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UNITED NATIONS JURIDICAL YEARBOOK

2000

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

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

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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*) 2000 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons

The 1968 Treaty on the Non-Proliferation of Nuclear Weapons[2] has been the cornerstone of the global nuclear non-proliferation regime. The number of States parties has steadily risen to 187, which has also rendered the Treaty the most widely adhered to multilateral disarmament agreement.

In accordance with article VIII of the Treaty, Review Conferences of the States parties have been held at five-year intervals since 1975. The 2000 Review Conference was convened from 24 April to 19 May in New York, with a total of 158 out of the 187 States parties participating. Cuba and Palestine attended as observers, as well as a number of United Nations specialized agencies and international and regional intergovernmental organizations.

The Conference marked the first time in 15 years that the parties had been able to achieve an agreed Final Document, which reaffirmed the central role of the Non-Proliferation Treaty in ongoing global efforts to strengthen nuclear non-proliferation and disarmament. The most critical and delicate achievement was the incorporation in the document of a set of practical steps for the systematic and progressive efforts to implement article VI. Those steps will provide benchmarks by which future progress by the States parties, especially by the nuclear-weapon States, can be measured. The most significant among the practical steps is the nuclear-weapon States' agreement, for the first time, to undertake unequivocally to accomplish the total elimination of their nuclear arsenals leading to nuclear disarmament.

Consideration by the General Assembly

During its fifty-fifth session, on 20 November 2000, the General Assembly, on the recommendation of the First Committee, adopted resolution 55/33 D, the draft of which had been introduced by Algeria in the First Committee. By the resolution, the Assembly welcomed the adoption by consensus on 19 May 2000 of the Final Document of the 2000 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, including in particular the documents entitled "Review of the operation of the Treaty, taking into account the decisions and the resolution adopted by the 1995 Review and Extension Conference" and "Improving the effectiveness of the strengthened review process for the Treaty".[3]

(*b*) Other nuclear disarmament and non-proliferation issues

Despite the ratification by the Russian Federation in 2000 of the 1996 Comprehensive Nuclear-Test-Ban Treaty[4] and the 1993 START II Treaty,[5] as well as the adoption by the 2000 Non-Proliferation Treaty Review Conference of a substantive Final Document, the Conference on Disarmament was unable to agree on a programme of work and therefore did not conduct any substantive work on nuclear disarmament in 2000.

Regarding the Comprehensive Nuclear-Test-Ban Treaty, the Agreement to Regulate the Relationship between the United Nations and the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization[6] was signed on 26 May 2000—the first such relationship agreement that the United Nations had concluded with a preparatory commission for the establishment of another international organization, and its first such agreement with an autonomous international organization responsible for verification activities since the conclusion of the Relationship Agreement with the International Atomic Energy Agency, in 1957.

International Atomic Energy Agency

Within the framework of the IAEA safety programme for the year 2000, the International Conference on the Safety of Radioactive Waste Management was held in Spain in March 2000.[7] In its conclusions, the Conference emphasized that effective national strategies for waste disposal would require the clear definition of a detailed, transparent approach that would enable all parties, including the general public, to participate in the decision-making process. During the forty-fourth regular session of the IAEA General Conference, the Scientific Forum on Radioactive Waste Management was convened to build on the conclusions of the Cordoba Conference, and in its report to the General Conference, the Forum urged the IAEA to facilitate the international exchange of experience on technical and social issues, collaboration on creating opportunities for research and development, and continuing peer reviews of programmes and activities in member States.

Export controls

The Nuclear Suppliers Group held its plenary meeting in Paris on 22 and 23 June 2000, during which the Group agreed that its activities continued to fulfil the aim of preventing the proliferation of nuclear-weapons through export controls on nuclear and nuclear-related material, equipment, software and technology. The Group would also continue to promote greater transparency and openness in its activities, particularly towards non-members. The Group encouraged all States that had not yet done so to conclude the IAEA Model Additional Protocol as soon as possible and to bring such protocols into force.

The Missile Technology Control Regime held its 15th plenary meeting in Helsinki from 10 to 13 October 2000, during which the members discussed responses to the challenges posed by indigenous missile programmes and missile exports, noting that export controls continued to play an important role in facing those challenges and that the Control Regime must continue to adapt itself to technological developments. The members also renewed their commitment to implement strictly their export controls and to strengthen them as necessary. Moreover, they continued their deliberations, begun in 1999, on a set of principles, commitments, confidence-building measures and incentives that could constitute a code of conduct against missile proliferation and thus decided to engage non-members in a broader common effort to reach agreement on a multilateral instrument open to all States.

Consideration by the General Assembly

During 2000, the General Assembly, at its fifty-fifth session, on the recommendation of the First Committee, took action on 12 draft resolutions concerning nuclear disarmament and non-proliferation, including resolution 55/33 C entitled "Towards a nuclear-weapon-free world: the need for a new agenda", introduced by Sweden; and resolution 55/33 N entitled "Reducing nuclear danger", introduced by India. The United States of America had ascribed its negative vote on the latter resolution in the First Committee to its view that the draft failed to acknowledge the real progress made on unilateral, bilateral and multilateral fronts to reduce nuclear dangers, and in particular the successful outcome of the Non-Proliferation Treaty Review Conference. It felt that an international conference on nuclear issues was inopportune; however, if it was necessary to consider such a conference, the United States would support a fourth special session of the General Assembly devoted to disarmament with balanced agenda objectives.

The draft of resolution 55/34 G, entitled "Convention on the prohibition of the use of nuclear weapons" had also been introduced by India. The United States, which had voted against the draft, and Japan, which had abstained, expressed similar views, namely, that the only way to achieve nuclear disarmament and non-proliferation was through a step-by-step process, which the draft did not reflect. The United States further stated that it was convinced that such a practical approach would be achieved through bilateral, unilateral and multilateral measures.

The draft of resolution 55/31, entitled "Conclusion of effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons", had been introduced by Pakistan. India had voted in favour, holding that, pending the elimination of nuclear weapons, States possessing them had an obligation to provide internationally binding, credible, universal and non-discriminatory negative security assurances, and reiterated its willingness to enter into arrangements on "no first use".

The draft of resolution 55/41, entitled "Comprehensive Nuclear-Test-Ban Treaty", had been introduced by Australia. In the First Committee, the Syrian Arab Republic had abstained on the vote because of loopholes in the Treaty itself. In its view, the Treaty disregarded the legitimate concerns of the non-nuclear-weapon States: guarantees of negative security assurances and the right to acquire advanced technology. Moreover, the Treaty set no time frame for the nuclear-weapon States to phase out their nuclear arsenals; made no explicit statement on the illegal use or threat to use nuclear weapons; and recognized no need to achieve the universality of the Non-Proliferation Treaty. It also rejected the inclusion of Israel in the region of the Middle East and South Asia. Israel had voted in favour of the draft, reiterating its willingness to continue its active role in non-proliferation efforts, including the Comprehensive Nuclear-Test-Ban Treaty. Pakistan, voting in favour of the draft, reaffirmed its unilateral moratorium on further testing until the Treaty's entry into force and stated that it would sign it once the sanctions against it were removed.

The revised draft of resolution 55/33 B, entitled "Preservation of and compliance with the Treaty on the Limitation of Anti-Ballistic Missile Systems", was introduced by the Russian Federation. The United States did not support the revised draft because it objected to the General Assembly's taking sides and making judgements on substantive issues in ongoing discussions between itself and the Russian Federation, and to the premise that amendments to the Treaty were incompatible with preserving and strengthening it. Explaining their reasons for abstaining on

the vote, Argentina, Brazil, Chile, Germany on behalf of a number of Western and Eastern European countries, Ghana, Nigeria, the Philippines and Sweden underlined the need for consensus on the resolution. They believed that dialogue and cooperation between the two parties was critical for achieving disarmament agreements, and that the First Committee's treatment of the draft did not set the tone for such a constructive dialogue. On the other hand, a large number of States voting in favour of the draft reaffirmed the integrity and continued importance of the Treaty as the foundation of global strategic stability, while expressing some reservations.

(*c*) Biological and chemical weapons

Biological Weapons Convention

The year 2000 marked the twenty-fifth anniversary of the 1971 Biological Weapons Convention.[8] During the year, the Ad Hoc Group held four sessions, pursuing its objective of concluding a protocol on verification. As a large amount of unagreed text remained at the end of the year, the Ad Hoc Group would have to exert considerable effort and demonstrate flexibility in order to conclude negotiations before the Fifth Review Conference, to be held in 2001.

Parallel to their efforts to elaborate a verification mechanism, States parties continued their information exchange in the framework of politically binding confidence-building measures. The issues on which information was exchanged include: relevant research centres and laboratories; national biological defence research and development programmes; outbreaks of infectious diseases and similar occurrences caused by toxins; relevant legislation, regulations and other measures; past activities in offensive and/or defensive biological research and development programmes; and vaccine production facilities.

Chemical Weapons Convention

Significant progress was made by the Organisation for the Prohibition of Chemical Weapons (OPCW) in implementing the provisions of the 1992 Chemical Weapons Convention,[9] as evidenced by the continuing destruction or conversion of chemical-weapons production plants and the destruction of chemical agents and chemical munitions. By the end of the year, inventories for all declared chemical weapons had been established and all declared chemical-weapons production facilities were inactivated and subject to the Chemical Weapons Convention verification regime.

The signing of the Relationship Agreement between the United Nations and OPCW[10] marked an important step in coordinating and harmonizing the activities and efforts of both organizations and in facilitating the implementation of the Convention.

United Nations Monitoring, Verification and Inspection Commission (UNMOVIC)

UNMOVIC, the successor to the United Nations Special Commission (UNSCOM), commenced its work as requested by the Security Council in its resolution 1284 of 17 December 1999 in order to prepare itself for full operation. In doing so, it focused on the recruitment and training of staff and potential future inspectors; began a systematic and thorough review of existing databases; reassessed and evaluated the archives taken over from UNSCOM; and examined inspection procedures

with a view to defining appropriate operational procedures to be applied under the reinforced system of ongoing monitoring and verification.

Consideration by the General Assembly

During 2000, the General Assembly, pursuant to the recommendations of the First Committee, took action on three draft resolutions in the area, including resolution 55/33 J of 20 November, concerning measures to uphold the principles and objectives of the 1925 Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare.[11]

(*d*) Conventional weapons

The preparatory process for the 2001 United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects got under way during the year, reflecting the growing awareness and understanding of the need to address the excessive and destabilizing accumulation and transfer of small arms and light weapons.

The two United Nations instruments, the Register of Conventional Arms and the standardized instrument for international reporting of military expenditures, contributed to building transparency in military matters. However, in spite of the fact that for the first time in a number of years the General Assembly adopted only one resolution on transparency in armaments and there was a substantial increase in the number of reporting States, it was clear from the deliberations in the First Committee and the Conference on Disarmament that differences among Member States regarding the further development of the Register persisted. Consequently, the Group of Governmental Experts on the Register could not agree on an expansion of the scope of the Register, although it made a number of recommendations concerning its implementation.

Further positive developments concerning the two legal instruments dealing with anti-personnel mines were the holding of the Second Annual Conference of the States Parties to the 1996 Amended Protocol II on prohibitions or restrictions on the use of mines, booby traps and other devices[12] and the Second Meeting of the States Parties to the 1997 Mine-Ban Convention,[13] at which the States parties reaffirmed their commitments to the objectives of, and reviewed the implementation of their respective instruments. Furthermore, States parties initiated the preparatory process for the Second Review Conference of the 1980 Convention on Certain Conventional Weapons.[14]

Consideration by the General Assembly

The General Assembly, pursuant to recommendations of the First Committee, took action on six draft resolutions and one draft decision dealing with conventional weapons, including resolution 55/33 F of 20 November 2000, entitled "Assistance to States for curbing the illicit traffic in small arms and collecting them", introduced by Mali, and resolution 55/33 U of the same date, entitled "Transparency in armaments", introduced by the Netherlands. Regarding the latter, several States explained their abstentions. For example, States Members of the United Nations that were members of the League of Arab States and others wanted to see the United Nations

Register of Conventional Arms include data on advanced conventional weapons, weapons of mass destruction and up-to-date technology with military applications. China stated that it could not support the draft resolution because the United States' registration of its arms sales to "Taiwan" had politicized the Register.

Norway introduced the draft of resolution 55/33 V, also of 20 November, entitled "Implementation of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction [Mine-Ban Convention]" in the First Committee. Nine States had explained their abstentions on the basis of their security concerns, but supported the humanitarian goal of the Convention and had taken and were taking such steps as implementation of moratoriums on exports of anti-personnel mines to alleviate the suffering caused by those weapons. Cuba, Egypt, the Islamic Republic of Iran, Israel, Pakistan and the Republic of Korea explained their individual security situations that necessitated the use of mines in self-defence.

(*e*) Regional disarmament

The General Assembly took action, on 20 November 2000, on the recommendation of the First Committee, on 14 draft resolutions concerning regional disarmament.

With regard to nuclear-weapon-free zones, Uzbekistan had introduced in the First Committee the revised draft of resolution 55/33 W, entitled "Establishment of a nuclear-weapon-free zone in Central Asia". India had stated that it was prepared to support the early realization of such a zone. Egypt had introduced the draft of resolution 55/30, entitled "Establishment of a nuclear-weapon-free zone in the region of the Middle East", and Israel had joined the consensus in the First Committee because it supported the eventual establishment of a mutually verifiable nuclear-weapon-free zone in the region. Brazil had introduced the draft of resolution 55/33 I, entitled "Nuclear-weapon-free southern hemisphere and adjacent areas". Regarding the latter, the United Kingdom of Great Britain and Northern Ireland, also speaking on behalf of France and the United States, explained that it could not vote for the draft resolution, since the sponsors had refused to include the applicable passages of the 1982 Convention on the Law of the Sea[15] as well as reassurance that the fundamental freedom of the seas would not be affected.

Concerning the issue of conventional disarmament at regional levels, Burundi introduced in the First Committee the draft of resolution 55/34 B, entitled "Regional confidence-building measures: activities of the United Nations Standing Advisory Committee on Security Questions in Central Africa", and the former Yugoslav Republic of Macedonia introduced the draft of resolution 55/27, entitled "Maintenance of international security—good-neighbourliness, stability and development of South-Eastern Europe".

(*f*) Other issues

The General Assembly took action on a number of other issues within the disarmament field, including resolution 55/33 K also of 20 November 2000, entitled "Observance of environmental norms in the drafting and implementation of agreements on disarmament and arms control", which had been introduced by South

Africa, on behalf of the Member States that were members of the Movement of Non-Aligned Countries. During the consideration of the draft in the First Committee, the United States, which later abstained in the vote, doubted the draft's relevance to the work of the First Committee and maintained that States parties to bilateral, regional and/or multilateral arms control and disarmament agreements should take relevant environmental concerns into account when carrying them out.

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2. OTHER POLITICAL AND SECURITY ISSUES

(*a*) Membership in the United Nations

During 2000, two States joined the United Nations, bringing the total number of Member States to 189. The new Member States are Tuvalu and Yugoslavia.

State	*Resolution*
Tuvalu	55/1
Yugoslavia	55/12

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

The Legal Subcommittee held its thirty-ninth session at the United Nations Office at Vienna from 27 March to 6 April 2000,[16] holding a total of 17 meetings.

Following the 623rd meeting of the Legal Subcommittee, a symposium entitled "Legal Aspects of Commercialization of Space Activities", sponsored by the International Institute of Space Law in cooperation with the European Centre for Space Law, was held.

The Subcommittee noted with satisfaction the creation by the United Nations Office for Outer Space Affairs of a preliminary database of publicly available national legislation relating to outer space and agreed that the United Nations Secretariat should continue its efforts to maintain and further develop the database.

Regarding the new agenda item entitled "Information on the activities of international organizations relating to space law", the Legal Subcommittee noted that various international organizations had been invited by the Secretariat to report to the Subcommittee on their activities relating to space law, and the Subcommittee had before it two conference room papers, containing compilations of written reports received.[17]

The Legal Subcommittee re-established its Working Group on the agenda item entitled "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". For its consideration of the item, the Working Group had a number of documents before it, and on the basis of comments made during the discussion and following informal consultations among delegations the Working Group amended and adopted a

revised version of a conference room paper (A/AC.105/C.2/2000/CRP.7) originally submitted by France and other sponsors, entitled "Some aspects concerning the use of the geostationary orbit".[18]

Concerning the item entitled "Review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space", the Subcommittee had before it, for information, copies of a notification made in accordance with principle 4 of the Principles by the Government of the United States,[19] providing information regarding the availability of the Cassini spacecraft safety assessment results.

In considering the item entitled "Review of the status of the five international legal instruments governing outer space",[20] the Subcommittee had a number of documents before it. The Legal Subcommittee endorsed the recommendations of its Working Group that, in order to achieve the fullest adherence to the five international instruments governing outer space:

(*a*) States that had not yet become parties to the five international treaties governing outer space should be invited to consider ratifying or acceding to those treaties in order to achieve the widest applicability of the principles and to enhance the effectiveness of international space law;

(*b*) States should be invited to consider making a declaration in accordance with paragraph 3 of General Assembly resolution 2777 (XXVI) of 29 November 1971, thereby binding themselves on a reciprocal basis to the decisions of the Claims Commission established in the event of a dispute in terms of the provisions of the Liability Convention;

(*c*) The issue of the strict compliance by States with the provisions of the international legal instruments governing outer space to which they were currently parties should be examined further with a view to identifying measures to encourage full compliance, taking into account the interrelated nature of the principles and rules governing outer space.

The Legal Subcommittee established a Working Group on the agenda item entitled "Review of the concept of the 'launching State'" and the Chairman stated that the Group should consider two questions over the course of the three-year work plan: (*a*) whether the definition of the "launching State" in the Liability Convention and the Registration Convention still covered all existing activities; and (*b*) what steps could be taken to improve application of the concept in the context of new developments in space transportation. During the session, a number of presentations by various delegations were made to the Working Group.[21]

Concerning the new agenda item entitled "Proposals to the Committee on the Peaceful Uses of Outer Space for new items to be considered by the Legal Subcommittee at its fortieth session", during the course of discussions, the following additional proposals were made for new single issues/items for discussion to be included in the provisional agenda of the fortieth session of the Legal Subcommittee:

(*a*) Matters relating to the low level of ratification of the Moon Agreement,[22] proposed by the delegation of Australia;

(*b*) Consideration of the preliminary draft of the Unidroit convention on international interests in mobile equipment and the preliminary draft protocol thereto on matters specific to space property, proposed by the delegation of Italy;

(*c*) Issues relating to protection of intellectual property rights in connection with outer space activities, proposed by the delegation of South Africa;

(*d*) Commercial aspects of space activities, proposed by the delegation of Argentina.

The Committee on the Peaceful Uses of Outer Space, at its forty-third session held at the United Nations Office at Vienna from 7 to 16 June 2000, took note of the report of the Legal Subcommittee on its thirty-ninth session. The Committee, on the basis of the proposals submitted by the Legal Subcommittee and the discussions conducted, agreed upon a draft provisional agenda for the fortieth session of the Subcommittee, including the new item entitled "Consideration of the draft convention of the International Institute for the Unification of Private Law (Unidroit) on international interests in mobile equipment and the preliminary draft protocol thereto on matters specific to space property".

Consideration by the General Assembly

The General Assembly, on 8 December 2000, on the recommendation of the Special Political and Decolonization Committee (Fourth Committee) adopted without a vote resolution 55/122 entitled "International cooperation in the peaceful uses of outer space". In the resolution, the Assembly noted the agreement reached by the Legal Subcommittee on the question of the character and utilization of the geostationary orbit and the subsequent endorsement of the agreement by the Committee.[23] The Assembly further noted that the Legal Subcommittee, at its fortieth session, would submit its proposals to the Committee for new items to be considered by the Subcommittee at its forty-first session, in 2002.

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

The General Assembly, on 8 December 2000, on the recommendation of the Special Political and Decolonization Committee (Fourth Committee), adopted, without a vote, resolution 55/135 on the subject. In the resolution the Assembly took note of the report of the Secretary-General on the work of the Organization,[24] the report of the Panel on United Nations Peace Operations[25] and the report of the Secretary-General on the implementation of the report of the Panel.[26] The Assembly further welcomed the report of the Special Committee on Peacekeeping Operations,[27] and endorsed the proposals, recommendations and conclusions of the Special Committee, contained in its report.

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

(*a*) Sixth special session of the Governing Council of the United Nations Environment Programme[28]

The first Global Ministerial Environment Forum/the sixth special session of the Governing Council of UNEP was held in Malmö, Sweden, from 29 to 31 May 2000. Decisions adopted by the Governing Council included the Malmö Ministerial

Declaration, in which it was concluded, inter alia, that poverty could be decreased by half by 2015 without degrading the environment; environmental security could be ensured through early warning; environmental considerations could be better integrated into economic policy; and there could be better coordination of legal instruments.[29]

Consideration by the General Assembly

At its fifty-fifth session, the General Assembly, on the recommendation of the Second Committee, adopted on 20 December 2000 a number of resolutions and decisions concerning the environment. Among them was resolution 55/198, adopted without a vote, in which the Assembly took note of the report of the Secretary-General on international institutional arrangements related to environment and sustainable development.[30] In the same resolution, the Assembly encouraged the conferences of the parties to, and the secretariats of, the 1992 United Nations Framework Convention on Climate Change,[31] the 1992 Convention on Biological Diversity[32] and the 1994 United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, particularly in Africa,[33] and other international instruments related to environment and sustainable development, as well as relevant organizations, especially UNEP, to continue their work for enhancing complementarities among them with full respect for the status of the secretariats of the conventions and the autonomous decision-making prerogatives of the conferences of the parties to the conventions concerned, and to strengthen cooperation with a view to facilitating progress in the implementation of those conventions at the international, regional and national levels and to report thereon to their respective conferences of the parties.

By its resolution 55/199, adopted without a vote, the General Assembly, recalling that Agenda 21[34] and the Rio Declaration on Environment and Development, adopted at the 1992 United Nations Conference on Environment and Development,[35] should constitute the framework within which the other results of the Conference were reviewed, and from within which new challenges and opportunities that had emerged since the 1992 Rio Conference were addressed, and taking note of the report of the Secretary-General on ensuring effective preparations for the 10-year review of progress achieved in the implementation of Agenda 21 and the Programme for the Further Implementation of Agenda 21,[36] decided to organize the 10-year review of progress achieved in the implementation of the outcome of the United Nations Conference on Environment and Development in 2002 at the summit level to reinvigorate the global commitment to sustainable development; the summit would be held in South Africa, and would be called the World Summit on Sustainable Development.

The General Assembly, by its resolution 55/196, adopted without a vote, proclaimed the year 2003 as the International Year of Freshwater, and invited the Subcommittee on Water Resources of the Administrative Committee on Coordination to serve as the coordinating entity for the Year. In its resolution 55/205, adopted without a vote, the Assembly took note of the report of the Secretary-General on the promotion of new and renewable sources of energy, including the implementation of the World Solar Programme, 1996-2005,[37] and invited the international community to support, as appropriate, including by providing financial resources, the efforts of developing countries to move towards sustainable patterns of energy production and consumption.

And by its decision 55/443, the General Assembly expressed its regret that negotiations could not be completed at the sixth session of the Conference of the Parties to the United Nations Framework Convention on Climate Change, held at The Hague in November 2000, and called upon all parties to intensify consultations to reach a successful conclusion at a resumed session.

(*b*) Economic issues

A number of resolutions and decisions in the economic area were adopted by the General Assembly at its fifty-fifth session, on the recommendations of the Second Committee, on 20 December 2000, including: resolution 55/182, entitled "International trade and development"; resolution 55/183, entitled "Commodities"; resolution 55/184, entitled "Enhancing international cooperation towards a durable solution to the external debt problem of developing countries"; resolution 55/186, entitled "Towards a strengthened and stable international financial architecture responsive to the priorities of growth and development, especially in developing countries, and to the promotion of economic and social equity"; resolution 55/187, entitled "Industrial development cooperation"; resolution 55/190, entitled "Implementation of the commitments and policies agreed upon in the Declaration on International Economic Cooperation, in particular the Revitalization of Economic Growth and Development of the Developing Countries, and implementation of the International Development Strategy for the Fourth United Nations Development Decade"; resolution 55/191, entitled "Integration of the economies in transition into the world economy"; resolution 55/193, entitled "High-level dialogue on strengthening international economic cooperation for development through partnership"; and decision 55/437, entitled "Macroeconomic policy questions".

(*c*) Review of the problem of human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS) in all its aspects

The General Assembly, on 3 November 2000, without reference to a Main Committee, adopted without a vote resolution 55/13, in which it decided to convene, as a matter of urgency, a special session of the General Assembly, from 25 to 27 June 2001, to review and address the problem of HIV/AIDS in all its aspects, as well as to secure a global commitment to enhancing coordination and the intensification of national, regional and international efforts to combat it in a comprehensive manner.

(*d*) Crime prevention

The General Assembly, on 15 November 2000, without reference to a Main Committee, adopted without a vote resolution 55/25 in which it adopted the United Nations Convention against Transnational Organized Crime; the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, and the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime. The texts of the three instruments were annexed to the resolution.[38]

Furthermore, on the recommendation of the Second Committee, the General Assembly, on 20 December 2000, adopted without a vote resolution 55/188, in which, taking note of the report of the Secretary-General on the prevention of corrupt practices and illegal transfer of funds,[39] it called for further international and national measures to combat corrupt practices and bribery in international transactions and for international cooperation in support of those measures.

The General Assembly, on the recommendation of the Third Committee, adopted a number of other resolutions in this area on 4 December 2000. In resolution 55/59, adopted without a vote, it endorsed the Vienna Declaration on Crime and Justice: Meeting the Challenges of the Twenty-first Century, which reads as follows:

Vienna Declaration on Crime and Justice: Meeting the Challenges of the Twenty-first Century

We the States Members of the United Nations,

Concerned about the impact on our societies of the commission of serious crimes of a global nature, and convinced of the need for bilateral, regional and international cooperation in crime prevention and criminal justice,

Concerned in particular about transnational organized crime and the relationships between its various forms,

Convinced that adequate prevention and rehabilitation programmes are fundamental to an effective crime control strategy and that such programmes should take into account social and economic factors that may make people more vulnerable to and likely to engage in criminal behaviour,

Stressing that a fair, responsible, ethical and efficient criminal justice system is an important factor in the promotion of economic and social development and of human security,

Aware of the promise of restorative approaches to justice that aim to reduce crime and promote the healing of victims, offenders and communities,

Having assembled at the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in Vienna from 10 to 17 April 2000 to decide to take more effective concerted action, in a spirit of cooperation, to combat the world crime problem,

Declare as follows:

1. We note with appreciation the results of the regional preparatory meetings for the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

2. We reaffirm the goals of the United Nations in the field of crime prevention and criminal justice, specifically the reduction of criminality, more efficient and effective law enforcement and administration of justice, respect for human rights and fundamental freedoms, and promotion of the highest standards of fairness, humanity and professional conduct.

3. We emphasize the responsibility of each State to establish and maintain a fair, responsible, ethical and efficient criminal justice system.

4. We recognize the necessity of closer coordination and cooperation among States in combating the world crime problem, bearing in mind that action against it is a common and shared responsibility. In this regard, we acknowledge the need to develop and promote technical cooperation activities to assist States in their efforts to strengthen their domestic criminal justice systems and their capacity for international cooperation.

5. We shall accord high priority to the completion of the negotiation of the United Nations Convention against Transnational Organized Crime and the protocols thereto, taking into account the concerns of all States.

6. We support efforts to assist States in capacity-building, including in obtaining training and technical assistance and in developing legislation, regulations and expertise, with a view to facilitating the implementation of the Convention and the protocols thereto.

7. Consistent with the goals of the Convention and the protocols thereto, we shall endeavour:

(*a*) To incorporate a crime prevention component into national and international development strategies;

(*b*) To intensify bilateral and multilateral cooperation, including technical cooperation, in the areas to be covered by the Convention and the protocols thereto;

(*c*) To enhance donor cooperation in areas with crime prevention aspects;

(*d*) To strengthen the capability of the United Nations Centre for International Crime Prevention, as well as the United Nations Crime Prevention and Criminal Justice Programme network, to assist States, at their request, in building capacity in areas to be covered by the Convention and the protocols thereto.

8. We welcome the efforts being made by the United Nations Centre for International Crime Prevention to develop, in cooperation with the United Nations Interregional Crime and Justice Research Institute, a comprehensive global overview of organized crime as a reference tool and to assist Governments in policy and programme development.

9. We reaffirm our continued support for and commitment to the United Nations and to the United Nations Crime Prevention and Criminal Justice Programme, especially the Commission on Crime Prevention and Criminal Justice and the United Nations Centre for International Crime Prevention, the United Nations Interregional Crime and Justice Research Institute and the institutes of the Programme network, and resolve to strengthen the Programme further through sustained funding, as appropriate.

10. We undertake to strengthen international cooperation in order to create a conducive environment for the fight against organized crime, promoting growth and sustainable development and eradicating poverty and unemployment.

11. We commit ourselves to taking into account and addressing, within the United Nations Crime Prevention and Criminal Justice Programme, as well as within national crime prevention and criminal justice strategies, any disparate impact of programmes and policies on women and men.

12. We also commit ourselves to the development of action-oriented policy recommendations based on the special needs of women as criminal justice practitioners, victims, prisoners and offenders.

13. We emphasize that effective action for crime prevention and criminal justice requires the involvement, as partners and actors, of Governments, national, regional, interregional and international institutions, intergovernmental and non-governmental organizations and various segments of civil society, including the mass media and the private sector, as well as the recognition of their respective roles and contributions.

14. We commit ourselves to the development of more effective ways of collaborating with one another with a view to eradicating the scourge of trafficking in persons, especially women and children, and the smuggling of migrants. We shall also consider supporting the global programme against trafficking in persons developed by the United Nations Centre for International Crime Prevention and the United Nations Interregional Crime and Justice Research Institute, which is subject to close consultation with States and review by the Commission on Crime Prevention and Criminal Justice, and we establish 2005 as the target year for achieving a significant decrease in the incidence of those crimes worldwide and, where that is not attained, for assessing the actual implementation of the measures advocated.

15. We also commit ourselves to the enhancement of international cooperation and mutual legal assistance to curb illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, and we establish 2005 as the target year for achieving a significant decrease in their incidence worldwide.

16. We further commit ourselves to taking enhanced international action against corruption, building on the United Nations Declaration against Corruption and Bribery in International Commercial Transactions, the International Code of Conduct for Public Officials, relevant regional conventions and regional and global forums. We stress the urgent need to develop an

effective international legal instrument against corruption, independent of the United Nations Convention against Transnational Organized Crime, and we invite the Commission on Crime Prevention and Criminal Justice to request the Secretary-General to submit to it at its tenth session, in consultation with States, a thorough review and analysis of all relevant international instruments and recommendations as part of the preparatory work for the development of such an instrument. We shall consider supporting the global programme against corruption developed by the United Nations Centre for International Crime Prevention and the United Nations Interregional Crime and Justice Research Institute, which is subject to close consultation with States and review by the Commission on Crime Prevention and Criminal Justice.

17. We reaffirm that combating money-laundering and the criminal economy constitutes a major element of the strategies against organized crime, established as a principle in the Naples Political Declaration and Global Action Plan against Organized Transnational Crime, adopted by the World Ministerial Conference on Organized Transnational Crime, held at Naples, Italy, from 21 to 23 November 1994. We are convinced that the success of this action rests upon setting up broad regimes and coordinating appropriate mechanisms to combat the laundering of the proceeds of crime, including the provision of support to initiatives focusing on States and territories offering offshore financial services that allow the laundering of the proceeds of crime.

18. We decide to develop action-oriented policy recommendations on the prevention and control of computer-related crime, and we invite the Commission on Crime Prevention and Criminal Justice to undertake work in this regard, taking into account the ongoing work in other forums. We also commit ourselves to working towards enhancing our ability to prevent, investigate and prosecute high-technology and computer-related crime.

19. We note that acts of violence and terrorism continue to be of grave concern. In conformity with the Charter of the United Nations and taking into account all the relevant General Assembly resolutions, we shall together, in conjunction with our other efforts to prevent and to combat terrorism, take effective, resolute and speedy measures with respect to preventing and combating criminal activities carried out for the purpose of furthering terrorism in all its forms and manifestations. With this in view, we undertake to do our utmost to foster universal adherence to the international instruments concerned with the fight against terrorism.

20. We also note that racial discrimination, xenophobia and related forms of intolerance continue, and we recognize the importance of taking steps to incorporate into international crime prevention strategies and norms measures to prevent and combat crime associated with racism, racial discrimination, xenophobia and related forms of intolerance.

21. We affirm our determination to combat violence stemming from intolerance on the basis of ethnicity, and we resolve to make a strong contribution, in the area of crime prevention and criminal justice, to the planned World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

22. We recognize that the United Nations standards and norms in crime prevention and criminal justice contribute to efforts to deal with crime effectively. We also recognize the importance of prison reform, the independence of the judiciary and the prosecution authorities, and the International Code of Conduct for Public Officials. We shall endeavour, as appropriate, to use and apply the United Nations standards and norms in crime prevention and criminal justice in national law and practice. We undertake to review relevant legislation and administrative procedures, as appropriate, with a view to providing the necessary education and training to the officials concerned and ensuring the necessary strengthening of institutions entrusted with the administration of criminal justice.

23. We also recognize the value of the model treaties on international cooperation in criminal matters as important tools for the development of international cooperation, and we invite the Commission on Crime Prevention and Criminal Justice to call upon the United Nations Centre for International Crime Prevention to update the *Compendium of United Nations Standards and Norms in Crime Prevention and Criminal Justice* in order to provide the most up-to-date versions of the model treaties to States seeking to utilize them.

24. We further recognize with great concern that juveniles in difficult circumstances are often at risk of becoming delinquent or easy candidates for recruitment by criminal groups, including groups involved in transnational organized crime, and we commit ourselves to undertaking countermeasures to prevent this growing phenomenon and to including, where necessary, provisions for juvenile justice in national development plans and international development strategies and to including the administration of juvenile justice in our funding policies for development cooperation.

25. We recognize that comprehensive crime prevention strategies at the international, national, regional and local levels must address the root causes and risk factors related to crime and victimization through social, economic, health, educational and justice policies. We urge the development of such strategies, aware of the proven success of prevention initiatives in numerous States and confident that crime can be reduced by applying and sharing our collective expertise.

26. We commit ourselves to according priority to containing the growth and overcrowding of pre-trial and detention prison populations, as appropriate, by promoting safe and effective alternatives to incarceration.

27. We decide to introduce, where appropriate, national, regional and international action plans in support of victims of crime, such as mechanisms for mediation and restorative justice, and we establish 2002 as a target date for States to review their relevant practices, to develop further victim support services and awareness campaigns on the rights of victims and to consider the establishment of funds for victims, in addition to developing and implementing witness protection policies.

28. We encourage the development of restorative justice policies, procedures and programmes that are respectful of the rights, needs and interests of victims, offenders, communities and all other parties.

29. We invite the Commission on Crime Prevention and Criminal Justice to design specific measures for the implementation of and follow-up to the commitments that we have undertaken in the present Declaration.

In its resolution 55/60, also adopted without a vote, the General Assembly urged Governments, in their efforts to prevent and combat crime, especially transnational crime, and to maintain well-functioning criminal justice systems, to be guided by the results of the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders.[40] And in its resolution 55/61, likewise adopted without a vote, the Assembly recognized that an effective international legal instrument against corruption, independent of the United Nations Convention against Transnational Organized Crime (see resolution 55/25 above), was desirable, and decided to begin the elaboration of such an instrument in Vienna at the headquarters of the United Nations Centre for International Crime Prevention of the United Nations Office for Drug Control and Crime Prevention. By the same resolution, the Assembly requested the Secretary-General to prepare a report analysing all relevant international legal instruments, other documents and recommendations addressing corruption (see the indicative list of such legal instruments, documents and recommendations, below), considering, inter alia, obligations as regards criminalization of all forms of corruption and international cooperation, regulatory aspects of corruption and the relationship between corruption and money-laundering, and to submit it to the Commission on Crime Prevention and Criminal Justice at an inter-sessional meeting, in order to allow Member States to provide comments to the Commission prior to its tenth session; and requested the Commission, at its tenth session, to review and assess the report of the Secretary-General and, on that basis, to provide recommendations and guidance as to future work on the development of a legal instrument against corruption. The indicative list of international legal instruments, documents and recommendations against corruption reads as follows:

Indicative list of international legal instruments, documents and recommendations against corruption

(*a*) International Code of Conduct for Public Officials;

(*b*) United Nations Declaration against Corruption and Bribery in International Commercial Transactions;

(*c*) General Assembly resolution 54/128, in which the Assembly subscribed to the conclusions and recommendations of the Expert Group Meeting on Corruption and its Financial Channels, held in Paris from 30 March to 1 April 1999;

(*d*) Report of the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders;

(*e*) Inter-American Convention against Corruption adopted by the Organization of American States on 29 March 1996;

(*f*) Recommendation 32 of the Senior Experts Group on Transnational Organized Crime endorsed by the Political Group of Eight in Lyon, France, on 29 June 1996;

(*g*) The Twenty Guiding Principles for the Fight against Corruption adopted by the Committee of Ministers of the Council of Europe on 6 November 1997;

(*h*) Convention on Combating Bribery of Foreign Public Officials in International Business Transactions adopted by the Organisation for Economic Cooperation and Development on 21 November 1997;

(*i*) Agreement Establishing the Group of States against Corruption adopted by the Committee of Ministers of the Council of Europe on 1 May 1999, and the Criminal Law Convention on Corruption adopted by the Committee of Ministers of the Council of Europe on 4 November 1998;

(*j*) Joint Action on corruption in the private sector adopted by the Council of the European Union on 22 December 1998;

(*k*) Declarations made by the first Global Forum on Fighting Corruption, held in Washington, D.C., from 24 to 26 February 1999, and the second Global Forum, to be held in The Hague in 2001;

(*l*) Civil Law Convention on Corruption adopted by the Committee of Ministers of the Council of Europe on 9 September 1999;

(*m*) Model Code of Conduct for Public Officials adopted by the Committee of Ministers of the Council of Europe on 11 May 2000;

(*n*) Principles to Combat Corruption in African Countries of the Global Coalition for Africa;

(*o*) Conventions and related protocols of the European Union on corruption;

(*p*) Best practices such as those compiled by the Basel Committee on Banking Supervision, the Financial Action Task Force on Money-Laundering and the International Organization of Securities Commissions.

Other resolutions adopted by the General Assembly at its fifty-fifth session in the area of crime prevention on 4 December 2000 include: resolution 55/62, entitled "United Nations African Institute for the Prevention of Crime and the Treatment of Offenders"; resolution 55/63, entitled "Combating the criminal misuse of information technologies"; resolution 55/64, entitled "Strengthening of the United Nations Crime Prevention and Criminal Justice Programme, in particular its technical cooperation capacity"; resolution 55/66, entitled "Working towards the elimination of crimes against women committed in the name of honour"; resolution 55/67, entitled "Traffic in women and girls"; and resolution 55/68, entitled "Elimination of all forms of violence against women, including crimes identified in the outcome document of the twenty-third special session of the General Assembly, entitled 'Women 2000: gender equality, development and peace for the twenty-first century'".

(*e*) International cooperation against the world drug problem

Status of international instruments

During the course of 2000, one more State became a party to the 1961 Single Convention on Narcotic Drugs,[41] bringing the total number of parties to 144; six more States became parties to the 1971 Convention on Psychotropic Substances,[42] bringing the total to 167; one more State became a party to the 1972 Protocol amending the Single Convention on Narcotic Drugs, 1961,[43] bringing the total to 111; four more States became parties to the 1975 Single Convention on Narcotic Drugs, 1961, as amended by the Protocol of 25 March 1972 amending the Single Convention on Narcotic Drugs, 1961,[44] bringing the total number of parties to 161; and four more States became parties to the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances,[45] bringing the total to 158.

Consideration by the General Assembly

The General Assembly, at its fifty-fifth session, on the recommendation of the Third Committee, adopted without a vote resolution 55/65 of 4 December 2000, in which it welcomed the renewed commitment made in the United Nations Millennium Declaration[46] to counter the world drug problem. The Assembly also urged competent authorities, at the international, regional and national levels, to implement the outcome of the twentieth special session of the General Assembly, devoted to countering the world drug problem, within the agreed time frames, in particular the high-priority practical measures at the international, regional or national level, as indicated in the Political Declaration,[47] the Action Plan[48] for the Implementation of the Declaration on the Guiding Principles of Drug Demand Reduction[49] and the measures to enhance international cooperation to counter the world drug problem,[50] including the Action Plan against Illicit Manufacture, Trafficking and Abuse of Amphetamine-type Stimulants and Their Precursors,[51] the measures to prevent the illicit manufacture, import, export, trafficking, distribution and diversion of precursors used in the illicit manufacture of narcotic drugs and psychotropic substances,[52] the measures to promote judicial cooperation,[53] the measures to counter money-laundering[54] and the Action Plan on International Cooperation on the Eradication of Illicit Drug Crops and on Alternative Development.[55] By the same resolution, the 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,[56] the Global Programme of Action,[57] and the outcome of the special session of the General Assembly devoted to countering the world drug problem and relevant consensus documents.

(*f*) Human rights questions

Status and implementation of international instruments

International Covenants on Human Rights

In 2000, one more State became a party to the 1966 International Covenant on Economic, Social and Cultural Rights,[58] bringing the total number of States parties to 143; three more States became parties to the 1966 International Covenant on Civil and Political Rights,[59] bringing the total to 147; four more States became parties

to the 1966 Optional Protocol to the International Covenant on Civil and Political Rights,[60] bringing the total to 99; and three more States became parties to the 1989 Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the Abolition of the Death Penalty,[61] bringing the total to 44.

The General Assembly, at its fifty-fifth session, in its decision 55/422 of 4 December 2000, adopted on the recommendation of the Third Committee, took note of the report of the Third Committee,[62] concerning the report of the United Nations High Commissioner for Human Rights.[63]

International Convention on the Elimination of All Forms of Racial Discrimination of 1966[64]

In 2000, two more States became parties to the Convention, bringing the total number of States parties to 157. Five States became parties to the 1992 Amendment to article 8 of the Convention,[65] bringing the total to 30.

At its fifty-fifth session, the General Assembly, on the recommendation of the Third Committee, adopted without a vote resolution 55/81 of 4 December 2000, in which it took note of the report of the Secretary-General[66] on the status of the Convention. Other resolutions adopted in this area by the Assembly on the same date include: resolution 55/82, entitled "Measures to be taken against political platforms and activities based on doctrines of superiority which are based on racial discrimination or ethnic exclusiveness and xenophobia, including, in particular, neo-Nazism"; resolution 55/83, entitled "Measures to combat contemporary forms of racism and racial discrimination, xenophobia and related intolerance"; and resolution 55/84, entitled "Third Decade to Combat Racism and Racial Discrimination and the convening of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance".

Convention on the Elimination of All Forms of Discrimination against Women of 1979[67]

In 2000, one more State became a party to the Convention, bringing the total number of States parties to 166. Moreover, one more State became a party to the 1995 Amendment to article 20, paragraph 1, of the Convention,[68] bringing the total number to 24. Fourteen States became parties to the 1999 Optional Protocol to the Convention.[69]

The General Assembly, on the recommendation of the Third Committee, adopted without a vote resolution 55/70 of 4 December 2000, in which it welcomed the report of the Secretary-General on the status of the Convention.[70] The Assembly also adopted without a vote resolution 55/71 of the same date, entitled "Follow-up to the Fourth World Conference on Women and full implementation of the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly".

