women while voluntarily under the influence of alcohol or drugs are not absolved of all criminal or other responsibility;

(*f*) Evidence of prior acts of violence, abuse, stalking and exploitation by the perpetrator is considered during court proceedings, in accordance with the principles of national criminal law;

(*g*) Courts, subject to the constitution of their State, have the authority to issue protection and restraining orders in cases of violence against women, including removal of the perpetrator from the domicile, prohibiting further contact with the victim and other affected parties, inside and outside the domicile, and to impose penalties for breaches of these orders;

(*h*) Measures can be taken when necessary to ensure the safety of victims and their families and to protect them from intimidation and retaliation;

(*i*) Safety risks are taken into account in decisions concerning non-custodial or quasi-custodial sentences, the granting of bail, conditional release, parole or probation.

III. POLICE

8. Member States are urged, within the framework of their national legal systems:

(*a*) To ensure that the applicable provisions of laws, codes and procedures related to violence against women are consistently enforced in such a way that all criminal acts of

violence against women are recognized and responded to accordingly by the criminal justice system;

(*b*) To develop investigative techniques that do not degrade women subjected to violence and that minimize intrusion into their lives, while maintaining standards for the collection of the best evidence;

(*c*) To ensure that police procedures, including decisions on the arrest, detention and terms of any form of release of the perpetrator, take into account the need for the safety of the victim and others related through family, socially or otherwise, and that these procedures also prevent further acts of violence;

(*d*) To empower the police to respond promptly to incidents of violence against women;

(*e*) To ensure that the exercise of police powers is undertaken according to the rule of law and codes of conduct and that the police may be held accountable for any infringement thereof;

(*f*) To encourage women to join police forces, including at the operational level.

IV. SENTENCING AND CORRECTION

9. Member States are urged, as appropriate:

(*a*) To review, evaluate and revise sentencing policies and procedures in order to ensure that they meet the goals of:

(i) Holding offenders accountable for their acts related to violence against women;
(ii) Stopping violent behaviour;
(iii) Taking into account the impact on victims and their family members of sentences imposed on perpetrators who are members of their families;
(iv) Promoting sanctions that are comparable to those for other violent crimes;

(*b*) To ensure that a woman subjected to violence is notified of any release of the offender from detention or imprisonment where the safety of the victim in such disclosure outweighs invasion of the offender's privacy;

(*c*) To take into account in the sentencing process the severity of the physical and psychological harm and the impact of victimization, including through victim impact statements where such practices are permitted by law;

(*d*) To make available to the courts through legislation a full range of sentencing dispositions to protect the victim, other affected persons and society from further violence;

(*e*) To ensure that the sentencing judge is encouraged to recommend treatment of the offender at the time of sentencing;

(*f*) To ensure that there are appropriate measures in place to eliminate violence against women who are detained for any reason;

(*g*) To develop and evaluate offender treatment programmes for different types of offenders and offender profiles;

(*h*) To protect the safety of victims and witnesses before, during and after criminal proceedings.

V. VICTIM SUPPORT AND ASSISTANCE

10. Member States are urged, as appropriate:

(*a*) To make available to women who have been subjected to violence information on rights and remedies and on how to obtain them, in addition to information about participating in criminal proceedings and the scheduling, progress and ultimate disposition of the proceedings;

(*b*) To encourage and assist women subjected to violence in lodging and following through on formal complaints;

(*c*) To ensure that women subjected to violence receive, through formal and informal procedures, prompt and fair redress for the harm that they have suffered, including the right to seek restitution or compensation from the offenders or the State;

(*d*) To provide for court mechanisms and procedures that are accessible and sensitive to the needs of women subjected to violence and that ensure the fair processing of cases;

(*e*) To establish a registration system for judicial protection and restraining orders, where such orders are permitted by national law, so that police or criminal justice officials can quickly determine whether such an order is in force.

VI. HEALTH AND SOCIAL SERVICES

11. Member States, in cooperation with the private sector, relevant professional associations, foundations, non-governmental and community organizations, including organizations seeking women's equality, and research institutes are urged, as appropriate:

(*a*) To establish, fund and coordinate a sustainable network of accessible facilities and services for emergency and temporary residential accommodation for women and their children who are at risk of becoming or who have been victims of violence;

(*b*) To establish, fund and coordinate services such as toll-free information lines, professional multidisciplinary counselling and crisis intervention services and support groups in order to benefit women who are victims of violence and their children;

(*c*) To design and sponsor programmes to caution against and prevent alcohol and substance abuse, given the frequent presence of alcohol and substance abuse in incidents of violence against women;

(*d*) To establish better linkages between medical services, both private and emergency, and criminal justice agencies for purposes of reporting, recording and responding to acts of violence against women;

(*e*) To develop model procedures to help participants in the criminal justice system to deal with women subjected to violence;

(*f*) To establish, where possible, specialized units with persons from relevant disciplines especially trained to deal with the complexities and victim sensitivities involved in cases of violence against women.

VII. TRAINING

12. Member States, in cooperation with non-governmental organizations, including organizations seeking women's equality, and in collaboration with relevant professional associations, are urged, as appropriate:

(*a*) To provide for or to encourage mandatory cross-cultural and gender-sensitivity training modules for police, criminal justice officials, practitioners and professionals involved in the criminal justice system that deal with the unacceptability of violence against women, its impact and consequences and that promote an adequate response to the issue of violence against women;

(*b*) To ensure adequate training, sensitivity and education of police, criminal justice officials, practitioners and professionals involved in the criminal justice system regarding all relevant human rights instruments;

(*c*) To encourage professional associations to develop enforceable standards of practice and behaviour, which promote justice and equality for women, for practitioners involved in the criminal justice system.

VIII. RESEARCH AND EVALUATION

13. Member States and the institutes comprising the United Nations Crime Prevention and Criminal Justice Programme network, relevant entities of the United Nations sys-

tem, other relevant international organizations, research institutes and non-governmental organizations, including organizations seeking women's equality, are urged, as appropriate:

(*a*) To develop crime surveys on the nature and extent of violence against women;

(*b*) To gather data and information on a gender-disaggregated basis for analysis and use, together with existing data, in needs assessment, decision-making and policy-making in the field of crime prevention and criminal justice, in particular concerning:

(i) The different forms of violence against women, its causes and consequences;
(ii) The extent to which economic deprivation and exploitation are linked to violence against women;
(iii) The relationship between the victim and the offender;
(iv) The rehabilitative or anti-recidivistic effect of various types of intervention on the individual offender and on the reduction of violence against women;
(v) The use of firearms, drugs and alcohol, particularly in cases of violence against women in situations of domestic violence;
(vi) The relationship between victimization or exposure to violence and subsequent violent activity;

(*c*) To monitor and issue annual reports on the incidence of violence against women, arrest and clearance rates, prosecution and case disposition of the offenders;

(*d*) To evaluate the efficiency and effectiveness of the criminal justice system in fulfilling the needs of women subjected to violence.

IX. CRIME PREVENTION MEASURES

14. Member States and the private sector, relevant professional associations, foundations, non-governmental and community organizations, including organizations seeking women's equality, and research institutes are urged, as appropriate:

(*a*) To develop and implement relevant and effective public awareness, public education and school programmes that prevent violence against women by promoting equality, cooperation, mutual respect and shared responsibilities between women and men;

(*b*) To develop multidisciplinary and gender-sensitive approaches within public and private entities that participate in the elimination of violence against women, especially through partnerships between law enforcement officials and services specialized in the protection of women victims of violence;

(*c*) To set up outreach programmes for offenders or persons identified as potential offenders in order to promote the peaceful resolution of conflicts, the management and control of anger and attitude modification about gender roles and relations;

(*d*) To set up outreach programmes and offer information to women, including victims of violence, about gender roles, the human rights of women and the social, health, legal and economic aspects of violence against women, in order to empower women to protect themselves against all forms of violence;

(*e*) To develop and disseminate information on the different forms of violence against women and the availability of programmes to deal with that problem, including programmes concerning the peaceful resolution of conflicts, in a manner appropriate to the audience concerned, including in educational institutions at all levels;

(*f*) To support initiatives of organizations seeking women's equality and of non-governmental organizations to raise public awareness of the issue of violence against women and to contribute to its elimination.

15. Member States and the media, media associations, media self-regulatory bodies, schools and other relevant partners, while respecting the freedom of the media, are urged, as appropriate, to develop public awareness campaigns and appropriate measures and mechanisms, such as codes of ethics and self-regulatory measures on media violence, aimed at enhancing respect for the rights of women and discouraging both discrimination against women and stereotyping of women.

X. INTERNATIONAL COOPERATION

16. Member States and United Nations bodies and institutes are urged, as appropriate:

(*a*) To exchange information concerning successful intervention models and preventive programmes in eliminating violence against women and to compile a directory of those models;

(*b*) To cooperate and collaborate at the regional and international levels with relevant entities to prevent violence against women and to promote measures to effectively bring perpetrators to justice, through mechanisms of international cooperation and assistance, in accordance with national law;

(*c*) To contribute to and support the United Nations Deyelopment Fund for Women in its activities to eliminate violence against women.

17. Member States are urged:

(*a*) To limit the extent of any reservations to the Convention on the Elimination of All Forms of Discrimination against Women to those that are formulated as precisely and as narrowly as possible and that are not incompatible with the object and purpose of the Convention;

(*b*) To condemn all violations of the human rights of women in situations of armed conflict, to recognize them as being violations of international human rights and humanitarian law and to call for a particularly effective response to violations of that kind, including, in particular, murder, systematic rape, sexual slavery and forced pregnancy;

(*c*) To work actively towards ratification of or accession to the Convention on the Elimination of All Forms of Discrimination against Women for the States that are still not parties to it, so that universal ratification can be achieved by the year 2000;

(*d*) To give full consideration to integrating a gender perspective in the drafting of the statute of the international criminal court, particularly in respect of women who are victims of violence;

(*e*) To cooperate with and assist the Special Rapporteur of the Commission on Human Rights on violence against women, its causes and consequences in the performance of his or her mandated tasks and duties, to supply all information requested and to respond to the Special Rapporteur's visits and communications.

XI. FOLLOW-UP ACTIVITIES

18. Member States, United Nations bodies, subject to the availability of extrabudgetary funds, the institutes comprising the United Nations Crime Prevention and Criminal Justice Programme network, other relevant international organizations, research institutes and non-governmental organizations, including organizations seeking women's equality, are urged, as appropriate:

(*a*) To encourage the translation of the Model Strategies and Practical Measures into local languages and to ensure its wide dissemination for use in training and education programmes;

(*b*) To utilize the Model Strategies and Practical Measures as a basis, a policy reference and a practical guide for activities aimed at eliminating violence against women;

(*c*) To assist Governments, at their request, in reviewing, evaluating and revising their criminal justice systems, including their criminal legislation, on the basis of the Model Strategies and Practical Measures;

(*d*) To support the technical cooperation activities of the institutes comprising the United Nations Crime Prevention and Criminal Justice Programme network in eliminating violence against women;

(*e*) To develop coordinated national, regional and subregional plans and programmes to put the Model Strategies and Practical Measures into effect;

(*f*) To design standard training programmes and manuals for the police and criminal justice officials, based on the Model Strategies and Practical Measures;

(*g*) To periodically review and monitor, at the national and international levels, progress made in terms of plans, programmes and initiatives to eliminate violence against women in the context of the Model Strategies and Practical Measures.

The General Assembly also adopted resolution 52/97 entitled "Violence against women migrant workers", in which it welcomed the report of the Secretary-General on the subject,[77] and encouraged Member States to consider signing and ratifying or acceding to the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,[78] as well as the Slavery Convention of 1926.[79]

In its resolution 52/87, the General Assembly took note of the report of the Secretary-General on action against corruption and bribery[80] and of the report of the Expert Group Meeting on Corruption, held at Buenos Aires from 17 to 21 March 1997.[81] The Assembly also welcomed developments that had advanced international understanding and cooperation regarding bribery in transnational business, such as the Inter-American Convention against Corruption adopted by the Organization of American States on 29 March 1996,[82] containing an article on the prohibition of foreign commercial bribery; the ongoing work of the Council of Europe against corruption, including the elaboration of several international conventions containing provisions on bribery in international commercial transactions; the ongoing work of the World Trade Organization to improve transparency, openness and due process in government procurement procedures; and the ongoing work of the States members of the Organisation for Economic Cooperation and Development, including, as elements, the agreement to prohibit the tax deductibility of bribes paid to foreign public officials in international commercial transactions and the commitment to criminalize the bribing of foreign public officials in international business transactions. The General Assembly also agreed that all States should take all possible measures to further the implementation of the United Nations Declaration against Corruption and Bribery in International Commercial Transactions[83] and the International Code of Conduct for Public Officials.[84]

The General Assembly furthermore adopted resolution 52/88 on international cooperation in criminal matters, covering areas of mutual assistance and extradition, and in that regard recommended that an expert group, in accordance with section I of Economic and Social Council resolution 1995/27 of 24 July 1995, should explore ways and means of increasing the efficiency of this type of international cooperation, having due regard for the rule of law and the protection of human rights, including by drafting alternative or complementary articles for the Model Treaty on Mutual Assistance in Criminal Matters,[85] developing model legislation and providing technical assistance in the development of agreements. The Assembly also decided that the Model Treaty on Extradition[86] should be complemented by the provisions as follows:

Complementary provisions for the Model Treaty on Extradition

Article 3

1. Move the text of footnote 96 to the end of subparagraph (*a*) and add a new footnote reading: "Countries may wish to exclude certain conduct, e.g., acts of violence, such as serious offences involving an act of violence against the life, physical integrity or liberty of a person, from the concept of political offence."

2. Add the following sentence to footnote 97: "Countries may also wish to restrict consideration of the issue of lapse of time to the law of the requesting State only or to provide that acts of interruption in the requesting State should be recognized in the requested State."

Article 4

3. Add the following footnote to subparagraph (*a*): "Some countries may also wish to consider, within the framework of national legal systems, other means to ensure that those responsible for crimes do not escape punishment on the basis of nationality, such as, inter alia, provisions that would permit surrender for serious offences or permit temporary transfer of the person for trial and return of the person to the requested State for service of sentence."

4. Add to subparagraph (*d*) the same *aut dedere aut judicare* (either extradite or prosecute) provisions as are found in subparagraphs (*a*) and (*f*).

Article 5

5. Add the following footnote to the title of article 5: "Countries may wish to consider including the most advanced techniques for the communication of requests and means which could establish the authenticity of the documents as emanating from the requesting State."

6. Replace existing footnote 101 with the following text: "Countries requiring evidence in support of a request for extradition may wish to define the evidentiary requirements necessary to satisfy the test for extradition and in doing so should take into account the need to facilitate effective international cooperation."

Article 6

7. Add the following footnote to the title of article 6: "Countries may wish to provide for the waiver of speciality in the case of simplified extradition."

Article 14

8. Add the following footnote to subparagraph 1 (*a*): "Countries may also wish to provide that the rule of speciality is not applicable to extraditable offences provable on the same facts and carrying the same or a lesser penalty as the original offence for which extradition was requested."

9. Delete footnote 103.

10. Add the following footnote to paragraph 2: "Countries may wish to waive the requirement for the provision of some or all of these documents."

Article 15

11. Add the following sentence to footnote 105: "However, countries may wish to provide that transit should not be denied on the basis of nationality."

Article 17

12. Add the following sentence to footnote 106: "There may also be cases for consultation between the requesting and requested States for the payment by the requesting State of extraordinary costs, particularly in complex cases where there is a significant disparity in the resources available to the two States."

By its resolution 52/89, the General Assembly commended the United Nations African Institute for the Prevention of Crime and the Treatment of Offenders for its efforts to promote and coordinate regional technical cooperation activities related to crime prevention and criminal justice systems in Africa. By its resolution 52/90, the Assembly reaffirmed the priority of the United Nations Crime Prevention and Criminal Justice Programme and requested the Secretary-General to further strengthen 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, held at Naples, Italy, from 21 to 23 November 1994,[87] and to the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Cairo from 29 April to 8 May 1995.[88]

The General Assembly, by its resolution 52/91, took note of the report of the Commission on Crime Prevention and Criminal Justice on its sixth session[89] and of the discussion on the preparations for the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders.[90]

(*e*) International action to combat drug abuse and illicit production and trafficking

Status of international instruments

During the course of 1997, one more State became a party to the 1961 Single Convention on Narcotic Drugs,[91] bringing the total number of parties to 139; six more States became parties to the 1971 Convention on Psychotropic Substances,[92] bringing the total to 153; two more States became parties to the 1972 Protocol amending the Single Convention on Narcotic Drugs, 1961,[93] bringing the total to 107; and six more States became parties to the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances,[94] bringing the total to 145.

Consideration by the General Assembly

On 12 December 1997, the General Assembly adopted resolution 52/92, in which it called upon all States to adopt adequate national laws and regulations, to strengthen national judicial systems and to carry out effective drug control activities in cooperation with other States in accordance with the international instruments mentioned above; and reaffirmed the importance of the Global Programme of Action adopted by the General Assembly at its seventeenth special session on drugs[95] as a comprehensive framework for national, regional and international action to combat illicit production of, demand for and trafficking in narcotic drugs and psychotropic substances. In the same resolution, the Assembly took note of the report of the Commission on Narcotic Drugs acting as the preparatory body for the special session of the General Assembly devoted to the fight against the illicit production, sale, demand, traffic and distribution of narcotic drugs and psychotropic substances and related activities;[96] and decided that the special session would be held as recommended by the Economic and Social Council in its decision 1997/238 of 21 July 1997, from 8 to 10 June 1998, and that it should be supported by the United Nations System-wide Action Plan on Drug Abuse Control[97] as a vital tool for the coordination and enhancement of drug abuse control activities

within the United Nations system. Furthermore, the General Assembly welcomed the efforts of the United Nations International Drug Control Programme to implement its mandate within the framework of the international drug control treaties, the Comprehensive Multidisciplinary Outline of Future Activities in Drug Abuse Control,[98] the Global Programme of Action and relevant consensus documents; and took note of the report of the Secretary-General.[99]

(*f*) Human rights questions

(1) *Status and implementation of international instruments*

(i) *International Covenants on Human Rights*

In 1997, two more States became parties to the International Covenant on Economic, Social and Cultural Rights of 1966,[100] bringing the total number of States parties to 137; four more States became parties to the International Covenant on Civil and Political Rights of 1966,[101] bringing the total to 140; four more States became parties to the Optional Protocol to the International Covenant on Civil and Political Rights of 1966,[102] bringing the total to 93; and two more States became 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,[103] bringing the total to 31.

On 12 December 1997, the General Assembly, on the recommendation of the Third Committee, adopted resolution 52/116, in which it noted that the International Covenants on Human Rights constituted the first all-embracing and legally binding international treaties in the field of human rights and, together with the Universal Declaration of Human Rights,[104] formed the core of the International Bill of Human Rights; and, taking note of the report of the Secretary-General[105] on the status of the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Optional Protocols to the International Covenant on Civil and Political Rights, invited the United Nations High Commissioner for Human Rights to intensify systematic efforts to encourage States to become parties to the International Covenants on Human Rights and, through the programme of advisory services in the field of human rights, to assist such States, at their request, in ratifying or acceding to the Covenants and to the Optional Protocols to the International Covenant on Civil and Political Rights.

(ii) *International Convention on the Elimination of All Forms of Racial Discrimination of 1966*[106]

In 1997, two more States became parties to the Convention, bringing the total number of States parties to 150.

At its fifty-second session, the General Assembly, on 12 December 1997, on the recommendation of the Third Committee, adopted several resolutions in this area: resolution 52/109, entitled "Measures to combat contemporary forms of racism, racial discrimination, xenophobia and related intolerance", in which the Assembly took note of the report of the Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia

and related intolerance;[107] resolution 52/110, entitled "Report of the Committee on the Elimination of Racial Discrimination",[108] and resolution 52/111, entitled "Third Decade to Combat Racism and Racial Discrimination and the convening of a world conference against racism, racial discrimination, xenophobia and related intolerance".

(iii) *International Convention on the Suppression and Punishment of the Crime of Apartheid of 1973*[109]

In 1997, one more State became a party to the Convention, bringing the total number of States parties to 101.

(iv) *Convention on the Elimination of All Forms of Discrimination against Women of 1979*[110]

In 1997, seven more States became parties to the Convention, bringing the total number of States parties to 161.

At its fifty-second session, the General Assembly, on 12 December 1997, on the recommendation of the Third Committee, adopted a number of resolutions specifically targeting women, in addition to the two above-mentioned resolutions on elimination of violence against women: resolution 52/93, entitled "Improvement of the situation of women in rural areas"; resolution 52/94, entitled "United Nations Development Fund for Women"; resolution 52/95, entitled "International Research and Training Institute for the Advancement of Women"; resolution 52/96, entitled "Improvement of the status of women in the [United Nations] Secretariat"; and resolution 52/98, entitled "Traffic in women and girls". In the latter resolution, the General Assembly took note of the report of the Secretary-General on the traffic in women and girls,[111] welcomed national, regional and international efforts to implement the recommendations of the World Congress against Commercial Sexual Exploitation of Children[112] and also welcomed actions undertaken by Governments to implement the provisions on trafficking in women and girls contained in the Platform for Action of the Fourth World Conference on Women[113] and the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights.[114] The General Assembly also adopted resolution 52/99, entitled "Traditional or customary practices affecting the health of women and girls"; resolution 52/100, entitled "Follow-up to the Fourth World Conference on Women and full implementation of the Beijing Declaration and the Platform for Action"; and resolution 52/106, entitled "The girl child". Moreover, the Assembly adopted decision 52/421, in which it took note of the following reports: report of the Committee on the Elimination of Discrimination against Women;[115] report of the Secretary-General on the Status of the Convention on the Elimination All Forms of Discrimination against Women;[116] and report of the Secretary-General on activities of the International Research and Training Institute for the Advancement of Women.[117]

(v) *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1984*[118]

In 1997, three more States became parties to the Convention, bringing the total number of States parties to 104.

(vi) *Convention on the Rights of the Child*[119]

In 1997, three more States became parties to the Convention, bringing the total number of States parties to 191.

At its fifty-second session, the General Assembly, on 12 December 1997, on the recommendation of the Third Committee, adopted resolution 52/107 on the rights of the child, covering the implementation of the Convention on the Rights of the Child; children with disabilities; prevention and eradication of the sale of children and of their sexual exploitation, including child prostitution and child pornography; protection of children affected by armed conflict; refugee and internally displaced children; elimination of the exploitation of child labour; and the plight of children living and/or working on the streets. On the same date, the Assembly also adopted decision 52/421, in which it took note of the Report of the Secretary-General on the status of the Convention on the Rights of the Child[120] and the report of the Secretary-General on the exploitation of child labour.[121]

(vii) *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families of 1990*[122]

In 1997, one more State became a party to the Convention, bringing the total number of States parties to nine.

At its fifty-second session, the General Assembly, on 12 December 1997, on the recommendation of the Third Committee, adopted resolution 52/115, in which it took note of the report of the Secretary-General on the Convention.[123]

(2) *Fiftieth anniversary of the Universal Declaration of Human Rights of 1948*[124]

The General Assembly, on 12 December 1997, on the recommendation of the Third Committee, adopted resolution 52/117, in which it welcomed the activities undertaken by the United Nations High Commissioner for Human Rights to contribute to the celebration of the fiftieth anniversary of the Universal Declaration of Human Rights, and requested her to continue to coordinate all relevant activities within the United Nations system, bearing in mind the provisions of the Vienna Declaration and Programme of Action[125] for evaluation and follow-up; and reaffirmed its commitment to continue building on the inspiration of the Declaration through the development of international human rights standards and of mechanisms for their promotion and protection, taking into account developments over the past 50 years, including the adoption of the Declaration on the Right to Development.[126]

(3) *Comprehensive implementation of and follow-up to the Vienna Declaration and Programme of Action*

At its fifty-second session, the General Assembly, on 12 December 1997, on the recommendation of the Third Committee, adopted resolution 52/148, in which it recalled its resolution 48/121 of 20 December 1993, in which it had endorsed the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights, held at Vienna from 14 to 25 June 1993, as well as its subsequent resolutions on this matter. It also recalled paragraph 100 of part II of the Vienna Declaration and Programme of Action concerning the five-year re-

view of progress made in the implementation of the Vienna Declaration and Programme of Action, to by carried out in 1998, in which the World Conference, inter alia, had requested the Secretary-General to invite, on the occasion of the fiftieth anniversary of the Universal Declaration of Human Rights, all States, organs and agencies of the United Nations system related to human rights to report to him on the progress made in the implementation of the Vienna Declaration and Programme of Action; and, having considered the report of the United Nations High Commissioner for Human Rights,[127] in particular chapter VII, entitled "1998—Human Rights Year", called upon all States to contribute actively to the 1998 five-year review.

(4) *Other human rights issues*

During the fifty-second session of the General Assembly, there were a number of other resolutions and decisions adopted, upon the recommendation of the Third Committee: resolution 52/118, entitled "Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights"; decision 52/422, entitled "Human rights questions"; decision 52/423, entitled "Documents considered by the General Assembly in connection with the implementation of human rights instruments"; decision 52/425, entitled "Documents considered by the General Assembly in connection with human rights questions: human rights situations and reports of special rapporteurs and representatives"; and decision 52/427, entitled "Report of the United Nations High Commissioner for Human Rights". Further resolutions adopted included: resolution 52/124, entitled "Human rights in the administration of justice"; resolution 52/125, entitled "Strengthening of the rule of law"; resolution 52/128, entitled "National institutions for the promotion and protection of human rights"; resolution 52/131, entitled "Strengthening of United Nations action in the field of human rights through the promotion of international cooperation and the importance of non-selectivity, impartiality and objectivity"; and resolution 52/134, entitled "Enhancement of international cooperation in the field of human rights".

(g) Refugee issues

(1) *Status of international instruments*

During 1997, three more States became parties to the Convention Relating to the Status of Refugees of 1951,[128] bringing the total number of States parties to 131; three more States became parties to the Protocol Relating to the Status of Refugees of 1967,[129] bringing the total number of States parties to 131; and one more State became a party to the Convention Relating to the Status of Stateless Persons of 1954,[130] bringing the total number of States parties to 44. Regarding the Convention on the Reduction of Statelessness of 1961,[131] the number of States parties remained at 19.

(2) *Office of the United Nations High Commissioner for Refugees*[132]

The Executive Committee of the Programme of the United Nations High Commissioner for Refugees held its forty-eighth session at the United Nations

Office at Geneva from 13 to 17 October 1997 and adopted a number of decisions and conclusions concerning international protection; safeguarding asylum/safety of UNHCR staff and other humanitarian personnel; refugee children and adolescents; and follow-up to the Conference on the Commonwealth of Independent States.

(3) *Consideration by the General Assembly*

At its fifty-second session, the General Assembly, on 12 December 1997, on the recommendation of the Third Committee, adopted a number of resolutions in this area, including resolution 52/101, entitled "Assistance to refugees, returnees and displaced persons in Africa"; resolution 52/105, entitled "Assistance to unaccompanied refugee minors"; and resolution 52/102, entitled "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". Also adopted were resolutions 52/103 and 52/104 on the Office of the United Nations High Commissioner for Refugees.

(*h*) International ad hoc criminal tribunals

The General Assembly, during its fifty-second session, adopted without reference to a Main Committee decision 52/408 of 4 November 1997, by which it took note of the fourth annual report of 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,[133] and decision 54/412 of 8 December 1997, by which it took note of the second annual report of 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 between 1 January and 31 December 1994.[134]

(*i*) Protection of United Nations personnel

At its fifty-second session, the General Assembly, on 12 December 1997, on the recommendation of the Third Committee, adopted resolution 52/126, in which, guided by the relevant principles on protection contained in the Convention on the Privileges and Immunities of the United Nations,[135] the Convention on the Privileges and Immunities of the Specialized Agencies[136] and the Convention on the Safety of United Nations and Associated Personnel,[137] and noting that since its adoption on 9 December 1994, only 43 Member States had signed the Convention on the Safety of United Nations and Associated Personnel and only 14 had ratified it, the Assemby took note of the report of the Secretary-General on the situation of United Nations personnel and their families[138] and of the developments indicated therein. By the same resolution, the Assembly urged all States: (*a*) to respect and ensure respect for the human rights of United Nations and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation and to take the necessary measures to ensure the safety and security of those personnel, as well as the inviolability of United Nations premises, which were essential to the continuation and successful implementation of United

Nations operations; and (*b*) to ensure the speedy release of United Nations and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation who had been arrested or detained in violation of their immunity, in accordance with the above-mentioned relevant conventions and applicable international humanitarian law; and called upon all States: (*a*) to consider becoming parties to the Convention on the Safety of United Nations and Associated Personnel; (*b*) to provide adequate and prompt information concerning the arrest or detention of United Nations and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation; (*c*) to grant the representative of the competent international organization immediate and unconditional access to such personnel; (*d*) to allow independent medical teams to investigate the health of detained United Nations and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation and to afford them the necessary medical assistance; and (*e*) to allow representatives of the competent international organization concerned to attend hearings involving United Nations and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation, provided that such attendance was consistent with domestic law.

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

The General Assembly, on 25 November 1997, without reference to a Main Committee, adopted resolution 52/24, in which, recalling the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property;[139] welcoming the Medellín Declaration for Cultural Diversity and Tolerance and the Plan of Action on Cultural Cooperation adopted at the First Meeting of the Ministers of Culture of the Movement of Non-Aligned Countries, held at Medellín, Colombia, in 1997; and taking note of the report of the Secretary-General,[140] the Assembly commended UNESCO and the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation on the work already accomplished, in particular through the promotion of bilateral negotiations, for the return or restitution of cultural property, the preparation of inventories of movable cultural property, the reduction of illicit traffic in cultural property and the dissemination of information to the public.

---

4. LAW OF THE SEA

(*a*) Status of the United Nations Convention on the Law of the Sea of 1982[141]

In 1997, 13 more States became parties to the Convention, bringing the total number of States parties to 123.

(*b*) Report of the Secretary-General[142]

The report of the Secretary-General on the law of the sea was submitted to the General Assembly at its fifty-second session and covers a number of areas related to oceans and the law of the sea.

The report pointed out that the International Tribunal for the Law of the Sea, having been established with the election of the 21 members on 1 August 1996,[143] commenced its functions in Hamburg, Germany, and held three sessions. A fourth session would be held in October 1997.[144] Regarding the constitution of the Chambers, the Tribunal also had constituted three standing chambers in addition to the Seabed Disputes Chamber: Chamber of Summary Procedure; Chamber for Fisheries Disputes; and Chamber for Marine Environment Disputes.

