Extract from:

UNITED NATIONS JURIDICAL YEARBOOK

2002

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

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

Chapter III

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

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

1. DISARMAMENT AND RELATED MATTERS[1]

(*a*) Nuclear disarmament and non-proliferation issues

Despite efforts on the part of Member States, the Conference on Disarmament was unable to agree on a substantive programme of work. The deadlock, which had existed in the Conference for four consecutive years, prevented the establishment of subsidiary bodies to deal with any items on the agenda, including nuclear disarmament. Consequently, the issue of nuclear disarmament was addressed by delegations only at plenary meetings.

The first session of the Preparatory Committee for the 2005 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons of 1968[2] was held in New York in April 2002, where slow progress in nuclear disarmament was noted.

Noting that in June 2002, the United States had withdrawn from the Treaty on the Limitation of Anti-Ballistic Missile Systems of 1972[3] and refused to ratify the second Strategic Arms Reduction Treaty of 1993 (START II),[4] the Russian Federation declared itself no longer bound by the obligation under international law to refrain from any action that would deprive the START II Treaty of its objective goal. The START II Treaty would have reduced the parties' strategic nuclear warheads to no more than 3,000 to 3,500 each.

Other developments, however, had positive effects on progress in the area. In June 2002, the leaders of the Group of Eight (G-8)[5] agreed on a Global Partnership against the Spread of Weapons and Materials of Mass Destruction. Under the initiative, the G-8 Governments committed to raise up to $20 billion over 10 years to support specific cooperation projects, initially in the Russian Federation, to address non-proliferation, disarmament, counter-terrorism and nuclear safety issues. Moreover, at the bilateral level, the Russian Federation and the United States signed the Treaty

on Strategic Offensive Reductions (SORT or Moscow Treaty)[6] in May 2002, whereby the two parties pledged to reduce and limit their deployed strategic nuclear warheads to a level of 1,700-2,000 by December 2012.

The International Code of Conduct against Ballistic Missile Proliferation (ICOC) was launched in November 2002,[7] and all States Members of the United Nations were invited to subscribe to ICOC. While a political agreement, rather than a legally binding obligation, the Code calls on subscribing States to curb and prevent the proliferation of ballistic missiles capable of delivering weapons of mass destruction and to exercise maximum possible restraint in the development, testing and deployment of those missiles. The Code further recognizes that States should not be excluded from utilizing the benefits of space for peaceful purposes.

With regard to IAEA safeguards, since the approval of the Model Protocol Additional to the Agreement(s) between State(s) and IAEA for the Application of Safeguards[8] by the IAEA Board of Governors in May 1997, progress in signing and bringing it into force has been slow. At the end of 2002, 66 States had signed the Additional Protocol, including the five nuclear-weapon States and one State (Cuba) with a non-comprehensive safeguards agreement. The Additional Protocol was in force in 28 States.

Consideration by the General Assembly

At its fifty-seventh session, in 2002, the General Assembly, on the recommendation of the First Committee, took action on 14 draft resolutions and one decision dealing with nuclear disarmament and non-proliferation issues.

The draft of resolution 57/97, entitled "The risk of nuclear proliferation in the Middle East", had been introduced in the First Committee by Egypt on behalf of the States Members of the United Nations that are members of the League of Arab States. India, on behalf of the sponsors, had introduced resolution 57/84, entitled "Reducing nuclear danger".

Ireland, on behalf of the sponsors, had introduced the draft of General Assembly resolution 57/58, entitled "Reduction of non-strategic nuclear weapons". Following the adoption of the draft by the First Committee, the United States spoke, on behalf of France and the United Kingdom, in explanation of their negative vote, pointing out that the draft had taken a flawed approach to dealing with reductions in that category of weapon and had failed to take into account progress and present efforts, such as the NATO-Russia Council discussions on nuclear confidence-building measures, and the recent dialogue on transparency in the United States–Russia Consultative Group for Strategic Security. Australia, Canada, Lithuania and the Russian Federation also explained their abstentions. Ireland, on behalf of the sponsors, had further introduced draft resolution 57/59, entitled "Towards a nuclear-weapon-free world: the need for a new agenda". Germany, prior to the vote on the draft, explained its decision to abstain. It held

that nuclear disarmament could only be achieved by a gradual, step-by-step approach, a fundamental point that the draft disregarded. Following the vote, the United Kingdom, speaking on behalf of the United States and France, emphasized that their commitments to non-proliferation remained rooted in the Non-Proliferation Treaty, and that they had voted against the draft resolution because many of the new elements were not part of the Final Document of the NPT Review Conference held in 2000.

(*b*) Biological and chemical weapons

The Fifth Review Conference of the States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction of 1972 (Biological Weapons Convention)[9] successfully concluded in 2002, adopting a Final Report setting out a fresh approach to combat the deliberate use of disease as a weapon. Furthermore, to contribute to a better understanding of the issues involved, the United Nations Department of Disarmament Affairs organized a symposium on "The Biological Weapons Convention and Bio-Terrorism" in January 2002. Moreover, in May 2002, the World Health Assembly adopted resolution WHA55.16, entitled "Global public health response to natural occurrence, accidental release or deliberate use of biological and chemical agents or radionuclear material that affect health". The resolution mandates WHO to strengthen global surveillance of infectious diseases, water quality and food safety by coordinating relevant information-gathering, by providing support to laboratory networks and by making a strong contribution to any international humanitarian response, as required.

During 2002, there was considerable progress towards the elimination of chemical weapons, especially in efforts to accelerate their destruction, and, since the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction of 1992 (Chemical Weapons Convention),[10] States parties have destroyed approximately 7,140 metric tons of chemical agents, including binary components, or more than 10 per cent of the total declared global stockpile, under the verification of the Organization for the Prohibition of Chemical Weapons (OPCW). In addition, of approximately 8,624,000 munitions and containers declared to the Organization, over 1,896,000, or more than 20 per cent of the total global stockpile, had been verifiably destroyed. Regarding the Organization's preparedness to provide assistance in the case of use or threat of use of chemical weapons, OPCW had been actively working to improve its readiness, not only in actual emergencies but also in the area of capacity-building.

The United Nations Monitoring, Verification and Inspection Commission (UNMOVIC), which had been established in December 1999, pursuant to Security Council resolution 1284 (1999) as a subsidiary body of

the Council to assume responsibilities originally mandated to the United Nations Special Commission (UNSCOM), resumed inspections and monitoring in Iraq in November 2002. On 7 December, pursuant to Council resolution 1441 (2002), Iraq submitted to UNMOVIC, IAEA and the Security Council its declaration, including supporting documents. The Chairman, Hans Blix, concluded that UNMOVIC experts had found little new significant information in the part of the declaration relating to proscribed weapons programmes, nor much new supporting documentation or other evidence. New material was provided concerning non-weapons-related activities during the period from the end of 1998 onwards, especially in the biological field and on missile development. In the assessment of UNMOVIC, as there was little new substantive information in the part of the declaration dealing with weapons, or new supporting documentation, the issues that had been identified as unresolved in the Amorim report[11] and in the report of UNSCOM[12] issued in 1999 remained.[13] In the area of the export/import of goods by Iraq, the UNMOVIC/IAEA joint unit continued to receive notifications from Member States of supplies to Iraq of dual-use items. The unit also continued to review all contracts concluded with the Government of Iraq under the provisions of Security Council resolution 986 (1995) and to provide technical assistance to the Office of the Iraq Programme and to Member States. With the adoption of Council resolution 1409 (2002) in May, in which the Council approved the revised goods review list[14] and revised procedures for its application, the role of UNMOVIC was widened, in that UNMOVIC, and IAEA, began to evaluate applications to be financed from the escrow account established pursuant to Security Council resolution 986 (1995).

Consideration by the General Assembly

At its fifty-seventh session, the General Assembly adopted a decision on the Biological Weapons Convention and a resolution on the Chemical Weapons Convention, as well as resolution 57/62, entitled "Measures to uphold the authority of the 1925 Geneva Protocol", which had been introduced by South Africa, on behalf of the States Members of the United Nations that are members of the Movement of Non-Aligned Countries.

(*c*) Conventional weapons issues

The implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, adopted in 2001, generated a renewed momentum in the efforts by the international community to address the problem of small arms and light weapons. Many activities during 2002 were undertaken within the framework of the Group of Interested States in Practical Disarmament Measures,[15] while others, particularly in Africa, were aimed at assisting States in curbing the illicit traffic in small arms and collecting them.[16]

Pursuant to the decision by the Second Review Conference of the States Parties to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects of 1980 (Convention on Certain Conventional Weapons),[17] an open-ended group of governmental experts was established to address the issue of explosive remnants of war and to explore the issue of mines other than anti-personnel mines.[18] During 2002, there also were several developments in the field of anti-personnel landmines. The Fourth Meeting of the States Parties to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction[19] of 1997 (Mine-Ban Convention) was held in September, where the general status and operation of the Convention was reviewed.[20] In addition, the Fourth Annual Conference of the States Parties to the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices (Amended Protocol II) of 1996[21] to the Convention on Certain Conventional Weapons met in December 2002, where the status and operation of Amended Protocol II was reviewed.[22]

During 2002, the tenth consolidated report of the Secretary-General on the United Nations Register of Conventional Arms for 2001[23] was made available. Information was provided by 125 Governments on imports and exports in the seven categories of conventional arms covered by the Register. However, Member States continued to have differences, especially concerning the question of expanding the scope of the Register to include data on military holdings and procurement through national production on the same basis as data on transfers. The question of the inclusion of weapons of mass destruction also continued to be controversial.

The Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, established in 1996 and based in Vienna, held its eighth plenary meeting in December 2002. Several initiatives to combat terrorism were adopted at the meeting, including an agreement to intensify ongoing cooperation to prevent the acquisition of conventional arms and dual-use goods and technologies by terrorist groups and organizations, as well as by individual terrorists. It was also decided to review the adequacy of existing Wassenaar Arrangement guidelines regarding Man-Portable Air Defence Systems (MANPADS) in preventing terrorist use of such systems.

Consideration by the General Assembly

During the fifty-seventh session, the General Assembly, on the recommendation of the First Committee, took action on seven draft resolutions, including 57/70, entitled "Assistance to States for curbing the illicit trade in small arms and light weapons", which had been introduced by Mali, on behalf of the sponsors, and resolution 57/72, entitled "The illicit

trade in small arms and light weapons in all its aspects", which had been introduced by Japan, on behalf of the sponsors. Germany, on behalf of the sponsors, had introduced General Assembly resolution 57/81, entitled "Consolidation of peace through practical disarmament measures". Draft resolution 57/66, entitled "National legislation on transfer of arms, military equipment and dual-use goods and technology", had been introduced by the Netherlands. Speaking before the vote in the Committee on the last resolution, Kuwait, on behalf of the States Members of the United Nations that were members of the League of Arab States, explained that they would vote in favour of the draft as a whole, because its message supported efforts towards the non-proliferation of weapons of mass destruction consistent with States parties' commitments under relevant international instruments; however, they would abstain from voting on preambular paragraph 2. Jordan and Algeria associated themselves with the statement of Kuwait and the Islamic Republic of Iran made a statement in a similar vein. Canada and Australia strongly supported the draft, and their position was endorsed by Denmark speaking on behalf of the European Union.

(*d*) Regional disarmament

Africa

The Security Council continued to be actively involved in resolving conflicts, and promoting durable peace, security and sustainable development on the African continent, particularly as regards the situations in Burundi, the Democratic Republic of the Congo, Guinea, Guinea-Bissau, Liberia, Sierra Leone, Somalia, and the Eritrea-Ethiopia conflict.

During the year, the Organization of African Unity became the African Union, which held the First Ordinary Session of its Assembly of Heads of State and Government in Durban, South Africa, in July 2002. The new organization continued to play the primary role in addressing the various disputes and armed conflicts which continued to threaten peace and security on the continent.

At the subregional level, the Economic Community of West African States (ECOWAS) continued to address peace and security issues in the region and, at the Fifth Extraordinary Session of the Council of Ministers in April 2002, the Council reviewed the political and security situation in the subregion, especially the situations in Côte d'Ivoire and the Mano River Union countries[24] and the activities of the ECOWAS Mechanism for the Prevention, Management and Resolution of Conflicts—Peacekeeping and Security. ECOWAS also continued to coordinate the implementation of its Moratorium on the Importation, Exportation and Manufacture of Small Arms and Light Weapons in West Africa, and urged member States to comply fully with the provisions of the Moratorium and the Code of Conduct.[25]

The Americas

In June 2002, the General Assembly of the Organization of American States (OAS) adopted a resolution on the consolidation of the regime established in the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean of 1967 (Treaty of Tlatelolco),[26] urging the States that had not done so to deposit their instruments of ratification at the earliest date. The resolution also reaffirmed the importance of strengthening the Agency for the Prohibition of Nuclear Weapons in Latin America and the Caribbean as the appropriate legal and political forum for ensuring unqualified observance of the Treaty and of its commitment to continue striving for a non-proliferation regime that was universal, genuine and non-discriminatory in every respect. Furthermore, with Cuba's ratification of the Treaty and its amendments and the deposit of its instrument of ratification in October 2002, the Treaty entered into force for all countries in Latin America and the Caribbean. Additionally, OAS continued its peace, security and disarmament activities in the hemisphere, and, by its resolution AG/RES.1877 (XXXII-0/02), adopted in June 2002, expressed its support for the work of the Inter-American Committee against Terrorism and reaffirmed its commitment to implement specific measures to prevent, combat and eliminate international terrorism.

The United Nations Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean (UNLiREC)[27] continued to serve the countries in the region by promoting subregional, regional and cross-regional activities and to play a proactive role in the establishment of a more secure environment for social and economic development in the region. During the year, the Centre consolidated its Regional Clearing-house Programme on Firearms, Ammunition and Explosives, a programme designed to serve as a tool for nurturing national and regional expertise in the field of practical disarmament measures.

Asia and the Pacific

Activities related to conventional arms and confidence-building in Asia and the Pacific were undertaken by States at the national level, as well as within the framework of subregional organizations or multilateral forums such as the Association of Southeast Asian Nations (ASEAN) and its Regional Forum and the newly formed Shanghai Cooperation Organization. The eighth ASEAN Summit of Heads of State and Government, held in November 2002, adopted a Declaration on Terrorism, condemning the terrorist attacks in Bali and expressing its members' determination to implement the specific measures outlined in the ASEAN Declaration on Joint Action to Counter Terrorism, adopted in November 2001. In the Work Programme on Terrorism to Implement the ASEAN Plan of Action to Combat Transnational Crime, issued in May 2002, the ASEAN countries decided to strengthen cooperation, both within the subregion

and with outside partners, in combating the illicit trafficking in arms and explosives.

The United Nations Regional Centre for Peace and Disarmament in Asia and the Pacific[28] organized, in August 2002, the Fifth United Nations Conference on Disarmament issues, entitled "The challenge of terrorism for international security and disarmament: global and regional impact". The conference addressed several issues, including the impact of the 11 September 2001 terrorist attacks on the field of security and disarmament, the relationship between terrorism and weapons of mass destruction, Asia-Pacific regional cooperation in combating terrorism and responses to terrorism by the United Nations and regional organizations.

Europe

Security and disarmament issues continued to be addressed within the regional institutional framework: the Organization for Security and Cooperation in Europe (OSCE),[29] the European Union (EU), the North Atlantic Treaty Organization (NATO), and other regional and subregional organizations. The security situation in the Balkans, especially in Kosovo and the former Yugoslav Republic of Macedonia, remained high on their agenda.

OSCE continued activities to combat terrorism and to promote conflict prevention and confidence-building, gradually expanding its activities in the security field through monitoring the implementation of the Dayton Agreement[30] and addressing issues relating to small arms. In July 2002, the EU Council approved EU priorities in the field of disarmament, including non-proliferation of weapons of mass destruction and their means of delivery; strengthening the Non-Proliferation Treaty and its review process; further strengthening of the regimes established by the Chemical Weapons Convention and the Biological Weapons Convention; early entry into force of the Comprehensive Nuclear-Test-Ban Treaty of 1996;[31] supporting efforts to draft an International Code of Conduct against Ballistic Missile Proliferation; pursuing a successful outcome of the Fourth Meeting of the States Parties to the Mine-Ban Convention and providing assistance in mine action; and, in the framework of the Conference on Disarmament, supporting the launch of negotiations of a Fissile Material Cut-off Treaty, as well as dealing with both nuclear disarmament and the prevention of an arms race in outer space. NATO carried out its activities mainly through the Euro-Atlantic Partnership Council, Partnership for Peace and the NATO-Russia Permanent Joint Council. The year 2002 marked the opening of a new chapter in NATO-Russian relations with the new Council, which replaced the previous Permanent Joint Council and was to provide a mechanism for consultation, consensus-building, cooperation and joint decisions. NATO continued to address issues related to its enlargement and intensified its consultations with Partners, culminating at the Summit meeting of Heads of State and Government held in November 2002, at which seven States were invited to join the Al-

liance.[32] Furthermore, NATO forces continued to be present in a number of peacekeeping missions, such as NATO-led peacekeeping operations in Bosnia and Herzegovina and in Kosovo, part of United Nations efforts to stabilize the region.

The Security Council continued to deal with disarmament-related issues in Bosnia and Herzegovina and in Kosovo. While reaffirming its commitment to the implementation of the Dayton Agreement and the relevant decisions of the Peace Implementation Council, established on the basis of that Agreement, the Council decided to conclude the United Nations Mission in Bosnia and Herzegovina (UNMIBH), including the international police task force, on 31 December 2002 (Council resolution 1423 (2002)). The Council reaffirmed its continued commitment to the full and effective implementation of its resolution 1244 (1999), under which a civil presence, the United Nations Interim Administration Mission in Kosovo (UNMIK), and a security presence were established in Kosovo.

Consideration by the General Assembly

During the fifty-seventh session, the General Assembly, upon the recommendation of the First Committee, took action on 13 draft resolutions dealing with regional disarmament issues, including resolution 57/55, entitled "Establishment of a nuclear-weapon-free zone in the region of the Middle East", which had been introduced in the Committee by Egypt. In explaining its position after the draft resolution was adopted without a vote, Israel reiterated its position that, while it continued to support the creation of a mutually verifiable nuclear-weapon-free zone in the region, it believed that the political realities in the Middle East precluded that goal. The Assembly also adopted resolution 57/67 on Mongolia's international security and nuclear-weapon-free status and resolution 57/69 on the establishment of a nuclear-weapon-free zone in Central Asia. Resolution 57/73, entitled "Nuclear-weapon-free southern hemisphere and adjacent areas", had been introduced in the Committee by Brazil. The United States, speaking also on behalf of the United Kingdom and France, explained their negative vote, pointing out that the draft sought to create a new zone, the geographical scope of which would include waters under international jurisdiction. They held that such a measure would be contrary to existing international law and would, therefore, be unacceptable to those States that were committed to respect the United Nations Convention on the Law of the Sea of 1982.[33]

The Assembly also adopted resolution 57/77, entitled "Conventional arms control at the regional and subregional levels", which had been introduced in the Committee by Pakistan, on behalf of the sponsors. Speaking after the vote in the Committee, India gave several reasons for its negative vote, including the fact that its security concerns were not confined to what had been referred to in the draft as "South Asia".