Convention against the Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1984[71]

In 2000, five more States became parties to the Convention, bringing the total number of States to 123. The number of States parties to the 1992 Amendments to articles 17(7) and 18(5) of the Convention[72] remained at 23.

The General Assembly, on the recommendation of the Third Committee, adopted without a vote resolution 55/89 of 4 December 2000, in which it welcomed the work of the Committee against Torture, and took note of the report of the Committee,[73] submitted in accordance with article 24 of the Convention. The Assembly also took note with appreciation of the interim report of the Special Rapporteur of the Commission on Human Rights on the question of torture and other cruel, inhuman or degrading treatment or punishment.[74]

Convention on the Rights of the Child of 1989[75]

In 2000, the number of States parties to the Convention remained at 191. Twenty-five States became parties to the 1995 Amendment to article 43(2) of the Convention,[76] bringing the number to 96; three States became parties to the 2000 Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict;[77] and one State became a party to the 2000 Optional Protocol to the Convention on the sale of children, child prostitution and child pornography.[78]

The General Assembly, on the recommendation of the Third Committee, adopted decision 55/418 of 4 December 2000, wherein it took note of the report of the Secretary-General on the status of the Convention.[79] The Assembly also adopted without reference to a Main Committee resolution 55/26 of 20 November 2000, concerning the special session of the General Assembly on children, to be held in 2001, as well as resolution 55/47 of 29 November 2000, concerning the International Decade for a Culture of Peace and Non-Violence for the Children of the World, 2001-2010.

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

In 2000, three additional States became parties to the Convention, bringing the total number to 15.

The General Assembly, on the recommendation of the Third Committee, adopted without a vote resolution 55/88 of 4 December 2000, wherein it took note of the report of the Secretary-General on the status of the Convention.[81]

Other human rights issues

The General Assembly, on the recommendation of the Third Committee, adopted a number of other human rights–related resolutions and decisions during its fifty-fifth session, including resolution 55/90 of 4 December 2000, entitled "Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights", adopted without a vote, in which the Assembly welcomed the submission of the reports of the persons chairing the human rights treaty bodies on their eleventh[82] and twelfth[83] meetings, held at Geneva from 31 May to 4 June 1999 and 5 to 8 June 2000, respectively, and took note of their conclusions and recommendations. The Assembly also welcomed the comments by Governments, United Nations bodies and specialized agencies, non-governmental organizations and interested persons on the final report of the independent expert on enhancing the long-term effectiveness of the United Nations human rights treaty system[84] and the report of the Secretary-General thereon.[85]

By its resolution 55/99, entitled "Strengthening of the rule of law", adopted without a vote on 4 December 2000, the General Assembly welcomed the report of the Secretary-General,[86] and affirmed that the Office of the United Nations High Commissioner for Human Rights remained the focal point for coordinating system-wide attention for human rights, democracy and the rule of law. In its resolution 55/111, entitled "Extrajudicial summary or arbitrary executions", adopted without a vote on 4 December 2000, the Assembly strongly condemned once again all such practices, and noted that impunity continued to be a major cause of the perpetuation of such violations of human rights. The Assembly furthermore acknowledged the historic significance of the adoption of the Rome Statute of the International Criminal Court,[87] and took note of the interim report of the Special Rapporteur of the Commission on Human Rights on extrajudicial, summary or arbitrary executions.[88]

(*g*) Refugee issues

Status of international instruments

During 2000, three more States became parties to the 1951 Convention Relating to the Status of Refugees,[89] bringing the total number of States parties to 137; two more States became parties to the 1967 Protocol Relating to the Status of Refugees,[90] bringing the total number of States parties to 136; four more States became parties to the 1954 Convention Relating to the Status of Stateless Persons,[91] bringing the total number of States parties to 53; and two additional States became parties to the 1961 Convention on the Reduction of Statelessness,[92] bringing the total number of States parties to 23.

Office of the United Nations High Commissioner for Refugees[93]

The Executive Committee of the Programme of the United Nations High Commissioner for Refugees held its fifty-first session in Geneva from 2 to 6 October 2000, during which it adopted a number of decisions and conclusions concerning international protection, the Conference of Independent States Conference follow-up, the safety of UNHCR staff, the fiftieth anniversary of UNHCR and World Refugee Day.

Consideration by the General Assembly

At its fifty-fifth session, the General Assembly adopted on the recommendation of the Third Committee, adopted on 4 December 2000 several resolutions and a decision concerning the Office of the United Nations High Commissioner for Refugees. These included resolution 55/72, entitled "Enlargement of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees"; resolution 55/74, entitled "Office of the United Nations High Commissioner for Refugees"; resolution 55/75, entitled "Ad hoc Committee of the General Assembly for the announcement of voluntary contributions to the Programme of the United Nations High Commissioner for Refugees"; resolution 55/76, entitled "Fiftieth anniversary of the Office of the United Nations High Commissioner for Refugees and World Refugee Day"; and decision 55/417, entitled "Documents relating to the report of the United Nations High Commissioner for Refugees, questions relating to refugees, returnees and displaced persons and humanitarian questions".

(*h*) Ad Hoc Tribunals for Rwanda and the Former Yugoslavia

The General Assembly adopted on 20 November 2000, without reference to a Main Committee, decisions 55/412 and 55/413, in which it took note respectively of the fifth 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,[94] and the seventh 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,[95] respectively.

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4. LAW OF THE SEA

Status of the 1982 United Nations Convention on the Law of the Sea[96]

In 2000, three more States (Luxembourg, Maldives and Nicaragua) became parties to the Convention, bringing the total to 135.

Report of the Secretary-General[97]

As related in the report of the Secretary-General, the International Tribunal for the Law of the Sea[98] has considered five cases since its first session in October 1996: *M/V Saiga (No. 1)*; *M/V Saiga (No. 2)*; *Southern Bluefin Tuna (Nos. 3 and 4)*; and the *Camouco* case. Regarding the latter, it also was reported that on 17 January 2000 the Tribunal had received an application from the Government of Panama against the Government of France for the prompt release of a vessel. The dispute concerned the arrest in September 1999 of the fishing vessel *Camouco* by a French frigate allegedly for unlawful fishing in the exclusive economic zone of Crozet (French Southern and Antarctic Territories). The vessel had been flying the Panamanian flag and had been detained together with its master by French authorities on the island of Reunion. The Tribunal deliberated on the case and delivered its judgment on 7 February 2000.

The report also contains information on dispute settlement mechanisms and crimes at sea (piracy and armed robbery; illicit traffic in narcotic drugs and psychotropic substances; illegal traffic in hazardous wastes and other wastes; smuggling of migrants; and stowaways).

Consideration by the General Assembly

During the fifty-fifth session, the General Assembly, without reference to a Main Committee, adopted resolution 55/7 of 30 October 2000, entitled "Oceans and the law of the sea", by a recorded vote of 143 to 2, with 4 abstentions. In the resolution, the Assembly reaffirmed the unified character of the Convention, and called upon States to harmonize, as a matter of priority, their national legislation with the provisions of the Convention, to ensure the consistent application of those provisions and to ensure also that any declarations or statements that they had made

or would make when signing, ratifying or acceding to the Convention were in conformity therewith and, otherwise, to withdraw any of their declarations or statements that were not in conformity. The Assembly also requested the Secretary-General to convene the eleventh Meeting of States Parties to the Convention in New York from 14 to 18 May 2001.

By the same resolution, the General Assembly noted the continued contribution of the International Tribunal for the Law of the Sea to the peaceful settlement of disputes in accordance with Part XV of the Convention, underlined its important role and authority concerning the interpretation or application of the Convention and the Agreement relating to the implementation of Part XI of the Convention,[99] encouraged States parties to the Convention to consider making a written declaration choosing from the means set out in article 287 for the settlement of disputes concerning the interpretation or application of the Convention and the Agreement, and invited States to note the provisions of annexes V, VI, VII and VIII to the Convention concerning, respectively, conciliation, the Tribunal, arbitration and special arbitration. The Assembly furthermore requested the Secretary-General to establish a voluntary trust fund to assist the States in the settlement of disputes through the Tribunal, and to report annually to the Meeting of States Parties to the Convention on the status of the fund;[100] invited States, intergovernmental organizations, national institutions, non-governmental organizations, as well as natural and juridical persons, to make voluntary financial contributions to the fund; and encouraged States that had not yet done so to nominate conciliators and arbitrators in accordance with annexes V and VII to the Convention, and requested the Secretary-General to continue to update and circulate lists of the conciliators and arbitrators on a regular basis. The Assembly moreover appealed to all States parties to the Convention to pay their assessed contributions to the International Seabed Authority and the Tribunal in full and on time, and appealed also to all former provisional members of the Authority to pay any outstanding contributions; and called upon States that had not done so to consider ratifying or acceding to the Agreement on the Privileges and Immunities of the Tribunal[101] and to the Protocol on the Privileges and Immunities of the Authority.[102]

General Assembly resolution 55/8 of 30 October 2000, entitled "Large-scale pelagic drift-net fishing, unauthorized fishing in zones of national jurisdiction and on the high seas, fisheries by-catch and discards, and other developments", was adopted by a recorded vote of 103 to none, with 44 abstentions. In the resolution, the Assembly took note of the report of the Secretary-General,[103] and reaffirmed the importance it attached to the long-term conservation, management and sustainable use of the marine living resources of the world's oceans and seas and the obligations of States to cooperate to that end, in accordance with international law, as reflected in the relevant provisions of the United Nations Convention on the Law of the Sea, in particular the provisions on cooperation set out in part V and part VII, section 2, of the Convention regarding straddling stocks, highly migratory species, marine mammals, anadromous stocks and marine living resources of the high seas. The Assembly furthermore urged States, relevant international organizations and regional and subregional fisheries management organizations and arrangements that had not done so to take action to reduce by-catch, fish discards and post-harvest losses, consistent with international law and relevant international instruments, including the Code of Conduct for Responsible Fisheries; and called upon States and other entities referred to in article 1, paragraph 2(*b*), of the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of

the Sea relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks[104] that had not done so to ratify or accede to the Agreement and to consider applying it provisionally. The Assembly also urged States to continue the development of an international plan of action on illegal, unreported and unregulated fishing for the Food and Agriculture Organization of the United Nations, as a matter of priority, so that its Committee on Fisheries could be in a position to adopt elements for inclusion in a comprehensive and effective plan of action at its twenty-fourth session.

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5. INTERNATIONAL COURT OF JUSTICE[105]

Cases before the Court[106]

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

After filing their Replies within the extended time limit, Qatar and Bahrain submitted, with the approval of the Court, certain additional expert reports and historical documents.

Public sittings to hear the oral arguments of the Parties were held from 29 May to 29 June 2000.

At the conclusion of those hearings Qatar requested the Court, rejecting all contrary claims and submissions,

"I. To adjudge and declare in accordance with international law:

A. (1) That the State of Qatar has sovereignty over the Hawar Islands;

(2) That Dibal and Qit'at Jaradah shoals are low-tide elevations which are under Qatar's sovereignty;

B. (1) That the State of Bahrain has no sovereignty over the island of Janan;

(2) That the State of Bahrain has no sovereignty over Zubarah;

(3) That any claim by Bahrain concerning archipelagic baselines and areas for fishing for pearls and swimming fish would be irrelevant for the purpose of maritime delimitation in the present case;

"II. To draw a single maritime boundary between the maritime areas of seabed, subsoil and superjacent waters appertaining respectively to the State of Qatar and the State of Bahrain on the basis that Zubarah, the Hawar Islands and the island of Janan appertain to the State of Qatar and not to the State of Bahrain, that boundary starting from point 2 of the delimitation agreement concluded between Bahrain and Iran in 1971 (51°05'54"E and 27°02'47"N), thence proceeding in a southerly direction up to BLV (50°57'30"E and 26°33'35"N), then following the line of the British decision of 23 December 1947 and up to NSLB (50°49'48"E and 26°21'24"N) and up to point L (50°43'00"E and

25°47'27"N), thence proceeding to point S1 of the delimitation agreement concluded by Bahrain and Saudi Arabia in 1958 (50°31'45"E and 25°35'38"N)."

The final submissions of Bahrain read as follows:

"*May it please the Court*, rejecting all contrary claims and submissions, to adjudge and declare that:

"1. Bahrain is sovereign over Zubarah.

"2. Bahrain is sovereign over the Hawar Islands, including Janan and Hadd Janan.

"3. In view of Bahrain's sovereignty over all the insular and other features, including Fasht and Dibal and Qit'at Jaradah, comprising the Bahraini archipelago, the maritime boundary between Bahrain and Qatar is as described in Part Two of Bahrain's Memorial."

At a public sitting held on 16 March 2001, the Court delivered its judgment, a summary of which is given below, followed by the text of the operative paragraph:

History of the proceedings and submissions of the Parties (paras. 1-34)

The Court first recalls the history of the proceedings and the submissions of the Parties as set out here above. (For the delimitation lines proposed by each of the Parties, see sketch-map No. 2 of the judgment, below.)

Geographical setting (para. 35)

The Court notes that the State of Qatar and the State of Bahrain are both located in the southern part of the Arabian/Persian Gulf (hereinafter referred to as "the Gulf"), almost halfway between the mouth of the Shatt al Arab, to the north-west, and the Strait of Hormuz, at the Gulf's eastern end, to the north of Oman. The mainland to the west and south of the main island of Bahrain and to the south of the Qatar peninsula is part of the Kingdom of Saudi Arabia. The mainland on the northern shore of the Gulf is part of Iran.

The Qatar peninsula projects northward into the Gulf, on the west from the bay called Dawhat Salwah, and on the east from the region lying to the south of Khor al-Udaid. The capital of the State of Qatar, Doha, is situated on the eastern coast of the peninsula.

Bahrain is composed of a number of islands, islets and shoals situated off the eastern and western coasts of its main island, which is also called al-Awal Island. The capital of the State of Bahrain, Manama, is situated in the north-eastern part of al-Awal Island.

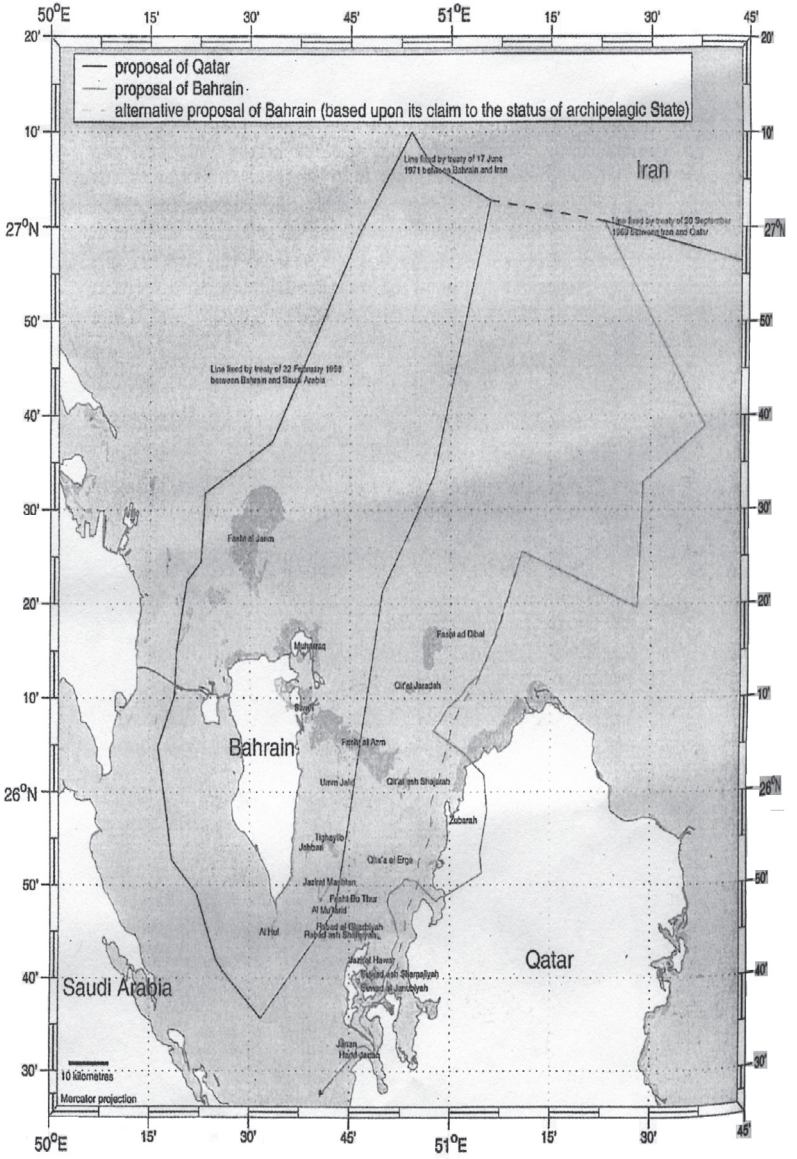
Zubarah is located on the north-west coast of the Qatar peninsula, opposite the main island of Bahrain.

The Hawar Islands are located in the immediate vicinity of the central part of the west coast of the Qatar peninsula, to the south-east of the main island of Bahrain and at a distance of approximately 10 nautical miles from the latter.

Janan is located off the south-western tip of Hawar Island proper.

Fasht ad Dibal and Qit'at Jaradah are two maritime features located off the north-western coast of the Qatar peninsula and to the north-east of the main island of Bahrain.

Sketch-map No. 2
Lines proposed by Qatar and Bahrain



This sketch-map, on which maritime features are shown in simplified form, has been prepared for illustrative purposes only.
It is without prejudice to the nature of certain of these features.
Sources: submissions of the Parties; Memorial of Qatar, Vol. 17, Map 24; Memorial of Bahrain, Vol. 7, Maps 10, 11, 13 and 15.

Historical context (paras. 36-69)

The Court then gives a brief account of the complex history which forms the background to the dispute between the Parties (only parts of which are referred to below).

Navigation in the Gulf was traditionally in the hands of the inhabitants of the region. From the beginning of the sixteenth century, European powers began to show interest in the area, which lay along one of the trading routes with India. Portugal's virtual monopoly of trade was not challenged until the beginning of the seventeenth century. Great Britain was then anxious to consolidate its presence in the Gulf to protect the growing commercial interests of the East India Company.

Between 1797 and 1819 Great Britain dispatched numerous punitive expeditions in response to acts of plunder and piracy by Arab tribes led by the Qawasim against British and local ships. In 1819, Great Britain took control of Ras al Khaimah, headquarters of the Qawasim, and signed separate agreements with the various sheikhs of the region. These sheikhs undertook to enter into a General Treaty of Peace. By this Treaty, signed in January 1820, these sheikhs and chiefs undertook on behalf of themselves and their subjects, inter alia, to abstain for the future from plunder and piracy. It was only towards the end of the nineteenth century that Great Britain would adopt a general policy of protection in the Gulf, concluding "exclusive agreements" with most sheikhdoms, including those of Bahrain, Abu Dhabi, Sharjah and Dubai. Representation of British interests in the region was entrusted to a British Political Resident in the Gulf, installed in Bushire (Persia), to whom British Political Agents were subsequently subordinated in various sheikhdoms with which Great Britain had concluded agreements.

On 31 May 1861 the British Government signed a "Perpetual treaty of peace and friendship" with Sheikh Mahomed bin Khalifah, referred to in the treaty as independent Ruler of Bahrain. Under this treaty, Bahrain undertook, inter alia, to refrain from all maritime aggression of every description, while Great Britain undertook to provide Bahrain with the necessary support in the maintenance of security of its possessions against aggression. There was no provision in this treaty defining the extent of these possessions.

Following hostilities on the Qatar peninsula in 1867, the British Political Resident in the Gulf approached Sheikh Ali bin Khalifah, Chief of Bahrain, and Sheikh Mohamed Al-Thani, Chief of Qatar, and, on 6 and 12 September 1868, respectively, occasioned each to sign an agreement with Great Britain. By these agreements, the Chief of Bahrain recognized, inter alia, that certain acts of piracy had been committed by Mahomed bin Khalifah, his predecessor, and, "[i]n view of preserving the peace at sea, and precluding the occurrence of further disturbance and in order to keep the Political Resident informed of what happens", he promised to appoint an agent with the Political Resident; for his part, the Chief of Qatar undertook, inter alia, to return to and reside peacefully in Doha, not to put to sea with hostile intention, and, in the event of disputes or misunderstanding arising, invariably to refer to the Political Resident. According to Bahrain, the "events of 1867-1868" demonstrate that Qatar was not independent from Bahrain. According to Qatar, on the contrary, the 1868 Agreements formally recognized for the first time the separate identity of Qatar.

While Great Britain had become the dominant maritime Power in the Gulf by this time, the Ottoman Empire, for its part, had re-established its authority over

extensive areas of the land on the southern side of the Gulf. In the years following the arrival of the Ottomans on the Qatar peninsula, Great Britain further increased its influence over Bahrain. On 29 July 1913, an Anglo-Ottoman "Convention relating to the Persian Gulf and surrounding territories" was signed, but it was never ratified. Section II of the Convention dealt with Qatar. Article 11 described the course of the line which, according to the agreement between the parties, was to separate the Ottoman Sanjak of Nejd from the "peninsula of al-Qatar". Qatar points out that the Ottomans and the British had also signed, on 9 March 1914, a treaty concerning the frontiers of Aden, which was ratified that same year and whose article III provided that the line separating Qatar from the Sanjak of Nejd would be "in accordance with article 11 of the Anglo-Ottoman Convention of 29 July 1913 relating to the Persian Gulf and the surrounding territories". Under a treaty concluded on 3 November 1916 between Great Britain and the Sheikh of Qatar, the Sheikh of Qatar bound himself, inter alia, not to "have relations nor correspond with, nor receive the agent of, any other Power without the consent of the High British Government"; nor, without such consent, to cede to any other Power or its subjects, land; nor, without such consent, to grant any monopolies or concessions. In return, the British Government undertook to protect the Sheikh of Qatar and to grant its "good offices" should the Sheikh or his subjects be assailed by land within the territories of Qatar. There was no provision in this treaty defining the extent of those territories.

On 29 April 1936, the representative of Petroleum Concessions Ltd. wrote to the British India Office, which had responsibility for relations with the protected States in the Gulf, drawing its attention to a Qatar oil concession of 17 May 1935 and observing that the Ruler of Bahrain, in his negotiations with Petroleum Concessions Ltd., had laid claim to Hawar; he accordingly enquired to which of the two sheikhdoms (Bahrain or Qatar) Hawar belonged. On 14 July 1936, Petroleum Concessions Ltd. was informed by the India Office that it appeared to the British Government that Hawar belonged to the Sheikh of Bahrain. The content of those communications was not conveyed to the Sheikh of Qatar.

In 1937, Qatar attempted to impose taxation on the Naim tribe inhabiting the Zubarah region; Bahrain opposed this as it claimed rights over this region. Relations between Qatar and Bahrain deteriorated. Negotiations between the two States started in spring of 1937 and were broken off in July of that year.

Qatar alleges that Bahrain clandestinely and illegally occupied the Hawar Islands in 1937. Bahrain maintains that its Ruler was simply performing legitimate acts of continuing administration in his own territory. By a letter dated 10 May 1938, the Ruler of Qatar protested to the British Government against what he called "the irregular action taken by Bahrain against Qatar", to which he had already referred in February 1938 in a conversation in Doha with the British Political Agent in Bahrain. On 20 May 1938, the latter wrote to the Ruler of Qatar, inviting him to state his case on Hawar at the earliest possible moment. The Ruler of Qatar responded by a letter dated 27 May 1938. Some months later, on 3 January 1939, Bahrain submitted a counter-claim. In a letter of 30 March 1939, the Ruler of Qatar presented his comments on Bahrain's counter-claim to the British Political Agent in Bahrain. The Rulers of Qatar and Bahrain were informed on 11 July 1939 that the British Government had decided that the Hawar Islands belonged to Bahrain.

In May 1946, the Bahrain Petroleum Company Ltd. sought permission to drill in certain areas of the continental shelf, some of which the British considered might belong to Qatar. The British Government decided that this permission could not be

granted until there had been a division of the seabed between Bahrain and Qatar. It studied the matter and, on 23 December 1947, the British Political Agent in Bahrain sent the Rulers of Qatar and Bahrain two letters, in the same terms, showing the line which the British Government considered divided "in accordance with equitable principles the seabed aforesaid". The letter indicated further that the Sheikh of Bahrain had sovereign rights in the areas of the Dibal and Jaradah shoals (which should not be considered to be islands having territorial waters), as well as over the islands of the Hawar group while noting that Janan Island was not regarded as being included in the islands of the Hawar group.

In 1971, Qatar and Bahrain ceased to be British protected States. On 21 September 1971, they were both admitted to the United Nations.

Beginning in 1976, mediation, also referred to as "good offices", was conducted by the King of Saudi Arabia with the agreement of the Amirs of Bahrain and Qatar. The good offices of King Fahd did not lead to the desired outcome and on 8 July 1991 Qatar instituted proceedings before the Court against Bahrain.

Sovereignty over Zubarah (paras. 70-97)

The Court notes that both Parties agree that the Al-Khalifah occupied Zubarah in the 1760s and that, some years later, they settled in Bahrain, but that they disagree as to the legal situation which prevailed thereafter and which culminated in the events of 1937. In the Court's view, the terms of the 1868 Agreement between Great Britain and the Sheikh of Bahrain (see above) show that any attempt by Bahrain to pursue its claims to Zubarah through military action at sea would not be tolerated by the British. The Court finds that thereafter the new rulers of Bahrain were never in a position to engage in direct acts of authority in Zubarah. Bahrain maintains, however, that the Al-Khalifah continued to exercise control over Zubarah through a Naim-led tribal confederation loyal to them, notwithstanding that at the end of the eighteenth century they had moved the seat of their government to the islands of Bahrain. The Court does not accept this contention.

The Court considers that, in view of the role played by Great Britain and the Ottoman Empire in the region, it is significant to note article 11 of the Anglo-Ottoman Convention signed on 29 July 1913, which states, inter alia: "it is agreed between the two Governments that the said peninsula will, as in the past, be governed by the Sheikh Jasim-bin-Sani and his successors". Thus Great Britain and the Ottoman Empire did not recognize Bahrain's sovereignty over the peninsula, including Zubarah. In their opinion the whole Qatar peninsula would continue to be governed by Sheikh Jassim Al-Thani, who had formerly been nominated *kaimakam* by the Ottomans, and by his successors. Both Parties agree that the 1913 Anglo-Ottoman Convention was never ratified; they differ on the other hand as to its value as evidence of Qatar's sovereignty over the peninsula. The Court observes that signed but unratified treaties may constitute an accurate expression of the understanding of the parties at the time of signature. In the circumstances of this case, the Court has come to the conclusion that the Anglo-Ottoman Convention does represent evidence of the views of Great Britain and the Ottoman Empire as to the factual extent of the authority of the Al-Thani Ruler in Qatar up to 1913. The Court also observes that article 11 of the 1913 Convention is referred to by article III of the subsequent Anglo-Ottoman treaty of 9 March 1914, duly ratified that same year. The parties to that treaty therefore did not contemplate any authority over the peninsula other than that of Qatar.

The Court then examines certain events which took place in Zubarah in 1937, after the Sheikh of Qatar had attempted to impose taxation on the Naim. It notes, inter alia, that on 5 May 1937, the Political Resident reported on those incidents to the Secretary of State for India, stating that he was "[p]ersonally, therefore, . . . of the opinion that juridically the Bahrain claim to Zubarah must fail". In a telegram of 15 July 1937 to the Political Resident, the British Secretary of State indicated that the Sheikh of Bahrain should be informed that the British Government regretted that it was "not prepared to intervene between Sheikh of Qatar and Naim tribe".

In view of the foregoing, the Court finds that it cannot accept Bahrain's contention that Great Britain had always regarded Zubarah as belonging to Bahrain. The terms of the 1868 agreement between the British Government and the Sheikh of Bahrain, of the 1913 and 1914 conventions and of the letters in 1937 from the British Political Resident to the Secretary of State for India, and from the Secretary of State to the Political Resident, all show otherwise. In effect, in 1937 the British Government did not consider that Bahrain had sovereignty over Zubarah; it is for this reason that it refused to provide Bahrain with the assistance which it requested on the basis of the agreements in force between the two countries. In the period after 1868, the authority of the Sheikh of Qatar over the territory of Zubarah was gradually consolidated; it was acknowledged in the 1913 Anglo-Ottoman Convention and was definitively established in 1937. The actions of the Sheikh of Qatar in Zubarah that year were an exercise of his authority on his territory and, contrary to what Bahrain has alleged, were not an unlawful use of force against Bahrain. For all these reasons, the Court concludes that the first submission made by Bahrain cannot be upheld and that Qatar has sovereignty over Zubarah.

Sovereignty over the Hawar Islands (paras. 98-148)

The Court then turns to the question of sovereignty over the Hawar Islands, leaving aside the question of Janan for the moment.

The Court observes that the Parties' lengthy arguments on the issue of sovereignty over the Hawar Islands raise several legal issues: the nature and validity of the 1939 decision by Great Britain; the existence of an original title; *effectivités*; and the applicability of the principle of *uti possidetis juris* to the present case. The Court begins by considering the nature and validity of the 1939 British decision. Bahrain maintains that the British decision of 1939 must be considered primarily as an arbitral award, which is *res judicata*. It claims that the Court does not have jurisdiction to review the award of another tribunal, basing its proposition on decisions of the Permanent Court of International Justice and the present Court. Qatar denies the relevance of the judgments cited by Bahrain. It contends that

> "[N]one of them are in the slightest degree relevant to the issue which the Court has to determine in the present case, namely, whether the procedures followed by the British Government in 1938 and 1939 amounted to a process of arbitration which could result in an arbitral award binding upon the parties."

The Court first considers the question whether the 1939 British decision must be deemed to constitute an arbitral award. It observes in this respect that the word arbitration, for purposes of public international law, usually refers to "the settlement of differences between States by judges of their own choice, and on the basis of respect for law" and that this wording was reaffirmed in the work of the International Law Commission, which reserved the case where the parties might have decided that the requested decision should be taken *ex æquo et bono*. The Court observes that

in the present case no agreement existed between the Parties to submit their case to an arbitral tribunal made up of judges chosen by them, who would rule either on the basis of law or *ex æquo et bono*. The Parties had only agreed that the issue would be decided by "His Majesty's Government", but left it to the latter to determine how that decision would be arrived at, and by which officials. It follows that the decision whereby, in 1939, the British Government held that the Hawar Islands belonged to Bahrain did not constitute an international arbitral award. The Court finds that it does not therefore need to consider Bahrain's argument concerning the Court's jurisdiction to examine the validity of arbitral awards.

The Court observes, however, that the fact that a decision is not an arbitral award does not mean that the decision is devoid of legal effect. In order to determine the legal effect of the 1939 British decision, it then recalls the events which preceded and immediately followed its adoption. Having done so, the Court considers Qatar's argument challenging the validity of the 1939 British decision.

Qatar first contends that it never gave its consent to have the question of the Hawar Islands decided by the British Government.

The Court observes, however, that following the Exchange of Letters of 10 and 20 May 1938, the Ruler of Qatar consented on 27 May 1938 to entrust decision of the Hawar Islands question to the British Government. On that day he had submitted his complaint to the British Political Agent. Finally, like the Ruler of Bahrain, he had consented to participate in the proceedings that were to lead to the 1939 decision. The jurisdiction of the British Government to take the decision concerning the Hawar Islands derived from these two consents; the Court therefore has no need to examine whether, in the absence of such consent, the British Government would have had the authority to do so under the treaties making Bahrain and Qatar protected States of Great Britain.

Qatar maintains in the second place that the British officials responsible for the Hawar Islands question were biased and had prejudged the matter. The procedure followed is accordingly alleged to have violated "the rule which prohibits bias in a decision-maker on the international plane". It is also claimed that the parties were not given an equal and fair opportunity to present their arguments and that the decision was not reasoned.

The Court begins by recalling that the 1939 decision is not an arbitral award made upon completion of arbitral proceedings. This does not, however, mean that it was devoid of all legal effect. Quite to the contrary, the pleadings, and in particular the Exchange of Letters referred to above, shows that Bahrain and Qatar consented to the British Government settling their dispute over the Hawar Islands. The 1939 decision must therefore be regarded as a decision that was binding from the outset on both States and continued to be binding on those same States after 1971, when they ceased to be British protected States. The Court further observes that while it is true that the competent British officials proceeded on the premise that Bahrain possessed prima facie title to the islands and that the burden of proving the opposite lay on the Ruler of Qatar, Qatar cannot maintain that it was contrary to justice to proceed on the basis of this premise when Qatar had been informed before agreeing to the procedure that this would occur and had consented to the proceedings being conducted on that basis. During those proceedings the two Rulers were able to present their arguments and each of them was afforded an amount of time which the Court considers was sufficient for this purpose; Qatar's contention that it was subjected to unequal treatment therefore cannot be upheld. The Court also notes that, while

the reasoning supporting the 1939 decision was not communicated to the Rulers of Bahrain and Qatar, this lack of reasons has no influence on the validity of the decision taken, because no obligation to state reasons had been imposed on the British Government when it was entrusted with the settlement of the matter. Therefore, Qatar's contention that the 1939 British decision is invalid for lack of reasons cannot be upheld. Finally, the fact that the Sheikh of Qatar had protested on several occasions against the content of the British decision of 1939 after he had been informed of it is not such as to render the decision unopposable to him, contrary to what Qatar maintains. The Court accordingly concludes that the decision taken by the British Government on 11 July 1939 is binding on the parties. For all of these reasons, the Court concludes that Bahrain has sovereignty over the Hawar Islands, and that the submissions of Qatar on this question cannot be upheld. The Court finally observes that the conclusion thus reached by it on the basis of the British decision of 1939 makes it unnecessary for the Court to rule on the arguments of the Parties based on the existence of an original title, *effectivités*, and the applicability of the principle of *uti possidetis juris* to the present case.

Sovereignty over Janan Island (paras. 149-165)

The Court then considers the Parties' claims to Janan Island. It begins by observing that Qatar and Bahrain have differing ideas of what should be understood by the expression "Janan Island". According to Qatar, "Janan is an island approximately 700 metres long and 175 metres wide situated off the south-western tip of the main Hawar island . . . " For Bahrain, the term covers "two islands, situated between one and two nautical miles off the southern coast of Jazirat Hawar, which merge into a single island at low tide . . ." After examination of the arguments of the Parties, the Court considers itself entitled to treat Janan and Hadd Janan as one island.

The Court then, as it has done in regard to the Parties' claims to the Hawar Islands, begins by considering the effects of the British decision of 1939 on the question of sovereignty over Janan Island. As has been stated above, in that decision the British Government concluded that the Hawar Islands "belong[ed] to the State of Bahrain and not to the State of Qatar". No mention was made of Janan Island. Nor was it specified what was to be understood by the expression "Hawar Islands". The Parties have accordingly debated at length over the issue of whether Janan fell to be regarded as part of the Hawar Islands and whether, as a result, it pertained to Bahrain's sovereignty by virtue of the 1939 decision or whether, on the contrary, it was not covered by that decision.

In support of their respective arguments, Qatar and Bahrain have each cited documents both anterior and posterior to the British decision of 1939. Qatar has in particular relied on a "decision" by the British Government in 1947 relating to the seabed delimitation between the two States. Bahrain recalled that it had submitted four lists to the British Government—in April 1936, August 1937, May 1938 and July 1946—with regard to the composition of the Hawar Islands.

The Court notes that the three lists submitted prior to 1939 by Bahrain to the British Government with regard to the composition of the Hawar group are not identical. In particular, Janan Island appears by name in only one of those three lists. As to the fourth list, which is different from the three previous ones, it does make express reference to Janan Island, but it was submitted to the British Government only in 1946, several years after the adoption of the 1939 decision. Thus, no definite conclusion may be drawn from these various lists.

The Court then considers the letters sent on 23 December 1947 by the British Political Agent in Bahrain to the Rulers of Qatar and Bahrain. By those letters the Political Agent acting on behalf of the British Government informed the two States of the delimitation of their seabeds effected by the British Government. This Government, which had been responsible for the 1939 decision on the Hawar Islands, sought, in the last sentence of subparagraph 4 (ii) of these letters, to make it clear that "Janan Island is not regarded as being included in the islands of the Hawar group". The British Government accordingly did not "recognize" the Sheikh of Bahrain as having "sovereign rights" over that island and, in determining the points fixed in paragraph 5 of those letters, as well as in drawing the map enclosed with those letters, it regarded Janan as belonging to Qatar. The Court considers that the British Government, in thus proceeding, provided an authoritative interpretation of the 1939 decision and of the situation resulting from it. Having regard to all of the foregoing, the Court does not accept Bahrain's argument that in 1939 the British Government recognized "Bahrain's sovereignty over Janan as part of the Hawars". It finds that Qatar has sovereignty over Janan Island including Hadd Janan, on the basis of the decision taken by the British Government in 1939, as interpreted in 1947.

Maritime delimitation (paras. 166-250)

The Court then turns to the question of the maritime delimitation.

It begins by taking note that the Parties are in agreement that the Court should render its decision on the maritime delimitation in accordance with international law. Neither Bahrain nor Qatar is party to the Geneva Conventions on the Law of the Sea of 29 April 1958; Bahrain has ratified the United Nations Convention on the Law of the Sea of 10 December 1982 but Qatar is only a signatory to it. The Court indicates that customary international law, therefore, is the applicable law. Both Parties, however, agree that most of the provisions of the 1982 Convention which are relevant for the present case reflect customary law.

A single maritime boundary (paras. 168-173)

The Court notes that, under the terms of the "Bahraini formula", the Parties requested the Court, in December 1990, "to draw a single maritime boundary between their respective maritime areas of seabed, subsoil and superjacent waters".

The Court observes that it should be kept in mind that the concept of "single maritime boundary" may encompass a number of functions. In the present case the single maritime boundary will be the result of the delimitation of various jurisdictions. In the southern part of the delimitation area, which is situated where the coasts of the Parties are opposite to each other, the distance between these coasts is nowhere more than 24 nautical miles. The boundary the Court is expected to draw will, therefore, delimit exclusively their territorial seas and, consequently, an area over which they enjoy territorial sovereignty. More to the north, however, where the coasts of the two States are no longer opposite to each other but are rather comparable to adjacent coasts, the delimitation to be carried out will be one between the continental shelf and exclusive economic zone belonging to each of the Parties, areas in which States have only sovereign rights and functional jurisdiction. Thus both Parties have differentiated between a southern and a northern sector.

The Court further observes that the concept of a single maritime boundary does not stem from multilateral treaty law but from State practice, and that it finds its

explanation in the wish of States to establish one uninterrupted boundary line delimiting the various—partially coincident—zones of maritime jurisdiction appertaining to them. In the case of coincident jurisdictional zones, the determination of a single boundary for the different objects of delimitation

> "can only be carried out by the application of a criterion, or combination of criteria, which does not give preferential treatment to one of these . . . objects to the detriment of the other and at the same time is such as to be equally suitable to the division of either of them",

as was stated by the Chamber of the Court in the *Gulf of Maine* case. In that case, the Chamber was asked to draw a single line which would delimit both the continental shelf and the superjacent water column.

Delimitation of the territorial sea (paras. 174-223)

Delimitation of the territorial seas does not present comparable problems, since the rights of the coastal State in the area concerned are not functional but territorial, and entail sovereignty over the seabed and the superjacent waters and air column. Therefore, when carrying out that part of its task, the Court has to apply in the present case first and foremost the principles and rules of international customary law which refer to the delimitation of the territorial sea, while taking into account that its ultimate task is to draw a single maritime boundary that serves other purposes as well. The Parties agree that the provisions of article 15 of the 1982 Convention on the Law of the Sea, headed "Delimitation of the territorial sea between States with opposite or adjacent coasts", are part of customary law. The article provides:

> "Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its territorial sea beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of each of the two States is measured. The above provision does not apply, however, where it is necessary by reason of historic title or other special circumstances to delimit the territorial seas of the two States in a way which is at variance therewith."

The Court notes that article 15 of the 1982 Convention is virtually identical to article 12, paragraph 1, of the 1958 Convention on the Territorial Sea and the Contiguous Zone, and is to be regarded as having a customary character. It is often referred to as the "equidistance/special circumstances" rule. The most logical and widely practised approach is first to draw provisionally an equidistance line and then to consider whether that line must be adjusted in the light of the existence of special circumstances. The Court explains that once it has delimited the territorial seas belonging to the Parties, it will determine the rules and principles of customary law to be applied to the delimitation of the Parties' continental shelves and their exclusive economic zones or fishery zones. The Court will further decide whether the method to be chosen for this delimitation differs from or is similar to the approach just outlined.

The equidistance line (paras. 177-216)

The Court begins by noting that the equidistance line is the line every point of which is equidistant from the nearest points on the baselines from which the breadth

of the territorial seas of each of the two States is measured. This line can only be drawn when the baselines are known. Neither of the Parties has as yet specified the baselines which are to be used for the determination of the breadth of the territorial sea, nor have they produced official maps or charts which reflect such baselines. Only during the present proceedings have they provided the Court with approximate basepoints which in their view could be used by the Court for the determination of the maritime boundary.

The relevant coasts (paras. 178-216)

The Court indicates that it will therefore first determine the relevant coasts of the Parties, from which will be determined the location of the baselines, and the pertinent basepoints from which enable the equidistance line to be measured.

Qatar has argued that, for purposes of this delimitation, it is the mainland-to-mainland method which should be applied in order to construct the equidistance line. It claims that the notion of "mainland" applies both to the Qatar peninsula, which should be understood as including the main Hawar island, and to Bahrain, of which the islands to be taken into consideration are al-Awal (also called Bahrain Island), together with al-Muharraq and Sitrah. For Qatar, application of the mainland-to-mainland method has two main consequences. First, it takes no account of the islands (except for the above-mentioned islands, Hawar on the Qatar side and al-Awal, al-Muharraq and Sitrah on the Bahrain side), islets, rocks, reefs or low-tide elevations lying in the relevant area. Second, in Qatar's view, application of the mainland-to-mainland method of calculation would also mean that the equidistance line has to be constructed by reference to the high-water line.

Bahrain contends that it is a de facto archipelago or multiple-island State, characterized by a variety of maritime features of diverse character and size. All these features are closely interlinked and together they constitute the State of Bahrain; reducing that State to a limited number of so-called "principal" islands would be a distortion of reality and a refashioning of geography. Since it is the land which determines maritime rights, the relevant basepoints are situated on all those maritime features over which Bahrain has sovereignty. Bahrain further contends that, according to conventional and customary international law, it is the low-water line which is determinative for the breadth of the territorial sea and for the delimitation of overlapping territorial waters. Finally, Bahrain has stated that, as a de facto archipelagic State, it is entitled to declare itself an archipelagic State under Part IV of the 1982 Law of the Sea Convention and to draw the permissive baselines of article 47 of that Convention, i.e., "straight archipelagic baselines joining the outermost points of the outermost islands and drying reefs of the archipelago". Qatar has contested Bahrain's claim that it is entitled to declare itself an archipelagic State under Part IV of the 1982 Convention.

With regard to Bahrain's claim, the Court observes that Bahrain has not made this claim one of its formal submissions and that the Court is therefore not requested to take a position on this issue. What the Court, however, is called upon to do is to draw a single maritime boundary in accordance with international law. The Court can carry out this delimitation only by applying those rules and principles of customary law which are pertinent under the prevailing circumstances. It emphasizes that its decision will have binding force between the Parties, in accordance with Article 59 of the Statute of the Court, and consequently could not be put in issue

by the unilateral action of either of the Parties, and in particular, by any decision of Bahrain to declare itself an archipelagic State.

The Court, therefore, turns to the determination of the relevant coasts from which the breadth of the territorial seas of the Parties is measured. In this respect the Court recalls that under the applicable rules of international law the normal baseline for measuring this breadth is the low-water line along the coast (art. 5, 1982 Convention on the Law of the Sea).