The report of the Secretary-General noted that a number of cases concerning disputes over maritime areas were still pending before the International Court of Justice.[145]

There also was discussion on the report on crimes at sea (privacy and armed robbery) and the smuggling of aliens.

(*c*) Consideration by the General Assembly

At its fifty-second session, the General Assembly, on 26 November 1997, without reference to a Main Committee, adopted a number of resolutions on the topic. By its resolution 52/26, entitled "Oceans and the law of the sea", the Assembly noted the progress in the work of the International Seabed Authority and the progress being made by the Legal and Technical Commission towards the formulation of a draft mining code, and also noted the adoption of the Agreement on the Privileges and Immunities of the Tribunal,[146] the progress made towards the conclusion of a headquarters agreement between the Tribunal and Germany and the adoption by the Tribunal of the Rules of the Tribunal, the resolution on internal judicial practice and the guidelines for the preparation and presentation of cases before the Tribunal. By its resolution 52/27, the Assembly approved the Agreement concerning the Relationship between the United Nations and the International Seabed Authority.[147]

By its resolution 52/28, the General Assembly took note of the report of the Secretary-General[148] and recognized the significance of the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks[149] as an important contribution to ensuring the conservation and management of straddling fish stocks and highly migratory fish stocks, and emphasized the importance of the early entry into force and effective implementation of the Agreement.

Finally, by its resolution 52/29, the General Assembly, taking note of the report of the Secretary-General on large-scale pelagic drift-net fishing and its impact on the living marine resources of the world's oceans and seas, unauthorized fishing in zones of national jurisdiction and its impact on the living marine resources of the world's oceans and seas, and fisheries by-catch and discards and their impact on the sustainable use of the world's living marine resources,[150] reaffirmed the importance it attached to compliance with its resolution 46/215 of 20 December 1991, in particular to those provisions of the resolution calling for full implementation of a global moratorium on all large-scale pelagic drift-net fishing

on the high seas of the world's oceans and seas, including enclosed seas and semi-enclosed seas. It also 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 resolutions 46/215, 49/116 of 19 December 1994 and 51/36 of 9 December 1996, and urged them to enforce such measures fully. Furthermore, the Assembly 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.

---

5. INTERNATIONAL COURT OF JUSTICE[151, 152]

Cases before the Court[153]

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

By an Order of 30 October 1996 (*I.C.J. Reports 1996*, p. 800), 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. After Judge ad hoc Shahabuddeen had, in his turn, resigned, Bahrain chose Mr. Yves L. Fortier to sit as judge ad hoc.

By a letter dated 25 September 1997 Bahrain informed the Court that it challenged the authenticity of 81 documents produced by Qatar as annexes to its Memorial, and submitted detailed analyses in support of its challenge. Stating that the matter was "distinct and severable from the merits", Bahrain announced that it would disregard the content of these documents for the purposes of preparing its Counter-Memorial.

By a letter of 8 October 1997, Qatar stated that in its view the objections raised by Bahrain were linked to the merits, but that the Court could not "expect Qatar, at the present stage of preparation of its own Counter-Memorial, to comment on the detailed Bahraini allegations".

After Bahrain, in a subsequent letter, had stated that the use by Qatar of the challenged documents gave rise to "procedural difficulties that strike at the fundamentals of the orderly development of the case" and that a new development, relevant to assessment of the authenticity of the documents concerned, had taken place, the President of the Court held, on 25 November 1997, a meeting with the Parties at which it was agreed, inter alia, that the Counter-Memorials would not deal with the question of the authenticity of the documents produced by Qatar and that other pleadings would be submitted by the Parties at a later date.

The Counter-Memorials of the Parties were duly filed and exchanged on 23 December 1997.

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

By an Order of 16 December 1996 (*I.C.J. Reports 1996*, p. 902), the President of the Court, taking into account 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 counterclaim, 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."

By a letter of 2 October 1997 Iran informed the Court that it had "serious objections to the admissibility of the United States counterclaim", taking the position that the counterclaim as formulated by the United States did not meet the requirements of Article 80, paragraph I, of the Rules of Court.

At a meeting which the Vice-President of the Court, Acting President, held on 17 October 1997 with the Agents of the Parties, it was agreed that their respective Governments would submit written observations on the question of the admissibility of the United States counterclaim.

After Iran and the United States, in communications dated 18 November and 18 December 1997, respectively, had submitted these written observations the Court, by an Order of 10 March 1998 (*I.C.J. Reports 1998*, p. 190), found that the counterclaim presented by the United States in its Counter-Memorial was admissible as such and formed part of the proceedings. It further directed Iran to submit a Reply and the United States to submit a Rejoinder, fixing the time limits for those pleadings at 10 September 1998 and 23 November 1999, respectively.

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

By an Order of 23 July 1996 (*I.C.J. Reports 1996*, p. 797), 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 counterclaims, 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 od 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."

By a letter of 28 July 1997 Bosnia and Herzegovina informed the Court that "the Applicant [was] of the opinion that the counterclaim submitted by the Respondent . . . [did] not meet the criterion of Article 80, paragraph 1, of the Rules of Court and should therefore not be joined to the original proceedings".

At a meeting which the President of the Court held on 22 September 1997 with the Agents of the Parties, both Parties accepted that their respective Governments would submit written observations on the question of the admissibility of the Yugoslav counterclaims.

After Bosnia and Herzegovina and Yugoslavia, in communications dated 9 October and 23 October 1997, respectively, had submitted written observations, the Court, by an Order of 17 December 1997 (*I.C.J. Reports 1997,* p. 243), found that the counterclaims submitted by Yugoslavia in its Counter-Memorial were admissible as such and formed part of the proceedings. It further directed Bosnia and Herzegovina to submit a Reply and Yugoslavia to submit a Rejoinder, fixing the time limits for those pleadings at 23 January and 23 July 1998, respectively.

Judge ad hoc Kreća appended a declaration to the Order (ibid., pp. 262-271); Judge Koroma and Judge ad hoc Lauterpacht appended separate opinions (ibid., pp. 272-277 and 278-286); and Vice-President Weeramantry appended a dissenting opinion (ibid., pp. 287-297).

4. *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*

In November 1995, in Budapest and New York, the two Parties signed a "Protocol of Agreement" on the proposal of a visit by the Court, which, after dates had been fixed with the approval of the Court, was supplemented by Agreed Minutes on 3 February 1997.

By an Order of 5 February 1997 (*I.C.J. Reports 1997*, p. 3), the Court decided to "exercise its functions with regard to the obtaining of evidence by visiting a place or locality to which the case relates" (cf. Art. 66 of the Rules of Court) and to "adopt to that end the arrangements proposed by the Parties". The visit, which was the first in the Court's 50-year history, took place from 1 to 4 April 1997, between the first and second rounds of oral hearings.

The first round of those hearings took place from 3 to 7 March and from 24 to 27 March 1997. A video-film was shown by each of the Parties. The second round took place on 10 and 11 and on 14 and 15 April 1997.

At a public sitting held on 25 September 1997, the Court delivered its judgment (*I.C.J. Reports 1997*, p. 7), a summary of which is given below, followed by the text of the operative paragraph:

Review of the proceedings and statement of claims (paras. 1-14)

The Court begins by recalling that proceedings had been instituted on 2 July 1993 by a joint notification, by Hungary and Slovakia, of a Special Agreement, signed at Brussels on 7 April 1993. After setting out the text of the Agreement, the Court recites the successive stages of the proceedings, referring, among other things, to its visit, on the invitation of the Parties, to the area, from 1 to 4 April 1997. It further sets out the submissions of the Parties.

History of the dispute (paras. 15-25)

The Court recalls that the present case arose out of the signature, on 16 September 1977, by the Hungarian People's Republic and the Czechoslovak People's Republic, of a treaty "concerning the construction and operation of the Gabčíkovo-Nagymaros System of Locks" (hereinafter called the "1977 Treaty"). The names of the two contracting States have varied over the years; they are referred to as Hungary and Czechoslovakia. The 1977 Treaty entered into force on 30 June 1978. It provides for the construction and operation of a System of Locks by the parties as a "joint investment". According to its preamble, the system was designed to attain "the broad utilization of the natural resources of the Bratislava-Budapest section of the Danube river for the development of water resources, energy, transport, agriculture and other sectors of the national economy of the Contracting Parties". The joint investment was thus essentially aimed at the production of hydroelectricity, the improvement of navigation on the relevant section of the Danube and the protection of the areas along the banks against flooding. At the same time, by the terms of the Treaty, the contracting parties un-

dertook to ensure that the quality of water in the Danube was not impaired as a result of the Project, and that compliance with the obligations for the protection of nature arising in connection with the construction and operation of the System of Locks would be observed.

The sector of the Danube river with which this case is concerned is a stretch of approximately 200 kilometres, between Bratislava in Slovakia and Budapest in Hungary. Below Bratislava, the river gradient decreases markedly, creating an alluvial plain of gravel and sand sediment. The boundary between the two States is constituted, in the major part of that region, by the main channel of the river. Čunovo and, further downstream, Gabčíkovo, are situated in this sector of the river on Slovak territory, Čunovo on the right bank and Gabčíkovo on the left. Further downstream, after the confluence of the various branches, the river enters Hungarian territory. Nagymaros lies in a narrow valley at a bend in the Danube just before it turns south, enclosing the large river island of Szentendre before reaching Budapest (see sketch-map No. 1).

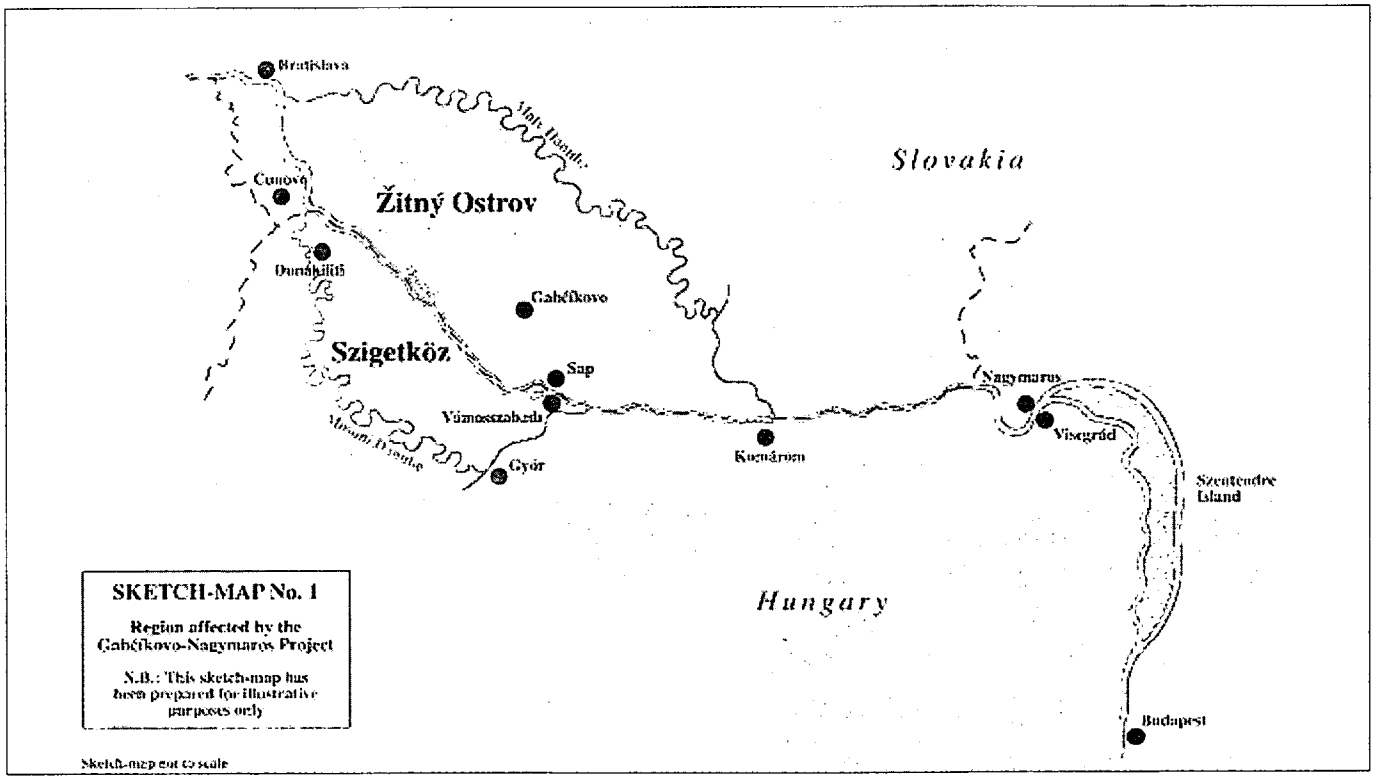
The 1977 Treaty describes the principal works to be constructed in pursuance of the Project. It provided for the building of two series of locks, one at Gabčíkovo (in Czechoslovak territory) and the other at Nagymaros (in Hungarian territory), to constitute "a single and indivisible operational system of works" (see sketch-map No. 2). The Treaty further provided that the technical specifications concerning the system would be included in the "Joint Contractual Plan" which was to be drawn up in accordance with the Agreement signed by the two Governments for this purpose on 6 May 1976. It also provided for the construction, financing and management of the works on a joint basis in which the Parties participated in equal measure.

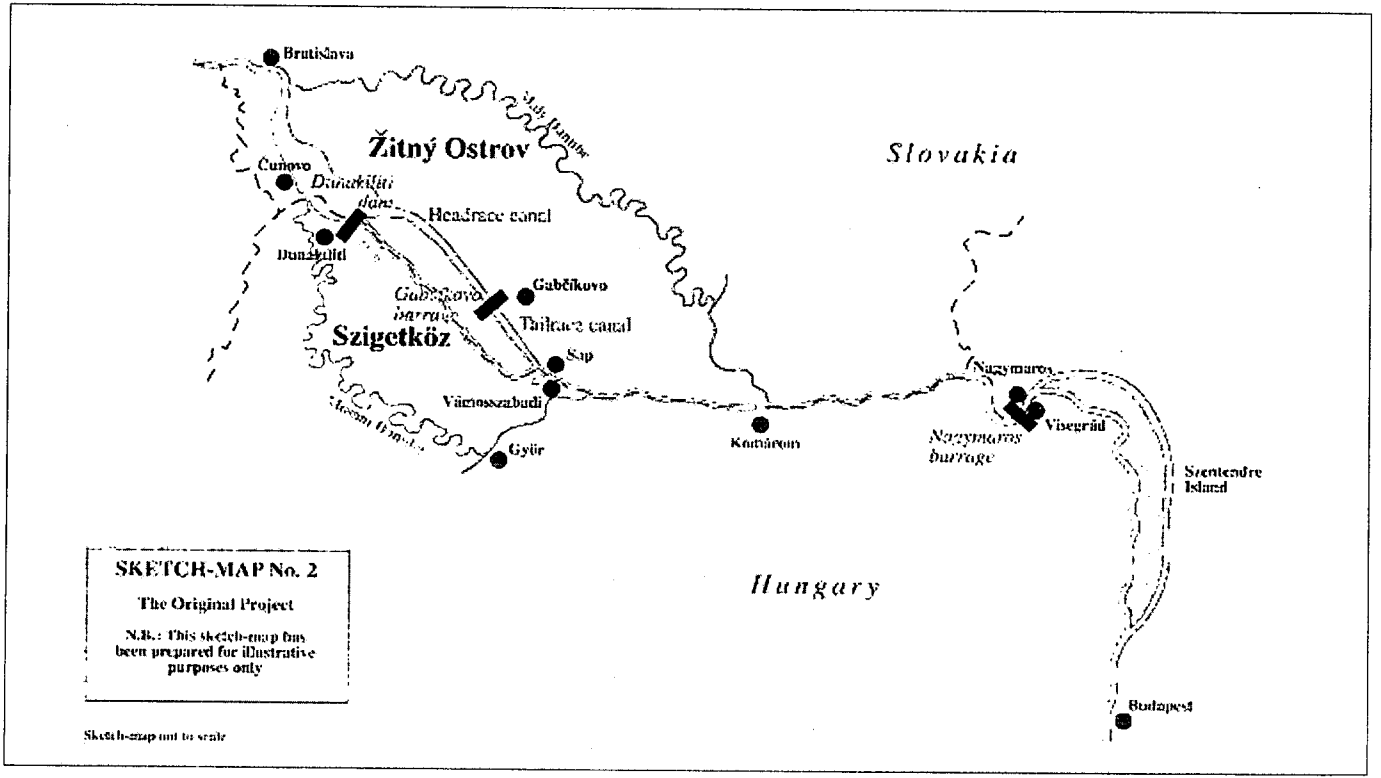
The Joint Contractual Plan set forth, on a large number of points, both the objectives of the system and the characteristics of the works. It also contained "Preliminary Operating and Maintenance Rules", article 23 of which specified that "the final operating rules [should] be approved within a year of the setting into operation of the system".

The Court observes that the Project was thus to have taken the form of an integrated joint project with the two contracting parties on an equal footing in respect of the financing, construction and operation of the works. Its single and indivisible nature was to have been realized through the Joint Contractual Plan which complemented the Treaty. In particular, Hungary would have had control of the sluices at Dunakiliti and the works at Nagymaros, whereas Czechoslovakia would have had control of the works at Gabčíkovo.

The schedule of work had for its part been fixed in an Agreement on mutual assistance signed by the two parties on 16 September 1977, at the same time as the Treaty itself. The Agreement made some adjustments to the allocation of the works between the parties as laid down by the Treaty. Work on the Project started in 1978. On Hungary's initiative, the two parties first agreed, by two Protocols signed on 10 October 1983, to slow the work down and to postpone putting into operation the power plants, and then, by a Protocol signed on 6 February 1989, to accelerate the Project.

As a result of intense criticism which the Project had generated in Hungary, the Hungarian Government decided on 13 May 1989 to suspend the works at Nagymaros pending the completion of various studies which the competent authorities were to finish before 31 July 1989. On 21 July 1989, the Hungarian Government extended the suspension of the works at Nagymaros until 31 October


Bratislava
Main Danube
Slovakia
Čunovo
Žitný Ostrov
Dunajská Lužná
Gabčíkovo
Szigetköz
Sap
Nagymaros
Vámosszabadi
Visegrád
Old Danube
Győr
Komárom
Szentendre Island
Hungary
Budapest
SKETCH-MAP No. 1
Region affected by the Gabčíkovo-Nagymaros Project
N.B.: This sketch-map has been prepared for illustrative purposes only
Sketch-map not to scale


Bratislava
Žitný Ostrov
Slovakia
Čunovo
Dunakiliti dam
Headrace canal
Dunakiliti
Gabčíkovo barrage
Gabčíkovo
Tailrace canal
Szigetköz
Sap
Vámosszabadi
Győr
Komárom
Nagymaros
Visegrád
Nagymaros barrage
Szentendre Island
Hungary
Budapest
SKETCH-MAP No. 2
The Original Project
N.B.: This sketch-map has been prepared for illustrative purposes only
Sketch-map not to scale

1989, and, in addition, suspended the works at Dunakiliti until the same date. Lastly, on 27 October 1989, Hungary decided to abandon the works at Nagymaros and to maintain the status quo at Dunakiliti.

During this period, negotiations took place between the Parties. Czechoslovakia also started investigating alternative solutions. One of them, an alternative solution subsequently known as "variant C", entailed a unilateral diversion of the Danube by Czechoslovakia on its territory some 10 kilometres upstream of Dunakiliti (see sketch-map No. 3). In its final stage, variant C included the construction at Čunovo of an overflow dam and a levee linking that dam to the south bank of the bypass canal. Provision was made for ancillary works.

On 23 July 1991, the Slovak Government decided "to begin, in September 1991, construction to put the Gabčíkovo Project into operation by the provisional solution". Work on variant C began in November 1991. Discussions continued between the two Parties but to no avail, and, on 19 May 1992, the Hungarian Government transmitted to the Czechoslovak Government a note verbale terminating the 1977 Treaty with effect from 25 May 1992. On 15 October 1992, Czechoslovakia began work to enable the Danube to be closed and, starting on 23 October, proceeded to the damming of the river.

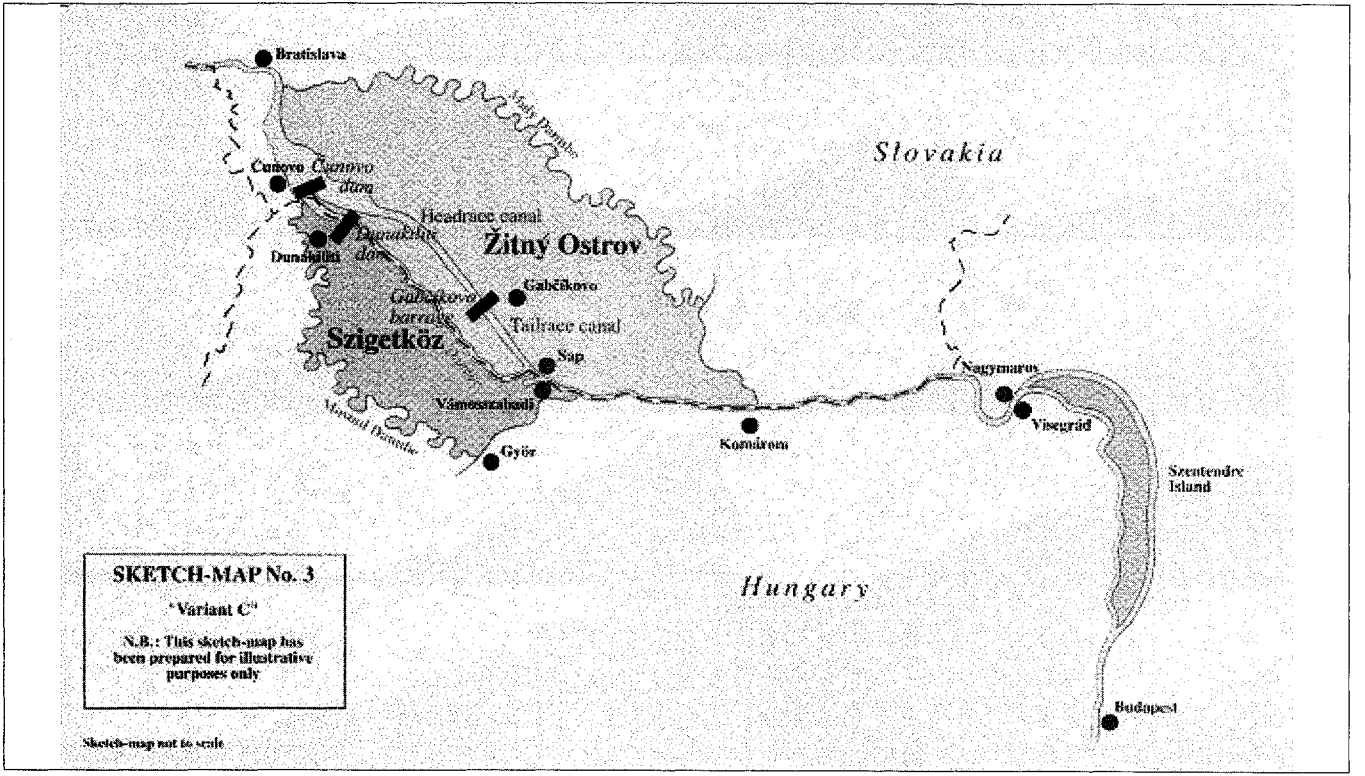
The Court finally takes note of the fact that on 1 January 1993 Slovakia became an independent State; that in the Special Agreement thereafter concluded between Hungary and Slovakia the Parties agreed to establish and implement a temporary water management regime for the Danube; and that finally they concluded an Agreement in respect of it on 19 April 1995, which would come to an end 14 days after the judgment of the Court. The Court also observes that not only the 1977 Treaty but also the "related instruments" are covered in the preamble to the Special Agreement and that the Parties, when concentrating their reasoning on the 1977 Treaty, appear to have extended their arguments to the "related instruments".

Suspension and abandonment by Hungary, in 1989, of works on the Project (paras. 27-59)

In terms of article 2, paragraph 1 (*a*), of the Special Agreement, the Court is requested to decide first

> "whether the Republic of Hungary was entitled to suspend and subsequently abandon, in 1989, the works on the Nagymaros Project and on the part of the Gabčíkovo Project for which the Treaty attributed responsibility to the Republic of Hungary".

The Court observes that it has no need to dwell upon the question of the applicability or non-applicability in the present case of the Vienna Convention of 1969 on the Law of Treaties, as argued by the Parties. It needs only to be mindful of the fact that it has several times had occasion to hold that some of the rules laid down in that Convention might be considered as a codification of existing customary law. The Court takes the view that in many respects this applies to the provisions of the Vienna Convention concerning the termination and the suspension of the operation of treaties, set forth in articles 60 to 62. Neither has the Court lost sight of the fact that the Vienna Convention is in any event applicable to the Protocol of 6 February 1989 whereby Hungary and Czechoslovakia agreed to accelerate completion of the works relating to the Gabčíkovo-Nagymaros Project.


Bratislava
Old Danube
Slovakia
Čunovo
Čunovo dam
Headrace canal
Dunakiliti
Dunakiliti dam
Žitný Ostrov
Gabčíkovo
Gabčíkovo barrage
Tailrace canal
Szigetköz
Sap
Nagymaros
Vámosszabadi
Visegrád
Mosoni Danube
Komárom
Győr
Szentendre Island
Hungary
Budapest
SKETCH-MAP No. 3
"Variant C"
N.B.: This sketch-map has been prepared for illustrative purposes only
Sketch-map not to scale

Nor does the Court need to dwell upon the question of the relationship between the law of treaties and the law of State responsibility, to which the Parties devoted lengthy arguments, as those two branches of international law obviously have a scope that is distinct. A determination of whether a convention is or is not in force, and whether it has or has not been properly suspended or denounced, is to be made pursuant to the law of treaties. On the other hand, an evaluation of the extent to which the suspension or denunciation of a convention, seen as incompatible with the law of treaties, involves the responsibility of the State which proceeded to it, is to be made under the law of State responsibility.

The Court cannot accept Hungary's argument to the effect that, in 1989, in suspending and subsequently abandoning the works for which it was still responsible at Nagymaros and at Dunakiliti, it did not suspend the application of the 1977 Treaty itself or then reject that Treaty. The conduct of Hungary at that time can only be interpreted as an expression of its unwillingness to comply with at least some of the provisions of the Treaty and the Protocol of 6 February 1989, as specified in the Joint Contractual Plan. The effect of Hungary's conduct was to render impossible the accomplishment of the system of works that the Treaty expressly described as "single and indivisible".

The Court then considers the question of whether there was, in 1989, a state of necessity which would have permitted Hungary, without incurring international responsibility, to suspend and abandon works that it was committed to perform in accordance with the 1977 Treaty and related instruments.

The Court observes, first of all, that the state of necessity is a ground recognized by customary international law for precluding the wrongfulness of an act not in conformity with an international obligation. It considers moreover that such ground for precluding wrongfulness can only be accepted on an exceptional basis. The following basic conditions set forth in article 33 of the draft articles on international responsibility of States by the International Law Commission are relevant in the present case: it must have been occasioned by an "essential interest" of the State which is the author of the act conflicting with one of its international obligations; that interest must have been threatened by a "grave and imminent peril"; the act being challenged must have been the "only means" of safeguarding that interest; that act must not have "seriously impair[ed] an essential interest" of the State towards which the obligation existed; and the State which is the author of that act must not have "contributed to the occurrence of the state of necessity". Those conditions reflect customary international law.

The Court has no difficulty in acknowledging that the concerns expressed by Hungary for its natural environment in the region affected by the Gabčíkovo-Nagymaros Project related to an "essential interest" of that State.

It is of the view, however, that, with respect to both Nagymaros and Gabčíkovo, the perils invoked by Hungary, without prejudging their possible gravity, were not sufficiently established in 1989, nor were they "imminent"; and that Hungary had available to it at that time means of responding to these perceived perils other than the suspension and abandonment of works with which it had been entrusted. What is more, negotiations were under way which might have led to a review of the Project and the extension of some of its time limits, without there being need to abandon it.

The Court further notes that Hungary, when it decided to conclude the 1977 Treaty, was presumably aware of the situation as then known; and that the need to ensure the protection of the environment had not escaped the parties. Neither can

it fail to note the positions taken by Hungary after the entry into force of the 1977 Treaty. The Court infers that, in the present case, even if it had been established that there was, in 1989, a state of necessity linked to the performance of the 1977 Treaty, Hungary would not have been permitted to rely upon that state of necessity in order to justify its failure to comply with its treaty obligations, as it had helped, by act or omission, to bring it about.

In the light of the conclusions reached above, the Court finds that Hungary was not entitled to suspend and subsequently abandon, in 1989, the works on the Nagymaros Project and on the part of the Gabčíkovo Project for which the 1977 Treaty and related instruments attributed responsibility to it.

Czechoslovakia's proceeding, in November 1991, to "variant C" and putting into operation, from October 1992, this variant (paras. 60-88)

By the terms of article 2, paragraph 1 (*b*), of the Special Agreement, the Court is asked in the second place to decide

> "(*b*) whether the Czech and Slovak Federal Republic was entitled to proceed, in November 1991, to the 'provisional solution' and to put into operation from October 1992 this system".

Czechoslovakia had maintained that proceeding to variant C and putting it into operation did not constitute internationally wrongful acts; Slovakia adopted this argument. During the proceedings before the Court, Slovakia contended that Hungary's decision to suspend and subsequently abandon the construction of works at Dunakiliti had made it impossible for Czechoslovakia to carry out the works as initially contemplated by the 1977 Treaty and that the latter was therefore entitled to proceed with a solution which was as close to the original Project as possible. Slovakia invoked what it described as a "principle of approximate application" to justify the construction and operation of variant C. It explained that this was the only possibility remaining to it "of fulfilling not only the purposes of the 1977 Treaty, but the continuing obligation to implement it in good faith".

The Court observes that it is not necessary to determine whether there is a principle of international law or a general principle of law of "approximate application" because, even if such a principle existed, it could by definition only be employed within the limits of the treaty in question. In the view of the Court, variant C does not meet that cardinal condition with regard to the 1977 Treaty.