(*e*) Other issues

Terrorism and disarmament

During 2002, the Counter-Terrorism Committee (CTC) reported to the Security Council at regular intervals. The Council invited CTC to focus on ensuring that all States had legislation in place covering all aspects of its resolution 1373 (2001), and on building a dialogue with international, regional and subregional organizations active in the areas covered by that resolution. The Ad Hoc Committee on Terrorism of the General Assembly continued to press ahead with its work on the development of a draft comprehensive anti-terrorism convention aimed at filling the gaps left by the existing 12 sectoral treaties, but was unable to conclude negotiations on the convention.[34] The Assembly, upon the recommendation of the First Committee, also adopted resolution 57/83, entitled "Measures to prevent terrorists from acquiring weapons of mass destruction".

The Secretary-General had established the Policy Working Group (PWG) in 2001 with a mandate to identify the long-term implications and broad policy dimensions of the issue of terrorism for the United Nations and to formulate recommendations on steps that the United Nations system might take in that regard. In June 2002, PWG submitted its report,[35] wherein it recommended that the United Nations should be part of a threefold strategy supporting global efforts to: (*a*) dissuade disaffected groups from embracing terrorism; (*b*) deny groups or individuals the means to carry out acts of terrorism; and (*c*) sustain broad-based international cooperation in the struggle against terrorism.

Disarmament and human security

In November 2002, the United Nations Department for Disarmament Affairs, the United Nations Institute for Disarmament Research (UNIDIR) and the Centre for Humanitarian Dialogue co-sponsored a seminar in Geneva, entitled "Disarmament, Health and Humanitarian Action: Putting People First", where experts and practitioners from both the traditional disarmament community and the humanitarian and public health communities were brought together to discuss the people-centred approach to disarmament.

During the year, the General Assembly, upon the recommendation of the First Committee, adopted resolutions in this area, including resolution 57/53, entitled "Developments in the field of information and telecommunications in the context of international security", which had been introduced in the Committee by the Russian Federation, on behalf of the sponsors, and resolution 57/54, entitled "Role of science and technology in the context of international security and disarmament", which had been introduced by India, on behalf of the sponsors. Speaking after the vote in the Committee on the latter, the Republic of Korea explained its negative vote,

stating that it believed that the draft lacked balance by failing to acknowledge the contribution of current export control regimes to deterring the proliferation of not only equipment and technologies related to weapons of mass destruction but also dual-use goods and technologies with wide military applications.

Relationship between disarmament and development

The United Nations Department for Disarmament Affairs organized a panel discussion, entitled "Disarmament and Development: New Choices for Security and Prosperity", in April 2002, at United Nations Headquarters. The discussion focused on reducing military expenditures through regional approaches, transparent government reporting and defence conversion.

The General Assembly, upon the recommendation of the First Committee, adopted resolution 57/65, entitled "Relationship between disarmament and development", which had been introduced in the Committee by South Africa, on behalf of the States Members of the United Nations that were members of the Movement of Non-Aligned Countries. Prior to the vote in the Committee, France cited three reasons for its abstention: (*a*) the symbiotic relationship between disarmament and development did not take into account the concept of security, without which neither issue could be understood; (*b*) the automatic link between commitments to economic and social development and savings from disarmament was questionable; and (*c*) the mandate for a governmental expert group to reappraise the relationship between development and disarmament, including the future role of the United Nations, needed clarification and evaluation by Member States. Speaking after the vote, the United Kingdom explained that it had also abstained because it questioned several new elements in the draft, particularly the reason, outcome and value of the mandate for the expert group. The United States attributed its negative vote to the new language in the draft which called for a reappraisal of the relationship between disarmament and development. It maintained its well-known position that disarmament and development were distinct issues that could not be linked. Belgium, speaking on behalf of several European countries, recognized that while considerable benefits might accrue from disarmament, there was not an automatic link between those savings and commitments to economic and social development.

Depleted uranium

As a follow-up to its work in 1999-2002, the United Nations Environment Programme's expert teams carried out further investigations in Serbia and Montenegro and in Bosnia and Herzegovina. The new studies confirmed the presence of widespread, but low-level, depleted uranium contamination in both countries. Although the experts did not find that the levels of radioactivity could pose a direct threat to the environment or human health, they strongly recommended taking precautionary decon-

tamination measures of the targeted buildings, as well as recommending the monitoring of groundwater quality.

During the year, the First Committee rejected a draft resolution,[36] entitled "Effects of the use of depleted uranium in armaments", which had been introduced by Iraq. Before the vote on the draft, the United States and Denmark, on behalf of the European Union and other countries associating themselves with its statement, said that they would vote against the draft because comprehensive studies on the effects of the use of depleted uranium in armaments and its effects on health and the environment had already been conducted by WHO and UNEP. Moreover, they could not subscribe to the implication in the draft that depleted uranium was a new type of weapon of mass destruction.

Multilateralism and disarmament

At the fifty-seventh session, the General Assembly, upon the recommendation of the First Committee, adopted resolution 57/63, entitled "Promotion of multilateralism in the area of disarmament and non-proliferation", which had been introduced by South Africa, on behalf of the States Members of the United Nations that were members of the Movement of Non-Aligned Countries. Before the vote in the Committee, the United States stated that it would vote against the draft resolution because its language was unbalanced and its general tenor was more apt to create divisions rather than garner support for the principle of multilateralism. Denmark, speaking on behalf of the European Union and other countries associating themselves with the statement, and New Zealand said that they could not support the draft. They shared the commitment and view of the United States and felt that the text was not constructive and was confrontational because it did not acknowledge the effective and complementary role of unilateral, bilateral and plurilateral approaches to disarmament and non-proliferation. Cuba stated that it would vote for the draft, because it believed that the text supported the United Nations in its capacity as the appropriate multilateral framework to deal with current threats to international peace and security.

Arms limitation and disarmament agreements

At the fifty-seventh session, the General Assembly, upon the recommendation of the First Committee, adopted resolution 57/64, 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 States Members of the United Nations that were members of the Movement of Non-Aligned Countries, and resolution 57/86, entitled "Compliance with arms limitation and disarmament and non-proliferation agreements", which had been introduced by the United States, on behalf of the sponsors. Concerning the latter, Cuba regretted that the draft omitted important elements contained in the 1997

resolution on the same subject, resolution 52/30, e.g. absence of references to existing arms limitation and disarmament and non-proliferation agreements; the conclusion of additional disarmament agreements; and requests for the Secretary-General to provide continued assistance to restore and protect the integrity of disarmament agreements. New Zealand, Brazil and Egypt shared Cuba's concerns, emphasizing that verification remained a vital and indispensable tool, and the new language in the resolution failed to reflect its role in enhancing confidence and assessing compliance with arms limitation and disarmament agreements. Egypt, citing the Vienna Convention on the Law of Treaties of 1969,[37] stressed that any draft resolution adopted by the First Committee could never supersede the commitments of Member States that were full parties to international agreements.

---

2. OTHER POLITICAL AND SECURITY QUESTIONS

(*a*) Membership in the United Nations

During 2002, Timor-Leste (formerly known as East Timor) joined the United Nations as a Member State. The number of Member States thereby stood at 191.

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

The Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space held its forty-first session at the United Nations Office at Vienna from 2 to 12 April 2002.[38] During the session, there was a general exchange of views, and the Subcommittee noted the current status of the five United Nations treaties on outer space.[39] Various international organizations reported to the Subcommittee on their activities relating to space law, including ICAO, ITU, UNESCO, WIPO and the International Law Association.

Regarding agenda item 6, entitled "Matters relating to: (*a*) the definition and delimitation of outer space; and (*b*) the character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of the International Telecommunication Union", the Working Group on the topic had before it a number of documents, including a report of the United Nations Secretariat, entitled "Historical summary on the consideration of the question on the definition and delimitation of outer space",[40] and a conference room paper submitted by the Russian Federation, entitled "Some differences between legal regimes of air space and outer

space".[41] At the session, the Working Group reviewed the questionnaire on aerospace objects and amended it, and agreed that it should be circulated in its amended form to all States Members of the United Nations.

Also during the session the Legal Subcommittee had before it the text of the Convention on International Interests in Mobile Equipment, which had been signed at Cape Town, South Africa, on 16 November 2001,[42] as well as the preliminary draft protocol on matters specific to space assets of the Convention.[43] The Subcommittee welcomed the intention of UNIDROIT to open its intergovernmental meetings on the space protocol to all member States and interested observers of the Committee on the Peaceful Uses of Outer Space, as well as to representatives of the Office for Outer Space Affairs. It also was noted that the Subcommittee should consider whether or not to retain the subject of the preliminary draft protocol on its agenda beyond 2002.

In connection with item 9, entitled "Review of the concept of the 'launching State' ", the Legal Subcommittee established a Working Group, which had before it a report by the United Nations Secretariat,[44] which synthesized information presented during the first two years of the workplan, 2000 and 2001. The Working Group also had before it a proposal by the Chairman for conclusions of the Working Group[45] and, following consideration of the proposal, the Working Group adopted its conclusions of the three-year workplan.[46]

The Committee on the Peaceful Uses of Outer Space, at its forty-fifth session, held at Vienna from 5 to 14 June 2002, took note of the Legal Subcommittee's report, and a number of views were expressed concerning the work of the Subcommittee. Furthermore, the Committee welcomed the announcement that the first United Nations Workshop on Capacity-Building in Space Law would be organized by the Secretariat in cooperation with the International Institute of Air and Space Law of the University of Leiden and the Government of the Netherlands at The Hague from 18 to 21 November 2002.

Consideration by the General Assembly

At its fifty-seventh session, the General Assembly, on the recommendation of the Special Political and Decolonization Committee (Fourth Committee), adopted, without a vote, resolution 57/116, entitled "International cooperation in the peaceful uses of outer space", in which it endorsed the report of the Committee on the Peaceful Uses of Outer Space. In the same resolution, the Assembly also noted that the Legal Subcommittee, at its forty-second session, would submit its proposals to the Committee for new items to be considered by the Subcommittee at its forty-third session, in 2004. Furthermore, the Assembly noted that the group of experts designated by interested Member States to identify which aspects of the report on ethics of space policy of the World Commission on the Ethics of Scientific Knowledge and Technology of UNESCO might need to be studied by the

Committee and to draft a report, in consultation with other international organizations and in close liaison with the World Commission, would submit its report to the Legal Subcommittee at its forty-second session.

(*c*) United Nations peacekeepers

The General Assembly, on the recommendation of the Special Political and Decolonization Committee (Fourth Committee), adopted, without a vote, resolution 57/129, entitled "International Day of United Nations Peacekeepers", in which it decided to designate 29 May as the International Day of United Nations Peacekeepers, to be observed annually to pay tribute to all the men and women who had served and continued to serve in United Nations peacekeeping operations for their high level of professionalism, dedication and courage, and to honour the memory of those who had lost their lives in the cause of peace. The Assembly also adopted at its fifty-seventh session resolution 57/336, "Comprehensive review of the whole question of peacekeeping operations in all their aspects", in which it welcomed the report of the Special Committee on Peacekeeping Operations.[47]

---

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

(*a*) Seventh special session of the Governing Council of the United Nations Environment Programme[48]

The seventh special session of the Governing Council of UNEP was held in Cartagena, Colombia, from 13 to 15 February 2002. At the session, the Governing Council adopted a number of decisions, including decision SS.VII/1, "International environmental governance", in which it adopted the report of the Open-ended Intergovernmental Group of Ministers or Their Representatives on International Environmental Governance, which was attached to the decision as an appendix; decision SS.VII/3, "Strategic approach to international chemicals management", in which it decided that there was a need to develop further a strategic approach to international chemicals management and endorsed the Intergovernmental Forum on Chemical Safety Bahia Declaration and Priorities for Action beyond 2000 as the foundation of that approach; and decision SS.VII/4, "Compliance with and enforcement of multilateral environmental agreements", in which it adopted the guidelines on compliance with and enforcement of multilateral environmental agreements.

Consideration by the General Assembly

At its fifty-seventh session, the General Assembly, on the recommendation of the Second Committee, adopted a number of resolutions and decisions. Among them was resolution 57/257 on protection of global climate for present and future generations of mankind, adopted without a vote, in which the Assembly called upon States to work cooperatively towards achieving the ultimate objective of the United Nations Framework Convention on Climate Change of 1992[49] and noted the States that had ratified the Kyoto Protocol to the Convention of 1997.[50] Also adopted, without a vote, were resolution 57/259 on the implementation of the 1994 United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, particularly in Africa,[51] in which the Assembly took note of the report of the Secretary-General,[52] and resolution 57/260 on the 1992 Convention on Biological Diversity,[53] in which the Assembly took note of the report of the Executive Secretary of the Convention, submitted by the Secretary-General to the General Assembly.[54] Regarding the latter resolution, the Assembly noted the outcome of the sixth meeting of the Conference of the Parties to the Convention, hosted by the Government of the Netherlands in April 2002, and also noted the outcome of the third meeting of the Intergovernmental Committee for the Cartagena Protocol on Biosafety of 2000,[55] held at The Hague in April 2002.

(*b*) Economic issues

On the recommendation of the Second Committee, the General Assembly adopted a number of resolutions and decisions on economic issues during 2002, including the following resolutions, adopted without a vote: resolution 57/246, "Implementation of 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 57/247, "Integration of the economies in transition into the world economy"; resolution 57/263, "Economic and technical cooperation among developing countries"; resolution 57/272, "High-level international intergovernmental consideration of financing for development", in which the Assembly underscored its firm commitment to the full and effective implementation of the Monterrey Consensus of the International Conference on Financing for Development[56] and, in that regard, to promoting a holistic approach to the interconnected national, international and systemic challenges of financing for development, in active partnership with the Bretton Woods institutions, the World Trade Organization and other relevant institutional stakeholders, civil society and the private sector, including through collective and coherent action in every area of the Consensus; and resolution 57/253 on the World Summit on Sustainable Development, in which the Assembly took note of the report of the World Summit,[57] endorsed the Johannesburg Declaration on Sustain-

able Development[58] and the Johannesburg Plan of Implementation,[59] and decided to adopt sustainable development as a key element of the overarching framework for United Nations activities, in particular for achieving the internationally agreed development goals, including those contained in the United Nations Millennium Declaration,[60] and to give overall political direction to the implementation of Agenda 21[61] and its review.

(*c*) Crime prevention

At its fifty-seventh session, the General Assembly, on the recommendation of the Second Committee, adopted, without a vote, resolution 57/244, "Preventing and combating corrupt practices and transfer of funds of illicit origin and returning such funds to the countries of origin", in which it took note of the report of the Secretary-General[62] and noted the ongoing work of the Ad Hoc Committee for the Negotiation of a Convention against Corruption, whose terms of reference had been adopted by the General Assembly in its resolution 56/260 of 31 January 2002, and urged an early completion of those negotiations to allow for the adoption of the Convention by the General Assembly at its fifty-eighth session and the celebration of the high-level political conference, to be held in Mexico by the end of 2003, for the purpose of signing the Convention.

On the recommendation of the Third Committee, the General Assembly adopted, without a vote, a number of resolutions and decisions, including resolution 57/168, "International cooperation in the fight against transnational organized crime: assistance to States in capacity-building with a view to facilitating the implementation of the United Nations Convention against Transnational Organized Crime and the protocols thereto",[63] in which the Assembly took note of the report of the Secretary-General on prompting the ratification of the United Nations Convention and the protocols thereto;[64] resolution 57/170, "Follow-up to the plans of action for the implementation of the Vienna Declaration on Crime and Justice: Meeting the Challenges of the Twenty-first Century"; resolution 57/171, "Preparations for the Eleventh United Nations Congress on Crime Prevention and Criminal Justice", in which the Assembly took note of the report of the Commission on Crime Prevention and Criminal Justice on its eleventh session[65] and of its discussion on the preparations for the Eleventh Congress,[66] and decided that the main theme of the Eleventh Congress would be "Synergies and responses: strategic alliances in crime prevention and criminal justice"; resolution 57/172, "United Nations African Institute for the Prevention of Crime and the Treatment of Offenders"; resolution 57/173, "Strengthening the United Nations Crime Prevention and Criminal Justice Programme, in particular its technical cooperation capacity", in which the Assembly took note of the report of the Secretary-General on the progress made;[67] and decision 57/528, in which the Assembly took note of the report of the Secretary-General on the preparations for the Eleventh United Nations Congress on Crime Prevention and Criminal Justice.[68]

Also adopted on the recommendation of the Third Committee, without a vote, was resolution 57/176, "Trafficking in women and girls", in which the Assembly took note of the report of the Secretary-General,[69] urged Governments to take appropriate measures to address the root factors, including external factors that encouraged trafficking in women and girls for prostitution and other forms of commercialized sex, forced marriages and forced labour, in order to eliminate trafficking in women, including by strengthening existing legislation with a view to providing better protection of the rights of women and girls and to punishing perpetrators, through both criminal and civil measures; further urged Governments to consider signing and ratifying relevant United Nations legal instruments such as the 2000 United Nations Convention against Transnational Organized Crime and the protocols thereto, in particular the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children of 2000, the Convention on the Elimination of All Forms of Discrimination against Women of 1979[70] and the Convention on the Rights of the Child of 1989,[71] the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women of 1999[72] and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography of 2000,[73] as well as the Convention concerning Discrimination in Respect of Employment and Occupation, 1958 (Convention No. 111) and the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (Convention No. 182) of the International Labour Organization; and called upon all Governments to criminalize trafficking in women and children, while ensuring that the victims of those practices were not penalized for being trafficked. The Assembly also adopted, without a vote, resolution 57/179, entitled "Working towards the elimination of crimes against women committed in the name of honour", in which the Assembly welcomed the activities and initiatives of States aimed at the elimination of crimes against women committed in the name of honour, including the adoption of amendments to relevant national laws relating to such crimes, the effective implementation of such laws and educational, social and other measures, including national information and awareness-raising campaigns, as well as activities and initiatives of States aimed at the elimination of all other forms of violence against women. In this same area, the Assembly further adopted, without a vote, resolution 57/181, "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' ", in which the Assembly took note of the report of the Secretary-General.[74]

(*d*) World drug problem

At its fifty-seventh session, the General Assembly adopted, without a vote, on the recommendation of the Third Committee, resolution 57/174,

"International cooperation against the world drug problem", in which it reaffirmed that countering the world drug problem was a common and shared responsibility that must be addressed in a multilateral setting, required an integrated and balanced approach, and must be carried out in full conformity with the purposes and principles of the Charter of the United Nations and international law; urged competent authorities, at the international, regional and national levels, to implement the outcome of the twentieth special session of the General Assembly, 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;[75] and also urged Member States to implement the Action Plan[76] for the Implementation of the Declaration on the Guiding Principles of Drug Demand Reduction[77] and to strengthen their national efforts to counter the abuse of illicit drugs among their population, in particular among children and young people.