In previous cases the Court has made clear that maritime rights derive from the coastal State's sovereignty over the land, a principle which can be summarized as "the land dominates the sea". It is thus the terrestrial territorial situation that must be taken as starting point for the determination of the maritime rights of a coastal State. In order to determine what constitutes Bahrain's relevant coasts and what are the relevant baselines on the Bahraini side, the Court must first establish which islands come under Bahraini sovereignty. The Court recalls that it has concluded that the Hawar Islands belong to Bahrain and that Janan belongs to Qatar. It observes that other islands which can be identified in the delimitation area which are relevant for delimitation purposes in the southern sector are Jazirat Mashtan and Umm Jalid, islands which are at high tide very small in size, but at low tide have a surface which is considerably larger. Bahrain claims to have sovereignty over these islands, a claim which is not contested by Qatar.

Fasht al Azm (paras. 188-190)

However, the Parties are divided on the issue of whether Fasht al Azm must be deemed to be part of the island of Sitrah or whether it is a low-tide elevation which is not naturally connected to Sitrah Island. In 1982, Bahrain undertook reclamation works for the construction of a petrochemical plant, during which an artificial channel was dredged connecting the waters on both sides of Fasht al Azm. After careful analysis of the various reports, documents and charts submitted by the Parties, the Court has been unable to establish whether a permanent passage separating Sitrah Island from Fasht al Azm existed before the reclamation works of 1982 were undertaken. For the reasons explained below, the Court is nonetheless able to undertake the requested delimitation in this sector without determining the question whether Fasht al Azm is to be regarded as part of the island of Sitrah or as a low-tide elevation.

Qit'at Jaradah (paras. 191-198)

Another issue on which the Parties have totally opposing views is whether Qit'at Jaradah is an island or a low-tide elevation. The Court recalls that the legal definition of an island is "a naturally formed area of land, surrounded by water, which is above water at high tide" (1958 Convention on the Territorial Sea and Contiguous Zone, art. 10, para. 1; 1982 Convention on the Law of the Sea, art. 121, para. 1). The Court has carefully analysed the evidence submitted by the Parties and weighed the conclusions of the experts referred to above, in particular the fact that the experts appointed by Qatar did not themselves maintain that it was scientifically proven that Qit'at Jaradah is a low-tide elevation. On these bases, the Court concludes that the maritime feature of Qit'at Jaradah satisfies the above-mentioned criteria and that it is an island which should as such be taken into consideration for the drawing of the equidistance line. In the present case, taking into account the size of Qit'at Jaradah, the activities carried out by Bahrain on that island must be considered sufficient to support Bahrain's claim that it has sovereignty over it.

Fasht ad Dibal (paras. 199-209)

Both Parties agree that Fasht ad Dibal is a low-tide elevation. Whereas Qatar maintains—just as it did with regard to Qit'at Jaradah—that Fasht ad Dibal as a low-tide elevation cannot be appropriated, Bahrain contends that low-tide elevations by their very nature are territory, and therefore can be appropriated in accordance with the criteria which pertain to the acquisition of territory. "Whatever their location, low-tide elevations are always subject to the law which governs the acquisition and preservation of territorial sovereignty, with its subtle dialectic of title and *effectivités*."

The Court observes that according to the relevant provisions of the Conventions on the Law of the Sea, which reflect customary international law, a low-tide elevation is a naturally formed area of land which is surrounded by and above water at low tide but submerged at high tide (1958 Convention on the Territorial Sea and the Contiguous Zone, art. 11, para. 1; 1982 Convention on the Law of the Sea, art. 13, para. 1). When a low-tide elevation is situated in the overlapping area of the territorial sea of two States, whether with opposite or with adjacent coasts, both States in principle are entitled to use its low-water line for the measuring of the breadth of their territorial sea. The same low-tide elevation then forms part of the coastal configuration of the two States. That is so even if the low-tide elevation is nearer to the coast of one State than that of the other, or nearer to an island belonging to one party than it is to the mainland coast of the other. For delimitation purposes the competing rights derived by both coastal States from the relevant provisions of the law of the sea would by necessity seem to neutralize each other. In Bahrain's view, however, it depends upon the *effectivités* presented by the two coastal States which of them has a superior title to the low-tide elevation in question and is therefore entitled to exercise the right attributed by the relevant provisions of the law of the sea, just as in the case of islands which are situated within the limits of the breadth of the territorial sea of more than one State. In the view of the Court, the decisive question for the present case is whether a State can acquire sovereignty by appropriation over a low-tide elevation situated within the breadth of its territorial sea when that same low-tide elevation lies also within the breadth of the territorial sea of another State. International treaty law is silent on the question whether low-tide elevations can be considered to be "territory". Nor is the Court aware of a uniform and widespread State practice which might have given rise to a customary rule which unequivocally permits or excludes appropriation of low-tide elevations. It is only in the context of the law of the sea that a number of permissive rules have been established with regard to low-tide elevations which are situated at a relatively short distance from a coast. The few existing rules do not justify a general assumption that low-tide elevations are territory in the same sense as islands. It has never been disputed that islands constitute terra firma, and are subject to the rules and principles of territorial acquisition; the difference in effects which the law of the sea attributes to islands and low-tide elevations is considerable. It is thus not established that in the absence of other rules and legal principles, low-tide elevations can, from the viewpoint of the acquisition of sovereignty, be fully assimilated with islands or other land territory. In this respect the Court recalls the rule that a low-tide elevation which is situated beyond the limits of the territorial sea does not have a territorial sea of its own. A low-tide elevation, therefore, as such does not generate the same rights as islands or other territory. The Court, consequently, is of the view that in the present case there is no ground for recognizing the right of Bahrain to use as a baseline the low-water line of those low-tide elevations which are situated in the zone of overlapping

claims, or for recognizing Qatar as having such a right. The Court accordingly concludes that for the purposes of drawing the equidistance line, such low-tide elevations must be disregarded.

Method of straight baselines (paras. 210-216)

The Court further observes that the method of straight baselines, which Bahrain applied in its reasoning and in the maps provided to the Court, is an exception to the normal rules for the determination of baselines and may only be applied if a number of conditions are met. This method must be applied restrictively. Such conditions are primarily that either the coastline is deeply indented and cut into, or that there is a fringe of islands along the coast in its immediate vicinity. The fact that a State considers itself a multiple-island State or a de facto archipelagic State does not allow it to deviate from the normal rules for the determination of baselines unless the relevant conditions are met. The coasts of Bahrain's main islands do not form a deeply indented coast, nor does Bahrain claim this. It contends, however, that the maritime features off the coast of the main islands may be assimilated to a fringe of islands which constitute a whole with the mainland. The Court does not deny that the maritime features east of Bahrain's main islands are part of the overall geographical configuration; it would be going too far, however, to qualify them as a fringe of islands along the coast. The Court, therefore, concludes that Bahrain is not entitled to apply the method of straight baselines. Thus each maritime feature has its own effect for the determination of the baselines, on the understanding that, on the grounds set out above, the low-tide elevations situated in the overlapping zone of territorial seas will be disregarded. It is on this basis that the equidistance line must be drawn. The Court notes, however, that Fasht al Azm requires special mention. If this feature were to be regarded as part of the island of Sitrah, the basepoints for the purposes of determining the equidistance line would be situated on Fasht al Azm's eastern low-water line. If it were not to be regarded as part of the island of Sitrah, Fasht al Azm could not provide such basepoints. As the Court has not determined whether this feature does form part of the island of Sitrah, it has drawn two equidistance lines reflecting each of these hypotheses.

Special circumstances (paras. 217-223)

The Court then turns to the question of whether there are special circumstances which make it necessary to adjust the equidistance line as provisionally drawn in order to obtain an equitable result in relation to this part of the single maritime boundary to be fixed.

With regard to the question of Fasht al Azm, the Court considers that on either of the above-mentioned hypotheses there are special circumstances which justify choosing a delimitation line passing between Fasht al Azm and Qit'at ash Shajarah. With regard to the question of Qit'at Jaradah, the Court observes that it is a very small island, uninhabited and without any vegetation. This tiny island, which—as the Court has determined—comes under Bahraini sovereignty, is situated about midway between the main island of Bahrain and the Qatar peninsula. Consequently, if its low-water line were to be used for determining a basepoint in the construction of the equidistance line, and this line taken as the delimitation line, a disproportionate effect would be given to an insignificant maritime feature. The Court thus finds that there is a special circumstance in this case warranting the choice of a delimitation line passing immediately to the east of Qit'at Jaradah.

The Court observed earlier that, since it did not determine whether Fasht al Azm is part of Sitrah island or a separate low-tide elevation, it is necessary to draw provisionally two equidistance lines. If no effect is given to Qit'at Jaradah and in the event that Fasht al Azm is considered to be part of Sitrah island, the equidistance line thus adjusted cuts through Fasht ad Dibal leaving the greater part of it on the Qatari side. If, however, Fasht al Azm is seen as a low-tide elevation, the adjusted equidistance line runs west of Fasht ad Dibal. In view of the fact that under both hypotheses, Fasht ad Dibal is largely or totally on the Qatari side of the adjusted equidistance line, the Court considers it appropriate to draw the boundary line between Qit'at Jaradah and Fasht ad Dibal. As Fasht ad Dibal thus is situated in the territorial sea of Qatar, it falls under the sovereignty of that State.

On these considerations the Court finds that it is in a position to determine the course of that part of the single maritime boundary which will delimit the territorial seas of the Parties. Before doing so the Court notes, however, that it cannot fix the boundary's southern-most point, since its definitive location is dependent upon the limits of the respective maritime zones of Saudi Arabia and of the Parties. The Court also considers it appropriate, in accordance with common practice, to simplify what would otherwise be a very complex delimitation line in the region of the Hawar Islands.

Taking account of all of the foregoing, the Court decides that, from the point of intersection of the respective maritime limits of Saudi Arabia on the one hand and of Bahrain and Qatar on the other, which cannot be fixed, the boundary will follow a north-easterly direction, then immediately turn in an easterly direction, after which it will pass between Jazirat Hawar and Janan; it will subsequently turn to the north and pass between the Hawar Islands and the Qatar peninsula and continue in a northerly direction, leaving the low-tide elevation of Fasht Bu Thur, and Fasht al Azm, on the Bahraini side, and the low-tide elevations of Qita'a el Erge and Qit'at ash Shajarah on the Qatari side; finally it will pass between Qit'at Jaradah and Fasht ad Dibal, leaving Qit'at Jaradah on the Bahraini side and Fasht ad Dibal on the Qatari side.

With reference to the question of navigation, the Court notes that the channel connecting Qatar's maritime zones situated to the south of the Hawar Islands and those situated to the north of those islands is narrow and shallow, and little suited to navigation. It emphasizes that the waters lying between the Hawar Islands and the other Bahraini islands are not internal waters of Bahrain, but the territorial sea of that State. Consequently, Qatari vessels, like those of all other States, shall enjoy in these waters the right of innocent passage accorded by customary international law. In the same way, Bahraini vessels, like those of all other States, enjoy the same right of innocent passage in the territorial sea of Qatar.

Delimitation of the continental shelf and exclusive economic zone (paras. 224-249)

The Court then deals with the drawing of the single maritime boundary in that part of the delimitation area which covers both the continental shelf and the exclusive economic zone. Referring to its earlier case law on the drawing of a single maritime boundary, the Court observes that it will follow the same approach in the present case. For the delimitation of the maritime zones beyond the 12-mile zone it will first provisionally draw an equidistance line and then consider whether there are circumstances which must lead to an adjustment of that line. The Court further notes that the equidistance/special circumstances rule, which is applicable in particular to

the delimitation of the territorial sea, and the equitable principles/relevant circumstances rule, as it has been developed since 1958 in case law and State practice with regard to the delimitation of the continental shelf and the exclusive economic zone, are closely interrelated.

The Court then examines whether there are circumstances which might make it necessary to adjust the equidistance line in order to achieve an equitable result. With regard to Bahrain's claim concerning the pearling industry, the Court first takes note of the fact that that industry effectively ceased to exist a considerable time ago. It further observes that, from the evidence submitted to it, it is clear that pearl diving in the Gulf area traditionally was considered as a right which was common to the coastal population. The Court, therefore, does not consider the existence of pearling banks, though predominantly exploited in the past by Bahraini fishermen, as forming a circumstance which would justify an eastward shifting of the equidistance line as requested by Bahrain.

The Court also considers that it does not need to determine the legal character of the "decision" contained in the letters of 23 December 1947 of the British Political Agent to the Rulers of Bahrain and Qatar with respect to the division of the seabed, which Qatar claims as a special circumstance. It suffices for it to note that neither of the Parties has accepted it as a binding decision and that they have invoked only parts of it to support their arguments.

Taking into account the fact that it has decided that Bahrain has sovereignty over the Hawar Islands, the Court finds that the disparity in length of the coastal fronts of the Parties cannot, as Qatar claims, be considered such as to necessitate an adjustment of the equidistance line.

The Court finally recalls that in the northern sector the coasts of the Parties are comparable to adjacent coasts abutting on the same maritime areas extending seawards into the Gulf. The northern coasts of the territories belonging to the Parties are not markedly different in character or extent; both are flat and have a very gentle slope. The only noticeable element is Fasht al Jarim as a remote projection of Bahrain's coastline in the Gulf area, which, if given full effect, would "distort the boundary and have disproportionate effects". In the view of the Court, such a distortion, due to a maritime feature located well out to sea and of which at most a minute part is above water at high tide, would not lead to an equitable solution which would be in accord with all other relevant factors referred to above. In the circumstances of the case, considerations of equity require that Fasht al Jarim should have no effect in determining the boundary line in the northern sector.

The Court accordingly decides that the single maritime boundary in this sector shall be formed in the first place by a line which, from a point situated to the northwest of Fasht ad Dibal, shall meet the equidistance line as adjusted to take account of the absence of effect given to Fasht al Jarim. The boundary shall then follow this adjusted equidistance line until it meets the delimitation line between the respective maritime zones of Iran on the one hand and of Bahrain and Qatar on the other.

*

The Court concludes from all of the foregoing that the single maritime boundary that divides the various maritime zones of the State of Qatar and the State of Bahrain shall be formed by a series of geodesic lines joining, in the order specified, the points with the following coordinates:

(World Geodetic System, 1984)

Point	*Latitude North*	*Longitude East*
1	25°34'34"	50°34'3"
2	25°35'10"	50°34'48"
3	25°34'53"	50°41'22"
4	25°34'50"	50°41'35"
5	25°34'21"	50°44'5"
6	25°33'29"	50°45'49"
7	25°32'49"	50°46'11"
8	25°32'55"	50°46'48"
9	25°32'43"	50°47'46"
10	25°32'6"	50°48'36"
11	25°32'40"	50°48'54"
12	25°32'55"	50°48'48"
13	25°33'44"	50°49'4"
14	25°33'49"	50°48'32"
15	25°34'33"	50°47'37"
16	25°35'33"	50°46'49"
17	25°37'21"	50°47'54"
18	25°37'45"	50°49'44"
19	25°38'19"	50°50'22"
20	25°38'43"	50°50'26"
21	25°39'31"	50°50'6"
22	25°40'10"	50°50'30"
23	25°41'27"	50°51'43"
24	25°42'27"	50°51'9"
25	25°44'7"	50°51'58"
26	25°44'58"	50°52'5"
27	25°45'35"	50°51'53"
28	25°46'0"	50°51'40"
29	25°46'57"	50°51'23"
30	25°48'43"	50°50'32"
31	25°51'40"	50°49'53"
32	25°52'26"	50°49'12"
33	25°53'42"	50°48'57"
34	26°0'40"	50°51'00"
35	26°4'38"	50°54'27"
36	26°11'2"	50°55'3"
37	26°15'55"	50°55'22"
38	26°17'58"	50°55'58"
39	26°20'2"	50°57'16"
40	26°26'11"	50°59'12"
41	26°43'58"	51°3'16"
42	27°2'0"	51°7'11"

Below point 1, the single maritime boundary shall follow, in a south-westerly direction, a loxodrome having an azimuth of 234°16'53", until it meets the delimitation line between the respective maritime zones of Saudi Arabia on the one hand and of Bahrain and Qatar on the other. Beyond point 42, the single maritime boundary shall follow, in a north-north-easterly direction, a loxodrome having an azimuth of 12°15'12", until it meets the delimitation line between the respective maritime zones of Iran on the one hand and of Bahrain and Qatar on the other.

The course of this boundary has been indicated, for illustrative purposes only, on sketch-map No. 7 attached to the judgment, reproduced below.

*

Operative paragraph (para. 251):

"For these reasons,

THE COURT,

(1) Unanimously,

Finds that the State of Qatar has sovereignty over Zubarah;

(2) (*a*) By twelve votes to five,

Finds that the State of Bahrain has sovereignty over the Hawar Islands;

IN FAVOUR: *President* Guillaume; *Vice-President* Shi; *Judges* Oda, Herczegh, Fleischhauer, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Buergenthal; *Judge ad hoc* Fortier;

AGAINST: *Judges* Bedjaoui, Ranjeva, Koroma, Vereshchetin; *Judge ad hoc* Torres Bernárdez;

(*b*) Unanimously,

Recalls that vessels of the State of Qatar enjoy in the territorial sea of Bahrain separating the Hawar Islands from the other Bahraini islands the right of innocent passage accorded by customary international law;

(3) By thirteen votes to four,

Finds that the State of Qatar has sovereignty over Janan Island, including Hadd Janan;

IN FAVOUR: *President* Guillaume; *Vice-President* Shi; *Judges* Bedjaoui, Ranjeva, Herczegh, Fleischhauer, Koroma, Vereshchetin, Parra-Aranguren, Rezek, Al-Khasawneh, Buergenthal; *Judge ad hoc* Torres Bernárdez;

AGAINST: *Judges* Oda, Higgins, Kooijmans; *Judge ad hoc* Fortier;

(4) By twelve votes to five,

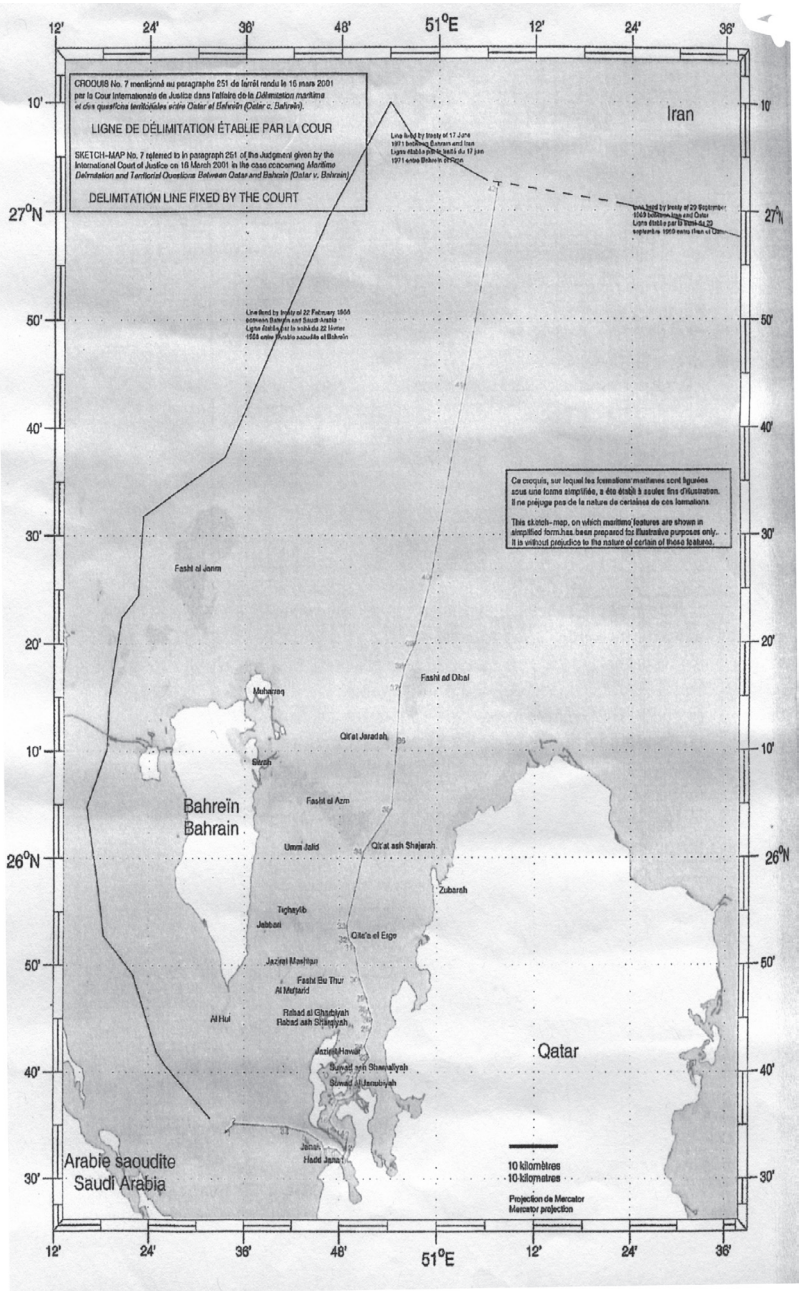
Finds that the State of Bahrain has sovereignty over the island of Qit'at Jaradah;

IN FAVOUR: *President* Guillaume; *Vice-president* Shi; *Judges* Oda, Herczegh, Fleischhauer, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Buergenthal; *Judge ad hoc* Fortier;

AGAINST: *Judges* Bedjaoui, Ranjeva, Koroma, Vereshchetin; *Judge ad hoc* Torres Bernárdez;

(5) Unanimously,

Sketch-map No. 7



Finds that the low-tide elevation of Fasht ad Dibal falls under the sovereignty of the State of Qatar;

(6) By thirteen votes to four,

Decides that the single maritime boundary that divides the various maritime zones of the State of Qatar and the State of Bahrain shall be drawn as indicated in paragraph 250 of the present judgment;

IN FAVOUR: *President* Guillaume; *Vice-President* Shi; *Judges* Oda, Herczegh, Fleischhauer, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Buergenthal; *Judge ad hoc* Fortier;

AGAINST: *Judges* Bedjaoui, Ranjeva, Koroma; *Judge ad hoc* Torres Bernárdez."

*

Judge Oda appended a separate opinion to the judgment; Judges Bedjaoui, Ranjeva and Koroma a joint dissenting opinion; Judges Herczegh, Vereshchetin and Higgins declarations; Judges Parra-Aranguren, Kooijmans and Al-Khasawneh separate opinions; Judge ad hoc Torres Bernárdez a dissenting opinion, and Judge ad hoc Fortier a separate opinion.

(b) *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom) (Libyan Arab Jamahiriya* v. *United States of America)*

By Orders of 29 June 1999 (*I.C.J. Reports 1999*, pp. 975 and 979), the Court, taking account of the agreement of the Parties and the special circumstances of the case, authorized the submission of a Reply by Libya and a Rejoinder by the United Kingdom and the United States of America, respectively, fixing 29 June 2000 as the time limit for the filing of Libya's Reply. The Court fixed no date for the filing of the Rejoinders; the representatives of the respondent States had expressed the desire that no such date be fixed at this stage of the proceedings, "in view of the new circumstances consequent upon the transfer of the two accused to the Netherlands for trial by a Scottish court". Libya's Reply was filed within the prescribed time limit.

By Orders of 6 September 2000 (*I.C.J. Reports 2000*, pp. 140 and 143), the President of the Court, taking account of the views of the Parties, fixed 3 August 2001 as the time limit for the filing of the Rejoinder of the United Kingdom and the United States, respectively.

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

By an Order of 26 May 1998 (*I.C.J. Reports 1998*, p. 269), the Vice-President of the Court, Acting President, extended, at the request of Iran and taking into account the views expressed by the United States, the time limits for Iran's Reply and the United States Rejoinder to 10 December 1998 and 23 May 2000 respectively. By an Order of 8 December 1998 (*I.C.J. Reports 1998*, p. 740) the Court further extended those time limits to 10 March 1999 for Iran's Reply and 23 November 2000 for the

United States Rejoinder. Iran's Reply was filed within the time limit thus extended. By an Order of 4 September 2000 (*I.C.J. Reports 2000*, p. 137), the President of the Court extended, at the request of the United States and taking into account the agreement between the Parties, the time limit for the filing of the United States Rejoinder from 23 November 2000 to 23 March 2001. The Rejoinder was filed within the time limit thus extended.

(d) *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon* v. *Nigeria: Equatorial Guinea intervening)*

In an Order of 30 June 1999 (*I.C.J. Reports 1999*, p. 983) the Court found that Nigeria's counter-claims were admissible as such and formed part of the proceedings; it further decided that Cameroon should submit a Reply and Nigeria a Rejoinder, relating to the claims of both Parties, and fixed the time limits for those pleadings at 4 April 2000 and 4 January 2001, respectively. Cameroon's Reply and Nigeria's Rejoinder were filed within the prescribed time limits.

On 30 June 1999 the Republic of Equatorial Guinea filed an Application for permission to intervene in the case.

In its Application, Equatorial Guinea stated that the purpose of its intervention would be "to protect [its] legal rights in the Gulf of Guinea by all legal means" and "to inform the Court of Equatorial Guinea's legal rights and interests so that these may remain unaffected as the Court proceeds to address the question of the maritime boundary between Cameroon and Nigeria". Equatorial Guinea made it clear that it did not seek to intervene in those aspects of the proceedings that relate to the land boundary between Cameroon and Nigeria, nor to become a party to the case. It further stated that, although it would be open to the three countries to request the Court not only to determine the Cameroon-Nigeria maritime boundary but also to determine Equatorial Guinea's maritime boundary with these two States, Equatorial Guinea had made no such request and wished to continue to seek to determine its maritime boundary with its neighbours by negotiation.

The Court fixed 16 August 1999 as the time limit for the filing of written observations on Equatorial Guinea's Application by Cameroon and Nigeria. Those written observations were filed within the prescribed time limits.

By an Order of 21 October 1999 (*I.C.J. Reports 1999*, p. 1029), the Court permitted Equatorial Guinea to intervene in the case, pursuant to Article 62 of the Statute, to the extent, in the manner and for the purposes set out in its Application for permission to intervene, and fixed 4 April 2001 as the time limit for the filing of the written statement of the Republic of Equatorial Guinea and 4 July 2001 for the written observations of the Republic of Cameroon and of the Federal Republic of Nigeria. Equatorial Guinea's written statement was filed within the prescribed time limit.

(e) *Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia)*

By an Order of 11 May 2000 (*I.C.J. Reports 2000*, p. 9), the President of the Court, again at a request jointly made by the Parties, extended the time limit for the filing of the Counter-Memorials another time, to 2 August 2000. The Counter-Memorials were filed within the time limit thus extended.

By an Order of 19 October 2000 (*I.C.J. Reports 2000*, p. 173), the President of the Court, having regard to the Special Agreement and taking account of the agreement between the Parties, fixed 2 March 2001 as the time limit for the filing of a Reply by each of the Parties. Those Replies were duly filed within the prescribed time limit.

(f) *Ahmadou Sadio Diallo (Republic of Guinea* v. *Democratic Republic of the Congo)*

By an Order of 25 November 1999 (*I.C.J. Reports 1999*, p. 1042), the Court, taking into account the agreement of the Parties, fixed 11 September 2000 as the time limit for the filing of a Memorial by Guinea and 11 September 2001 for the filing of a Counter-Memorial by the Democratic Republic of the Congo.

By an Order of 8 September 2000 (*I.C.J. Reports 2000*, p. 146), the President of the Court, at the request of Guinea and after the views of the other Party had been ascertained, extended to 23 March 2001 and 4 October 2002 the respective time limits for that Memorial and Counter-Memorial. The Memorial was filed within the time limit thus extended.

(g) *LaGrand (Germany* v. *United States of America)*

By an Order of 5 March 1999 (*I.C.J. Reports 1999,* p. 28), the Court, taking into account the views of the Parties, fixed 16 September 1999 and 27 March 2000 as the time limits for the filing of the Memorial of Germany and the Counter-Memorial of the United States, respectively. The Memorial and Counter-Memorial were filed within the prescribed time limits.

Public sittings to hear the oral arguments of the Parties were held from 13 to 17 November 2000.

At the conclusion of the oral proceedings Germany requested the Court to adjudge and declare:

> "(1) That the United States, by not informing Karl and Walter LaGrand without delay following their arrest of their rights under article 36, subparagraph 1 (*b*), of the Vienna Convention on Consular Relations, and by depriving Germany of the possibility of rendering consular assistance, which ultimately resulted in the execution of Karl and Walter LaGrand, violated its international legal obligations to Germany, in its own right and in its right of diplomatic protection of its nationals, under articles 5 and 36, paragraph 1, of the said Convention;
>
> "(2) That the United States, by applying rules of its domestic law, in particular the doctrine of procedural default, which barred Karl and Walter LaGrand from raising their claims under the Vienna Convention on Consular Relations, and by ultimately executing them, violated its international legal obligation to Germany under article 36, paragraph 2, of the Vienna Convention to give full effect to the purposes for which the rights accorded under article 36 of the said Convention are intended;
>
> "(3) That the United States, by failing to take all measures at its disposal to ensure that Walter LaGrand was not executed pending the final decision of the International Court of Justice on the matter, violated its international legal

obligations to comply with the Order on Provisional Measures issued by the Court on 3 March 1999, and to refrain from any action which might interfere with the subject-matter of a dispute while judicial proceedings are pending;

and, pursuant to the foregoing international legal obligations,

"(4) That the United States shall provide Germany an assurance that it will not repeat its unlawful acts and that, in any future cases of detention of or criminal proceedings against German nationals, the United States will ensure in law and practice the effective exercise of the rights under article 36 of the Vienna Convention on Consular Relations. In particular in cases involving the death penalty, this requires the United States to provide effective review of and remedies for criminal convictions impaired by a violation of the rights under article 36."

The United States asked the Court to adjudge and declare that:

"(1) There was a breach of the United States obligation to Germany under article 36 (1) (*b*) of the Vienna Convention on Consular Relations, in that the competent authorities of the United States did not promptly give to Karl and Walter LaGrand the notification required by that article, and that the United States has apologized to Germany for this breach, and is taking substantial measures aimed at preventing any recurrence; and

"(2) All other claims and submissions of the Federal Republic of Germany are dismissed."

(h) *Legality of Use of Force (Yugoslavia* v. *Belgium) (Yugoslavia* v. *Canada) (Yugoslavia* v. *France) (Yugoslavia* v. *Germany) (Yugoslavia* v. *Italy) (Yugoslavia* v. *Netherlands) (Yugoslavia* v. *Portugal) (Yugoslavia* v. *United Kingdom)*

By Orders of 30 June 1999 (*I.C.J. Reports 1999*, pp. 988, 991, 994, 997, 1000, 1003, 1006, 1009), the Court, having ascertained the views of the Parties, fixed the time limits for the filing of the written pleadings in each of the eight cases maintained on the List: 5 January 2000 for the Memorial of Yugoslavia and 5 July 2000 for the Counter-Memorial of the respondent State concerned. The Memorial of Yugoslavia in each of the eight cases was filed within the prescribed time limit.

On 5 July 2000, within the time limit for the filing of its Counter-Memorial, each of the respondent States in the eight cases maintained on the Court's List (Belgium, Canada, France, Germany, Italy, Netherlands, Portugal and United Kingdom) raised certain preliminary objections of lack of jurisdiction and inadmissibility.

By virtue of Article 79, paragraph 3, of the Rules of Court, the proceedings on the merits are suspended when preliminary objections are filed; proceedings have then to be organized for the consideration of those preliminary objections in accordance with the provisions of that Article.

By Orders of 8 September 2000 (*I.C.J. Reports 2000*, pp. 149, 152, 155, 158, 161, 164, 167 and 170), the Vice-President of the Court, Acting President, taking account of the views of the Parties and the special circumstances of the cases, fixed 5 April 2001 as the time limit for the filing, in each of the cases, of a written state-

ment by Yugoslavia on the preliminary objections raised by the Respondent State concerned.

(i) *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo* v. *Burundi) (Democratic Republic of the Congo* v. *Uganda) (Democratic Republic of the Congo* v. *Rwanda)*

In each of the two cases concerning *Armed Activities on the Territory of the Congo* (*Democratic Republic of the Congo* v. *Burundi) (Democratic Republic of the Congo* v. *Rwanda)*, the Court, by an Order of 21 October 1999 (*I.C.J. Reports 1999*, pp. 1018, 1025), taking into account the agreement of the Parties as expressed at a meeting between the President and the Agents of the Parties held on 19 October 1999, decided that the written proceedings should first address the questions of the jurisdiction of the Court to entertain the Application and of its admissibility and fixed 21 April 2000 as the time limit for the filing of a Memorial on those questions by Burundi and Rwanda, respectively, and 23 October 2000 for the filing of a Counter-Memorial by the Congo. The Memorials of Burundi and Rwanda were filed within the prescribed time limit.

In those two cases, the Democratic Republic of the Congo chose Mr. Joe Verhoeven to sit as judge ad hoc. Burundi chose Mr. Jean J. A. Salmon and Rwanda Mr. John Dugard to sit as judges ad hoc.

By an Order of 19 October 2000 (*I.C.J. Reports 2000,* pp. 176, 179) in each of those cases the President of the Court, at the request of the Congo and taking account of the agreement of the Parties, extended to 23 January 2001 the time limit for the filing of the Counter-Memorial of the Congo.

By letters dated 15 January 2001 the Democratic Republic of the Congo notified the Court in each of the two cases that it wished to discontinue the proceedings and stated that it "reserve[d] the right to invoke subsequently new grounds of jurisdiction of the Court".

After, in each of the two cases, the respondent Party had informed the Court that it concurred in the Congo's discontinuance, the President of the Court, in Orders of 30 January 2001 (*I.C.J. Reports 2001*, pp. 3, 6), placed the discontinuance by the Congo on record and ordered the removal of the cases from the List.

In the case concerning *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo* v. *Uganda)*, the Court, taking into account the agreement of the Parties as expressed at a meeting held with them by the President of the Court on 19 October 1999, fixed, by an Order of 21 October 1999 (*I.C.J. Reports 1999*, p. 1022), 21 July 2000 as the time limit for the filing of a Memorial by the Congo and 21 April 2001 for the filing of a Counter-Memorial by Uganda. The Memorial of the Congo was filed within the prescribed time limit.

On 19 June 2000 the Congo, in the same case against Uganda, filed a request for the indication of provisional measures, stating that "since 5 June last, the resumption of fighting between the armed troops of . . . Uganda and another foreign army has caused considerable damage to the Congo and to its population" while "these tactics have been unanimously condemned, in particular by the United Nations Security Council".

In the request the Democratic Republic of the Congo maintained that "despite promises and declarations of principle . . . Uganda has pursued its policy of aggression, brutal armed attacks of oppression and looting" and that "this is moreover the third Kisangani war, coming after those of August 1999 and May 2000 and having been instigated by the Republic of Uganda . . .". The Congo observed that these acts "represent just one further episode constituting evidence of the military and paramilitary intervention, and of occupation, commenced by the Republic of Uganda in August 1998". It further stated that "each passing day causes to the Democratic Republic of the Congo and its inhabitants grave and irreparable prejudice" and that "it is urgent that the rights of the Democratic Republic of the Congo be safeguarded".

The Democratic Republic of the Congo requested the Court to indicate the following provisional measures:

> "(1) The Government of the Republic of Uganda must order its army to withdraw immediately and completely from Kisangani;
>
> "(2) The Government of the Republic of Uganda must order its army to cease forthwith all fighting or military activity on the territory of the Democratic Republic of the Congo and to withdraw immediately and completely from that territory, and must forthwith desist from providing any direct or indirect support to any State, group, organization, movement or individual engaged or planning to engage in military activities on the territory of the Democratic Republic of the Congo;
>
> "(3) The Government of the Republic of Uganda must take all measures in its power to ensure that any units, forces or agents are or could be under its authority, or which enjoy, or could enjoy its support, together with organizations or persons which could be under its control, authority or influence, desist forthwith from committing or inciting the commission of war crimes or any other oppressive or unlawful act against all persons on the territory of the Democratic Republic of the Congo;
>
> "(4) The Government of the Republic of Uganda must forthwith discontinue any act having the aim or effect of disrupting, interfering with or hampering actions intended to give the population of the occupied zones the benefit of their fundamental human rights, and in particular their rights to health and education;
>
> "(5) The Government of the Republic of Uganda must cease forthwith all illegal exploitation of the natural resources of the Democratic Republic of the Congo and any illegal transfer of assets, equipment or persons to its territory;
>
> "(6) The Government of the Republic of Uganda must henceforth respect in full the right of the Democratic Republic of the Congo to sovereignty, political independence and territorial integrity, and the fundamental rights and freedoms of all persons on the territory of the Democratic Republic of the Congo."

By letters of the same date, 19 June 2000, the President of the Court, Judge Gilbert Guillaume, acting in conformity with Article 74, paragraph 4, of the Rules of Court, drew "the attention of both Parties to the need to act in such a way as to enable any Order the Court will make on the request for provisional measures to have its appropriate effects".

Public sittings to hear the oral observations of the Parties on the request for the indication of provisional measures were held on 26 and 28 June 2000.

At a public sitting, held on 1 July 2000, the Court rendered its Order on the request for provisional measures made by the Democratic Republic of the Congo, by which it indicated that both Parties should, forthwith, prevent and refrain from any action, and in particular any armed action, which might prejudice the rights of the other Party in respect of whatever judgment the Court may render in the case, or which might aggravate or extend the dispute before the Court or make it more difficult to resolve; that both Parties should, forthwith, take all measures necessary to comply with all of their obligations under international law, in particular those under the Charter of the United Nations and the Charter of the Organization of African Unity, and with Security Council resolution 1304 (2000) of 16 June 2000; and that both Parties should, forthwith, take all measures necessary to ensure full respect within the zone of conflict for fundamental human rights and for the applicable provisions of humanitarian law.

Judges Oda and Koroma appended declarations to the Order of the Court.

The Democratic Republic of the Congo chose Mr. Joe Verhoeven and Uganda Mr. James L. Kateka to sit as judges ad hoc.

(j) *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia* v. *Yugoslavia)*

By an Order of 10 March 2000 (*I.C.J. Reports 2000*, p. 3*)*, the President of the Court, at the request of Croatia and taking into account the views expressed by Yugoslavia, extended the time limits to 14 September 2000 for the Memorial and 14 September 2001 for the Counter-Memorial.

By an Order of 27 June 2000 (*I.C.J. Reports 2000*, p. 108) the Court, at the request of Croatia and taking into account the views expressed by Yugoslavia, once again extended the time limits, to 14 March 2001 for the Memorial of Croatia and to 16 September 2002 for the Counter-Memorial of Yugoslavia. The Memorial of Croatia was filed within the time limit thus extended.

Croatia chose Mr. Budislav Vukas to sit as judge ad hoc.

(k) *Aerial Incident of 10 August 1999 (Pakistan* v. *India)*

By an Order of 19 November 1999 (*I.C.J. Reports 1999*, p. 1038), the Court, taking into account the agreement reached between the Parties, decided that the written pleadings should first be addressed to the question of the jurisdiction of the Court to entertain the Application and fixed 10 January 2000 and 28 February 2000, respectively, as the time limits for the filing of a Memorial by Pakistan and a Counter-Memorial by India on that question. The Memorial and the Counter-Memorial were filed within the prescribed time limits.

Pakistan chose Mr. Syed Sharif Uddin Pirzada and India Mr. B. P. Jeevan Reddy to sit as judges ad hoc.

Public sittings to hear the arguments of the Parties on the question of the Court's jurisdiction were held from 3 to 6 April 2000.

At a public sitting of 21 June 2000, the Court delivered its judgment on jurisdiction (*I.C.J. Reports 2000*, p. 12), a summary of which is given below, followed by the text of the operative paragraph:

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

On 21 September 1999, Pakistan filed in the Registry of the Court an Application instituting proceedings against India in respect of a dispute relating to the destruction, on 10 August 1999, of a Pakistani aircraft. In its Application, Pakistan founded the jurisdiction of the Court on Article 36, paragraphs 1 and 2, of the Statute and the declarations whereby the two Parties recognized the compulsory jurisdiction of the Court.

By letter of 2 November 1999, the Agent of India notified the Court that his Government "wish[ed] to indicate its preliminary objections to the assumption of jurisdiction by the . . . Court . . . on the basis of Pakistan's Application". Those objections, set out in a note appended to the letter, were as follows:

"(i) That Pakistan's Application did not refer to any treaty or convention in force between India and Pakistan which confers jurisdiction upon the Court under Article 36 (1).

(ii) That Pakistan's Application fails to take into consideration the reservations to the Declaration of India dated 15 September, 1974 filed under Article 36 (2) of its Statute. In particular, Pakistan, being a Commonwealth country, is not entitled to invoke the jurisdiction of the Court as subparagraph 2 of paragraph 1 of that Declaration excludes all disputes involving India from the jurisdiction of this Court in respect of any State which 'is or has been a Member of the Commonwealth of Nations'.

(iii) The Government of India also submits that subparagraph 7 of paragraph 1 of its Declaration of 15 September, 1974 bars Pakistan from invoking the jurisdiction of this Court against India concerning any dispute arising from the interpretation or application of a multilateral treaty, unless at the same time all the parties to such a treaty are also joined as parties to the case before the Court. The reference to the Charter of the United Nations, which is a multilateral treaty, in the Application of Pakistan as a basis for its claim would clearly fall within the ambit of this reservation. India further asserts that it has not provided any consent or concluded any special agreement with Pakistan which waives this requirement."

After a meeting held on 10 November 1999 by the President of the Court with the Parties, the latter agreed to request the Court to determine separately the question of its jurisdiction in this case before any proceedings on the merits, on the understanding that Pakistan would first present a Memorial dealing exclusively with this question, to which India would have the opportunity of replying in a Counter-Memorial confined to the same question.

By Order of 19 November 1999, the Court, taking into account the agreement reached between the Parties, decided accordingly and fixed time limits for the filing of a Memorial by Pakistan and a Counter-Memorial by India on that question. Hearings were held from 3 to 6 April 2000.

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In the Application Pakistan requested the Court to judge and declare as follows:

"(*a*) That the acts of India (as stated above) constitute breaches of the various obligations under the Charter of the United Nations, customary international law and treaties specified in the body of this Application for which the Republic of India bears exclusive legal responsibility;

(*b*) That India is under an obligation to make reparations to the Islamic Republic of Pakistan for the loss of the aircraft and as compensation to the heirs of those killed as a result of the breaches of the obligations committed by it under the Charter of the United Nations and relevant rules of customary international law and treaty provisions."

In the note attached to its letter of 2 November 1999, India requested the Court:

"(i) To adjudge and declare that Pakistan's Application is without any merit to invoke the jurisdiction of the Court against India in view of its status as a member of the Commonwealth of Nations; and

(ii) To adjudge and declare that Pakistan cannot invoke the jurisdiction of the Court in respect of any claims concerning various provisions of the Charter of the United Nations, particularly Article 2 (4), as it is evident that all the States parties to the Charter have not been joined in the Application and that, under the circumstances, the reservation made by India in subparagraph 7 of paragraph 1 of its declaration would bar the jurisdiction of this Court."

At the close of the hearings Pakistan requested the Court:

"(i) To dismiss the preliminary objections raised by India;

(ii) To adjudge and declare that it has jurisdiction to decide on the Application filed by Pakistan on 21 September 1999; and

(iii) To fix time limits for the further proceedings in the case."

India submitted "that the Court adjudge and declare that it has no jurisdiction to consider the Application of the Government of Pakistan."