As the Court has already observed, the basic characteristic of the 1977 Treaty is, according to article 1, to provide for the construction of the Gabčíkovo-Nagymaros System of Locks as a joint investment constituting a single and indivisible operational system of works. This element is equally reflected in articles 8 and 10 of the Treaty providing for joint ownership of the most important works of the Gabčíkovo-Nagymaros Project and for the operation of this joint property as a coordinated single unit. By definition all this could not be carried out by unilateral action. In spite of having a certain external physical similarity with the original Project, variant C thus differed sharply from it in its legal characteristics. The Court accordingly concludes that Czechoslovakia, in putting variant C into operation, was not applying the 1977 Treaty but, on the contrary, violated certain of its express provisions, and, in so doing, committed an internationally wrongful act.

The Court notes that between November 1991 and October 1992, Czechoslovakia confined itself to the execution, on its own territory, of the works which were necessary for the implementation of variant C, but which could have been abandoned if an agreement had been reached between the parties and did not therefore predetermine the final decision to be taken. For as long as the Danube had not been unilaterally dammed, variant C had not in fact been applied. Such a situation is not unusual in international law or, for that matter, in domestic law. A wrongful act or offence is frequently preceded by preparatory actions which are not to be confused with the act or offence itself. It is as well to distinguish between the actual commission of a wrongful act (whether instantaneous or continuous) and the conduct prior to that act which is of a preparatory character and which "does not qualify as a wrongful act".

Slovakia also maintained that it was acting under a duty to mitigate damages when it carried out variant C. It stated that "it is a general principle of international law that a party injured by the non-performance of another contract party must seek to mitigate the damage he has sustained". But the Court observes that, while this principle might thus provide a basis for the calculation of damages, it could not, on the other hand, justify an otherwise wrongful act. The Court further considers that the diversion of the Danube carried out by Czechoslovakia was not a lawful countermeasure because it was not proportionate.

In the light of the conclusions reached above, the Court finds that Czechoslovakia was entitled to proceed, in November 1991, to variant C insofar as it then confined itself to undertaking works which did not predetermine the final decision to be taken by it. On the other hand, Czechoslovakia was not entitled to put that variant into operation from October 1992.

Notification by Hungary, on 19 May 1992, of the termination of the 1977 Treaty and related instruments (paras. 89-115)

By the terms of article 2, paragraph 1 (*c*), of the Special Agreement, the Court is asked, thirdly, to determine "what are the legal effects of the notification, on 19 May 1992, of the termination of the Treaty by the Republic of Hungary".

During the proceedings, Hungary presented five arguments in support of the lawfulness, and thus the effectiveness, of its notification of termination. These were the existence of a state of necessity; the impossibility of performance of the Treaty; the occurrence of a fundamental change of circumstances; the material breach of the Treaty by Czechoslovakia; and, finally, the development of new norms of international environmental law. Slovakia contested each of these grounds.

State of necessity

The Court observes that, even if a state of necessity is found to exist, it is not a ground for the termination of a treaty. It may only be invoked to exonerate from its responsibility a State which has failed to implement a treaty.

Impossibility of performance

The Court finds that it is not necessary to determine whether the term "object" in article 61 of the Vienna Convention of 1969 on the Law of Treaties (which speaks of "permanent disappearance or destruction of an object indispensable for the execution of the treaty" as a ground for terminating or withdrawing

from it) can also be understood to embrace a legal regime as in any event, even if that were the case, it would have to conclude that in this instance that regime had not definitively ceased to exist. The 1977 Treaty, and in particular its articles 15, 19 and 20, actually made available to the parties the necessary means to proceed at any time, by negotiation, to the required readjustments between economic imperatives and ecological imperatives.

Fundamental change of circumstances

In the Court's view, the prevalent political conditions were not so closely linked to the object and purpose of the Treaty that they constituted an essential basis of the consent of the parties and, in changing, radically altered the extent of the obligations still to be performed. The same holds good for the economic system in force at the time of the conclusion of the 1977 Treaty. Nor does the Court consider that new developments in the state of environmental knowledge and of environmental law can be said to have been completely unforeseen. What is more, the formulation of articles 15, 19 and 20 is designed to accommodate change. The changed circumstances advanced by Hungary are thus, in the Court's view, not of such a nature, either individually or collectively, that their effect would radically transform the extent of the obligations still to be performed in order to accomplish the Project.

Material breach of the Treaty

Hungary's main argument for invoking a material breach of the Treaty was the construction and putting into operation of variant C. The Court pointed out that it had already found that Czechoslovakia had violated the Treaty only when it diverted the waters of the Danube into the bypass canal in October 1992. In constructing the works which would lead to the putting into operation of variant C, Czechoslovakia did not act unlawfully. In the Court's view, therefore, the notification of termination by Hungary on 19 May 1992 was premature. No breach of the Treaty by Czechoslovakia had yet taken place and consequently Hungary was not entitled to invoke any such breach of the Treaty as a ground for terminating it when it did.

Development of new norms of international environmental law

The Court notes that neither of the Parties contended that new peremptory norms of environmental law had emerged since the conclusion of the 1977 Treaty; and the Court will consequently not be required to examine the scope of article 64 of the Vienna Convention on the Law of Treaties (which treats of the voidance and termination of a treaty because of the emergence of a new peremptory norm of general international law (*jus cogens*)). On the other hand, the Court wishes to point out that newly developed norms of environmental law are relevant for the implementation of the Treaty and that the parties could, by agreement, incorporate them through the application of articles 15, 19 and 20 of the Treaty. These articles do not contain specific obligations of performance but require the parties, in carrying out their obligations, to ensure that the quality of water in the Danube is not impaired and that nature is protected, to take new environmental norms into consideration when agreeing upon the means to be specified in the Joint Contractual Plan. By inserting these evolving provisions in the Treaty, the parties recognized the potential necessity to adapt the Project. Consequently, the Treaty is not static, and is open to adapt to emerging norms of international law. By means of articles 15 and 19, new environmental norms can be incorporated in the Joint Contractual Plan. The awareness of the vulnerability of the environment

and the recognition that environmental risks have to be assessed on a continuous basis have become much stronger in the years since the Treaty's conclusion. These new concerns have enhanced the relevance of articles 15, 19 and 20. The Court recognizes that both Parties agree on the need to take environmental concerns seriously and to take the required precautionary measures, but they fundamentally disagree on the consequences this has for the joint Project. In such a case, third-party involvement may be helpful and instrumental in finding a solution, provided each of the Parties is flexible in its position.

Finally, the Court is of the view that, although it has found that both Hungary and Czechoslovakia failed to comply with their obligations under the 1977 Treaty, this reciprocal wrongful conduct did not bring the Treaty to an end nor justify its termination.

In the light of the conclusions it has reached above, the Court finds that the notification of termination by Hungary of 19 May 1992 did not have the legal effect of terminating the 1977 Treaty and related instruments.

Dissolution of Czechoslovakia (paras. 117-124)

The Court then turns to the question whether Slovakia became a party to the 1977 Treaty as successor to Czechoslovakia. As an alternative argument, Hungary contended that, even if the Treaty survived the notification of termination, in any event it ceased to be in force as a treaty on 31 December 1992, as a result of the "disappearance of one of the parties". On that date Czechoslovakia ceased to exist as a legal entity, and on 1 January 1993 the Czech Republic and the Slovak Republic came into existence.

The Court does not find it necessary for the purposes of the present case to enter into a discussion of whether or not article 34 of the 1978 Vienna Convention on Succession of States in Respect of Treaties (in which a rule of automatic succession to all treaties is provided for) reflects the state of customary international law. More relevant to its present analysis is the particular nature and character of the 1977 Treaty. An examination of that Treaty confirms that, aside from its undoubted nature as a joint investment, its major elements were the proposed construction and joint operation of a large, integrated and indivisible complex of structures and installations on specific parts of the respective territories of Hungary and Czechoslovakia along the Danube. The Treaty also established the navigational regime for an important sector of an international waterway, in particular the relocation of the main international shipping lane to the bypass canal. In so doing, it inescapably created a situation in which the interests of other users of the Danube were affected. Furthermore, the interests of third States were expressly acknowledged in article 18, whereby the parties undertook to ensure "uninterrupted and safe navigation on the international fairway" in accordance with their obligations under the Convention of 18 August 1948 concerning the Regime of Navigation on the Danube.

The Court then refers to article 12 of the 1978 Vienna Convention on Succession of States in Respect of Treaties, which reflects the principle that treaties of a territorial character have been regarded both in traditional doctrine and in modern opinion as unaffected by a succession of States. The Court considers that article 12 reflects a rule of customary international law; and notes that neither of the Parties disputed this. It concludes that the content of the 1977 Treaty indicates that it must be regarded as establishing a territorial regime within the meaning of

article 12 of the 1978 Vienna Convention. It created rights and obligations "attaching to" the parts of the Danube to which it relates; thus the Treaty itself could not be affected by a succession of States. The Court therefore concludes that the 1977 Treaty became binding upon Slovakia on 1 January 1993.

Legal consequences of the judgment (paras. 125-154)

The Court observes that the part of its judgment which answers the questions in article 2, paragraph 1, of the Special Agreement has a declaratory character. It deals with the *past* conduct of the Parties and determines the lawfulness or unlawfulness of that conduct between 1989 and 1992 as well as its effects on the existence of the Treaty. Now the Court has, on the basis of the foregoing findings, to determine what the *future* conduct of the Parties should be. This part of the judgment is prescriptive rather than declaratory because it determines what the rights and obligations of the Parties are. The Parties will have to seek agreement on the modalities of the execution of the judgment in the light of this determination, as they agreed to do in article 5 of the Special Agreement.

In this regard it is of cardinal importance that the Court has found that the 1977 Treaty is still in force and consequently governs the relationship between the Parties. That relationship is also determined by the rules of other relevant conventions to which the two States are party, by the rules of general international law and, in this particular case, by the rules of State responsibility; but it is governed, above all, by the applicable rules of the 1977 Treaty as a *lex specialis.* The Court observes that it cannot, however, disregard the fact that the Treaty has not been fully implemented by either party for years, and indeed that their acts of commission and omission have contributed to creating the factual situation that now exists. Nor can it overlook that factual situation, or the practical possibilities and impossibilities to which it gives rise, when deciding on the legal requirements for the future conduct of the Parties. What is essential, therefore, is that the factual situation as it has developed since 1989 shall be placed within the context of the preserved and developing treaty relationship, in order to achieve its object and purpose insofar as that is feasible. For it is only then that the irregular state of affairs which exists as the result of the failure of both Parties to comply with their treaty obligations can be remedied.

The Court points out that the 1977 Treaty is not only a joint investment project for the production of energy, but it was designed to serve other objectives as well: the improvement of the navigability of the Danube, flood control and regulation of ice-discharge, and the protection of the natural environment. In order to achieve these objectives, the parties accepted obligations of conduct, obligations of performance and obligations of result. The Court is of the opinion that the Parties are under a legal obligation, during the negotiations to be held by virtue of article 5 of the Special Agreement, to consider, within the context of the 1977 Treaty, in what way the multiple objectives of the Treaty can best be served, keeping in mind that all of them should be fulfilled.

It is clear that the Project's impact upon, and its implications for, the environment are of necessity a key issue. In order to evaluate the environmental risks, current standards must be taken into consideration. This is not only allowed by the wording of articles 15 and 19, but even prescribed, to the extent that these articles impose a continuing, and thus necessarily evolving, obligation on the parties to maintain the quality of the water of the Danube and to protect nature. The Court

is mindful that, in the field of environmental protection, vigilance and prevention are required on account of the often irreversible character of damage to the environment and of the limitations inherent in the very mechanism of reparation of this type of damage. New norms and standards have been developed, set forth in a great number of instruments during the last two decades. Such new norms have to be taken into consideration, and such new standards given proper weight, not only when States contemplate new activities but also when continuing with activities begun in the past. For the purposes of the present case, this means that the Parties together should look afresh at the effects on the environment of the operation of the Gabčíkovo power plant. In particular they must find a satisfactory solution for the volume of water to be released into the old bed of the Danube and into the side-arms on both sides of the river.

What is required in the present case by the rule *pacta sunt servanda*, as reflected in article 26 of the Vienna Convention of 1969 on the Law of Treaties, is that the Parties find an agreed solution within the cooperative context of the Treaty. Article 26 combines two elements, which are of equal importance. It provides that "every treaty in force is binding upon the parties to it and must be performed by them in good faith". This latter element, in the Court's view, implies that, in this case, it is the purpose of the Treaty, and the intentions of the Parties in concluding it, which should prevail over its literal application. The principle of good faith obliges the Parties to apply it in a reasonable way and in such a manner that its purpose can be realized.

The 1977 Treaty not only contains a joint investment programme, it also establishes a regime. According to the Treaty, the main structures of the System of Locks are the joint property of the Parties; their operation will take the form of a coordinated single unit; and the benefits of the Project shall be equally shared. Since the Court has found that the Treaty is still in force and that, under its terms, the joint regime is a basic element, it considers that, unless the Parties agree otherwise, such a regime should be restored. The Court is of the opinion that the works at Čunovo should become a jointly operated unit within the meaning of article 10, paragraph 1, in view of their pivotal role in the operation of what remains of the Project and for the water-management regime. The dam at Čunovo has taken over the role which was originally destined for the works at Dunakiliti, and therefore should have a similar status. The Court also concludes that variant C, which it considers operates in a manner incompatible with the Treaty, should be made to conform to it. It observes that re-establishment of the joint regime will also reflect in an optimal way the concept of common utilization of shared water resources for the achievement of the several objectives mentioned in the Treaty.

Having thus far indicated what in its view should be the effects of its finding that the 1977 Treaty is still in force, the Court turns to the legal consequences of the internationally wrongful acts committed by the Parties, as it had also been asked by both Parties to determine the consequences of the judgment as they bear upon payment of damages.

The Court has not been asked at this stage to determine the quantum of damages due, but to indicate on what basis they should be paid. Both Parties claimed to have suffered considerable financial losses and both claim pecuniary compensation for them.

In the judgment, the Court has concluded that both Parties committed internationally wrongful acts, and it has noted that those acts gave rise to the damage sustained by the Parties; consequently, Hungary and Slovakia are both under an

obligation to pay compensation and are both entitled to obtain compensation. The Court observes, however, that given the fact that there have been intersecting wrongs by both Parties, the issue of compensation could satisfactorily be resolved in the framework of an overall settlement if each of the Parties were to renounce or cancel all financial claims and counterclaims. At the same time, the Court wishes to point out that the settlement of accounts for the construction of the works is different from the issue of compensation, and must be resolved in accordance with the 1977 Treaty and related instruments. If Hungary is to share in the operation and benefits of the Čunovo complex, it must pay a proportionate share of the building and running costs.

*

Operative paragraph (para. 155)

"For these reasons,

THE COURT,

(1) Having regard to article 2, paragraph 1, of the Special Agreement,

A. By fourteen votes to one,

Finds that Hungary was not entitled to suspend and subsequently abandon, in 1989, the works on the Nagymaros Project and on the part of the Gabčíkovo Project for which the Treaty of 16 September 1977 and related instruments attributed responsibility to it;

IN FAVOUR: *President* Schwebel; *Vice-President* Weeramantry; *Judges* Oda, Bedjaoui, Guillaume, Ranjeva, Shi, Fleischhauer, Koroma, Vereshchetin, Parra-Aranguren, Kooijmans, Rezek; *Judge ad hoc* Skubiszewski;

AGAINST: *Judge* Herczegh;

B. By nine votes to six,

Finds that Czechoslovakia was entitled to proceed, in November 1991, to the 'provisional solution' as described in the terms of the Special Agreement;

IN FAVOUR: *Vice-President* Weeramantry, *Judges* Oda, Guillaume, Shi, Koroma, Vereshchetin, Parra-Aranguren, Kooijmans; *Judge ad hoc* Skubiszewski;

AGAINST: *President* Schwebel; *Judges* Bedjaoui, Ranjeva, Herczegh, Fleischhauer, Rezek;

C. By ten votes to five,

Finds that Czechoslovakia was not entitled to put into operation, from October 1992, this 'provisional solution';

IN FAVOUR: *President* Schwebel; *Vice-President* Weeramantry; *Judges* Bedjaoui, Guillaume, Ranjeva, Herczegh, Shi, Fleischhauer, Kooijmans, Rezek;

AGAINST: *Judges* Oda, Koroma, Vereshchetin, Parra-Aranguren; *Judge ad hoc* Skubiszewski;

D. By eleven votes to four,

Finds that the notification, on 19 May 1992, of the termination of the Treaty of 16 September 1977 and related instruments by Hungary did not have the legal effect of terminating them;

IN FAVOUR: *Vice-President* Weeramantry; *Judges* Oda, Bedjaoui, Guillaume, Ranjeva, Shi, Koroma, Vereshchetin, Parra-Aranguren, Kooijmans; *Judge ad hoc* Skubiszewski;

AGAINST: *President* Schwebel; *Judges* Herczegh, Fleischhauer, Rezek;

(2) Having regard to article 2, paragraph 2, and article 5 of the Special Agreement,

A. By twelve votes to three,

Finds that Slovakia, as successor to Czechoslovakia, became a party to the Treaty of 16 September 1977 as from 1 January 1993;

IN FAVOUR: *President* Schwebel; *Vice-President* Weeramantry; *Judges* Oda, Bedjaoui, Guillaume, Ranjeva, Shi, Koroma, Vereshchetin, Parra-Aranguren, Kooijmans; *Judge ad hoc* Skubiszewski;

AGAINST: *Judges* Herczegh, Fleischhauer, Rezek;

B. By thirteen votes to two,

Finds that Hungary and Slovakia must negotiate in good faith in the light of the prevailing situation, and must take all necessary measures to ensure the achievement of the objectives of the Treaty of 16 September 1977, in accordance with such modalities as they may agree upon;

IN FAVOUR: *President* Schwebel; *Vice-President* Weeramantry; *Judges* Oda, Bedjaoui, Guillaume, Ranjeva, Shi, Koroma, Vereshchetin, Parra-Aranguren, Kooijmans, Rezek; *Judge ad hoc* Skubiszewski;

AGAINST: *Judges* Herczegh, Fleischhauer;

C. By thirteen votes to two,

Finds that, unless the Parties otherwise agree, a joint operational regime must be established in accordance with the Treaty of 16 September 1977;

IN FAVOUR: *President* Schwebel; *Vice-President* Weeramantry; *Judges* Oda, Bedjaoui, Guillaume, Ranjeva, Shi, Koroma, Vereshchetin, Parra-Aranguren, Kooijmans, Rezek; *Judge ad hoc* Skubiszewski;

AGAINST: *Judges* Herczegh, Fleischhauer;

D. By twelve votes to three,

Finds that, unless the Parties otherwise agree, Hungary shall compensate Slovakia for the damage sustained by Czechoslovakia and by Slovakia on account of the suspension and abandonment by Hungary of works for which it was responsible; and Slovakia shall compensate Hungary for the

damage it has sustained on account of the putting into operation of the 'provisional solution' by Czechoslovakia and its maintenance in service by Slovakia;

IN FAVOUR: *President* Schwebel; *Vice-President* Weeramantry; *Judges* Bedjaoui, Guillaume, Ranjeva, Herczegh, Shi, Fleischhauer, Parra-Aranguren, Kooijmans, Rezek; *Judge ad hoc* Skubiszewski;

AGAINST: *Judges* Oda, Koroma, Vereshchetin;

E. By thirteen votes to two,

Finds that the settlement of accounts for the construction and operation of the works must be effected in accordance with the relevant provisions of the Treaty of 16 September 1977 and related instruments, taking due account of such measures as will have been taken by the Parties in application of points 2 B and C of the present operative paragraph.

IN FAVOUR: *President* Schwebel; *Vice-President* Weeramantry; *Judges* Oda, Bedjaoui, Guillaume, Ranjeva, Shi, Koroma, Vereshchetin, Parra-Aranguren, Kooijmans, Rezek; *Judge ad hoc* Skubiszewski;

AGAINST: *Judges* Herczegh, Fleischhauer."

*

President Schwebel and Judge Rezek appended declarations to the judgment of the Court (*I.C.J. Reports 1997*, pp. 85 and 86-87); Vice-President Weeramantry, Judges Bedjaoui and Koroma appended separate opinions (ibid., pp. 88-119, 120-141 and 142-152); Judges Oda, Ranjeva, Herczegh, Fleischhauer, Vereshchetin and Parra-Aranguren and Judge ad hoc Skubiszewski appended dissenting opinions (ibid., pp. 153-169, 170-175, 176-203, 204-218, 219-226, 227-231 and 232-241).

5. *Kasikili/Sedudu Island (Botswana/Namibia)*

By an Order of 24 June 1996 (*I.C.J. Reports 1996*, p. 63), 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 and a Counter-Memorial were filed by each of the Parties within the prescribed time limits.

*

* *

Consideration by the General Assembly

The General Assembly, by its decision 52/405 of 27 October 1997, took note of the report of the International Court of Justice.[154]

---

6. INTERNATIONAL LAW COMMISSION[155]

(*a*) Forty-ninth session of the Commission[156]

The International Law Commission held its forty-ninth session at its seat at the United Nations Office at Geneva, from 12 May to 18 July 1997. The Commission considered the following agenda items.

Regarding the topic on nationality in relation to the succession of States, the Commission had before it the Special Rapporteur's third report,[157] containing a set of 25 draft articles with commentaries. The Commission considered the third report and then referred the draft articles to the Drafting Committee, and after considering the report of the Drafting Committee it adopted on first reading a drafting preamble and a set of 27 draft articles on the topic. The Commission transmitted the draft articles, through the Secretary-General, to Governments for comments and observations.

Concerning the item on reservations to treaties, the Commission again considered the Special Rapporteur's second report on the topic[158] and adopted the text of the Preliminary Conclusions of the Commission on reservations to normative multilateral treaties including human rights treaties adopted by the Commission.[159]

With respect to State responsibility, the Commission established a Working Group to address matters dealing with the second reading of the topic, and appointed a Special Rapporteur for the topic.

The Commission also established a Working Group to consider how to proceed with its work on international liability for injurious consequences arising out of acts not prohibited by international law, and in this regard reviewed the work of the Commission on the topic since 1978. On the basis of the recommendation of the Working Group, the Commission decided to proceed with its work undertaking first prevention under the subtitle "Prevention of transboundary damage from hazardous activities", and to appoint a Special Rapporteur for this part of the topic.

The Commission also established a Working Group to further examine the topic of diplomatic protection and to indicate the scope and content of the topic in the light of comments and observations made by Governments. The Commission appointed a Special Rapporteur for the topic, and recommended that he submit, at the next session, a preliminary report on the basis of the outline proposed by the Working Group.

The Commission also established a Working Group on the topic concerning unilateral acts of States, and appointed a Special Rapporteur. The Commission entrusted the Special Rapporteur with the task of preparing a general outline of the topic, which would be included in an initial report to be submitted for discussion in 1998.

(*b*) Consideration by the General Assembly

At its fifty-second session, the General Assembly, on 15 December 1997, on the recommendation of the Sixth Committee, adopted resolution 52/156, in which it took note of the report of the International Law Commission and drew the atten-

tion of Governments to the importance for the Commission of having their views on all specific issues identified in the report.

The General Assembly also recommended that, taking into account the comments of Governments, the Commission should continue its work on the topics in its current programme, and endorsed the decision of the Commission to include in its agenda the topics "Diplomatic protection" and "Unilateral acts of States". The Assembly moreover expressed its appreciation to the Secretary-General for the organization of a colloquium on the progressive development and codification of international law, held on 28 and 29 October 1997 in commemoration of the fiftieth anniversary of the establishment of the Commission.[160]

---

7. UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW[161]

(*a*) Thirtieth session of the Commission[162]

The United Nations Commission on International Trade Law held its thirtieth session in Vienna from 12 to 30 May 1997, and adopted its report on 30 May.

During the session, the Commission finalized the substantive consideration of the draft UNCITRAL Model Provisions on Cross-Border Insolvency, submitted to it by the Working Group on Insolvency Law. Minor drafting changes were made and the name was changed to Model Law instead of Model Provisions.[163] In order to assist States in enacting and applying the Model Law, a Guide to Enactment of the UNCITRAL Model Law was prepared by the United Nations Secretariat.[164]

Considering that the implementation of privately financed infrastructure projects required a favourable legal framework and in order to foster the confidence of potential investors, both national and foreign, while protecting public interests, the Commission had decided in 1996 to prepare a legislative guide on build-operate-transfer (BOT) and related types of projects. At the current session, the Commission had before it a table of contents setting out topics proposed to be covered by the legislative guide.[165] The table of contents had been prepared by the United Nations Secretariat for the purpose of enabling the Commission to make an informed decision on the proposed structure of the draft legislative guide and its content.

In the area of electronic commerce, the Commission entrusted the Working Group on Electronic Commerce with the preparation of uniform rules on the legal issues of digital signatures and certification authorities. With respect to the exact scope and form of such uniform rules, it was generally agreed that no decision could be made at such an early stage of the process. It was felt that, while the Working Group might appropriately focus its attention on the issues of digital signatures in view of the apparently predominant role played by public-key cryptography in the emerging electronic-commerce practice, the uniform rules to be prepared should be consistent with the media-neutral approach taken in the UNCITRAL Model Law on Electronic Commerce. Thus, the uniform rules should not discourage the use of other authentication techniques. Moreover, in dealing with public-key cryptography, the uniform rules might need to accommodate various levels of security and to recognize the various legal effects and levels

of liability corresponding to the various types of services being provided in the context of digital signatures. With respect to certification authorities, while the value of market-driven standards was recognized by the Commission, it was widely felt that the Working Group might appropriately envisage the establishment of a minimum set of standards to be met by certification authorities, particularly where cross-border certification was sought.

As an additional item to be considered in the context of future work in this area, it was suggested that the Working Group might need to discuss the issues of jurisdiction, applicable law and dispute settlement on the Internet.

On the topic of the draft Convention on Assignment in Receivables Financing, the Commission had before it the reports on the twenty-fifth and twenty-sixth sessions of the Working Group on International Contract Practices.[166] It was noted that the Working Group had reached agreement in principle on a number of issues, including the validity of bulk assignments of present and future receivables, the time of transfer of receivables, non-assignment clauses, representations of the assignor and protection of the debtor. The main outstanding issues included effects of the assignment on third parties, i.e., creditors of the assignor and the administrator in the insolvency of the assignor, as well as scope and conflict-of-laws issues.

Concerning the subject of Case Law on UNCITRAL Texts (CLOUT), the Commission noted that since its twenty-ninth session, in 1996, three additional sets of abstracts with court decisions and arbitral awards, relating to the United Nations Convention on Contracts for the International Sale of Goods of 1980,[167] the United Nations Convention on the Carriage of Goods by Sea of 1978 (Hamburg Rules)[168] and the UNCITRAL Model Law on International Commercial Arbitration of 1985 had been published.[169]

The Commission also noted that a search engine had been placed on the web site of UNCITRAL (www.un.or.at/uncitral) to enable CLOUT users to perform a search into CLOUT cases and other documents.

(*b*) Consideration by the General Assembly

At its fifty-second session, the General Assembly, on 15 December 1997, on the recommendation of the Sixth Committee, adopted resolution 52/157, in which it took note of the report of the work of the United Nations Commission on International Trade Law[170] and commended the Commission for the progress it had made in its work, including the legislative implementation of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards.[171] On the same date, also on the recommendation of the Sixth Committee, the Assembly adopted resolution 52/158, in which it requested the Secretary-General to transmit the text of the Model Law on Cross-Border Insolvency of the United Nations Commission on International Trade Law, together with the Guide to Enactment of the Model Law, to Governments and interested bodies, and recommended that all States review their legislation on cross-border aspects of insolvency to determine whether the legislation met the objectives of a modern and efficient insolvency system and, in that review, give favourable consideration to the Model Law. The text of the Model Law reads as follows:

Model Law on Cross-Border Insolvency of the United Nations Commission on International Trade Law

PREAMBLE

The purpose of the present Law is to provide effective mechanisms for dealing with cases of cross-border insolvency so as to promote the objectives of:

(*a*) Cooperation between the courts and other competent authorities of this State and foreign States involved in cases of cross-border insolvency;

(*b*) Greater legal certainty for trade and investment;

(*c*) Fair and efficient administration of cross-border insolvencies that protects the interests of all creditors and other interested persons, including the debtor;

(*d*) Protection and maximization of the value of the debtor's assets;

(*e*) Facilitation of the rescue of financially troubled businesses, thereby protecting investment and preserving employment.

CHAPTER I. GENERAL PROVISIONS

Article 1

Scope of application

1. The present Law applies where:

(*a*) Assistance is sought in this State by a foreign court or a foreign representative in connection with a foreign proceeding; or

(*b*) Assistance is sought in a foreign State in connection with a proceeding under [*identify laws of the enacting State relating to insolvency*]; or

(*c*) A foreign proceeding and a proceeding under [*identify laws of the enacting State relating to insolvency*] in respect of the same debtor are taking place concurrently; or

(*d*) Creditors or other interested persons in a foreign State have an interest in requesting the commencement of, or participation in, a proceeding under [*identify laws of the enacting State relating to insolvency*].

2. The present Law does not apply to a proceeding concerning [*designate any types of entities, such as banks or insurance companies, that are subject to a special insolvency regime in this State and that this State wishes to exclude from the present Law*].

Article 2

Definitions

For the purposes of the present Law:

(*a*) "Foreign proceeding" means a collective judicial or administrative proceeding in a foreign State, including an interim proceeding, pursuant to a law relating to insolvency in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation;

(*b*) "Foreign main proceeding" means a foreign proceeding taking place in the State where the debtor has the centre of its main interests;

(*c*) "Foreign non-main proceeding" means a foreign proceeding, other than a foreign main proceeding, taking place in a State where the debtor has an establishment within the meaning of subparagraph (*f*) of the present article;

(*d*) "Foreign representative" means a person or body, including one appointed on an interim basis, authorized in a foreign proceeding to administer the reorganization or the liquidation of the debtor's assets or affairs or to act as a representative of the foreign proceeding;

(*e*) "Foreign court" means a judicial or other authority competent to control or supervise a foreign proceeding;

(*f*) "Establishment" means any place of operations where the debtor carries out a non-transitory economic activity with human means and goods or services.

Article 3

International obligations of this State

To the extent that the present Law conflicts with an obligation of this State arising out of any treaty or other form of agreement to which it is a party with one or more other States, the requirements of the treaty or agreement prevail.

Article 4

[*Competent court or authority*][a]

The functions referred to in the present Law relating to recognition of foreign proceedings and cooperation with foreign courts shall be performed by [*specify the court, courts, authority or authorities competent to perform those functions in the enacting State*].