In the same resolution, the General Assembly emphasized the role of the Commission on Narcotic Drugs as the principal United Nations policy-making body on drug control issues and as the governing body of the United Nations International Drug Control Programme; reaffirmed the role of the Executive Director of the United Nations International Drug Control Programme in coordinating and providing effective leadership for all United Nations drug control activities; and welcomed the efforts of the United Nations Drug Control Programme to implement its mandate within the framework of the international drug control treaties,[78] the Comprehensive Multidisciplinary Outline of Future Activities in Drug Abuse Control,[79] the Global Programme of Action[80] and the outcome of the special session of the General Assembly devoted to countering the world drug problem.

(*e*) Human rights issues

(1) *Status and implementation of international instruments*

In 2002, one more State became party to the International Covenant on Economic, Social and Cultural Rights,[81] bringing the total number of States parties to 146; two more States became party to the International Covenant on Civil and Political Rights of 1966,[82] bringing the total number of States parties to 149; three more States became party to the Optional Protocol to the International Covenant on Civil and Political Rights of 1966,[83] bringing the total number of States parties to 104; and three more States became party to the Second Optional Protocol to the International Covenant on Civil and Political Rights of 1989, aiming at the abolition of the death penalty,[84] bringing the total number of States parties to 49.

International Convention on the Elimination of All Forms of Racial Discrimination of 1966[85]

During 2002, three more States became party to the Convention, bringing the total number of States parties to 165. Four more States became

party to the 1992 amendment to article 8 of the Convention,[86] bringing the total number of States parties to 36.

At its fifty-seventh session, the General Assembly, on the recommendation of the Third Committee, adopted, without a vote, resolution 57/194 on the International Convention on the Elimination of All Forms of Racial Discrimination, in which the Assembly took note of the reports of the Committee on the Elimination of Racial Discrimination on its fifty-eighth and fifty-ninth sessions[87] and its sixtieth and sixty-first sessions;[88] and took note of the report of the Secretary-General on the status of the International Convention.[89] The Assembly also adopted, by a recorded vote of 173 to 3, with 2 abstentions, resolution 57/195, entitled "The fight against racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action",[90] in which the Assembly affirmed that racism and racial discrimination, and xenophobia and related intolerance, where they amounted to racism and racial discrimination, constituted serious violations of and obstacles to the full enjoyment of all human rights; noted with great concern that, despite the many efforts of the international community, the objectives of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination had largely not been achieved; welcomed, therefore, the adoption of the Durban Declaration and Programme of Action and called for its full implementation at the national, regional and international levels; and took note of the report of the former Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.[91]

Convention on the Elimination of All Forms of Discrimination against Women of 1979

During 2002, two more States became party to the Convention, bringing the total number of States parties to 170. Eleven more States became party to the amendment to article 20, paragraph 1, of the Convention,[92] bringing the total number of States parties to 37, and two more States became party to the 1999 Optional Protocol to the Convention, bringing the total number of States parties to 49.

At its fifty-seventh session, the General Assembly adopted, on the recommendation of the Third Committee, without a vote, resolution 57/178 on the Convention on the Elimination of All Forms of Discrimination against Women, in which the Assembly welcomed the report of the Secretary-General on the status of the Convention.[93]

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1984[94]

In 2002, five more States became party to the Convention, bringing the total number of States parties to 132. Two more States became party to

the amendments to article 17, paragraph 7, and article 18, paragraph 5, of the Convention,[95] bringing the total number of States parties to 25.

At its fifty-seventh session, the General Assembly, on the recommendation of the Third Committee, adopted, by a recorded vote of 127 to 4, with 42 abstentions, resolution 57/199, "Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment", in which the Assembly adopted the Optional Protocol and requested the Secretary-General to open it for signature, ratification and accession at United Nations Headquarters in New York from 1 January 2003.[96]

The General Assembly also adopted, without a vote, resolution 57/200, "Torture and other cruel, inhuman or degrading treatment or punishment", in which it condemned all forms of torture, including through intimidation, as described in article 1 of the Convention, and took note of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, annexed to its resolution 55/89, as a useful tool in efforts to combat torture.

Convention on the Rights of the Child of 1989

During 2002, the number of States parties remained at 191. Sixteen States became party to the 1995 amendment to article 43, paragraph 2, of the Convention,[97] bringing the total number of States parties to 129. Eighteen States became party to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, bringing the total number of States parties to 45, and 29 States became party to the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, bringing the total number of States parties to 44.

During 2002, the General Assembly adopted, on the recommendation of the Third Committee, a number of resolutions and decisions, including resolution 57/189, "The girl child", adopted without a vote, in which the Assembly urged all States to take necessary measures and to institute legal reforms to ensure the full and equal enjoyment by the girl child of all human rights and fundamental freedoms, and to take effective action against violations of those rights and freedoms and to base programmes and policies for the girl child on the rights of the child; urged States to enact and strictly enforce laws to ensure that marriage was entered into only with the free and full consent of the intending spouses, to enact and strictly enforce minimum age for marriage and to raise the minimum age for marriage where necessary; and also urged States to enact and enforce legislation to protect girls from all forms of violence and exploitation, including female infanticide and prenatal sex selection, female genital mutilation, rape, domestic violence, incest, sexual abuse, sexual exploitation, child prostitution and child pornography, trafficking and forced labour, and to develop age-

appropriate safe and confidential programmes and medical, social and psychological support services to assist girls who were subjected to violence. The Assembly also adopted resolution 57/190, "Rights of the child", by a recorded vote of 175 to 2, with no abstentions. The Assembly also adopted decision 57/530, in which it took note of the report of the Committee on the Rights of the Child[98] and the report of the Secretary-General on the status of the Convention on the Rights of the Child,[99] as well as decision 57/537, "Follow-up to the outcome of the special session on children".

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families of 1990[100]

During 2002, one State became party to the Convention, bringing the total number of States parties to 19.

At its fifty-seventh session, the General Assembly, on the recommendation of the Third Committee, adopted, without a vote, resolution 57/201 on the Convention, in which the Assembly requested the Secretary-General to make all necessary provisions for the timely establishment of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families referred to in article 72 of the Convention, as soon as the Convention entered into force, and called upon States parties to submit their first periodic reports in due time.

(2) *Other human rights issues*

The General Assembly, on the recommendation of the Third Committee, adopted a number of other resolutions and decisions in the area of human rights at its fifty-seventh session, including resolution 57/202, 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 took note of the report of the Secretary-General[101] and the reports of the persons chairing the human rights treaty bodies on their thirteenth and fourteenth meetings,[102] held at Geneva, from 18 to 22 June 2001 and from 24 to 26 June 2002, respectively, and also took note of the conclusions and recommendations contained in the reports. In its resolution 57/214 on extrajudicial, summary or arbitrary executions, which it adopted by a recorded vote of 130 to none, with 49 abstentions, the General Assembly took note of the interim report of the Special Rapporteur of the Commission on Human Rights on extrajudicial, summary or arbitrary executions to the General Assembly[103] and the recommendations contained therein. The Assembly also adopted resolution 57/222, entitled "Human rights and unilateral coercive measures", by a recorded vote of 122 to 55, with 1 abstention, in which the Assembly, taking note of the report submitted by the Secretary-General,[104] and the reports of the Secretary-General on the implementation of resolutions 52/120[105] and 55/110,[106] urged

States to refrain from adopting or implementing any unilateral measures not in accordance with international law and the Charter of the United Nations, in particular those of a coercive nature with all their extraterritorial effects, which create obstacles to trade relations among States, thus impeding the full realization of the rights set forth in the Universal Declaration of Human Rights[107] and other international human rights instruments, in particular the right of individuals and peoples to development.

(*f*) Refugee issues

Status of international instruments

During 2002, three more States became party to the Convention Relating to the Status of Refugees of 1951,[108] bringing the total number of States parties to 141; two more States became party to the Protocol Relating to the Status of Refugees of 1967,[109] bringing the total number of States parties to 139; the number of States parties to the Convention Relating to the Status of Stateless Persons of 1954[110] remained at 54; and the number of States parties to the Convention on the Reduction of Statelessness of 1961[111] remained at 26.

Consideration by the General Assembly

At its fifty-seventh session, the General Assembly, on the recommendation of the Third Committee, adopted, without a vote, resolution 57/183, entitled "Assistance to refugees, returnees and displaced persons in Africa", in which the Assembly took note of the reports of the Secretary-General[112] and the United Nations High Commissioner for Refugees.[113] The Assembly further adopted, without a vote, resolutions 57/185, entitled "Enlargement of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees", and 57/186, entitled "Continuation of the Office of the United Nations High Commissioner for Refugees". In resolution 57/187, adopted without a vote, the Assembly endorsed the report of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees on the work of its fifty-third session.[114]

(*g*) Ad hoc Tribunals for the Former Yugoslavia and for Rwanda

On 16 October 2002, the General Assembly, without reference to a Main Committee, adopted decisions 57/508 and 57/509, by which it took note, respectively, of the ninth 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[115] and the seventh 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.[116] With its adoption of decision 57/414, on 31 January 2003, the General Assembly elected 11 judges to serve in the Trial Chambers of the International Criminal Tribunal for Rwanda for a term of office of four years, that is, until 24 May 2007.[117]

(*h*) Cultural issues

At the fifty-seventh session, the General Assembly adopted, without reference to a Main Committee, resolution 57/158, entitled "United Nations Year for Cultural Heritage, 2002", in which it declared the United Nations Year for Cultural Heritage concluded and reaffirmed the importance of further developing international mechanisms for safeguarding and protecting the world cultural heritage, and encouraged UNESCO to explore possible ways to intensify international cooperation in this regard, inter alia, by considering convening an international conference on strengthening and consolidating international mechanisms for safeguarding and protecting the world cultural heritage.

---

4. LAW OF THE SEA

Status of international instruments

In 2002, four more States become party to the United Nations Convention on the Law of the Sea of 1982,[118] bringing the total number of States parties to 141. Eight more States become party to the Agreement relating to the implementation of Part XI of the Convention of 1994,[119] bringing the total number of States parties to 111. One more State became party to the Agreement for the implementation of the provisions of the Convention relating to the conservation and management of straddling fish stocks and highly migratory fish stocks of 1995,[120] bringing the total number of States parties to 32. Two additional States became party to the Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea of 1997,[121] bringing the total number of States parties to 12, and three further States became parties to the Protocol on the Privileges and Immunities of the International Seabed Authority of 1998,[122] bringing the total number of States parties to nine.

Report of the Secretary-General[123]

The extensive report covered many aspects of the oceans and the law of the sea during 2002, including maritime space, shipping and navigation, crimes at sea, sustainable development of marine resources and underwater

cultural heritage, marine environment, marine science and technology and settlement of disputes. In the area of "crimes at sea", the report disclosed that in the 20 years since the adoption of the United Nations Convention on the Law of the Sea in 1982, crimes at sea had become more prevalent and were increasing, and that the framers of the Convention never envisaged many of the crimes which existed today. As a result, since 1982, a number of conventions had been adopted which were aimed at suppressing and combating specific criminal activities, including those which took place at sea. At the same time, it was pointed out that if flag States complied with the obligations set out in the 1982 Convention and exercised their jurisdiction and control over ships flying their flag and ensured that they complied with relevant international rules and regulations, it would greatly aid in the prevention of their illegal use for criminal activities. Furthermore, the report discussed the fact that maritime security had been placed high on the agenda of the international community following the terrorist attacks in the United States on 11 September 2001. Attention had focused on the adequacy of measures to prevent acts of terrorism, which threatened the security of passengers and crews and the safety of ships.

In the section of the report on "Settlement of disputes", it was reported that the International Tribunal for the Law of the Sea had been seized of the *Mox Plant case (Ireland* v. *United Kingdom)*, a dispute that stemmed from the authorization by the United Kingdom for the opening of a new "Mox" plant in Sellafield, United Kingdom. The plant was designed to reprocess spent nuclear fuel containing a mixture of plutonium dioxide and uranium dioxide into a new fuel, which was known as mixed oxide fuel, or "Mox". The Government of Ireland was concerned that the operation of the plant would contribute to the pollution of the Irish Sea and underlined the potential risks involved in the transportation of radioactive material to and from the plant. Further details on cases before the International Tribunal can be found on the website www.itlos.org.

Consideration by the General Assembly

At its fifty-seventh session, the General Assembly, without reference to a Main Committee, adopted, by a recorded vote of 132 to 1, with 2 abstentions, resolution 57/141, entitled "Oceans and the law of the sea", in which the Assembly noted with satisfaction 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 1982 Convention, underlined its important role and authority concerning the interpretation or application of the Convention and the 1994 Agreement relating to the implementation of Part XI of the Convention, 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 parties to note the provisions of annexes V, VI, VII and VIII to the Convention concerning,

respectively, conciliation, the Tribunal, arbitration and special arbitration. Also adopted, without a vote, was resolution 57/142, entitled "Large-scale pelagic drift-net fishing, unauthorized fishing in zones of national jurisdiction and on the high seas/illegal, unreported and unregulated fishing, fisheries by-catch and discards, and other developments", in which the General Assembly encouraged States to apply by 2010 the ecosystem approach, noted the Reykjavik Declaration on Responsible Fisheries in the Marine Ecosystem[124] and decisions V/6[125] and VI/12[126] of the Conference of the Parties to the Convention on Biological Diversity of 1992, supported continuing work under way in the Food and Agriculture Organization of the United Nations to develop guidelines for the implementation of ecosystem considerations in fisheries management, and noted the importance of relevant provisions of the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and the FAO Code of Conduct for Responsible Fisheries, both of 1995,[127] to this approach. The General Assembly further adopted, without a vote, resolution 57/143, entitled "Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks", in which it expressed its deep satisfaction at the entry into force of the Agreement.

---

5. INTERNATIONAL COURT OF JUSTICE

Contentious cases before the Court[128]

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

Pursuant to the Court's Order of 21 October 1999, permitting Equatorial Guinea to intervene in the case, that State presented its observations to the Court during the course of public hearings held from 18 February to 21 March 2002.

On October 2002, the Court delivered its judgment on the merits of the case.

Final paragraph (para. 325)

"For these reasons,

The Court,

I. (A) By fourteen votes to two,

Decides that the boundary between the Republic of Cameroon and the Federal Republic of Nigeria in the Lake Chad area is delimited by the Thomson-Marchand Declaration of 1929-1930, as incorporated in the Henderson-Fleuriau Exchange of Notes of 1931;

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

AGAINST: *Judge* Koroma; *Judge ad hoc* Ajibola;

(B) By fourteen votes to two,

Decides that the line of the boundary between the Republic of Cameroon and the Federal Republic of Nigeria in the Lake Chad area is as follows:

From a tripoint in Lake Chad lying at 14° 04′ 59″9999 longitude east and 13° 05′ latitude north, in a straight line to the mouth of the River Ebeji, lying at 14° 12′ 12″ longitude east and 12° 32′ 17″ latitude north; and from there in a straight line to the point where the River Ebeji bifurcates, located at 14° 12′ 03″ longitude east and 12° 30′ 14″ latitude north;

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

AGAINST: *Judge* Koroma; *Judge ad hoc* Ajibola;

II. (A) By fifteen votes to one,

Decides that the land boundary between the Republic of Cameroon and the Federal Republic of Nigeria is delimited, from Lake Chad to the Bakassi Peninsula, by the following instruments:

(i) From the point where the River Ebeji bifurcates as far as Tamnyar Peak, by paragraphs 2 to 60 of the Thomson-Marchand Declaration of 1929-1930, as incorporated in the Henderson-Fleuriau Exchange of Notes of 1931;

(ii) From Tamnyar Peak to pillar 64 referred to in article XII of the Anglo-German Agreement of 12 April 1913, by the British Order in Council of 2 August 1946;

(iii) From pillar 64 to the Bakassi Peninsula, by the Anglo-German Agreements of 11 March and 12 April 1913;

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

AGAINST: *Judge* Koroma;

(B) Unanimously,

Decides that the aforesaid instruments are to be interpreted in the manner set out in paragraphs 91, 96, 102, 114, 119, 124, 129, 134, 139, 146, 152, 155, 160, 168, 179, 184 and 189 of the present Judgment;

III. (A) By thirteen votes to three,

Decides that the boundary between the Republic of Cameroon and the Federal Republic of Nigeria in Bakassi is delimited by articles XVIII to XX of the Anglo-German Agreement of 11 March 1913;

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

AGAINST: *Judges* Koroma, Rezek; *Judge ad hoc* Ajibola;

(B) By thirteen votes to three,

Decides that sovereignty over the Bakassi Peninsula lies with the Republic of Cameroon;

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

AGAINST: *Judges* Koroma, Rezek; *Judge ad hoc* Ajibola;

(C) By thirteen votes to three,

Decides that the boundary between the Republic of Cameroon and the Federal Republic of Nigeria in Bakassi follows the thalweg of the Akpakorum (Akwayafe) River, dividing the Mangrove Islands near Ikang in the way shown on map TSGS 2240, as far as the straight line joining Bakassi Point and King Point;

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

AGAINST: *Judges* Koroma, Rezek; *Judge ad hoc* Ajibola;

IV. (A) By thirteen votes to three,

Finds, having addressed Nigeria's eighth preliminary objection, which it declared in its Judgment of 11 June 1998 not to have an exclusively preliminary character in the circumstances of the case, that it has jurisdiction over the claims submitted to it by the Republic of Cameroon regarding the delimitation of the maritime areas appertaining respectively to the Republic of Cameroon and to the Federal Republic of Nigeria, and that those claims are admissible;

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

AGAINST: *Judges* Oda, Koroma; *Judge ad hoc* Ajibola;

(B) By thirteen votes to three,

Decides that, up to point G below, the boundary of the maritime areas appertaining respectively to the Republic of Cameroon and to the Federal Republic of Nigeria takes the following course:

(*a*) Starting from the point of intersection of the centre of the navigable channel of the Akwayafe River with the straight line joining Bakassi Point and King Point as referred to in point III (C) above, the boundary follows the 'compromise line' drawn jointly at Yaoundé on 4 April 1971 by the Heads of State of Cameroon and Nigeria on British Admiralty Chart 3433 (Yaoundé II Declaration) and passing through 12 numbered points, whose co-ordinates are as follows:

	Longitude	*Latitude*
Point 1:	8° 30′ 44″ E,	4° 40′ 28″ N
Point 2:	8° 30′ 00″ E,	4° 40′ 00″ N
Point 3:	8° 28′ 50″ E,	4° 39′ 00″ N
Point 4:	8° 27′ 52″ E,	4° 38′ 00″ N
Point 5:	8° 27′ 09″ E,	4° 37′ 00″ N
Point 6:	8° 26′ 36″ E,	4° 36′ 00″ N
Point 7:	8° 26′ 03″ E,	4° 35′ 00″ N
Point 8:	8° 25′ 42″ E,	4° 34′ 18″ N
Point 9:	8° 25′ 35″ E,	4° 34′ 00″ N
Point 10:	8° 25′ 08″ E,	4° 33′ 00″ N
Point 11:	8° 24′ 47″ E,	4° 32′ 00″ N
Point 12:	8° 24′ 38″ E,	4° 31′ 26″ N;

(*b*) From point 12, the boundary follows the line adopted in the Declaration signed by the Heads of State of Cameroon and Nigeria at Maroua on 1 June 1975 (Maroua Declaration), as corrected by the exchange of letters between the said Heads of State of 12 June and 17 July 1975; that line passes through points A to G, whose co-ordinates are as follows:

	Longitude	*Latitude*
Point A:	8° 24′ 24″ E,	4° 31′ 30″ N
Point A1:	8° 24′ 24″ E,	4° 31′ 20″ N
Point B:	8° 24′ 10″ E,	4° 26′ 32″ N
Point C:	8° 23′ 42″ E,	4° 23′ 28″ N
Point D:	8° 22′ 41″ E,	4° 20′ 00″ N
Point E:	8° 22′ 17″ E,	4° 19′ 32″ N
Point F:	8° 22′ 19″ E,	4° 18′ 46″ N
Point G:	8° 22′ 19″ E,	4° 17′ 00″ N;

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

AGAINST: *Judges* Koroma, Rezek; *Judge ad hoc* Ajibola;

(C) Unanimously,

Decides that, from point G, the boundary line between the maritime areas appertaining respectively to the Republic of Cameroon and to the Federal Republic of Nigeria follows a loxodrome having an azimuth of 270° as far as the equidistance line passing through the midpoint of the line joining West Point and East Point; the boundary meets this equidistance line at a point X, with co-ordinates 8° 21′ 20″ longitude east and 4° 17′ 00″ latitude north;

(D) Unanimously,

Decides that, from point X, the boundary between the maritime areas appertaining respectively to the Republic of Cameroon and to the Federal Republic of Nigeria follows a loxodrome having an azimuth of 187° 52′ 27″;

V. (A) By fourteen votes to two,

Decides that the Federal Republic of Nigeria is under an obligation expeditiously and without condition to withdraw its administration and its military and police forces from the territories which fall within the sovereignty of the Republic of Cameroon pursuant to points I and III of this operative paragraph;

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

AGAINST: *Judge* Koroma; *Judge ad hoc* Ajibola;

(B) Unanimously,

Decides that the Republic of Cameroon is under an obligation expeditiously and without condition to withdraw any administration or military or police forces which may be present in the territories which fall within the sovereignty of the Federal Republic of Nigeria pursuant to point II of this operative paragraph. The Federal Republic of Nigeria has the same obligation in respect of the territories which fall within the sovereignty of the Republic of Cameroon pursuant to point II of this operative paragraph;

(C) By fifteen votes to one,

Takes note of the commitment undertaken by the Republic of Cameroon at the hearings that, ‘faithful to its traditional policy of

hospitality and tolerance', it 'will continue to afford protection to Nigerians living in the [Bakassi] Peninsula and in the Lake Chad area';

IN FAVOUR: *President* Guillaume; *Vice-President* Shi; *Judges* Oda, Ranjeva, Herczegh, Fleischhauer, Koroma, Higgins, Kooijmans, Rezek, Al-Khasawneh, Buergenthal, Elaraby; *Judges ad hoc* Mbaye, Ajibola;

AGAINST: *Judge* Parra-Aranguren;

(D) Unanimously,

Rejects all other submissions of the Republic of Cameroon regarding the State responsibility of the Federal Republic of Nigeria;

(E) Unanimously,

Rejects the counter-claims of the Federal Republic of Nigeria."

Judge Oda appended a declaration to the judgment of the Court; Judge Ranjeva a separate opinion; Judge Herczegh a declaration; Judge Koroma a dissenting opinion; Judge Parra-Aranguren a separate opinion; Judge Rezek a declaration; Judge Al-Khasawneh and Judge ad hoc Mbaye a separate opinion; and Judge ad hoc Ajibola a dissenting opinion.

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

On 2 November 1998, Indonesia and Malaysia jointly notified the Court of a Special Agreement, which had been signed between them on 31 May 1997 at Kuala Lumpur and entered into force on 14 May 1998 with regard to their dispute concerning sovereignty over Pulau Ligitan and Pulau Sipadan, two islands in the Celebes Sea.

In the Special Agreement, the Parties requested the Court "to determine on the basis of the treaties, agreements and any other evidence furnished by [them], whether sovereignty over Pulau Ligitan and Pulau Sipadan belong[s] to the Republic of Indonesia or to Malaysia". They further expressed the wish to settle their dispute "in the spirit of friendly relations existing between [them] as enunciated in the 1976 Treaty of Amity and Cooperation in Southeast Asia" and declared in advance that they would "accept the Judgment of the Court ... as final and binding upon them".

Each of the Parties filed a Memorial, a Counter-Memorial and a Reply within the respective time limits of 2 November 1999, 2 August 2000 and 2 March 2001, fixed or extended by the Court or its President.

On 13 March 2001 the Philippines filed an Application for permission to intervene in the case. In its Application, the Philippines stated that it wished to intervene in the proceedings in order

"to preserve and safeguard [its Government's] historical and legal rights ... arising from its claim to dominion and sovereignty over the

territory of North Borneo, to the extent that these rights are affected, or may be affected, by a determination of the Court of the question of sovereignty over Pulau Ligitan and Pulau Sipadan; ... to inform the ... Court of the nature and extent of [those] rights [; and] to appreciate more fully the indispensable role of the ... Court in comprehensive conflict prevention".

The Philippines made it clear that it did not seek to become a Party to the case. In their written observations, filed within the time limit fixed by the Court, Indonesia and Malaysia objected to the Application for permission to intervene by the Philippines. After public hearings had been held from 25 to 29 June 2001, the Court, on 23 October 2001, delivered its judgment, by which it rejected the request of the Philippines for permission to intervene.

Public hearings on the merits were held from 3 to 12 June 2002. On 17 December 2002, the Court delivered its judgment on the merits of the case.

Final paragraph (para. 150)

"For these reasons,

THE COURT,

By sixteen votes to one,

Finds that sovereignty over Pulau Ligitan and Pulau Sipadan belongs to Malaysia.

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

AGAINST: *Judge ad hoc* Franck."

Judge Oda appended a declaration to the Judgment of the Court and Judge ad hoc Franck a dissenting opinion.

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

On 28 December 1998, the Republic of Guinea filed an Application instituting proceedings against the Democratic Republic of the Congo by an "Application with a view to diplomatic protection", in which it requested the Court to "condemn the Democratic Republic of the Congo for the grave breaches of international law perpetrated upon the person of a Guinean national", Mr. Ahmadou Sadio Diallo.

Guinea filed its Memorial within the time limit as extended by the Court. On 3 October 2002, within the time limit as extended for the de-

posit of its Counter-Memorial, the Democratic Republic of the Congo filed certain preliminary objections to the Court's jurisdiction and the admissibility of the Application; the proceedings on the merits were accordingly suspended (Article 79 of the Rules of Court).

By an Order of 7 November 2002 the Court fixed 7 July 2003 as the time limit within which Guinea might present a written statement of its observations and submissions on the preliminary objections raised by the Democratic Republic of the Congo. That written statement was filed within the time limit thus fixed.

(*d*) *Legality of Use of Force (Serbia and Montenegro* v. *Belgium) (Serbia and Montenegro* v. *Canada) (Serbia and Montenegro* v. *France) (Serbia and Montenegro* v. *Germany) (Serbia and Montenegro* v. *Italy) (Serbia and Montenegro* v. *Netherlands) (Serbia and Montenegro* v. *Portugal) and (Serbia and Montenegro* v. *United Kingdom)*

In each of the eight cases maintained on the Court's List, a written statement by Serbia and Montenegro on the preliminary objections raised by the respondent State concerned was filed on 20 December 2002, within the time limit as extended by the Court's Order of 20 March 2002.

(*e*) *Armed activities on the Territory of the Congo (Democratic Republic of the Congo* v. *Uganda)*

By an Order of 29 November 2001, the Court had found that the first two of the counter-claims submitted by Uganda against the Democratic Republic of the Congo were "admissible as such and [formed] part of the current proceedings", but that the third was not. In view of these findings, the Court considered it necessary for the Democratic Republic of the Congo to file a Reply and Uganda a Rejoinder, addressing the claims of both Parties, and fixed 29 May 2002 as the time limit for the filing of the Reply and 29 November 2002 for the Rejoinder. Further, in order to ensure strict equality between the Parties, the Court reserved the right of the Democratic Republic of the Congo to present its views in writing a second time on the Uganda counter-claims, in an additional pleading to be the subject of a subsequent Order. The Reply was filed within the time limit fixed. By an Order of 7 November 2002, the Court extended the time limit for the filing by Uganda of its Rejoinder and fixed 6 December 2002 as the new time limit. The Rejoinder was filed within the time limit as thus extended.

By an Order of 29 January 2003, the Court authorized the submission by the Democratic Republic of the Congo of an additional pleading relating solely to the counter-claims submitted by Uganda, and fixed 28 February 2003 as the time limit for its filing. That written pleading was filed within the time limit fixed.

The Court has fixed 10 November 2003 as the date for the opening of the hearings.

(f) Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. *Serbia and Montenegro)*

On 14 March 2001, within the time limit as extended by the Court, Croatia filed its Memorial. On 11 September 2002, within the extended time limit for the filing of its Counter-Memorial, Serbia and Montenegro filed certain preliminary objections to jurisdiction and admissibility. The proceedings on the merits were accordingly suspended (Article 79 of the Rules of Court).

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

By an Order of 13 June 2002, the Court authorized the submission of a Reply by Nicaragua and a Rejoinder by Honduras and fixed the following time limits for the filing of these pleadings: 13 January 2003 for the Reply, and 13 August 2003 for the Rejoinder. The Reply of Nicaragua was filed within the time limit thus fixed.

(*h*) *Application for Revision of the Judgment of 11 July 1996 in the Case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Yugoslavia), Preliminary Objections (Yugoslavia v. Bosnia and Herzegovina)*

On 3 December 2001, within the time limit fixed by the Court for this purpose, Bosnia and Herzegovina filed written observations on the admissibility of the Application for revision made by Yugoslavia. In its observations, Bosnia and Herzegovina contended that the conditions set under Article 61 of the Statute of the Court were not met in this instance; it consequently requested the Court "to adjudge and declare that the Application for Revision of the judgment of 11 July 1996, submitted by ... Yugoslavia ... [was] not admissible".

Public hearings were held on the question of the admissibility of the Application for revision from 4 to 7 November 2002. On 3 February 2003, the Court delivered its judgment.

Final paragraph (para. 75)

> "For these reasons,
>
> The Court,
>
> By ten votes to three,

Finds that the Application submitted by the Federal Republic of Yugoslavia for revision, under Article 61 of the Statute of the Court, of the Judgment given by the Court on 11 July 1996, is inadmissible.

IN FAVOUR: *President* Guillaume; *Vice-President* Shi; *Judges* Ranjeva, Herczegh, Koroma, Parra-Aranguren, Al-Khasawneh, Buergenthal, Elaraby; *Judge ad hoc* Mahiou;

AGAINST: *Judges* Vereshchetin, Rezek; *Judge ad hoc* Dimitrijevic."

Judge Koroma appended a separate opinion to the judgment; Judge Vereshchetin a dissenting opinion; Judge Rezek a declaration; Judge ad hoc Mahiou a separate opinion; and Judge ad hoc Dimitrijevic a dissenting opinion.

(*i*) *Certain Property (Liechtenstein* v. *Germany)*

On 27 June 2002, Germany filed certain preliminary objections to the jurisdiction of the Court and the admissibility of the Application; the proceedings on the merits were accordingly suspended (Article 79 of the Rules of Court). Liechtenstein filed a written statement of its observations and submissions with regard to the preliminary objections raised by Germany, within the time limit of 15 November 2002, as fixed by the President of the Court. Following the filing of that document, the case in now ready for hearing.

(*j*) *Territorial and Maritime Dispute (Nicaragua* v. *Colombia)*

By an Order of 26 February 2002, the Court fixed 28 April 2003 and 28 June 2004 as the time limits for the filing of a Memorial by Nicaragua and of a Counter-Memorial by Colombia. The Memorial of Nicaragua was filed within the time limit thus fixed.

(*k*) *Frontier Dispute (Benin/Niger)*

On 3 May 2002, Benin and Niger jointly notified the Court of a Special Agreement, which had been signed between them on 15 June 2001 in Cotonou and entered into force on 11 April 2002.

Under article 1 of that Special Agreement, the Parties agreed to submit their boundary dispute to a Chamber to be formed by the Court; they also agreed that pursuant to Article 26, paragraph 2, of the Statute of the Court, each of them would choose a judge ad hoc.

Article 2 of the Special Agreement stated the subject matter of the dispute in the following terms:

"The Court is requested to:

(*a*) Determine the course of the boundary between the Republic of Benin and the Republic of Niger in the River Niger sector;

(*b*) Specify which State owns each of the islands in the said river, and in particular Lété Island;

(*c*) Determine the course of the boundary between the two States in the River Mekrou sector."

Finally, article 10 contained a "special undertaking" as follows:

"Pending the judgment of the Chamber, the Parties undertake to preserve peace, security and quiet among the peoples of the two States."

By an Order of 27 November 2002, the Court, after its President had been informed of the view of the Parties on the composition of the Chamber and had reported to it, decided to accede to the request of both Parties that it should form a special chamber of five judges, and formed a Chamber of three Members of the Court together with the two judges ad hoc chosen by the Parties, as follows: President Guillaume, Judge Ranjeva, Judge Kooijmans, Judge ad hoc Bedjaoui (chosen by Niger) and Judge ad hoc Bennouna (chosen by Benin).

The Court further fixed 27 August 2003 as the time limit for the filing of a Memorial by each Party.

(*l*) *Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo* v. *Rwanda)*

On 28 May 2002, the Democratic Republic of the Congo filed an Application instituting proceedings against Rwanda in respect of a dispute concerning:

"massive, serious and flagrant violations of human rights and of international humanitarian law" resulting "from acts of armed aggression perpetrated by Rwanda on the territory of the Democratic Republic of the Congo in flagrant breach of the sovereignty and territorial integrity of the [latter], as guaranteed by the United Nations and OAU Charters".

In its Application, the Democratic Republic of the Congo stated that Rwanda had been guilty of "armed aggression" from August 1998 to the present day. According to the Democratic Republic of the Congo, that aggression had resulted in "large-scale human slaughter" in South Kivu, Katanga Province and the Eastern Province, "rape and sexual assault of women", "assassinations and kidnapping of political figures and human rights activists", "arrests, arbitrary detentions, inhuman and degrading treatment", "systematic looting of public and private institutions, seizure of property belonging to civilians", "human rights violations committed by the invading Rwandan troops and their 'rebel' allies in the major towns in the East" of the Democratic Republic of the Congo and "destruction of fauna and flora" of the country.

In consequence, the Democratic Republic of the Congo requested the Court to adjudge and declare that by violating the human rights which are the goal pursued by the United Nations through the maintenance of international peace and security, Rwanda had violated and was violating the Charter of the United Nations as well as articles 3 and 4 of the Charter of OAU; that it further had violated a number of instruments protecting human rights; that, by shooting down a Boeing 727 owned by Congo Airlines on 9 October 1998 in Kindu, thereby causing the death of 40 civilians, Rwanda had also violated certain conventions concerning international civil aviation; and that, by engaging in killing, slaughter, rape, throat-slitting and crucifying, Rwanda was guilty of genocide against more than 3.5 million Congolese, including the victims of the recent massacres in the city of Kisangani, and had violated the sacred right to life provided for in certain instruments protecting human rights as well as the Genocide Convention. It further asked the Court to adjudge and declare that all Rwandan armed forces should be withdrawn from Congolese territory; and that the Democratic Republic of the Congo was entitled to compensation.

In its Application, the Democratic Republic of the Congo, in order to found the jurisdiction of the Court, relied on a number of compromissory clauses in treaties.

On the same day, 28 May 2002, the Democratic Republic of the Congo submitted a request for the indication of provisional measures. Public hearings on the request for provisional measures were held on 13 and 14 June 2002. On 10 July 2002, the Court delivered its Order, by which, having found that it had no prima facie jurisdiction, it rejected the request of the Democratic Republic of the Congo. The Court, in that Order, also rejected the submissions by Rwanda seeking the removal of the case from the Court's List.

By an Order of 18 September 2002, the Court decided, in accordance with Article 79, paragraphs 2 and 3, of the revised Rules of Court, that the written pleadings would first be addressed to the questions of the jurisdiction of the Court and the admissibility of the Application, and fixed 20 January 2003 as the time limit for the Memorial of Rwanda and 20 May 2003 for the Counter-Memorial of the Democratic Republic of the Congo. Those pleadings were filed within the time limits thus fixed.

(*m*) *Application for revision of the judgment of 11 September 1992 in the case concerning the Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) (El Salvador* v. *Honduras)*

On 10 September 2002, El Salvador filed an Application for revision of the judgment delivered on 11 September 1992 by the Chamber of the Court in the case concerning *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras*: *Nicaragua intervening)*. El Salvador indicated

that "the sole purpose of the application is to seek revision of the course of the boundary decided by the Court for the sixth disputed sector of the land boundary between El Salvador and Honduras". El Salvador based its Application for revision on Article 61, paragraph 1, of the Statute of the Court.