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The Court begins by recalling that, to found the jurisdiction of the Court in this case, Pakistan relied in its Memorial on:

(1) Article 17 of the General Act for Pacific Settlement of International Disputes, signed at Geneva on 26 September 1928 (hereinafter called "the General Act of 1928");

(2) The declarations made by the Parties pursuant to Article 36, paragraph 2, of the Statute of the Court;

(3) Paragraph 1 of Article 36 of the said Statute,

and that India disputes each one of these bases of jurisdiction. The Court examines in turn each of these bases of jurisdiction relied on by Pakistan.

Article 17 of the General Act of 1928 (paras. 13-28)

Pakistan begins by citing article 17 of the General Act of 1928, which provides:

> "All disputes with regard to which the parties are in conflict as to their respective rights shall, subject to any reservations which may be made under article 39, be submitted for decision to the Permanent Court of International Justice, unless the parties agree, in the manner hereinafter provided, to have resort to an arbitral tribunal.
>
> "It is understood that the disputes referred to above include in particular those mentioned in Article 36 of the Statute of the Permanent Court of International Justice."

Pakistan goes on to point out that, under Article 37 of the Statute of the International Court of Justice:

> "Whenever a treaty or convention in force provides for reference of a matter to . . . the Permanent Court of International Justice, the matter shall, as between the parties to the present Statute, be referred to the International Court of Justice."

Finally, Pakistan recalls that, on 21 May 1931, British India had acceded to the General Act of 1928. It considers that India and Pakistan subsequently became parties to the General Act. It followed that the Court had jurisdiction to entertain Pakistan's Application on the basis of article 17 of the General Act read with Article 37 of the Statute.

In reply, India contends, in the first place, that "the General Act of 1928 is no longer in force and that, even if it were, it could not be effectively invoked as a basis for the Court's jurisdiction". It argues that numerous provisions of the General Act, and in particular articles 6, 7, 9 and 43 to 47 thereof, refer to organs of the League of Nations or to the Permanent Court of International Justice; that, in consequence of the demise of those institutions, the General Act has "lost its original efficacy"; that the United Nations General Assembly so found when in 1949 it adopted a new General Act; that "those parties to the old General Act which have not ratified the new act" cannot rely upon the old Act except "in so far as it might still be operative", that is, insofar . . . as the amended provisions are not involved; that article 17 is among those amended in 1949 and that, as a result, Pakistan cannot invoke it today.

Secondly, the Parties disagree on the conditions under which they succeeded in 1947 to the rights and obligations of British India, assuming, as Pakistan contends, that the General Act was then still in force and binding on British India. In this regard, India argues that the General Act was an agreement of a political character which, by its nature, was not transmissible. It adds that, in any event, it made no notification of succession. Furthermore, India points out that it clearly stated in its communication of 18 September 1974 to the Secretary-General of the United Nations that:

> "[t]he Government of India never regarded themselves as bound by the General Act of 1928 since her Independence in 1947, whether by succession or otherwise. Accordingly, India has never been and is not a party to the General Act of 1928 ever since her Independence."

Pakistan, recalling that up to 1947 British India was party to the General Act of 1928, argues on the contrary that, having become independent, India remained party to the Act, for in its case "there was no succession. There was continuity", and that consequently the "views on non-transmission of the so-called political treaties [were] not relevant here". Thus the communication of 18 September 1974 was a subjective statement, which had no objective validity. Pakistan, for its part, is said

to have acceded to the General Act in 1947 by automatic succession by virtue of international customary law. Further, according to Pakistan, the question was expressly settled in relation to both States by article 4 of the Schedule to the Indian Independence (International Arrangements) Order issued by the Governor-General of India on 14 August 1947. That article provided for the devolvement upon the Dominion of India and upon the Dominion of Pakistan of the rights and obligations under all international agreements to which British India was a party.

India disputes this interpretation of the Indian Independence (International Arrangements) Order of 14 August 1947 and of the agreement in the schedule thereto. In support of this argument India relies on a judgement rendered by the Supreme Court of Pakistan on 6 June 1961, and on the report of Expert Committee No. IX on Foreign Relations, which in 1947 had been instructed, in connection with the preparation of the above-mentioned Order, "to examine and make recommendations on the effect of partition". Pakistan could not have, and did not, become party to the General Act of 1928.

Each of the Parties further relies in support of its position on the practice since 1947.

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On this point, the Court observes in the first place that the question whether the General Act of 1928 is to be regarded as a convention in force for the purposes of Article 37 of the Statute of the Court has already been raised, but not settled, in previous proceedings before the Court. In the present case, as recalled above, the Parties have made lengthy submissions on this question, as well as on the question whether British India was bound in 1947 by the General Act and, if so, whether India and Pakistan became parties to the Act on their accession to independence. Further, relying on its communication to the Secretary-General of the United Nations of 18 September 1974 and on the British India reservations of 1931, India denies that the General Act can afford a basis of jurisdiction enabling the Court to entertain a dispute between the two Parties. Clearly, if the Court were to uphold India's position on any one of these grounds, it would no longer be necessary for it to rule on the others.

As the Court pointed out in the case concerning *Certain Norwegian Loans*, when its jurisdiction is challenged on diverse grounds, "the Court is free to base its decision on the ground which in its judgement is more direct and conclusive". Thus, in the *Aegean Sea Continental Shelf* case, the Court ruled on the effect of a reservation by Greece to the General Act of 1928 without deciding the issue whether that convention was still in force.

In the communication addressed by India to the Secretary-General of the United Nations on 18 September 1974, the Minister for External Affairs of India declared that India considered that it had never been party to the General Act of 1928 as an independent State. The Court considers that India could not therefore have been expected formally to denounce the Act. Even if, *arguendo*, the General Act was binding on India, the communication of 18 September 1974 was to be considered in the circumstances of the present case as having served the same legal ends as the notification of denunciation provided for in article 45 of the Act. It followed that India, in any event, would have ceased to be bound by the General Act of 1928 at the latest on 16 August 1979, the date on which a denunciation of the General Act under article 45 thereof would have taken effect. India could not be regarded

as party to the said Act at the date when the Application in the present case was filed by Pakistan. It followed that the Court had no jurisdiction to entertain the Application on the basis of the provisions of article 17 of the General Act of 1928 and of Article 37 of the Statute.

Declarations of acceptance of the Court's jurisdiction by the Parties (paras. 29-46)

Pakistan seeks, secondly, to found the jurisdiction of the Court on the declarations made by the Parties under Article 36, paragraph 2, of the Statute. Pakistan's current declaration was filed with the Secretary-General of the United Nations on 13 September 1960; India's current declaration was filed on 18 September 1974. India disputes that the Court has jurisdiction in this case on the basis of these declarations. It invokes, in support of its position, the reservations contained in subparagraphs (2) and (7) of the first paragraph of its declaration, with respect to "(2) disputes with the Government of any State which is or has been a member of the Commonwealth of Nations;" and "(7) disputes concerning the interpretation or application of a multilateral treaty unless all the parties to the treaty are also parties to the case before the Court or Government of India specially agree to jurisdiction".

The "Commonwealth reservation" (paras. 30, 31 and 34-46)

With respect to the first of these reservations, relating to States which are or have been members of the Commonwealth (hereinafter called the "Commonwealth reservation"), Pakistan contended in its written pleadings that it "ha[d] no legal effect", on the grounds that: it was in conflict with the "principle of sovereign equality" and the "universality of rights and obligations of members of the United Nations"; it was in breach of "good faith"; and that it was in breach of various provisions of the Charter of the United Nations and of the Statute of the Court. In its Memorial, Pakistan claimed in particular that the reservation in question "[was] in excess of the conditions permitted under Article 36 (3) of the Statute", under which, according to Pakistan, "the permissible conditions [to which a declaration may be made subject] have been exhaustively set out . . . as (i) on condition of reciprocity on the part of several or certain states or (ii) for a certain time". In its oral pleadings, Pakistan developed its argument based on Article 36, paragraph 3, of the Statute, contending that reservations which, like the Commonwealth reservation, did not fall within the categories authorized by that provision, should be considered "extra-statutory". On this point it argued that: "an extra-statutory reservation made by a defendant State may be applied by the Court against a plaintiff State only if there is something in the case which allows the Court to conclude . . . that the plaintiff has accepted the reservation". Pakistan further claimed at the hearings that the reservation was "in any event inapplicable, not because it [was] extra-statutory and unopposable to Pakistan but because it [was] obsolete". Finally, Pakistan claimed that India's Commonwealth reservation, having thus lost its raison d'être, could today only be directed at Pakistan.

India rejects Pakistan's line of reasoning. In its pleadings, it stressed the particular importance to be attached, in its view, to ascertaining the intention of the declarant State. It contended that "there is no evidence whatsoever that the reservation [in question] is *ultra vires* Article 36, paragraph 3" of the Statute and referred to "[t]he fact . . . that it has for long been recognized that within the system of the optional clause a State can select its partners". India also queried the correctness

of the theory of "extra-statutory" reservations put forward by Pakistan, pointing out that "[any] State against which the reservation [were] invoked, [could] escape from it by merely stating that it [was] extra-statutory in character". India also rejects Pakistan's alternative arguments based on estoppel in relation to the Simla Accord and on obsolescence.

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The Court first addresses Pakistan's contention that the Commonwealth reservation is an extra-statutory reservation going beyond the conditions allowed for under Article 36, paragraph 3, of the Statute. According to Pakistan, the reservation is neither applicable nor opposable to it in this case, in the absence of acceptance. The Court observes that paragraph 3 of Article 36 of its Statute has never been regarded as laying down in an exhaustive manner the conditions under which declarations might be made. Already in 1928, the Assembly of the League of Nations had indicated that "reservations conceivably may relate, either generally to certain aspects of any kind of dispute, or specifically to certain classes or lists of disputes, and . . . these different kinds of reservation can be legitimately combined" (resolution adopted on 26 September 1928). Moreover, when the Statute of the present Court was being drafted, the right of a State to attach reservations to its declaration was confirmed, and this right has been recognized in the practice of States. The Court thus cannot accept Pakistan's argument that a reservation such as India's Commonwealth reservation might be regarded as "extra-statutory" because it contravened Article 36, paragraph 3, of the Statute. It considers that it need not therefore pursue further the matter of extra-statutory reservations.

Nor does the Court accept Pakistan's argument that India's reservation was a discriminatory act constituting an abuse of right because the only purpose of the reservation was to prevent Pakistan from bringing an action against India before the Court. It notes in the first place that the reservation refers generally to States which are or have been members of the Commonwealth. It adds that States are in any event free to limit the scope *ratione personae* which they wish to give to their acceptance of the compulsory jurisdiction of the Court.

The Court addresses, secondly, Pakistan's contention that the Commonwealth reservation was obsolete, because members of the Commonwealth of Nations were no longer united by a common allegiance to the Crown, and the modes of dispute settlement originally contemplated had never come into being. The Court recalls that it "will . . . interpret the relevant words of a declaration including a reservation contained therein in a natural and reasonable way, having due regard to the intention of the State concerned at the time when it accepted the compulsory jurisdiction of the Court" (*I.C.J. Reports 1998,* p. 454, para. 49). While the historical reasons for the initial appearance of the Commonwealth reservation in the declarations of certain States under the optional clause might have changed or disappeared, such considerations could not, however, prevail over the intention of a declarant State, as expressed in the actual text of its declaration. India had, in the four declarations whereby, since its independence in 1947, it had accepted the compulsory jurisdiction of the Court, made clear that it wished to limit in this manner the scope *ratione personae* of its acceptance of the Court's jurisdiction. Whatever might have been the reasons for this limitation, the Court was bound to apply it.

The Court further regards article 1 of the Simla Accord, paragraph (ii) of which provides, inter alia, that "the two countries are resolved to settle their differences by peaceful means through bilateral negotiations or by any other peaceful means mutu-

ally agreed upon between them . . .” as an obligation, generally, on the two States to settle their differences by peaceful means, to be mutually agreed by them. The said provision in no way modifies the specific rules governing recourse to any such means, including judicial settlement. The Court cannot therefore accept Pakistan’s argument in the present case based on estoppel.

In the Court’s view, it follows from the foregoing that the Commonwealth reservation contained in subparagraph (2) of the first paragraph of India’s declaration of 18 September 1974 may validly be invoked in the present case. Since Pakistan “is . . . a member of the Commonwealth of Nations”, the Court finds that it has no jurisdiction to entertain the Application under Article 36, paragraph 2, of the Statute. Hence the Court considers it unnecessary to examine India’s objection based on the reservation concerning multilateral treaties contained in subparagraph (7) of the first paragraph of its declaration.

Article 36, paragraph 1, of the Statute (paras. 47-50)

Finally, Pakistan has sought to found the jurisdiction of the Court on paragraph 1 of Article 36 of the Statute. The Court observes that the Charter of the United Nations contains no specific provision of itself conferring compulsory jurisdiction on the Court. In particular, there is no such provision in Articles 1, paragraph 1; 2, paragraphs 3 and 4; 33; 36, paragraph 3; and 92 of the Charter, relied on by Pakistan. The Court also observes that paragraph (i) of article 1 of the Simla Accord represents an obligation entered into by the two States to respect the principles and purposes of the Charter in their mutual relations. It does not as such entail any obligation on India and Pakistan to submit their disputes to the Court. It follows that the Court has no jurisdiction to entertain the Application on the basis of Article 36, paragraph 1, of the Statute.

Obligation to settle disputes by peaceful means (paras. 51-55)

Finally, the Court recalls that its lack of jurisdiction does not relieve States of their obligation to settle their disputes by peaceful means. The choice of those means admittedly rests with the parties under Article 33 of the Charter of the United Nations. They are nonetheless under an obligation to seek such a settlement, and to do so in good faith in accordance with Article 2, paragraph 2, of the Charter. As regards India and Pakistan, that obligation was restated more particularly in the Simla Accord of 2 July 1972. Moreover, the Lahore Declaration of 21 February 1999 reiterated “the determination of both countries to implementing the Simla Agreement”. Accordingly, the Court reminds the Parties of their obligation to settle their disputes by peaceful means, and in particular the dispute arising out of the aerial incident of 10 August 1999, in conformity with the obligations which they have undertaken.

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Operative paragraph (para. 56)

“For these reasons,

THE COURT,

By fourteen votes to two,

Finds that it has no jurisdiction to entertain the Application filed by the Islamic Republic of Pakistan on 21 September 1999.

IN FAVOUR: *President* Guillaume; *Vice-President* Shi; *Judges* Oda, Bedjaoui, Ranjeva, Herczegh, Fleischhauer, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Buergenthal; *Judge ad hoc* Reddy;

AGAINST: *Judge* Al-Khasawneh; *Judge ad hoc* Pirzada."

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Judges Oda, Koroma and Judge ad hoc Reddy appended separate opinions to the judgment of the Court. Judge Al-Khasawneh and Judge ad hoc Pirzada appended dissenting opinions.

(l) *Maritime Delimitation between Nicaragua and Honduras in the Caribbean Sea (Nicaragua* v. *Honduras)*

By an Order of 21 March 2000 (*I.C.J. Reports 2000*, p. 6), the Court, taking into account the agreement of the Parties, fixed 21 March 2001 as the time limit for the filing of the Memorial of Nicaragua and 21 March 2002 for the filing of the Counter-Memorial by Honduras. The Memorial of Nicaragua was filed within the prescribed time limit.

Copies of the pleadings and documents annexed have been made available to the Government of Colombia, at its request.

(m) *Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo* v. *Belgium)*

On 17 October 2000, the Democratic Republic of the Congo (the Congo) filed in the Registry of the Court an Application instituting proceedings against Belgium concerning an international arrest warrant issued on 11 April 2000 by a Belgian examining judge against the Congo's acting Minister for Foreign Affairs, Yerodia Abdoulaye Ndombasi, seeking his detention and subsequent extradition to Belgium for alleged crimes constituting "grave violations of international humanitarian law". The international arrest warrant was transmitted to all States, including the Congo, which received it on 12 July 2000.

In its Application, the Democratic Republic of the Congo notes that the arrest warrant, issued by Mr. Vandermeersch, examining judge at the Brussels Tribunal de première instance, characterizes the alleged facts as "crimes of international law committed by action or omission against persons or property protected by the Geneva Conventions of 12 August 1949 and the Additional Protocols I and II to those Conventions, crimes against humanity" and cites in support of this proposition provisions of the allegedly applicable Belgian Law of 16 June 1993 as amended by the Law of 10 February 1999 pertaining to the punishment of grave violations of international humanitarian law. The Democratic Republic of the Congo states that, according to the terms of the warrant, the examining judge affirms his competence to deal with facts allegedly committed on the territory of the Congo by a national of that State, without it being alleged that the victims are of Belgian nationality, or that the facts constitute violations of the security or dignity of the Kingdom of Belgium. It further observes that article 5 of the above-mentioned Belgian Law prescribes that "the immunity conferred by a person's official capacity does not prevent application of this Law" and that article 7 of the same Law establishes the universal applicabil-

ity of the Law and the universal jurisdiction of Belgian courts in relation to "grave violations of international humanitarian law", which jurisdiction is not subject to the presence of the accused on Belgian territory.

The Congo maintains that article 7 of the Belgian Law and the arrest warrant issued on the basis of that article constitute "a violation of the principle whereby a State may not exercise its authority on the territory of another State and the principle of sovereign equality among all Members of the United Nations", as declared in Article 2, paragraph 1, of the Charter of the United Nations. It also maintains that article 5 and the arrest warrant contravene international law, insofar as they claim to derogate from the diplomatic immunity of the Minister for Foreign Affairs of a sovereign State, "deriving from article 41, paragraph 2, of the Vienna Convention of 18 April 1961 on Diplomatic Relations".

Accordingly, the Congo asks the Court to declare that Belgium must annul the international arrest warrant issued against Abdoulaye Yerodia Ndombasi.

As a basis for the Court's jurisdiction, the Congo invokes the fact that "Belgium has accepted the Court's jurisdiction and [that], to the extent necessary, the present Application signifies acceptance of that jurisdiction by the Democratic Republic of the Congo".

The Democratic Republic of the Congo also filed a request for the indication of a provisional measure seeking "to have the arrest warrant withdrawn forthwith". In its request, the Congo maintains that "the two conditions that are essential for the indication of a provisional measure under the jurisprudence of the Court—urgency and the existence of irreparable damage—are manifestly present in this case". It stresses, inter alia, that "the disputed international arrest warrant in effect prevents the Minister [of the Democratic Republic of the Congo] from departing that State for any other State where his duties may call him and, accordingly, from accomplishing his duties".

Hearings on the request for the indication of provisional measures filed by the Congo were held from 20 to 23 November 2000.

During those hearings, the Democratic Republic of the Congo, inter alia, stated the following:

> "the Democratic Republic of the Congo requests the Court to order Belgium to comply with international law; to cease and desist from any conduct which might exacerbate the dispute with the Democratic Republic of the Congo; specifically, to discharge the international arrest warrant issued against Minister Yerodia".

Belgium, for its part, made the following submissions:

> "The Kingdom of Belgium asks that it may please the Court to refuse the request for the indication of provisional measures submitted by the Democratic Republic of the Congo in the case concerning the *Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo* v. *Belgium)* and not indicate the provisional measures which are the subject of the request by the Democratic Republic of the Congo.
>
> "The Kingdom of Belgium asks that it may please the Court to remove from its List the case concerning the *Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo* v. *Belgium)* brought by the Democratic Republic of the Congo against Belgium by Application dated 17 October 2000."

At a public sitting, held on 8 December 2000, the Court rendered its Order (*I.C.J. Reports 2000*, p. 182) on the request for the indication of provisional measures, a summary of which is given below, followed by the text of the final paragraph:

The Court begins by recalling that, in the course of the hearings, it was informed by Belgium that, on 20 November 2000, a Cabinet reshuffle had taken place in the Congo, as a result of which Yerodia Ndombasi had ceased to exercise the functions of Minister for Foreign Affairs and had been charged with those of Minister of Education; and that this information was confirmed by the Congo.

Belgium had maintained that, as a result of the Cabinet reshuffle, the Congo's Application on the merits had been deprived of its object and should therefore be removed from the List. In this regard, the Court observes that, "to date", the arrest warrant issued against Yerodia Ndombasi "has not been withdrawn and still relates to the same individual, notwithstanding the new ministerial duties that he is performing" and that "at the hearings the Congo maintained its claim on the merits". It accordingly concludes that "the Congo's Application has not at the present time been deprived of its object" and that "it cannot therefore accede to Belgium's request for the case to be removed from the List".

As regards the request for the indication of provisional measures, the Court finds that it too still has an object, despite the Cabinet reshuffle, since, inter alia, the arrest warrant continues to be in the name of Yerodia Ndombasi and the Congo contends that Yerodia Ndombasi continues to enjoy immunities which render the arrest warrant unlawful.

The Court then turns to the issue of its jurisdiction. In the course of the hearings Belgium had contended that the Court could not at this stage of the proceedings take account of the declarations of acceptance of its compulsory jurisdiction made by the Parties because the Congo had not invoked those declarations until a late stage. The Court observes that the said declarations are within the knowledge both of itself and of the Parties to the present case and that Belgium could readily expect that they would be taken into consideration as a basis for the jurisdiction of the Court in the present case. Belgium had also pointed out that its declaration excluded the compulsory jurisdiction of the Court concerning situations or facts "in regard to which the parties have agreed or may agree to have recourse to another method of pacific settlement", and that negotiations at the highest level regarding the arrest warrant were in fact in progress when the Congo seized the Court. The Court states that Belgium has not provided the Court with any further details of those negotiations, or of the consequences which it considered they would have in regard to the Court's jurisdiction, in particular its jurisdiction to indicate provisional measures. The Court concludes that the declarations made by the Parties constitute prima facie a basis on which its jurisdiction could be founded in the present case.

After having recalled that the power of the Court to indicate provisional measures "has as its object to preserve the respective rights of the parties pending the decision of the Court", that it "presupposes that irreparable prejudice should not be caused to rights which are the subject of dispute" and that "such measures are justified solely if there is urgency", the Court notes that, following the Cabinet reshuffle of 20 November 2000, Yerodia Ndombasi ceased to exercise the functions of Minister for Foreign Affairs and was charged with those of Minister of Education, involving less frequent foreign travel. It concludes that "it has accordingly not been established that irreparable prejudice might be caused in the immediate future to the

Congo's rights nor that the degree of urgency is such that those rights need to be protected by the indication of provisional measures".

The Court adds that, "while the Parties appear to be willing to consider seeking a friendly settlement of their dispute, their positions as set out before [it] regarding their respective rights are still a long way apart". It points out that, "while any bilateral negotiations with a view to achieving a direct and friendly settlement will continue to be welcomed, the outcome of such negotiations cannot be foreseen"; "it is desirable that the issues before the Court should be determined as soon as possible" and "it is therefore appropriate to ensure that a decision on the Congo's Application be reached with all expedition". The Court further states that the Order made in the present proceedings in no way prejudges the question of the jurisdiction of the Court to deal with the merits of the case, or with any questions relating to the admissibility of the Application or to the merits themselves.

Final paragraph (para. 78):

"For these reasons,

THE COURT,

(1) Unanimously,

Rejects the request of the Kingdom of Belgium that the case be removed from the List;

(2) By fifteen votes to two,

Finds that the circumstances, as they now present themselves to the Court, are not such as to require the exercise of its power under Article 41 of the Statute to indicate provisional measures.

IN FAVOUR: *President* Guillaume; *Vice-President* Shi; *Judges* Oda, Bedjaoui, Ranjeva, Herczegh, Fleischhauer, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Al-Khasawneh, Buergenthal; *Judge ad hoc* Van den Wyngaert;

AGAINST: *Judge* Rezek; *Judge ad hoc* Bula-Bula."

*

Judges Oda and Ranjeva appended declarations to the Order of the Court; Judges Koroma and Parra-Aranguren separate opinions; Judge Rezek and Judge ad hoc Bula-Bula dissenting opinions; and Judge ad hoc Van den Wyngaert a declaration.

*

By an Order of 13 December 2000 (*I.C.J. Reports 2000*, p. 235), the President of the Court, taking account of the agreement of the Parties, fixed 15 March 2001 and 31 May 2001 as the time limits for the filing of the Memorial of the Democratic Republic of the Congo and the Counter-Memorial of Belgium respectively.

Consideration by the General Assembly

The General Assembly, by its decision 55/407 of 26 October 2000, adopted without reference to a Main Committee, took note of the report of the International Court of Justice.[107]

6. INTERNATIONAL LAW COMMISSION[108]

Fifty-second session of the Commission[109]

The International Law Commission held the first part of its fifty-second session from 1 May to 9 June 2000 and the second part from 10 July to 18 August 2000 at its seat at the United Nations Office at Geneva.

Regarding the topic of State responsibility, the Commission had before it comments and observations received from Governments on the draft articles provisionally adopted on first reading and the third report of the Special Rapporteur. The Commission continued with its task, and on 17 August, took note of the report of the Drafting Committee on the entire set of draft articles, which were provisionally adopted by the Drafting Committee.

Concerning the topic of diplomatic protection, the Commission had before it the Special Rapporteur's first report, and at its 2624th meeting, it established open-ended informal consultations, chaired by the Special Rapporteur, on articles 1, 3 and 6. Subsequently, the Commission considered the report of the informal consultations and decided to refer draft articles 1, 3 and 5 to 8 to the Drafting Committee together with the report of the informal consultations.

The Commission had before it the Special Rapporteur's third report on unilateral acts of States, as well as the report of the Secretary-General containing the text of the replies to the questionnaire. The Special Rapporteur's report was considered by the members at the current session.

For the topic of reservations to treaties, the Commission had before it the Special Rapporteur's fifth report relating to alternatives to reservations and interpretative declarations and to the formulation, modification and withdrawal of reservations and interpretative declarations. The Commission considered the first part of the fifth report and, on 14 July 2000, adopted on first reading a number of draft guidelines. Due to lack of time, the Commission decided to defer consideration of the second part of the fifth report of the Special Rapporteur, which dealt with procedural matters on the topic.

In connection with the topic of international liability for injurious consequences arising out of acts not prohibited by international law (prevention of transboundary damage from hazardous activities), the Commission established a Working Group. The Commission had before it the report of the Secretary-General containing the comments and observations received from Governments on the topic, as well as the third report by the Special Rapporteur, which the Commission considered at the current session.

The annual report of the Commission to the General Assembly also contained a list of topics recommended for inclusion in its long-term programme of work: responsibility of international organizations; the effect of armed conflict on treaties; expulsion of aliens; and risks ensuing from fragmentation of international law.

Consideration by the General Assembly

On the recommendation of the Sixth Committee, the General Assembly adopted, without a vote, resolution 55/150 of 12 December 2000, it took note with appreciation of the report of the Working Group on Jurisdictional Immunities of States and Their Property of the Commission, [110] and decided to establish an Ad Hoc

Committee on the topic, to further the work done, consolidate areas of agreement and resolve outstanding issues with a view to elaborating a generally acceptable instrument based on the draft articles on jurisdictional immunities of States and their property adopted by the Commission at its forty-third session and on the discussions of the open-ended working group of the Sixth Committee and their results. And by its resolution 55/152, also of 12 December 2000, adopted without a vote, the Assembly took note of the report of the International Law Commission.

On the same date, the General Assembly also adopted without a vote resolution 55/153, in which it took note of the articles on nationality of natural persons in relation to the succession of States, presented by the Commission in the form of a declaration, the text of which reads as follows:

Nationality of natural persons in relation to the succession of States

PREAMBLE

Considering that problems of nationality arising from succession of States concern the international community,

Emphasizing that nationality is essentially governed by internal law within the limits set by international law,

Recognizing that in matters concerning nationality, due account should be taken both of the legitimate interests of States and those of individuals,

Recalling that the Universal Declaration of Human Rights of 1948 proclaimed the right of every person to a nationality,

Recalling also that the International Covenant on Civil and Political Rights of 1966 and the Convention on the Rights of the Child of 1989 recognize the right of every child to acquire a nationality,

Emphasizing that the human rights and fundamental freedoms of persons whose nationality may be affected by a succession of States must be fully respected,

Bearing in mind the provisions of the Convention on the reduction of statelessness of 1961, the Vienna Convention on Succession of States in Respect of Treaties of 1978 and the Vienna Convention on Succession of States in Respect of State Property, Archives and Debts of 1983,

Convinced of the need for the codification and progressive development of the rules of international law concerning nationality in relation to the succession of States as a means for ensuring greater juridical security for States and for individuals,

PART I. GENERAL PROVISIONS

Article 1

Right to a nationality

Every individual who, on the date of the succession of States, had the nationality of the predecessor State, irrespective of the mode of acquisition of that nationality, has the right to the nationality of at least one of the States concerned, in accordance with the present articles.

Article 2

Use of terms

For the purposes of the present articles:

(*a*) "Succession of States" means the replacement of one State by another in the responsibility for the international relations of territory;

(*b*) "Predecessor State" means the State which has been replaced by another State on the occurrence of a succession of States;

(*c*) "Successor State" means the State which has replaced another State on the occurrence of a succession of States;

(*d*) "State concerned" means the predecessor State or the successor State, as the case may be;

(*e*) "Third State" means any State other than the predecessor State or the successor State;

(*f*) "Person concerned" means every individual who, on the date of the succession of States, had the nationality of the predecessor State and whose nationality may be affected by such succession;

(*g*) "Date of the succession of States" means the date upon which the successor State replaced the predecessor State in the responsibility for the international relations of the territory to which the succession of States relates.

Article 3

Cases of succession of States covered by the present articles

The present articles apply only to the effects of a succession of States occurring in conformity with international law and, in particular, with the principles of international law embodied in the Charter of the United Nations.

Article 4

Prevention of statelessness

States concerned shall take all appropriate measures to prevent persons who, on the date of the succession of States, had the nationality of the predecessor State from becoming stateless as a result of such succession.

Article 5

Presumption of nationality

Subject to the provisions of the present articles, persons concerned having their habitual residence in the territory affected by the succession of States are presumed to acquire the nationality of the successor State on the date of such succession.

Article 6

Legislation on nationality and other connected issues

Each State concerned should, without undue delay, enact legislation on nationality and other connected issues arising in relation to the succession of States consistent with the provisions of the present articles. It should take all appropriate measures to ensure that persons concerned will be apprised, within a reasonable time period, of the effect of its legislation on their nationality, of any choices they may have thereunder, as well as of the consequences that the exercise of such choices will have on their status.

Article 7

Effective date

The attribution of nationality in relation to the succession of States, as well as the acquisition of nationality following the exercise of an option, shall take effect on the date of such succession, if persons concerned would otherwise be stateless during the period between the date of the succession of States and such attribution or acquisition of nationality.

Article 8

Persons concerned having their habitual residence in another State

1. A successor State does not have the obligation to attribute its nationality to persons concerned who have their habitual residence in another State and also have the nationality of that or any other State.

2. A successor State shall not attribute its nationality to persons concerned who have their habitual residence in another State against the will of the persons concerned unless they would otherwise become stateless.

Article 9

Renunciation of the nationality of another State as a condition for attribution of nationality

When a person concerned who is qualified to acquire the nationality of a successor State has the nationality of another State concerned, the former State may make the attribution of its nationality dependent on the renunciation by such person of the nationality of the latter State. However, such requirement shall not be applied in a manner which would result in rendering the person concerned stateless, even if only temporarily.

Article 10

Loss of nationality upon the voluntary acquisition of the nationality of another State

1. A predecessor State may provide that persons concerned who, in relation to the succession of States, voluntarily acquire the nationality of a successor State shall lose its nationality.

2. A successor State may provide that persons concerned who, in relation to the succession of States, voluntarily acquire the nationality of another successor State or, as the case may be, retain the nationality of the predecessor State shall lose its nationality acquired in relation to such succession.

Article 11

Respect for the will of persons concerned

1. States concerned shall give consideration to the will of persons concerned whenever those persons are qualified to acquire the nationality of two or more States concerned.

2. Each State concerned shall grant a right to opt for its nationality to persons concerned who have appropriate connection with that State if those persons would otherwise become stateless as a result of the succession of States.

3. When persons entitled to the right of option have exercised such right, the State whose nationality they have opted for shall attribute its nationality to such persons.

4. When persons entitled to the right of option have exercised such right, the State whose nationality they have renounced shall withdraw its nationality from such persons, unless they would thereby become stateless.

5. States concerned should provide a reasonable time limit for the exercise of the right of option.

Article 12

Unity of a family

Where the acquisition or loss of nationality in relation to the succession of States would impair the unity of a family, States concerned shall take all appropriate measures to allow that family to remain together or to be reunited.

Article 13

Child born after the succession of States

A child of a person concerned, born after the date of the succession of States, who has not acquired any nationality, has the right to the nationality of the State concerned on whose territory that child was born.

Article 14

Status of habitual residents

1. The status of persons concerned as habitual residents shall not be affected by the succession of States.

2. A State concerned shall take all necessary measures to allow persons concerned who, because of events connected with the succession of States, were forced to leave their habitual residence on its territory to return thereto.

Article 15

Non-discrimination

States concerned shall not deny persons concerned the right to retain or acquire a nationality or the right of option upon the succession of States by discriminating on any ground.

Article 16

Prohibition of arbitrary decisions concerning nationality issues

Persons concerned shall not be arbitrarily deprived of the nationality of the predecessor State, or arbitrarily denied the right to acquire the nationality of the successor State or any right of option, to which they are entitled in relation to the succession of States.

Article 17

Procedures relating to nationality issues

Applications relating to the acquisition, retention or renunciation of nationality or to the exercise of the right of option, in relation to the succession of States, shall be processed without undue delay. Relevant decisions shall be issued in writing and shall be open to effective administrative or judicial review.

Article 18

Exchange of information, consultation and negotiation

1. States concerned shall exchange information and consult in order to identify any detrimental effects on persons concerned with respect to their nationality and other connected issues regarding their status as a result of the succession of States.

2. States concerned shall, when necessary, seek a solution to eliminate or mitigate such detrimental effects by negotiation and, as appropriate, through agreement.

Article 19

Other States

1. Nothing in the present articles requires States to treat persons concerned having no effective link with a State concerned as nationals of that State, unless this would result in treating those persons as if they were stateless.

2. Nothing in the present articles precludes States from treating persons concerned, who have become stateless as a result of the succession of States, as nationals of the State concerned whose nationality they would be entitled to acquire or retain, if such treatment is beneficial to those persons.

PART II. PROVISIONS RELATING TO SPECIFIC CATEGORIES OF SUCCESSION OF STATES

SECTION 1. TRANSFER OF PART OF THE TERRITORY

Article 20

Attribution of the nationality of the successor State and withdrawal of the nationality of the predecessor State

When part of the territory of a State is transferred by that State to another State, the successor State shall attribute its nationality to the persons concerned who have their habitual residence in the transferred territory and the predecessor State shall withdraw its nationality from such persons, unless otherwise indicated by the exercise of the right of option which such persons shall be granted. The predecessor State shall not, however, withdraw its nationality before such persons acquire the nationality of the successor State.

SECTION 2. UNIFICATION OF STATES

Article 21

Attribution of the nationality of the successor State

Subject to the provisions of article 8, when two or more States unite and so form one successor State, irrespective of whether the successor State is a new State or whether its personality is identical to that of one of the States which have united, the successor State shall attribute its nationality to all persons who, on the date of the succession of States, had the nationality of a predecessor State.

SECTION 3. DISSOLUTION OF A STATE

Article 22

Attribution of the nationality of the successor States

When a State dissolves and ceases to exist and the various parts of the territory of the predecessor State form two or more successor States, each successor State shall, unless otherwise indicated by the exercise of a right of option, attribute its nationality to:

(*a*) Persons concerned having their habitual residence in its territory; and

(*b*) Subject to the provisions of article 8:

(i) Persons concerned not covered by subparagraph (*a*) having an appropriate legal connection with a constituent unit of the predecessor State that has become part of that successor State;

(ii) Persons concerned not entitled to a nationality of any State concerned under subparagraphs (*a*) and (*b*) (i) having their habitual residence in a third State, who were born in or, before leaving the predecessor State, had their last habitual residence in what has become the territory of that successor State or having any other appropriate connection with that successor State.

Article 23

Granting of the right of option by the successor States

1. Successor States shall grant a right of option to persons concerned covered by the provisions of article 22 who are qualified to acquire the nationality of two or more successor States.

2. Each successor State shall grant a right to opt for its nationality to persons concerned who are not covered by the provisions of article 22.

Section 4. Separation of part or parts of the territory

Article 24

Attribution of the nationality of the successor State

When part or parts of the territory of a State separate from that State and form one or more successor States while the predecessor State continues to exist, a successor State shall, unless otherwise indicated by the exercise of a right of option, attribute its nationality to:

(*a*) Persons concerned having their habitual residence in its territory; and

(*b*) Subject to the provisions of article 8:

(i) Persons concerned not covered by subparagraph (*a*) having an appropriate legal connection with a constituent unit of the predecessor State that has become part of that successor State;

(ii) Persons concerned not entitled to a nationality of any State concerned under subparagraphs (*a*) and (*b*) (i) having their habitual residence in a third State, who were born in or, before leaving the predecessor State, had their last habitual residence in what has become the territory of that successor State or having any other appropriate connection with that successor State.

Article 25

Withdrawal of the nationality of the predecessor State

1. The predecessor State shall withdraw its nationality from persons concerned qualified to acquire the nationality of the successor State in accordance with article 24. It shall not, however, withdraw its nationality before such persons acquire the nationality of the successor State.

2. Unless otherwise indicated by the exercise of a right of option, the predecessor State shall not, however, withdraw its nationality from persons referred to in paragraph 1 who:

(*a*) Have their habitual residence in its territory;

(*b*) Are not covered by subparagraph (*a*) and have an appropriate legal connection with a constituent unit of the predecessor State that has remained part of the predecessor State;

(*c*) Have their habitual residence in a third State, and were born in or, before leaving the predecessor State, had their last habitual residence in what has remained part of the territory of the predecessor State or have any other appropriate connection with that State.

Article 26

Granting of the right of option by the predecessor and the successor States

Predecessor and successor States shall grant a right of option to all persons concerned covered by the provisions of article 24 and paragraph 2 of article 25 who are qualified to have the nationality of both the predecessor and successor States or of two or more successor States.

7. UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW[111]

The United Nations Commission on International Trade Law (UNCITRAL) held its thirty-third session in New York from 12 June to 7 July 2000.

At the session, the Commission adopted the report of the drafting group on the draft Convention on assignment of receivables, and requested the United Nations Secretariat to prepare and distribute a revised version of the commentary on the Convention after the working group had completed its work on the draft Convention.

At its 703rd meeting, the Commission adopted the Legislative Guide on privately financed infrastructure projects, and requested the United Nations Secretariat to transmit the text of the Guide to Governments and other interested bodies.

With regard to the topic of electronic commerce, the Commission adopted the text of articles 1 and 3 to 12 of the uniform rules. The Commission also agreed to undertake studies in three areas for possible future work: electronic contracting; dispute settlement; and dematerialization of documents of title, in particular in the transport industry.

Concerning the settlement of commercial disputes, the Commission had entrusted the subject to the Working Group on Arbitration and had decided that the priority items should be conciliation, requirement of written form for the arbitration agreement, enforceability of interim measures of protection and possible enforceability of an award that had been set aside in the State of origin. At the current session, the Commission considered the report of the Working Group[112] and called for coordination between the Working Group and the ECE Advisory Group on the 1961 European Convention on International Commercial Arbitration.

Regarding the Australian proposal on insolvency law, the Commission accepted the Working Group's recommendation that the Group prepare a comprehensive statement of key objectives and core features for a strong insolvency, debtor-creditor regime, including consideration of out-of-court restructuring, and a legislative guide containing flexible approaches to the implementation of such objectives and features, including a discussion of the alternative approaches possible and the perceived benefits and detriments of such approaches. It was agreed that in carrying out its task the Working Group should be mindful of the work under way or already completed by other organizations, including IMF, the World Bank, the Asian Development Bank, INSOL International (International Federation of Insolvency Professionals) and the International Bar Association.

Concerning the case law on UNCITRAL texts (CLOUT),[113] the Commission expressed appreciation to the national correspondents for their valuable work in the collection of relevant decisions and arbitral awards and their preparation of case abstracts. It was noted that, whereas 62 jurisdictions had appointed national correspondents, there were another 26 jurisdictions that had not yet done so.

In the area of transport law, the Commission had before it a report of the Secretary-General on possible future work in transport law,[114] which described the progress of the work carried out by the International Maritime Committee in cooperation with the secretariat of the Commission.

The report of UNCITRAL of 6 June 2000[115] also provided information on the status of international trade law texts as follows:

(*a*) 1974 Convention on the Limitation Period in the International Sale of Goods, as amended by the 1980 Protocol—17 States parties;

(*b*) [Unamended] 1974 Convention on the Limitation Period in the International Sale of Goods—24 States parties;

(*c*) 1978 United Nations Convention on the Carriage of Goods by Sea (Hamburg Rules)—26 States parties;

(*d*) 1980 United Nations Convention on Contracts for the International Sale of Goods—56 States parties;

(*e*) 1988 United Nations Convention on International Bills of Exchange and International Promissory Notes—not yet in force;

(*f*) 1991 United Nations Convention on the Liability of Operators of Transport Terminals in International Trade—not yet in force;

(*g*) 1995 United Nations Convention on Independent Guarantees and Stand-by Letters of Credit—5 States parties;

(*h*) 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards—121 States parties;

(*i*) 1985 UNCITRAL Model Law on International Commercial Arbitration—Macau Special Administrative Region of China is new jurisdiction that has enacted legislation based on the Model Law;

(*j*) 1992 UNCITRAL Model Law on International Credit Transfers;

(*k*) 1994 UNCITRAL Model Law on Procurement of Goods, Construction and Services;

(*l*) 1996 UNCITRAL Model Law on Electronic Commerce—new jurisdictions that have enacted legislation based on Model Law are: Austria, Bermuda, France and Hong Kong Special Administrative Region of China. Uniform legislation influenced by the Model Law and the principles on which it is based has been prepared in Canada and in the United States of America;

(*m*) 1997 UNCITRAL Model Law on Cross-Border Insolvency—new jurisdictions that have enacted legislation based on the Model Law are Eritrea and Mexico.

In connection with the issue of security interests, the Commission recalled that it was the core legal body of the United Nations system in the field of the unification and harmonization of international trade law, and reaffirmed its mandate to monitor work carried out in other organizations in the field of international trade law, issuing recommendations when necessary, and to take any other action to carry out its mandate. With regard to the concern expressed as to the risk that any work by UNCITRAL in the field of secured credit law might duplicate work carried out in other organizations, the Commission agreed that such duplication could be avoided with a cautious, measured approach that would focus on particular types of assets. After discussion, the Commission requested the United Nations Secretariat to prepare a study that would discuss in detail the relevant problems in the field of secured credit law and the possible solutions for consideration by the Commission at its thirty-fourth session in 2001.

Consideration by the General Assembly

On 12 December 2000, the General Assembly, on the recommendation of the Sixth Committee, adopted without a vote resolution 55/151, wherein it took note of the report of the Secretary-General on the thirty-third session of UNCITRAL. The Assembly also appealed to Governments that had not yet done so to reply to the questionnaire circulated by the Secretariat concerning the legal regime governing the recognition and enforcement of foreign arbitral awards and, in particular, the legislative implementation of the 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention).[116] The Assembly further invited States to nominate persons to work with the private foundation established to encourage assistance to the Commission from the private sector.

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

In addition to the resolutions regarding the International Law Commission and international trade law matters, dealt with separately in the above sections, the Sixth Committee considered additional items and submitted its recommendations thereon to the General Assembly at its fifty-fifth session, which on 12 December 2000 adopted the resolutions and one decision, without a vote, except for the resolution on international terrorism, which was adopted by a recorded vote of 151 to none, with 2 abstentions.