Article 5

Authorization of [insert the title of the person or body administering a reorganization or liquidation under the law of the enacting State] *to act in a foreign State*

A [*insert the title of the person or body administering a reorganization or liquidation under the law of the enacting State*] is authorized to act in a foreign State on behalf of a proceeding under [*identify laws of the enacting State relating to insolvency*], as permitted by the applicable foreign law.

Article 6

Public policy exception

Nothing in the present Law prevents the court from refusing to take an action governed by the present Law if the action would be manifestly contrary to the public policy of this State.

Article 7

Additional assistance under other laws

Nothing in the present Law limits the power of a court or a [*insert the title of the person or body administering a reorganization or liquidation under the law of the enacting State*] to provide additional assistance to a foreign representative under other laws of this State.

Article 8

Interpretation

In the interpretation of the present 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.

---

[a] A State where certain functions relating to insolvency proceedings have been conferred upon government-appointed officials or bodies might wish to include in article 4 or elsewhere in chapter I the following provision:

"Nothing in the present Law affects the provisions in force in this State governing the authority of [*insert the title of the government-appointed person or body*]."

CHAPTER II. ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO COURTS IN THIS STATE

Article 9

Right of direct access

A foreign representative is entitled to apply directly to a court in this State.

Article 10

Limited jurisdiction

The sole fact that an application pursuant to the present Law is made to a court in this State by a foreign representative does not subject the foreign representative of the foreign assets and affairs of the debtor to the jurisdiction of the courts of this State for any purpose other than the application.

Article 11

Application by a foreign representative to commence a proceeding under [identify laws of the enacting State relating to insolvency]

A foreign representative is entitled to apply to commence a proceeding under [*identify laws of the enacting State relating to insolvency*] if the conditions for commencing such a proceeding are otherwise met.

Article 12

Participation of a foreign representative in a proceeding under [identify laws of the enacting State relating to insolvency]

Upon recognition of a foreign proceeding, the foreign representative is entitled to participate in a proceeding regarding the debtor under [*identify laws of the enacting State relating to insolvency*].

Article 13

Access of foreign creditors to a proceeding under [identify laws of the enacting State relating to insolvency]

1. Subject to paragraph 2 of the present article, foreign creditors have the same rights regarding the commencement of, and participation in, a proceeding under [*identify laws of the enacting State relating to insolvency*] as creditors in this State.

2. Paragraph 1 of the present article does not affect the ranking of claims in a proceeding under [*identify laws of the enacting State relating to insolvency*], except that the claims of foreign creditors shall not be ranked lower than [*identify the class of general non-preference claims, while providing that a foreign claim is to be ranked lower than the general non-preference claims if an equivalent local claim (e.g., claim for a penalty or deferred-payment claim) has a rank lower than the general non-preference claims*].[b]

---

[b] The enacting State may wish to consider the following alternative wording to replace paragraph 2 of article 13:

"2. Paragraph 1 of the present article does not affect the ranking of claims in a proceeding under [*identify laws of the enacting State relating to insolvency*] or the exclusion of foreign tax and social security claims from such a proceeding. Nevertheless, the claims of foreign creditors other than those concerning tax and social security obligations shall not be ranked lower than [*identify the class of general non-preference claims, while providing that a foreign claim is to be ranked lower than the general non-preference claims if an equivalent local claim (e.g., claim for a penalty or deferred-payment claim) has a rank lower than the general non-preference claims*]."

Article 14

Notification to foreign creditors of a proceeding under [identify laws of the enacting State relating to insolvency]

1. Whenever under [*identify law of the enacting State relating to insolvency*] notification is to be given to creditors in this State, such notification shall also be given to the known creditors that do not have addresses in this State. The court may order that appropriate steps be taken with a view to notifying any creditor whose address is not yet known.

2. Such notification shall be made to the foreign creditors individually, unless the court considers that, under the circumstances, some other form of notification would be more appropriate. No rogatory letters or other similar formality is required.

3. When a notification of commencement of a proceeding is to be given to foreign creditors, the notification shall:

(*a*) Indicate a reasonable time period for filing claims and specify the place for their filing;

(*b*) Indicate whether secured creditors need to file their secured claims;

(*c*) Contain any other information required to be included in such a notification to creditors pursuant to the law of this State and the orders of the court.

CHAPTER III. RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

Article 15

Application for recognition of a foreign proceeding

1. A foreign representative may apply to the court for recognition of the foreign proceeding in which the foreign representative has been appointed.

2. An application for recognition shall be accompanied by:

(*a*) A certified copy of the decision commencing the foreign proceeding and appointing the foreign representative; or

(*b*) A certificate from the foreign court affirming the existence of the foreign proceeding and of the appointment of the foreign representative; or

(*c*) In the absence of evidence referred to in subparagraphs (*a*) and (*b*), any other evidence acceptable to the court of the existence of the foreign proceeding and of the appointment of the foreign representative.

3. An application for recognition shall also be accompanied by a statement identifying all foreign proceedings in respect of the debtor that are known to the foreign representative.

4. The court may require a translation of documents supplied in support of the application for recognition into an official language of this State.

Article 16

Presumptions concerning recognition

1. If the decision or certificate referred to in paragraph 2 of article 15 indicates that the foreign proceeding is a proceeding within the meaning of subparagraph (*a*) of article 2 and that the foreign representative is a person or body within the meaning of subparagraph (*d*) of article 2, the court is entitled to so presume.

2. The court is entitled to presume that documents submitted in support of the application for recognition are authentic, whether or not they have been legalized.

3. In the absence of proof to the contrary, the debtor's registered office, or habitual residence in the case of an individual, is presumed to be the centre of the debtor's main interests.

Article 17

Decision to recognize a foreign proceeding

1. Subject to article 6, a foreign proceeding shall be recognized if:

(*a*) The foreign proceeding is a proceeding within the meaning of subparagraph (*a*) of article 2;

(*b*) The foreign representative applying for recognition is a person or body within the meaning of subparagraph (*d*) of article 2;

(*c*) The application meets the requirements of paragraph 2 of article 15;

(*d*) The application has been submitted to the court referred to in article 4.

2. The foreign proceeding shall be recognized:

(*a*) As a foreign main proceeding if it is taking place in the State where the debtor has the centre of its main interests; or

(*b*) As a foreign non-main proceeding if the debtor has an establishment within the meaning of subparagraph (*f*) of article 2 in the foreign State.

3. An application for recognition of a foreign proceeding shall be decided upon at the earliest possible time.

4. The provisions of articles 15, 16, 17 and 18 do not prevent modification or termination of recognition if it is shown that the grounds for granting it were fully or partially lacking or have ceased to exist.

Article 18

Subsequent information

From the time of filing the application for recognition of the foreign proceeding, the foreign representative shall inform the court promptly of:

(*a*) Any substantial change in the status of the recognized foreign proceeding or the status of the foreign representative's appointment;

(*b*) Any other foreign proceeding regarding the same debtor that becomes known to the foreign representative.

Article 19

Relief that may be granted upon application for recognition of a foreign proceeding

1. From the time of filing an application for recognition until the application is decided upon, the court may, at the request of the foreign representative, where relief is urgently needed to protect the assets of the debtor or the interests of the creditors, grant relief of a provisional nature, including:

(*a*) Staying execution against the debtor's assets;

(*b*) Entrusting the administration or realization of all or part of the debtor's assets located in this State to the foreign representative or another person designated by the court, in order to protect and preserve the value of assets that, by their nature or because of other circumstances, are perishable, susceptible to devaluation or otherwise in jeopardy;

(*c*) Any relief mentioned in paragraph 1 (*c*), (*d*) and (*g*) of article 21 below.

2. [*Insert provisions (or refer to provisions in force in the enacting State) relating to notice.*]

3. Unless extended under paragraph 1 (*f*) of article 21, the relief granted under the present article terminates when the application for recognition is decided upon.

4. The court may refuse to grant relief under the present article if such relief would interfere with the administration of a foreign main proceeding.

Article 20

Effects of recognition of a foreign main proceeding

1. Upon recognition of a foreign proceeding that is a foreign main proceeding:

(*a*) Commencement or continuation of individual actions or individual proceedings concerning the debtor's assets, rights, obligations or liabilities is stayed;

(*b*) Execution against the debtor's assets is stayed;

(*c*) The right to transfer, encumber or otherwise dispose of any assets of the debtor is suspended.

2. The scope, and the modification or termination, of the stay and suspension referred to in paragraph 1 of the present article are subject to [*refer to any provisions of law of the enacting State relating to insolvency that apply to exceptions, limitations, modifications or termination in respect of the stay and suspension referred to in paragraph 1 of the present article*].

3. Paragraph 1 (*a*) of the present article does not affect the right to commence individual actions or proceedings to the extent necessary to preserve a claim against the debtor.

4. Paragraph 1 of the present article does not affect the right to request the commencement of a proceeding under [*identify laws of the enacting State relating to insolvency*] or the right to file claims in such a proceeding.

Article 21

Relief that may be granted upon recognition of a foreign proceeding

1. Upon recognition of a foreign proceeding, whether main or non-main, where necessary to protect the assets of the debtor or the interests of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief, including:

(*a*) Staying the commencement or continuation of individual actions or individual proceedings concerning the debtor's assets, rights, obligations or liabilities, to the extent they have not been stayed under paragraph 1 (*a*) of article 20;

(*b*) Staying execution against the debtor's assets to the extent it has not been stayed under paragraph 1 (*b*) of article 20;

(*c*) Suspending the right to transfer, encumber or otherwise dispose of any assets of the debtor to the extent this right has not been suspended under paragraph 1 (*c*) of article 20;

(*d*) Providing for the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor's assets, affairs, rights, obligations or liabilities;

(*e*) Entrusting the administration or realization of all or part of the debtor's assets located in this State to the foreign representative or another person designated by the court;

(*f*) Extending relief granted under paragraph 1 of article 19;

(*g*) Granting any additional relief that may be available to [*insert the title of a person or body administering a reorganization or liquidation under the law of the enacting State*] under the laws of this State.

2. Upon recognition of a foreign proceeding, whether main or non-main, the court may, at the request of the foreign representative, entrust the distribution of all or part of the

debtor's assets located in this State to the foreign representative or another person designated by the court, provided that the court is satisfied that the interests of creditors in this State are adequately protected.

3. In granting relief under the present article to a representative of a foreign non-main proceeding, the court must be satisfied that the relief relates to assets that, under the law of this State, should be administered in the foreign non-main proceeding or concerns information required in that proceeding.

Article 22

Protection of creditors and other interested persons

1. In granting or denying relief under article 19 or 21, or in modifying or terminating relief under paragraph 3 of the present article, the court must be satisfied that the interests of the creditors and other interested persons, including the debtor, are adequately protected.

2. The court may subject relief granted under article 19 or 21 to conditions it considers appropriate.

3. The court may, at the request of the foreign representative or a person affected by relief granted under article 19 or 21, or at its own motion, modify or terminate such relief.

Article 23

Actions to avoid acts detrimental to creditors

1. Upon recognition of a foreign proceeding, the foreign representative has standing to initiate [*refer to the types of actions to avoid or otherwise render ineffective acts detrimental to creditors that are available in this State to a person or body administering a reorganization or liquidation*].

2. When the foreign proceeding is a foreign non-main proceeding, the court must be satisfied that the action relates to assets that, under the law of this State, should be administered in the foreign non-main proceeding.

Article 24

Intervention by a foreign representative in proceedings in this State

Upon recognition of a foreign proceeding, the foreign representative may, provided the requirements of the law of this State are met, intervene in any proceedings in which the debtor is a party.

CHAPTER IV. COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

Article 25

Cooperation and direct communication between a court of this State and foreign courts or foreign representatives

1. In matters referred to in article 1, the court shall cooperate to the maximum extent possible with foreign courts or foreign representatives, either directly or through a [*insert the title of a person or body administering a reorganization or liquidation under the law of the enacting State*].

2. The court is entitled to communicate directly with, or to request information or assistance directly from, foreign courts or foreign representatives.

Article 26

Cooperation and direct communication between the [insert the title of a person or body administering a reorganization or liquidation under the law of the enacting State] *and foreign courts or foreign representatives*

1. In matters referred to in article 1, a [*insert the title of a person or body administering a reorganization or liquidation under the law of the enacting State*] shall, in the exercise of its functions and subject to the supervision of the court, cooperate to the maximum extent possible with foreign courts or foreign representatives.

2. The [*insert the title of a person or body administering a reorganization or liquidation under the law of the enacting State*] is entitled, in the exercise of its functions and subject to the supervision of the court, to communicate directly with foreign courts or foreign representatives.

Article 27

Forms of cooperation

Cooperation referred to in articles 25 and 26 may be implemented by any appropriate means, including:

(*a*) Appointment of a person or body to act at the direction of the court;

(*b*) Communication of information by any means considered appropriate by the court;

(*c*) Coordination of the administration and supervision of the debtor's assets and affairs;

(*d*) Approval or implementation by courts of agreements concerning the coordination of proceedings;

(*e*) Coordination of concurrent proceedings regarding the same debtor;

(*f*) [*The enacting State may wish to list additional forms or examples of cooperation*].

CHAPTER V. CONCURRENT PROCEEDINGS

Article 28

Commencement of a proceeding under [identify laws of the enacting State relating to insolvency] *after recognition of a foreign main proceeding*

After recognition of a foreign main proceeding, a proceeding under [*identify laws of the enacting State relating to insolvency*] may be commenced only if the debtor has assets in this State; the effects of that proceeding shall be restricted to the assets of the debtor that are located in this State and, to the extent necessary to implement cooperation and coordination under articles 25, 26 and 27, to other assets of the debtor that, under the law of this State, should be administered in that proceeding.

Article 29

Coordination of a proceeding under [identify laws of the enacting State relating to insolvency] *and a foreign proceeding*

Where a foreign proceeding and a proceeding under [*identify laws of the enacting State relating to insolvency*] are taking place concurrently regarding the same debtor, the court shall seek cooperation and coordination under articles 25, 26 and 27, and the following shall apply:

(*a*) When the proceeding in this State is taking place at the time the application for recognition of the foreign proceeding is filed,

(i) Any relief granted under article 19 or 21 must be consistent with the proceeding in this State;

(ii) If the foreign proceeding is recognized in this State as a foreign main proceeding, article 20 does not apply;

(*b*) When the proceeding in this State commences after recognition, or after the filing of the application for recognition, of the foreign proceeding,

(i) Any relief in effect under article 19 or 21 shall be reviewed by the court and shall be modified or terminated if inconsistent with the proceeding in this State;

(ii) If the foreign proceeding is a foreign main proceeding, the stay and suspension referred to in paragraph 1 of article 20 shall be modified or terminated pursuant to paragraph 2 of article 20 if inconsistent with the proceeding in this State;

(*c*) In granting, extending or modifying relief granted to a representative of a foreign non-main proceeding, the court must be satisfied that the relief relates to assets that, under the law of this State, should be administered in the foreign non-main proceeding or concerns information required in that proceeding.

Article 30

Coordination of more than one foreign proceeding

In matters referred to in article 1, in respect of more than one foreign proceeding regarding the same debtor, the court shall seek cooperation and coordination under articles 25, 26 and 27, and the following shall apply:

(*a*) Any relief granted under article 19 or 21 to a representative of a foreign non-main proceeding after recognition of a foreign main proceeding must be consistent with the foreign main proceeding;

(*b*) If a foreign main proceeding is recognized after recognition, or after the filing of an application for recognition, of a foreign non-main proceeding, any relief in effect under article 19 or 21 shall be reviewed by the court and shall be modified or terminated if inconsistent with the foreign main proceeding;

(*c*) If, after recognition of a foreign non-main proceeding, another foreign non-main proceeding is recognized, the court shall grant, modify or terminate relief for the purpose of facilitating coordination of the proceedings.

Article 31

Presumption of insolvency based on recognition of a foreign main proceeding

In the absence of evidence to the contrary, recognition of a foreign main proceeding is, for the purpose of commencing a proceeding under [*identify laws of the enacting State relating to insolvency*], proof that the debtor is insolvent.

Article 32

Rule of payment in concurrent proceedings

Without prejudice to secured claims or rights *in rem*, a creditor who has received part payment in respect of its claim in a proceeding pursuant to a law relating to insolvency in a foreign State may not receive a payment for the same claim in a proceeding under [*identify laws of the enacting State relating to insolvency*] regarding the same debtor, so long as the payment to the other creditors of the same class is proportionately less than the payment the creditor has already received.

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 items and submitted its recommendations thereon to the General Assembly at its fifty-second session. The Assembly subsequently, on 15 December 1997, adopted the following resolutions.

(*a*) Convention on jurisdictional immunities of States and their property

The General Assembly, by its resolution 52/151, having considered the report of the Secretary-General,[172] decided to consider again at its fifty-third session the item entitled "Convention on jurisdictional immunities of States and their property" with a view to the establishment of a working group at its fifty-fourth session, taking into account the comments submitted by States in accordance with paragraph 2 of Assembly resolution 49/61 of 9 December 1994; and urged States, if they had not yet done so, to submit their comments to the Secretary-General in accordance with resolution 49/61.

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

The General Assembly, by its resolution 52/152, taking note of the report of the Secretary-General on the implementation of the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law[173] and the guidelines and recommendations on future implementation of the Programme adopted by the Advisory Committee on the Programme and contained in section III of the report, approved the guidelines and recommendations contained in section III of the report of the Secretary-General and also approved the establishment of the United Nations Audiovisual Library in International Law as proposed by the Secretary-General in paragraph 89 and the annex to his report. It also authorized the Secretary-General to carry out in 1998 and 1999 the activities specified in his report. By the same resolution, the Assembly further reiterated its request to Member States and to interested organizations and individuals to make voluntary contributions, inter alia, for the International Law Seminar, the fellowship programme in international law, the Hamilton Shirley Amerasinghe Memorial Fellowship on the Law of the Sea and the United Nations Audiovisual Library in International Law, and expressed its appreciation to those Member States, institutions and individuals which had made voluntary contributions for that purpose; and urged in particular all Governments to make voluntary contributions for the organization of regional refresher courses in international law by the United Nations Institute for Training and Research.

(c) United Nations Decade of International Law

The General Assembly, by its resolution 52/153, expressing its appreciation for the note submitted to the Secretary-General,[174] and having considered the note, as well as the oral report of the Chairman of the Working Group to the Sixth Committee,[175] expressed its appreciation for the work done on the United Nations Decade of International Law at the fifty-second session of the General Assembly, and requested the Working Group of the Sixth Committee to continue its work at the fifty-third session in accordance with its mandate and methods of work; and also expressed its appreciation to States and international organizations and institutions that had undertaken activities, including sponsoring conferences on various subjects of international law, in implementation of the programme for the activities for the final term (1997-1999) of the Decade.

(d) Action dedicated to the 1999 centennial of the first International Peace Conference and to the closing of the United Nations Decade of International Law

The General Assembly, by its resolution 52/154, welcomed the programme of action dedicated to the centennial of the first International Peace Conference, presented by the Government of the Netherlands and the Russian Federation,[176] which aimed at contributing to the further development of the themes of the first and the second International Peace Conference and could be regarded as a third international peace conference; and requested the Secretary-General to ensure consistency of the activities of the Organization relating to the closing of the United Nations Decade of International Law with the programme of action and to direct his efforts accordingly.

(e) Draft guiding principles for international negotiations

The General Assembly, by its resolution 52/155, reaffirming the provisions of the Declaration of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,[177] and bearing in mind that in their negotiations States should be guided by the relevant principles of international law, took note of the draft guiding principles for international negotiations contained in document A/152/141 and the comments and proposals made during the consideration of the question, including the need for its further consideration; and decided to continue the consideration of the question in the Working Group on the United Nations Decade of International Law during the fifty-third session of the General Assembly.

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

The General Assembly, by its resolution 52/159, endorsed the recommendations and conclusions of the Committee on Relations with the Host Country contained in paragraph 118 of its report,[178] and considered that the maintenance of appropriate conditions for the normal work of the delegations and the missions accredited to the United Nations was in the interests of the United Nations and all Member States, and requested the host country to continue to take all measures necessary to prevent any interference with the functioning of missions, and to promote the compliance of local authorities with international norms concerning

diplomatic privileges and immunities. The Assembly also 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.

(*g*) Establishment of an international criminal court

The General Assembly, by its resolution 52/160, accepted the generous offer of the Government of Italy to act as host to the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court; and decided that the Conference, open to all States Members of the United Nations or members of specialized agencies or of the International Atomic Energy Agency, should be held at Rome from 15 June to 17 July 1998, with a view to finalizing and adopting a convention on the establishment of an international criminal court, and requested the Secretary-General to invite those States to the Conference.

(*h*) 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 52/161, 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;[179] and requested the Special Committee, at its session in 1998, in accordance with paragraph 5 of General Assembly resolution 50/52 of 11 December 1995:

(*a*) To continue its 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 and, in that context, to consider other proposals relating to the maintenance of international peace and security already submitted or which might be submitted to the Special Committee at its session in 1998, including the revised proposal on the strengthening of the role of the United Nations in the maintenance of international peace and security,[180] the revised working paper on the strengthening of the role of the Organization and enhancing its effectiveness,[181] the revised working paper entitled "Some ideas on the basic conditions and criteria for imposing and implementing sanctions and other enforcement measures"[182] and 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 conflicts;[183]

(*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,[184] the proposals submitted on the subject, the debate on the question in the Sixth Committee during the fifty-second session of the General Assembly and the text on the question of sanctions imposed by the United Nations contained in annex II to General Assembly resolution 51/242 of 15 September 1997, and also the implementation of the provisions of General Assembly resolutions 50/51 of 11 December 1995, 51/208 of 17 December 1996 and 52/152 of 15 December 1997;

(*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; and

(*d*) To continue to consider proposals concerning the Trusteeship Council in the light of the report of the Secretary-General submitted in accordance with Assembly resolution 50/55 of 11 December 1995,[185] the report of the Secretary-General entitled "Renewing the United Nations: a programme for reform"[186] and the views expressed by States on this subject during the fifty-second 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, to make every effort to implement in a timely manner the steps proposed in paragraph 59 of his report[187] regarding the preparation and publication of the Supplements to the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* with a view to updating them, and to submit a progress report on the matter to the General Assembly at its fifty-third session.

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

By its resolution 52/162, the General Assembly, taking note of the most recent report of the Secretary-General,[188] submitted in accordance with Assembly resolution 51/208 of 17 December 1996, welcomed once again the further measures taken by the Security Council since the adoption of General Assembly resolution 50/51 of 11 December 1995 aimed at increasing the effectiveness and transparency of the sanctions committees, invited the Council to implement those measures, and strongly recommended that the Council should continue its efforts further to enhance the functioning of those committees, to streamline their working procedures and to facilitate access to them by representatives of States that found themselves confronted with special economic problems arising from the carrying out of sanctions. The Assembly also endorsed the proposal of the Secretary-General that an ad hoc expert group meeting should be convened in the first half of 1998 with a view to developing a possible methodology for assessing the consequences actually incurred by third States as a result of preventive or enforcement measures, with due regard being given by the expert group to the particular problems and needs of developing countries confronted by the special economic problems arising from the carrying out of enforcement measures. The Assembly moreover endorsed the recommendation of the Secretary-General that the expert group should explore innovative and practical measures of assistance that could be provided by the relevant organizations both within and outside the United Nations system to the affected third States; and requested the Secretary-General to submit a report on the results of the expert group meeting to the General Assembly at its fifty-third session.

(*j*) Amendment to rule 103 of the rules of procedure of the General Assembly

By its resolution 52/163, the General Assembly, recalling its resolution 2837 (XXVI) of 17 December 1971, in particular paragraph 42 of annex II thereto, entitled "Conclusions of the Special Committee on the Rationalization of the Procedures and Organization of the General Assembly"; taking into account the increasing workload of the Main Committees of the General Assembly; and considering that all regional groups should be represented in the Bureau of each of the Main Committees, decided to amend the first sentence of rule 103 of the rules of procedure of the General Assembly to read: "Each Main Committee shall elect a Chairman, three Vice-Chairmen and a Rapporteur"; and also decided that the amendment should take effect as from the fifty-third session of the General Assembly.

(*k*) International Convention for the Suppression of Terrorist Bombings

By its resolution 52/164, the General Assembly, recalling its resolution 49/60 of 9 December 1994, by which it had adopted the Declaration on Measures to Eliminate International Terrorism, and its resolution 51/210 of 17 December 1996, and having considered the text of the draft convention for the suppression of terrorist bombings prepared by the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996[189] and the Working Group of the Sixth Committee,[190] adopted the International Convention for the Suppression of Terrorist Bombings and decided to open it for signature at United Nations Headquarters in New York from 12 January 1998 until 31 December 1999; and urged all States to sign and ratify, accept or approve or accede to the Convention. The text of the Convention reads as follows:

International Convention for the Suppression of Terrorist Bombings

The States Parties to this Convention,

Having in mind the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and security and the promotion of good-neighbourliness and friendly relations and cooperation among States,

Deeply concerned about the worldwide escalation of acts of terrorism in all its forms and manifestations,

Recalling the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations of 24 October 1995,[191]

Recalling also the Declaration on Measures to Eliminate International Terrorism, annexed to General Assembly resolution 49/60 of 9 December 1994, in which, inter alia, "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 whomever committed, including those which jeopardize the friendly relations among States and peoples and threaten the territorial integrity and security of States",

Noting that the Declaration also encouraged States "to review urgently the scope of the existing international legal provisions on the prevention, repression and elimination of terrorism in all its forms and manifestations, with the aim of ensuring that there is a comprehensive legal framework covering all aspects of the matter",

Recalling General Assembly resolution 51/210 of 17 December 1996 and the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism annexed thereto,

Noting that terrorist attacks by means of explosives or other lethal devices have become increasingly widespread,

Noting also that existing multilateral legal provisions do not adequately address these attacks,

Being convinced of the urgent need to enhance international cooperation between States in devising and adopting effective and practical measures for the prevention of such acts of terrorism and for the prosecution and punishment of their perpetrators,

Considering that the occurrence of such acts is a matter of grave concern to the international community as a whole,

Noting that the activities of military forces of States are governed by rules of international law outside the framework of this Convention and that the exclusion of certain actions from the coverage of this Convention does not condone or make lawful otherwise unlawful acts, or preclude prosecution under other laws,

Have agreed as follows:

Article 1

For the purposes of this Convention:

1. "State or government facility" includes any permanent or temporary facility or conveyance that is used or occupied by representatives of a State, members of Government, the legislature or the judiciary or by officials or employees of a State or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties.

2. "Infrastructure facility" means any publicly or privately owned facility providing or distributing services for the benefit of the public, such as water, sewage, energy, fuel or communications.

3. "Explosive or other lethal device" means:

(*a*) An explosive or incendiary weapon or device that is designed, or has the capability, to cause death, serious bodily injury or substantial material damage; or

(*b*) A weapon or device that is designed, or has the capability, to cause death, serious bodily injury or substantial material damage through the release, dissemination or impact of toxic chemicals, biological agents or toxins or similar substances or radiation or radioactive material.

4. "Military forces of a State" means the armed forces of a State which are organized, trained and equipped under its internal law for the primary purpose of national defence or security and persons acting in support of those armed forces who are under their formal command, control and responsibility.

5. "Place of public use" means those parts of any building, land, street, waterway or other location that are accessible or open to members of the public, whether continuously, periodically or occasionally, and encompasses any commercial, business, cultural, historical, educational, religious, governmental, entertainment, recreational or similar place that is so accessible or open to the public.

6. "Public transportation system" means all facilities, conveyances and instrumentalities, whether publicly or privately owned, that are used in or for publicly available services for the transportation of persons or cargo.

Article 2

1. Any person commits an offence within the meaning of this Convention if that person unlawfully and intentionally delivers, places, discharges or detonates an explosive or other lethal device in, into or against a place of public use, a State or government facility, a public transportation system or an infrastructure facility:

(*a*) With the intent to cause death or serious bodily injury; or

(*b*) With the intent to cause extensive destruction of such a place, facility or system, where such destruction results in or is likely to result in major economic loss.

2. Any person also commits an offence if that person attempts to commit an offence as set forth in paragraph 1 of the present article.

3. Any person also commits an offence if that person:

(*a*) Participates as an accomplice in an offence as set forth in paragraph 1 or 2 of the present article; or

(*b*) Organizes or directs others to commit an offence as set forth in paragraph 1 or 2 of the present article; or

(*c*) In any other way contributes to the commission of one or more offences as set forth in paragraph 1 or 2 of the present article by a group of persons acting with a common purpose; such contribution shall be intentional and either be made with the aim of furthering the general criminal activity or purpose of the group or be made in the knowledge of the intention of the group to commit the offence or offences concerned.

Article 3

This Convention shall not apply where the offence is committed within a single State, the alleged offender and the victims are nationals of that State, the alleged offender is found in the territory of that State and no other State has a basis under article 6, paragraph 1 or paragraph 2, of this Convention to exercise jurisdiction, except that the provisions of articles 10 to 15 shall, as appropriate, apply in those cases.

Article 4

Each State Party shall adopt such measures as may be necessary:

(*a*) To establish as criminal offences under its domestic law the offences set forth in article 2 of this Convention;

(*b*) To make those offences punishable by appropriate penalties which take into account the grave nature of those offences.

Article 5

Each State Party shall adopt such measures as may be necessary, including, where appropriate, domestic legislation, to ensure that criminal acts within the scope of this Convention, in particular where they are intended or calculated to provoke a state of terror in the general public or in a group of persons or particular persons, are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature and are punished by penalties consistent with their grave nature.

Article 6

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 when:

(*a*) The offence is committed in the territory of that State; or

(*b*) The offence is committed on board a vessel flying the flag of that State or an aircraft which is registered under the laws of that State at the time the offence is committed; or

(*c*) The offence is committed by a national of that State.

2. A State Party may also establish its jurisdiction over any such offence when:

(*a*) The offence is committed against a national of that State; or

(*b*) The offence is committed against a State or government facility of that State abroad, including an embassy or other diplomatic or consular premises of that State; or

(*c*) The offence is committed by a stateless person who has his or her habitual residence in the territory of that State; or

(*d*) The offence is committed in an attempt to compel that State to do or abstain from doing any act; or

(*e*) The offence is committed on board an aircraft which is operated by the Government of that State.

3. Upon ratifying, accepting, approving or acceding to this Convention, each State Party shall notify the Secretary-General of the United Nations of the jurisdiction it has established under its domestic law in accordance with paragraph 2 of the present article. Should any change take place, the State Party concerned shall immediately notify the Secretary-General.

4. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 in cases where the alleged offender is present in its territory and it does not extradite that person to any of the States Parties which have established their jurisdiction in accordance with paragraph 1 or 2 of the present article.

5. This Convention does not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law.

Article 7

1. Upon receiving information that a person who has committed or who is alleged to have committed an offence as set forth in article 2 may be present in its territory, the State Party concerned shall take such measures as may be necessary under its domestic law to investigate the facts contained in the information.

2. Upon being satisfied that the circumstances so warrant, the State Party in whose territory the offender or alleged offender is present shall take the appropriate measures under its domestic law so as to ensure that person's presence for the purpose of prosecution or extradition.

3. Any person regarding whom the measures referred to in paragraph 2 of the present article are being taken shall be entitled to:

(*a*) Communicate without delay with the nearest appropriate representative of the State of which that person is a national or which is otherwise entitled to protect that person's rights or, if that person is a stateless person, the State in the territory of which that person habitually resides;

(*b*) Be visited by a representative of that State;

(*c*) Be informed of that person's rights under subparagraphs (*a*) and (*b*).

4. The rights referred to in paragraph 3 of the present article shall be exercised in conformity with the laws and regulations of the State in the territory of which the offender or alleged offender is present, subject to the provision that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under paragraph 3 are intended.

5. The provisions of paragraphs 3 and 4 of the present article shall be without prejudice to the right of any State Party having a claim to jurisdiction in accordance with article 6,

subparagraph 1 (*c*) or 2 (*c*), to invite the International Committee of the Red Cross to communicate with and visit the alleged offender.

6. When a State Party, pursuant to the present article, has taken a person into custody, it shall immediately notify, directly or through the Secretary-General of the United Nations, the States Parties which have established jurisdiction in accordance with article 6, paragraphs 1 and 2, and, if it considers it advisable, any other interested States Parties, of the fact that that person is in custody and of the circumstances which warrant that person's detention. The State which makes the investigation contemplated in paragraph 1 of the present article shall promptly inform the said States Parties of its findings and shall indicate whether it intends to exercise jurisdiction.

Article 8

1. The State Party in the territory of which the alleged offender is present shall, in cases to which article 6 applies, if it does not extradite that person, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case without undue delay to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any other offence of a grave nature under the law of that State.

2. Whenever a State Party is permitted under its domestic law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that State to serve the sentence imposed as a result of the trial or proceeding for which the extradition or surrender of the person was sought, and this State and the State seeking the extradition of the person agree with this option and other terms they may deem appropriate, such a conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 1 of the present article.

Article 9

1. The offences set forth in article 2 shall be deemed to be included as extraditable offences in any extradition treaty existing between any of the States Parties before the entry into force of this Convention. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be subsequently concluded between them.

2. When a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, the requested State Party may, at its option, consider this Convention as a legal basis for extradition in respect of the offences set forth in article 2. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences set forth in article 2 as extraditable offences between themselves, subject to the conditions provided by the law of the requested State.

4. If necessary, the offences set forth in article 2 shall be treated, for the purposes of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territory of the States that have established jurisdiction in accordance with article 6, paragraphs 1 and 2.

5. The provisions of all extradition treaties and arrangements between States Parties with regard to offences set forth in article 2 shall be deemed to be modified as between State Parties to the extent that they are incompatible with this Convention.

Article 10

1. States Parties shall afford one another the greatest measure of assistance in connection with investigations or criminal or extradition proceedings brought in respect of the

offences set forth in article 2, including assistance in obtaining evidence at their disposal necessary for the proceedings.

2. States Parties shall carry out their obligations under paragraph 1 of the present article in conformity with any treaties or other arrangements on mutual legal assistance that may exist between them. In the absence of such treaties or arrangements, States Parties shall afford one another assistance in accordance with their domestic law.

Article 11

None of the offences set forth in article 2 shall be regarded, for the purposes of extradition or mutual legal assistance, as a political offence or as an offence connected with a political offence or as an offence inspired by political motives. Accordingly, a request for extradition or for mutual legal assistance based on such an offence may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

Article 12

Nothing in this Convention shall be interpreted as imposing an obligation to extradite or to afford mutual legal assistance, if the requested State Party has substantial grounds for believing that the request for extradition for offences set forth in article 2 or for mutual legal assistance with respect to such offences has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin or political opinion or that compliance with the request would cause prejudice to that person's position for any of these reasons.

Article 13

1. A person who is being detained or is serving a sentence in the territory of one State Party whose presence in another State Party is requested for purposes of testimony, identification or otherwise providing assistance in obtaining evidence for the investigation or prosecution of offences under this Convention may be transferred if the following conditions are met:

(*a*) The person freely gives his or her informed consent; and

(*b*) The competent authorities of both States agree, subject to such conditions as those States may deem appropriate.

2. For the purposes of the present article:

(*a*) The State to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State from which the person was transferred;

(*b*) The State to which the person is transferred shall without delay implement its obligation to return the person to the custody of the State from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States;

(*c*) The State to which the person is transferred shall not require the State from which the person was transferred to initiate extradition proceedings for the return of the person;

(*d*) The person transferred shall receive credit for service of the sentence being served in the State from which he was transferred for time spent in the custody of the State to which he was transferred.

3. Unless the State Party from which a person is to be transferred in accordance with the present article so agrees, that person, whatever his or her nationality, shall not be prosecuted or detained or subjected to any other restriction of his or her personal liberty in the territory of the State to which that person is transferred in respect of acts or convictions

anterior to his or her departure from the territory of the State from which such person was transferred.

Article 14

Any person who is taken into custody or regarding whom any other measures are taken or proceedings are carried out pursuant to this Convention shall be guaranteed fair treatment, including enjoyment of all rights and guarantees in conformity with the law of the State in the territory of which that person is present and applicable provisions of international law, including international law of human rights.

Article 15

States Parties shall cooperate in the prevention of the offences set forth in article 2, particularly:

(*a*) By taking all practicable measures, including, if necessary, adapting their domestic legislation, to prevent and counter preparations in their respective territories for the commission of those offences within or outside their territories, including measures to prohibit in their territories illegal activities of persons, groups and organizations that encourage, instigate, organize, knowingly finance or engage in the perpetration of offences as set forth in article 2;

(*b*) By exchanging accurate and verified information in accordance with their national law, and coordinating administrative and other measures taken as appropriate to prevent the commission of offences as set forth in article 2;

(*c*) Where appropriate, through research and development regarding methods of detection of explosives and other harmful substances that can cause death or bodily injury, consultations on the development of standards for marking explosives in order to identify their origin in post-blast investigations, exchange of information on preventive measures, cooperation and transfer of technology, equipment and related materials.

Article 16

The State Party where the alleged offender is prosecuted shall, in accordance with its domestic law or applicable procedures, communicate the final outcome of the proceedings to the Secretary-General of the United Nations, who shall transmit the information to the other States Parties.

Article 17

The States Parties shall carry out their obligations under this Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States.

Article 18

Nothing in this Convention entitles a State Party to undertake in the territory of another State Party the exercise of jurisdiction and performance of functions which are exclusively reserved for the authorities of that other State Party by its domestic law.

Article 19

1. Nothing in this Convention shall affect other rights, obligations and responsibilities of States and individuals under international law, in particular the purposes and principles of the Charter of the United Nations and international humanitarian law.

2. The activities of armed forces during an armed conflict, as those terms are understood under international humanitarian law, which are governed by that law, are not governed by this Convention, and the activities undertaken by military forces of a State in the exercise of their official duties, inasmuch as they are governed by other rules of international law, are not governed by this Convention.

Article 20

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation within a reasonable time shall, at the request of one of them, be submitted to arbitration. If, within six months from the date of the request for arbitration, the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice, by application, in conformity with the Statute of the Court.

2. Each State may at the time of signature, ratification, acceptance or approval of this Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of the present article. The other States Parties shall not be bound by paragraph 1 with respect to any State Party which has made such a reservation.

3. Any State which has made a reservation in accordance with paragraph 2 of the present article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 21

1. This Convention shall be open for signature by all States from 12 January 1998 until 31 December 1999 at United Nations Headquarters in New York.

2. This Convention is subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations.

3. This Convention shall be open to accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 22

1. This Convention shall enter into force on the thirtieth day following the date of the deposit of the twenty-second instrument of ratification, acceptance, approval or accession with the Secretary-General of the United Nations.

2. For each State ratifying, accepting, approving or acceding to the Convention after the deposit of the twenty-second instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification, acceptance, approval or accession.

Article 23

1. Any State Party may denounce this Convention by written notification to the Secretary-General of the United Nations.

2. Denunciation shall take effect one year following the date on which notification is received by the Secretary-General of the United Nations.

Article 24

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Convention, opened for signature at United Nations Headquarters in New York on 12 January 1998.

(*l*) Measures to eliminate international terrorism

The General Assembly, by its resolution 52/165, reaffirmed the mandate of the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996; and decided that the Ad Hoc Committee should meet from 16 to 27 February 1998 to continue its work in accordance with the mandate provided in paragraph 9 of Assembly resolution 51/210, and recommended that the work should continue during the fifty-third session of the Assembly from 28 September to 9 October 1998 within the framework of a working group of the Sixth Committee.

(*m*) Amendment to article 13 of the statute of the United Nations Administrative Tribunal

By its resolution 52/166, the General Assembly, having considered the note by the Secretary-General dated 17 September 1997 entitled "Amendment to article 13 of the statute of the United Nations Administrative Tribunal";[192] noting the proposal of the International Court of Justice referred to in that note that the statute of the Tribunal should be modified to provide for the exercise of its competence in respect of the staff of the Registry of the International Court of Justice; recognizing that the competence of the Tribunal in United Nations Joint Staff Pension Fund cases, as approved by the General Assembly in its resolution 955 (X) of 3 November 1955, was not reflected in the statute of the Tribunal; and noting the proposal of the Secretary-General, set out in the note, to amend the statute of the Tribunal by providing that its competence might be extended to international organizations and entities participating in the common system of conditions of service, decided to amend article 13 of the statute of the United Nations Administrative Tribunal, with effect from 1 January 1998, as follows:

(*a*) New paragraphs 1, 2 and 4 shall be inserted to read:

"1. The competence of the Tribunal shall be extended to the staff of the Registry of the International Court of Justice upon the exchange of letters between the President of the Court and the Secretary-General of the United Nations establishing the relevant conditions;

"2. The Tribunal shall be competent to hear and pass judgement upon applications alleging non-observance of the Regulations of the United Nations Joint Staff Pension Fund arising out of the decision of the United Nations Joint Staff Pension Board submitted to the Tribunal by:

(*a*) Any staff member of a member organization of the Fund which has accepted the jurisdiction of the Tribunal in Joint Staff Pension Fund cases who is eligible under article 21 of the Pension Fund regulations as a

participant in the Fund, even if his employment has ceased, and any person who has acceded to such staff member's rights upon his death;

(*b*) Any other person who can show that he is entitled to rights under the Pension Fund Regulations by virtue of the participation in the Fund of a staff member of such member organization;"

"4. The competence of the Tribunal may also be extended, with the approval of the General Assembly, to any other international organization or entity established by a treaty and participating in the common system of conditions of service, upon the terms set out in a special agreement between the organization or entity concerned and the Secretary-General of the United Nations. Each such special agreement shall provide that the organization or entity concerned shall be bound by the judgements of the Tribunal and be responsible for the payment of any compensation awarded by the Tribunal in respect of a staff member of that organization or entity and shall include, inter alia, provisions concerning its participation in the administrative arrangements for the functioning of the Tribunal and concerning its sharing the expenses of the Tribunal";

(*b*) Former article 13 shall be renumbered paragraph 3 of article 13.

---

9. UNITED NATIONS INSTITUTE FOR TRAINING AND RESEARCH[193]

During the reporting period, UNITAR continued to carry out its training activities, including its programmes on multilateral diplomacy and international affairs management, designed for the benefit of members of permanent missions accredited to the United Nations at Geneva and Vienna; and in conjunction with the International Peace Academy, an annual course on peacekeeping and preventive diplomacy, offering advanced training in conflict analysis, negotiation and mediation to United Nations staff and diplomats. UNITAR also provides for self-paced correspondence courses on United Nations peacekeeping. Additional offerings include UNITAR's Programme of Training for the Application of Environmental Law; the International Migration Policy and Law courses; and the Training Programme in the Legal Aspects of Debt, Economics, Financial Management and Public Administration.

Under these programmes during 1997, individual courses or events included a workshop on the structure and drafting of United Nations resolutions (New York); an IOM/UNITAR workshop on mediation techniques (Pretoria); and the Cuba Scientific International Conference on Environmental Law (Holguín Province, Cuba).

Consideration by the General Assembly

At its fifty-second session, the General Assembly, on 18 December 1997, on the recommendation of the Second Committee, adopted resolution 52/206, in which, having considering the report of the Secretary-General,[194] the report of the Board of Trustees of UNITAR on the activities of the Institute[195] and the report of the Joint Inspection Unit,[196] renewed its appeal to all Governments and to private

institutions that had not yet contributed financially or otherwise to the Institute to give it their generous financial support, and urged the States that had interrupted their voluntary contributions to consider resuming them in the light of the successful restructuring and revitalization of the Institute. The Assembly also stressed the need for an effective division of labour among the main training and research institutions of the United Nations system, taking into account the distinct and complementary mandates of the United Nations University, UNITAR and the United Nations Staff College Project, and in that regard noted the recommendations of the Joint Inspection Unit. It furthermore stressed the need for better coordination among the main training and research institutions of the United Nations system, and noted the recommendations of the Joint Inspection Unit; and also stressed in that regard the need for the General Assembly to consider all major issues in a coherent manner without prejudice to its resolution 50/227 of 24 May 1996.

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

1. INTERNATIONAL LABOUR ORGANIZATION

1. The International Labour Conference (ILC), which held its 83rd session in Geneva from 3 to 19 June 1997, adopted an instrument for the amendment of the Constitution of the International Labour Organization[197] to add a paragraph 9 to article 19 (Conventions and Recommendations) so as to enable the ILC to abrogate any Convention if it appears that it has lost its purpose or that it no longer makes a useful contribution to attaining the objectives of the Organization.

2. The International Labour Conference also adopted several amendments to its Standing Orders:[198]

Consequential and related amendments to the Constitutional Amendment

(*a*) Amendment to article 11 (Procedure for the consideration of proposed Conventions, Recommendations and amendments to the Constitution), paragraph 1;

(*b*) Article 45bis (Procedure to be followed in the event of the abrogation or withdrawal of Conventions and Recommendations) has been added;

Verification of credentials

(*a*) Amendment to article 5 (Credentials Committee), paragraph 2;

(*b*) Amendment to article 26, paragraph 4a;

---

*The order of the organization reflects the chronological order, from earlier to most recent, of the effective date the United Nations entered into a relationship with the organization. All the organizations listed here are United Nations specialized agencies, except IAEA which is an autonomous intergovernmental organization under the aegis of the United Nations, and is listed last.

(*c*) Three paragraphs have been added to article 26;

Disqualification from voting of members which are in arrears in the payment of their contributions to the Organization

(*a*) Amendment to article 32 (Period of validity of a decision to permit a member in arrears to vote), paragraph 2.

3. At its 85th session, the International Labour Conference also adopted a Convention (No. 181) and a Recommendation (No. 188) concerning Private Employment Agencies.[199]

4. The Committee of Experts on the Application of Conventions and Recommendations met in Geneva from 27 November to 12 December 1997 to adopt its report to the 86th Session of the International Labour Conference (1998).[200]

5. Representations were lodged under article 24 of the Constitution of the International Labour Organization alleging non-observance by Denmark of the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) and the Right to Organize and Collective Bargaining Convention, 1949 (No. 98);[201] by the Russian Federation of the Protection of Wages Convention, 1949 (No. 95);[202] by Uruguay of the Occupational Health and Safety Convention, 1981 (No. 155);[203] by Denmark of the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), the Right to Organize and Collective Bargaining Convention, 1949 (No. 98), and the Employment Policy Convention, 1964 (No. 122);[204] by Hungary of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and the Employment Policy Convention, 1964 (No. 122);[205] by Mexico[206] and Peru[207] of the Indigenous and Tribal Peoples Convention, 1989 (No. 169); by Spain of the Migration for Employment Convention (Revised), 1949 (No. 97), the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and the Employment Policy Convention, 1964 (No. 122);[208] and by Turkey of the Labour Clauses (Public Contracts) Convention, 1949 (No. 94).

6. The Governing Body decided, at its 268th session (March 1997), to refer the complaint, which 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),[209] to a Commission of Enquiry.[210]

7. The Governing Body of the International Labour Office, which met in Geneva, considered and adopted the following reports of its Committee on Freedom of Association: the 306th report[211] (268th session, March 1997), the 307th report[212] (269th session, June 1997) and the 308th report[213] (267th session, November 1997).

8. The Working Party on the Social Dimensions of the Liberalization of International Trade, established by the Governing Body of the ILO, held two meetings in 1997 during the 268th[214] (March 1997) and 270th[215] (November 1997) sessions of the Governing Body.

9. The Working Party on Policy regarding the Revision of Standards of the Committee on Legal Issues and International Labour Standards of the Governing Body held meetings in 1997 during the 268th[216] (March 1997) and 270th[217] (November 1997) sessions of the Governing Body of the ILO.

2. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

(*a*) General constitutional and legal matters

(i) *Decisions taken at the 29th session of the FAO Conference (November 1997)*

a. *FAO Conference resolutions*

In resolution 9/97, the Conference decided on the following:

—Amendments to the Basic Texts

—Abolition of the Programme of Work and Budget outline and the joint meeting of the Programme and Finance Committees early in the second year of the biennium

In resolution 7/97, the Conference decided as follows:

Amendments to rule XXXIII of the General Rules of the Organization (Committee on World Food Security)

1. The Conference endorsed the recommendation of the Council, at its hundred and twelfth session (Rome, 2-7 June, 1997), that the mandate of the Committee on World Food Security (CFS) be amended. In that regard, the Conference noted that Commitment Seven of the Plan of Action adopted by the World Food Summit in November 1996 accorded a substantial role to the CFS in the monitoring of the Implementation of the Action Plan, and that this should be reflected in the mandate of the CFS, as set out in rule XXXIII of the General Rules of the Organization. The Conference further noted that amendments to the mandate of the CFS were required to reflect new responsibilities falling upon FAO as a result of the abolition of the World Food Council by the United Nations General Assembly, to reflect changes in institutional organizations in the United Nations system, such as the replacement of the Committee on Food Aid Policies and Programmes by the Executive Board of the World Food Programme, and to rationalize and modernize the terms of reference of the CFS in line with recent practice.

2. Consequently, the Conference adopted the following resolution:

RESOLUTION 8/97

Amendments to rule XXXIII of the General Rules of the Organization (Committee on World Food Security)

THE CONFERENCE,

Recalling that rule XXXIII of the General Rules of the Organization establishing the Committee on World Food Security (CFS) and its terms of reference was adopted by the Conference at its eighteenth session in November 1975 (resolution 21/75),

Recalling further that Commitment Seven of the Plan of Action adopted by the World Food Summit in November 1996 accorded a substantial role to the CFS in the monitoring of the implementation of the Plan of Action,

Considering that the above-mentioned role should be reflected in the mandate of the CFS as set out in rule XXXIII of the General Rules of the Organization (GRO),

Considering that further changes to the wording of rule XXXIII GRO are required in order to reflect the new responsibilities falling upon FAO as a result of the abolition of the World Food Council by the United Nations General Assembly,

Considering also that further amendments are required in order to reflect changes in institutional organization in the United Nations system, such as the replacement of the Committee on Food Aid Policies and Programmes by the Executive Board of the World Food Programme, and to rationalize and modernize the terms of reference of the CFS in line with recent practice:

Decides to amend rule XXXIII of the General Rules of the Organization, Committee on World Food Security, as follows:

Rule XXXIII

Committee on World Food Security

1. The Committee on World Food Security provided for in paragraph 6 of article V of the Constitution shall be open to all member nations of the Organization and all Member States of the United Nations. It shall be composed of those States which notify the Director-General in writing of their desire to become members of the Committee and of their intention to participate in the work of the Committee.

2. The notifications referred to in paragraph 1 may be made at any time, and membership acquired on the basis thereof shall be for a biennium. The Director-General shall circulate, at the beginning of each session of the Committee, a document listing the members of the Committee.

3. The Committee shall normally hold two sessions during each biennium. Sessions shall be convened by the Director-General, in consultation with the Chairman of the Committee, taking into account any proposals made by the Committee.

4. If required, the Committee may hold additional sessions on the call of the Director-General in consultation with its Chairman, or on request submitted in writing to the Director-General by the majority of members of the Committee.

5. The Committee shall contribute to promoting the objective of world food security with the aim of 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.

6. The Committee shall serve as a forum in the United Nations system for review and follow-up of policies concerning world food security, including food production, sustainable use of the natural resource base for food security, nutrition, physical and economic access to food and other food security related aspects of poverty eradication, the implications of food trade for world food security and other related matters and shall in particular:

(*a*) Examine major problems and issues affecting the world food situation and the steps being proposed or taken to resolve them by Governments and relevant international organizations, bearing in mind the need for the adoption of an integrated approach towards their solution;

(*b*) Examine the implications for world food security of other relevant factors, including the situation relating to the supply and demand of basic foodstuffs and food aid requirements and trends, the state of stocks in exporting and importing countries and issues relating to physical and economic access to food and other food security related aspects of poverty eradication; and

(*c*) Recommend such action as may be appropriate to promote the goal of world food security.

7. The Committee shall serve as the forum in the United Nations system for monitoring the implementation of the Plan of Action adopted by the World Food Summit in accordance with the relevant commitment of the Summit.

8. The Committee shall report to the Council of the Organization and tender advice to the Director-General, and relevant international organizations as appropriate, on any matter considered by the Committee, it being understood that copies of its reports, including any conclusions, will be transmitted without delay to interested Governments and international organizations.

9. The Committee shall provide regular reports to the Economic and Social Council of the United Nations, through the Council of the Organization.

10. Any recommendation adopted by the Committee affecting the programme or finance of the Organization or concerning legal or constitutional matters shall be reported to the Council with the comments of the appropriate subsidiary committees of the Council. The reports of the Committee, or relevant extracts therefrom, shall also be placed before the Conference.

11. The Committee shall draw on the advice, as necessary, of the Committee on Commodity Problems and its subsidiary bodies, the Committee on Agriculture and other technical committees of the Council as appropriate, and the Executive Board of the World Food Programme. In particular, it shall take full account of the responsibilities and activities of these and other intergovernmental bodies responsible for aspects of food security in order to avoid overlapping and unnecessary duplication of work.

12. The Committee shall invite relevant international organizations to participate in the work of the Committee and the preparation of meeting documents on matters within their respective mandates in collaboration with the secretariat of the Committee.

13. In order to ensure the effective discharge of its functions, the Committee may request the members to furnish all information required for its work, it being understood that where so requested by the Governments concerned, the information supplied shall be kept on a restricted basis.

14. The Director-General or his representative shall participate in all meetings of the Committee and may be accompanied by such officers of the staff of the Organization as he may designate.

15. The Committee shall elect, from among its members, its Chairman and the other officers. It may adopt and amend its rules of procedure, which shall be consistent with the Constitution and the General Rules of the Organization.

16. The Committee may decide to establish subsidiary or ad hoc bodies where it considers that such action would expedite its own work, without duplicating the work of existing bodies. A decision to this effect may be taken only after the Committee has examined a report by the Director-General on the administrative and financial implications.

17. When establishing subsidiary or ad hoc bodies, the Committee shall define their terms of reference, composition and, as far as possible, the duration of their mandate. Subsidiary bodies may adopt their own rules of procedure, which shall be consistent with those of the Committee.

(Adopted on 17 November 1997)

b. *Cooperation Agreement between FAO and the Regional Centre on Agrarian Reform and Rural Development for the Near East (CARDNE)*

The Conference decided:

—The Conference expressed its satisfaction with the strengthening of the cooperation between the Regional Centre on Agrarian Reform and Rural Development for the Near East (CARDNE) and FAO;

—The Conference noted that the Council at its hundred and twelfth session (Rome, 2-7 June 1997) had endorsed the proposed Agreement. The Conference confirmed the Cooperation Agreement.

c. *Cooperation Agreement between FAO and the Centre for Marketing Information and Advisory Services for Fishery Products in the Arab Region (INFOSAMAK)*

The Conference decided:

—The Conference expressed its satisfaction with the strengthening of the cooperation between the Centre for Marketing Information and Advisory Services for Fishery Products in the Arab Region (INFOSAMAK) and FAO;

—The Conference noted that the Council at its hundred and thirteenth session (Rome, 4-6 November 1997) had endorsed the proposed Agreement. The Conference confirmed the Cooperation Agreement.

d. *Cooperation Agreement between FAO and the Intergovernmental Organization for Marketing Information and Technical Advisory Services for Fishery Products in the Asia and Pacific Region (INFOFISH)*

—The Conference expressed its satisfaction with the strengthening of the cooperation between the Intergovernmental Organization for Marketing Information and Technical Advisory Services for Fishery Products in the Asia and Pacific Region (INFOFISH) and FAO;

—The Conference noted that the Council at its hundred and twelfth session (Rome, 2-7 June 1997) had endorsed the proposed Agreement. The Conference confirmed the Cooperation Agreement.

(ii) *Conventions and agreements concluded under article XIV of the FAO Constitution*

a. *Agreement for the Establishment of the Asia-Pacific Fishery Commission*

Amendments adopted by the Commission at its twenty-fifth session in October 1996 were approved by the FAO Council at its hundred and twelfth session in June 1997. They took effect immediately. The scope of the amendments was to reinforce and update the terms of reference of the Commission.

b. *Constitution of the European Commission for the Control of Foot-and-Mouth Disease*

At its thirty-second session (April 1997) the Commission adopted further amendments to the Constitution. The amendments were endorsed by the FAO Council at its hundred and thirteenth session (November 1997).

(iii) *Conventions and agreements concluded outside the framework of FAO in respect of which the Director-General exercises depository functions*

On 9 and 10 July 1984, a Conference of Plenipotentiaries of States parties to the International Convention for the Conservation of Atlantic Tunas met in Paris and adopted a Protocol amending the Convention.

Pursuant to its article II, the Paris Protocol was opened for signature at the headquarters of FAO in Rome until 10 September 1984.

In accordance with its article III, the Protocol entered into force on the thirtieth day following the deposit with the Director-General of FAO of the last instrument of approval, ratification or acceptance by all the Contracting Parties to the Convention, i.e. on 19 January 1997.

(*b*) Legislative matters

(i) *Agrarian legislation*

Eritrea, Haiti, Mali, Palestine, Rwanda, Swaziland.

(ii) *Water legislation*

Albania, Bolivia, Estonia, Lao People's Democratic Republic, Niger, South Africa, Sri Lanka, United Republic of Tanzania, Uganda.

(iii) *Animal health and production legislation*

(iv) *Plant protection legislation, including pesticides control*

Belize, Cyprus, Eritrea, Gambia, Ghana, India, Jamaica, Kyrgyzstan, Malaysia, Namibia.

(v) *Plant production and seed legislation*

Kyrgyzstan, Palestine.

(vi) *Food legislation*

Armenia, Romania, Senegal, Turkey, Venezuela.

(vii) *Fisheries legislation*

Burkina Faso, Côte d'Ivoire, Cuba, Dominican Republic.

(viii) *Forestry and wildlife legislation*

Bhutan, Cape Verde, Democratic Republic of the Congo, Madagascar, United Republic of Tanzania.

(ix) *Environment legislation*

United Republic of Tanzania.

---

3. UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

(*a*) Constitutional and procedural questions

(i) *Amendment to the Constitution*

By its resolution 29 C/84, adopted on 11 November 1997, the General Conference at its 29th session took the following decision concerning article V, paragraph 4 (*a*), of the Organization's Constitution:

"*The General Conference*,

Having considered document 29 C/5 1 and *taken note* of the report of the Legal Committee (29 C/76 and Add. and Corr.),

1. *Decides* to add to the end of the first sentence of subparagraph (*a*) of paragraph 4 of article V of the Constitution the following phrase:

'except for the election that takes place during the 30th session of the General Conference, where one of the elected member States from Electoral Group II and two of the elected member States from Group IV, whose names shall be drawn by the president of the General Conference by lot, shall serve until the close of the 31st session of the Conference';

2. *Decides further* that this amendment shall be expunged from the text of the UNESCO Constitution at the close of the 30th session of the General Conference."

The amended article V.4 (*a*) now reads as follows:

"Members of the Executive Board shall serve from the close of the General Conference which elected them until the close of the second ordinary session of the General Conference following that election. The General Conference shall, at each of its ordinary sessions, elect the number of Members of the Executive Board required to fill vacancies occurring at the end of the session except for the election that takes place during the 30th session of the General Conference, where one of the elected member States from Electoral Group II and two of the elected member States from Group IV, whose names shall be drawn by the President of the General Conference by lot, shall serve until the close of the 31st session of the Conference."

(ii) *Membership in the Organization*

The United Kingdom of Great Britain and Northern Ireland resumed its membership of UNESCO with effect from 1 July 1997.

(*b*) International regulations

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

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

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

—Recommendation concerning the Status of Higher-Education Teaching Personnel, adopted by the General Conference at its 29th session, on 11 November 1997

—Universal Declaration on the Human Genome and Human Rights, adopted by the General Conference at its 29th session, on 11 November 1997

—Declaration on the Responsibilities to the Present Generations towards Future Generations, adopted by the General Conference at its 29th session, on 12 November 1997

(iii) *Instrument adopted under the joint auspices of the Council of Europe and UNESCO*

—Convention on the Recognition of Qualifications concerning Higher Education in the European Region, adopted in Lisbon on 11 April 1997

In accordance with the terms of article XI.2, this Convention shall enter into force on the first day of the month following the expiration of the period of one month after five States, including at least three States of the Council of Europe and/or the UNESCO Europe region, have expressed their consent to be bound by the Convention. It shall enter into force for each other State on the first day of the month following the expiration of the period of one month after the date of expression of its consent to be bound by the Convention.

(iv) *Proposal concerning the preparation of new instruments*

The General Conference having examined the question on the feasibility of an international instrument on the establishment of a legal framework relating to cyberspace and of a recommendation on the preservation of a balanced use of languages in cyberspace, recognized the urgent importance of establishing a framework relating to cyberspace at the international level by formulating a body of educational, scientific and cultural principles and guidelines. The General Conference invited the Director-General to prepare a draft recommendation on the provision of universal access to multilinguism in cyberspace to be submitted to the 30th session of the General Conference.