In the Application El Salvador alleged that from the reasons given by the Chamber to establish the boundary line in the sixth sector, the following could be inferred:

> "(1) That a decisive factor in dismissing El Salvador's claim to a boundary along the old and original riverbed was the lack of evidence of an avulsion of the Goascorán River during the colonial period; and
>
> (2) That a decisive factor that persuaded the Chamber to accept Honduras's claim to a land boundary that follows the current course of the Goascorán, purported to be the course of the river at the time of independence in 1821, was the chart and the descriptive report of the Gulf of Fonseca that Honduras presented and that were supposedly drawn in 1796, as part of the expedition of the brigantine *El Activo*."

El Salvador claimed that it had obtained scientific, technical and historical evidence which "demonstrates that the old course of the Goascorán River debouched in the Gulf of Fonseca at the Estero 'La Cutu', and that the river abruptly changed course in 1762". It contended that this evidence, "which was not available to the Republic of El Salvador prior to the date of the Judgment, can be classified, for purposes of the revision, as a *new fact*, with a character such that it lays the case open to revision".

El Salvador further claimed that "in the six months prior to making [its] application, [it] obtained cartographic and documentary evidence demonstrating the unreliability of the documents that form the backbone of the Chamber's *ratio decidendi*. A new chart and a new report from the expedition of the brig *El Activo* have been discovered".

El Salvador concluded that:

> "For purposes of this revision, we have, then, a second *new fact*, whose implications for the Judgment have to be considered once the Application for revision is admitted. Because the evidentiary value of the 'Carta Esférica' and the report of the *El Activo* expedition is in question, the use of the Saco negotiations (1880-1884) for corroborative purposes becomes worthless, a problem compounded by what the Republic of El Salvador considers to be the Chamber's erroneous assessment of those negotiations. In reality, far from reinforcing each other, the *El Activo* documents and the Saco documents contradict each other."

According to El Salvador, the following assertions can be made on the basis of the scientific and historical evidence now available: "(*a*) that the present-day course of the Goascorán River was not the course of the river in 1880-1884, much less in 1821; (*b*) that the old riverbed was the

recognized boundary; and (*c*) that this riverbed was north of the Bay of La Unión, whose entire coastline belonged to the Republic of El Salvador".

For all these reasons, El Salvador requested the Court:

"(*a*) To proceed to form the Chamber that will hear the application for revision of the Judgment, bearing in mind the terms that El Salvador and Honduras agreed upon in the Special Agreement of 24 May 1986;

(*b*) To declare the application of the Republic of El Salvador admissible on the grounds of the existence of new facts of such a character as to lay the case open to revision under Article 61 of the Statute of the Court; and

(*c*) Once the application is admitted, to proceed to the revision of the Judgment of 11 September 1992, so that a new Judgment will determine the boundary line in the sixth disputed sector of the land frontier between El Salvador and Honduras to be as follows:

> 'Starting from the old mouth of the Goascorán River in the inlet known as the La Cutú Estuary situated at latitude 13° 22′ 00″ N and longitude 87° 41′ 25″ W, the frontier follows the old course of the Goascorán River for a distance of 17,300 metres as far as the place known as the Rompición de los Amates situated at latitude 13° 26′ 29″ N and longitude 87° 43′ 25″ W, which is where the Goascorán River changed its course.' "

By an Order of 27 November 2002, the Court, after its President had been informed of the view of the Parties on the composition of the Chamber and had reported to it, decided to accede to the request of both Parties that it should form a special chamber of five judges and formed a Chamber of three Members of the Court together with the two judges ad hoc chosen by the Parties, as follows: President Guillaume, Judge Rezek and Judge Buergenthal, Judge ad hoc Torres Bernardez (chosen by Honduras) and Judge ad hoc Paolillo (chosen by El Salvador).

The Court further fixed 1 April 2003 as the time limit for the filing of written observations by Honduras on the admissibility of the Application for revision. Those observations were deposited within the time limit thus prescribed.

The Chamber fixed 8 September 2003 as the date for the opening of the hearings on the admissibility of the request for revision.

(*n*) *Certain Criminal Proceedings in France (Republic of the Congo* v. *France)*

On 9 December 2002, the Republic of the Congo filed an Application by which it sought to institute proceedings against France seeking the annulment of the investigation and prosecution measures taken by the French

judicial authorities further to a complaint for crimes against humanity and torture filed by various associations against the President of the Republic of the Congo, Denis Sassou Nguesso, the Congolese Minister of the Interior, Pierre Oba, and other individuals including General Norbert Dabira, Inspector-General of the Congolese Armed Forces. The Application further stated that, in connection with these proceedings, an investigating judge of the Meaux *tribunal de grande instance* had issued a warrant for the President of the Republic of the Congo to be examined as witness.

The Republic of the Congo contended that by "attributing to itself universal jurisdiction in criminal matters and by arrogating to itself the power to prosecute and try the Minister of the Interior of a foreign State for crimes allegedly committed by him in connection with the exercise of his powers for the maintenance of public order in his country", France had violated "the principle that a State may not, in breach of the principle of sovereign equality among all Members of the United Nations … exercise its authority on the territory of another State". The Republic of the Congo further submitted that, in issuing a warrant instructing police officers to examine the President of the Republic of the Congo as a witness in the case, France violated "the criminal immunity of a foreign Head of State, an international customary rule recognized by the jurisprudence of the Court".

In its Application, the Republic of the Congo indicated that it sought to found the jurisdiction of the Court, pursuant to Article 38, paragraph 5, of the Rules of Court, "on the consent of the French Republic, which will certainly be given". In accordance with this provision, the Application by the Republic of the Congo was transmitted to the French Government and no action was taken in the proceedings.

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

At a public sitting of 14 February 2002, the Court delivered its Judgment.

Final paragraph (para. 78)

"For these reasons,

THE COURT,

(1) (A) By fifteen votes to one,

Rejects the objections of the Kingdom of Belgium relating to jurisdiction, mootness and admissibility;

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

AGAINST: *Judge* Oda;

(B) By fifteen votes to one,

Finds that it has jurisdiction to entertain the Application filed by the Democratic Republic of the Congo on 17 October 2000;

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

AGAINST: *Judge* Oda;

(C) By fifteen votes to one,

Finds that the Application of the Democratic Republic of the Congo is not without object and that accordingly the case is not moot;

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

AGAINST: *Judge* Oda;

(D) By fifteen votes to one,

Finds that the Application of the Democratic Republic of the Congo is admissible;

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

AGAINST: *Judge* Oda;

(2) By thirteen votes to three,

Finds that the issue against Mr. Abdulaye Yerodia Ndombasi of the arrest warrant of 11 April 2000, and its international circulation, constituted violations of a legal obligation of the Kingdom of Belgium towards the Democratic Republic of the Congo, in that they failed to respect the immunity from criminal jurisdiction and the inviolability which the incumbent Minister for Foreign Affairs of the Democratic Republic of the Congo enjoyed under international law;

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

AGAINST: *Judges* Oda; Al-Khasawneh, *Judge ad hoc* Van den Wyngaert;

(3) By ten votes to six,

Finds that the Kingdom of Belgium must, by means of its own choosing, cancel the arrest warrant of 11 April 2000 and so inform the authorities to whom that warrant was circulated.

IN FAVOUR: *President* Guillaume; *Vice-President* Shi; *Judges* Ranjeva, Herczegh, Fleischhauer, Koroma, Vereshchetin, Parra-Aranguren, Rezek; *Judge ad hoc* Bula-Bula;

AGAINST: *Judges* Oda; Higgins, Kooijmans, Al-Khasawneh, Buergenthal; *Judge ad hoc* Van den Wyngaert."

President Guillaume appended a separate opinion to the judgment of the Court; Judge Oda a dissenting opinion; Judge Ranjeva a declaration; Judge Koroma a separate opinion; Judges Higgins, Kooijmans and Buergenthal a joint separate opinion; Judge Rezek a separate opinion; Judge Al-Khasawneh a dissenting opinion; Judge ad hoc Bula-Bula a separate opinion; and Judge ad hoc Van den Wyngaert a dissenting opinion.

Consideration by the General Assembly

At its fifty-seventh session, the General Assembly, at its 35th plenary meeting, on 21 October 2002, and the Security Council, at its 4629th meeting, on the same date, proceeding independently of one another, elected five members of the International Court of Justice, to replace five members whose terms had expired. In its decision 57/510, adopted on 29 October 2002, without reference to a Main Committee, the General Assembly took note of the report of the International Court of Justice.[129]

---

6. INTERNATIONAL LAW COMMISSION[130]

Fifty-fourth session of the Commission[131]

The International Law Commission held the first part of its fifty-fourth session from 29 April to 7 June 2002 and the second part from 22 July to 16 August 2002, at its seat at the United Nations Office at Geneva.

Regarding the topic "Reservations to treaties", the Commission had before it the Special Rapporteur's seventh report[132] relating to the formulation, modification and withdrawal of reservations and interpretative declarations, which it considered, adopting commentaries to several draft guidelines. The Special Rapporteur further drew attention to section C of his report, involving reservations to human rights treaties, and expressed hopes that there would be further consultations between the Commission, the Committee

on the Elimination of Discrimination against Women and the other human rights bodies, with a view to the re-examination in 2004 of the preliminary conclusions adopted by the International Law Commission in 1997.

Concerning the topic "Diplomatic protection", the Commission had before it for consideration the remainder of the second report of the Special Rapporteur,[133] regarding draft articles 12 and 13, as well as his third report.[134] The Commission further established an open-ended Informal Consultation on the question of the diplomatic protection of crews, as well as that of corporations and shareholders.

For the topic "Unilateral acts of States", the Commission had before it the fifth report of the Special Rapporteur[135] and the text of the replies received from States to the questionnaire on the topic circulated on 31 August 2001.[136] The Commission considered the report and also established an open-ended Informal Consultation on unilateral acts of States.

Regarding the topic "International liability for injurious consequences arising out of acts not prohibited by international law (International liability in case of loss from transboundary harm arising out of hazardous activities)", the Commission resumed its consideration of the second part of the topic. Furthermore, the Commission appointed Pemmaraju Sreenivasa Rao as Special Rapporteur for the topic.

Concerning the topic "Responsibility of international organizations", the Commission decided to include it in its programme of work and appointed Giorgio Gaja as Special Rapporteur for the topic.

The Commission decided to include the topic "Fragmentation of international law: difficulties arising from the diversification and expansion of international law" in its programme of work. The Commission further established a Study Group on the topic and, subsequently, considered and adopted the report of the Study Group as amended.

Consideration by the General Assembly

At its fifty-seventh session, the General Assembly adopted two resolutions concerning the International Law Commission and its work: resolution 57/16, entitled "Convention on jurisdictional immunities of States and their property", adopted without a vote on the recommendation of the Sixth Committee, in which the Assembly took note of the report of the Ad Hoc Committee on Jurisdictional Immunities of States and Their Property.[137] It also adopted without a vote resolution 57/21, in which the Assembly took note of the report of the International Law Commission on the work of its fifty-fourth session and drew the attention of Governments to the importance for the Commission of having their views on the various aspects involved in the topics on the agenda of the Commission.

7. UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW[138]

Thirty-fifth session of the United Nations Commission on International Trade Law[139]

The United Nations Commission on International Trade Law (UNCITRAL) held its thirty-fifth session in New York, from 17 to 28 June 2002.

During the session, the Commission, having considered the text of the draft model law, as revised by the drafting group, adopted the Model Law on International Commercial Conciliation,[140] and entrusted the UNCITRAL secretariat with the finalization of the Guide to Enactment and Use of the Model Law, based on the draft prepared by the secretariat and on the deliberations of the Commission at the session.

Regarding the UNCITRAL Model Law on International Commercial Arbitration of 1985, the Commission took note of the report of the Working Group on Arbitration on the work of its thirty-sixth session.[141] The Commission commended the Working Group for the progress accomplished so far regarding the issues under discussion, namely, the requirement of the written form for the arbitration agreement and the issues of interim measures of protection.

Concerning the topic of insolvency law, the Commission noted the reports of the Working Group on the work of the twenty-fourth,[142] twenty-fifth[143] and twenty-sixth session.[144] The Commission commended the Working Group for the progress accomplished so far in developing the legislative guide for a strong insolvency, debtor-creditor regime, and stressed the importance of continued cooperation with intergovernmental and non-governmental organizations having expertise and interest in insolvency law. With respect to the treatment of security interests in solvency proceedings, the Commission noted with satisfaction that the Working Groups on Insolvency Law and Security Interests had agreed on principles for treating issues of common concern.[145]

Also regarding the topic of security interests, the Commission commended the secretariat for having prepared a first, preliminary draft of a legislative guide on several transactions,[146] for having organized, in cooperation with Commercial Finance Association, an international colloquium on secured transactions at Vienna from 20 to 22 March 2002, and for having prepared the report on the colloquium.[147]

In connection with the topic of electronic commerce, the Commission took note of the report of the Working Group on the work of its thirty-ninth session,[148] which was held in New York from 11 to 15 March 2002, and noted that the Working Group had begun its consideration of a possible international instrument dealing with selected issues on electronic contracting. The Commission also took note of the progress made thus far

by the secretariat in connection with a survey of possible legal barriers to the development of electronic commerce in international trade-related instruments.

Concerning the topic of transport law, the Commission had before it the report of the ninth session of the Working Group on Transport Law,[149] held in New York from 15 to 26 April 2002, at which the consideration of the project commenced. At that session, the Working Group undertook a preliminary review of the provisions of the draft instrument on transport law contained in the annex to the note by the secretariat.[150] The Working Group also had before it the comments prepared by ECE and UNCTAD, which were reproduced in annexes to the note by the Secretariat.[151]

Regarding the topic of privately financed infrastructure projects, the Commission noted the report of the Working Group on the work of its fourth session,[152] and commended the Working Group and the secretariat for the progress accomplished so far in developing a set of draft model legislative provisions for the Legislative Guide on Privately Financed Infrastructure Projects.

Concerning the case law on UNCITRAL texts (CLOUT), which consists of the preparation of case abstracts, a compilation of the full texts of decisions and the preparation of research aids and analytic tools such as thesauri and indices, the Commission noted that as of the date of the Commission's session, 36 issues of CLOUT had been published, dealing with 420 cases.

In connection with the status and promotion of UNCITRAL legal texts, on the basis of a note by the secretariat,[153] the Commission considered the status of the following conventions and model laws emanating from its work, as well as the status of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958:

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

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

—United Nations Convention on the Carriage of Goods by Sea of 1978 (Hamburg Rules)—28 States parties;

—United Nations Convention on Contracts for the International Sale of Goods of 1980—61 States parties;

—United Nations Convention on International Bills of Exchange and International Promissory Notes of 1988—3 States parties (requires seven additional actions for entry into force);

—United Nations Convention on the Liability of Operators of Transport Terminals in International Trade of 1991—2 States parties (requires three additional actions for entry into force);

—United Nations Convention on Independent Guarantees and Standby Letters of Credit of 1995—6 States parties;

—Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958—129 States parties;

—UNCITRAL Model Law on International Commercial Arbitration of 1985;

—UNCITRAL Model Law on International Credit Transfers of 1992;

—UNCITRAL Model Law on Procurement of Goods, Construction and Services of 1994;

—UNCITRAL Model Law on Electronic Commerce of 1996; and

—UNCITRAL Model Law on Cross-Border Insolvency of 1997.

Consideration by the General Assembly

At its fifty-seventh session, the General Assembly, on the recommendation of the Sixth Committee, adopted, without a vote, a number of resolutions in the area of international trade law, including resolution 57/17, in which the Assembly took note of the report of UNCITRAL and reaffirmed the importance, in particular for developing countries, of the work of the Commission concerned with training and technical assistance in the field of international trade law. In resolution 57/18, the General Assembly expressed its appreciation to UNCITRAL for completing and adopting the Model Law on International Commercial Conciliation, the text of which follows:

Model Law on International Commercial Conciliation of the United Nations Commission on International Trade Law

Article 1

Scope of application and definitions

1. This Law applies to international[154] commercial[155] conciliation.

2. For the purposes of this Law, "conciliator" means a sole conciliator or two or more conciliators, as the case may be.

3. For the purposes of this Law, "conciliation" means a process, whether referred to by the expression conciliation, mediation or an expression of similar import, whereby parties request a third person or persons ("the conciliator") to assist them in their attempt to reach an amicable settlement of their dispute arising out of or relating to a contractual or other legal relationship. The conciliator does not have the authority to impose upon the parties a solution to the dispute.

4. A conciliation is international if:

(*a*) The parties to an agreement to conciliate have, at the time of the conclusion of that agreement, their places of business in different States; or

(*b*) The State in which the parties have their places of business is different from either:

(i) The State in which a substantial part of the obligations of the commercial relationship is to be performed; or

(ii) The State with which the subject matter of the dispute is most closely connected.

5. For the purposes of this article:

(*a*) If a party has more than one place of business, the place of business is that which has the closest relationship to the agreement to conciliate;

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

6. This Law also applies to a commercial conciliation when the parties agree that the conciliation is international or agree to the applicability of this Law.

7. The parties are free to agree to exclude the applicability of this Law.

8. Subject to the provisions of paragraph 9 of this article, this Law applies irrespective of the basis upon which the conciliation is carried out, including agreement between the parties whether reached before or after a dispute has arisen, an obligation established by law, or a direction or suggestion of a court, arbitral tribunal or competent governmental entity.

9. This Law does not apply to:

(*a*) Cases where a judge or an arbitrator, in the course of judicial or arbitral proceedings, attempts to facilitate a settlement; and

(*b*) […].

Article 2

Interpretation

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

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

Article 3

Variation by agreement

Except for the provisions of article 2 and article 6, paragraph 3, the parties may agree to exclude or vary any of the provisions of this Law.

Article 4

Commencement of conciliation proceedings[156]

1. Conciliation proceedings in respect of a dispute that has arisen commence on the day on which the parties to that dispute agree to engage in conciliation proceedings.

2. If a party that invited another party to conciliate does not receive an acceptance of the invitation within thirty days from the day on which the invitation was sent, or within such other period of time as specified in the invitation, the party may elect to treat this as a rejection of the invitation to conciliate.

Article 5

Number and appointment of conciliators

1. There shall be one conciliator, unless the parties agree that there shall be two or more conciliators.

2. The parties shall endeavour to reach agreement on a conciliator or conciliators, unless a different procedure for their appointment has been agreed upon.

3. Parties may seek the assistance of an institution or person in connection with the appointment of conciliators. In particular:

(*a*) A party may request such an institution or person to recommend suitable persons to act as conciliator; or

(*b*) The parties may agree that the appointment of one or more conciliators be made directly by such an institution or person.

4. In recommending or appointing individuals to act as conciliator, the institution or person shall have regard to such considerations as are likely to secure the appointment of an independent and impartial conciliator and, where appropriate, shall take into account the advisability of appointing a conciliator of a nationality other than the nationalities of the parties.