Status of the Protocols Additional[117] *to the Geneva Conventions of 1949*[118] *and relating to the protection of victims of armed conflicts*

The General Assembly, by its resolution 55/148, appreciated the virtually universal acceptance of the Geneva Conventions of 1949 and noted the trend towards similarly wide acceptance of the two additional Protocols of 1977; and called upon all States that were already parties to Protocol I, or those States not parties, on becoming parties to Protocol I, to make the declaration provided for under article 90 of that Protocol. The Assembly also called upon all States that had not yet done so to consider becoming parties to the 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict[119] and the two Protocols thereto, and to other relevant treaties on international humanitarian law relating to the protection of victims of armed conflict; and further noted with appreciation the Plan of Action adopted by the Twenty-seventh International Conference of the Red Cross and Red Crescent, in particular the reiteration of the importance of universal adherence to treaties on humanitarian law and their effective implementation at the national level.

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

In its resolution 55/149, the General Assembly took note of the reports of the Secretary-General;[120] and called upon States that had not yet done so to consider

becoming parties to the instruments relevant to the protection, security and safety of diplomatic and consular missions and representatives.[121]

Report of the Committee on Relations with the Host Country

The General Assembly, by its resolution 55/154, endorsed the recommendations and conclusions of the Committee on Relations with the Host Country contained in paragraph 62 of its report;[122] and noted that the Committee had taken note of the opinion of the Legal Counsel of 1 September 2000 concerning the issuance of visas to participants in United Nations–related meetings[123] and that, in that connection, the Committee had recommended that the host country take that opinion into consideration in the future. The Assembly further expressed appreciation for the efforts made by the host country, and hoped that the issues raised at the meetings of the Committee would continue to be resolved in a spirit of cooperation and in accordance with international law.

Establishment of the International Criminal Court

In its resolution 55/155, the General Assembly reiterated the historic significance of the adoption of the Rome Statute of the International Criminal Court;[124] and welcomed the important work accomplished by the Preparatory Commission for the International Criminal Court in the completion of the part of its mandate relating to the draft texts of the rules of procedure and evidence and the elements of crimes, as required under resolution F adopted by the Rome Conference,[125] and noted in that respect the importance of the growing participation in the work of the working group on the crime of aggression.

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, in its resolution 55/156, took note of the report of the Special Committee on the Charter.[126] The Assembly also requested the Special Committee, at its session in 2001, to continue its consideration of all proposals concerning the question of the maintenance of international peace and security; to continue to consider on a priority basis the question of the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter; to continue its work on the question of the peaceful settlement of disputes between States; 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,[127] the report of the Secretary-General entitled "Renewing the United Nations: a programme for reform"[128] and the views expressed by States on the subject at previous sessions of the Assembly; and to continue to consider, on a priority basis, ways and means of improving its working methods and enhancing its efficiency. The Assembly furthermore took note of subparagraphs (*a*) to (*h*) of paragraph 33 of the report of the Secretary-General,[129] commended the Secretary-General for his continued efforts to reduce the backlog in the publication of the *Repertory of Practice of United Nations Organs*, and endorsed the efforts of the Secretary-General to eliminate the backlog in the publication of the *Repertoire of the Practice of the Security Council*.

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

The General Assembly, in its resolution 55/157, renewed its invitation to the Security Council to consider the establishment of further mechanisms or procedures, as appropriate, for consultations as early as possible under Article 50 of the Charter of the United Nations with third States which were or might be confronted with special economic problems arising from the carrying out of prevention or enforcement measures imposed by the Council under Chapter VII of the Charter. The Assembly also welcomed the measures taken by the Security Council since the adoption of General Assembly resolution 50/51 of 11 December 1995, most recently the note by the President of the Security Council of 17 April 2000,[130] in which the members of the Council had decided to establish an informal working group to develop general recommendations on how to improve the effectiveness of United Nations sanctions.

Measures to eliminate international terrorism

In its resolution 55/158, the General Assembly, having examined the report of the Secretary-General,[131] the report of the Ad Hoc Committee established by General Assembly resolution 51/216 of 17 December 1996[132] and the report of the Working Group of the Sixth Committee established pursuant to resolution 54/110 of 9 December 1999,[133] urged all States that had not yet done so to consider becoming parties to relevant conventions and protocols as referred to in paragraph 6 of resolution 51/210, as well as the 1997 International Convention for the Suppression of Terrorist Bombings,[134] and the 1999 International Convention for the Suppression of the Financing of Terrorism,[135] and called upon all States to enact, as appropriate, domestic legislation necessary to implement the provisions of those conventions and protocols. The Assembly also reaffirmed the 1994 Declaration on Measures to Eliminate International Terrorism[136] and the Declaration to Supplement the 1994 Declaration,[137] and called upon all States to implement them.

Review of the Statute of the United Nations Administrative Tribunal

By its resolution 55/159, the General Assembly decided to amend the Statute of the Tribunal, effective 1 January 2001, which would then read as follows:

Statute of the Administrative Tribunal of the United Nations

Article 1

A Tribunal is established by the present Statute to be known as the United Nations Administrative Tribunal.

Article 2

1. The Tribunal shall be competent to hear and pass judgement upon applications alleging non-observance of contracts of employment of staff members of the Secretariat of the United Nations or of the terms of appointment of such staff members. The words "contracts" and "terms of appointment" include all pertinent regulations and rules in force at the time of alleged non-observance, including the staff pension regulations.

2. The Tribunal shall be open:

(*a*) To any staff member of the Secretariat of the United Nations even after his or her employment has ceased, and to any person who has succeeded to the staff member's rights on his or her death;

(*b*) To any other person who can show that he or she is entitled to rights under any contract or terms of appointment, including the provisions of staff regulations and rules upon which the staff member could have relied.

3. In the event of a dispute as to whether the Tribunal has competence, the matter shall be settled by the decision of the Tribunal.

4. The Tribunal shall not be competent, however, to deal with any applications where the cause of complaint arose prior to 1 January 1950.

Article 3

1. The Tribunal shall be composed of seven members, no two of whom may be nationals of the same State. Members shall possess the requisite qualifications and experience, including, as appropriate, legal qualifications and experience. Only three members shall sit in any particular case.

2. The members shall be appointed by the General Assembly for four years and may be reappointed once. A member appointed to replace a member whose term of office has not expired shall hold office for the remainder of his or her predecessor's term, and may be reappointed once.

3. The Tribunal shall elect its President and its two Vice-Presidents from among its members.

4. The Secretary-General shall provide the Tribunal with an Executive Secretary and such other staff as may be considered necessary.

5. No member of the Tribunal can be dismissed by the General Assembly unless the other members are of the unanimous opinion that he or she is unsuited for further service.

6. In case of a resignation of a member of the Tribunal, the resignation shall be addressed to the President of the Tribunal for transmission to the Secretary-General. This last notification makes the place vacant.

Article 4

The Tribunal shall hold ordinary sessions at dates to be fixed by its rules, subject to there being cases on its list which, in the opinion of the President, justify holding the session. Extraordinary sessions may be convoked by the President when required by the cases on the list.

Article 5

1. The Secretary-General of the United Nations shall make the administrative arrangements necessary for the functioning of the Tribunal.

2. The expenses of the Tribunal shall be borne by the United Nations.

Article 6

1. Subject to the provisions of the present Statute, the Tribunal shall establish its rules.

2. The rules shall include provisions concerning:

(*a*) Election of the President and Vice-Presidents;

(*b*) Composition of the Tribunal for its sessions;

(*c*) Presentation of applications and the procedure to be followed in respect to them;

(*d*) Intervention by persons to whom the Tribunal is open under paragraph 2 of article 2, whose rights may be affected by the judgement;

(*e*) Hearing, for purposes of information, of persons to whom the Tribunal is open under paragraph 2 of article 2, even though they are not parties to the case; and generally,

(*f*) Other matters relating to the functioning of the Tribunal.

Article 7

1. An application shall not be receivable unless the person concerned has previously submitted the dispute to the joint appeals body provided for in the Staff Regulations and the latter has communicated its opinion to the Secretary-General, except where the Secretary-General and the applicant have agreed to submit the application directly to the Administrative Tribunal.

2. In the event of the joint body's recommendations being favourable to the application submitted to it, and insofar as this is the case, an application to the Tribunal shall be receivable if the Secretary-General has:

(*a*) Rejected the recommendations;

(*b*) Failed to take any action within thirty days following the communication of the opinion;

(*c*) Failed to carry out the recommendations within thirty days following the communication of the opinion.

3. In the event that the recommendations made by the joint body and accepted by the Secretary-General are unfavourable to the applicant, and insofar as this is the case, the application shall be receivable, unless the joint body unanimously considers that it is frivolous.

4. An application shall not be receivable unless it is filed within ninety days reckoned from the respective dates and periods referred to in paragraph 2 above, or within ninety days reckoned from the date of the communication of the joint body's opinion containing recommendations unfavourable to the applicant. If the circumstance rendering the application receivable by the Tribunal, pursuant to paragraphs 2 and 3 above, is anterior to the date of announcement of the first session of the Tribunal, the time limit of ninety days shall begin to run from that date. Nevertheless, the said time limit on his or her behalf shall be extended to one year if the heirs of a deceased staff member or the trustee of a staff member who is not in a position to manage his or her own affairs files the application in the name of the said staff member.

5. In any particular case, the Tribunal may decide to suspend the provisions regarding time limits.

6. The filing of an application shall not have the effect of suspending the execution of the decision contested.

7. Applications may be filed in any of the six official languages of the United Nations.

Article 8

Where the three members of the Tribunal sitting in any particular case consider that the case raises a significant question of law, they may, at any time before they render judgement, refer the case for consideration by the whole Tribunal. The quorum for a hearing by the whole Tribunal shall be five members.

Article 9

The oral proceedings of the Tribunal shall be held in public unless the Tribunal decides that exceptional circumstances require that they be held in private.

Article 10

1. If the Tribunal finds that the application is well founded, it shall order the rescinding of the decision contested or the specific performance of the obligation invoked. At the same time, the Tribunal shall fix the amount of compensation to be paid to the applicant for the injury sustained should the Secretary-General, within thirty days of the notification of the judgement, decide, in the interest of the United Nations, that the applicant shall be compensated without further action being taken in his or her case, provided that such compensation shall not exceed the equivalent of two years' net base salary of the applicant. The Tribunal may, however, in exceptional cases, when it considers it justified, order the payment of a higher indemnity. A statement of the reasons for the Tribunal's decision shall accompany each such order.

2. Should the Tribunal find that the procedure prescribed in the Staff Regulations or Staff Rules has not been observed, it may, at the request of the Secretary-General and prior to the determination of the merits of the case, order the case remanded for institution or correction of the required procedure. Where a case is remanded, the Tribunal may order the payment of compensation, which is not to exceed the equivalent of three months' net base salary, to the applicant for such loss as may have been caused by the procedural delay.

3. In all applicable cases, compensation shall be fixed by the Tribunal and paid by the United Nations or, as appropriate, by the specialized agency participating under article 14.

Article 11

1. The Tribunal shall take all decisions by a majority vote.

2. Subject to the provisions of article 12, the judgements of the Tribunal shall be final and without appeal.

3. The judgements shall state the reasons on which they are based.

4. The judgements shall be drawn up, in any of the six official languages of the United Nations, in two originals, which shall be deposited in the archives of the Secretariat of the United Nations.

5. A copy of the judgement shall be communicated to each of the parties in the case. Copies shall also be made available on request to interested persons.

Article 12

The Secretary-General or the applicant may apply to the Tribunal for a revision of a judgement on the basis of the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgement was given, unknown to the Tribunal and also to the party claiming revision, always provided that such ignorance was not due to negligence. The application must be made within thirty days of the discovery of the fact and within one year of the date of the judgement. Clerical or arithmetical mistakes in judgements, or errors arising therein from any accidental slip or omission, may at any time be corrected by the Tribunal either of its own motion or on the application of any of the parties.

Article 13

The present Statute may be amended by decision of the General Assembly.

Article 14

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 Pension Fund which has accepted the jurisdiction of the Tribunal in Pension Fund cases who is eligible under article 21 of the regulations of the Fund as a participant in the Fund, even if his or her employment has ceased, and any person who has acceded to such staff member's rights upon his or her death;

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

3. The competence of the Tribunal may be extended to any specialized agency brought into relationship with the United Nations in accordance with the provisions of Articles 57 and 63 of the Charter upon the terms established by a special agreement to be made with each such agency by the Secretary-General of the United Nations. Each such special agreement shall provide that the agency 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 agency and shall include, inter alia, provisions concerning the agency's participation in the administrative arrangements for the functioning of the Tribunal and concerning its sharing the expenses of the Tribunal.

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.

Observer status in the General Assembly

The General Assembly, by its resolutions 55/160 and 55/161, decided to invite the Inter-American Development Bank and the Economic Community of Central African States, respectively, to participate in the sessions and the work of the General Assembly in the capacity of observer.

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

The General Assembly, by its decision 55/428, decided to resume its consideration of the legal aspects of international economic relations at its fifty-eighth session.

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9. UNITED NATIONS INSTITUTE FOR TRAINING AND RESEARCH[138]

During the reporting period, UNITAR continued with its extensive training programmes, including in multilateral diplomacy and international affairs management, and capacity-building programmes in the field of economic and social development. UNITAR also designed and conducted training programmes for permanent missions in New York, and from July 2000 to June 2002, the New York Office conducted 66 training events.

Examples of individual training activities held in 2000 included: UNITAR WTO Workshop (held in Tajikistan); UNITAR/UNOPS Environmental Law Briefing—Part I (held in New York); UNITAR Workshop for African Diplomats on the Legal Aspects of External Debt Management and Negotiation (held in New York); UNITAR/Carl Duisberg Gesellschaft Workshop for the Lao People's Democratic Republic on Implementation of Multilateral Agreements (held in the Lao People's Democratic Republic); Workshop on Negotiation of International Legal Instruments: Methods and Techniques (held in New York); and WIPO/UNITAR Series on Intellectual Property—Challenges and Opportunities in the 21st Century (held in New York).

Consideration by the General Assembly

The General Assembly, on 20 December 2000, on the recommendation of the Second Committee, adopted without a vote resolution 55/208, in which it reaffirmed the importance of a coordinated, United Nations system-wide approach to research

and training based on an effective coherent strategy and an effective division of labour among the relevant institutions and bodies, and stressed the need for the Institute to strengthen further its cooperation with other United Nations institutes and relevant national, regional and international institutes. The Assembly also requested the Board of Trustees of UNITAR to intensify its efforts to attract experts from developing countries and countries with economies in transition for the preparation of relevant training materials for the programmes and activities of the Institute, and stressed that the courses of the Institute should focus primarily on development issues.

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

1. INTERNATIONAL LABOUR ORGANIZATION

(*a*) Membership

1. By a communication dated 29 December 1999, the original of which was received on 3 February 2000, the Government of the Kiribati, a Member of the United Nations, communicated to the Director-General its formal acceptance of the obligations under the Constitution of the International Labour Organization. In accordance with article 1, paragraph 3, of the ILO Constitution, Kiribati became a member of the International Labour Organization on 3 February 2000.

2. By a letter dated 22 November 2000, received on 24 November, the Government of the Federal Republic of Yugoslavia, a Member of the United Nations, communicated to the Director-General its formal acceptance of the obligations under the Constitution of ILO. In accordance with article 1, paragraph 3, of the ILO Constitution, the Federal Republic of Yugoslavia became a member of ILO on 24 November 2000. Further to the position adopted by the Governing Body of ILO in 1993,[139] it was agreed that, as long as the Federal Republic of Yugoslavia was not recognized as a successor of the former Socialist Federal Republic of Yugoslavia or did not become a new member of ILO, the former Socialist Federal Republic of Yugoslavia would remain on the list of ILO member States. It was deleted from this list on 24 November 2000, the date on which the Federal Republic of Yugoslavia became a member of ILO.

(*b*) International Labour Standards

3. The International Labour Conference (ILC), which held its 88th session in Geneva from 30 May to 15 June 2000, adopted the Maternity Protection Convention and Recommendation.[140]

4. At the same session, the ILC decided to withdraw the Hours of Work (Coal Mines) Convention, 1931, the Hours of Work (Coal Mines) Convention (Revised), 1935, the Reduction of Hours of Work (Public Works) Convention, 1936, the Reduction of Hours of Work (Textiles) Convention, 1937, and the Migration for Employment Convention, 1939.[141]

(*c*) Resolutions

5. The International Labour Conference, on 14 June 2000, adopted a resolution entitled “Resolution concerning the measures recommended by the Governing

Body under article 33 of the ILO Constitution on the subject of Myanmar", [142] which reads as follows:

"*The General Conference of the International Labour Organization*,

"*Meeting* at its 88th session in Geneva from 30 May to 15 June 2000,

"*Considering* the proposals by the Governing Body which are before it, under the eighth item of its agenda (Provisional Record No. 4), with a view to the adoption, under article 33 of the ILO Constitution, of action to secure compliance with the recommendations of the Commission of Inquiry established to examine the observance by Myanmar of its obligations in respect of the Forced Labour Convention, 1930 (No. 29),

"*Having taken note* of the additional information contained in the report of the ILO technical cooperation mission sent to Yangon from 23 to 27 May 2000 (Provisional Record No. 8) and, in particular, of the letter dated 27 May 2000 from the Minister of Labour to the Director-General, which resulted from the mission,

"Considering that, while this letter contains aspects which seem to reflect a welcome intention on the part of the Myanmar authorities to take measures to give effect to the recommendations of the Commission of Inquiry, the factual situation on which the recommendations of the Governing Body were based has nevertheless remained unchanged to date,

"*Believing* that the Conference cannot, without failing in its responsibilities to the workers subjected to various forms of forced or compulsory labour, abstain from the immediate application of the measures recommended by the Governing Body unless the Myanmar authorities promptly take concrete action to adopt the necessary framework for implementing the Commission of Inquiry's recommendations, thereby ensuring that the situation of the said workers will be remedied more expeditiously and under more satisfactory conditions for all concerned,

"1. *Approves* in principle, subject to the conditions stated in paragraph 2 below, the actions recommended by the Governing Body, namely:

(*a*) To decide that the question of the implementation of the Commission of Inquiry's recommendations and of the application of Convention No. 29 by Myanmar should be discussed at future sessions of the International Labour Conference, at a sitting of the Committee on the Application of Standards specially set aside for the purpose, so long as this member has not been shown to have fulfilled its obligations;

(*b*) To recommend to the organization's constituents as a whole—Governments, employers and workers—that they:

(i) Review, in the light of the conclusions of the Commission of Inquiry, the relations that they may have with the member State concerned and take appropriate measures to ensure that the said member cannot take advantage of such relations to perpetuate or extend the system of forced or compulsory labour referred to by the Commission of Inquiry, and to contribute as far as possible to the implementation of its recommendations; and

(ii) Report back in due course and at appropriate intervals to the Governing Body;

(*c*) As regards international organizations, to invite the Director-General:

(i) To inform the international organizations referred to in article 12, paragraph 1, of the Constitution of the member's failure to comply;

(ii) To call upon the relevant bodies of these organizations to reconsider, within their terms of reference and in the light of the conclusions of the Commission of Inquiry, any cooperation they may be engaged in with the member concerned and, if appropriate, to cease as soon as possible any activity that could have the effect of directly or indirectly abetting the practice of forced or compulsory labour;

(*d*) Regarding the United Nations specifically, to invite the Director-General to request the Economic and Social Council to place an item on the agenda of its July 2001 session concerning the failure of Myanmar to implement the recommendations contained in the report of the Commission of Inquiry and seeking the adoption of recommendations directed by the Council or by the General Assembly, or by both, to Governments and to other specialized agencies and including requests similar to those proposed in subparagraphs (*b*) and (*c*) above;

(*e*) To invite the Director-General to submit to the Governing Body, in the appropriate manner and at suitable intervals, a periodic report on the outcome of the measures set out in subparagraphs (*c*) and (*d*) above, and to inform the international organizations concerned of any developments in the implementation by Myanmar of the recommendations of the Commission of Inquiry;

"2. *Decides* that those measures will take effect on 30 November 2000 unless, before that date, the Governing Body is satisfied that the intentions expressed by the Minister of Labour of Myanmar in his letter dated 27 May 2000 have been translated into a framework of legislative, executive and administrative measures that are sufficiently concrete and detailed to demonstrate that the recommendations of the Commission of Inquiry have been fulfilled and therefore render the implementation of one or more of these measures inappropriate;

"3. *Authorizes* the Director-General to respond positively to all requests by Myanmar that are made with the sole purpose of establishing, before the above deadline, the framework mentioned in the conclusions of the ILO technical cooperation mission (points (i), (ii) and (iii), page 8/11 of Provisional Record No. 8), supported by a sustained ILO presence on the spot if the Governing Body confirms that the conditions are met for such presence to be truly useful and effective."

6. The International Labour Conference also adopted, on 12 June 2000, a "Resolution concerning the deposit of an act of formal confirmation by ILO of the 1986 Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations",[143] which authorizes the Director-General to deposit the act on behalf of ILO.

(*d*) Miscellaneous

7. The Committee of Experts on the Application of Conventions and Recommendations met in Geneva from 23 November to 8 December 2000 to adopt its report[144] to the International Labour Conference (2001) at its 89th session.

8. At its 279th session (November 2000), the Governing Body of the International Labour Office, which met in Geneva, adopted several amendments to the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy.[145]

9. Representations lodged under Article 24 of the Constitution of the International Labour Organization alleging non-observance by Colombia of the Indigenous and Tribal Peoples Convention, 1989 (No. 169);[146] by the Czech Republic of the Protection of Wages Convention, 1949 (No. 95);[147] by Denmark of the Indigenous and Tribal Peoples Convention, 1989 (No. 169);[148] by Ecuador of the Indigenous and Tribal Peoples Convention, 1989 (No. 169);[149] and by Turkey of the Termination of Employment Convention, 1982 (No. 158)[150] were examined by the Governing Body.

10. The Governing Body of the ILO considered and adopted the following reports of its Committee on Freedom of Association: the 320th report (277th session, March 2000);[151] the 321st and 322nd reports (278th session, June 2000);[152] the 323rd report (279th session, November 2000).[153]

11. The Working Party on the Social Dimensions of the Liberalization of International Trade, established by the Governing Body, held two meetings in 2000 during the 277th (March 2000)[154] and 279th (November 2000)[155] sessions of the Governing Body.

12. 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 several meetings in 2000 during the 277th (March 2000)[156] and 279th (November 2000)[157] sessions of the Governing Body.

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2. UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

(*a*) International regulations

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

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

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

During 2000, preparatory work was undertaken on a draft Convention concerning the Protection of the Underwater Cultural Heritage and on a draft Recommendation on the Promotion and Use of Multilingualism and Universal Access to Cyberspace. Proposals for the adoption of these two new instruments are included on the provisional agenda of the 31st session of the General Conference (October-November 2001).

(*b*) Human rights

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

The Committee on Convention and Recommendations met in private session at UNESCO headquarters from 9 to 11 May and from 3 to 5 October 2000 to examine communications which had been transmitted to it in accordance with decision 104 EX/3.3 of the Executive Board.

At its May 2000 session, the Committee examined 25 communications, of which 4 were examined with a view to determining their admissibility or otherwise, 5 were examined as to their substance and 16 were examined for the first time. One communication was declared inadmissible and 5 were struck from the list because they were considered as having been settled or did not, upon examination of their merits, appear to warrant further action. Examination of 23 was suspended. The Committee presented its report to the Executive Board at its 159th session.

At its October session, the Committee examined 22 communications, of which 14 were examined with a view to determining their admissibility or otherwise, 5 were examined as regards their substance and 3 were examined for the first time. Of the communications examined, one was declared inadmissible and 4 were struck from the list because they were considered as having been settled or did not, upon examination of the merits, appear to warrant further action. The examination of 17 was suspended. The Committee presented its report to the Executive Board at its 160th session.

(*c*) Copyright activities

(i) UNESCO, providing the secretariat of the Intergovernmental Committee of the Universal Copyright Convention, organized its twelfth ordinary session at UNESCO headquarters from 18 to 22 June 2000. Inter alia, the Committee had extensive discussions of the following legal problems:

—The role of service and access providers in digital transmission and their responsibilities regarding copyright;[158]

—International experience in regard to procedures for settling conflicts relating to copyright in the digital environment;[159]

—Practical aspects of the exercise of the *droit de suite*, including in the digital environment, and its effects on developments in the international art market and on the improvement of the protection of visual artists.[160]

The Committee's discussions and the conclusions formulated at the end of the discussion of each issue will be published in the *UNESCO Copyright Bulletin.*[161]

(ii) UNESCO elaborated model provisions for the protection of traditional and popular culture (folklore) for the intention of the States of the Pacific region.

(iii) UNESCO published, in English and French, the Guide to the Collective Administration of Author's Rights. The purpose of the Guide is to assist the creators of intellectual works in establishing the societies for the collective administration of their rights where such organizations do not exist or to improve the functioning of such societies where they do exist but are not sufficiently efficient.

3. WORLD HEALTH ORGANIZATION

(*a*) Constitutional and legal developments

The Federal Republic of Yugoslavia joined the World Health Organization on 28 November. At the end of 2000, there were 191 States members and two associate members of WHO.

The amendments to articles 24 and 25 of the Constitution, adopted in 1998 by the fifty-first World Health Assembly to increase the membership of the Executive Board from 32 to 34, had been accepted by 67 member States as at 31 December 2000. The amendment to article 7 of the Constitution, adopted in 1965 by the eighteenth World Health Assembly to allow the Assembly to suspend certain rights of member States practising racial discrimination, had been accepted by 72 member States as at 31 December 2000. The amendment to article 74 of the Constitution, adopted in 1978 by the thirty-first World Health Assembly to establish Arabic as one of the authentic languages of the Constitution, had been accepted by 61 member States as at 31 December 2000. Acceptance by two thirds of member States is required for the amendments to enter into force.

The fifty-third World Health Assembly, by its resolution WHA53.9 of 20 May 2000, authorized the Director-General to deposit with the Secretary-General of the United Nations an instrument of formal confirmation of the 1986 Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations. The deposit of the instrument of formal confirmation was effected on 22 June 2000.

The fifty-third World Health Assembly, on the same date, also adopted resolution WHA53.13, entitled "Aligning the participation of Palestine in the World Health Organization with its participation in the United Nations". By that resolution, the Assembly decided to confer upon Palestine in the World Health Assembly and other meetings of the World Health Organization, in its capacity as an observer, the rights and privileges described in United Nations General Assembly resolution 52/250 of 7 July 1998.

An agreement based on the standard Basic Agreement for the Establishment of Technical Advisory Cooperation was concluded in 2000 with the Government of South Africa.

(*b*) Health legislation

By its resolution WHA52.18 of 24 May 1999, the fifty-second World Health Assembly established a Working Group and an Intergovernmental Negotiating Body to draft and negotiate a Framework Convention on Tobacco Control and possible related protocols. Following its 1st meeting in 1999, the Working Group submitted a report on the progress achieved in developing the proposed draft elements of the Convention to the WHO Executive Board at its 105th session, held from 15 to 23 January 2001. The second and final meeting of the Working Group took place from 27 to 29 March 2000. The meeting was attended by representatives of 153 member States and the European Community as well as observers from the Holy See, Palestine, organizations of the United Nations system, other intergovernmental and non-governmental organizations. The output of the Working Group formed the proposed draft elements for a WHO Framework Convention on Tobacco Control. The Working Group completed its work and submitted a report to the fifty-third World Health Assembly, held from 15 to 20 May 2000.

The fifty-third World Health Assembly considered the report of the Working Group and, by its resolution WHA53.16 of 20 May 2000, formally launched negotiation of the Convention by the Intergovernmental Negotiating Body. It commended the work done by the Working Group, recognizing that the proposed draft elements for a WHO Framework Convention for Tobacco Control established a sound basis for initiating negotiations by the Intergovernmental Negotiating Body. The Negotiating Body was called upon to commence negotiations with an initial focus on the draft Convention, without prejudice to future discussions on possible related protocols. It was urged to report on the process of negotiations to the fifty-fourth World Health Assembly.

Formal negotiations of the Convention commenced with the first session of the Intergovernmental Negotiating Body from 16 to 21 October 2000. Representatives of 148 member States, as well as observers from the European Community, six organizations of the United Nations system, three representatives of other intergovernmental organizations and 25 non-governmental organizations participated in the session. The proposed draft elements prepared by the Working Group were accepted as a sound basis for the negotiations. To advance negotiations by developing texts and compromise solutions and to reduce the number of options, three working groups were established. Each working group was assigned a number of functionally related provisions, which together would constitute most of the text of the Framework Convention. The main output of the first session was the agreement that the Chairman of the Negotiating Body would prepare a Chair's text of the Convention. This would be based on proposed draft elements of the Convention and proposals made during the first session of the Intergovernmental Negotiating Body. The text would be ready for discussion at the second session of the Intergovernmental Negotiating Body.

WHO organized or supported a number of technical meetings related to the negotiation of the Framework Convention on Tobacco Control. For example, the regional office for South-East Asia organized and co-hosted in Jakarta, in January 2000, a conference entitled "International Conference on Tobacco Control Law: Towards a WHO Framework Convention on Tobacco Control".

By December 2000, 162 WHO member States (85 per cent of a total of 191 member States) had reported to WHO on action taken to give effect to the principles and aim of the International Code of Marketing of Breast-Milk Substitutes, adopted by the World Health Assembly in 1981. This included adoption of new—or revision and strengthening of existing—legislation, regulations, national codes, guidelines for health workers and distributors, agreements with manufacturers, and monitoring and reporting mechanisms. In 2000, Angola, Ghana, Greece, Kazakhstan, South Africa and the United Republic of Tanzania provided information on new or revised action, while WHO responded to requests for related technical support from Australia, Cambodia, New Zealand and Oman.

WHO also participated throughout the preparations of the revised Maternity Protection Convention and related recommendation that were adopted by the International Labour Conference at its 88th session in June 2000. WHO was instrumental in presenting evidence on protecting maternal health and promoting breastfeeding which contributed to a significant strengthening of the 1952 Convention through the inclusion of a new provision on protection from hazardous agents, an increase in the minimum length of maternity leave from 12 to 14 weeks, reinforcement of the entitlement to paid breastfeeding breaks and the Convention's application to women in atypical forms of work.

During 2000, the headquarters and regional offices of WHO provided technical cooperation to a number of member States in connection with the development, assessment or review of various areas of health legislation. For example, the Department of Health Financing and Stewardship at headquarters organized a study programme on health legislation for senior officials of the Ministry of Health of Morocco in February 2000, and a seminar on regional health legislation development and a review of legislation on euthanasia in the Russian Federation in March 2000. The regional office for the Western Pacific organized a regional seminar on health legislation in Pacific Island countries in Tonga in October 2000, and advised the Government of Mongolia in the drafting of a national drug policy and of amendments to the Mongolian Drug Law as regards pharmacy and therapeutic goods.

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4. WORLD BANK

(*a*) IBRD, IFC and IDA membership

On 21 September 2000, San Marino became a member of the International Bank for Reconstruction and Development. There were no new members joining the International Finance Corporation or the International Development Association during 2000.

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

During 2000, the following States joined MIGA:

Lao People's Democratic Republic (5 April 2000)

Central African Republic (8 September 2000)

Thailand (20 October 2000)

(*c*) International Centre for Settlement of Investment Disputes (ICSID)

During 2000, the following States joined ICSID:

Ukraine (7 July 2000)

Uruguay (8 September 2000)

Kazakhstan (21 October 2000)

Disputes before the Centre

During 2000, arbitration proceedings under the ICSID Convention were instituted in nine new cases. These were:

Zhinvali Development Ltd. v. *Republic of Georgia* (case No. ARB/00/1)

Mihaly International Corporation v. *Democratic Socialist Republic of Sri Lanka* (case No. ARB/00/2)

GRAD Associates, P.A. v. *Bolivarian Republic of Venezuela* (case No. ARB/00/3)

Salini Costruttori S.p.A. and Italstrade S.p.A. v. *Kingdom of Morocco* (case No. ARB/00/4)

Autopista Concesionada de Venezuela, C.A. v. *Bolivarian Republic of Venezuela* (case No. ARB/00/5)

Consortium R.F.C.C. v. *Kingdom of Morocco* (case No. ARB/00/6)

World Duty Free Company Limited v. *Republic of Kenya* (case No. ARB/00/7)

Ridgepointe Overseas Development, Ltd. v. *Democratic Republic of the Congo* (case No. ARB/00/8)

Generation Ukraine Inc. v. *Ukraine* (case No. ARB/00/9)

Three arbitration proceedings were instituted under the ICSID Additional Facility Rules. These were:

ADF Group Inc. v. *United States of America* (case No. ARB(AF)/00/l)

Técnicas Medioambientales Tecmed, S.A. v. *United Mexican States* (case No. ARB(AF)/00/2)

Waste Management, Inc. v. *United Mexican States* (case No. ARB(AF)/00/3)

One proceeding (*Lanco International, Inc*. v. *Argentine Republic* (case No. ARB/97/6)) was discontinued and an application for annulment was registered in respect of an award rendered in one proceeding (*Philippe Gruslin* v. *Malaysia* (case No. ARB/99/3)). In addition, 11 proceedings were closed following the rendition of awards:

Compañía del Desarrollo de Santa Elena S.A. v. *Republic of Costa Rica* (case No. ARB/96/1)

Société d'Investigation de Recherche et d'Exploitation Minière (SIREXM) v. *Burkina Faso* (case No. ARB/97/1)

Compañía de Aguas del Aconquija S.A. and Vivendi Universal v. *Argentine Republic* (case No. ARB/97/3)

Emilio Agustín Maffezini v. *Kingdom of Spain* (case No. ARB/97/7)

Compagnie Française pour le Développement des Fibres Textiles v. *République de Côte d'Ivoire* (case No. ARB/97/8)

Metalclad Corporation v. *United Mexican States* (case No. ARB(AF)/97/l)

Wena Hotels Limited v. *Arab Republic of Egypt* (case No. ARB/98/4)

Banro American Resources, Inc. and Société Aurifère du Kivu et du Maniema S.A.R.L. v. *Democratic Republic of the Congo* (case No. ARB/98/7)

Joseph C. Lemire v. *Ukraine* (case No. ARB(AF)/98/1)

Waste Management, Inc. v. *United Mexican States* (case No. ARB(AF)/98/2)

Astaldi S.p.A. & Columbus Latinoamericana de Construcciones S.A. v. *República de Honduras* (case No. ARB/99/8)

As of 31 December 2000, 16 other cases were pending before the Centre. These were:

Misima Mines Pty. Ltd. v. *Independent State of Papua New Guinea* (case No. ARB/96/2)

Československá obchodní banka, a.s. v. *Slovak Republic* (case No. ARB/97/4)

Houston Industries Energy, Inc. and others v. *Argentine Republic* (case No. ARB/98/1)

Victor Pey Casado and President Allende Foundation v. *Republic of Chile* (case No. ARB/98/2)

International Trust Company of Liberia v. *Republic of Liberia* (case No. ARB/98/3)

Eduardo A. Olguín v. *Republic of Paraguay* (case No. ARB/98/5)

Compagnie Minière Internationale Or S.A. v. *Republic of Peru* (case No. ARB/98/6)

Tanzania Electric Supply Company Limited v. *Independent Power Tanzania Limited* (case No. ARB/98/8)

The Loewen Group, Inc. and Raymond L. Loewen v. *United States of America* (case No. ARB(AF)/98/3)

Alex Genin and others v. *Republic of Estonia* (case No. ARB/99/2)

Empresa Nacional de Electricidad S.A. v. *Argentine Republic* (case No. ARB/99/4)

Alimenta S.A. v. *Republic of The Gambia* (case No. ARB/99/5)

Middle East Cement Shipping and Handling Co. S.A. v. *Arab Republic of Egypt* (case No. ARB/99/6)

Patrick Mitchell v. *Democratic Republic of the Congo* (case No. ARB/99/7)

Marvin Roy Feldman Karpa v. *United Mexican States* (case No. ARB(AF)/99/1)

Mondev International Ltd. v. *United States of America* (case No. ARB(AF)/99/2

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5. INTERNATIONAL CIVIL AVIATION ORGANIZATION

(*a*) Membership

On 14 December 2000, the Federal Republic of Yugoslavia deposited with the Government of the United States of America its notification of adherence to the Convention on International Civil Aviation. The adherence took effect on 13 January 2001, bringing the number of States members of the Organization to 186.

(*b*) Other major legal developments

(i) *Work programme of the Legal Committee and legal meetings*

The 31st session of the Legal Committee was held at ICAO headquarters in Montreal from 28 August to 8 September 2000. The Committee mainly studied the question of international interests in mobile equipment (aircraft equipment), in respect of which it approved the text of a draft Convention and of a draft Protocol and recommended the convening of a Diplomatic Conference for their adoption (see item (3) below).

Further to the 31st session of the Legal Committee and pursuant to a decision of the Council at its 161st session, on 24 November 2000, the general work programme of the Legal Committee is as follows:

(1) Consideration, with regard to communication, navigation, surveillance air traffic management (CNS/ATM) systems including global navigation satellite systems (GNSS), of the establishment of a legal framework;

(2) Acts or offences of concern to the international aviation community and not covered by existing air law instruments;

(3) International interests in mobile equipment (aircraft equipment);

(4) Consideration of the modernization of the Convention on Damage Caused by Foreign Aircraft to Third Parties on the Surface, signed at Rome on 7 October 1952;

(5) Review of the question of the ratification of international air law instruments;

(6) United Nations Convention on the Law of the Sea—Implications, if any, for the application of the Convention on International Civil Aviation, its annexes and other international air law instruments.

Regarding item (1), the Secretariat Study Group on Legal Aspects of CNS/ATM Systems held its 3rd and 4th meetings in Montreal from 10 to 12 May and from 14 to 15 December 2000, respectively. During the meetings, the Group discussed the implications of article 28 of the Convention on International Civil Aviation in the context of GNSS, the issues relating to universal accessibility and continuity of GNSS services, and other legal principles relating to communications by satellite and unlawful interference with CNS/ATM systems.

Regarding item (2), the Secretariat Study Group on Unruly Passengers held its 3rd meeting on 10 and 11 February and its 4th meeting on 26 and 27 October, both in Montreal. The Group finalized a Draft List of Offences and a Draft Jurisdiction Clause, and incorporated the two documents into a Draft Model Legislation on Offences Committed on Board Civil Aircraft by Unruly or Disruptive Passengers.

Regarding item (3), the Subcommittee of the ICAO Legal Committee on International Interests in Mobile Equipment (Aircraft Equipment) held a third joint session with a Committee of Governmental Experts of the International Institute for the Unification of Private Law (UNIDROIT), which took place in Rome from 20 to 31 March, and concluded its examination of the texts of a draft Convention and a draft Protocol. The texts were reviewed by the Legal Committee at its 31st session and submitted to the Council with a recommendation for convening a Diplomatic Conference for their adoption. During its 161st session, the Council decided, in principle, to convene a Diplomatic Conference in 2001 under the joint auspices of ICAO and UNIDROIT.

(ii) *Settlement of differences*

On 14 March, the Government of the United States of America submitted an Application and Memorial pursuant to article 84 of the Convention on International Civil Aviation and the Rules for the Settlement of Differences, seeking a decision of the Council on a disagreement with 15 European States relating to European Council regulation (EC) No. 925/1999 (“Hushkits”).

On 19 July, the Respondents submitted a Statement of Preliminary Objections, challenging the jurisdiction of the Council in the matter, followed by a Statement of Response submitted by the United States on 15 September. The Council, at the 6th meeting of its 161st session on 16 November, rendered a unanimous decision, with three abstentions, denying the first two preliminary objections and joining the third one to the merits. The Council further decided to invite the parties to continue their direct negotiations, using the good offices of the President of the Council as conciliator, if they so consented, which matters shall be reviewed at the 163rd session. Following that decision and in line with applicable procedures, the Respondents submitted a Counter-Memorial on 1 December 2000.

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6. UNIVERSAL POSTAL UNION

(*a*) Legal status, privileges and immunities of the Universal Postal Union

No modification was made to the Convention regulating the current legal status as well as the privileges and immunities of the organization.

Concerning the Convention on the Privileges and Immunities of the Specialized Agencies adopted by the General Assembly of the United Nations, the number of Union member countries which have adhered to the said Convention, granting privileges and immunities to the representatives of the member countries, to the staff of the International Bureau of the Universal Postal Union and to the experts, is 102.

(*b*) General review of the legal activities of the Universal Postal Union

Beijing Congress

The 1999 Beijing Congress introduced a new text for the Convention on the Universal Postal Service at the beginning of the Universal Postal Convention, stating that postal users and customers are entitled to quality basic postal services at all points in their territory at affordable prices. In that regard, the Beijing Congress instructed the Council of Administration to draw up quickly a list of the Universal Postal Service obligations incumbent upon member countries and giving guidelines on how to set service standards. The Council of Administration at its session in 2002 approved the draft Memorandum.

Management and future development of the Union

The 1999 Beijing Congress created a High Level Group to examine strategic issues concerning the functioning of the Universal Postal Union in the overall context of the challenges facing the postal sector in the next century and their implications for the role and functioning of the Union in a rapidly changing environment. The Group's mandate is to consider the future mission, structure, constituency, financing and decision-making of UPU. The Chairman of the High Level Group presented the interim report of the Group to the Council of Administration at its session in 2002.

The interim report also spelled out the work being done on the recasting of Acts. An ad hoc group will examine the text to ensure that the Convention cov-

ers only those matters which are of a high-level intergovernmental, treaty-related nature, necessitating Congress approval. It should also include the basic instructions by governments to postal operators as to what services they should provide in order to fulfil the Universal Postal Service throughout the single postal territory. The details of how these services are to be provided and the conditions under which they are to be provided should not be discussed by Congress, but should be devolved to the regulations to be fixed by the Postal Operations Council.

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7. WORLD METEOROLOGICAL ORGANIZATION

(*a*) Membership

As of 2000, there were 185 members of WMO, comprising 179 member States and six member Territories, all of which maintain their own meteorological and hydrological services.

(*b*) Consideration of amendments to the WMO Convention

At its fifty-third session (Geneva, 8-15 June 2000), the executive body of WMO, namely the Executive Council, considered the possibility of introducing amendments to the WMO basic act, Convention of the WMO (Washington, 11 October 1947). After consideration of this issue the Council agreed on the need for an analysis of possible changes to the WMO Convention. The Council recognized the potential risks and difficulties in proposing the revision of the WMO Convention and suggested that appropriate caution should be exercised. The Council felt, nonetheless, that the possible changes should be explored and assessed, with a view to examining the benefits and risks. It agreed that a task team should be established to study the matter.

Procedures for amendments to the WMO Convention and analysis of the amendments already adopted under the Convention (subjects and procedures)

1. The Convention of the WMO in its Part XV, article 28, paragraph (*a*), stipulates that "the text of any proposed amendment to the Convention shall be communicated by the Secretary-General to members of the organization at least six months in advance of its consideration by Congress".

2. The Convention does not specify *expresis verbis* who has the legislative authority to propose an amendment to the Convention. However, the Third Congress (1959) agreed by its resolution 4 (Cg-III) that only member States, as the Contracting Parties to the Convention, have the right to propose amendments to the Convention. By the same resolution, Congress instructed the Executive Council to keep under continuous review the Convention between sessions of Congress and to submit to Congress any proposed amendment to the Convention, for its consideration, if necessary.

3. There are two kinds of amendments identified in article 28 of the Convention:

(i) Amendments which involve new obligations for members (paragraph *b*);

(ii) Amendments which do not involve new obligations for members (paragraph *c*).