(*c*) Human rights

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

The Committee on Convention and Recommendations met in private session at UNESCO headquarters from 20 to 23 May 1997 and on 30 September 1997, 1 October and 3 October 1997 in order to examine communications which had been transmitted to it in accordance with decision 104 EX/3.3 of the Executive Board.

At its May session, the Committee examined 23 communications, of which 17 were examined with a view to determining their admissibility or otherwise, 2 were examined as regards their substance, and 4 were examined for the first time. Of the communications, one was declared irreceivable and one was struck from the list because it was considered as having been settled. The Committee presented its report to the Executive Board at its 151st session.

At its October session, the Committee examined 25 communications, of which 18 were examined with a view to determining their admissibility or otherwise, 2 were examined as regards their substance and 5 were examined for the first time. Of the communications examined, 3 were struck from the list because they were considered as having been settled. The Committee presented its report to the Executive Board at its 152nd session.

(*d*) Copyright activities

In the framework of its Recommendation on the Status of the Artist (1980), UNESCO organized a World Congress at the Organization headquarters (Paris) from 16 to 20 June 1997. More than 600 participants from 100 countries attended the meeting. Artists from all the disciplines (fine arts, performing arts, music, literature, architecture), representatives of artistic NGOs and cultural institutions and foundations and representatives of Member States met together to discuss important issues of the artist's life and profession in a changing society. Three round tables on subjects such as new technologies in artistic creation, private and public funding of the arts and art education for children and young people were organized. The musician Lord Yehudi Menuhin, the Nobel Prize–winning writer Nadine Gordimer, the sculptor Agam, the dancer Mallika Sarabhai, among many other artists and writers, contributed to the debates. The proceedings of the round tables will be published in 1998. In the meantime, the professional artistic organizations (International Federation of Artists, International Federation of Musicians, International Music Council, International Association of Arts, PEN International, International Theatre Institute, International Dance Council) drafted a final Declaration adopted by the participants, which included recommendations in the following fields: funding of the arts, support for artistic creation, artistic education and training, arts and new technologies, rights of authors and performing artists, working conditions, taxation and health of the artists, and promotion of the 1980 Recommendation.

The UNESCO/WIPO World Forum on the Protection of Folklore was held in cooperation with the Government of Thailand in Phuket from 8 to 10 April 1997. More than 200 participants of the forum, experts in folklore from all re-

gions of the world, examined the possibility of the legal protection of folklore at the national and international levels.

The Intergovernmental Committee of the Universal Copyright Convention met for its 11th ordinary session in Paris from 23 to 27 June 1997. Representatives of 51 States and of a number of international non-governmental organizations discussed, inter alia, such important issues as the adaptation of the right of reproduction and communication to the public in the digital multimedia environment, the legal status of multimedia works and the harmonization of legal protection, as well as the conditions governing the application of the *droit de suite* (resale rights).

The 16th ordinary session of the Intergovernmental Committee of the Rome Convention was held jointly with ILO and WIPO in Paris from 30 June to 2 July 1997. The main point of discussion was the impact of digital technology on the beneficiaries of the Convention (the protection of performers, producers of phonograms and broadcasting organizations): on the employment and working conditions of performers, on the nature and the extent of the protection and on the collective administration of the beneficiaries' rights.

To support the efforts of the States in the introduction and development of the teaching of copyright and neighbouring rights at the university level (initiated by UNESCO at the end of the 1980s), UNESCO published the French version of the first international manual on the subject (more than 900 pages) by Professor D. Lipszyc. Initially published in Spanish, the Manual will partially reduce the great lack of legal literature on the subject in the developing countries. It is also very helpful for self-specialization of teachers of law, also greatly lacking in those countries.

---

4. WORLD BANK

(*a*) IBRD, IFC and IDA membership

In 1997, Cambodia joined IFC, Palau joined the Bank, IDA and IFC, and Turkmenistan joined IFC.

(*b*) World Bank Inspection Panel

Requests submitted to the Inspection Panel in 1997:

Request No. 9: Brazil: Itaparica Resettlement and Irrigation Project;

Request No. 10: India: National Thermal Power Corporation Ltd. Power Project.

For further information on these requests and on requests submitted earlier, please refer to the Inspection Panel's publications.[218]

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

Signatories and members

The Convention Establishing the Multilateral Investment Guarantee Agency was opened for signature to member countries of the World Bank and Switzerland in October 1985. As of December 1997, the Convention had been signed by 158 countries, 139 of which had also completed membership requirements. During 1997, 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., non-commercial) risks of expropriation, currency transfer restriction, breach of contract, and war and civil disturbance. As of 31 December 1997, MIGA had issued 314 contracts of guarantee, totalling US$ 3.6 billion in maximum contingent liability. Aggregate foreign direct investment facilitated by all MIGA-insured projects was estimated to be more than $20.4 billion. Investors holding MIGA guarantees were from: Argentina, Belgium, Brazil, Canada, Cayman Islands, France, Germany, Italy, Japan, Luxembourg, Netherlands, Norway, Republic of Korea, South Africa, Spain, Sweden, Switzerland, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America and Uruguay. Similarly, host countries of MIGA-guaranteed investments included: Algeria, Argentina, Azerbaijan, Bahrain, Bangladesh, Brazil, Bulgaria, Cameroon, Chile, China, Colombia, Costa Rica, Czech Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Georgia, Ghana, Guatemala, Guinea, Guyana, Honduras, Hungary, India, Indonesia, Jamaica, Kazakhstan, Kuwait, Kyrgyzstan, Madagascar, Mali, Morocco, Mozambique, Nepal, Pakistan, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Romania, Russian Federation, Saudi Arabia, Slovakia, South Africa, Sri Lanka, Trinidad and Tobago, Tunisia, Turkey, Uganda, United Republic of Tanzania, Uruguay, Uzbekistan, Venezuela and Viet Nam.

Host country investment agreements between MIGA and its member States

As directed by article 23(*b*)(ii) of the Convention, the Agency concludes 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 1997, the Agency concluded agreements with Bahrain, Colombia, Dominica, the Gambia, Guatemala, Panama, Qatar, Saint Lucia and Saint Vincent and the Grenadines. As of 31 December 1997, 85 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 1997, the Agency concluded agreements with Bahrain, Colombia, Dominica, the Gambia, Guatemala, Panama, Qatar, Saint Lucia and Saint Vincent and the Grenadines. As of 31 December 1997, 90 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 1997, the Agency concluded agreements with: Colombia, Eritrea, Panama, Qatar and Saint Vincent and the Grenadines. As of 31 December 1997, 90 such agreements were in force.

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

Signatures and ratifications

During 1997, the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (the ICSID Convention)[219] was ratified by three countries: Bosnia and Herzegovina, Colombia and Latvia. There were two new signatories: Croatia and Yemen. With these new signatures and ratifications, the number of signatory States reached 143 and the number of Contracting States reached 129.

Disputes before the Centre

During 1997, arbitration proceedings under the ICSID Convention were instituted in eight new cases, *Société d'Investigation de Recherche et d'Exploitation Minière v. Burkina Faso* (case No. ARB/97/1), *Société Kufpec (Congo) Limited v. Republic of Congo* (case No. ARB/97/2), *Compañía de Aguas del Aconquija S.A. and Compagnie Générale des Eaux v. Argentine Republic* (case No. ARB/97/3), *Ceskoslovenska obchodni banka, a.s. v. Slovak Republic* (case No. ARB/97/4), *WRB Enterprises and Grenada Private Power Limited v. Grenada* (case No. ARB/97/5), *Lanco International, Inc. v. Republic of Argentina* (case No. ARB/97/6), *Emilio Agustin Maffezini v. Kingdom of Spain* (case No. ARB/97/7) and *Compagnie Française pour le Développement des Fibres Textiles v. République de Côte d'Ivoire* (case No. ARB/97/8). Two arbitration proceedings were instituted under the ICSID Additional Facility Rules: *Metalclad Corporation v. United Mexican States* (case No. ARB(AF)/97/1) and *Robert Azinian and others v. United Mexican States* (case No. ARB(AF)/97/2). Two proceedings, *American Manufacturing & Trading, Inc. v. Republic of Zaire* (case No. ARB/93/1) and *Cable Television of Nevis, Ltd. and Cable Television of Nevis Holdings, Ltd. v. Federation of St. Kitts and Nevis* (case No. ARB/95/2), were closed following the rendition of awards. Two arbitration proceedings, *Leaf Tobacco A. Michaelides S.A. and Greek-Albanian Leaf Tobacco & Co. S.A. v. Republic of Albania* (case No. ARB/95/1) and *Société Kufpec (Congo) Limited v. Republic of Congo* (case No. ARB/97/2) were settled by the parties before the rendition of an award.

As of 31 December 1997, five other cases were pending before the Centre: *Tradex Hellas S.A. v. Republic of Albania* (case No. ARB/94/2), *Antoine Goetz and others v. Republic of Burundi* (case No. ARB/95/3), *Compañía del Desarrollo*

de Santa Elena S.A. v. *Republic 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).

---

5. INTERNATIONAL MONETARY FUND

As of 31 December 1997, there were seven members that were in protracted arrears (i.e., financial obligations that are overdue by six months or more) to the Fund.

Article XXVI, section 2(*a*), of the Fund's Articles of Agreement provides that if "a member fails to fulfil 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 1997 with respect to the Democratic Republic of the Congo, Liberia, Somalia and the Sudan.

SUSPENSION OF VOTING RIGHTS AND COMPULSORY WITHDRAWAL

(i) *Democratic Republic of the Congo*

The Democratic Republic of the Congo's voting and related rights were suspended effective 2 June 1994. On 28 February 1997, on the occasion of reviewing the decision to suspend the Democratic Republic of the Congo's voting rights, the Executive Board decided to give further consideration to the initiation of the procedure on compulsory withdrawal within six months unless the Democratic Republic of the Congo had resumed cooperation with the Fund in the areas of policy implementation and payments performance. No such procedure was initiated in 1997.

(ii) *Sudan*

The Sudan's voting and related rights were suspended, effective 9 August 1993, in accordance with article XXVI, section 2(*b*), of the Fund's Articles of Agreement. Subsequently, on 8 April 1994, the Managing Director issued a complaint under rule K-1, thereby initiating the procedure for compulsory withdrawal of the Sudan from the Fund. During 1996, the complaint was considered by the Executive Board, which decided to review the complaint again in 1997. On 12 February 1997, the Executive Board decided that there was a basis to recommend that the Board of Governors should require the Sudan to withdraw from membership. However, given the recent payments made by the Sudan, the assurances provided by the Sudanese authorities on payments to the Fund and policy reinforcement, the Executive Board decided that it would not make such a recommendation provided the Sudan made monthly payments to the Fund according to a specific schedule and adopted and satisfactorily implemented a programme of economic and financial adjustment of a quality that warranted monthly monitoring by Fund staff. A programme of economic and financial adjustment was presented to the Executive Board, which decided on 27 March 1997 that the programme was of a quality that warranted monthly monitoring by the staff. The

decision and the complaint were reviewed on 29 August 1997. The Executive Board noted that the Sudan had made payments on schedule and had followed most elements of the monthly monitored programme. The Executive Board encouraged the Sudan to make continued payments to the Fund and to implement policies that could warrant a staff-monitored programme, and decided to review the case of the Sudan in six months or on the occasion of the 1997 article IV consultation, whichever was earlier.

Issues pertaining to representation at the Fund

(i) *Afghanistan*

Afghanistan has overdue financial obligations to the Fund. The matter was last discussed by the Executive Board on 13 March 1996. At the annual meetings of 1996, Afghanistan was represented by a delegation whose members were appointed before the overthrow of the Government of President Rabbani. Due to the unsettled political situation in Afghanistan, there were no further Board meetings on matters relating to Afghanistan in 1997. Afghanistan had no Governor or Alternate Governor in 1997. Afghanistan was not represented at the annual meetings of 1997.

(ii) *Democratic Republic of the Congo*

Paragraph 3(*a*) of schedule L of the Articles of Agreement provides that the "Governor and the Alternate Governor appointed by the member shall cease to hold office" in the case of suspension of voting rights of a member under article XXVI, section 2(*b*). As mentioned above, in view of the suspension of the voting and related rights of the Democratic Republic of the Congo with effect from 2 June 1994, the Governor and Alternate Governor for the country ceased to hold office on that date. The Democratic Republic of the Congo, accordingly, was not represented at the annual meetings of 1997.

(iii) *Somalia*

Somalia has overdue financial obligations to the Fund. In October 1992, the Executive Board found that, given the domestic situation in Somalia, there was no effective government with which the Fund could carry on its activities. Accordingly, the review of Somalia's overdue financial obligations was postponed to a date to be determined by the Managing Director when it would be possible to evaluate Somalia's economic and financial situation and the stance of its economic policies. No such review took place in 1997. Somalia had no Governor or Alternate Governor in 1997. Somalia was not represented at the annual meetings of 1997.

(iv) *Sudan*

As with Democratic Republic of the Congo, with the suspension of the Sudan's voting and related rights on 9 August 1993, the Governor and Alternate Governor appointed by the Sudan ceased to hold office on that date. The Sudan was not represented at the annual meetings in 1997. Neither was the Sudan repre-

sented at the Executive Board in 1997, except on occasions where the Executive Board was considering a matter particularly affecting the Sudan. 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.

Enhanced Structural Adjustment Facility (ESAF) Trust—amendment

The ESAF Trust is designed to render financial assistance to low-income developing members. The Instrument to Establish the ESAF Trust was amended on 9 February 1997 to enable the Trustee to approve additional three-year commitments after the expiration of the original three-year commitment of an eligible member.

Establishment of a trust for special ESAF operations for heavily indebted poor countries (HIPC) and interim ESAF subsidy operations

In September 1996, the Interim Committee endorsed a joint report by the Managing Director of the International Monetary Fund and the President of the World Bank on a Program of Action to Resolve the Debt Problems of the Heavily Indebted Poor Countries (the "Initiative"). On 4 February 1997, the Executive Board adopted the Instrument to Establish a Trust for Special ESAF Operations for the Heavily Indebted Poor Countries and Interim ESAF Subsidy Operations. The purposes of the trust are to assist eligible members that qualify under the HIPC Initiative and to subsidize the interest rate on interim ESAF operations to eligible members. In order to be eligible for HIPC assistance from the trust, a member must meet the following requirements: (*a*) be ESAF-eligible; (*b*) be pursuing a programme of adjustment and reform in the two-year period beginning 1 October 1996, supported by the Fund through ESAF or Extended Arrangements or, on a case-by-case basis as determined by the Trustee, other Fund-supported programmes; and (*c*) have received or be eligible to receive assistance to the full extent available under traditional debt relief mechanisms in support of its adjustment and reform programme. The Trustee shall determine whether an eligible member qualifies for assistance under the Initiative in accordance with criteria including: (*a*) the debt sustainability of the member's external debt situation, (*b*) the establishment of a track record of strong policy performance under Fund-supported programmes, covering macroeconomic policies and structural and social policy reforms, and (*c*) the agreement of all other creditors of the member to take action under the Initiative.

New arrangements to borrow—establishment

On 27 January 1997, the Executive Board adopted, under article VII, section 1, of the Articles of Agreement, the terms and conditions of New Arrangements to Borrow.[220] Pursuant to these arrangements, 25 member countries or financial institutions of members with the financial capacity to support the international monetary system have agreed to make available to the Fund resources in the form of loans up to specified amounts when supplementary resources are needed to forestall or cope with an impairment of the international monetary system or to deal with an exceptional situation that poses a threat to the stability of that system. With respect to the relationship of the New Arrangements to Borrow with the

General Arrangements to Borrow, the New Arrangements to Borrow shall generally be the facility of first and principal recourse.

PRESS INFORMATION NOTICES—RELEASE

On 24 April 1997, the Executive Board adopted a decision pursuant to which, shortly following the completion of an article IV consultation for a member, the Fund may release, with the consent of the member concerned, a press information notice reporting on the results of the consultation. The press information notice will be brief and will consist of two sections: (*a*) a background section with factual information on the economy of a member, including a table of economic indicators, and (*b*) the Fund's assessment of the member's prospects and policies, excluding, however, market-sensitive information, such as Fund views on exchange rate and interest rate matters.

SUPPLEMENTAL RESERVE FACILITY—ESTABLISHMENT

On 17 December 1997, the Executive Board adopted a decision establishing the Supplemental Reserve Facility. The Supplemental Reserve Facility is intended to provide financial assistance to members experiencing exceptional balance-of-payments difficulties due to a large short-term financing need resulting from a sudden and disruptive loss of market confidence reflected in pressure on the capital account and the member's reserves. For the use of this facility by a member, there should be a reasonable expectation that the implementation of strong adjustment policies and adequate financing will result, within a short period of time, in an early correction of such difficulties. In order to minimize moral hazard, a member using resources under the Supplemental Reserve Facility will be encouraged to seek to maintain the participation of creditors, both official and private, until the pressure on the balance of payments ceases. In this respect, all options should be considered to ensure appropriate burden-sharing.

Financing under the Supplemental Reserve Facility is available under a standby or extended arrangement, in addition to resources in the credit tranches or under the extended Fund facility. Access under the Supplemental Reserve Facility is not subject to the applicable annual and cumulative access limits. Financing beyond either limit will be provided exclusively under this facility, unless the member's medium-term financing needs require access in the credit tranches or under the extended Fund facility beyond the annual or cumulative access limits. Financing under the Supplemental Reserve Facility will be determined on the basis of the financing needs of the member, its capacity to repay, including in particular the strength of its programme, its outstanding use of Fund credit and its record in using Fund resources in the past and in cooperating with the Fund with respect to surveillance, as well as the Fund's liquidity. Financing under the Supplemental Reserve Facility is committed for a period of up to one year and will generally be available in two or more purchases with the first purchase being available at the time of approval of financing under the facility. The member's obligation to repurchase under this facility is within two to two and half years from the date of each purchase in two equal semi-annual instalments, the first instalment becoming due two years and the second instalment two and a half years from the date of each purchase. However, the member is expected to repurchase one year before the due date unless the Fund decides, upon request by the member, to extend each such repurchase expectation by up to one year. During the first

year following approval of financing under the facility, the rate of charge levied on purchases under the Supplemental Reserve Facility is 300 basis points per annum above the regular rate of charge applied on other use of the Fund's resources, as adjusted for burden-sharing. This rate shall be increased by 50 basis points at the end of the first year and every six months thereafter until it reaches 500 basis points.

INCREASE IN QUOTAS OF MEMBERS

Article III, section 2(*a*), of the Articles of Agreement provides that the Board of Governors shall conduct a general review of quotas at intervals of not more than five years and, if it deems appropriate, propose an adjustment of the quotas of the members. The Tenth General Review of Quotas was completed in early 1995 without recommending an increase in quotas to the Board of Governors. The report of the Executive Board, which was endorsed by the Board of Governors, had concluded that the overall size of the Fund at that time was broadly sufficient to enable the Fund to promote its purposes effectively and to fulfil its central role in the international monetary system.

On 22 December 1997, the Executive Board approved the report of the Executive Board to the Board of Governors entitled "Increases in quotas of Fund members—eleventh General Review" and requested the Board of Governors to vote upon the proposed resolution entitled "Increases in quotas of Fund members —eleventh General Review: resolution of the Board of Governors".

In assessing the Fund's need for resources over the medium term, the Executive Board stressed that the Fund must be adequately endowed with financial resources to enable it to act effectively when dealing with members' balance-of-payments difficulties. The Executive Board also stressed that the Fund must ensure that its resources are fully safeguarded, including by the adoption and implementation of appropriate policies by members, supported by use of the Fund's general resources, and that its resources are provided on a temporary basis, thereby ensuring that its resources revolve. Finally, the Executive Board stressed that the Fund must hold a level of usable assets that are sufficient to protect the liquidity and immediate usability of members' claims on the Fund so as to maintain their confidence and support of the institution.

In its consideration of the size of the increase in quotas, the Executive Board has taken into account a range of factors, including the growth of world trade and payments since 1990 (date of the last quotas increase); the scale of potential payments imbalances, including imbalances that may stem from sharp changes in capital flows; the prospective demand for Fund resources, including the need to support members' growth-oriented adjustment programmes; and the rapid globalization and the associated liberalization of trade and payments, including on capital account, that has characterized the development of the world economy since 1990. The Executive Board also considered the Fund's liquidity position and the adequacy of the Fund's borrowing arrangements, in particular the General Arrangements to Borrow and the prospective coming into effect of the New Arrangements to Borrow. In that regard, the Executive Board reiterated its view that the borrowing arrangements are not a substitute for larger quotas and that the Fund should continue to rely on its quota resources as its principal form of financing and should resort to borrowing only in exceptional circumstances.

In the light of the above considerations and taking into account the agreement reached by the Executive Board at the annual meetings in Hong Kong SAR,

which was endorsed by the Interim Committee at its meeting on 21 September 1997 in Hong Kong SAR, the Executive Board proposed that the total of Fund quotas should be increased by 45 per cent, from approximately SDR 146 billion to approximately SDR 212 billion.

The distribution of the overall quota increase was guided by the views of the Interim Committee in its communiqués of April and September 1997. On 21 September 1997, the Interim Committee had agreed that, of the overall increase:

—75 per cent would be distributed in proportion to present quotas;

—15 per cent would be distributed in proportion to members' shares in calculated quotas (based on 1994 data), so as to better reflect the relative economic position of members;

—10 per cent would be distributed among those members whose present quotas are out of line with their positions in the world economy (as measured by the excess of their share in calculated quotas over their share in actual quotas), of which 1 per cent of the overall increase would be distributed among five members whose current quotas are far out of line with their relative economic positions and which are in a position to contribute to the Fund's liquidity over the medium term.

The Executive Board also proposed adjustments in the quotas of France, Germany, Italy, and the United Kingdom in a manner that would maintain unchanged the increases in quotas for all other members. The Executive Board furthermore noted that the United Kingdom and France had agreed to maintain the equal distribution of quotas between themselves under the Eleventh General Review as first agreed under the Ninth General Review.

Special one-time allocation of SDRs—report to the Board of Governors on proposed fourth amendment to the Articles of Agreement

On 19 September 1997, pursuant to a request of the Interim Committee that an amendment of the Articles of Agreement should be proposed providing for a special one-time allocation of SDRs, the Executive Board decided to adopt the report of the Executive Board to the Board of Governors on the proposed fourth amendment of the Articles of Agreement of the International Monetary Fund. The Executive Board also proposed the introduction in the Articles of Agreement of the modifications included in the proposed fourrth amendment attached to the resolution in part IV of the report. Finally, the Executive Board recommended the adoption by the Board of Governors of the resolution in part IV of the report.

Pursuant to the proposed fourth amendment of the Articles of Association, the text of article XV, section 1, would be amended to provide for the allocation by the Fund of special drawing rights to members that are participants in the Special Drawing Rights Department in accordance with the provisions of a new schedule M that would be added to the articles.

The Board of Governors adopted resolution No. 52-4 entitled "Special one-time allocation of SDRs, proposed fourth amendment of the Articles of Agreement effective September 23, 1997". The proposed fourth amendment of the Articles of Agreement will become effective when three fifths of the members having 85 per cent of the total voting power have accepted the amendment. The Fund shall certify the fact by a formal communication addressed to all members.

Following the signature of a Cooperation Agreement with the World Trade Organization on 9 December 1996, the Board of Governors adopted on 8 January 1997 a proposed amendment to the Fund's By-Laws granting WTO observer status at the annual meetings of the Board of Governors.

---

6. INTERNATIONAL CIVIL AVIATION ORGANIZATION

(*a*) Work Programme of the Legal Committee

The General Work Programme of the Legal Committee, as decided by the Council on 1 December 1997, 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 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;

(v) Acts or offences of concern to the international aviation community not covered by existing air law instruments;

(vi) International interests in mobile equipment (aircraft equipment).

(*b*) Legal meetings

Regarding item (i), the Panel of Legal and Technical Experts on the Establishment of a Legal Framework decided at its first meeting (25-30 November 1996) to set up two working groups, which reported to the Panel at its second meeting (6-10 October 1997). At that meeting, the Panel adopted a Draft Charter on the Rights and Obligations of States relating to GNSS Services and a series of recommendations.

Regarding item (ii), the 30th session of the Legal Committee approved the text of a Draft Convention for the Unification of Certain Rules for International Carriage by Air. Taking into account that the draft instrument approved by the Legal Committee had not entirely resolved a number of elements, the Council decided on 26 November to establish a Special Group on the Modernization and Consolidation of the Warsaw System to further advance the work.

Regarding item (v), the Council decided on 6 June that a secretariat study group be established for the subject.

---

7. UNIVERSAL POSTAL UNION

The study of certain legal issues which was begun by the Council of Administration in 1995 was continued in 1997. One undertaking, the continuation of the revision of the Acts, led in 1997 to a draft for a new Universal Postal Convention which would also cover postal parcel services, and two sets of draft regulations, one for letter post and the other for postal parcels. If the next UPU Congress, to be held in 1999, accepts the proposal by the Council of Administration, the new Convention will replace both the current Universal Postal Convention and the postal parcels agreement.

The Council of Administration has also carried out a revision of the Acts in respect of postal financial services in collaboration with the Postal Operations Council. This work led to a draft agreement on postal financial services with regulations. The agreement is designed to replace the three existing agreements, namely the money orders agreement, the postal cheques agreement and the cash-on-delivery agreement.

Within the framework of the revision of the Acts, some provisions have been moved from the Convention and the financial services agreement to their regulations. The latter can be changed quickly by the Postal Operations Council without awaiting the decision of the supreme body of UPU, the Congress, which meets only every five years. This transfer of legislative power primarily concerns operational aspects.

The Acts of UPU were made accessible on the Internet (www.upu.int) as of the end of 1997.

---

8. INTERNATIONAL MARITIME ORGANIZATION[221]

(*a*) Provision of financial security (previously referred to as "compulsory insurance")

At its seventy-fourth session, in October 1996, the Legal Committee had established a Correspondence Group with the mandate to consider suitable measures for introducing rules on evidence of financial security for vessels. At its seventy-fifth (April 1997) and seventy-sixth (October 1997) sessions, the Committee considered the reports of the Correspondence Group on financial responsibility. The issue of the need for international regulations was revisited and, although several delegations were firmly of the opinion that no compelling need had been demonstrated for international rules on financial security, most delegations felt that at the current preliminary stage it was necessary for the Correspondence Group to continue its work. Members were invited to present evidence as to compelling need to the Committee.

The Committee considered in particular two priorities proposed in the report, namely, the development of rules on evidence of financial responsibility for passenger claims and rules on claims for which leading P&I Clubs offered insurance. It was agreed that the question of the provision of financial security in respect of passenger claims should be looked at as a matter of priority and that this might be addressed within the framework of a revision of the Athens Convention

relating to the Carriage of Passengers and their Luggage by Sea, 1974, as amended by the Protocol of 1990 aimed at ensuring wider acceptance of the Convention. Whether such claims should be linked to the Athens Convention or not was left open for the time being.

The Committee also considered a number of fundamental issues regarding the elaboration and implementation of general provisions on financial security, including the form of the revision, the basis of liability, the limits of compensation, accident insurance, terms of cover and control. The Committee decided that, with respect to crew claims, ILO should be consulted. However, the Committee noted that opinions were divided on a number of fundamental questions and member States were encouraged to work together in order to enable the Committee to take decisions on a number of policy issues at its next session. The item was included as a priority item in the work programme for 1998.

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

The Legal Committee at its seventy-fifth session (April 1997) and seventy-sixth session (October 1997) continued its consideration concerning an international regime for liability and compensation for damage caused by oil from ships' bunkers.

Alternative texts of articles of a draft free-standing instrument or a draft protocol modelled on the 1973 Intervention Protocol were presented. While there were divided opinions on the question of "compelling need" for such a regime, the Committee discussed a number of fundamental issues in connection with the possible adoption of such a regime, namely: compulsory insurance; the scope of application (damage); channelling of liability; administrative burdens associated with compulsory insurance; and the basis of liability (strict).

The Committee agreed that further work could be done by the sponsoring delegations and decided that the item should be considered at its next session, time permitting. This item was included in the work programme for 1998.

(*c*) Draft convention on wreck removal

The Legal Committee at its seventy-fifth session in April 1997 and its seventy-sixth session in October 1997 considered the report of the Correspondence Group on Wreck Removal. A revised draft convention was discussed without prejudice to the question of need. The Committee also considered a submission by the Comité Maritime International (CMI) which contained a report of the discussions on the subject of the draft wreck removal convention which took place at the CMI Centenary Conference held in Antwerp, Belgium, in June 1997 and also related to decommissioned structures and wrecks and to removal of structures which had become redundant or which had been the subject of major casualties.

The Committee exchanged views on issues raised by the Correspondence Group report, including the geographic scope of application, types of risks covered, types of wreck/ships covered, limitation of liability, reporting requirements and additional issues relating to salvors and to requiring contributions from the cargo.

There was significant support for optional application to territorial waters by opting out, while mandatory application to both the territorial waters and beyond

had little support. Some delegations still expressed doubts about the actual need for the convention. Most delegations favoured mandatory application beyond the territorial waters and optional application to the territorial waters by opting in. The Committee decided to refer to the Correspondence Group the study of possible treaty law problems related to optional application to territorial waters.

The Legal Committee concluded that the Correspondence Group should continue its work, taking into account the comments at the current session, and report to the Committee at its seventy-seventh session. The Committee agreed to keep the item on the agenda for 1998.

(*d*) 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 1996 to June 1997.

(*e*) Carriage by sea of radioactive material

As requested by the Committee at its seventy-fifth session, the representative of IAEA provided information on the outcome of the Diplomatic Conference Convened to Adopt a Protocol to Amend the Vienna Convention on Civil Liability for Nuclear Damage and to Adopt a Convention on Supplementary Funding (Vienna, 8-12 September 1997) ("the Liability Conference"), and on the outcome of the Diplomatic Conference Convened to Adopt a Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management (Vienna, 1-5 September 1997) ("the Safety Conference"). He noted that the multilateral instruments adopted at the Diplomatic Conferences were now before Governments for their consideration. The representative of IAEA further reported on a resolution on the safety of transport of radioactive materials adopted in October 1997 at the forty-first regular session of the General Conference of IAEA.

The Committee took note of the information provided by the representative of IAEA. A number of delegations indicated the need to further analyse the outcome of the Conference in order to assess the implications for the maritime transport of nuclear substances. Member States were encouraged to consult with their own delegations that had attended the IAEA Conference. It was suggested that States which had not participated in the Conference might directly approach IAEA to obtain additional information.