5. When a person is approached in connection with his or her possible appointment as conciliator, he or she shall disclose any circumstances likely to give rise to justifiable doubts as to his or her impartiality or independence. A conciliator, from the time of his or her appointment and throughout the conciliation proceedings, shall without delay disclose any such circumstances to the parties unless they have already been informed of them by him or her.

Article 6

CONDUCT OF CONCILIATION

1. The parties are free to agree, by reference to a set of rules or otherwise, on the manner in which the conciliation is to be conducted.

2. Failing agreement on the manner in which the conciliation is to be conducted, the conciliator may conduct the conciliation proceedings in such a manner as the conciliator considers appropriate, taking into account the circumstances of the case, any wishes that the parties may express and the need for a speedy settlement of the dispute.

3. In any case, in conducting the proceedings, the conciliators shall seek to maintain fair treatment of the parties and, in so doing, shall take into account the circumstances of the case.

4. The conciliator may, at any stage of the conciliation proceedings, make proposals for a settlement of the dispute.

Article 7

COMMUNICATION BETWEEN CONCILIATOR AND PARTIES

The conciliator may meet or communicate with the parties together or with each of them separately.

Article 8

DISCLOSURE OF INFORMATION

When the conciliator receives information concerning the dispute from a party, the conciliator may disclose the substance of that information to any other party to the conciliation. However, when a party gives any information to the conciliator, subject to a specific condition that it be kept confidential, that information shall not be disclosed to any other party to the conciliation.

Article 9

CONFIDENTIALITY

Unless otherwise agreed by the parties, all information relating to the conciliation proceedings shall be kept confidential, except where disclosure is required under the law or for the purposes of implementation or enforcement of a settlement agreement.

Article 10

ADMISSIBILITY OF EVIDENCE IN OTHER PROCEEDINGS

1. A party to the conciliation proceedings, the conciliator and any third person, including those involved in the administration of the conciliation proceedings, shall not in arbitral, judicial or similar proceedings rely on, introduce as evidence or give testimony or evidence regarding any of the following:

(*a*) An invitation by a party to engage in conciliation proceedings or the fact that a party was willing to participate in conciliation proceedings;

(*b*) Views expressed or suggestions made by a party in the conciliation in respect of a possible settlement of the dispute;

(*c*) Statements or admissions made by a party in the course of the conciliation proceedings;

(*d*) Proposals made by the conciliator;

(*e*) The fact that a party had indicated its willingness to accept a proposal for settlement made by the conciliator;

(*f*) A document prepared solely for purposes of the conciliation proceedings.

2. Paragraph 1 of this article applies irrespective of the form of the information or evidence referred to therein.

3. The disclosure of the information referred to in paragraph 1 of this article shall not be ordered by an arbitral tribunal, court or other competent governmental authority and, if such information is offered as evidence in contravention of paragraph 1 of this article, that evidence shall be treated as inadmissible. Nevertheless, such information may be disclosed or admitted in evidence to the extent required under the law or for the purposes of implementation or enforcement of a settlement agreement.

4. The provisions of paragraphs 1, 2 and 3 of this article apply whether or not the arbitral, judicial or similar proceedings relate to the dispute that is or was the subject matter of the conciliation proceedings.

5. Subject to the limitations of paragraph 1 of this article, evidence that is otherwise admissible in arbitral or judicial or similar proceedings does not become inadmissible as a consequence of having been used in a conciliation.

Article 11

TERMINATION OF CONCILIATION PROCEEDINGS

The conciliation proceedings are terminated:

(*a*) By the conclusion of a settlement agreement by the parties, on the date of the agreement;

(*b*) By a declaration of the conciliator, after consultation with the parties, to the effect that further efforts at conciliation are no longer justified, on the date of the declaration;

(*c*) By a declaration of the parties addressed to the conciliator to the effect that the conciliation proceedings are terminated, on the date of the declaration; or

(*d*) By a declaration of a party to the other party or parties and the conciliator, if appointed, to the effect that the conciliation proceedings are terminated, on the date of the declaration.

Article 12

CONCILIATOR ACTING AS ARBITRATOR

Unless otherwise agreed by the parties, the conciliator shall not act as an arbitrator in respect of a dispute that was or is the subject of the conciliation proceedings or in

respect of another dispute that has arisen from the same contract or legal relationship or any related contract or legal relationship.

Article 13

Resort to arbitral or judicial proceedings

Where the parties have agreed to conciliate and have expressly undertaken not to initiate during a specified period of time or until a specified event has occurred arbitral or judicial proceedings with respect to an existing or future dispute, such an undertaking shall be given effect by the arbitral tribunal or the court until the terms of the undertaking have been complied with, except to the extent necessary for a party, in its opinion, to preserve its rights. Initiation of such proceedings is not of itself to be regarded as a waiver of the agreement to conciliate or as a termination of the conciliation proceedings.

Article 14

Enforceability of settlement agreement[157]

If the parties conclude an agreement settling a dispute, that settlement agreement is binding and enforceable ... [*the enacting State may insert a description of the method of enforcing settlement agreements or refer to provisions governing such enforcement*].

In its resolution 57/19, the General Assembly took note of the recommendation contained in the report of the Office of Internal Oversight Services of the United Nations Secretariat on the in-depth evaluation of legal affairs,[158] regarding the strengthening of the secretariat of UNCITRAL and, in resolution 57/20, decided to increase the membership of the Commission from 36 to 60 States.

---

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

In addition to the matters concerning the International Law Commission and international trade law, culminating in the resolutions discussed in the above sections, the Sixth Committee also considered additional items and submitted its recommendations thereon to the General Assembly at its fifty-seventh session. The Assembly adopted the following resolutions and decisions without a vote: resolution 57/14, entitled "Status of the Protocols Additional to the Geneva Conventions 1949 and relating to the protection of victims of armed conflicts", in which it appreciated the virtually universal acceptance of the Geneva Conventions of 1949[159] and noted the trend towards a similarly wide acceptance of the two Additional Protocols of 1977,[160] and called upon States that were already parties to Additional Protocol I, or those States not parties, on becoming parties to Additional Protocol I, to make the decision provided for under article 90 of that Protocol.

In its resolution 57/15, entitled "Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular mis-

sions and representatives", the General Assembly took note of the reports of the Secretary-General,[161] and strongly condemned acts of violence against diplomatic and consular missions and representatives of international intergovernmental organizations and officials of such organizations and emphasized that such acts could never be justified. In resolution 57/22 on the report of the Committee on Relations with the Host Country, the Assembly endorsed the recommendations and conclusions on relations with the host country contained in paragraph 35 of the report.[162] The Assembly further considered that the maintenance of appropriate conditions for the normal work of the delegations and the missions accredited to the United Nations and the observance of their privileges and immunities, which was an issue of great importance, were in the interest of the United Nations and all Member States, and requested the host country [the United States] to continue to solve, through negotiations, problems that might arise and to take all measures necessary to prevent any interference with the functioning of missions.

In its resolution 57/23, entitled "Establishment of the International Criminal Court", the General Assembly called upon States that were not yet parties to the Rome Statute of the International Criminal Court[163] to consider ratifying it or acceding to it without delay, and encouraged efforts aimed at promoting awareness of the results of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, held in Rome from 15 June to 17 July 1998, the provisions of the Statute and the process leading to the establishment of the Court. The Assembly further called upon all States to consider becoming parties to the Agreement on the Privileges and Immunities of the International Criminal Court[164] without delay.

With the adoption of resolution 57/24, the General Assembly took note of the report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization,[165] and with the adoption of resolution 57/25, entitled "Implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions", the Assembly 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 that were or might be confronted with special economic problems arising from the carrying out of preventive or enforcement measures imposed by the Council under Chapter VII of the Charter, with regard to a solution of those problems, including appropriate ways and means of increasing the effectiveness of its methods and procedures applied in consideration of requests by the affected States for assistance. The Assembly further welcomed the measures taken by the Security Council since the adoption of General Assembly resolution 50/51, most recently the note by the President of the Council of 15 January 2002,[166] whereby the members of the Council agreed to extend the mandate of the informal working group of the Council

established in 2000 to develop general recommendations on how to improve the effectiveness of United Nations sanctions.

The General Assembly adopted resolution 57/26, entitled "Prevention and peaceful settlement of disputes", in which it urged States to make the most effective use of existing procedures and methods for the prevention and the peaceful settlement of their disputes, in accordance with the principles of the Charter of the United Nations, and took note of the paper by the Secretariat entitled "Mechanisms established by the General Assembly in the context of dispute prevention and settlement".[167]

With the adoption of resolution 57/27, entitled "Measures to eliminate international terrorism", the General Assembly, having examined the report of the Secretary-General,[168] the report of the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996[169] and the report of the Working Group of the Sixth Committee established pursuant to resolution 56/88,[170] strongly condemned all acts, methods and practices of terrorism as criminal and unjustifiable, wherever and by whomsoever committed. The Assembly further urged all States that had not yet done so to consider, as a matter of priority, and in accordance with Security Council resolution 1373 (2001), becoming parties to the relevant conventions and protocols as referred to in paragraph 6 of General Assembly resolution 51/210, as well as the International Convention for the Suppression of Terrorist Bombings[171] and the International Convention for the Suppression of the Financing of Terrorism,[172] and called upon all States to enact, as appropriate, the domestic legislation necessary to implement the provisions of those conventions and protocols, to ensure that the jurisdiction of their courts enabled them to bring to trial the perpetrators of terrorist acts, and to cooperate with and provide support and assistance to other States and relevant international and regional organizations to that end.

In its resolution 57/28, entitled "Scope of legal protection under the Convention on the Safety of United Nations and Associated Personnel", the General Assembly expressed its appreciation for the work done by the Ad Hoc Committee on the Scope of Legal Protection under the Convention on the Safety of United Nations and Associated Personnel,[173] and recommended that the Secretary-General continue to seek the inclusion of, and that host countries include, key provisions of the Convention, among others, those regarding the prevention of attacks against members of the operation, the establishment of such attacks as crimes punishable by law and the prosecution or extradition of offenders, in future as well as, if necessary, in existing status-of-forces, status-of-mission and host country agreements negotiated between the United Nations and those countries, mindful of the importance of the timely conclusion of such agreements. The Assembly further recommended that, consistent with his existing authority, the Secretary-General advise the Security Council or the General Assembly, as appropriate, where in his assessment circumstances would support a declaration of exceptional risk for the purposes of article 1 (*c*) (ii) of the Convention.

In its decision 57/512, the General Assembly welcomed the report of the Ad Hoc Committee on an International Convention against the Reproductive Cloning of Human Beings on its work from 25 February to 1 March 2002[174] and the report of the Working Group of the Sixth Committee established pursuant to General Assembly resolution 56/93 of 12 December 2001 on its work from 23 to 27 September 2002,[175] and decided that a working group of the Sixth Committee should be convened during the fifty-eighth session of the General Assembly from 29 September to 3 October 2003, in order to continue the work undertaken during the fifty-seventh session.

The General Assembly also granted observer status for participation in the work of the Assembly by the following organizations: Partners in Population and Development (resolution 57/29); Asian Development Bank (resolution 57/30); International Centre for Migration Policy Development (resolution 57/31); Inter-Parliamentary Union (resolution 57/32); and International Institute for Democracy and Electoral Assistance (decision 57/513).

---

9. UNITED NATIONS INSTITUTE FOR TRAINING AND RESEARCH

The United Nations Institute for Training and Research (UNITAR) continued to carry out its extensive training programmes in multilateral diplomacy and international affairs management and in the field of economic and social development.[176] During 2002, in the former category, UNITAR held a training programme in international law for French-speaking African countries in Cameroon and a workshop on "Conference Diplomacy and Multilateral Negotiations" in the Islamic Republic of Iran. Other examples included a regional workshop on environmental law and a major regional migration policy meeting in Istanbul. In the field of economic and social development, UNITAR carried out training and capacity-building programmes in chemicals and waste management during the year, as well as programmes in the area of climate change.

Consideration by the General Assembly

At its fifty-seventh session, the General Assembly, on the recommendation of the Second Committee, adopted without a vote resolution 57/268, in which the Assembly, taking note of the report of the Secretary-General[177] and the report of the Executive Director,[178] reaffirmed the relevance of UNITAR in view of the growing importance of training within the United Nations and the training requirements of States and the relevance of the

training-related research activities undertaken by the Institute within its mandate. The Assembly further stressed the need for the Institute to further strengthen its cooperation with other United Nations institutes and relevant national, regional and international institutes, and renewed its appeal to all Governments, in particular those of developed countries, and to private institutions that had not yet contributed financially or otherwise to the Institute, to give it their generous financial and other support, and urged the States that had interrupted their voluntary contributions to consider resuming them in view of the successful restructuring and revitalization of the Institute.

B. General review of the legal activities of intergovernmental organizations related to the United Nations[179]

1. INTERNATIONAL LABOUR ORGANIZATION

Legal activities and decisions: international labour standards

1. The International Labour Conference (ILC), which held its 90th session in Geneva in June 2002, adopted amendments to its Standing Orders:[180]

(*a*) Amendment to article 4 (Selection Committee);

(*b*) Amendment to article 9 (Adjustment to the membership of committees);

(*c*) Amendment to article 14 (Right to address the Conference);

(*d*) Amendment to article 34 (General provisions);

(*e*) Amendment to article 52 (Procedure of voting);

(*f*) Amendment to article 56 (Composition of committees and right to participate in their work);

(*g*) Deletion of article 75 (Procedure for the nomination of members of committees by the Government group).

ILC also adopted a Protocol to the Occupational Safety and Health Convention, 1981; a Recommendation on the List of Occupational Diseases;[181] and a Recommendation on the Promotion of Cooperatives.[182]

2. The Committee on the Application of Standards of ILC held a special sitting concerning the application by Myanmar of the Forced La-

bour Convention, 1930 (No. 29), in application of the resolution adopted by the Conference at its 88th session (June 2000).[183]

3. The Committee of Experts on the Application of Conventions and Recommendations met in Geneva from 28 November to 13 December 2002 to adopt its report[184] to the 91st session of the Conference (2003).

4. Representations were lodged under article 24 of the Constitution of the International Labour Organization alleging non-observance by Mexico of the Indigenous and Tribal Peoples Convention, 1989 (No. 169).[185]

5. The Governing Body of the International Labour Organization considered and adopted the following reports of its Committee on Freedom of Association: the 327th report[186] (283rd session, March 2002); the 328th report[187] (284th session, June 2002); and the 329th report[188] (285th session, November 2002).

6. The Working Party on the Social Dimensions of Globalization, established by the Governing Body, held two meetings in 2002 during the 283rd[189] (March 2002) and 285th[190] (November 2002) sessions of the Governing Body.

7. 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 a meeting in 2002 during the 283rd[191] (March 2002) session of the Governing Body.

---

2. UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

(*a*) International regulations

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

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

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

During 2002, preparatory work was undertaken on a preliminary draft Convention for the Safeguarding of the Intangible Cultural Heritage[192] 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 were included on the provisional agenda of the 32nd session of the General Conference (October-November 2003).

(*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 Conventions and Recommendations met in private session at UNESCO headquarters from 15 to 17 May 2002 and from 1 to 4 October 2002 in order to examine communications which had been transmitted to it in accordance with decision 104 EX/3.3 of the Executive Board.

At its May 2002 session, the Committee examined 20 communications, of which 4 were examined with a view to determining their admissibility or otherwise, 14 were examined as to their substance, and 2 were examined for the first time. Nine communications were struck from the list because they were considered as having been settled. The examination of the remaining 11 was deferred. The Committee presented its report to the Executive Board at its 164th session.

At its October 2002 session, the Committee examined 16 communications, of which 3 were examined with a view to determining their admissibility, 8 were examined as to their substance and 5 new communications were submitted to the Committee. Two communications were declared inadmissible and 1 was struck from the list because it was considered as having been settled. The examination of the remaining 13 was deferred. The Committee presented its report to the Executive Board at its 165th session.

(*c*) Copyright activities

In 2002, UNESCO's activities in the field of copyright were mainly concentrated on:

—*Information and public awareness activities*. The electronic version of the UNESCO *Copyright Bulletin* (in English, French and Spanish), as well as printed versions (quarterly in Chinese and Russian), were published. The *Copyright Bulletin* contains articles and information on national laws (new laws, revisions, updating), activities of the Organization in the field (meeting reports, résumés of actions undertaken, etc.), participation of States in various conventions, and new specialized books published throughout the world. In 2002 the *Bulletin* focused primarily on the challenges of digital technology for copyright. The translation into Arabic of the UNESCO *Manual on Copyright and Neighbouring Rights* was completed and was to be published in 2003;

—*Training and teaching activities*. Teaching of copyright was continued by UNESCO Copyright Chairs. UNESCO had contributed to the strengthening of some Chairs and to the development of national expertise in the field of copyright by supplying them with pedagogical material (Tunisia, Algeria, the Russian Federation, Latin America). Pedagogical assistance had also been provided to Copyright Chairs

in the process of being set up in Cameroon, Senegal and Morocco. Copyright teaching days, open to a wide audience, were organized by UNESCO Copyright Chairs in the Russian Federation, Georgia, Tunisia and Algeria in relation to The World Book and Copyright Day, 23 April;

—*Studies and analyses*. In the light of the ever-evolving digital environment and the challenges it poses to copyright, UNESCO had undertaken a study on the exceptions and limitations to copyright protection in the digital era, particularly in the fields of scientific research, education and culture. Based on regional studies on the subject and on the replies to a questionnaire sent to right owners, users of protected works and national authorities, the study was to be finalized in 2003;

—*Collective administration of authors' rights*. A version in the Lithuanian language of the UNESCO *Guide on Collective Administration of Authors' Rights* was published with the support of the TACIS programme of the European Union.

---

3. WORLD HEALTH ORGANIZATION

(*a*) Constitutional and legal developments

On 27 September 2002, Timor-Leste joined the World Health Organization. Thus, at the end of 2002, there were 192 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 membership of the Executive Board from 32 to 34, was accepted by 94 Member States on 31 December 2002. The amendment to article 7 of the Constitution, adopted in 1965 by the eighteenth World Health Assembly to suspend certain rights of Members practising racial discrimination, was accepted by 80 of the Member States on December 2002. 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, was accepted by 74 Member States on 31 December 2002. Acceptance by two thirds of Member States, i.e. by 128 Member States, is required for the amendments to enter into force.

(*b*) Health legislation

(i) *Framework Convention on Tobacco Control*

By resolution WHA52.18 of 24 May 1999, the fifty-second World Health Assembly established a Working Group and an Intergovernmental

Negotiating Body (INB) to draft and negotiate a Framework Convention on Tobacco Control (FCTC) and possible related protocols.