4. Accordingly, the procedures for adoption and for entry into force for these two categories of amendments differ:

—The first category (i) requires approval by Congress by a two-thirds majority vote, by member States present at Congress provided the quorum is attained (article 12 of the Convention). It shall come into force on acceptance by two thirds of the members of the organization which are States for each such member accepting the amendment, and for each remaining such member on acceptance by it (para. *b*); it implies that the amended article(s) will only be applied to those who accepted it;[a]

—The second category (ii) comes into force upon approval by two thirds of the members of the organization which are States (para. *c*).

5. The Sixth World Meteorological Congress, in April 1971, examined the questions concerning article 28 (Amendments) submitted to it by the Executive Council and decided on an agreed interpretation of certain provisions of article 28 (Cg-VI, General Summary, paras. 5.1.1; 5.1.2; 5.1.3), namely:

(i) In the course of consideration of a proposed draft amendment Congress may receive, discuss and, if so decided, adopt any proposal for modifying this draft, provided that the proposed modification would not result in a change in the basic intent of the draft amendment or in the introduction of a new subject. If any modification is proposed which does not satisfy either of these conditions, it must be proposed as a new amendment to the Convention in accordance with the provisions of article 28 (*a*);

(ii) The two-thirds majority required for the approval by Congress of an amendment under article 28 (*b*) shall be two thirds of the members which are States, present and voting for or against (para. 5.1.2 (*b*));[b]

(iii) If a draft amendment to the Convention being treated in accordance with the provisions of article 28 (*c*) is accepted in Congress by a two-thirds majority of the members which are States voting for and against, but the number of affirmative votes is less than the required two-thirds majority of all members which are States, the same amendment shall be submitted to the next Congress for a new vote if Congress so decides; an amendment being treated under the provision of article 28 (*c*) shall not be submitted to a vote by correspondence for the purpose of securing approval by the necessary two-thirds majority of members which are States.

The Sixth World Meteorological Congress further decided (Cg-VI, General Summary, para. 5.1.4) to accept the recommendation of the Executive Council, that it was not desirable at that time to amend or interpret article 28 for the purpose of providing that amendments to the Convention which are approved in accordance with the provisions of article 28 (*b*) shall enter into force for all members; it was also decided to take no action regarding the proposal for a fusion of article 28 (*b*) and 28 (*c*) of the Convention to provide for only one category of amendments.

6. Since its entry into force in March 1950, the WMO Convention had been subjected to several amendments in accordance with its article 28, paragraph (*c*), namely, all those amendments entered into force upon approval by two thirds of the members which are States. They were therefore considered by members as the amendments which did not involve new obligations for them. The following were amendments adopted by the WMO Congresses, starting from the most recent:

(*a*) 1983 amendment adopted by resolution 41 of the Ninth Congress to article 13 (*c*), increasing to three the lower limit of members of the Executive Council coming from the same region and increasing to nine the upper limit of members of the Executive Council coming from the same region;

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[a] As referred to in article 28 of the Convention, "acceptance" practically means in most of the countries the process of ratification by Parliament. In accordance with the Vienna Convention on the Law of Treaties, "ratification", "acceptance", "approval" and "accession" mean the act by which a State establishes its consent to be bound by a treaty.

[b] Certain members took exception to the decision recorded in this paragraph.

(*b*) 1975 amendments adopted by resolution 48 of the Seventh Congress to articles 2 (*a*), (*b*) and (*c*); 6 (*a*); 7; 13 (*c*) (ii); 14 (*d*); and 18 (*d*) (iii) and to the preamble. These amendments referred to WMO activities in the field of hydrology. These were the most important of all the amendments adopted to the Convention since they adjusted the Convention by clarifying WMO activities in relation to hydrology;

(*c*) 1967 amendment adopted by resolution 3 of the Fifth Congress, introducing into the Convention a new article 5 stipulating that the activities of the organization shall be decided by its members and establishing the system of taking of decisions;

(*d*) 1963 amendments: (i) adopted by resolution 2 of the Fourth Congress deleting article 12 related to the convening of the first meeting of Congress, and (ii) adopted by resolution 1 of the Fourth Congress amending article 13 (*c*) (ii) by fixing the upper limit of members of the Executive Council coming from the same region to seven and including a lower limit of two members of the Executive Council coming from the same region.

(*c*) Application of the WMO General Regulations relating to elections

The Executive Council noted that, as requested by the Thirteenth Congress of WMO in May 1999, the Secretary-General of WMO had sought the advice of the United Nations Legal Counsel as to whether the term "decisions" included "election" in regulations 177 and 194 of the WMO General Regulations concerning sessions of regional associations and technical commissions respectively when the required quorum is not obtained. The Council noted that it was the view of the United Nations Legal Counsel that "as the members of the Organization are masters of their own procedures, it would be for them to take a decision on whether the term 'decision' as used in regulations 177 and 194 of the General Regulations includes 'election' ". In addition, the Legal Counsel referred to a number of regulations related to "Voting by correspondence including elections" between sessions of WMO constituent bodies which are of a general nature. The Council requested the Secretary-General to submit to the Fourteenth Congress the views of the United Nations Legal Counsel on the application of regulations 177 and 194 of the General Regulations.

The Council considered, however, that there was a need for guidance to the regional associations and technical commissions on the application of regulations 177 and 194 of the General Regulations respectively if such a case arose before the Fourteenth Congress. The Council, bearing in mind the discussions during the Thirteenth Congress, decided to adopt the following statement on the application of regulations 177 and 194 which shall be reviewed by the next Congress in accordance with the provision of regulation 2 (*f*) of the General Regulations:

> "In the application of regulations 177 and 194 of the General Regulations, the term 'decisions' does not include 'election'. In the case where no election is held due to the absence of the quorum, the President of the Organization becomes the acting president of the body concerned after the closure of the session in accordance with regulation 16 of the General Regulations. He shall arrange for the election by correspondence of the president of the body concerned, who shall in turn arrange for the election of the vice-president by correspondence as envisaged in regulation 16 of the General Regulations".

The Council requested the Secretary-General to submit this statement to the Fourteenth Congress for its consideration when examining the issue of the application of regulations 177 and 194 of the General Regulations.

(*d*) Formation of the new technical body, namely: Joint WMO/ Intergovernmental Oceanic Commission (IOC) Technical Commission for Oceanography and Marine Meteorology (JCOMM)

At its session in 2000 the Executive Council was pleased to learn that, following approval of JCOMM by WMO Congress-XIII and by the 20th Assembly of IOC, a first Transition Planning Meeting for JCOMM had taken place and developed, inter alia, a proposed structure for JCOMM. It also agreed that WMO would take the lead responsibility for the preparation, organization, conduct and immediate follow-up of the first session of JCOMM (Iceland, June 2001), which would thus take place using WMO procedures and regulations governing technical commissions.

It also referred to the necessity of resolving a number of small but important and constitutional differences between the corresponding organizations. It urged the secretariats to ensure that those issues were resolved as soon as possible and in as transparent a way as possible to ensure that they provided no future impediment to the implementation and operation of JCOMM.

The Council noted that a comparative study had been prepared by the Secretary-General on the differences in the regulations of WMO and IOC relating to the functioning of WMO technical commissions and equivalent bodies of IOC. The Council requested the Secretary-General, in consultation with the Executive Secretary of IOC, to prepare a suitable set of common rules of procedure for the functioning of JCOMM to meet the basic objectives of the relevant regulations of WMO and IOC within the context of regulation 180 of the WMO General Regulations.

(*e*) Working arrangements with the Lake Chad Basin Commission

The Executive Council took note of the request submitted by the Lake Chad Basin Commission for the establishment of working arrangements with WMO. Having considered the objectives and functions of the Commission and taking into account the practice followed by WMO in establishing working arrangements concerning its scientific and technical cooperation with other organizations, the Council agreed that it would be in the mutual interest of both WMO and the Commission to establish a close working relationship. The Council therefore authorized the Secretary-General of WMO to finalize the working arrangements with the Executive Secretary of Lake Chad Basin Commission.

Working Arrangements between the World Meteorological Organization and the Lake Chad Basin Commission

The Secretary-General of the World Meteorological Organization and the Executive Secretary of the Lake Chad Basin Commission, with a view to facilitating the effective attainment of the objectives set forth in their respective constituent instruments, will work in close cooperation with each other and will consult each other regularly with regard to matters of common interest. In particular, such cooperation and consultation shall be set up for the purpose of effective coordination of activities and procedures arising from the activities of both organizations with a view to ensuring optimum benefits for meteorological and hydrological operations and research.

Both organizations agree to keep each other informed on all programmes of work and projected activities in which there may be a mutual interest, and shall exchange publications concerning these and related fields.

Suitable arrangements will be made so that each party to these Working Arrangements may participate as an observer in those sessions and meetings of the other party which relate to areas of common interest.

(*f*) Agreements and arrangements for consultation and cooperation with other organizations

Pursuant to article 26, paragraph (*a*), of the Convention of WMO, the organization may enter into formal agreements with other intergovernmental organizations as may be desirable. In accordance with paragraph (*b*) of the same article, the organization may on matters within its purposes make suitable arrangements for consultation and cooperation with non-governmental international organizations and, with the consent of the Government concerned, with national organizations, governmental or non-governmental.

In 2000, WMO concluded the following agreements and arrangements:

- Agreement between the Government of Finland and WMO for the Implementation of the SIDS [Small Island Developing States] Caribbean Project (signed 23 November 2000)
- Memorandum of Cooperation between the General Directorate of Civil Aviation of Chile and the World Meteorological Organization (signed 24 May 2000)
- Memorandum of Understanding between the Interamerican Development Bank (IADB) and the World Meteorological Organization (signed 25 March 2000)

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8. INTERNATIONAL MARITIME ORGANIZATION

(1) Membership of the organization

During 2000, the Federal Republic of Yugoslavia and Tonga became members of the International Maritime Organization. The membership of the organization now stands at 158. There are also two Associated Members. The membership of the Federal Republic of Yugoslavia did not increase the number of members of the Organization, since, following the dissolution of the former Socialist Federal Republic of Yugoslavia, that State was retained on the list of member States, in line with the practice of the United Nations. With effect from the date of the acceptance by the Federal Republic of Yugoslavia of the IMO Convention, the former Socialist Federal Republic of Yugoslavia was deleted from the list of the organization's member States.

(2) Review of the legal activities of IMO

During 2000, the IMO Legal Committee held two sessions: the eighty-first session (March 2000) and the eighty-second session (October 2000).[162] The Committee considered the following questions:

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

The Legal Committee at its eighty-first session concentrated on this agenda item as a major priority and was successful in completing its consideration of the updated text of a draft convention on civil liability for bunker oil pollution damage which had been under discussion since 1995. The discussions began by considering a variety of topics including, in particular, definitions of shipowner, bunker fuel oil and pollution damage, as well as provisions regulating liability, a draft resolution on limitation of liability, compulsory insurance, financial security, jurisdiction, certificates of financial responsibility, maintenance of electronic records and States with more than one system of law.

The Committee thereafter completed an article-by-article consideration of the item and confirmed its previous recommendation, as approved by the Council and the Assembly, that the draft Convention, as amended, should be submitted to a Diplomatic Conference for adoption, preferably in the first half of 2001, in lieu of a session of the Legal Committee.

At its eighty-second session, the Committee took note of further information on the item which had been submitted but agreed that, in view of the fact that the draft convention had already been circulated for consideration at the Diplomatic Conference, debate should not be reopened. Delegations were encouraged to meet informally to discuss matters in respect of which consensus had not been reached, in order to facilitate agreement during the Diplomatic Conference.

(b) *Provision of financial security*

The Legal Committee at its eighty-first and eighty-second sessions continued its consideration of a draft revised protocol to the 1974 Athens Convention relating to the Carriage of Passengers and their Luggage by Sea. The Convention establishes a liability regime for damage suffered by passengers on seagoing vessels. The amendments are primarily to require the carrier to provide financial security for claimants through compulsory insurance of its liability. The Committee focused on a number of issues including the basis of liability, compulsory insurance, limits of liability and a proposal for the convening of a Diplomatic Conference.

(i) As regards the *basis of liability*, the Committee considered a proposal for replacing the existing fault-based liability in the Athens Convention with a strict liability regime, distinguishing between shipping and non-shipping incidents. Opinions among delegations differed, but the Committee decided to accept in principle a compromise consisting of introducing a compensation system based on strict liability for death and injury to passengers in connection with shipping incidents and the maintenance of a fault-based system in the case of non-shipping incidents. Further consideration would be given to the question of burden of proof, on which opinion among delegations also differed.

(ii) As regards *limitation of liability for personal injury*, the Committee considered: (*a*) a revised draft article providing for a per capita limitation, without an overall limit per incident; (*b*) an article allowing a State to prescribe limits of liability under national law for loss of life or personal injury, provided the limits were not less than those prescribed by the Convention; and (*c*) an alternative proposal for

deletion of the whole article, which, it was noted, would result in unlimited liability, except to the extent covered by the Convention on Limitation of Liability for Maritime Claims and its Protocol of 1996. The Committee decided to retain the revised draft article, as referred to in (*a*) above.

(iii) With respect to *compulsory insurance*, the Committee reviewed alternative criteria for determining the basis for insurance levels. Views were also expressed on the basic features of the scheme, including the need for the insurance to provide for adequate levels of compensation, the need to treat all passengers equally and the need to ensure that the compulsory insurance should not be lower than the limits of liability in the draft Protocol. Other matters discussed included the question of overloaded ships and their potential effect on insurance coverage and the issue of whether compulsory insurance should cover only personal injury or death, or also extend to loss or damage to luggage. The Committee decided to revert to those issues at a later stage.

(iv) The Committee recommended to the Council that allowance be made in the 2002-2003 biennium for a two-week diplomatic conference to adopt the protocol. Alternatively, the Committee decided to inform the Council that a one-week conference might be possible if it was convened back to back with a regular session of the Committee so as to allow sufficient time for the consideration of the issue.

As regards *crew claims*, the Committee noted that the Joint IMO/ILO Ad Hoc Expert Working Group regarding Claims for Death, Personal Injury and Abandonment of Seafarers would meet again in October/November 2000. It also noted that, in accordance with its mandate, the Joint Group was ongoing and would arrange for its further meetings, as necessary.

(c) *Draft convention on wreck removal*

The Legal Committee continued its consideration of a proposed convention on wreck removal. This was done on the basis of a report by the coordinator of the Correspondence Group and of a revised, scaled-down version of the draft convention. The draft convention seeks to codify certain rules on wreck removal. Its purpose is to enable any coastal State affected to require shipowners to remove wrecks which are a hazard and which are located in the State's exclusive economic zone outside its territorial sea. While some progress had been made, there were mixed views in the Group about the scaled-down version of the draft convention, particularly insofar as it left controversial matters to be regulated by national legislation.

The Committee decided to devote more time to the item in order to enable the preparation of a draft convention for consideration by a Diplomatic Conference during the 2004-2005 biennium.

The Committee also decided that the work of the Correspondence Group should be suspended until it had considered certain fundamental issues, such as financial security. The representatives of the International Group of P&I Clubs and of the insurance and other sectors of the shipping industry, as appropriate, were requested to submit a document to the Committee at its next session on the availability and features of an adequate insurance cover with respect to the removal of wrecks.

(d) *Work programme and meeting dates*

The Committee noted that there would be no meeting of the Legal Committee in spring 2001, due to the convening of a Diplomatic Conference to adopt the draft Convention on civil liability for pollution damage caused by bunker oil. Consideration was therefore given to the long-term work plan of the Committee, to enable advice to be given to the Council at its eighty-sixth session in June 2001, at which session the long-term work plan of the organization would be decided for submission to the Assembly in November 2001.

The Committee approved the 2001 work programme, as follows:

(i) Action requested as a result of the adoption of the Bunkers Convention;

(ii) Provision of financial security;

(iii) Consideration of a draft convention on wreck removal;

(iv) Monitoring implementation of the HNS Convention;

(v) Draft convention on offshore mobile craft;

(vi) Matters arising from the work of the Council and the Assembly.

The Committee agreed to the following meeting dates:

- International Conference on Liability and Compensation for Bunker Oil Pollution Damage, 2001: 19-23 March 2001
- Eighty-third session of the Legal Committee: 8-12 October 2001

(e) *Long-term work plan*

The Committee agreed to retain the following items for its long-term work plan:

(i) Consideration of the legal status of novel types of craft, such as air-cushion vehicles, operating in the marine environment;

(ii) Possible convention on the regime of vessels in foreign ports;

(iii) Possible revision of maritime law conventions in the light of proven need and subject to the directives in resolution A.500(XII). In that connection, it was noted that resolution A.900(21), regarding objectives of the organization in the 2000s, was also applicable.

(f) *Other matters*

Other matters dealt with by the Committee included:

(i) Noting the information provided by the secretariat and by member States on the status of conventions and other treaty instruments adopted as a result of the work of the Legal Committee;

(ii) Noting the information on the progress made by the HNS Correspondence Group since its last session;

(iii) Noting the information on the progress report on the implementation of the subprogramme for maritime legislation from January to June 2000. In that connection, the Committee expressed its appreciation for the work of the International Maritime Law Institute in preparing legal drafters

and training personnel to implement IMO Conventions in developing countries. It also expressed its appreciation for the ongoing support of the Comité Maritime Internationale for the work of the Institute and noted the need for more voluntary funding of the Institute;

(iv) Giving advice to the Maritime Safety Committee (MSC) on the status of documents and oral interventions by the specialized agencies of the United Nations system under the ITU Conference Rules of Procedures.

(3) Treaties

During 2000, two treaties concerning international law were concluded under the auspices of the International Maritime Organization, as follows:

(a) *Protocol of 2000 on Preparedness, Response and Cooperation to Pollution Incidents by Hazardous and Noxious Substances (OPRC-HNS Protocol)*

The Conference on International Cooperation on Preparedness and Response to Pollution Incidents by Hazardous and Noxious Substances, held in London in March 2000, adopted the Protocol on Preparedness, Response and Cooperation to Pollution Incidents by Hazardous and Noxious Substances, 2000.

The Protocol aims at providing a global framework for international cooperation in combating major incidents or threats of marine pollution from ships carrying hazardous and noxious substances such as chemicals. These substances are defined by reference to lists of substances contained in various IMO Conventions and Codes. Similar to the provisions of the International Convention on Oil Pollution Preparedness Response and Cooperation, 1990 (OPRC), the parties to the HNS Protocol will be required to establish measures for dealing with pollution incidents, either nationally or in cooperation with other countries. Ships will be required to carry a shipboard pollution emergency plan to deal specifically with incidents involving HNS.

In accordance with its article 15, the Protocol will enter into force 12 months after the date on which not less than 15 States have either signed it without reservation as to ratification, acceptance or approval or have deposited the requisite instruments of ratification, acceptance, approval or accession, in accordance with article 13 of the Protocol.

(b) *Protocol of 2000 to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971*

The International Conference on the Revision of the 1971 Fund Convention, held in London in September 2000, adopted the Protocol of 2000 to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971.[163]

The purpose of the Protocol is to amend article 43.1 of the 1971 Fund Convention in order to facilitate the orderly termination of that Convention, while ensuring that the 1971 IOPC Fund is able to meet in full its obligations to pay compensation to victims of oil pollution damage covered by the Convention. This need arose because most of the Contracting States to the 1971 Fund Convention with major contributors had left the 1971 Fund and joined the 1992 Fund regime. The 1971 Fund was therefore losing its financial viability.

In accordance with article 3 of the Protocol, the Protocol shall be deemed to have been accepted six months from the date of its adoption unless, prior to that date, objections to acceptance have been communicated to the Secretary-General by not less than one third of the Contracting States to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, and shall enter into force in accordance with article 4, three months after the date on which it is deemed to have been accepted.

(4) Amendments to treaties

(a) *2000 amendments of the limitation amounts in the Protocol of 1992 to amend the International Convention on Civil Liability for Oil Pollution Damage, 1969*

These amendments were adopted by the Legal Committee on 18 October 2000 by resolution LEG.1(82). The amendments increase the limitation amounts in the 1992 Protocol to the CLC 1969 by 50.37 per cent. The adoption of the increased limits came in the wake of the *Nakhodka* incident in 1997 off the coast of Japan and the *Erika* disaster off the coast of France in December 1999. At the time of their adoption, the Legal Committee determined that the amendments shall be deemed to have been accepted on 1 May 2002 and will enter into force on 1 November 2003 unless, prior to 1 May 2002, not less than one quarter of the States that were Contracting States to the Protocol on the date of adoption of the amendments have communicated to the organization that they do not accept the amendments.

(b) *2000 amendments of the limits of compensation in the Protocol of 1992 to amend the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971*

These amendments were adopted by the Legal Committee on 18 October 2000 by resolution LEG.2(82). Like the amendments to the limitation amounts in the 1992 Protocol to the 1969 CLC Convention, these amendments increase the limits of compensation in the Protocol of 1992 to the 1971 Fund Convention by 50.37 per cent. As for the CLC, the increased limits were adopted in the wake of the *Nakhodka* incident in 1997 off the coast of Japan and the *Erika* disaster off the coast of France in December 1999. At the time of their adoption, the Legal Committee determined that the amendments shall be deemed to have been accepted on 1 May 2002 and will enter into force on 1 November 2003 unless, prior to 1 May 2002, not less than one quarter of the States that were Contracting States to the Protocol on the date of adoption of the amendments have communicated to the organization that they do not accept the amendments.

(c) *2000 (Annex III) amendments to the Annex to the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973*

These amendments were adopted by the Marine Environment Protection Committee (MEPC) on 13 March 2000 by resolution MEPC.84(44). At the time of their adoption, MEPC determined that the amendments shall be deemed to have been accepted on 1 July 2001 and will enter into force on 1 January 2002 unless, prior to 1 July 2001, not less than one third of the parties or the parties the combined

merchant fleets of which constitute not less than 50 per cent of the gross tonnage of the world's merchant fleet have communicated to the organization their objections to the amendments.

(d) *2000 (Annex V) amendments to the Annex to the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973*

These amendments were adopted by the Marine Environment Protection Committee on 5 October 2000 by resolution MEPC.89(45). At the time of their adoption, MEPC determined that the amendments shall be deemed to have been accepted on 1 September 2001 and will enter into force on 1 March 2002 unless, prior to 1 September 2001, not less than one third of the parties or the parties the combined merchant fleets of which constitute not less than 50 per cent of the gross tonnage of the world's merchant fleet have communicated to the organization their objections to the amendments.

(e) *2000 (chapters 5, 14, 15 and 16) amendments to the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (IBC Code) (under MARPOL 73/78 and SOLAS 74)*

These amendments were adopted by the Marine Environment Protection Committee on 5 October 2000 by resolution MEPC.90(45). At the time of their adoption, MEPC determined that the amendments shall be deemed to have been accepted on 1 January 2002 and will enter into force on 1 July 2002 unless, prior to 1 January 2002, not less than one third of the parties or the parties the combined merchant fleets of which constitute not less than 50 per cent of the gross tonnage of the world's merchant fleet have communicated to the organization their objections to the amendments.

(f) *2000 amendments to the Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (BCH Code) (under MARPOL 73/78)*

These amendments were adopted by the Marine Environment Protection Committee on 5 October 2000 by resolution MEPC.91(45). At the time of their adoption, MEPC determined that the amendments shall be deemed to have been accepted on 1 January 2002 and will enter into force on 1 July 2002 unless, prior to 1 January 2002, not less than one third of the parties or the parties the combined merchant fleets of which constitute not less than 50 per cent of the gross tonnage of the world's merchant fleet have communicated to the organization their objections to the amendments.

(g) *2000 (chapter III) amendments to the International Convention for the Safety of Life at Sea, 1974, as amended*

These amendments were adopted by the Maritime Safety Committee on 26 May 2000 by resolution MSC.91(72). At the time of their adoption, MSC determined that they shall be deemed to have been accepted on 1 July 2001 and enter into force on 1 January 2002 unless, prior to 1 July 2001, 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.

(h) *2000 amendments to the Protocol of 1988 relating to the International Convention for the Safety of Life at Sea, 1974*

These amendments were adopted by the Maritime Safety Committee on 26 May 2000 by resolution MSC.92(72). At the time of their adoption, MSC determined that the amendments shall be deemed to have been accepted on 1 July 2001 and enter into force on 1 January 2002 unless, prior to 1 July 2001, more than one third of the parties to the 1988 SOLAS Protocol or parties 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.

(i) *2000 International Code of Safety for High Speed Craft (HSC Code) (under SOLAS 74)*

This Code was adopted by the Maritime Safety Committee on 5 December 2000 by resolution MSC.97(73). The Code will take effect on 1 July 2002 upon the entry into force of the corresponding 2000 amendments to chapter X of the International Convention for the Safety of Life at Sea, 1974.

(j) *2000 International Code for Fire Safety Systems (FSS Code) (under SOLAS 74)*

This Code was adopted by the Maritime Safety Committee on 5 December 2000 by resolution MSC.98(73). The Code will take effect on 1 July 2002 upon the entry into force of the corresponding 2000 revised chapter II-2 amendments to the International Convention for the Safety of Life at Sea, 1974.

(k) *2000 (chapters II-l, II-2, V, IX and X) amendments to the International Convention for the Safety of Life at Sea, 1974*

These amendments were adopted by the Maritime Safety Committee on 5 December 2000 by resolution MSC.99(73). At the time of their adoption, MSC determined that the amendments shall be deemed to have been accepted on 1 January 2002 and shall enter into force on 1 July 2002 unless, prior to 1 January 2002, 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.

(l) *2000 amendments (to the Annex) to the Protocol of 1988 relating to the International Convention for the Safety of Life at Sea, 1974*

These amendments were adopted by the Maritime Safety Committee on 5 December 2000 by resolution MSC.100(73). At the time of their adoption, MSC determined that the amendments shall be deemed to have been accepted on 1 January 2002 and shall enter into force on 1 July 2002 unless, prior to 1 January 2002, more than one third of the parties to the 1988 SOLAS Protocol or parties 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.

(m) *2000 amendments (Annexes I and II) to the International Code for Application of Fire Test Procedures (FTP Code)*

These amendments were adopted on 5 December 2000 by resolution MSC.101(73). At the time of their adoption, the Maritime Safety Committee determined that the amendments shall be deemed to have been accepted on 1 January 2002 and shall enter into force on 1 July 2002 unless, prior to 1 January 2002, 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.

(n) *2000 amendments (chapters 5, 8, 14, 15 and 16) to the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (IBC Code) (under MARPOL 73/78 and SOLAS 74)*

These amendments were adopted on 5 December 2000 by resolution MSC.102(73). At the time of their adoption, the Maritime Safety Committee determined that the amendments shall be deemed to have been accepted on 1 January 2002 and shall enter into force on 1 July 2002 unless, prior to 1 January 2002, more than one third of the Contracting Governments to the Convention or Contracting Governments the combined merchant fleets of which constitute 50 per cent of the gross tonnage of the world's merchant fleet have notified their objections to the amendments.

(o) *2000 amendments (chapters 3, 4, 5, 8, 9, 11, 13, 14 and 18) to the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk (IGC Code) (under SOLAS 1974)*

These amendments were adopted on 5 December 2001 by resolution MSC.103(73). At the time of their adoption, the Maritime Safety Committee determined that the amendments shall be deemed to have been accepted on 1 January 2002 and shall enter into force on 1 July 2002 unless, prior to 1 January 2002, 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.

(p) *2000 amendments to the International Management Code for the Safe Operation of Ships and for Pollution Prevention (ISM Code) (under SOLAS 74)*

These amendments were adopted by the Maritime Safety Committee on 5 December 2000 by resolution MSC.104(73). At the time of their adoption, the Maritime Safety Committee determined that the amendments shall be deemed to have been accepted on 1 January 2002 and will enter into force on 1 July 2002 unless, prior to 1 January 2002, more than one third of the Contracting Governments to the Convention or Contracting Governments the combined merchant fleets of which constitute not more than 50 per cent of the world's merchant fleet have notified their objections to the amendments.

(q) *2000 amendments to the Guidelines on the Enhanced Programme of Inspections during Surveys of Bulk Carriers (resolution A.744(18), as amended)*

These amendments were adopted on 5 December 2000 by resolution MSC.105(73). At the time of their adoption, the Maritime Safety Committee determined that the amendments shall be deemed to have been accepted on 1 January 2002 and will enter into force on 1 July 2002 unless, prior to 1 January 2002, 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 world's merchant fleet have notified their objections to the amendments.

(r) *2000 amendments (chapters II, III, IV and V) to the Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (BCH Code) (under SOLAS 74 and MARPOL 73/78)*

These amendments were adopted on 5 December 2000 by resolution MSC.106(73). At the time of their adoption, the Maritime Safety Committee determined that the amendments shall become effective, though not mandatory, on 1 July 2002 upon acceptance and entry into force of the corresponding amendments to the IBC Code adopted by resolution MSC.102(73).

(s) *2000 amendments (chapters II, III, IV and V) to the Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk (GC Code) (under SOLAS 74)*

These amendments were adopted on 5 December 2000 by resolution MSC.107(73). At the time of their adoption, the Maritime Safety Committee determined that the amendments shall become effective, though not mandatory, on 1 July 2002 upon acceptance and entry into force of the corresponding amendments to the IGC Code adopted by resolution MSC.103(73).

(5) Entry into force of instruments and amendments

Instruments

(*a*) Protocol of 1988 relating to the International Convention for the Safety of Life at Sea, 1974

This Protocol, adopted on 11 November 1988 by the International Conference on the Harmonized System of Survey and Certification, 1988, relates to the International Convention for the Safety of Life at Sea, 1974, and introduces into the Convention provisions for survey and certification harmonized with corresponding provisions in other international instruments. The conditions for the entry into force of the Protocol were met on 2 February 1999 and the amendments entered into force on 3 February 2000.

(*b*) Protocol of 1988 relating to the International Convention on Load Lines, 1966

This Protocol, adopted on 11 November 1988 by the International Conference on the Harmonized System of Survey and Certification, 1988, relates to the International Convention on Load Lines, 1966, and introduces into the Convention

provisions for survey and certification harmonized with corresponding provisions in other international instruments, with a view to increasing further the technical provisions of the Convention. The conditions for entry into force of the Protocol were met on 2 February 1999 and the Protocol entered into force on 3 February 2000.

Amendments

(*a*) 1990 amendments to the Annex to the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973

The Marine Environment Protection Committee at its twenty-ninth session (March 1990) adopted by resolution MEPC.39(29) amendments to annexes I and II to the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL 73/78). The amendments introduce changes to surveys and inspections and the issue, form, duration and validity of certificates in order to harmonize the survey and certification requirements of MARPOL 73/78 with those of the Protocol of 1988 relating to the Safety of Life at Sea, 1974, and the Protocol of 1988 relating to the International Convention on Load Lines, 1966. At the time of their adoption, MEPC determined that the amendments would be deemed to have been accepted six months after the conditions for entry into force of the 1988 SOLAS and Load Lines Protocols had been met. The conditions for entry into force of the two Protocols were met on 2 February 1999, and the deemed acceptance date was consequently 3 August 1999. The amendments therefore entered into force on 3 February 2000.

(*b*) 1990 amendments to the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (IBC Code)

The Marine Environment Protection Committee and the Maritime Safety Committee at their twenty-ninth (March 1990) and fifty-eighth (May 1990) sessions, respectively, adopted by resolutions MEPC.40(29) and MSC.16(58), amendments to the IBC Code, in order to harmonize the survey and certification requirements of the Code with those of the 1988 SOLAS and Load Lines Protocols. At the time of their adoption, MEPC and MSC determined that the amendments would be deemed to have been accepted six months after the conditions for entry into force of the two Protocols had been met, and that they would enter into force six months after their deemed acceptance date. The conditions for entry into force of the two Protocols were met on 2 February 1999 and the deemed acceptance date of the amendments was consequently 3 August 1999. The amendments therefore entered into force on 3 February 2000.

(*c*) 1990 amendments to the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk (IGC Code)

The Maritime Safety Committee at its fifty-eighth session (May 1990) adopted by resolution MSC.17(58) amendments to the ICG Code in order to harmonize the survey and certification requirements of the Code with those of the 1988 SOLAS and Load Lines Protocols. At the time of their adoption, MSC determined that the amendments would be deemed to have been accepted six months after the conditions for the two Protocols had been met, and that they would enter into force six months after their deemed acceptance date. The conditions for entry into force of the

two Protocols were met on 2 February 1999 and the deemed acceptance date of the amendments was consequently 3 August 1999. The amendments therefore entered into force on 3 February 2000.

(*d*) 1990 amendments to the Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (BCH Code)

The Marine Environment Protection Committee at its twenty-ninth session (March 1990) adopted, by resolution MEPC.41(29), amendments to the BCH Code in order to harmonize the survey and certification requirements of the Code with those of the 1988 SOLAS and Load Lines Protocols. At the time of their adoption, MEPC determined that the amendments would be deemed to have accepted on the same date on which the amendments to annexes I and II to MARPOL 73/78, adopted by the Committee by resolution MEPC.39(29), and that the amendments would enter into force six months after their deemed acceptance. The conditions for the entry into force of the amendments to annexes I and II having been met on 2 February 1999, the deemed acceptance date for the BCH Code amendments was 3 August 1999, and the amendments therefore entered into force on 3 February 2000.

(*e*) 1998 amendments to the International Convention on Maritime Search and Rescue, 1979

The Maritime Safety Committee at its sixty-ninth session (May 1998) adopted, by resolution MSC.70(69), amendments to chapters 1 to 5 of the annex to the International Convention on Maritime Search and Rescue, 1979. The amendments relate to terms and definitions, organization and coordination, cooperation between States, operating procedures and ship reporting systems. The conditions for the entry into force of the amendments were met on 1 July 1999, and the amendments entered into force on 1 January 2000.

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9. WORLD INTELLECTUAL PROPERTY ORGANIZATION

Introduction

1. In 2000, WIPO concentrated on the implementation of substantive work programmes through three sectors: cooperation with member States; international registration of intellectual property titles; and intellectual property treaty formulation and normative development. WIPO also continued focusing resources and expanding the scope of its programmes on traditional knowledge, genetic resources, folklore and electronic commerce.

Cooperation for development activities

2. With regard to this area, the year 2000 witnessed intense activity in all aspects and regions covered by the relevant programme, while WIPO technical assistance was tailored to meet specific needs and focused on creating lasting institutions.

3. In May 2000, the secretariat signed an agreement with the University of Turin for the granting of the first WIPO joint postgraduate diploma in intellectual property law to jointly design and launch the Postgraduate Specialization Course on Intellectual Property Law. The targeted audience included professors and professionals with a grounding in intellectual property law who wished to acquire advanced knowledge and skills for the teaching and practice of international legislative aspects of intellectual property law. Half of the 40 students admitted to the course each year will come from developing countries and be sponsored by WIPO; the other 20 students will be selected from industrialized countries. Facilities were provided in collaboration with the International Training Centre of ILO.

Norm-setting activities

4. One of the principal tasks of WIPO is to promote the harmonization of intellectual property laws, standards and practices among its member States. This is achieved through the progressive development of international approaches in the protection, administration and enforcement of intellectual property rights.

5. Accelerating the growth of international common principles and rules governing intellectual property requires extensive consultations. Three WIPO Standing Committees on legal matters—one dealing with copyright and related rights, one dealing with patents and one dealing with trademarks, industrial designs and geographical indications—help member States coordinate efforts in these areas and establish priorities.

6. The Working Group on Constitutional Reform presented to the WIPO Assemblies of Member States in September 2000 the most far-reaching constitutional and structural reform since the establishment of WIPO. This was achieved by streamlining the organization's governance structure through the reduction of the number of WIPO governing bodies from 21 to 16.

Standing Committee on Trademarks

7. Members of the WIPO Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications agreed at the end of March 2000 on a set of measures to simplify and harmonize procedures relating to trademark licences. The Committee adopted by consensus a joint recommendation concerning trademark licences which was submitted for formal approval by member States at the September 2000 meeting of the WIPO Assemblies.

Standing Committee on Copyright and Related Rights

8. In 2000, the Committee devoted itself essentially to preparing the final groundwork for the holding of the Diplomatic Conference on the Protection of Audiovisual Performances. To ensure that countries would be ready for the final round of negotiations in the conference, WIPO also conducted six regional consultation meetings in October and November 2000.

Standing Committee on Information Technologies

9. The Committee met from 10 to 14 July 2000 in Geneva to consider a range of questions relating to major automation projects at WIPO. These include the continuation of the WIPOnet project, an initiative to automate the operations of the Patent Cooperation Treaty (IMPACT), the creation of Intellectual Property Digital Libraries (IPDLs) and the Administration Integrated Management System (AIMS).

International registration activities

10. Two milestones for the Organization came in February and March when, respectively, the Hague system for industrial designs attained its 50,000th registration and the Patent Cooperation Treaty (PCT) recorded its 500,000th application. Such numbers indicate the increasing interest by users seeking protection through WIPO while taking on larger markets through international trade. Confirmation of that analysis comes from knowledge that PCT applications had doubled in less than four years, since its 250,000th application was recorded in February 1996.

Patents

11. From 11 May to 2 June 2000, WIPO member States met at a Diplomatic Conference in Geneva, during which the Patent Law Treaty (PLT) and its Regulations on patent formalities and procedures were negotiated. On 1 June 2000, the PLT was adopted by consensus. The PLT simplifies formalities and streamlines procedures for national and regional patent applications and patents. Users of the patent system will thus be able to rely upon predictable and simple procedures for filing national and regional patent applications and for maintaining patents in all Contracting Parties. The PLT incorporates by reference the formality requirements of the Patent Cooperation Treaty, thus ensuring that, once the PLT has entered into force, the same formal requirements will apply to national, regional and international applications, and patents.

12. At its twenty-eighth session, from 13 to 17 March 2000, the PCT Union Assembly adopted amendments to the PCT Regulations relating to the draft Patent Law Treaty and discussed implementation of electronic filing and processing of international applications.

Marks

13. From 2 to 13 October, the Committee of Experts of the Nice Union considered proposals for amendments and other changes to the seventh edition of the International Classification of Goods and Services (Nice Classification) in view of the entry into force of the eighth edition on 1 January 2002.

14. International trademark registrations under the Madrid system surged by 15 per cent compared with 1999, reaching almost 23,000. Renewals rose by 20 per cent to almost 6,900.

Industrial designs

15. In February 2000 the Hague system for industrial designs attained its 50,000th registration.

Electronic commerce; Internet domain names

16. In 2000, WIPO received a request from a number of its member States to initiate a Second WIPO Internet Domain Name Process to study the abusive registration of the following identifiers: personal names; International Nonproprietary Names for pharmaceutical substances; names of international intergovernmental organizations; geographical indications, indications of source and geographic terms; and trade names. In July, the organization began the Second WIPO Internet Domain Name Process, via online and regional consultations, to study the extent of the prob-

lems experienced in these areas and to produce recommendations on avoiding and resolving conflicts.

17. During 2000, the organization conducted a number of regional meetings on electronic commerce and intellectual property issues with the aim of broadening developing countries' participation in global policy formation on intellectual property issues.

18. The WIPO Arbitration and Mediation Centre received 1,841 generic top-level domain (gTLD) cases, concerning over 3,200 domain names. In comparison with the other domain name dispute resolution service providers, the Centre's caseload represents 65 per cent of all Internet Corporation for Assigned Names and Numbers (ICANN) cases; 1,286 (70 per cent) of these cases were resolved through 1,007 decisions by WIPO-appointed panels and 279 terminations. The Centre received 16 country-code top-level domain (ccTLD) cases; seven of these cases were resolved through five decisions of WIPO-appointed panels and two terminations. WIPO domain name cases involved parties from 74 countries worldwide.

The WIPO Arbitration and Mediation Centre

19. A gathering of leading dispute resolution providers and arbitrators opened on 6 November 2000 in Geneva with an acknowledgement that the technological revolution had forced a change in the traditional approach to arbitration. The International Conference on Dispute Resolution in Electronic Commerce examined how electronic commerce had altered the way in which businesses and the legal profession functioned, as well as the associated risks and opportunities.

20. Members of the WIPO Domain Name Panel attended a meeting in Geneva on 7 November to discuss their involvement in the Centre's Domain Name Dispute Resolution Service. The group consisted of 50 panellists from 15 countries. The discussions focused on ways in which the Centre and panellists could work together to maintain the efficient, fair and expeditious resolution of domain name disputes.

21. The annual meeting of the Centre's Arbitration and Mediation Council followed the conference on 8 November. Members were briefed on the Centre's activities including the availability of Domain Name Dispute Resolution Services in both the gTLDs and ccTLDs, tailor-made dispute resolution services, conventional cases and training programmes.

22. The Centre's week of activities culminated with a Workshop for Arbitrators held in Geneva on 9 and 10 November. Fifty participants from 25 countries attended the workshop, the objective of which was to provide training on effective management of the international arbitration process.

Intellectual property and global issues

23. Another outstanding achievement for WIPO in 2000 was the mandate it received from member States, in September 2000, to further explore those issues deriving from the economic exploitation of genetic resources, traditional knowledge and folklore. This mandate included the organization and convening of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore. Intense work took place in 2000 in preparation for the first session scheduled for spring 2001. The focus was set on three

intellectual property themes: (*a*) access to genetic resources and benefit-sharing; (*b*) protection of traditional knowledge, innovations and creativity, whether or not associated with those resources; and (*c*) the protection of expressions of folklore, including handicrafts.

Online services

24. The organization has several new online services, such as the WIPO electronic bookshop and the Collection of Laws for Electronic Access (CLEA) database, which provides searchable online access to 900 legislative texts from 35 countries. Texts from a further 35 countries will soon be added.

New members and new accessions

25. In 2000, WIPO received and processed 60 instruments of ratification or accession to WIPO-administered treaties. The following figures show the new adherences to treaties that are in force, with the figure in parentheses being the total number of States party to the corresponding treaty by the end of 2000:

- Convention Establishing the World Intellectual Property Organization: 2 (175)
- Paris Convention for the Protection of Industrial Property: 3 (160)
- Patent Cooperation Treaty: 4 (110)
- Protocol Relating to the Madrid Agreement concerning the International Registration of Marks: 6 (49)
- Trademark Law Treaty: 1 (26)
- Madrid Agreement concerning the International Registration of Marks: 1 (52)
- Madrid Agreement for the Repression of False or Deceptive Indications of Source of Goods: 1 (32)
- Nairobi Treaty on the Protection of the Olympic Symbol: 1 (40)
- Nice Agreement concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks: 5 (65)
- Lisbon Agreement for the Protection of Appellations of Origin and their International Registration: 1 (19)
- Locarno Agreement Establishing an International Classification for Industrial Designs: 2 (39)
- Strasbourg Agreement concerning the International Patent Classification: 2 (47)
- Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks: 2 (17)
- Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure: 1 (49)
- Berne Convention for the Protection of Literary and Artistic Works: 5 (147)
- Rome International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (jointly administered with ILO and UNESCO): 4 (67)

- Geneva Convention for the Protection of Producers of Phonograms against Unauthorized Duplication of Their Phonograms: 3 (63)
- Brussels Convention relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite: 1 (24)

26. Furthermore, the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty (the WIPO "Internet Treaties") received, respectively, nine and seven new adherences, bringing the total to 21 and 18, respectively, at the end of 2000. Each treaty requires 30 adherences to enter into force.