(*f*) Proposed multilateral convention to combat illegal migration by sea

The Committee considered a proposal for a multilateral convention to combat the trafficking of illegal migration by sea. However, a question was raised as to whether IMO was the appropriate body to deal with the subject since the matter was also the subject of consideration in the United Nations and other international organizations.

In that connection it was noted that some issues contained in the proposal had been dealt with by existing international conventions and were appropriate for other United Nations agencies such as UNHCR and the International Organi-

zation for Migration. Attention was drawn to the fact that smuggling of illegal migrants had been considered by the United Nations Commission on Crime Prevention and Criminal Justice for a number of years, where further work was progressing. It was further suggested that some of the issues raised by the proposal went beyond the limits of UNCLOS.

The Committee concluded that, although there had been significant support for the proposal, most delegations who spoke had expressed their doubts about the inclusion of the item in the Committee's work programme at the current stage.

(*g*) Consideration of a recommendation to convene a diplomatic conference to consider draft articles for a new convention on arrest of ships

The Committee endorsed the recommendation adopted by the Joint IMO/UNCTAD Intergovernmental Group of Experts on Maritime Liens and Mortgages and Related Subjects at its ninth session to convene a United Nations/IMO diplomatic conference to consider the set of draft articles for a new convention on arrest of ships approved by the Group.

(*h*) Amendments to treaties

(1) *1997 amendments to the International Convention for the Safety of Life at Sea, 1974, as amended (SOLAS 1974) (chapters II-1 and V)*

The Maritime Safety Committee at its sixty-eighth session (June 1997) adopted by resolution MSC.65(68) amendments to the following chapters of the 1974 SOLAS Convention:

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

Chapter V: Safety of navigation.

These amendments to the 1974 SOLAS Convention concern specific requirements for passenger ships, other than ro-ro passenger ships, carrying 400 persons or more and vessel traffic services.

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 1999 unless, prior to 1 January 1999, more than one third of the 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.

(2) *1997 amendments to the International Convention on Safety of Life at Sea, 1974, as amended (SOLAS 1974) (new chapter XII and amendments to resolution A.744(18))*

A Conference of Contracting Governments to the International Convention on Safety of Life at Sea, 1974, as amended (SOLAS 1974), adopted on 27 November 1997 amendments to the Convention (new chapter XII and amendments to resolution A.744(18)).

The new SOLAS chapter XII regulations are aimed at improving the safety of bulk carriers, and include new survivability and structural requirements for dry bulk carriers. The conference also adopted amendments to the IMO Guidelines on the Enhanced Programme of Inspections during Surveys of Bulk Carriers and Oil Tankers (first adopted at the eighteenth IMO Assembly in 1993, and made mandatory by 1994 amendments to the SOLAS Convention).

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 1999 unless, prior to 1 January 1999, more than one third of the 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.

(3) *1997 amendments to the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL 73/78) (IBC Code)*

The Marine Environment Protection Committee at its thirty-ninth session (March 1997) adopted by resolution MEPC.73(39) amendments to the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (IBC Code). The amendments were adopted to clarify vague expressions in the Code.

In accordance with the tacit amendment procedure provided for in article 16(2)(*f*)(iii) and (*g*)(ii) of the 1973 MARPOL Convention, the amendments shall enter into force on 10 July 1998 provided the amendments are deemed to have been accepted on 10 January 1998.

(4) *1997 amendments to annex I of the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL 73/78)*

The Marine Environment Protection Committee at its fortieth session (September 1997) adopted by resolution MEPC.75(40) amendments to annex I of MARPOL 73/78 as follows:

1. Regulation 10, designation of the North-West European waters as a special area;

2. New regulation 25A, Intact stability criteria for double-hull oil tankers.

In accordance with the tacit acceptance procedure provided for in article 16(2)(*f*)(iii) and (*g*)(ii) of the 1973 MARPOL Convention these amendments shall enter into force on 1 February 1999 provided the amendments are deemed to have been accepted on 1 August 1998.

(5) *1997 amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, and amendments to the Seafarers' Training, Certification and Watchkeeping (STCW) Code*

The amendments were adopted by the Maritime Safety Committee on 4 June 1997 by resolutions MSC.66(68) and 67(68). The amendments add new regulations V/2 and V/3 dealing with minimum mandatory requirements for personnel serving on seagoing passenger ships and ro-ro passenger ships.

In accordance with the tacit amendment procedure provided for in article XII(1)(*a*)(ix) of the Convention, the amendments shall enter into force on 1 January 1999, provided the amendments are deemed to have been accepted on 1 July 1998.

(*i*) Entry into Force of Instruments and Amendments

(1) *Instruments*

During 1997, no IMO instruments entered into force.

(2) *Amendments*

a. 1989 amendments to the Convention on the International Mobile Satellite Organization (Inmarsat), as amended

The Assembly of Inmarsat had adopted amendments to the Convention on 19 January 1989 at its sixth (extraordinary) session in conformity with article 34 of the Convention. The amendments concern mobile satellite systems and aeronautical and land mobile communications and communication on waters not part of the marine environment.

The conditions for entry into force were met with the deposit of an instrument by China on 26 February 1997. The 1989 amendments entered into force on 26 June 1997.

b. 1989 amendments to the Operating Agreement on the International Mobile Satellite Organization (Inmarsat), as amended

On 19 January 1989, the Assembly of Inmarsat had confirmed the adoption of amendments to the Agreement, which were approved by the Council of Inmarsat at its thirtieth session in conformity with article XVIII of the Operating Agreement.

The conditions for entry into force were met with the deposit of an instrument by China on 26 February 1997. The 1989 amendments entered into force on 26 June 1997.

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

These amendments, together with the Seafarers' Training, Certification and Watchkeeping (STCW) Code, were adopted by the Conference of 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 entered into force on 1 February 1997.

d. 1995 amendments to the International Convention for the Safety of Life at Sea, 1974 (SOLAS 1974) (chapter V/8; Ships' Routeing)

The amendments were adopted by the Maritime Safety Committee at its sixty-fifth session (May 1995) by resolution MSC.46(65). Chapter V/8 deals with safety of navigation and the purpose of the amendments is to enable ships' routeing systems to be made mandatory. Consequential amendments to the General Provisions on Ships' Routeing were also adopted. The conditions for entry into force were met on 1 July 1996, and the amendments entered into force on 1 January 1997.

e. 1995 amendments to the International Convention for the Safety of Life at Sea, 1974 (SOLAS 1974) (chapters II-1, II-2, III, IV and V; ro-ro passenger ships)

The amendments were adopted by the Conference of Contracting Governments to the International Convention for the Safety of Life at Sea, 1974 (SOLAS 1974) on 29 November 1995.

The most important of the changes concerned the stability of ro-ro passenger ships. The Conference agreed to significantly upgrade the damage stability requirement to be applied to all existing ro-ro passenger ships.

The Conference further adopted a resolution permitting regional arrangements to be made on special safety requirements for ro-ro passenger ships.

The conditions for entry into force were met on 1 January 1997, and the amendments entered into force under the Convention's tacit acceptance procedure on 1 July 1997.

f. 1995 amendments to the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL 73/78) (amendments to annex V)

The Marine Environment Protection Committee at its thirty-seventh session (September 1995) adopted by resolution MEPC.65(37) amendments to annex V of MARPOL 73/78.

These amendments, inter alia, add to annex V a new regulation 9 entitled "Placards, waste management plans and garbage record keeping", providing a basis for the enforcement of the requirements of annex V. The amendments were deemed to be accepted on 1 January 1997 and entered into force on 1 July 1997. The requirements apply to existing ships from 1 July 1998.

g. 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 conditions for entry into force were met on 1 February 1997 and the amendments entered into force on 1 May 1997.

h. 1996 amendments to the Protocol relating to Intervention on the High Seas in Cases of Pollution by Substances other than Oil, 1973 (INTERVENTION PROT 1973)

The Marine Environment Protection Committee at its thirty-eighth session (July 1996) adopted by resolution MEPC.72(38), in accordance with article III of the Protocol, an amended list of substances to be annexed to the Protocol. The amended list was deemed to have been accepted on 19 September 1997, and entered into force on 19 December 1997.

---

9. WORLD INTELLECTUAL PROPERTY ORGANIZATION

(*a*) Introduction

1. The year 1997 was marked by a vigorous 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 protection, through international registration systems (registration activities).

(*b*) Development cooperation activities

2. The main forms in which WIPO provided assistance to developing countries in the fields of industrial property and copyright and neighbouring 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.

3. A special feature of WIPO activities for developing countries continued to be the holding of sessions of the "WIPO Academy". During the first six months of 1997, two two-week sessions were held for middle- and senior-level government officials coming from 26 developing 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 en-

able the participants in the Academy, on their return to their countries, to better formulate appropriate policies for their Governments.

4. As concerns the provision of legal and technical advice to developing countries, about 200 advisory missions were undertaken to several 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 said 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 gave on-the-job training to staff of national administrations on specialized industrial property areas such as patent and trademark examination and classification, and assisted in the installation of computer equipment and software.

5. 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 Common Market of the South (Mercosur).

(*c*) Norm-setting activities

6. In the norm-setting area, there was progress in the work of the Committee of Experts for the planned Patent Law Treaty and in respect of a more effective protection of well-known marks, and the commencement of new work on, inter alia, recordal of trademark licences and on questions concerning trademarks and Internet domain names. Finally, the period witnessed decisions on future work relating to the development of the Hague Agreement concerning the International Deposit of Industrial Designs and the draft Treaty on the Settlement of Intellectual Property Disputes between States.

7. Also, norm-setting activities in the field of copyright and neighbouring rights were marked by three major meetings organized by WIPO, in April and May 1997, respectively in Phuket, Thailand, Manila and Seville, Spain.

8. The UNESCO-WIPO World Forum on the Protection of Folklore, held in Phuket, examined the preservation and conservation of folklore in the various regions of the world; legal means of protection of expressions of folklore in national legislation; economic exploitation of expressions of folklore; and international protection of expressions of folklore.

9. The WIPO World Symposium on Broadcasting, New Communication Technologies and Intellectual Property, held in Manila, examined the issue of broadcasters as owners of neighbouring rights; the legal status of broadcast programmes at the borderline of copyright and neighbouring rights; broadcasters as "users"; convergence of communication technologies; terrestrial broadcasting,

satellite broadcasting and communication to the public by cable; and digital transmissions in the Internet and similar networks.

10. The WIPO International Forum on the Exercise and Management of Copyright and Neighbouring Rights in the Face of the Challenges of Digital Technology, held in Seville, offered an opportunity for the representatives of different groups interested in the protection, exercise and management of copyright and neighbouring rights to come together, identify their common interests, exchange information and outline the areas where cooperation and joint action were needed.

11. In the patent area, the Committee of Experts on the Patent Law Treaty (PLT) held a session in June 1997. The Committee considered draft provisions for the proposed PLT and its Regulations. Draft provisions were accordingly prepared by the International Bureau for the review of a further session of the Committee in June 1997. A (fifth) session of the Committee was held in December 1997. Proposals for decisions on the date and agenda of the diplomatic conference for the adoption of the Patent Law Treaty and on the convening of a preparatory meeting with procedural aspects of the diplomatic conference would be submitted to the General Assembly of WIPO after the next session of the Committee of Experts, on the basis of the results of that session and taking into account the possible need for another session of the Committee of Experts.

12. As regards trademark licences, draft articles aimed at the simplification and harmonization of procedures relating to the recordal of licences for the use of marks and a model international request form for the recordal of licences were examined by the Committee of Experts on Trademark Licences, which met for the first time in February 1997. The draft articles had been drafted in the same treaty language as the Trademark Law Treaty (TLT), and it is proposed that they become the substantive part of a Protocol to the TLT.

13. As regards international intellectual property issues arising from the new global information infrastructure, including the Internet, and more specifically trademarks and Internet domain names, a meeting of consultants was organized in February 1997 to review a full range of issues on the matter, and a consultative meeting was convened in May 1997 to examine them further. A second consultative meeting was convened in September 1997. Also, consultants from space agencies met at WIPO in March 1997 to discuss the possibility and desirability of adopting special rules or recommending principles which could be used by all interested States for the protection of inventions made or used in outer space. Finally, in June 1997, a WIPO consultative meeting reviewed the need for, and feasibility of, the establishment of an international centralized system for the recording of assignments of patent applications and of patents.

14. Special brochures were issued containing the text of the newly adopted: (i) WIPO Copyright Treaty (WCT) (1996), with the agreed statements of the Diplomatic Conference that adopted the Treaty and the provisions of the Berne Convention (1971) referred to in the Treaty; and (ii) WIPO Performances and Phonograms Treaty (WPPT) (1996), with the agreed statements of the Diplomatic Conference that adopted the Treaty and the provisions of the Berne Convention (1971) and of the Rome Convention (1961) referred to in the Treaty (WIPO publications Nos. 226 and 227, respectively).

(*d*) International registration activities

15. As far as the Patent Cooperation Treaty (PCT) is concerned, the increase in the number of international applications filed under the PCT continued in 1997. In 1997, a record number of 54,422 international applications was filed, representing an increase of 12.6 per cent over the figure for 1996 and the equivalent of some 3 million national applications.

16. The weekly publication of the *PCT Gazette*, in separate English and French editions, continued. In January 1997, a special issue of the *PCT Gazette* was published, containing consolidated general information relating to contracting States, national and regional offices and international authorities. 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 national phase and the procedure before the designated (or elected) offices, was updated in 1997 to include the many changes that had occurred during the period under review in respect of the PCT.

17. In February 1997, the Meeting of International Authorities under the PCT(PCT/MIA) held its sixth session in Canberra and discussed, among other things, possible modifications of the PCT Search Guidelines; proposed modifications of the PCT Preliminary Examination Guidelines; establishment of a uniform standard for the presentation of nucleotide and/or amino acid sequence listings in international applications; and certain aspects of international preliminary examination and impact of electronic transmission of documents (including international applications and international search reports) on the PCT procedure. In April and June 1997, an ad hoc PCT Advisory Group on proposed amendments to the PCT Regulations met to give advice on possible amendments to the said regulations to be considered by the PCT Assembly in September 1997.

18. As far as the Madrid system is concerned, the total number of international trademark registrations recorded in the International Register during 1997 was 19,070 and the combined total of international trademark registrations and renewals was 23,944, which represented en increase of 4 per cent over the corresponding figure for 1996. During the first six months of 1997, as an average of 11.40 countries were designated by registration, the 9,553 registrations were equivalent to some 109,000 national registrations.

19. Operations under the Madrid Protocol started on 1 April 1996. In connection with the entry into force of the Madrid Protocol, WIPO continued a considerable programme of awareness promotion, which included seminars and training for its potential users as well as for national administrations in different countries. WIPO officials gave presentations on the Madrid system at 11 seminars and training courses in seven countries during the first six months of 1997. Furthermore, WIPO organized four seminars entirely devoted to the subject of the Madrid system in January and June 1997.

20. In June 1997, an informal meeting was organized to examine proposals to adjust the Common Regulations under the Madrid Agreement and Protocol to the combined use of the Madrid system and the Community Trade Mark system. The said proposals were submitted to the Governing Bodies at their September/October 1997 session.

21. As far as the Hague system is concerned, during 1997, the total of international industrial design deposits, renewals and prolongations was 6,223, representing an increase of 6 per cent compared to 1996.

22. Work continued with a view to making the Hague system accessible to more countries. The Committee of Experts on the Development of the Hague Agreement concerning the International Deposit of Industrial Designs reviewed, in November 1997, the drafts of the International Bureau for a new Act of the Hague Agreement.

(*e*) WIPO Arbitration and Mediation Centre

23. During the period under review, the WIPO Arbitration and Mediation Centre continued to undertake a number of promotional activities on the features and advantages of this new service, including a conference on mediation in March 1997, two training programmes on mediation in intellectual property disputes in May 1997, a workshop for arbitrators in June 1997 and an advanced mediation workshop in May 1997.

24. As regards Internet domain name disputes, further to the signature by 56 entities of a Memorandum of Understanding on the generic Top Level Domain Name Space of the Internet Domain Name System on 1 May 1997, the Director General declared that the WIPO Arbitration and Mediation Centre was available for administering procedures for the settlement of disputes concerning second level domains registered in the generic top level domain name spaces covered by the Memorandum of Understanding.

(*f*) New adherences to treaties

25. The growing importance given to the effective protection of intellectual property was evidenced by the growing membership in WIPO-administered treaties. During 1997, the following States became party to or deposited an instrument of ratification of or accession to the following treaties (the figures in brackets indicate the total number of States party to the treaty as at 31 December 1997):

Convention Establishing the World Intellectual Property Organization: Cape Verde, Equatorial Guinea, Ethiopia, Papua New Guinea and Samoa (166);

Paris Convention for the Protection of Industrial Property: Bahrain, Equatorial Guinea and Sierra Leone (143);

Berne Convention for the Protection of Literary and Artistic Works: Bahrain, Belarus, Cape Verde, Dominican Republic, Equatorial Guinea, Guatemala, Indonesia and Mongolia (128);

Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure: Portugal, Slovenia, South Africa and Ukraine (42);

International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome): Cape Verde, Lebanon, Poland and the former Yugoslav Republic of Macedonia (56);

Convention for the Protection of Producers of Phonograms against Unauthorized Duplication of their Phonograms (Geneva): Latvia and the former Yugoslav Republic of Macedonia (56);

Strasbourg Agreement concerning the International Patent Classification: Republic of Moldova (39);

Nice Agreement concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks: Democratic People's Republic of Korea and Republic of Moldova (52);

Lisbon Agreement for the Protection of Appellations of Origin and their International Registration: Costa Rica (18);

Locarno Agreement Establishing an International Classification for Industrial Designs: Democratic People's Republic of Korea and Republic of Moldova (30);

Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks: Cuba and the Republic of Moldova (11);

Patent Cooperation Treaty (PCT): Gambia, Guinea-Bissau, Indonesia, Sierra Leone and Zimbabwe (94);

Madrid Agreement concerning the International Registration of Marks: Sierra Leone (47);

Protocol relating to the Madrid Agreement: France, Hungary, Iceland, Liechtenstein, Lithuania, Russian Federation, Slovakia, Slovenia, Switzerland and Yugoslavia (25);

Hague Agreement concerning the International Deposit of Industrial Designs: Greece and Mongolia (29);

Trademark Law Treaty: Australia, Cyprus, Denmark, Indonesia, Japan, Liechtenstein, Slovakia and Switzerland (14).

---

10. INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT

(*a*) Membership

The instrument of accession of the Government of South Africa to the Agreement Establishing IFAD was deposited with the Secretary-General of the United Nations on 14 February 1997, the date of its receipt. In accordance with article 13, section 3(*b*), the Agreement entered into force for South Africa on that day. Earlier, at its nineteenth session (17-18 January 1996), the Governing Council of IFAD had approved the non-original membership in IFAD of South Africa and decided that it should be classified as a member of category III in accordance with articles 3.2(*b*), 3.3(*a*), 4.2(*b*) and 13.1(*c*) of the Agreement Establishing IFAD and section 10 of the By-Laws for the Conduct of Business of the Fund.

(*b*) Appointment of the President of IFAD

At its twentieth session (20-21 February 1997), the Governing Council decided on 20 February 1997 to reappoint Fawzi H. Al-Sultan, for a second term from 1997 to 2001, as President of IFAD and adopted by acclamation resolution 96/XX thereon.

(*c*) Report on the Fourth Replenishment of IFAD's Resources

The Governing Council, at its twentieth session, completed the Fourth Replenishment of IFAD's Resources by adopting resolution 98/XX, which amended resolutions 87/XVIII and 93/XIX, also on the Fourth Replenishment. The resolution contained the definitive pledges of contributions of the member States and completed the earlier, main resolution (97/XVIII), by inserting or amending dates specified therein. The act of completing the Fourth Replenishment resolution also triggered the effectiveness of resolution 86/XVIII, which had been adopted by the Governing Council in 1995 and amended the Agreement Establishing IFAD and other basic legal documents so as to introduce a new governance structure. The new structure dispensed with the original system of those categories of membership (OECD, OPEC and developing countries) and introduced a system for distributing votes on the basis of the total amount of contribution made by each member State while reserving at least one third of the votes for developing countries. Consequential amendments were also made to the representation of the member States on the Executive Board.

The Governing Council, furthermore, adopted resolution 99/XX amending resolution 56/XII on the Third Replenishment of IFAD's Resources, thereby releasing for loan commitments the blocked portion of category I's Third Replenishment Supplementary Contributions:

Resolution 99/XX:

amended paragraph 1.3(*b*)(iv) of resolution 56/XII as follows (where an amendment is made, the text to be deleted is placed between square brackets):

> "the supplementary portion of the contributions of category I shall be paid in parallel instalments to the remainder of its additional contributions in accordance with the provisions of paragraphs 8 and 12. [However, supplementary contributions of category I shall become available for use by the Fund pro rata in the proportion 3:1 as the supplementary contributions of category III become available]".

(*d*) Advance Commitment Authority

The Governing Council, at its twentieth session, adopted on 21 February 1997 resolution 100/XX on the provision of Advance Commitment Authority.

(i) The resolution amended article 4, section 1, of the Agreement Establishing IFAD as follows (the text to be added is in italics):

"The resources of the Fund shall consist of:

(i) Initial contributions;

(ii) Additional contributions;

(iii) Special contributions from non-member States and from other sources; and

(iv) Funds derived *or to be derived* from operations or otherwise accruing to the Fund".

(ii) The resolution also amended:

Regulation IV, paragraph 1, of the Financial Regulations of IFAD as follows (the text to be added is in italics):

"The resources of the Fund shall consist of contributions received by the Fund and the funds derived *or to be derived* from operations or otherwise accruing to the Fund in accordance with article 4.1 of the Agreement".

Through the resolution, the Governing Council authorized the Executive Board to make commitments for new loans and grants against foreseen loan repayments under special circumstances and with great caution, thus maximizing the resources received from the member States through the Fourth Replenishment. The advance commitment authority compensates, year by year, for fluctuations in the resources available for commitment and is established to act as a reserve resource.

(*e*) Participation in the Heavily Indebted Poor Countries Debt Initiative (HIPC DI)

The Governing Council of IFAD at its twentieth session, on 21 February 1997, adopted resolution 101/XX. The resolution decided that:

(i) IFAD shall participate in HIPC DI;

(ii) The Executive Board may authorize the President of IFAD to conclude, on the basis of a recommendation from the President of IFAD, such agreements as may be necessary with the World Bank for the participation of IFAD in HIPC DI and the World Bank HIPC Trust Fund;

(iii) IFAD participation in HIPC DI shall be either: (*a*) through direct participation in, and contribution to, the World Bank HIPC Trust Fund that is to be established and/or (*b*) through IFAD working in parallel, but in full coordination, with the said Trust Fund, dependent upon particular circumstances relating to heavily indebted poor countries to be assisted under the DI and/or such conditions as may be attached to specific bilateral donor contributions to IFAD for this purpose;

(iv) The Executive Board may authorize the President of IFAD to approve for each country declared eligible under HIPC DI a debt relief package coordinated with the Trust Fund Administrator, the International Development Association (IDA), with the objective of reducing that country's debt to a sustainable level;

(v) In paragraph 32 of the Lending Policies and Criteria (IFAD Lending Policies and Criteria), the following text shall be added after subparagraph (*d*) thereof:

> "For the purposes of implementing the Heavily-Indebted Poor Countries Debt Initiative, the Executive Board may amend the terms upon which an approved loan is provided to a country. In determining the grace period, the maturity date and the amount of each instalment for the repayment of loans, the Executive Board shall take into account an assessment of a country's debt sustainability produced under the Heavily-Indebted Poor Countries Debt Initiative."

The above resolution was adopted to enable IFAD to participate in HIPC DI, initiated by the World Bank and the International Monetary Fund, either through contributions to the World Bank HIPC Trust Fund or by setting up its own trust fund. IFAD later decided to set up its own trust fund.

(*f*) Loan administration and supervision of project implementation

Article 7, section 2(*g*), of the Agreement Establishing IFAD states, inter alia, "[T]he Fund shall entrust the administration of loans, for the purposes of the disbursement of the proceeds of the loan and the supervision of the implementation of the project or programme concerned, to competent international institutions."

At its twentieth session, the Governing Council reviewed the report of the Joint Review on Supervision Issues for IFAD-Financed Projects and approved the five recommendations set out in the report.

Recommendation 5 stated: "[G]iven that learning about project implementation through supervision is the most effective way of learning from experience, IFAD should begin selecting experimental direct project supervision. Such supervision would cover a small, representative sample of IFAD-initiated projects, including some projects that are innovative in design or implementation approach."

Pursuant to that recommendation, the Governing Council adopted resolution 102/XX in which it decided, inter alia, as follows:

> "IFAD may supervise specific projects and programmes financed by it in accordance with recommendation 5 of the said report. Such supervision shall be limited to a small representative sample of IFAD-initiated projects, including some projects that are either innovative in design or explore new arrangements for implementation. IFAD may contract the administration of its loans and grants (procurement and disbursement) to competent public, national or international entities. IFAD supervision and administration arrangements shall be decided by the Executive Board at the same time as the approval of a loan or grant for a project or programme. No more than a total of 15 projects and no more than 3 projects per geographic region may be directly supervised and administered during a period of five years.
>
> "This resolution shall enter into force and effect on the date of its adoption by the Governing Council and shall cease to be operational five years after the date of effectiveness of the last approved project referred to in the above paragraph. Prior to the latter date, the President shall submit the results of IFAD's experience and conclusions on the said experimental activity on project supervision and loan administration to the Executive for its review. Based on its deliberation thereon, the Executive Board shall make appropriate recommendations for the consideration of the Governing Council on the future direction and approach."

By adopting the above resolution, the Governing Council effectively suspended, on a trial basis, article 7, section 2(*g*), of the Agreement Establishing IFAD which is to the effect that IFAD shall entrust the administration of its loans and the supervision of implementation of its projects or programmes to other competent international institutions.

---

11. WORLD TRADE ORGANIZATION

(*a*) Membership

During 1997, the Democratic Republic of the Congo and Congo became original members pursuant to article XI of the Marrakesh Agreement Establishing the World Trade Organization (WTO Agreement). In addition, Mongolia and Panama acceded to the WTO Agreement, making the total membership at the end of the year 132.

(*b*) Dispute settlement

During 1997, 50 requests for consultations were received pursuant to article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes. The Dispute Settlement Body established panels regarding the following cases:

Hungary—Export Subsidies in Respect of Agricultural Products: complaints by Argentina, Australia, Canada, New Zealand, Thailand and the United States of America (WT/DS35)

Turkey—Taxation of Foreign Film Revenues: complaint by the United States of America (WT/DS43)

Argentina—Measures affecting Imports of Footwear, Textiles, Apparel and Other Items: complaint by the United States of America (WT/DS56)

United States of America—Import Prohibition of Certain Shrimp and Shrimp Products: complaints by India, Malaysia, Pakistan and Thailand (WT/DS58)

European Communities—Customs Classification of Certain Computer Equipment: complaint by the United States of America (WT/DS62, WT/DS67 and WT/DS68)

Guatemala—Anti-Dumping Investigation regarding Imports of Portland Cement from Mexico: complaint by Mexico (WT/DS60)

Australia—Measures affecting Importation of Salmon: complaint by Canada (WT/DS18)

Indonesia—Certain Measures affecting the Automobile Industry: complaints by the European Communities (WT/DS54), Japan (WT/DS55) and the United States of America (WT/DS59)

European Communities—Measures affecting Importation of Certain Poultry Products: complaint by Brazil (WT/DS69)

Korea—Taxes on Alcoholic Beverages: complaints by the European Communities (WT/DS75) and the United States of America (WT/DS84)

Argentina—Measures affecting Textiles and Clothing: complaint by the European Communities (WT/DS77)

India—Patent Protection for Pharmaceutical and Agricultural Chemical Products: complaint by the European Communities (WT/DS79)

European Communities—Measures affecting Butter Products: complaint by New Zealand (WT/DS72)

Japan—Measures affecting Agricultural Products: complaint by the United States of America (WT/DS76)

Chile—Taxes on Alcoholic Beverages: complaint by the European Communities (WT/DS87)

During 1997, the Dispute Settlement Body adopted panel and Appellate Body reports on the following cases:

United States of America—Restrictions on Imports of Cotton and Man-Made Fibre Underwear: complaint by Costa Rica (WT/DS24)

Brazil—Measures affecting Desiccated Coconut: complaint by the Philippines (WT/DS22)

United States of America—Measure affecting Imports of Woven Wool Shirts and Blouses: complaint by India (WT/DS33)

Canada—Certain Measures concerning Periodicals: complaint by the United States of America (WT/DS31)

European Communities—Regime for the Importation, Sale and Distribution of Bananas: complaints by Ecuador, Guatemala, Honduras, Mexico and the United States of America (WT/DS27)

---

12. INTERNATIONAL ATOMIC ENERGY AGENCY

CONVENTION ON THE PHYSICAL PROTECTION OF NUCLEAR MATERIAL[222]

During 1997, Cuba and Lebanon adhered to the Convention. By the end of the year, there were 60 parties.

CONVENTION ON EARLY NOTIFICATION OF A NUCLEAR ACCIDENT[223]

During 1997, Lebanon, Myanmar, the Philippines and Singapore adhered to the Convention. By the end of the year, there were 80 parties.

CONVENTION ON ASSISTANCE IN THE CASE OF A NUCLEAR ACCIDENT OR RADIOLOGICAL EMERGENCY[224]

In 1997, Lebanon, the Philippines and Singapore adhered to the Convention. By the end of the year, there were 75 parties.

VIENNA CONVENTION ON CIVIL LIABILITY FOR NUCLEAR DAMAGE, 1963[225]

During 1997, Lebanon ratified, and Belarus and Israel signed the Convention. By the end of the year, there were 28 parties.

JOINT PROTOCOL RELATING TO THE APPLICATION OF THE VIENNA CONVENTION AND THE PARIS CONVENTION[226]

During 1997, the status of the Convention remained unchanged, with 20 parties.

CONVENTION ON NUCLEAR SAFETY[227]

During 1997, Argentina, Austria, Belgium, Brazil, Germany, Greece, Luxembourg, Pakistan, Peru and Singapore adhered to the Convention. By the end of the year, there were 42 parties.