By the end of the fourth session of INB (Geneva, 18-23 March 2002), the Co-Chairs for each of the Working Groups had issued revised Co-Chairs' streamlined texts. Working Group Three also completed a second reading of the textual proposals submitted by Member States on article J (Compensation and liability), article S (Development of the Convention) and article T (Final clauses), since these three articles had not been addressed in the initial Chair's text. It was agreed that a new Chair's text would be issued in July 2002 and considered by the fifth session of INB.

At the fifth session of INB (Geneva, 14-25 October 2002), the new Chair's text was discussed in plenary and informal meetings. Six issues were identified and discussed in open-ended informal meetings: advertising, promotion and sponsorship; financial resources; illicit trade in tobacco products; liability and compensation; packaging and labelling; and trade and health. Informal groups also held discussions on legal, institutional and procedural issues and on the use of terms. The possibility of elaborating protocols on illicit trade and cross-border advertising was also noted, but a majority of Member States expressed preference for completing the negotiations on the Convention before engaging in negotiations on protocols. On the basis of outputs from the fifth session, the Chair announced that he would issue a revised Chair's text of the convention on 13 January 2003.

In 2002, WHO organized and supported a number of regional and subregional intersessional meetings related to the negotiation of the FCTC.

(ii) *Other activities*

By December 2002, 162 of the WHO 192 Member States (84 per cent) had reported to WHO on action 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 or strengthening of existing—legislation, regulations, national codes, guidelines for health workers and distributors, agreements with manufacturers, and monitoring and reporting mechanisms. A comprehensive global strategy for infant and young child feeding, which had been developed during the period 1999-2001, was formally endorsed by the fifty-fifth World Health Assembly in May 2002 (resolution WHA55.15). The Global Strategy reaffirms the relevance and urgency of giving effect to the International Code, and sets as a target consideration by Member States of what new legislation or other suitable measures may be required to give effect to the principles and aims of the International Code.

In 2002, WHO started to draft the Guidance Document on Mental Health, Human Rights and Legislation, which will be used as a framework to provide information and training to Member States in developing and implementing national mental health laws, during a series of international,

regional and subregional forums and national workshops planned for 2003-2004. WHO also provided technical advice and assistance in the review of the Mental Health Treatment Act currently being undertaken in Fiji.

During 2002, 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 Regional Office for the Western Pacific provided assistance to Viet Nam related to the implementation of legislation to regulate private medical and pharmaceutical practice, as well as advice on a proposed decree on scientific-based fertilization and the proposed review of the Ordinance on the Prevention and Control of HIV/AIDS. The Regional Office for the Western Pacific also provided advice to Fiji, Kiribati and the Lao People's Democratic Republic on the drafting of food safety laws, and collaborated with many Member States from the Western Pacific Region to increase the adoption of Codex Alimentarius standards.

---

4. THE WORLD BANK

Loan-, Credit and Guarantee Agreements of the International Bank for Reconstruction and Development and the International Development Association that became effective during 2002 have been notified and forwarded for registration to the Office of Legal Affairs, Treaty Section, by separate communications during the course of 2002.

New members:

International Bank for Reconstruction and Development (IBRD): Timor-Leste (23 July 2002);

International Development Association (IDA): Singapore (27 September 2002); Timor-Leste (23 July 2002);

Multilateral Investment Guarantee Agency (MIGA): Chad (11 June 2002); Rwanda (27 September 2002); Syrian Arab Republic (14 May 2002); Timor-Leste (23 July 2002);

International Centre for Settlement of Investment Disputes (ICSID): Brunei Darussalam (16 October 2002); Timor-Leste (22 August 2002). Saint Vincent and the Grenadines deposited its instrument of ratification on 16 December 2002 (entry into force: 15 January 2003).

Signatures and ratifications

There were four new signatures and three ratifications of the Convention on the Settlement of Investment Disputes between States and Nationals of Other States of 1965 (the ICSID Convention) during 2002. At the end of the year, the number of signatories was 153 and the number of Contracting States 137.

Disputes before the Centre

During 2002, arbitration proceedings under the ICSID Convention were instituted in 18 new cases. These were:

LG&E Energy Corp., LG&E Capital Corp. and LG&E International Inc. v. *Argentine Republic* (case No. ARB/02/1);

Impregilo S.p.A. v. *Islamic Republic of Pakistan* (case No. ARB/02/2);

Aguas del Tunari S.A. v. *Republic of Bolivia* (case No. ARB/02/3);

Lafarge v. *Republic of Cameroon* (case No. ARB/02/4);

PSEG Global Inc., The North American Coal Corporation, and Konya Ilgin Elektrik Uretim ve Ticaret Limited Sirketi v. *Republic of Turkey* (case No. ARB/02/5);

SGS Société Générale de Surveillance S.A. v. *Republic of the Philippines* (case No. ARB/02/6);

Hussein Nuaman Soufraki v. *United Arab Emirates* (case No. ARB/02/7);

Siemens A.G. v. *Argentine Republic* (case No. ARB/02/8);

Champion Trading Company and others v. *Arab Republic of Egypt* (case No. ARB/02/9);

IBM World Trade Corp. v. *Republic of Ecuador* (case No. ARB/02/10);

Enrho St Limited v. *Republic of Kazakhstan* (case No. ARB/02/11);

JacobsGibb Limited v. *Hashemite Kingdom of Jordan* (case No. ARB/02/12);

Salini Costruttori S.p.A. and Italstrade S.p.A. v. *Hashemite Kingdom of Jordan* (case No. ARB/02/13);

CDC Group plc v. *Republic of the Seychelles* (case No. ARB/02/14);

Ahmonseto, Inc. and others v. *Arab Republic of Egypt* (case No. ARB/02/15);

Sempra Energy International v. *Argentine Republic* (case No. ARB/02/16);

AES Corporation v. *Argentine Republic* (case No. ARB/02/17);

Tokios Tokeles v. *Ukraine* (case No. ARB/02/18).

One arbitration proceeding was instituted under the ICSID Additional Facility Rules. This was:

Fireman's Fund Insurance Company v. *United Mexican States* (case No. ARB(AF)/02/1).

Five proceedings were discontinued. These were:

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

Philippe Gruslin v. *Malaysia* (case No. ARB/99/3);

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

AES Summit Generation Limited v. *Republic of Hungary* (case No. ARB/01/4);

Impregilo S.p.A. v. *Islamic Republic of Pakistan* (case No. ARB/02/2).

Six proceedings were closed following the rendition of awards by a tribunal or decisions of an ad hoc committee:

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

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

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

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

ADF Group Inc. v. *United States of America* (case No. ARB(AF)/00/1);

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

As of 31 December 2002, 27 other cases were pending before the Centre. These were:

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

Ceskoslovenska obchodni banka, a.s. v. *Slovak Republic* (case No. ARB/97/4);

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

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

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

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

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

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 Developments, Ltd. v. *Democratic Republic of the Congo and Générale des Carrières et des Mines* (case No. ARB/00/8);

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);

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

Antoine Goetz and others v. *Republic of Burundi* (case No. ARB/01/2);

Enron Corporation and Ponderosa Assets, L.P. v. *Argentine Republic* (case No. ARB/01/3);

Société d'Exploitation des Mines d'Or de Sadiola S.A. v. *Republic of Mali* (case No. ARB/01/5);

AIG Capital Partners, Inc. and CJSC Tema Real Estate Company v. *Republic of Kazakhstan* (case No. ARB/01/6);

MTD Equity Sdn. Bhd. and MTD Chile S.A. v. *Chile* (case No. ARB/01/7);

CMS Gas Transmission Company v. *Argentine Republic* (case No. ARB/01/8);

Booker plc v. *Co-operative Republic of Guyana* (case No. ARB/01/9);

Repsol YPF Ecuador S.A. v. *Empresa Estatal Petróleos del Ecuador (Petro-ecuador)* (case No. ARB/01/10);

Noble Ventures, Inc. v. *Republic of Romania* (case No. ARB/01/11);

Azurix Corp. v. *Argentine Republic* (case No. ARB/01/12);

SGS Société Générale de Surveillance S.A. v. *Islamic Republic of Pakistan* (case No. ARB/01/13);

F-W Oil Interests, Inc. v. *Republic of Trinidad and Tobago* (case No. ARB/01/14).

5. INTERNATIONAL CIVIL AVIATION ORGANIZATION

(*a*) Membership

On 21 May 2002, Saint Kitts and Nevis deposited with the Government of the United States its notification of adherence to the Convention on International Civil Aviation with effect from 20 June, bringing the number of ICAO Contracting States to 188.

(*b*) Conventions and agreements

On 25 July, the Protocol to Amend the Convention on Damage Caused by Foreign Aircraft to Third Parties on the Surface entered into force, having been ratified by five signatory States. Two accessions by non-signatory States received earlier were formally deposited on the same date.

On 28 November, the Protocol relating to an Amendment to the Convention on International Civil Aviation (art. 50 (*a*)) entered into force, having been ratified by 108 States. The Protocol provides for the increase of the membership of the ICAO Council from 33 to 36 Contracting States. Three additional Contracting States represented on the Council were elected by the 34th (extraordinary) session of the Assembly held in Montreal, Canada, from 31 March to 1 April 2003.

(*c*) Other major legal developments

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

At its 167th session, the Council decided that the work programme of the Legal Committee should include the following:

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

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

3. Consideration of the modernization of the Convention on Damage Caused by Foreign Aircraft to Third Parties on the Surface.

4. International interests in mobile equipment (aircraft equipment).

5. Review of the question of the ratification of international air law instruments.

6. Implications, if any, of the United Nations Convention on the Law of the Sea, 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 sixth meeting in Montreal from 21 to 22 March, and its seventh meeting in Washington from 30 October to 1 November. Pursuant to the decision of the 33rd session of the Assembly, the Group continued to consider a contractual legal framework for CNS/ATM. A draft model contractual clause was in preparation.

Regarding item 2, resolution A33-4, Adoption of national legislation on certain offences committed on board civil aircraft (unruly/disruptive passengers), was transmitted to Contracting States in June, along with circular 288-LE/1, *Guidance Material on the Legal Aspects of Unruly/Disruptive Passengers*, prepared by the ICAO Secretariat. An evaluation of the status of the implementation of the model legislation set out in the resolution was in progress.

Regarding item 3, at the 8th meeting of its 166th session, on 5 June 2002, the Council took note of a study prepared by the Secretariat on the subject based on a questionnaire sent to Contracting States in June 2001, and agreed to the establishment of a Secretariat Study Group to assist the Secretariat in the future work on this subject. The first meeting of the Secretariat Study Group on the Modernization of the Rome Convention of 1952 was held from 12 to 13 December 2002 in Montreal.

Regarding item 4, the Preparatory Commission for the International Registry held its first meeting at ICAO headquarters in Montreal from 8 to 10 May 2002 and approved a documentation package with a view to launching an international tender for the selection of the Registrar when the necessary funds, to be provided by voluntary contributions from States and interested private parties, become available, in accordance with resolution No. 2 of the Diplomatic Conference to Adopt a Mobile Equipment Convention and an Aircraft Protocol. In addition, the Preparatory Commission established a working group to review the draft regulations for the International Registry, which had been prepared prior to the Diplomatic Conference. The working group met in Washington from 4 to 6 September and in Montreal from 12 to 14 November, having agreed on a revised version of the draft regulations, which would be included in the documentation for tender package.

(ii) *Settlement of differences*

Regarding the settlement of differences between the United States and 15 European States (2000) relating to the European "Hushkits" regulation, No. 925/1999, further meetings of the parties, with the President of the Council as Conciliator, were held on 18 February and 13 May 2002 in Montreal. As the United States had acknowledged the repeal of the regulation on 26 March, by virtue of article 15 of Directive 2002/30/EC, the parties had agreed, in principle, to discuss the proceedings before the Council.

However, new circumstances arose, in particular, the issuance of the Royal Decree of 14 April 2002 by Belgium which, in the view of the United States, had re-enacted certain features of the "Hushkits" regulation, so that it wished

to discontinue the proceedings only against 14 of the 15 European States, i.e. not including Belgium. At the 12th meeting of its 166th session, on 12 June, the Council fixed the date of 31 July as the time limit for the Authorized Agent for the respondent 15 European States to state whether they objected to the discontinuance of the proceedings. By letter dated 24 July, ICAO was informed that, in the view of the respondents, the article 84 complaint should be withdrawn from all 15 European States. Further meetings of the Conciliator with the parties took place on 18 July in Brussels and on 16 October in Washington, D.C.

Furthermore, ICAO was informed on 16 October that the European Commission would open a formal procedure against Belgium for failing to properly implement Directive 2002/30/EC. Under this process, Belgium had two months to make observations, to be reviewed by the European Commission before it made a decision on further steps. Therefore, the Council, on 25 November, at the 10th meeting of its 167th session, decided to extend the time limit in the present case, to bring it forward to the 168th session of the Council. The President of the Council would continue to act as Conciliator, with the consent of the parties.

(iii) *Assistance in the field of aviation war risk insurance*

Noting with interest a proposal of the Special Group on Aviation War Risk Insurance (SGWI/2) (Montreal, 28-30 January 2002) for the setting up of an international insurance scheme, the Council, at the 6th meeting of its 165th session, agreed to establish the Council Group on Aviation War Risk Insurance (CGWI) to work with the Secretariat to review the recommendation of SGWI. The Group held two meetings: CGWI/1 (Montreal, 16 April) and CGWI/2 (Montreal, 24 April).

In consideration of the outcome of those meetings, and in line with resolution A33-20, Coordinated approach in providing assistance in the field of aviation war risk insurance, the Council, on 27 May, at the 4th meeting of its 166th session, approved in principle the recommendation of SGWI to establish a global aviation war risk insurance scheme. This included a draft Participation Agreement subject to finalization by the Secretariat with the assistance of an informal group of experts, for final approval by the Council. The commencement of the global scheme, participation in which is voluntary, would be subject to the signature of the Participation Agreement by a sufficient number of Contracting States, the sum of whose ICAO contribution rates should amount to at least 51 per cent, as indicated in resolution A33-26, Assessments to the General Fund for 2002, 2003 and 2004 (the Assembly resolution being used as the basis for determining the provision of guarantees to the global scheme).

The President of the Council accordingly informed Contracting States by State letter dated 6 June and 12 July, seeking expressions of intent to participate, by 15 October. Noting the status of replies from Contracting States, the Council, on 21 October, at the 3rd meeting of its 167th session, decided to further extend the time limit to 14 February 2003 (State letter dated 6 November, at which date States representing 40.56 per cent of annual contributions

to the Organization had declared their intention to participate in or to support the scheme "Globaltime", some of which favourably but with conditions).

---

6. UNIVERSAL POSTAL UNION

In 2002, the Council of Administration approved resolution CA 1/2002 endorsing recommendations by the United Nations Joint Inspection Unit in its report "Enhancing Governance Oversight Role: Structure, Working Methods and Practices on Handling Oversight Reports" (JIU/REP/2001/4), pursuant to new processing and acceptance procedures that had been agreed between the UPU and JIU secretariats and approved at the 2001 session of the Council. The Director-General of the International Bureau of UPU was to submit appropriate proposals to the Council in 2003 for consideration as to follow-up on the JIU recommendations.

The Council of Administration Acts of the Union Project Team took note of the document which identified other intergovernmental organizations' practices on reservations to their Acts. The findings of the questionnaire showed that the UPU practices were similar to those of other international organizations; however, the practices of other international organizations did not identify any solutions to the problems of UPU. The Project Team endorsed the suggestion of the International Bureau to draw up a set of guidelines on reservations to help member countries in formulating reservations and to facilitate the work of the Universal Postal Congress and the Postal Operations Council. It asked the Bureau to carry out a comparative analysis of the UPU rules and practices on the submission and approval of reservations to the UPU Convention vis-à-vis the rules and practices on reservations to the Regulations. The Project Team asked the Bureau to examine the terms "counter-reservation" and "objection to reservation", with a view to clarifying the legal implications of the two terms. The Bureau was to re-examine the 2004 Congress schedule to identify possible ways to allow more time to discuss reservations at the next Congress. These decisions were duly endorsed by Committee 1 of the Council of Administration and were to be reported in 2003.

The Acts of the Union Project Team proposed amendments to the recast Convention which would harmonize the language and clarify certain provisions; the proposals were approved by the Council of Administration. This text of the recast Convention was approved by the Council in 2001 and was the basis upon which administrations would submit their proposals for the Convention to the Bucharest Congress.

The Acts of the Union Project Team began a study of certain fundamental terms in the Constitution, Regulations and Convention in order to

define those terms. The object was to determine whether to include the definitions in the Acts of the Union for the next Congress.

The Council of Administration approved in 2002 draft Rules of Procedure for the Consultative Committee to be presented for approval at Congress. This would enable the Advisory Group to commence work under the same rules as the future Consultative Committee. In 2001, the Council had approved the High-Level Group's recommendations to Congress to form a new permanent body of the Union, comprising interested stakeholders in the postal industry, to be called the Consultative Committee.

The purpose of the Council of Administration's Relations with the WTO Project Team was to enhance awareness among UPU members of WTO affairs through circular letters and through a Web page on the UPU site. In 2002 the Council approved the Project Team's request to post Council and Beijing Congress documents on the website to increase the transparency of its work and assist researchers, trade officials and industry stakeholders in getting a better understanding of the WTO perspectives on the implications of obligations under the General Agreement on Trade in Services (GATS) for postal markets. The WTO Project Team held two seminars on the main WTO issues of relevance to UPU members. A seminar entitled "Mind the GATS" was organized in April 2002. The second seminar, entitled "The Classification Debate: Defining Postal, Courier, and Express Delivery Services for World Trade Organization (WTO) Negotiations", took place in October 2002. The requests by UPU for observer status in WTO and for a Memorandum of Understanding with WTO were still pending. In the meantime, informal cooperation between UPU and WTO was working well. The International Bureau was continuing its close contact with the WTO Secretariat to follow up on cooperative measures.

UPU signed a Memorandum of Understanding with IAEA after six years of collaborative work on an informal basis. The objective of the MOU was a pledge to cooperate more closely to ensure the safety of the international mail network through early detection of illicit transport of radioactive materials and the safe shipment of accepted materials. The UPU/Postal Security Action Group Interagency Working Group on Dangerous Goods would develop projects of mutual interest, such as joint training programmes and awareness campaigns.

---

7. INTERNATIONAL MARITIME ORGANIZATION

(*a*) Membership of the Organization

During 2002 the Republic of San Marino became a Member of the Organization. Membership of the Organization now stands at 162. Follow-

ing the declaration by the Kingdom of Denmark on 2 December 2002 that the Faroe Islands had become an Associate Member of IMO, there are now three Associate Members.