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10. UNITED NATIONS INDUSTRIAL DEVELOPMENT ORGANIZATION

(*a*) Agreements with Governments

(i) Letter of agreement between the Government of the Republic of Guinea and UNIDO regarding the implementation of the document on the framework programme for the support and development of the private sector, signed on 11 January 2000;

(ii) Cooperation agreement between the United Nations Industrial Development Organization and the Secretariat of Science, Technology and Productive Innovation, Republic of Argentina, signed on 8 March 2000;

(iii) Agreement between the United Nations Industrial Development Organization and the Government of Colombia regarding the establishment of a UNIDO regional office in Colombia, signed on 22 May 2000;

(iv) Memorandum of Understanding between the Director-General of the United Nations Industrial Development Organization and H.E. Dr. Nasser Saidi, Minister of Economy and Trade, Minister of Industry of the Government of the Lebanese Republic, signed on 3 June 2000;

(v) Agreement between the United Nations Industrial Development Organization and the Government of the Lebanese Republic regarding the establishment of a UNIDO regional office in Beirut, for Arab countries, signed on 3 June 2000;

(vi) Agreement between the Government of Denmark and the United Nations Industrial Development Organization on the Provision of Junior Professional Officers, signed on 18 May and 7 June 2000;

(vii) Memorandum on cooperation in the field of industrial development between the United Nations Industrial Development Organization and the Government of the Republic of Azerbaijan, signed on 5 July 2000;

(viii) Joint communiqué between the Director-General of the United Nations Industrial Development Organization and Ambassador Rosario Green, Secretary for External Relations, Mexico, signed on 12 July 2000.

(*b*) Agreements with intergovernmental, governmental, non-governmental and other organizations and entities

(i) Memorandum of Understanding on working arrangements between the African Development Bank and the African Development Fund and the United Nations Industrial Development Organization, signed on 19 April 2000;

(ii) Framework cooperation agreement between the Spanish Agency for International Cooperation and the United Nations Industrial Development Organization, signed on 23 June 2000;

(iii) Memorandum of Understanding between the United Nations Industrial Development Organization and the Latin American Foundation for Economic Research (FIEL), signed on 23 August 2000;

(iv) Agreement between the Secretariat of Small and Medium-Sized Enterprises of Argentina, the Secretariat of Industry, Trade and Mining of Argentina, the United Nations Industrial Development Organization and the Permanent Observatory of the Small and Medium-Sized Industrial Enterprises—represented in this act by the following members: Banco de la Nación Argentina, Fundación UIA (Argentine Industrial Union Foundation), and Organización Techint, signed on 23 August 2000;

(v) Agreement between the Chief of Cabinet's Office of the Government of Argentina, represented by the Chief of the Cabinet, Dr. Rodolfo H. Terragno, and the United Nations Industrial Development Organization, represented by the Director-General, Mr. Carlos Magariños, signed on 23 August 2000;

(vi) Cooperation agreement between the United Nations Industrial Development Organization and L. M. Ericsson Company, signed on 13 November 2000.

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11. INTERNATIONAL ATOMIC ENERGY AGENCY

Agreement on the Privileges and Immunities of the International Atomic Energy Agency[164]

During 2000, Latvia accepted the Agreement. By the end of the year there were 67 Parties.

Convention on the Physical Protection of Nuclear Material[165]

In 2000, Botswana, the Libyan Arab Jamahiriya, Pakistan and Sudan adhered to the Convention. By the end of the year, there were 68 Parties.

Convention on Early Notification of a Nuclear Accident[166]

In 2000, the Islamic Republic of Iran and Luxembourg adhered to the Convention. By the end of the year, there were 86 Parties.

Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency[167]

In 2000, the Islamic Republic of Iran, Lithuania and Luxembourg adhered to the Convention. By the end of the year, there were 82 Parties.

Vienna Convention on Civil Liability for Nuclear Damage, 1963[168]

In 2000, the status of the Convention remained unchanged, with 32 Parties.

Optional Protocol concerning the Compulsory Settlement of Disputes[169]

In 2000, the status of the Protocol remained unchanged, with two Parties.

Joint Protocol relating to the Application of the Vienna Convention and the Paris Convention[170]

During 2000, Ukraine adhered to the Protocol. By the end of the year, there were 21 Parties.

Convention on Nuclear Safety[171]

In 2000, the European Atomic Energy Community (EURATOM) adhered to the Convention. By the end of the year, there were 53 Parties.

Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management[172]

In 2000, Argentina, Bulgaria, Finland, France, Greece, Latvia, the Netherlands, Poland, Switzerland and Ukraine adhered to the Convention. By the end of the year, there were 23 Contracting States and 41 signatories.

Protocol to Amend the Vienna Convention on Civil Liability for Nuclear Damage[173]

In 2000, Argentina adhered to the Protocol. By the end of the year, there were three Contracting States and 14 signatories.

Convention on Supplementary Compensation for Nuclear Damage[174]

In 2000, Argentina adhered to the Convention. By the end of the year, there were 3 Contracting States and 13 signatories.

African Regional Cooperative Agreement for Research, Development and Training Related to Nuclear Science and Technology[175] *(AFRA)—(Second Extension)*

The second extension of the Agreement entered into force on 4 April 2000. Algeria, Burkina Faso, Cameroon, Côte d'lvoire, the Democratic Republic of the Congo, Egypt, Ethiopia, Ghana, Kenya, the Libyan Arab Jamahiriya, Madagascar, Mauritius, Morocco, Namibia, Senegal, South Africa, Tunisia, Uganda, the United Republic of Tanzania and Zimbabwe adhered to the Agreement. By the end of the year, there were 20 Parties.

Second Agreement to Extend the 1987 Regional Cooperative Agreement for Research, Development and Training Related to Nuclear Science and Technology, 1987[176] *(RCA)*

During 2000, the status of the Agreement remained unchanged, with 17 Parties.

Revised Supplementary Agreement concerning the Provision of Technical Assistance by IAEA (RSA)

In 2000, Israel, Malta and the former Yugoslav Republic of Macedonia concluded the Agreement. By the end of the year, there were 92 States that concluded an RSA Agreement.

Cooperation Agreement for the Promotion of Nuclear Science and Technology in Latin America and the Caribbean (ARCAL)

In 2000, Mexico adhered to the Agreement. By the end of the year, there was 1 Contracting State and 14 signatories.

IAEA legislative assistance activities

During 2000, legislative assistance continued to be provided to member States to enable them to further develop their nuclear legislation. Emphasis was placed on the interaction between technical and legal experts of the Agency and those of member States. In particular, assistance was given to 19 countries by means of written comments or advice on specific national legislation submitted to the Agency for review.

The Agency's legislative assistance activities in 2000 also included:

—A regional workshop for countries of the Asia and Pacific region on the development of a legal framework governing the safety of radioactive waste management and the safe transport of radioactive material, held in Jakarta from 10 to 14 April 2000;

—A regional seminar on legislation and regulations for radiation protection held in Saclay, France, for 13 to 16 June 2000 for French-speaking African countries;

—A regional workshop on response to nuclear accidents or radiological emergencies and on a legal framework governing emergency preparedness and response and civil liability for nuclear damage, held in Rio de Janeiro, Brazil, from 9 to 17 October 2000 for countries of the Latin America region;

—A training course for the safe transport of radioactive material held in New Illawara, Australia, from 27 November to 8 December 2000 for countries of the Asia and Pacific region.

Convention on the Physical Protection of Nuclear Facilities

The Director-General of IAEA convened, in November 1999, an informal open-ended expert meeting to discuss whether there was a need to revise the Convention on the Physical Protection of Nuclear Material, in the light of the comments made at the March 1999 Board of Governors meeting. The Director-General requested the experts to provide their view on the basic question of whether there was a need to revise the Convention.

The expert meeting recognized that it would not be appropriate or possible at the meeting to arrive at any conclusions as to whether there was a need to revise the Convention. The meeting agreed that a more detailed process should be established to further examine the issues that should be addressed prior to reaching conclusions on further efforts to ensure effective physical protection, in order to prepare the ground thoroughly for any future consideration of the need to revise the Convention. For this purpose, the expert meeting decided to continue its work in the next 18 months in a series of working group meetings with the participation of the IAEA secretariat. The working group was to prepare a report and make recommendations to be submitted to the expert meeting.

The Working Group met in February, June and November 2000. The next meeting of the Working Group is foreseen to take place in January 2001.

Safeguards Agreements

During 2000, two Safeguards Agreements, pursuant to the Treaty on the Non-Proliferation of Nuclear Weapons, were signed with the former Yugoslav Republic of Macedonia and Yemen, and a Safeguards Agreement under the Treaty with Andorra was approved by the IAEA Board of Governors. These agreements have not yet entered into force.

Protocols additional to the Safeguards Agreements between IAEA and Azerbaijan,[177] Bulgaria,[178] Canada,[179] Croatia,[180] Hungary,[181] Lithuania,[182] Norway,[183] Poland,[184] Romania,[185] and Slovenia[186] entered into force. Protocols additional to Safeguards Agreements were signed by Estonia, Namibia, Peru, the Russian Federation, Switzerland, Turkey and Ukraine but have not yet entered into force. Protocols additional to the Safeguards Agreements between IAEA and Andorra, Bangladesh, Latvia and Nigeria were also approved by the IAEA Board of Governors.

By the end of 2000, there were 224 Safeguards Agreements in force with 140 States (and Taiwan Province of China). Safeguards Agreements which satisfy the requirements of the Non-Proliferation Treaty were in force with 128 States. By the end of 2000, 57 States had concluded an Additional Protocol, 53 of which had been signed. Of the 53, 18 had entered into force and 1 was being implemented provisionally pending its entry into force.

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12. WORLD TRADE ORGANIZATION

(*a*) Director-General

The Director-General of the WTO is:

- The Right Honourable Mike Moore of New Zealand, until 31 August 2002 to be followed by
- H.E. Dr. Supachai Panitchpakdi of Thailand, from 1 September 2002 to 31 August 2005.

(*b*) Membership

WTO membership is open to any State or customs territory having full autonomy in the conduct of its trade policies. Accession negotiations concern all aspects of the applicant's trade policies and practices, such as market access concessions and commitments on goods and services, legislation to enforce intellectual property rights, and all other measures which form a Government's commercial policies. Applications for WTO membership are the subject of individual working parties. Terms and conditions related to market access (such as tariff levels and commercial presence for foreign service suppliers) are the subject of bilateral negotiations. The following is a list of 27 Governments for which a working party has been established (still current as of 31 December 2000):

Algeria, Andorra, Armenia, Azerbaijan, Belarus, Bhutan, Bosnia and Herzegovina, Cambodia, Cape Verde, China, Kazakhstan, Lao People's Democratic Republic, Lebanon, Nepal, Republic of Moldova, Russian Federation, Samoa, Saudi Arabia, Seychelles, Sudan, Taiwan Province of China, the former Yugoslav Republic of Macedonia, Tonga, Ukraine, Uzbekistan, Vanuatu and Viet Nam

As at 31 December 2000, there were 140 members of WTO, accounting for more than 90 per cent of world trade. Many of the countries that remain outside the world trade system have requested accession to WTO and are at various stages of a process that has become more complex due to the organization's more expansive coverage relative to its predecessor, GATT.

During 2000, WTO received the following new members:

- Jordan (11 April 2000) by Protocol of Accession (23 December 1999, WT/ACC/JOR/35), Council decision WT/ACC/JOR/34
- Georgia (14 June 2000) by Protocol of Accession (28 October 1999, WT/ACC/GEO/33), Council decision WT/ACC/GEO/32
- Albania (8 September 2000) by Protocol of Accession (2 August 2000, WT/ACC/ALB/53), Council decision WT/ACC/ALB/52
- Sultanate of Oman (9 November 2000) by Protocol of Accession (3 November 2000, WT/ACC/OMN/28), Council decision WT/ACC/OMN/27
- Croatia (30 November 2000) by Protocol of Accession (19 September 2000, WT/ACC/HRV/61), Council decision WT/ACC/HRV/60

It is also important to note the following Council decision in 2000 authorizing the accession of:

- Lithuania, by Protocol of Accession (15 January 2001, WT/ACC/LTU/54), Council decision WT/ACC/LTU/53

Lithuania is expected to become the 141st member of WTO upon the completion of the internal ratification procedures in 2001. The list of WTO members as at 31 December 2000 is contained in the table below.

WTO members (*as at 31 December 2000*)

Albania
Angola
Antigua and Barbuda
Argentina
Australia
Austria
Bahrain
Bangladesh
Barbados
Belgium
Belize
Benin
Bolivia
Botswana
Brazil
Brunei Darussalam
Bulgaria
Burkina Faso
Burundi
Cameroon
Canada
Central African Republic
Chad
Chile
Colombia
Congo
Costa Rica
Côte d'Ivoire
Croatia
Cuba
Cyprus
Czech Republic
Democratic Republic of the Congo
Denmark
Djibouti
Dominica
Dominican Republic
Ecuador
Egypt
El Salvador
Estonia
European Communities
Fiji
Finland
France
Gabon
Gambia
Georgia
Germany
Ghana
Greece
Grenada
Guatemala
Guinea
Guinea-Bissau
Guyana
Haiti
Honduras
Hong Kong SAR
Hungary
Iceland
India
Indonesia
Ireland
Israel
Italy
Jamaica
Japan
Jordan
Kenya
Kyrgyzstan
Kuwait
Latvia
Lesotho
Liechtenstein
Luxembourg
Macau, China
Madagascar
Malawi
Malaysia
Maldives
Mali
Malta
Mauritania
Mauritius
Mexico
Mongolia
Morocco
Mozambique
Myanmar
Namibia
Netherlands
New Zealand
Nicaragua
Niger
Nigeria
Norway
Oman
Pakistan
Panama
Papua New Guinea
Paraguay
Peru
Philippines
Poland
Portugal
Qatar
Republic of Korea
Romania
Rwanda
Saint Kitts and Nevis
Saint Lucia
Saint Vincent and the Grenadines
Senegal
Sierra Leone
Singapore
Slovakia
Slovenia
Solomon Islands
South Africa
Spain
Sri Lanka
Suriname
Swaziland
Sweden
Switzerland
Thailand
Togo
Trinidad and Tobago
Tunisia
Turkey
Uganda
United Arab Emirates
United Kingdom of Great Britain and Northern Ireland
United Republic of Tanzania
United States of America
Uruguay
Venezuela
Zambia
Zimbabwe

(c) Waivers

In 2000, the General Council granted a number of waivers from obligations under the WTO Agreement (see the table below):

Waivers under article IX of the WTO Agreement

Member	*Type*	*Decision of*	*Expiry*	*Document*
Nicaragua	Implementation of Harmonized System			
	— Extension of time limit	3 May 2000	31 Oct. 2000	WT/L/353
	— Extension of time limit	8 Dec. 2000	30 April 2001	WT/L/376
Sri Lanka	Implementation of Harmonized System			
	— Extension of time limit	3 May 2000	31 Oct. 2000	WT/L/352
	— Extension of time limit	8 Dec. 2000	30 April 2001	WT/L/377
Zambia	Renegotiation of schedule			
	— Extension of time limit	3 May 2000	31 Oct. 2000	WT/L/350
	— Extension of time limit	8 Dec. 2000	30 April 2001	WT/L/378
Argentina, Bolivia, Brazil, Brunei Darussalam, Bulgaria, Costa Rica, Egypt, El Salvador, Honduras, Guatemala, Iceland, Israel, Malaysia, Maldives, Mexico, Morocco, New Zealand, Norway, Pakistan, Panama, Paraguay, Switzerland, Thailand, Uruguay, Venezuela	Introduction of Harmonized System changes into WTO Schedules of Tariff Concessions on 1 January 1996			
	— Extension of time limit	3 May 2000	31 Oct. 2000	WT/L/351
	— Extension of time limit (except for Bolivia, Costa Rica, Maldives)	8 Dec. 2000	30 April 2001	WT/L/379
Uruguay	Customs Valuation Agreement			
	— Waiver on minimum values	3 May 2000	1 Jan. 2001	WT/L/354
EC/France	Trading arrangements with Morocco	17 July 2000	Entry into force of Euro-Mediterranean Agreement with Morocco	WT/L/361 and Corr.1
EC	Autonomous preferential treatment to the countries of the Western Balkans	15 Dec. 2000		WT/L/380 and Corr.1
Turkey	Preferential treatment for Bosnia and Herzegovina	8 Dec. 2000	31 Dec. 2006	WT/L/381

Source: WTO Annual Report, 2000.

(*d*) Resolution of trade conflicts under the WTO Dispute Settlement Understanding

Overview

The General Council convenes as the Dispute Settlement Body (DSB) to deal with disputes arising from any agreement contained in the Final Act of the Uruguay Round that is covered by the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU). The DSB has the sole authority to establish dispute settlement panels, adopt panel and Appellate Body reports, maintain surveillance of implementation of rulings and recommendations and authorize suspension of concessions in the event of non-implementation of recommendations.

Composition of the Appellate Body

On 7 April 2000, the DSB appointed Mr. G. Abi-Saab (Egypt) and Mr. A. V. Ganesan (India) to serve on the Appellate Body to replace Mr. El Naggar and Mr. Matsushita, following the expiration of their terms. On 19 March 2000, Mr. C. Beeby passed away and on 25 May 2000, the DSB appointed Mr. Y. Taniguchi (Japan) to serve on the Appellate Body for the remainder of the term of Mr. Beeby.

Dispute settlement activity for 2000

In 2000, the DSB received 33 notifications from members of formal requests for consultations under the DSU. During this period, the DSB established panels to deal with 12 cases in 11 new matters and adopted panel and/or Appellate Body reports in 17 cases, concerning 14 distinct matters. The DSB also received three notifications from members of a mutually agreed solution (settlement) of dispute, and the authority of a panel lapsed in one case (involving two complaints on the same matter).

This section briefly describes the procedural history and, where available, the substantive outcome of these cases. It also describes the implementation status of adopted reports where new developments occurred in the periods covered; cases in which a panel report has been circulated but where an appeal is pending before the Appellate Body; disputes where consultations have been requested but no panel has yet been requested or established; and cases where a mutually agreed solution has been reached.

Appellate Body and/or panel reports adopted

Mexico—Anti-dumping investigation of high-fructose corn syrup (HFCS), complaint by the United States (WT/DS132). This dispute concerns the imposition, on 23 January 1998, of definitive anti-dumping duties by Mexico on imports of high-fructose corn syrup from the United States. The United States contended that the manner in which the application for an anti-dumping investigation was made, as well as the manner in which the determination of threat of injury was made, was inconsistent with articles 2, 3, 4, 5, 6, 7, 9, 10 and 12 of the Anti-Dumping Agreement. The DSB established a panel at its meeting on 25 November 1998. Jamaica reserved its third-party rights. The Panel found no violation of the Anti-Dumping Agreement in the initiation of the investigation, rejecting the United

States' arguments regarding the need to make certain underlying determinations specific and to publish notice of them at the time of initiation. The Panel found, however, that Mexico had acted inconsistently with its obligations under the Anti-Dumping Agreement, in its determination of threat of material injury and in the imposition of the definitive anti-dumping measure on imports of HFCS from the United States. With respect to the final determination of threat of material injury, the Panel concluded that each of the injury factors set forth in the Anti-Dumping Agreement must be specifically addressed in the analysis. The Panel also concluded that the threat of injury must be to the entire domestic industry, and not only that portion of it that directly competed with imports. The report of the Panel was circulated to WTO members on 28 January 2000. The DSB adopted the Panel report at its meeting on 24 February 2000. On 19 April 2000, the parties informed the DSB that they had agreed on a reasonable period for implementation under article 21.3 of the DSU, which would expire on 22 September 2000. At the DSB meeting of 26 September 2000, Mexico stated that it had complied with the panel recommendation by its final determination on the anti-dumping investigation on 20 September 2000. The United States, after examining Mexico's final determination, requested that the DSB refer the matter to the original panel under article 21.5. The DSB did so on 23 October 2000 and the European Communities, Jamaica and Mauritius reserved their third-party rights.

United States—Tax treatment for "Foreign Sales Corporations", complaint by the European Communities (WT/DS108). This dispute concerns tax exemptions and special administrative pricing rules contained in sections 921-927 of the United States Foreign Sales Corporations (FSC) scheme of the Internal Revenue Code. In November 1997, the European Communities contended that these provisions were inconsistent with United States obligations under articles III.4 and XVI of GATT 1994, articles 3.1 (*a*) and (*b*) of the Agreement on Subsidies Agreement (SCM Agreement) and articles 3 and 8 of the Agreement on Agriculture. At its meeting on 22 September 1998, the DSB established a panel. Barbados, Canada and Japan reserved their rights as third parties to the dispute. The Panel found that, through the FSC scheme, the United States had acted inconsistently with its obligations under article 3.1 (*a*) of the Subsidies Agreement and under article 3.3 of the Agreement on Agriculture (and consequently with its obligations under article 8 of that Agreement). The report of the Panel was circulated to WTO members on 8 October. The United States appealed certain issues of law covered in the Panel report and legal interpretations developed by the panel. The Appellate Body upheld the Panel's finding that the FSC measure constituted a prohibited subsidy under article 3.1 (*a*) of the SCM Agreement. However, it reversed the Panel's finding that the FSC measure involved "the provision of subsidies to reduce the costs of marketing exports" of agricultural products under article 9.1 (*d*) of the Agreement on Agriculture and, in consequence, reversed the Panel's findings that the United States had acted inconsistently with its obligations under article 3.3 of the Agreement on Agriculture concerning export subsidies. The Appellate Body found that the United States had acted inconsistently with its obligations under articles 10.1 and 8 of the Agreement on Agriculture by applying export subsidies, through the FSC measure, in a manner resulting in, or threatening to lead to, circumvention of its export subsidy commitments with respect to agricultural products. In reaching these conclusions, the Appellate Body emphasized that "a member of WTO may choose any kind of tax system it wishes" and also that a member "has the sovereign authority to tax any particular categories of income it wishes". However, whatever system of taxation

a member chooses, it must respect its commitments under the WTO Agreement. The report of the Appellate Body was circulated to WTO members on 24 February 2000. The DSB adopted the Appellate Body report and the Panel report, as modified by the Appellate Body report, at its meeting on 20 March 2000. A reasonable period of time was determined and then modified by the DSB, at the request of the United States, to expire on 1 November 2000. On 17 November 2000, the United States stated that, with its adoption of the FSC Repeal and Extraterritorial Income Exclusion Act on 15 November, it had implemented the recommendations of the DSB. On the same date, the European Communities claimed that the United States had failed to comply with the DSB recommendations and rulings and requested consultations with the United States under articles 4 and 21.5 of the DSU. The European Communities also requested DSB authorization to take appropriate countermeasures and suspend concessions pursuant to article 4.10 of the SCM Agreement and 22.2 of the DSU. The United States requested that the matter be referred to arbitration under article 22.6 of the DSU. On 7 December 2000, the European Communities notified the DSB that consultations had failed and requested the establishment of a panel pursuant to article 21.5 of the DSU. The DSB referred the matter to the original panel on 20 December. On 21 December 2000, the United States and the European Communities jointly requested the article 22.6 arbitrator to suspend proceedings until the adoption of the Panel report or, if there was an appeal, the Appellate Body report. Arbitration was accordingly suspended.

Republic of Korea—Measures affecting government procurement, complaint by the United States (WT/DS163). This dispute relates to the Inchon International Airport project in the Republic of Korea. At issue was whether the entities that had procurement responsibility for the project since its inception were "covered entities" under the plurilateral Agreement on Government Procurement. The United States argued that the procurement practices of those entities were or had been inconsistent with the Republic of Korea's obligations under the Agreement. On 16 June 1999, the DSU established a panel. The European Communities and Japan reserved their third-party rights in the proceedings. The Panel found that the text of the Republic of Korea's Agreement schedule did not include the entities which were conducting procurement for the airport project, and that those entities were independent from the Ministry of Construction and Transportation, which was a "covered entity". In addition, the Panel examined the United States claim of non-violation nullification or impairment. It found that the traditional approach to non-violation could not be sustained in a situation where there was no actual concession granted. The Panel also examined the non-violation claim in the context of an error in treaty negotiation. It concluded that, based on less than complete answers by the Republic of Korea to certain questions by the United States during negotiations on the Republic of Korea's accession to the Agreement, there had initially been an error on the part of the United States as to which Korean authority was in charge of the project at issue. However, in the light of all the facts, the Panel considered that there was notice of this error and that it was not reasonable or justifiable and therefore found that the United States had not demonstrated that benefits reasonably expected to accrue to it under the Agreement, or in the negotiations resulting in the Republic of Korea's accession to the Agreement, were nullified or impaired by measures taken by the Republic of Korea. The report of the Panel was circulated to WTO members on 1 May 2000. The DSB adopted the Panel report at its meeting on 19 June 2000.

Guatemala—Definitive anti-dumping measures on grey Portland cement, complaint by Mexico (WT/DS156). On 22 September 1999, the DSB established a panel to evaluate the consistency with WTO law of the definitive anti-dumping measure imposed by the authorities of Guatemala on imports of grey Portland cement from Mexico and the proceedings leading thereto, in particular the anti-dumping investigation against imports of grey Portland cement from Cruz Azul, a Mexican exporter. Mexico alleged that the definitive anti-dumping measure was inconsistent with articles 1, 2, 3, 5, 6, 7, 12 and 18 of the Anti-Dumping Agreement and its annexes I and II, as well as with article VI of GATT 1994. The European Communities, Ecuador, Honduras and the United States reserved their third-party rights. The Panel concluded that Guatemala's initiation of an investigation, the conduct of the investigation and the imposition of a definitive anti-dumping measure on imports of grey Portland cement from Mexico's Cruz Azul was inconsistent with the requirements in the Anti-Dumping Agreement. With regard to the initiation of the investigation, the Panel found, inter alia, that the evidence on dumping, threat of injury or causation was insufficient to justify initiation of the investigation and that Guatemala should have rejected the application for anti-dumping duties. With respect to the conduct of the investigation, the Panel found several violations of Mexico's rights of due process. Regarding the final determination of injury caused by dumped imports, the Panel concluded that Guatemala had acted inconsistently with the Anti-Dumping Agreement in that the investigating authority had failed to properly assess the increase in the volume of dumped imports relative to domestic consumption in Guatemala and failed to examine other known factors than the dumped imports that may have been causing injury. The Panel also rejected some of Mexico's claims and refrained from examining claims which it considered to be subsidiary to the principal claims put forward by Mexico and on which a ruling would not provide additional guidance on the implementation of the Panel's recommendations. The report of the Panel was circulated to WTO members on 24 October 2000. The DSB adopted it at its meeting on 17 November 2000. On 12 December 2000, Guatemala informed the DSB that it had removed its anti-dumping measure and complied with the recommendations of the DSB. Mexico welcomed Guatemala's implementation in the case.

Canada—Term of patent protection, complaint by the United States (WT/DS170). This dispute concerns the term of protection for patents in Canada. The United States contended that the TRIPS Agreement obligates members to grant a term of protection for patents that run at least until 20 years after the filing date of the underlying protection, and requires each member to grant this minimum term to all patents existing as of the date of application of the Agreement to that member. The United States alleged that under the Canadian Patent Act the term granted to patents issued on the basis of applications filed before 1 October 1989 was 17 years from the date on which the patent was issued and that that situation was inconsistent with articles 33, 65 and 70 of the TRIPS Agreement. On 22 September 1999, the DSB established a panel. The Panel first found that, pursuant to article 70.2 of the TRIPS Agreement, Canada was required to apply the relevant obligations of the TRIPS Agreement to inventions protected by patents that were in force on 1 January 1996, i.e., the date of entry into force for Canada of the TRIPS Agreement. The Panel further found that section 45 of Canada's Patent Act did not make available in all cases a term of protection that did not end before 20 years from the date of filing, as mandated by article 33 of the TRIPS Agreement, thus rejecting, inter alia, Canada's argument that the 17-year statutory protection under its Patent Act

was effectively equivalent to the 20-year term prescribed by the TRIPS Agreement because of average pendency periods for patents, informal and statutory delays etc. The report of the Panel was circulated to WTO members on 5 May 2000. Canada appealed certain issues of law covered in the Panel report and legal interpretation developed by the Panel. The Appellate Body, however, upheld all of the findings and conclusions of the Panel that were appealed. The Appellate Body report was circulated to WTO members on 18 September 2000. The DSB adopted the Appellate Body report and the Panel report, as upheld by the Appellate Body report, on 12 October 2000. On 23 October 2000, Canada declared its intention to implement the DSB recommendations and rulings. Canada requested a reasonable period of time to do so and stated that it would consult with the United States on the matter. On 15 December 2000, the United States requested that the reasonable period of time be determined by binding arbitration under article 21.3 of the DSU.

United States—Anti-Dumping Act of 1916, complaints by the European Communities (WT/DS136) and Japan (WT/DS162). This dispute concerns the United States Anti-Dumping Act of 1916 ("1916 Act"). This Act allows, under certain conditions, civil actions and criminal proceedings to be brought against importers who have sold foreign-produced goods in the United States at prices which are "substantially less" than the prices at which the same products are sold in a relevant foreign market. An importer found criminally liable is subject to a fine and/or imprisonment, and private complainants may seek treble damages if they suffered injury as a result of a violation of the 1916 Act. The European Communities and Japan separately challenged the 1916 Act on the ground that the Act authorized remedies for "dumping" other than the imposition of anti-dumping duties, and did not respect the procedural requirements or the injury test set out in the relevant provisions of the Anti-Dumping Agreement and article VI of GATT 1994. The European Communities and Japan also argued that the 1916 Act was inconsistent with article III:4 of GATT 1994 and article XVI:4 of the WTO Agreement, and Japan claimed that the 1916 Act was inconsistent with article XI of GATT 1994 and article 18.4 of the Anti-Dumping Agreement. On 1 February 1999, the DSB established a panel at the request of the European Communities. India, Japan and Mexico reserved their third-party rights. On 26 July 1999, the DSB established a second panel at the request of Japan. The European Communities and India reserved their third-party rights. Both panels had the same composition and are therefore referred to as the Panel in these disputes. In two separate reports, circulated to WTO members on 31 March 2000 and 29 May 2000, respectively, the Panel found that it had jurisdiction to consider the claims and rejected the arguments made by the United States concerning the "discretionary" nature of the 1916 Act. The Panel also found that the 1916 Act fell within the scope of application of article VI of GATT 1994 and the Anti-Dumping Agreement, and that the 1916 Act violated articles VI:1 and VI:2 of GATT 1994, as well as certain provisions of the Anti-Dumping Agreement. The United States, the European Communities and Japan all appealed certain legal findings and conclusions of the Panel. The Appellate Body upheld all the findings and conclusions of the Panel that were appealed. The Appellate Body report was circulated to WTO members on 28 August 2000. The DSB adopted the Appellate Body report and the Panel reports, as upheld by the Appellate Body report, on 26 September 2000. At the DSB meeting on 23 October 2000, the United States stated its intention to implement the rulings and recommendations of the DSB and that it would consult with the European Communities and Japan with regard to a reasonable period of time for

implementation. On 17 November 2000, the European Communities and Japan requested that the reasonable period be determined by arbitration under article 21.3 (*c*) of the DSU.

Canada—Patent protection of pharmaceutical products, complaint by the European Communities and their member States (WT/DS114). This dispute concerns the protection of inventions by Canada in the area of pharmaceuticals. The European Communities contended that Canada's Patent Act was not compatible with its obligations under the TRIPS Agreement, because that legislation did not provide for the full protection of patented pharmaceutical inventions for the entire duration of the term of protection envisaged by articles 27.1, 28 and 33 of the TRIPS Agreement. At its meeting on 1 February 1999, the DSB established a panel. Australia, Brazil, Colombia, Cuba, India, Israel, Japan, Poland, Switzerland, and the United States reserved their third-party rights. The Panel found that the "regulatory review exception" provided for in Canada's Patent Act (sect. 55.2(1)) was not inconsistent with article 27.1 of the TRIPS Agreement as it was covered by the exception in article 30 of the Agreement. Under the "regulatory review exception", potential competitors of a patent owner were permitted to use the patented invention, without the authorization of the patent owner during the term of the patent, for the purposes of obtaining government marketing approval, so that they would have regulatory permission to sell in competition with the patent owner by the date on which the patent expired. Regarding the "stockpiling exception" (sect. 55.2(2)), the Panel found a violation of article 28.1 of the TRIPS Agreement that was not covered by the exception in article 30. Under the "stockpiling exception", competitors were allowed to manufacture and stockpile patented goods during a certain period before the patent expired, but the goods could not be sold until after the patent expired. The Panel considered that, unlike the "regulatory review exception", the "stockpiling exception" constituted a substantial curtailment of the exclusionary rights required to be granted to patent owners under article 28.1 to such an extent that it could not be considered to be a limited exception within the meaning of article 30 of the TRIPS Agreement. The report of the Panel was circulated to WTO members on 17 March 2000. The DSB adopted the Panel report at its meeting on 7 April 2000. At the DSB meeting on 23 October 2000, Canada stated its intention to implement the rulings and recommendations of the DSB and that it would consult with the United States with regard to a reasonable period of time for implementation. On 15 December 2000, the United States requested that the reasonable period be determined by arbitration under article 21.3 (*c*) of the DSU.

United States—Imposition of countervailing duties on certain hot-rolled lead and bismuth carbon steel products originating in the United Kingdom, complaint by the European Communities (WT/DS138). This dispute concerns countervailing duties imposed by the United States on certain hot-rolled lead and bismuth carbon steel products (leaded bars), from the United Kingdom. The leaded bars subject to countervailing duties were produced and exported to the United States by United Engineering Steels Limited (UES) and British Steel Engineering Steels (BSES). These companies had acquired, directly or indirectly, leaded bar producing assets that were previously owned by British Steel Corporation (BSC), a State-owned company. Between 1977 and 1986, BSC received subsidies from the British Government. The United States originally imposed countervailing duties on imports of leaded bars from the United Kingdom in 1993. The United States Department of

Commerce subsequently conducted annual administrative reviews of the countervailing duties. In those reviews, the Department of Commerce presumed, notwithstanding the changes in ownership of the assets of BSC used in the production of leaded bars, that the subsidies granted to BSC had "passed through" to the "benefit" of UES and BSplc/BSES. In this dispute, the European Communities complained that the countervailing duties imposed on leaded bars imported in 1994, 1995 and 1996 as a result of the administrative reviews conducted in 1995, 1996 and 1997 violated the obligations of the United States under articles 1.1 (*b*), 10, 14 and 19.4 of the SCM Agreement. The Panel concluded that by imposing countervailing duties on 1994, 1995 and 1996 imports of leaded bars produced by UES and BSES, respectively, the United States had violated article 10 of the SCM Agreement. The Panel found that the United States Department of Commerce should have examined whether there was a continuing "benefit" to UES and BSES from the subsidies previously granted by the British Government to BSC. Moreover, the Panel found that, since the changes in the ownership of the leaded bar producing assets of BSC had occurred at arm's length and for fair market value, UES and BSES could not have received any "benefit" from the subsidies previously granted to BSC. The report of the Panel was circulated to WTO members on 23 December 1999. The United States appealed certain legal findings and conclusions of the Panel. The Appellate Body upheld all of the findings of the Panel that were appealed while modifying some of the reasoning. The Appellate Body stressed that an investigating authority conducting a review of countervailing duties must determine, in the light of all the facts before it, whether there was a continuing need for the application of the duties. As the Panel had made factual findings that UES and BSES had paid fair market value when they acquired the assets of BSC, the Appellate Body held that the Panel had not erred in finding that UES and BSES had received no "benefit" from the subsidies granted. At the outset of the appeal, the Appellate Body received two amicus curiae briefs, in support of the position of the United States, from the American Iron and Steel Institute and the Speciality Steel Industry of North America. The Appellate Body determined that it had the legal authority, under the DSU, to accept and consider amicus curiae briefs in a case in which it was pertinent and useful to do so. The Appellate Body emphasized, however, that individuals and organizations which were not members of WTO had no legal *right* to make submissions to or to be heard by the Appellate Body. Furthermore, the Appellate Body had no legal *duty* to accept and consider unsolicited amicus curiae briefs. In the appeal, the Appellate Body did not find it necessary to take the two amicus curiae briefs into account in rendering its decision. The Appellate Body report was circulated to WTO members on 10 May 2000. The DSB adopted the Appellate Body report and the Panel report, as upheld by the Appellate Body report on 7 June 2000. At the DSB meeting on 5 July 2000, the United States announced that it considered that it had implemented the recommendations of the DSB.

Canada—Certain measures affecting the automotive industry, complaints by Japan (WT/DS139) and the European Communities (WT/DS142). This dispute concerns a Canadian measure providing for an import duty exemption for the importation of certain motor vehicles. Since the conclusion of the Canada–United States Auto Pact in 1965, Canada had granted duty-free treatment to motor vehicles imported by certain manufacturers established in Canada which met three main conditions. First, the manufacturer must have a manufacturing presence in Canada with respect to motor vehicles of the class imported. Second, the sales value of the motor vehicles *produced* in Canada, as a proportion of the sales value of all

motor vehicles *sold* in Canada by that manufacturer, must be equal to or higher than a specified ratio. Third, the "Canadian value-added" in the production of motor vehicles in Canada must be equal to or greater than either a specified amount or, in some cases, a designated percentage of the cost of sales or the cost of production. Both Japan and the European Communities argued that the Canadian measure at issue was inconsistent with articles I:1 and III:4 of GATT 1994. Article 2 of the Agreement on Trade-Related Investment Measures (TRIMs Agreement), article 3 of the Agreement on Subsidies and Countervailing Measures (SCM Agreement) and articles II, VI and XVII of the General Agreement on Trade in Services (GATS). In addition, Japan also claimed a violation of article XXIV of GATT 1994. On 1 February 1999, the DSB established a single panel to examine both the complaint by Japan (DS139) and the complaint by the European Communities (DS142). India, the Republic of Korea and the United States reserved their third-party rights. The Panel found that the conditions under which Canada had granted its import duty exemption were inconsistent with article I:1 of GATT 1994 and not justified under article XXIV of GATT 1994. It further found the application of the "Canada value-added" requirements to be inconsistent with article III:4 of GATT 1994. The Panel also found that the import duty exemption constituted a prohibited export subsidy in violation of article 3.1 (*a*) of the SCM Agreement. In addition, the Panel found that the manner in which Canada had conditioned access to the import duty exemption was inconsistent with article II of GATS and could not be justified under article V of GATS. Finally, the Panel found that the application of the "Canada value-added" requirements constituted a violation of article XVII of GATS. The report of the Panel was circulated to WTO members on 11 February 2000. Canada appealed certain issues of law covered in the Panel report and legal interpretations developed by the Panel. The Appellate Body upheld the findings of the Panel that the Canadian import duty exemption was inconsistent with article I:1 of GATT 1994 and article 3.1 (*a*) of the SCM Agreement but reversed the Panel's finding that article 3.1 (*b*) of the SCM Agreement did not extend to subsidies contingent "in fact" upon the use of domestic over imported products. The Appellate Body further considered that the Panel had failed to examine whether the measure at issue affected trade in services as required under article I:1 of GATS. In addition, the Appellate Body reversed the Panel's conclusion that the import duty exemption was inconsistent with the requirements of article II:1 of GATS as well as the Panel's findings leading to that conclusion. The Appellate Body found that the Panel had failed to demonstrate how the import duty exemption granted to certain manufacturers affected the supply of wholesale trade services and the suppliers of wholesale trade services of motor vehicles. The Appellate Body report was circulated to WTO members on 31 May 2000. The DSB adopted the Appellate Body report and the Panel report, as modified by the Appellate Body report, on 19 June 2000. On 19 July 2000, Canada announced its intention to comply with the recommendations of the DSB. On 4 August 2000, the European Communities and Japan requested, pursuant to article 21.3 (*c*), that the reasonable period of time for implementation be determined by arbitration. The arbitrator determined that the reasonable period of time for implementation of the recommendations and rulings relating to article I:1 and III:4 of GATT 1994 and article XVII of GATS would expire on 18 February 2001.

United States—Section 110(5) of United States Copyright Act, complaint by the European Communities (WT/DS160). This dispute concerns section 110(5) of the United States Copyright Act, as amended by the Fairness in Music Licensing Act, which was enacted on 27 October 1998. The European Communities contended

that section 110(5) of the United States Copyright Act permitted, under certain conditions, the playing of radio and television music in public places (bars, shops, restaurants etc.) without the payment of a royalty fee. The European Communities considered that the statute was inconsistent with United States obligations under article 9(1) of the Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS Agreement), requiring members to comply with articles 1 to 21 of the Berne Convention. The dispute centred on the compatibility of two exemptions provided for in section 110(5) of the United States Copyright Act with article 13 of the TRIPS Agreement, which allowed certain limitations or exceptions to exclusive rights of copyright holders, subject to the condition that such limitations were confined to certain special cases, did not conflict with a normal exploitation of the work in question and did not unreasonably prejudice the legitimate interests of the right holder. On 26 May 1999, the DSB established a panel. Australia, Japan and Switzerland reserved their third-party rights. The Panel found that the "business" exemption provided for in subparagraph (B) of section 110(5) of the United States Copyright Act did not meet the requirements of article 13 of the TRIPS Agreement and was thus inconsistent with articles 11bis(1)(iii) and 11(1)(ii) of the Berne Convention (1971) as incorporated into the TRIPS Agreement by article 9.1 of that Agreement. The Panel noted, inter alia, that a substantial majority of eating and drinking establishments and close to half of retail establishments were covered by the business exemption. The Panel further found that the "homestyle" exemption provided for in subparagraph (A) of section 110(5) of the United States Copyright Act met the requirements of article 13 of the TRIPS Agreement and was thus consistent with articles 11bis(1)(iii) and 11(1)(ii) of the Berne Convention (1971) as incorporated into the TRIPS Agreement by article 9.1 of that Agreement. Here, the Panel noted certain limits imposed on the beneficiaries of the exemption, permissible equipment and categories of works as well as the practice by United States courts. The report of the Panel was circulated to WTO members on 15 June 2000. The DSB adopted the Panel report at its meeting on 27 July 2000. On 24 August 2000, the United States informed the DSB of its intention to implement the recommendations of the DSB and proposed 15 months as a reasonable period of time to do so. On 23 October 2000, the European Communities requested that the reasonable period be determined by binding arbitration under article 21.3 (*c*) of the DSB.

Republic of Korea—Definitive safeguard measure on imports of certain dairy products, complaint by the European Communities (WT/DS98). This dispute concerns a safeguard measure imposed by the Republic of Korea, in the form of quantitative restrictions on imports of skimmed milk powder preparations. The European Communities claimed that the Republic of Korea's safeguard measure had been imposed inconsistently with the provisions of articles 2, 4, 5 and 12 of the Agreement on Safeguards and that the safeguard measure violated article XIX:1 (*a*) of GATT 1994, in that the Republic of Korea had not demonstrated that its alleged increase in imports was "a result of unforeseen developments". On 23 July 1998, the DSB established a panel to examine the European Communities complaint. The United States reserved its third-party rights. In its report circulated to WTO members on 21 June 1999, the Panel found that the Republic of Korea had imposed its safeguard measure inconsistently with articles 4.2, 5.1 and 12 of the Agreement on Safeguards. Both the Republic of Korea and the European Communities appealed certain legal findings and conclusions of the Panel. With respect to the European Communities' claim under article XIX:1 (*a*) of GATT 1994, the Appellate Body

disagreed with the conclusion of the Panel that the phrase in that article—"as a result of unforeseen developments and the effect of obligations incurred by a member under this agreement, including tariff concessions"—did not specify anything additional as to the conditions under which measures pursuant to article XIX might be applied. The Appellate Body found that the ordinary meaning of the phrase in its context and in the light of the object and purpose of article XIX of GATT 1994 and the Agreement on Safeguards, was that a member imposing a safeguard measure must demonstrate, as a matter of fact, that these were unexpected developments that led to the increased import which caused or threatened to cause serious injury to the domestic industry. With respect to article 5.1 of the Agreement on Safeguards, the Appellate Body agreed with the Panel that a member had an obligation to apply a safeguard measure only to the extent necessary to meet the objectives in that provision. The Appellate Body, however, modified the Panel's reasoning with respect to the requirement to give a reasoned explanation for the choice of measure selected. On article 12.2 of the Agreement on Safeguards, the Appellate Body reversed the Panel's finding that the Republic of Korea's notification in the case satisfied the requirement to provide "all pertinent information" to the Committee on Safeguards. The report of the Appellate Body was circulated to WTO members on 14 December 1999. The DSB adopted the Appellate Body report and the Panel report, as modified by the Appellate Body report, on 12 January 2000. On 11 February 2000, the Republic of Korea informed the DSB that it was studying ways to implement the DSB recommendations. On 21 March 2000, the parties notified the DSB that they had reached agreement on a reasonable period of time for implementation, which set the period until 20 May 2000. On 26 September 2000, the Republic of Korea informed the DSB that it had lifted its safeguard measure on 20 May 2000 and had thereby completed implementation.