JOINT CONVENTION ON THE SAFETY OF SPENT FUEL MANAGEMENT AND ON THE SAFETY OF RADIOACTIVE WASTE MANAGEMENT[228]

The Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management was adopted on 5 September 1997 by a Diplomatic Conference (1-5 September 1997) and was opened for signature at Vienna on 29 September 1997 at the 41st General Conference of the International Atomic Energy Agency. The Convention will remain open for signature until its entry into force. During 1997, Argentina, Belgium, Brazil, the Czech Republic, Finland, France, Germany, Hungary, Indonesia, Ireland, Kazakhstan, Lebanon, Lithuania, Luxembourg, Morocco, Norway, Poland, the Republic of Korea, Romania, Slovakia, Slovenia, Sweden, Switzerland, Ukraine, the United Kingdom of Great Britain and Northern Ireland and the United States of America signed the Convention. By the end of the year, there were 26 signatories.

PROTOCOL TO AMEND THE VIENNA CONVENTION ON CIVIL LIABILITY FOR NUCLEAR DAMAGE[229]

The Protocol to Amend the Vienna Convention on Civil Liability for Nuclear Damage was adopted on 12 September 1997 by a Diplomatic Conference (8-12 September 1997) and was opened for signature at Vienna on 29 September 1997 at the 41st General Conference of the International Atomic Energy Agency. The Protocol will remain open for signature until its entry into force. During 1997, Argentina, Hungary, Indonesia, Lebanon, Lithuania, Morocco, Poland, Romania and Ukraine signed the Protocol. By the end of the year, there were 9 signatories.

CONVENTION ON SUPPLEMENTARY COMPENSATION FOR NUCLEAR DAMAGE[230]

The Convention on Supplementary Compensation for Nuclear Damage was adopted on 12 September 1997 by a Diplomatic Conference (8-12 September 1997), and was opened for signature at Vienna on 29 September 1997 at the 41st General Conference of the International Atomic Energy Agency. The Convention will remain open for signature until its entry into force. During 1997, Argentina, Australia, Indonesia, Lebanon, Lithuania, Morocco, Romania, Ukraine and the United States of America signed the Convention. By the end of the year, there were 9 signatories.[231]

Extension of the African Regional Cooperative Agreement for Research, Development and Training related to Nuclear Energy[232]

In 1997, Uganda accepted the extension of the Agreement, making a total of 21 parties.

Second Agreement to Extend the 1987 Regional Cooperative Agreement for Research, Development and Training related to Nuclear Science and Technology, 1987 (RCA)[233]

In 1997, the Second Extension Agreement entered into force in accordance with its terms, and the 1987 RCA continues in force for a further five-year period with effect from 12 June 1997.

By the end of 1997, 13 States parties had accepted the extension of the Agreement: Australia, Bangladesh, China, India, Japan, Malaysia, Mongolia, New Zealand, Pakistan, Republic of Korea, Singapore, Sri Lanka and Viet Nam.

Safeguards Agreements

During 1997, Safeguards Agreements pursuant to the Treaty on the Non-Proliferation of Nuclear Weapons entered into force with Algeria,[234] Belize,[235] the Czech Republic,[236] Estonia[237] and Slovenia.[238] An additional Safeguards Agreement pursuant to the Non-Proliferation Treaty was concluded with Georgia, but has not yet entered into force.

Safeguards Agreements pursuant to the Non-Proliferation Treaty and the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco) entered into force with Bahamas[239] and Guyana.[240]

One Protocol Additional to the Safeguards Agreeement between Australia and IAEA pursuant to the Non-Proliferation Treaty entered into force.[241] A Protocol Additional to the Safeguards Agreement between Armenia and IAEA[242] was concluded, pursuant to the Non-Proliferation Treaty; pending the entry into force, the Protocol shall apply provisionally upon signature. A Protocol Additional to the Safeguards Agreement between Georgia and IAEA was concluded pending the entry into force of the Safeguards Agreement pursuant to the Non-Proliferation Treaty; four Protocols Additional to Safeguards Agreements pursuant to the Non-Proliferation Treaty were concluded with Lithuania, the Philippines, Poland and Uruguay, but have not yet entered into force.

An Agreement by exchange of letters was concluded between Argentina and IAEA confirming that the Safeguards Agreement concluded between Argentina, Brazil, the Brazilian-Argentine Agency for Accounting and Control of Nuclear Materials and IAEA (the Quadripartite Agreement) also satisfies the obligation of Argentina under article 13 of the Treaty of Tlatelolco and under article III of the Non-Proliferation Treaty.[243] An Agreement by exchange of letters was concluded between Brazil and IAEA confirming that the Safeguards Agreement concluded between Argentina, Brazil, the Brazilian-Argentine Agency for Accounting and Control of Nuclear Materials and IAEA (the Quadripartite Agreement) also satisfies the obligation of Brazil under article 13 of the Treaty of Tlatelolco.[244]

Agreements by exchange of letters were also concluded between Belize,[245] Dominica,[246] Saint Kitts and Nevis,[247] Saint Vincent and the Grenadines[248] and IAEA confirming that the Safeguards Agreements concluded pursuant to the Non-Proliferation Treaty satisfy the obligation of Belize, Brazil, Dominica, Saint

Kitts and Nevis, and Saint Vincent and the Grenadines under article 13 of the Treaty of Tlatelolco.

By the end of 1997, there were 221 Safeguards Agreements in force with 137 States; 118 of these agreements had been concluded pursuant to the Non-Proliferation Treaty and/or the Treaty of Tlatelolco with 126 non-nuclear-weapon States. Voluntary offer agreements are in force with all five nuclear-weapon States.

Liability for Nuclear Damage

During the first part and second parts of its 17th session (February and April 1997, respectively), the Standing Committee on Liability for Nuclear Damage completed preparation of the entire texts of a draft protocol to amend the Vienna Convention on Civil Liability for Nuclear Damage and of a convention on supplementary funding. Notwithstanding that some States voiced their continuing concern regarding some provisions of both drafts, the Committee decided to transmit the draft texts, without bracketed provisions, for consideration by the IAEA Board of Governors.

In June 1997, the IAEA Board of Governors considered the report of the Standing Committee and authorized the Director General to convene a Diplomatic Conference for the consideration and adoption of the draft instruments prepared by the Committee.

The Diplomatic Conference was held from 8 to 12 September 1997; 81 States participated, and four international organizations and three non-governmental organizations attended as observers. The Conference adopted the Protocol to Amend the Vienna Convention on Civil Liability for Nuclear Damage by a non-recorded vote of 64 in favour to 1 against, with 2 abstentions. That vote included a vote of 21-0-0 by the parties to the Vienna Convention. According to a special rule of procedure, a two-thirds majority of those present and voting which was required for adoption of the Protocol, including parts thereof or amendments thereto, needed to include a two-thirds majority of parties to the Vienna Convention present and voting. The Convention on Supplementary Compensation for Nuclear Damage was adopted by a vote of 66 in favour to 1 against, with 2 abstentions. Only a few modifications of substance were introduced in the drafts prepared by the Standing Committee.

The Protocol provides, inter alia, for: (i) the coverage of nuclear damage suffered in a non-Contracting State; an exception is allowed if such a State has a nuclear installation and does not afford reciprocal benefits; (ii) an enhanced definition of nuclear damage which covers the costs of reinstatement of damaged environment; (iii) costs of preventive measures; (iv) a substantially higher minimum liability limit (at least 300 million SDRs, which may be divided between the liable operator and the Installation State); and (v) an extension of the period for submission of claims for loss of life and personal injury to 30 years. All States may sign and adhere to the Protocol, i.e., not only parties to the Vienna Convention. It is provided, however, that a State adhering to the Protocol, failing an expression of a different intention at the time of the deposit of the requisite instrument of consent to be bound, shall also be bound by the provisions of the Vienna Convention in relation to parties only to that Convention. The Protocol will enter into force three months after the date of the fifth instrument of ratification, acceptance or approval.

The Convention on Supplementary Compensation has established a system to generate compensation for nuclear damage in addition to that available under the national legislation. It applies to nuclear damage for which an operator of a nuclear installation used for peaceful purposes situated in the territory of a Contracting Party is liable under either the Vienna Convention or Paris Convention or national law which complies with the provisions of the annex to the Convention (containing liability provisions consistent with those of the Vienna and Paris Conventions). When the national compensation amount of not less than 300 million SDRs (corresponding to the amount provided for in the Protocol) is exhausted, additional compensation is provided jointly by States parties in accordance with a specific formula (contributions of individual States are based on the installed nuclear capacity of their nuclear reactors and their United Nations rate of assessment). States without nuclear reactors and which are at the minimum United Nations rate of assessment are exempt from contributing to the fund. In order to avoid an unbalanced financial burden on a State party with a large nuclear power capacity, its contribution is capped at its United Nations rate of assessment expressed as a percentage, plus eight percentage points. This "cap" will, however, phase out when the total installed nuclear capacity of States parties reaches the level of 625,000 units. Also, the incident State of the liable operator cannot avail itself of the cap.

The Convention is open for signature by all States. The instruments of adherence shall be accepted, however, only from a State party to either the Vienna Convention or the Paris Convention on Third Party Liability in the Field of Nuclear Energy, or a State whose national law complies with the provisions of the annex to the Convention. In the case of a State having on its territory a nuclear installation, it must be a Contracting State to the Convention on Nuclear Safety of 17 June 1994. The Convention contains a clause which allows a State having well-developed national nuclear liability legislation with "economic channelling" to participate in it without changing its legislation. The Convention will enter into force on the ninetieth day following the date on which at least five States with a minimum of 400,000 units of installed nuclear capacity have deposited an instrument of ratification, accession or approval.

Both the Protocol and the Convention have a phasing-in mechanism which allows a State to join them, during an interim period, with a lower national compensation amount. They also contain a provision providing, as an exception to the general rule, that in case of incidents within a State party's exclusive economic zone or an area not exceeding its limits, jurisdiction over actions concerning nuclear damage will lie with the courts of that State. The Director General is the depositary for both instruments.

As at 1 September 1998, the Protocol and the Convention had 13 signatories each.

SAFETY OF RADIOACTIVE WASTE MANAGEMENT

The Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management was adopted on 5 September 1997, after two years of *travaux préparatoires*, by 84 States at a Diplomatic Conference convened at Vienna by the International Atomic Energy Agency.[249]

The Joint Convention was opened for signature on 29 September 1997 in conjunction with the forty-first session of the General Conference of IAEA. By the end of 1997, 26 States had signed the Convention.

The Joint Convention is the first legal instrument to address directly the issues of safety in the context of spent nuclear fuel and radioactive wastes on a global scale. It applies to spent fuel and radioactive wastes resulting from civilian nuclear reactors and applications, and to spent fuel and radioactive waste from military or defence programmes if and when such materials are transferred permanently to and managed within exclusively civilian programmes, or when declared as spent fuel or radioactive waste for the purpose of the Joint Convention by the Contracting Party. Spent fuel held at a reprocessing facility as part of reprocessing activities is covered by the Joint Convention only if the Contracting Parties declare it to be so. The Joint Convention also applies to planned and controlled releases into the environment of liquid or gaseous radioactive materials from regulated nuclear facilities.

The Joint Convention imposes obligations on Contracting Parties related to ensuring the safety of spent fuel and radioactive waste management largely based on the principles contained in the IAEA Safety Fundamentals document entitled "The Principles of Radioactive Waste Management", published in 1995. It further contains requirements related to the transboundary movement of spent fuel and radioactive waste (based on the 1990 IAEA Code of Practice on the International Transboundary Movement of Radioactive Waste) and to the safe management of disused sealed sources.

The Joint Convention establishes a mechanism whereby each Contracting Party is obliged to submit for review by meetings of Contracting Parties a report on the measures taken to implement each of the obligations under the Convention.

The Convention will enter into force on the ninetieth day after the twenty-fifth instrument of ratification is deposited with IAEA, including the instruments of 15 States that each have an operational nuclear power plant.

NOTES

[1]For detailed information, see *The United Nations Disarmament Yearbook*, vol. 22: 1997 (United Nations publication, Sales No. E.98.IX.1).

[2]United Nations document A/50/1027, annex.

[3]Multiple independently targetable re-entry vehicles.

[4]Intercontinental ballistic missiles.

[5]United Nations, *Treaty Series*, vol. 729, p. 159; see also *Status of Multilateral Arms Regulation and Disarmament Agreements*, 4th ed.: 1992, vol. 1 (United Nations publication, Sales No. E.93.IX.11 (vol.1)). The next Review Conference will be held in 2000.

[6]INFCIRC/540.

[7]GC(41)/RES/23.

[8]INFCIRC/546. For the text of the Convention, see chapter IV of this *Yearbook*.

[9]*International Legal Materials*, vol. 35 (1996), p. 635.

[10]United Nations, *Treaty Series*, vol. 634, p. 281.

[11]Ibid., vol. 1445, p. 177.

[12]United Nations document A/50/426, annex; see also *International Legal Materials*, vol. 35 (1996), p. 698.

[13]United Nations document A/51/218, annex; see also *I.C.J. Reports 1996*, p. 226.

[14]Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction: General Assembly resolution 2826 (XXVI), annex.

[15]BWC/AD HOC GROUP/35.

[16]BWC/CONF.III/23, part II.

[17]Convention on the Prohibition of the Development, Production and Stockpiling and Use of Chemical Weapons and on Their Destruction: document CD/CW/WP.400/Rev.1.

[18]United Nations document A/52/298.

[19]United Nations document A/52/289.

[20]United Nations document A/52/312 and Corr.1 and 2, and Add.1-4.

[21]United Nations document A/52/316.

[22]United Nations document A/52/298, annex.

[23]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 and Disarmament Agreements*, 4th ed.: 1992, vol. 1 (United Nations publication, Sales No. E.93.IX.11 (vol. 1)).

[24]See *Status of Multilateral Arms Regulation and Disarmament Agreements*, 5th ed.: 1996 (United Nations publication, Sales No. E.97.IX.3).

[25]The International Campaign to Ban Landmines, begun in 1991, is a coalition of over 1,000 NGOs in over 60 countries working to ban landmines.

[26]CD/1478; see also ST/LEG (092) C766.

[27]In connection with post-conflict peace-building, see the United Nations Institute for Disarmament Research (UNIDIR) study series on the management of arms in peace processes, which discusses the experience of United Nations peacekeeping and other missions in Bosnia and Herzegovina, Cambodia, Croatia, El Salvador, Haiti, Liberia, Mozambique, Nicaragua, Rhodesia/Zimbabwe and Somalia.

[28]S/PRST/1997/46.

[29]AG/RES (XXVII-O/97); A/53/78.

[30]United Nations document A/53/78, annex.

[31]Military Balance 1997/98, International Institute for Strategic Studies.

[32]See *Status of Multilateral Arms Regulation and Disarmament Agreements*, 4th ed.: 1992 (United Nations publication, Sales No. E.93.IX.11 (vol. 1)); see also *International Legal Materials*, vol. 30 (1991), p. 6.

[33]For information concerning cooperation between the United Nations and OSCE, see the relevant report of the Secretary-General (A/52/450).

[34]For the report of the Subcommittee, see A/AC.105/674.

[35]A/AC.105/672, para. 80.

[36]A/AC.105/635 and Add.1-4.

[37]A/AC.105/C.2/L.204.

[38]A/AC.105/C.2/1997/CRP.3/Rev.1.

[39]See A/AC.105/C.2/L.206/Rev.1. The five treaties are: Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (General Assembly resolution 2222 (XXI), annex); Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space (General Assembly resolution 2345 (XXII), annex); Convention on International Liability for Damage Caused by Space Objects (General Assembly resolution 2777 (XXVI), annex); Convention on Registration of Objects Launched into Outer Space (General Assembly resolution 3235 (XXIX), annex); and Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (General Assembly resolution 34/68, annex).

[40]For the report of the Committee, see *Official Records of the General Assembly, Fifty-second Session, Supplement No. 20* (A/52/20).

[41]A/52/307.

[42]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).

[43]*Official Records of the General Assembly, Fifty-second Session, Supplement No. 1* (A/52/1).

[44]A/52/209.

[45]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.

[46]A/50/60-S/1995/1; see *Official Records of the Security Council, Fiftieth Year, Supplement for January, February and March 1995*, document S/1995/1.

[47]*Official Records of the Security Council, Fiftieth Year, Resolutions and Decisions of the Security Council, 1995*, document S/PRST/1995/9.

[48]A/50/711-S/1995/911; see *Official Records of the Security Council, Fiftieth Year, Supplement for October, November and December 1995*, document S/1995/911.

[49]*Official Records of the Security Council, Fiftieth Year, Supplement for January, February and March 1995*, document S/1995/234.

[50]Ibid., *Supplement for April, May and June 1995*, document S/1995/438.

[51]Ibid., *Fifty-first Year, Supplement for January, February and March 1996*, document S/1996/54.

[52]For the report on the session, see *Official Records of the General Assembly, Fifty-second Session, Supplement No. 25* (A/52/25).

[53]UNEP/GC.19/32.

[54]UNEP/GC.19/INF.12.

[55]UNEP/GC.19/INF.18.

[56]UNEP/GC.19/30 and UNEP/GC.19/INF.13.

[57]A/52/82, annex.

[58]A/52/82/Add.1, annex.

[59]ICCD/COP(1) 11 and Add.1.

[60]A/AC.241/15/Rev.3.

[61]ICCD/COP(1)/11/Add.1, decision 24/COP.1.

[62]See *Official Records of the Economic and Social Council, 1995, Supplement No. 12* (E/1995/32), chap. I, para. 230 (i).

[63]UNEP/Bio. Div./N7-INC.5/4.

[64]See A/52/441.

[65]Ibid., annex II, decision III/11.

[66]Ibid., decision III/12.

[67]A/52/208/Add.1.

[68]E/CN.15/1997/7.

[69]E/CN.15/1997/7/Add.1.

[70]E/CN.15/1997/Add.2, annex.

[71]E/CN.15/1997/11 and Add.1.

[72]General Assembly resolution 48/104.

[73]General Assembly resolution 44/25, annex.

[74]General Assembly resolution 34/180, annex.

[75]General Assembly resolution 44/25, annex.

[76]See General Assembly resolution 2200 A (XXI), annex.

[77]A/52/356.

[78]General Assembly resolution 45/158, annex.

[79]United Nations, *Treaty Series*, vol. 212, p. 17.

[80]E/CN.15/1997/3.

[81]E/CN.15/1997/3/Add.1, annex.

[82]See E/1996/99.

[83]General Assembly resolution 51/191, annex.

[84]General Assembly resolution 51/59, annex.

[85]General Assembly resolution 45/117, annex.

[86]General Assembly resolution 45/116, annex.

[87]A/49/748, annex, chap. I, sect. A.

[88]See A/CONF.169/16.

[89]*Official Records of the Economic and Social Council, 1997, Supplement No. 10* and corrigenda (E/1997/30 and Corr.1).

[90]Ibid., chap. II.

[91]United Nations, *Treaty Series*, vol. 520, p. 151.

[92]Ibid., vol. 1019, p. 175.

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

[94]E/CONF.82/15 and Corr.2; issued also as a United Nations publication (Sales No. E.91.XI.6).

[95]General Assembly resolution S-17/2, annex.

[96]E/1997/48.

[97]See A/49/139-E/1994/57.

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

[99]A/52/296.

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

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

[102]Ibid.

[103]General Assembly resolution 44/128, annex.

[104]Resolution 217 A (III).

[105]A/52/446.

[106]United Nations, *Treaty Series*, vol. 660, p. 195.

[107]See A/52/471.

[108]The report of the Committee is contained in *Official Records of the General Assembly, Fifty-second Session, Supplement No. 18* (A/52/18).

[109]United Nations, *Treaty Series*, vol. 1015, p. 243.

[110]Ibid., vol. 1249, p. 13.

[111]A/52/355.

[112]*World Congress against Commercial Sexual Exploitation of Children, Stockholm, 27-31 August 1996, Final Report of the Congress*, two volumes (Stockholm, Government of Sweden, January 1997).

[113]*Report of the Fourth World Conference on Women, Beijing, 4-15 September 1995* (United Nations publication, Sales No. E.96.IV.13), chap. I, resolution 1, annex II.

[114]A/CONF.157/24 (Part I), chap. III.

[115]*Official Records of the General Assembly, Fifty-second Session, Supplement No. 38* (A/52/38/Rev.1).

[116]A/52/337.

[117]A/52/352.

[118]United Nations, *Treaty Series*, vol. 1465, p. 85.

[119]General Assembly resolution 44/25, annex.

[120]A/52/348.

[121]A/52/523.

[122]General Assembly resolution 45/158, annex.

[123]A/52/359.

[124]General Assembly resolution 217 A (III).

[125]A/CONF.157/24 (Part I), chap. III.

[126]General Assembly resolution 41/128, annex.

[127]*Official Records of the General Assembly, Fifty-second Session, Supplement No. 36* (A/52/36).

[128]United Nations, *Treaty Series*, vol. 189, p. 137.

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

[130]Ibid., vol. 360, p. 117.

[131]Ibid., vol. 989, p. 175.

[132]For detailed information, see *Official Records of the General Assembly, Fifty-second Session, Supplement No. 12* (A/52/12), and ibid., *Supplement No. 12A* (A/52/12/Add.1).

[133]A/52/375-S/1997/729; see *Official Records of the Security Council, Fifty-second Year, Supplement for July, August and September 1997*, document S/1997/729.

[134]A/52/582-S/1997/868 and Corr.1; see *Official Records of the Security Council, Fifty-second Year, Supplement for October, November and December 1997*, document S/1997/868.

[135]General Assembly resolution 22 A (I); United Nations, *Treaty Series*, vol. 1, p. 15.

[136]General Assembly resolution 179 (II); United Nations, *Treaty Series*, vol. 33, p. 261.

[137]General Assembly resolution 49/59, annex.

[138]A/52/548.

[139]United Nations Educational, Scientific and Cultural Organization, *Records of the General Conference, Sixteenth Session*, vol. 1, *Resolutions*, p. 135.

[140]A/52/211.

[141]See *The Law of the Sea: Official Texts of the United Nations Convention on the Law of the Sea of 10 December 1982 and of the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 with Index and Excerpts from the Final Act of the Third United Nations Conference on the Law of the Sea* (United Nations publication, Sales No. E.97.V.10).

[142]A/52/487 and Corr.1.

[143]SPLOS/14.

[144]See chapter VII of this *Yearbook*.

[145]See section 5 below.

[146]See chap. IV, sect. A, 2.

[147]See chap. II, sect. A, 2(i).

[148]A/52/555.

[149]A/CONF.164/37; see also A/50/550, annex I.

[150]A/52/555.

[151]For the composition of the Court, see *International Court of Justice Yearbook, 1997-1998*, No. 52, chap. I.I.

[152]As at 31 December 1997, the number of States recognizing the jurisdiction of the Court as compulsory, in accordance with the declaration filed under Article 36, paragraph 2, of the Statute of the Court, remained at 61.

[153]For detailed information, see *International Court of Justice Yearbooks, 1996-1997*, No. 51, and *1997-1998*, No. 52.

[154]*Official Records of the General Assembly, Fifty-second Session, Supplement No. 4* (A/52/4).

[155]For the membership of the International Law Commission, see *Official Records of the General Assembly, Fifty-second Session, Supplement No. 10* (A/52/10), chap. I, sect. A.

[156]For detailed information, see *Official Records of the General Assembly, Fifty-second Session, Supplement No. 10* (A/52/10).

[157]A/CN.4/480 and Add.1 and Corr.1.

[158]A/CN.4/477 and Add.1.

[159]For the text of the Preliminary Conclusions, see *Official Records of the General Assembly, Fifty-second Session, Supplement No. 10* (A/52/10), pp. 126-127.

[160]The bilingual (English/French) proceedings of the Colloquium were published in *Making Better International Law: The International Law Commission at 50* (United Nations publication, Sales No. E/F.98.V.5).

[161]For the membership of the United Nations Commission on International Trade, see *Official Records of the General Assembly, Fifty-second Session, Supplement No. 17* (A/52/17), chap. I, sect. B, as well as General Assembly decision 52/314.

[162]For detailed information, see *Yearbook of the United Nations Commission on International Trade Law*, vol. XXVIII: 1997.

[163]See sect. 7 (*b*) below for the text of the Model Law.

[164]A/CN.9/436.

[165]A/CN.9/438.

[166]A/CN.9/432 and A/CN.9/434.

[167]A/CONF.97/18.

[168]A/CONF.89/13.

[169]A/CN.9/SER.C/ABSTRACTS/10-12.

[170]*Official Records of the General Assembly, Fifty-second Session, Supplement No. 17* (A/52/17).

[171]United Nations, *Treaty Series*, vol. 330, p. 3.

[172]A/52/294.

[173]A/52/524.

[174]A/52/363.

[175]See *Official Records of the General Assembly, Fifty-second Session, Sixth Committee*, 30th meeting (A/C.6/52/SR.30), and corrigendum.

[176]A/C.6/52/3.

[177]Resolution 2625 (XXV), annex.

[178]*Official Records of the General Assembly, Fifty-second Session, Supplement No. 26* (A/52/26).

[179]Ibid., *Supplement No. 33* and corrigendum (A/52/33 and Corr.1).

[180]Ibid., *Fifty-first Session, Supplement No. 33* (A/51/33), para. 56.

[181]Ibid., *Fifty-second Session, Supplement No. 33* and corrigendum (A/52/33 and Corr.1), para. 59.

[182]Ibid., para. 29.

[183]Ibid., *Fifty-first Session, Supplement No. 33* (A/51/33), para. 128.

[184]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, A/51/317 and A/52/308.

[185]A/50/1011.

[186]A/51/950 and Add.1-7.

[187]A/52/317 and Corr.1.

[188]A/52/308.

[189]See *Official Records of the General Assembly, Fifty-second Session, Supplement No. 37* (A/52/37).

[190]See A/C.6/52/L.3, annex I.

[191]See General Assembly resolution 50/6.

[192]A/52/142/Add.1.

[193]For detailed information, see *Official Records of the General Assembly, Fifty-third Session, Supplement No. 14* (A/53/14). Report covers the period 1 July 1996 to 30 June 1998.

[194]A/52/492.

[195]A/52/367, annex.

[196]A/52/559, annex.

[197]ILC, 85th session 1997, *Record of Proceedings*, Nos. 1 and 10; pp. 248-250 and 304; *Official Bulletin* of the ILO, vol. LXXX, 1997, Series A, No. 2.

[198]ILC, 85th session 1997, *Record of Proceedings*, Nos. 1, 2, 9, 10 and 15A, pp. 16-18 and 248-250; *Official Bulletin* of the ILO, vol. LXXX, 1997, Series A, No. 2.

[199]*Official Bulletin* of the ILO, vol. LXXX, 1997, Series A, No. 2. (Information on the preparatory work for the adoption of the instruments is given in order to facilitate reference work. These instruments have been adopted using the *single discussion* procedure.) Regarding the preparatory work, see: Revision of the Fee-Charging Employment Agencies Convention (Revised), 19149 (No. 96), ILC, 85th session (1997), Reports IV(1) and IV(2). See also ILC, 85th session (1997), *Record of Proceedings*, No. 16 (rev.), pp. 267-273 and p. 304.

[200]This report has been published as report III (part 1) to the 86th session of the Conference (1998) and comprises two volumes: vol. 1A, General Report and Observations concerning particular countries (report III (part 1A)) and vol. 1B, General Survey of the Vocational Rehabilitation and Employment (Disabled Persons) Convention (No. 159) and Recommendation (No. 168), 1983 (report III (part 1B)).

[201]GB.268/15/2.

[202]GB.268/15/3.

[203]GB.268/15/4.

[204]GB.270/16/1.

[205]GB.270/16/2.

[206]GB.270/16/3.

[207]GB.270/16/4.

[208]GB.270/16/5.

[209]GB.267/16/2.

[210]GB.268/5/1, GB.268/14/8.

[211]*Official Bulletin* of the ILO, vol. LXXX, 1997, Series B, No. 1.

[212]Ibid., vol. LXXX, 1997, Series B, No. 2.

[213]Ibid., vol. LXXX, 1997, Series B, No. 3.

[214]GB.268/WP/SDL/1, GB.268/WP/SDL/1/2, GB.268/WP/SDL/1/2(Add.), GB.268/WP/SDL/1/3 (Add.1), GB.268/WP/SDL/1/3 (Corr.).

[215]GB.270/WP/SDL/1/1, GB.270/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.

[216]GB.268/LILS/WP/PRS/1, GB.268/LILS/WP/PRS/1 (Corr.), GB.268/LILS/WP/PRS/2, GB.268/LILS/5.

[217]GB.270/LILS/WP/PRS/1/1, GB.270/LILS/WP/PRS/1/2, GB.270/LILS/WP/PRS/2, GB.270/LILS/WP/PRS/2 (Corr.), GB.270/LILS/3.

[218]*The Inspection Panel of the World Bank Overview*, June 1998. Information is also available on the Inspection Panel's web site: www.worldbank.org/ins-panel.

[219]The text of the ICSID Convention is reproduced in *Juridical Yearbook 1986*, p. 186.

[220]The terms and conditions of the General Arrangements to Borrow (GAB) were adopted on 5 January 1962. Pursuant to the GAB, 11 industrial countries undertook to stand ready to make loans to the Fund under article VII, section 1, of the Articles of Agreement should supplementary resources be needed to forestall or cope with an impairment of the international monetary system. The GAB currently amount to SDR 17 billion. There is also an associated arrangement with Saudi Arabia for SDR 1.5 billion. On 19 November 1997, the Executive Board renewed the decision on the GAB, as amended, for a period of five years as from 26 December 1998.

[221]The reports of the sessions of the Legal Committee held during 1997 are contained in documents LEG 75/11 and LEG 76/12.

[222]INFCIRC/274/Rev.1.

[223]INFCIRC/335.

[224]INFCIRC/336.

[225]INFCIRC/500.

[226]INFCIRC/402.

[227]INFCIRC/449.

[228]INFCIRC/546.

[229]INFCIRC/566.

[230]INFCIRC/567.

[231]For the text of the Joint Convention, the Protocol and the Convention, see chap. IV of the present *Yearbook*.

[232]INFCIRC/377.

[233]INFCIRC/167/Add.18.

[234]INFCIRC/531.

[235]INFCIRC/532.

[236]INFCIRC/541.

[237]INFCIRC/547.
[238]INFCIRC/538.
[239]INFCIRC/544.
[240]INFCIRC/543.
[241]INFCIRC/217/Add.1.
[242]INFCIRC/445/Add.1.
[243]INFCIRC/435/Mod.1.
[244]INFCIRC/435/Mod.2.
[245]INFCIRC/532/Mod.1.
[246]INFCIRC/513/Mod.1.
[247]INFCIRC/514/Mod.1.
[248]INFCIRC/400/Mod.1.
[249]INFCIRC/546.