Argentina—Safeguard measures on imports of footwear, complaint by the European Communities (WT/DS121). This dispute concerns safeguard measures imposed by Argentina on imports of footwear. The European Communities contended that the provisional and definitive safeguard measures adopted by Argentina, as well as certain modifications to those measures, were inconsistent with articles 2, 3, 5 and 6 of the Agreement on Safeguards and with article XIX of GATT 1994. The European Communities also alleged that the measures had not been properly notified to the Committee on Safeguards in accordance with article 12 of the Agreement on Safeguards. On 23 July 1998, the DSB established a panel to examine the complaint. Indonesia, Paraguay, Uruguay, Brazil and the United States reserved their third-party rights. In its report circulated to WTO members on 25 June 1999, the Panel found Argentina's investigation and determinations of increased imports, serious injury and causation to be inconsistent with articles 2.1 and 4.2 of the Agreement on Safeguards, which set out the conditions that must be demonstrated before a member might apply a safeguard measure. After examining article 2 of the Agreement on Safeguards, as well as article XXIV of GATT 1994, the Panel furthermore concluded that a member that was a party to a customs union might not apply a safeguard measure only to imports from third countries outside the customs union, when the safeguard investigation was conducted and the determination of serious injury was made on the basis of imports from all sources, including from other members of the customs union. The Panel also found that safeguard investigations conducted and safeguard measures imposed after the entry into force of the WTO Agreement which satisfied the requirements of the Agreement on Safeguards also satisfied the requirements of article XIX of GATT 1994. The Panel rejected the European Communities

claims that Argentina had not properly notified its safeguard measures, and declined to make findings on the European Communities claims under articles 5 and 6 of the Agreement on Safeguards relating to the application of the safeguard measures and to the provisional safeguard measures. Argentina and the European Communities appealed certain legal findings and conclusions of the Panel. The Appellate Body reversed the Panel's finding that safeguard investigations conducted and safeguard measures imposed after the entry into force of the WTO Agreement which met the requirements of the Agreement on Safeguards satisfied the requirements of article XIX of GATT 1994. It found that in order to apply a safeguard measure, a member must apply the provisions of *both* the Agreement on Safeguards and article XIX of GATT 1994, and that, pursuant to article XIX, a member imposing a safeguard measure must demonstrate, as a matter of fact, that there were unexpected developments that had led to the increased imports which caused or threatened to cause serious injury to the domestic industry. The Appellate Body upheld the Panel's conclusion that under the Agreement on Safeguards, Argentina could not justify the imposition of safeguard measures only on imports from non-member States of the Common Market of the South (MERCOSUR) when it had conducted a safeguards investigation and made its determinations on the basis of footwear imports from *all* sources, including its MERCOSUR partners. However, the Appellate Body reversed the Panel's legal reasoning with respect to footnote 1 to article 2.1 of the Agreement on Safeguards and article XXIV of GATT 1994. The Appellate Body also upheld the Panel's findings that the safeguard investigation conducted by Argentina, and Argentina's determinations of increased imports, serious injury and causation were not consistent with the requirements contained in articles 2 and 4 of the Agreement on Safeguards. The report of the Appellate Body was circulated to WTO members on 14 December 1999. The DSB adopted the Appellate Body report and the Panel report, as modified by the Appellate Body report, on 12 January 2000. On 11 February 2000, Argentina informed the DSB that it was studying ways to implement the recommendations of the DSB.

United States—sections 301-310 of the Trade Act of 1974, complaint by the European Communities (WT/DS152). This dispute concerns certain elements of sections 301 to 310 of the United States Trade Act of 1974. The European Communities claimed that sections 301 to 310, in particular sections 304, 305 and 306, called for unilateral action by the United States in a way that made the legislation as such inconsistent with the multilateral dispute settlement provisions in the DSU, in particular articles 3, 21 and 23 thereof, as well as with certain provisions of GATT 1994 and article XVI:4 of the WTO Agreement. On 2 March 1999, the DSB established a panel to examine the European Communities complaint. Brazil, Canada, Cameroon, Colombia, Costa Rica, Cuba, Dominica, the Dominican Republic, Ecuador, Hong Kong SAR, India, Israel, Jamaica, Japan, the Republic of Korea, Saint Lucia and Thailand reserved their third-party rights. The main European Communities claim was that section 304 was inconsistent with WTO because it mandated the United States Trade Representative, in certain circumstances, to unilaterally decide whether another WTO member had violated WTO rules *before* the completion of multilateral DSU procedures on the matter. The Panel found that, looking only at the statutory language of section 304 there was indeed a serious threat of such unilateral decision being taken, even though nothing forced the United States Trade Representative to do so. That threat, with its apparent "chilling effect" on other members and, indirectly, the marketplace and individual economic operators within it, was found to constitute a prima facie violation of the DSU. However, the Panel

then considered the other elements of section 304, in particular statements by the United States Administration adopted by Congress and confirmed by United States undertakings before the Panel, in which the United States Trade Representative's discretion to take unilateral action before exhaustion of DSU procedures had been curtailed. The Panel regarded the United States undertakings as effectively guaranteeing that under United States law the United States Trade Representative could not make a unilateral decision that another WTO member had violated its WTO obligations until completion of DSU procedures. The Panel concluded that those undertakings had thereby removed the prima facie inconsistency of section 304 with the DSU. The Panel also considered European Communities claims that sections 305 and 306 dealing with the United States Trade Representative's decisions in respect of whether a WTO member had implemented DSB recommendations and what action to take in response were inconsistent with the DSU. The Panel did not decide the controversy of how to sequence article 21.5 and article 22.6. The Panel concluded that under both the United States and the European Communities view, sections 305 and 306 were not inconsistent with article 23 of the DSU. In part, that conclusion was again based on United States decisions and statements that effectively curtailed the United States Trade Representative's discretion to take unilateral action in respect of the implementation of DSB recommendations as well as the suspension of concessions under sections 305 and 306. Finally, the Panel also rejected the European Communities claim that section 306 violated certain provisions of GATT 1994. The Panel did so because the success of the GATT claims depended on the acceptance of the claims under the DSU. The report of the Panel was circulated to WTO members on 22 December 1999. The DSB adopted the Panel report at its meeting on 27 January 2000.

Chile—Taxes on alcoholic beverages, complaints by the European Communities (WT/DS87 and 110). This dispute concerns the tax treatment of certain distilled alcoholic beverages in Chile. Under its legislation on taxation of alcoholic beverages, enacted in 1997, Chile adopted two tax systems, the first, known as the Transitional System, effective until 1 December 2000, and a second, known as the New Chilean System, to be applied from 1 December 2000. The European Communities contended that both tax systems were inconsistent with Chile's obligations under the second sentence of article III:2 of GATT 1994. On 25 March 1998, the DSB decided that the Panel established to examine a previous claim by the European Communities concerning Chile's taxation regime on alcoholic beverages (DS87) should examine this complaint by the European Communities. Peru, Canada and the United States reserved their third-party rights. In its report circulated to WTO members on 15 June 1999, the Panel found that pisco, whisky, brandy, rum, gin, vodka, tequila, liqueurs and several other distilled alcoholic beverages were "directly competitive or substitutable" products. It concluded that, under both the Transitional System and the New Chilean System, domestic and imported beverages were "not similarly taxed" and that the dissimilar taxation was applied "so as to afford protection to domestic production", contrary to article III:2, second sentence, of GATT 1994. Chile appealed certain legal findings and conclusions of the Panel regarding the New Chilean System. The Appellate Body upheld the Panel's overall conclusion that domestic and imported distilled alcoholic beverages were "not similarly taxed" under the New Chilean System, and that the dissimilar taxation was applied "so as to afford protection to domestic production". The Appellate Body, however, modified the reasoning followed by the Panel on some points. The Appellate Body noted that members were free to tax alcoholic beverages according

to their alcohol content and price, so long as the tax classification was not applied so as to afford protection. The report of the Appellate Body was circulated to WTO members on 13 December 1999. The DSB adopted the Appellate Body report and the Panel report, as modified by the Appellate Body report, on 12 January 2000. On 11 February 2000, Chile informed the DSB of its intention to implement the recommendations of the DSB, noting that changes to its tax laws required the approval of the National Congress and that it would thus require a reasonable period of time to implement. On 15 March 2000, Chile requested that the reasonable period be determined by arbitration under article 21.3 (*c*) of the DSU. On 23 May 2000, the arbitrator issued its determination that the reasonable period for implementation would expire on 21 March 2001.

Panel Reports pending before the Appellate Body

European Communities—Measures affecting asbestos and asbestos-containing products, complaint by Canada (WT/DS135).This dispute concerns a French decree of 24 December 1996 prohibiting the manufacture, processing, sale, import etc. of asbestos and products containing asbestos. Canada claimed that the decree violated articles 2 and 5 of the SPS Agreement, article 2 of the Agreement on Technical Barriers to Trade (TBT Agreement) and articles III and XI of GATT 1994. Canada also argued, under article XXIII:1 (*b*), nullification and impairment of benefits accruing to it under the various agreements cited. The DSB established a panel on 25 November 1998. Brazil, the United States and Zimbabwe reserved their third-party rights. The Panel found that the "prohibition" part of the decree of 24 December 1996 did not fall within the scope of the TBT Agreement, whereas the part of the decree relating to "exceptions" did fall within the scope of the TBT Agreement. However, as Canada had not made any claim concerning the compatibility with the TBT Agreement of the part of the decree relating to exceptions, the Panel refrained from reaching any conclusion with regard to the latter. The Panel then found that chrysotile asbestos fibres as such and fibres that could be substituted for them as such were like products within the meaning of article III:4 of GATT 1994 and, similarly, that the asbestos-cement products and the fibro-cement products for which sufficient information had been submitted were like products within the meaning of article III:4 of GATT 1994. With respect to the products found to be like, the Panel found that the decree violated article III:4 of GATT 1994. However, it held that the discriminatory treatment under article III:4 was justified under article XX (*b*) of GATT 1994. Finally, the Panel concluded that Canada had not established that it had suffered non-violation nullification or impairment of a benefit within the meaning of article XXIII:1 (*b*) of GATT 1994. The report of the Panel was circulated to WTO members on 18 September 2000. On 23 October 2000, Canada notified the Dispute Settlement Body of its decision to appeal certain issues of law covered in the Panel report and legal interpretations developed by the Panel.

European Communities—Anti-dumping duties on imports of cotton-type bed linen, complaint by India (WT/DS141). This dispute concerns the imposition of anti-dumping duties by the European Communities on imports of cotton-type bed linen from India. India argued that the European Communities had acted inconsistently with its obligations under articles 2, 3, 5, 6, 12 and 15 of the Anti-Dumping Agreement. On 27 October 1999, the DSB established a panel. Egypt, Japan and the United States reserved their third-party rights. The Panel concluded that the European Communities had not acted inconsistently with its obligations under

articles 2.2, 2.2.2, 3.1, 3.4, 3.5, 5.3, 5.4 and 12.2.2 of the Anti-Dumping Agreement in: (*a*) calculating the amount for profit in constructing normal value; (*b*) considering all imports from India (and Egypt and Pakistan) as dumped in the analysis of injury caused by dumped imports; (*c*) considering information for producers comprising the domestic industry but not among the sampled producers in analysing the state of the industry; (*d*) examining the accuracy and adequacy of the evidence prior to initiation; (*e*) establishing industry support for the application; and (*f*) providing public notice of its final determination. However, it concluded that the European Communities had acted inconsistently with its obligations under articles 2.4.2, 3.4 and 15 of the Anti-Dumping Agreement in: (*a*) determining the existence of margins of dumping on the basis of a methodology incorporating the practice of zeroing; (*b*) failing to evaluate all relevant factors, having a bearing on the state of the domestic industry, and specifically all the factors set forth in article 3.4; (*c*) considering information for producers not part of the domestic industry as defined by the investigating authority in analysing the state of the industry; and (*d*) failing to explore possibilities of constructive remedies before applying anti-dumping duties. The Panel report was circulated to WTO members on 30 October 2000. On 1 December 2000, the European Communities notified the DSB of its intention to appeal certain issues of law covered in the Panel report and legal interpretations developed by the Panel.

Thailand—Anti-dumping duties on angles, shapes and sections of iron or non-alloy steel; H-beams from Poland, complaint by Poland (WT/DS122). This dispute concerns the imposition of final anti-dumping duties on imports of certain steel products from Poland. Poland alleges that provisional anti-dumping duties were imposed by Thailand on 27 December 1996, and a final anti-dumping duty of 27.78 per cent of CIF value for these products, produced or exported by any Polish producer or exporter, was imposed on 26 May 1997. Poland further alleges that Thailand refused two requests by Poland for disclosure of findings. Poland contends that these actions by Thailand violated articles 2, 3, 5 and 6 of the Anti-Dumping Agreement. On 19 November 1999, the DSB established a panel. The European Communities, Japan and the United States reserved their third-party rights. The Panel concluded that Poland had failed to establish that Thailand's initiation of anti-dumping investigation on imports of H-beams from Poland was inconsistent with the requirements of articles 5.2, 5.3 and 5.5 of the Anti-Dumping Agreement or article VI of GATT 1994 and that Poland had failed to establish that Thailand had acted inconsistently with its obligations under article 2 of the Anti-Dumping Agreement or article VI of GATT 1994 in the calculation of the amount for profit in constructing normal value. However, it held that Thailand's imposition of the definitive anti-dumping measure on imports of H-beams from Poland was inconsistent with the requirements of article 3 of the Anti-Dumping Agreement. Finally, the Panel concluded that, under article 3.8 of the DSU, in cases where there was infringement of the obligations assumed under a covered agreement, the action was considered prima facie to constitute a case of nullification or impairment of benefits under that agreement, and that, accordingly, to the extent Thailand had acted inconsistently with the provisions of the Anti-Dumping Agreement, it had nullified or impaired benefits accruing to Poland under that Agreement. The report of the Panel was circulated to WTO members on 28 September 2000. On 23 October 2000, Thailand notified the Dispute Settlement Body of its decision to appeal certain issues of law covered in the Panel report and legal interpretations developed by the Panel.

United States—Safeguard measures on import of fresh, chilled or frozen lamb meat, complaints by New Zealand (WT/DS177) and Australia (WT/DS178). This dispute concerns a safeguard measure in the form of a tariff rate quota imposed by the United States in July 1999 on imports of fresh, chilled or frozen lamb meat, primarily from New Zealand and Australia, for a duration of three years. New Zealand and Australia raised a number of claims against this measure under articles 2, 3, 4, 5, 8, 11 and 12 of the Agreement on Safeguards and articles I, II and XIX of GATT 1994. The DSB established a panel on 19 November 1999. The Panel found that inclusion by the United States International Trade Commission of *input* producers (such as growers and feeders of *live* lamb) as producers of the like product at issue (i.e., lamb *meat*) was inconsistent with the definition of the *domestic industry* in article 4.1 (*c*) of the Agreement on Safeguards and that the United States had failed to demonstrate the existence of unforeseen developments and therefore had acted inconsistently with article XIX:1 (*a*). The Panel found no fault with the Commission's analytical approach to determining the existence of a threat of serious injury and ruled that the complainants had failed to establish a violation of article 4.1 (*b*) of the Agreement on Safeguards which defined the concept of "threat of serious injury". The Panel also found no fault with the Commission's analytical approach to evaluating all the injury factors which must be examined when determining whether increased imports threatened to cause serious injury and thus ruled that the complainants had failed to establish a violation of article 4.2 (*a*) of the Agreement on Safeguards. However, the Panel found that the data collected by the Commission in the investigation did not represent a major proportion of the producers forming the domestic industry as defined in the investigation and thus that the United States, by failing to collect representative data, had violated article 4.1 (*c*) of the Agreement on Safeguards. The Panel found that the Commission's application of the "substantial cause" standard (i.e., "increased imports are an important cause and no less than any other cause") in the lamb meat investigation had violated article 4.2 (*b*) of the Agreement on Safeguards. The Panel also found that by violating the more detailed requirements of paragraphs 1 (*c*) and 2 (*b*) of article 4 of the Agreement on Safeguards, the United States had also violated the general requirements of article 2.1 of the Agreement on Safeguards.

Republic of Korea—Measures affecting imports of fresh chilled and frozen beef, complaints by the United States (WT/DS161) and Australia (WT/DS169). This dispute concerns the Republic of Korea's import regime for beef. The United States and Australia challenged: (*a*) the dual retailing system for beef, confining sales of imported beef to specialized stores; (*b*) the alleged restrictions and less favourable treatment imposed by the Livestock Producers Marketing Organization (LPMO) on the importation and distribution of foreign beef; (*c*) the alleged restrictions and less favourable treatment imposed by the functioning of the SBS system; (*d*) LPMO's minimum auction prices and other discharge and tendering practices as well as its refusal to import. In addition, Australia claimed that (*e*) the grass-fed/grain-fed distinction imposed by LPMO in its importation of beef was incompatible with various provisions of the WTO Agreement. The United States also had a general claim that (*f*) the Republic of Korea's import licensing system constituted a restriction which was inconsistent with WTO provisions. Finally, the complaining parties also submitted claims regarding (*g*) the Republic of Korea's domestic support to its bovine industry. The United States and Australia argued that the Republic of Korea's import regime for beef violated articles II, III, XI and XVII of GATT 1994, articles 3, 4, 6 and 7 of the Agreement on Agriculture, and articles 1 and 3 of

the Import Licensing Agreement. On 15 April 1999, the United States requested the establishment of a panel. On 26 May 1999, the DSB established a panel to examine the complaint. Australia, Canada and New Zealand reserved their third-party rights. On 12 July 1999, Australia requested the establishment of a panel. On 26 July 1999, the DSB established a panel. Canada, New Zealand and the United States reserved their third-party rights. At the request of the Republic of Korea, the DSB agreed that, pursuant to article 9.1 DSU, the complaint would be heard by the same panel established in respect of the complaint of the United States. In addition to its various specific defences, the Republic of Korea submitted, as a general defence, that pursuant to its Schedule of Concessions, many of the 17 measures challenged by the complaining parties constituted "remaining restrictions" which benefited from a "transition period" and were required to be eliminated only by 1 January 2001. The report of the Panel was circulated to the members on 31 July 2000. The Panel found that the dual retail system for beef (including the obligation for department stores and supermarkets authorized to sell imported beef to hold a separate display, and the obligation for foreign beef shops to bear a sign "Specialized Imported Beef Stores") was inconsistent with the Republic of Korea's national treatment obligations under article III:4 of GATT and could not be justified under article XX (*d*) of GATT. It also found that the Republic of Korea's domestic support for beef for 1997 and 1998 was not correctly calculated under the Agreement on Agriculture and led to its total domestic support for 1997 and 1998 exceeding its commitment levels, as specified in section 1, part IV, of its schedule, contrary to article 3.2 of the Agreement on Agriculture. The Panel further held that some of LPMO's tender practices, including its lack of and delays in calling for tenders of beef and its discharge practices, constituted import restrictions contrary to article XI:1 of GATT 1994 and article 4.2 of the Agreement on Agriculture. Moreover, the LPMO's call for tenders that were made subject to distinctions between grass-fed and grain-fed cattle imposed, according to the Panel, import restrictions against most Australian imports of beef (which were normally grass-fed), contrary to article XI:1 of GATT 1994. They also treated imports of beef from grass-fed cattle less favourably than provided for in the Republic of Korea's schedule, in breach of article II:1 (*a*) of GATT 1994. A series of other regulations dealing with the importation and distribution of imported beef was also considered to violate the national treatment obligation of article III:4. The other measures challenged but not condemned (mostly those agreed between the parties in the context of bilateral negotiations held between 1990 and 1993) were held to benefit from a transition period until 1 January 2001, by which date they should be phased out or otherwise be brought into conformity with WTO. On 11 September 2000, the Republic of Korea notified its intention to appeal certain issues of law and legal interpretations developed by the Panel.

Active panels

The table below lists those panels that were still active as at 31 December 2000.

Dispute	*Complainant*	*Panel establishment*
Argentina—Measures Affecting Imports of Footwear	United States	26 July 1999
United States—Anti-Dumping Measures on Certain Hot-Rolled Steel Products from Japan	Japan	20 March 2000
Nicaragua—Measures Affecting Imports from Honduras and Colombia	Colombia	18 May 2000
United States—Transitional Safeguard Measure on Combed Cotton Yarn from Pakistan	Pakistan	19 June 2000
India—Measures relating to Trade and Investment in the Motor Vehicle Sector	United States	27 July 2000
India—Measures affecting the Automotive Sector	European Communities	17 November 2000
United States—Measures treating Export Restraints as Subsidies	Canada	11 September 2000
United States—Section 211, Omnibus Appropriations Act	European Communities	26 September 2000
United States—Definitive Safeguard Measures on Imports of Circular Welded Carbon Quality Line Pipe from the Republic of Korea	Republic of Korea	23 October 2000
Philippines—Measures affecting Trade and Investment in the Motor Vehicle Sector	United States	17 November 2000
Argentina—Definitive Anti-Dumping Measures on Imports of Ceramic Floor Tiles from Italy	European Communities	17 November 2000
Chile—Measures affecting the Transit and Importation of Swordfish	European Communities	12 December 2000

Request for consultations

The list below does not include those disputes where a panel was either requested or established in 2000.

Dispute	*Complainant*	*Date of request*
United States—Section 337 of the Tariff Act of 1930 and Amendments thereto	European Communities and member States	12 January 2000
Trinidad and Tobago—Provisional Anti-Dumping Measure on Macaroni and Spaghetti from Costa Rica	Costa Rica	17 January 2000
Ecuador—Definitive Anti-Dumping Measure on Cement from Mexico	Mexico	15 March 2000
Argentina—Certain Measures on the Protection of Patents and Test Data	United States	30 May 2000
Brazil—Measures on Minimum Import Prices	United States	30 May 2000
Romania—Measures on Minimum Import Prices	United States	30 May 2000
Brazil—Measures affecting Patent Protection	United States	30 May 2000
United States—Section 306 of the Trade Act 1974 and Amendments thereto	European Communities	5 June 2000
Nicaragua—Measures affecting Imports from Honduras and Colombia	Honduras	6 June 2000
Mexico—Measures Affecting Trade in Live Swine	United States	10 July 2000
Egypt—Import Prohibition on Canned Tuna with Soybean Oil	Thailand	22 September 2000
United States—Anti-Dumping and Countervailing Measures on Steel Plate from India	India	4 October 2000
Chile—Price Band System and Safeguard Measures relating to Certain Agricultural Products	Argentina	5 October 2000

Dispute	*Complainant*	*Date of request*
Turkey—Anti-Dumping Duty on Steel and Iron Pipe Fittings	Brazil	9 October 2000
European Communities—Measures affecting Soluble Coffee	Brazil	12 October 2000
Belgium—Administration of Measures Establishing Customs Duties for Rice	United States	12 October 2000
Egypt—Definitive Anti-Dumping Measures on Steel Rebar from Turkey	Turkey	6 November 2000
United States—Countervailing Measures concerning Certain Products from the European Communities	European Communities	10 November 2000
United States—Countervailing Duties on Certain Corrosion-Resistant Carbon Steel Flat Products from Germany	European Communities	10 November 2000
United States—Definitive Safeguard Measures on Imports of Steel Wire Rod and Circular Welded Quality Line Pipe	European Communities	1 December 2000
Philippines—Anti-Dumping Measures regarding Polypropylene Resins from the Republic of Korea	Republic of Korea	15 December 2000
Mexico—Provisional Anti-Dumping Measure on Electric Transformers	Brazil	20 December 2000
United States—Continued Dumping and Subsidy Offset Act of 2000	Australia, Brazil, Chile, European Communities, India, Indonesia, Japan, Republic of Korea and Thailand	21 December 2000
United States—Countervailing Duties on Certain Carbon Steel Products from Brazil	Brazil	21 December 2000
European Communities—Anti-Dumping Duties on Malleable Cast Iron Tube or Pipe Fittings from Brazil	Brazil	21 December 2000

Notification of a mutually agreed solution

Dispute	*Complainant*	*Date settlement notified*
Australia—Measures affecting the Importation of Salmonids	United States	27 October 2000
United States—Anti-Dumping Duty on Dynamic Random Access Memory Semiconductors (DRAMS) of one Megabyte or above from the Republic of Korea (recourse to article 21.5)	Republic of Korea	20 October 2000
Australia—Subsidies provided to producers and exporters of Automotive Leather (recourse to article 21.5)	United States	24 July 2000
United States—Measures affecting Textiles and Apparel Products	European Communities	24 July 2000
Argentina—Transitional Safeguard Measures on Certain Imports of Woven Fabrics of Cotton and Cotton Mixtures Originating in Brazil	Brazil	27 June 2000

(*e*) Trade in services

In 2000, the Council for Trade in Services held five formal meetings (reports are contained in S/C/M/41-43, S/C/M/46 and S/C/M/48). The Council also held three special meetings devoted to the review of article II (most-favoured-nation). Exemptions (reports are contained in S/C/M/44, 45 and 47), and one special meeting dedicated to the review of the annex on air transport services (report is contained in S/C/M/49).

Cooperation agreement with ITU

On 22 March 1999, the Council had approved the text of a cooperation agreement between ITU and WTO. The text had been forwarded to ITU for consideration by its Council, which had suggested further changes. The ITU secretariat had submitted a revised text, which was discussed by members at the Council meeting held on 14 April 2000. An amended version of the draft was produced by the secretariat and discussed, along with an ITU communication on "WTO participation at ITU conferences and meetings" at the Council meeting held on 26 May. Members suggested two amendments and the Council adopted a revised draft (S/C/9/Rev.1), with an ad referendum procedure.

Proposal of a cooperation agreement with UPU

At its meeting of 25 February, the Council was informed of a proposal by the Universal Postal Union that a cooperation agreement should be established between UPU and WTO. A communication from UPU on the subject was circulated. The Council requested the secretariat to maintain contact with the secretariat of UPU and to keep it informed of developments.

Reopening of the Fourth and Fifth Protocols for acceptance

At the Council meeting of 26 May 2000, following a request from Dominica, the Council adopted a decision (S/L/86) reopening the Fourth Protocol to GATS relating to basic telecommunications for acceptance by Dominica. At the same meeting, following a request from Ghana, the Council adopted a decision (S/L/87) reopening the Fifth Protocol to GATS relating to financial services for acceptance by Ghana.

Requests for observer status

At the meeting held on 25 February 2000, the Council noted requests for observer status from the Islamic Development Bank, the League of Arab States and the World Health Organization. The question of observer status for the World Tourism Organization was also raised. At its meeting on 14 April 2000, the Council agreed to add the names of the Islamic Development Bank and the League of Arab States to the list prepared by the secretariat of all outstanding requests from regional organizations (S/C/W/19/Rev.2). With respect to the requests from the World Health Organization and the World Tourism Organization, members agreed to follow the practice previously adopted in the case of ITU and ICAO and granted the two organizations observer status on an ad hoc basis, which implied inviting them to meetings of the Council when the agenda contained an item of interest to them. The request for observer status from the Common Market for Eastern and Southern Africa (COMESA) was discussed at the Council meeting held on 26 May 2000. Members agreed to add COMESA to the list of outstanding requests for observer status from regional organizations. At the meeting held on 6 October 2000, the Council noted two additional requests, from the Gulf Organization for Industrial Consulting and from the Universal Postal Union, and agreed to add the two requests to the list (S/C/W/19/Rev.4). It was also agreed that, pending the outcome of discussions in the General Council on the issue of observership, any additional requests for observer status would be circulated to members but not inscribed in the agenda of the Services Council.

Review of article II (most-favoured-nation) exemptions

At the Council meetings held in February and April, the Council continued discussions on how to conduct the review of most-favoured-nation exemptions as mandated by paragraph 3 of the annex on article II (most-favoured-nation) exemptions. The secretariat was tasked with reconstructing the compilation of most-favoured-nation exemptions along sectoral lines, as a basis for the review. The first session of the review was held on 29 May, and the Council examined exemptions listed for "all sectors", "business services", "communication services", "construction and related-engineering services" and "distribution services" (S/C/M/44). The second session, held on 5 July 2000, examined exemptions pertaining to "financial services", "tourism and travel-related services", "recreational, cultural and sporting

services" and "transport services". At the third session of the review, on 5 October, members addressed outstanding points arising from the previous sessions and continued discussions on the determination of the date of any further review. It was agreed that the review of most-favoured-nation exemptions would be placed on the agenda of the following regular meeting of the Council in December (S/C/M/47).

Procedures for the certification of rectifications or improvements to schedules of specific commitments

Article XXI:5 of GATS calls upon the Council for Trade in Services to establish procedures for the certification of rectifications or improvements to schedules of specific commitments. The Council had decided to refer the task to the Committee on Specific Commitments in 1997. At its meeting on 14 April 2000, the Council received the draft procedures from the Committee (S/CSC/W/26/Rev.1), as well as a draft decision by the Council adopting such procedures (S/C/W/133). The Council adopted the decision and the procedures (S/L/83 and S/L/84).

NOTES

[1] For detailed information, see *The United Nations Disarmament Yearbook*, vol. 25: 2000 (United Nations publication, Sales No. E.01.IX.1).

[2] United Nations, *Treaty Series*, vol. 729, p. 159.

[3] *2000 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, Final Document*, vol. I (NPT/CONF.2000/28 (Parts I and II)), part I.

[4] A/50/1027, annex.

[5] Treaty on Further Resolution and Limitation of Strategic Offensive Arms: *The United Nations Disarmament Yearbook*, vol. 18: 1993 (United Nations publication, Sales No. E.94.IX.1), appendix II.

[6] See chap. II.A.2 (*f*) of the present volume.

[7] See GOV/INF/2000/8-GC(44)INF/5.

[8] 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.

[9] Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction: CD/CW/WP.400/Rev.1.

[10] See chap. II.A.2 (*f*) of the present volume.

[11] League of Nations, *Treaty Series*, vol. XCIV (1929), p. 65.

[12] Amended Protocol II on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices: CCW/CONF.I/16 (Part I), annex B.

[13] Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction: CD/1478.

[14] Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects: United Nations, *Treaty Series*, vol. 1342, p. 137.

[15] United Nations, *Treaty Series*, vol. 1833, p. 3.

[16] For the report of the Subcommittee, see A/AC.105/738.

[17] A/AC.105/C.2/2000/CRP.4 and A/AC.105/C.2/2000/CRP.10.

[18] A/AC.105/738, annex III.

[19] A/AC.105/677 and Add.1.

[20] 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 (resolution 2345 (XXII), annex); Convention on International Liability for Damage Caused by Space Objects (resolution 2777 (XXVI), annex); Convention on the Registration of Objects Launched into Outer Space (resolution 3235 (XXIX), annex); and Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (resolution 34/68, annex).

[21] For a compilation of the presentations, see A/AC.105/C.2/2000/CRP.12.

[22] Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (General Assembly resolution 34/68, annex).

[23] *Official Records of the General Assembly, Fiftieth Session, Supplement No. 20* (A/55/20), chap. II.C, para. 129, and A/AC.105/738, annex III.

[24] Ibid., *Supplement No. 1* (A/55/1).

[25] See A/55/305-S/2000/809.

[26] A/55/502.

[27] A/C.4/55/6.

[28] For the report, see *Official Records of the General Assembly, Fifty-fifth Session, Supplement No. 25* (A/55/25).

[29] See ibid., annex I.

[30] A/55/357.

[31] United Nations, *Treaty Series*, vol. 1771, p. 107.

[32] Ibid., vol. 1760, p. 79.

[33] Ibid., vol. 1954, p. 3.

[34] *Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992* (United Nations publication, Sales No. E.93.I.8 and corrigenda), vol. I: *Resolutions adopted by the Conference*, resolution 1, annex II.

[35] Ibid., annex I.

[36] A/55/120.

[37] A/55/91.

[38] For the texts of the instruments, see chap. IV of the present volume.

[39] A/55/405.

[40] See *Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Vienna, 10-17 April 2000: report prepared by the Secretariat* (United Nations publication, Sales No. E.00.IV.8).

[41] United Nations, *Treaty Series*, vol. 520, p. 151.

[42] Ibid., vol. 1019, p. 175.

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

[44] Ibid., p. 105.

[45] E/CONF.82/15 and Corr.2.

[46] See General Assembly resolution 55/2.

[47] See General Assembly resolution S-20/2, annex.

[48] See General Assembly resolution 54/132, annex.

[49] See General Assembly resolution S-20/3, annex.

[50] See General Assembly resolution S-20/4.

[51] See General Assembly resolution S-20/4 A.

[52] See General Assembly resolution S-20/4 B.

[53] See General Assembly resolution S-20/4 C.

[54] See General Assembly resolution S-20/4 D.

[55] See General Assembly resolution S-20/4 E.

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

[57] See resolution S-17/2, annex.

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

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

[60] Ibid.

[61] General Assembly resolution 44/128, annex.

[62] A/55/602/Add.5.

[63] *Official Records of the General Assembly, Fifty-fifth Session, Supplement No. 36* (A/55/36).

[64] United Nations, *Treaty Series*, vol. 660, p. 195.

[65] CERD/SP/45.

[66] A/55/203.

[67] United Nations, *Treaty Series*, vol. 1249, p. 13.

[68] CEDAW/SP/1995/2, annex.

[69] General Assembly resolution 54/4, annex.

[70] A/55/308.

[71] United Nations, *Treaty Series*, vol. 1465, p. 85.

[72] CAT/SP/1992/L.l.

[73] *Official Records of the General Assembly, Fifty-fifth Session, Supplement No. 44* (A/55/44).

[74] See A/55/290.

[75] United Nations, *Treaty Series*, vol. 1577, p. 3.

[76] CRC/SP/1995/L.1/Rev.1.

[77] General Assembly resolution 54/263, annex I; see chap. IV of the present volume for the text of the Optional Protocol.

[78] Ibid., annex II; see chap. IV of the present volume for the text of the Optional Protocol.

[79] A/55/201.

[80] General Assembly resolution 45/158, annex.

[81] A/55/205.

[82] A/54/805, annex.

[83] A/55/206, annex.

[84] E/CN.4/1997/74, annex.

[85] E/CN.4/2000/98 and Add.1.

[86] A/55/177.

[87] *Official Records of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, Rome, 15 June-17 July 1998*, vol. I: *Final documents* (United Nations publication, Sales No. E.02.I.5), sect. A.

[88] See A/55/288.

[89] United Nations, *Treaty Series*, vol. 189, p. 137.

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

[91] Ibid., vol. 360, p. 117.

[92] Ibid., vol. 989, p. 175.

[93] For detailed information, see *Official Records of the General Assembly, Fifty-fifth Session, Supplement No. 12A* (A/55/12/Add.1).

[94] See A/55/435-S/2000/927.

[95] See A/55/273-S/2000/777.

[96] United Nations, *Treaty Series*, vol. 1833, p. 3.

[97] A/55/61.

[98] See also the annual report of the International Tribunal for the Law of the Sea for 2000, SPLOS/63, and International Tribunal for the Law of the Sea Yearbook—2000 (The Hague: Kluwer Law International).

[99] General Assembly resolution 48/263, annex.

[100] The terms of reference of the trust fund are contained in annex I to resolution 55/7.

[101] SPLOS/25.

[102] ISBA/4/A/8, annex.

[103] A/55/386.

[104] *International Fisheries Instruments with Index* (United Nations publication, Sales No. E.98.V.11), sect. I; see also A/CONF.164/37.

[105] For the composition of the Court, see *Official Records of the General Assembly, Fifty-fifth Session, Supplement No. 4* (A/55/4), chap. II, sect. A.

[106] For detailed information, see *I.C.J. Yearbook 1999-2000*, and *I.C.J. Yearbook 2000-2001*.

[107] *Official Records of the General Assembly, Fifty-fifth Session, Supplement No. 4* (A/55/4).

[108] For the membership of the International Law Commission, see *Official Records of the General Assembly, Fifty-fifth Session, Supplement No. 10* (A/55/10), chap. I, sect. A.

[109] For detailed information, see *Official Records of the General Assembly, Fifty-fifth Session, Supplement No. 10* (A/55/10).

[110] *Official Records of the General Assembly, Fifty-fourth Session, Supplement No. 10* and corrigenda (A/54/10 and Corr.1 and 2), annex.

[111] For membership of UNCITRAL, see *Official Records of the General Assembly, Fifty-fifth Session, Supplement No. 17* (A/55/17), chap. I, sect. B; see also *United Nations Commission on International Trade Law Yearbook*, vol. XXXI: 2000.

[112] A/CN.9/468.

[113] The secretariat of UNCITRAL publishes court decisions and arbitral awards relevant to the interpretation or application of a text resulting from the work of UNCITRAL. For a description of CLOUT, see the Users Guide (A/CN.9/SER.C/GUIDE), published in 1993. A/CN.9/SER.C/ABSTRACTS may be accessed through the UNCITRAL homepage: www.uncitral.org.

[114] A/CN.9/476.

[115] A/CN.9/474.

[116] United Nations, *Treaty Series*, vol. 330, p. 3.

[117] Ibid., vol. 1125, pp. 3, 609.

[118] Ibid., vol. 75, p. 2.

[119] Ibid., vol. 249, p. 215.

[120] A/55/164 and Add.1-3 and A/INF/54/5 and Add.1 and 2.

[121] These instruments include: 1961 Vienna Convention on Diplomatic Relations; 1961 Optional Protocol to the Vienna Convention on Diplomatic Relations concerning Acquisition of Nationality; 1961 Optional Protocol to the Vienna Convention on Diplomatic Relations concerning the Compulsory Settlement of Disputes; 1963 Vienna Convention on Consular Relations; 1963 Optional Protocol to the Vienna Convention on Consular Relations concerning Acquisition of Nationality; Optional Protocol to the Vienna Convention on Consular Relations concerning the Compulsory Settlement of Disputes; and 1973 Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents.

[122] *Official Records of the General Assembly, Fifty-fifth Session, Supplement No. 26* (A/55/26).

[123] Ibid., para. 51.

[124] *Official Records of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, Rome, 15 June-17 July 1998*, vol. I: *Final documents* (United Nations publication, Sales No. E.02.1.5), sect. A.

[125] See ibid., sect. B, annex I.

[126] *Official Records of the General Assembly, Fifty-fifth Session, Supplement No. 33* (A/55/33).

[127] A/50/1011.

[128] A/51/950 and Add.1-7.

[129] A/55/340.

[130] S/2000/319.

[131] A/55/179 and Add.1.

[132] *Official Records of the General Assembly, Fifty-fifth Session, Supplement No. 37* (A/55/37).

[133] A/C.6/55/L.2.

[134] General Assembly resolution 52/164, annex.

[135] General Assembly resolution 54/109, annex.

[136] General Assembly resolution 49/60, annex.

[137] General Assembly resolution 51/210, annex.

[138] For more detailed information, see the reports of the Executive Director of UNITAR: *Official Records of the General Assembly, Fifty-fifth Session, Supplement No. 14* (A/55/14), covering the period 1 July 1998 to 30 June 2000, and ibid., *Fifty-seventh Session, Supplement No. 14* (A/57/14), covering the period from 1 July 2000 to 30 June 2002.

[139] GB.255/12/7.

[140] ILO, *Official Bulletin*, vol. LXXXII, 2000, Series A, No. 2, pp. 61-69. Information on the preparatory work for the adoption of these instruments is given in order to facilitate reference work. These instruments have been adopted using the *double discussion* procedure. *First discussion*: ILC, 87th session, Geneva, 1999, reports V (1) and (2); ibid., 1999, *Record of Proceedings*, vol. I, No. 20; *Second discussion*: ibid., 88th session, Geneva, 2000, report IV (1) and reports IV (2A and 2B); ibid., *Record of Proceedings*, Nos. 20, 20A and 20B.

[141] ILO, *Official Bulletin*, vol. LXXXIII, 2000, Series A, No. 2, pp. 69-72; ILC, 88th session, Geneva, 2000, *Provisional Records*, Nos. 6-2, 6-2A, 6-2B, 6-2C, 6-2D, 6-2E; ibid., reports VII (1) and (2).

[142] ILO, *Official Bulletin*, vol. LXXXIII, 2000, Series A, No. 2, pp. 72-74; ILC, 88th session, Geneva, 2000, *Record of Proceedings*, No. 4.

[143] ILO, *Official Bulletin*, vol. LXXXIII, 2000, Series A, No. 2, p. 84; ILC, 88th session, Geneva, 2000, *Record of Proceedings*, No. 5.

[144] The report has been published as report III (Part 1) to the 89th session of the Conference (2001) and comprises two volumes: vol. 1A, *General Report and Observations concerning particular countries* (report III (Part 1A)), and vol. IB, *General Survey of the reports concerning the Night Work (Women) Convention, 1919 (No. 4), the Night Work (Women) Convention (Revised), 1934 (No. 41), the Night Work (Women) Convention (Revised), 1948 (No. 89), and the Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948* (report III (Part IB)).

[145] The full text of the Declaration, as amended, is reproduced in the *Official Bulletin*, vol. LXXXIII, 2000, No. 3 (to be published), documents GB.279/MNE/3, GB/279/12.

[146] GB.277/18/1.

[147] GB.277/18/2.

[148] GB.277/18/3.

[149] GB.277/18/4.

[150] GB.277/18/5.

[151] ILO, *Official Bulletin*, vol. LXXXIII, 2000, Series B, No. 1.

[152] Ibid., No. 2.

[153] Ibid., No. 3.

[154] GB.277/WP/SDL/1, GB.277/WP/SDL/2 and Add.1, GB.277/16.

[155] GB.279/WP/SDL/1-3, GB.279/16.

[156] GB.277/LILS/WP/PRS/1/1 and 2, GB.277/LILS/WP/PRS/2, GB.277/LILS/WP/PRS/3/1 and 2, GB.277/LILS/4, GB.277/11/2.

[157] GB.279/LILS/WP/PRS/1/1-3, GB.279/LILS/WP/PRS/2-5, GB.279/LILS/3 (Rev.1), GB.279/11/2.

[158] IGC(1971)/XII/4.

[159] IGC(1971)/XII/5.

[160] IGC(1971)/XII/6.

[161] The *Bulletin* is now available only via Internet: www.unesco.org/culture/copyright or www.upo.unesco.org/publications/acp; the documents cited are available on the first web site.

[162] The reports of the Legal Committee are contained in documents LEG. 81/11 and LEG. 83/12.

[163] The text of the Protocol is contained in document LEG/CONF.11/6.

[164] INFCIRC/9 Rev.2.

[165] INFCIRC/274/Rev.1.

[166] INFCIRC/335.

[167] INFCIRC/336.

[168] INFCIRC/500.

[169] INFCIRC/500/Add.3.

[170] INFCIRC/402.

[171] INFCIRC/449.

[172] INFCIRC/546.

[173] INFCIRC/566.

[174] INFCIRC/567.

[175] INFCIRC/377.

[176] INFCIRC/167/Add.18.

[177] INFCIRC/580/Add.1.

[178] INFCIRC/178/Add.1.

[179] INFCIRC/164/Add.1.

[180] INFCIRC/463/Add.1.

[181] INFCIRC/174/Add.1.

[182] INFCIRC/413/Add.1.

[183] INFCIRC/177/Add.1.

[184] INFCIRC/179/Add.1.

[185] INFCIRC/180/Add.1.

[186] INFCIRC/538/Add.1.