(*b*) Review of the legal activities of IMO

The Legal Committee held its eighty-fourth session from 22 to 26 April 2002 and its eighty-fifth session from 22 to 24 October 2002.[193] For the first time (and as endorsed by the Committee at its eighty-third session), a session (eighty-fifth) of the Legal Committee was held back to back with a Diplomatic Conference (the International Conference on the Revision of the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974).

International Conference on the Revision of the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974

The International Conference on the Revision of the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974, took place at the headquarters of IMO from 21 October to 1 November 2002. The Conference was convened by decision of the Council at its twenty-first extraordinary session, which was endorsed by the Assembly at its twenty-second regular session by resolution A.906(22).

Seventy-one States were represented by delegations at the Conference. The Czech Republic was represented by an observer delegation. Hong Kong, China, an Associate Member of the Organization, also sent observers to the Conference. Observers from 4 intergovernmental organizations and from 17 non-governmental international organizations in consultative status with IMO also participated in the Conference.

As a result of its deliberations, the Conference adopted a treaty instrument, the text of which is in document LEG/CONF.13/20, entitled Protocol of 2002 to the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974.

The main objective of the Protocol is to provide compensation in adequate measure for loss of human life and physical injury for passengers travelling by sea. The compensation available under the 1974 Athens Convention has been substantially enhanced under the Protocol. Moreover, to the benefit of passengers, the notion of strict liability of the carrier has been introduced into the Convention, as well as that of compulsory insurance and a simplified procedure for updating the limitation amounts. As with all IMO Conventions, the aim of this new treaty is to create an internationally accepted regime, so that the shipping industry does not become subject to a variety of individual national schemes. The Protocol will enter into force 12 months following the date on which 10 States have expressed their consent to be bound by it.

Sixty-four States signed the Final Act of the Conference, the text of which is in document LEG/CONF.13/21.

The Conference also adopted the following resolutions, the texts of which are contained in the attachment to the Final Act and also in document LEG/CONF.13/22: (*a*) Resolution on Regional Economic Integration Organizations; (*b*) Resolution on certificates of insurance or other financial security and ships flying the flag of a State under the terms of a bareboat charter registration; (*c*) Resolution on framework of good practice with respect to carriers' liabilities.

Draft convention on wreck removal

The Committee at its eighty-fourth and eighty-fifth sessions concentrated on this item. The Committee considered submissions on the result of intersessional consultations regarding the development of the draft convention, the relationship between the draft convention and the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969, and a proposal to reinstate the definition of "flag State" throughout the draft. It also considered other pending issues in the draft convention including financial liability for locating, marking and removing wrecks, evidence of financial security, measures to facilitate the removal of wrecks, and the question of whether a State would be deemed to give advance consent to the exercise by a coastal State of authority to remove wrecks, where this was not otherwise permitted under international law. In connection with measures to facilitate the removal of wrecks, the Committee requested the Secretariat to prepare a document on the mandate of IMO to regulate the coastal State's intervention powers in the exclusive economic zone (EEZ) within the framework of international law, including the United Nations Convention on the Law of the Sea (UNCLOS).

In the course of its discussion on financial security, the Committee considered whether the term "act of terrorism" should be expressly included in the draft.

The Committee approved in principle the contents of article 12, which aimed at ensuring that the draft convention did not overlap and conflict with other liability regimes. The Committee also broadly supported the inclusion of article 10 on measures to facilitate the removal of wrecks, but noted the diverging views on whether to replace the expression "State of the ship's registry" with "flag State", as well as with regard to the power of the coastal State to remove wrecks.

A debate was held on the contents of article 13 regulating financial security. The Committee invited the representative of the International Group of P&I [Protection and Indemnity] Clubs to submit a written proposal on the features and extent of the evidence of financial security, covering, in particular, the effect of a valid Certificate of Entry in a Club Member.

The Committee decided to delete article 2 (4), under the terms of which a State would be deemed to give advance consent to coastal States to rescue wrecks where this was not otherwise permitted under international law.

Review of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988, and its Protocol of 1988 relating to Fixed Platforms Located on the Continental Shelf (SUA treaties)

The Committee considered a draft protocol to the SUA treaties submitted by the United States as lead country for an intersessional Correspondence Group, as well as another submission on the need to avoid overlap and duplication with other treaties.

The Committee held a preliminary discussion on the main features in the draft protocol, covering proposed new offences, attempts, accomplice liability, duress or threats, the elimination of the political offence exception, the transfer of persons to assist in investigations and prosecutions, new boarding provisions, the exclusion of armed forces, replacement of the concept of flag State by that of nationality of the ship and exemption of naval auxiliaries.

While some concern was expressed at the possibility of overlapping and duplication with other treaties, it was also noted that some overlap might be unavoidable in order to close the gaps that would arise if some States did not become party to other conventions on terrorism and if some States did not become party to the new protocol. It was suggested that the Correspondence Group should look into the issue.

Concern was also expressed about the drafting of the articles on attempts. The Correspondence Group was requested to examine each proposed offence individually to determine whether it was appropriate to add an attempt of that offence as a separate offence. The view was also put, in relation to draft article 5 (3) on accomplice liability, that abetting an offence was already covered in the Convention.

There was some support in principle for the removal of the political offence exception. However, some delegations cautioned against its removal bearing in mind the expansion of offences and the widening of the scope of other provisions of the treaty. In order to meet concerns about human rights safeguards, the suggestion was made to include a provision similar to that contained in article 15 of the International Convention for the Suppression of the Financing of Terrorism. That article enables a State to refuse a request for extradition or mutual assistance if there are grounds for believing it was made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin or political opinion.

Concern was expressed on the introduction of new boarding provisions. Reference was made to the potential lack of compatibility between

the proposed boarding procedures and the principles of freedom of navigation and flag State jurisdiction. Doubts were also expressed about the compelling need for such an article and its potential for abuse in its practical application. The Committee also voiced its concern about the safety of crews who might be exposed to hijacking by individuals posing as members of armed forces of a State. It was suggested that additional safeguards might need to be developed to protect seafarers.

The Committee did not agree with the proposed new language to describe nationality of the ship and preferred to retain the traditional language of "flying the flag" included in other IMO Conventions as well as in UNCLOS.

The Committee indicated its strong preference in favour of retaining the traditional language for the exclusion of naval auxiliaries used in other international instruments. Doubts were expressed as to the feasibility of excluding the armed forces of a State from the ambit of the Convention.

The Committee noted that the convening of an intersessional group would be premature in view of the preliminary nature of the deliberations at this stage. The Committee accordingly decided to instruct the Correspondence Group to continue its deliberations. In so doing it emphasized the need for transparency and for circulation of all comments submitted to the Group. It was further suggested that the Maritime Safety Committee might consider the safety aspects of the draft proposals.

Monitoring the implementation of the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 (HNS Convention)

The Committee noted the progress made by the Correspondence Group established by the Committee at its eightieth session to assist the Committee in monitoring the implementation of the HNS Convention. In particular, the Committee noted that an IMO HNS Correspondence Group website had been set up and would continue to be updated. This website was linked to the IMO website which also displayed relevant information regarding the HNS Convention.

In response to requests made at the eighty-fourth session of the Legal Committee for information on the reasons why Governments should join the HNS regime, the Committee noted the information submitted to it on some 65 incidents involving the international carriage of hazardous and noxious substances since 1995. Member States were encouraged to add any relevant information to the list.

The Committee noted the work done by the International Oil Pollution Compensation Funds on the development of an electronic database to report contributing cargo under the HNS Convention. There was also support for a proposal to request the IMO Secretariat to monitor cargo

contributions and report on them to each session of the Legal Committee in order to identify the point of entry into force of the HNS Convention.

Provision of financial security: Joint IMO/ILO Ad Hoc Expert Working Group on Liability and Compensation regarding Claims for Death, Personal Injury and Abandonment of Seafarers

The Committee took note of an oral report on the fourth session of the Joint Group, as well as of the fact that the Group had entered the second part of its mandate, consisting in monitoring the implementation of resolutions A.930(22) and A.931(22) and related Guidelines adopted by the IMO Assembly on 29 November 2001.

The Committee also noted that, in order to help this monitoring process, the Group had prepared two questionnaires to be sent to competent national administrations and to relevant organizations. The Committee requested the Secretariat to circulate the two questionnaires and encouraged Governments and the relevant organizations to submit the required information, taking into account the report of the fourth session of the Ad Hoc Working Group. The holding of a fifth session of the Group was endorsed by the Committee.

Draft protocol to amend the 1992 International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (Fund Convention)

In its eighty-fourth session, the Committee noted background information on the preparation of the draft protocol to the Fund Convention submitted by the Chairman of the 1992 Fund Assembly. The draft protocol had been approved by the 1992 Assembly. If adopted, the protocol would establish an optional supplementary Fund open to States parties to the 1992 Fund Convention to pay compensation for claims exceeding the limits established in the Fund Convention and the International Convention on Civil Liability for Oil Pollution Damage, 1992 (CLC Convention).

The Committee approved the draft text as contained in document LEG 84/5 and concluded that the draft protocol was ready for submission to a diplomatic conference and that it had good prospects both for adoption by the conference and for subsequent implementation by States.

Code of practice for the investigation of crimes of piracy and armed robbery at sea

At its eighty-fourth session, the Committee agreed to keep the matter in its work programme and on its agenda for the eighty-sixth session and to revert to it at a future session. The Committee also requested the Secretariat to make available resolution A.922(22) and to make the relevant part of its report available to the Maritime Safety Committee (MSC).

Technical cooperation—subprogramme for maritime legislation

The Committee noted the progress report on the implementation of the subprogramme from January to June 2002.

The Committee also noted the information provided by the Director of the Technical Cooperation Division on the main features of implementation of the subprogramme in view of the ongoing requests for assistance received from many countries wishing to update their maritime legislation. In this regard the Committee took note of the external constraints on implementation, including the need to identify qualified consultants to provide advice in the field of maritime law.

Matters arising from the eighty-eighth session of the Council

The Committee took note of the information on matters relevant to the Committee arising from the eighty-eighth session of the Council.

Review of status of conventions and other treaty instruments adopted as a result of the work of the Legal Committee

The Committee took note of 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.

Other matters

Decision on the measures to protect crews and passengers against crimes on vessels

The Committee noted information on an incident on the high seas involving the suspicious death of a seafarer. In particular, the Committee considered the difficulties for a flag State geographically far from the place of the incident to take steps to exercise jurisdiction over such an incident. Delegations were divided in their opinions as to whether the SUA treaties would, or would not, apply to the incident. Concern was expressed at the suggestion that a coastal State should be compelled to accept delivery of a foreign suspect in the event of a crime committed on a foreign-flag ship on the high seas.

Some delegations expressed the view that although it might not be necessary to develop a new international convention to address this matter, guidelines might be developed for masters and coastal States to provide practical guidance on how to handle such situations and to remind flag States of their responsibilities to enforce criminal law on ships flying their flag.

The Committee agreed that it would not be appropriate to include this matter as part of the review of the SUA Convention. It also noted that it

would be premature to include this matter on its work programme as a separate item until additional information was available on current State practice and domestic law.

The Committee accepted the offer by the Comité Maritime International (CMI) to develop a questionnaire, in consultation with the Secretariat of the IMO Legal Office, to be sent by IMO to Member Governments to solicit information which may be relevant to the Committee's further consideration of this matter.

Places of refuge

The Committee noted the information provided by the Secretariat and by the Assistant Secretary-General and Director of MSC on the work of several IMO bodies in this regard. In particular the Committee noted that three draft Assembly resolutions were being considered, and that if so requested by MSC at its seventy-sixth session in December 2002, it might have to consider work in progress from a legal perspective in matters such as liability and compensation for damage arising from entry of a ship in need of assistance into a place of refuge.

The Committee further noted the results of a CMI survey conducted at the Committee's request, to ascertain the extent to which domestic law dealt with the problem of vessels in distress seeking refuge. In this regard the Committee noted that the responses of the CMI members did not indicate that States had imposed legal liabilities on the owners of such vessels and that CMI was in the process of analysing the liability issues.

The Committee requested the Secretariat to circulate the draft resolutions well in advance of the Committee's next session. The Secretariat was also requested to review, in cooperation with CMI, the provisions of existing international instruments and of national law dealing with liability and compensation and their application to places of refuge.

Treatment of persons rescued at sea

The Committee at its eighty-fifth session took note of information on the work of other IMO bodies on treatment of persons rescued at sea as well as of the Secretary-General's initiative in promoting inter-agency cooperation in this regard.

The Committee decided that there was no specific action to be taken at this session. However, it noted that it might be requested by other IMO bodies to examine particular issues, and that it would need to decide at its next session what interim report to submit to the Council for transmission to the twenty-third Assembly.

(*c*) Amendments to treaties

2002 amendments to the Annex to the Convention on Facilitation of International Maritime Traffic, 1965, as amended

These amendments were adopted by the Facilitation Committee on 10 January 2002 by resolution FAL.7(29). At the time of their adoption, the Facilitation Committee determined that they would enter into force on 1 May 2003, unless, prior to 1 February 2003, at least one third of Contracting Governments had notified the Secretary-General in writing that they did not accept the amendments.

2002 (chapters IV, V, VI and VII and appendix to the Annex) amendments to the International Convention for the Safety of Life at Sea, 1974

These amendments were adopted by the Maritime Safety Committee on 24 May 2002 by resolution MSC.123(75). At the time of adoption, MSC determined that these amendments would be deemed to have been accepted on 1 July 2003 and would enter into force on 1 January 2004, unless, prior to 1 July 2003, more than one third of the Contracting Governments to the Convention, or Contracting Governments the combined merchant fleets of which constituted not less than 50 per cent of the gross tonnage of the world's merchant fleet, had notified their objections to the amendments. As at 31 December 2002, no notification of objection had been received.

2002 amendments to the Protocol of 1988 relating to the International Convention for the Safety of Life at Sea, 1974

These amendments were adopted by MSC on 24 May 2002 by resolution MSC.124(75). At the time of adoption, the Committee determined that these amendments would be deemed to have been accepted on 1 July 2003 and would enter into force on 1 January 2004, unless, prior to 1 July 2003, more than one third of the parties to the Protocol, or parties the combined merchant fleets of which constituted not less than 50 per cent of the gross tonnage of the world's merchant fleet, had notified their objections to the amendments. As at 31 December 2002, no notification of objection had been received.

2002 amendments to the Guidelines on the enhanced programme of inspections during surveys of bulk carriers and oil tankers (resolution A.744(18)), as amended (under the International Convention for the Safety of Life at Sea, 1974 (SOLAS 74))

These amendments were adopted by MSC on 24 May 2002 by resolution MSC.125(75). At the time of adoption, the Committee determined that these amendments would be deemed to have been accepted on 1 July 2003

and would enter into force on 1 January 2004, unless, prior to 1 July 2003, more than one third of the SOLAS Contracting Governments, or SOLAS Contracting Governments the combined merchant fleets of which constituted not less than 50 per cent of the gross tonnage of the world's merchant fleet, had notified their objections to the amendments. As at 31 December 2002, no notification of objection had been received.

International Maritime Dangerous Goods Code (under SOLAS 74)

This Code was adopted by MSC on 24 May 2002 by resolution MSC.122(75). The Code would take effect on 1 January 2004, upon the entry into force of the corresponding 2002 amendments to chapter VII of SOLAS, adopted by resolution MSC.123(75). The Code might be applied by SOLAS Contracting Governments, on a voluntary basis, as from 1 January 2003.

2002 amendments to the Condition Assessment Scheme (under the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78))

These amendments were adopted by the Marine Environment Protection Committee on 11 October 2002 by resolution MEPC.99(48). At the time of their adoption, the Committee determined that the amendments would be deemed to have been accepted on 1 September 2003 and would enter into force on 1 March 2004, unless, prior to 1 September 2003, not less than one third of the parties to MARPOL 73/78, or parties the combined merchant fleets of which constituted not less than 50 per cent of the gross tonnage of the world's merchant fleet, had notified to the Organization their objection to the amendments. As at 31 December 2002, no notification of objection had been received.

2002 amendments to the Protocol relating to Intervention on the High Seas in Cases of Pollution by Substances other than Oil, 1973

The Marine Environment Protection Committee at its forty-eighth session, on 11 October 2002, adopted, by resolution MEPC.100(48), an amended list of substances to be annexed to the Protocol. The amended list would be deemed to have been accepted at the end of the period of six months after it had been communicated, unless, within that period, an objection to these amendments had been communicated to the Organization by not less than one third of the parties to the Protocol. The amended list would enter into force three months after it had been deemed to have been accepted. As at 31 December 2002, no notification of objection had been received.

International Code for the Security of Ships and of Port Facilities (under SOLAS 74)

A Conference of Contracting Governments to SOLAS 74, held in London from 9 to 13 December 2002, adopted the International Code for the Security of Ships and of Port Facilities. In accordance with resolution 2 of the Conference, the Code would take effect on 1 July 2004, upon the entry into force of the new chapter XI (Special measures to enhance maritime security) of the Convention, which the Conference adopted under resolution 1.

2002 (chapter II-1) amendments to SOLAS 74

These amendments were adopted by MSC on 12 December 2002 by resolution MSC.134(76). At the time of their adoption, the Committee determined that these amendments would be deemed to have been accepted on 1 January 2004 and would enter into force on 1 July 2004, unless, prior to 1 January 2004, more than one third of the Contracting Governments to the SOLAS Convention, or Contracting Governments the combined merchant fleet of which constituted not less than 50 per cent of the gross tonnage of the world's merchant fleet, had notified their objections to the amendments. As at 31 December 2002, no notification of objection had been received.

2002 amendments to the International Code for the Safe Carriage of Packaged Irradiated Nuclear Fuel, Plutonium and High-Level Radioactive Wastes on Board Ships (INF Code) (under SOLAS 74)

These amendments were adopted by MSC on 12 December 2002 by resolution MSC.135(76). At the time of their adoption, the Committee determined that these amendments would be deemed to have been accepted on 1 January 2004 and would enter into force on 1 July 2004 unless, prior to 1 January 2004, more than one third of the Contracting Governments to the Convention, or Contracting Governments the combined merchant fleets of which constituted not less than 50 per cent of the gross tonnage of the world's merchant fleet, had notified their objections to the amendments. As at 31 December, no notification of objection had been received.

Adoption of technical provisions for means of access for inspections (under SOLAS 74)

These technical provisions were adopted by MSC on 12 December 2002 by resolution MSC.133(76). At the time of their adoption, the Committee determined that they would become mandatory on 1 July 2004, upon the entry into force of the new regulation II-1/3-6 of SOLAS 74, adopted under resolution MSC.134(76), but would take effect only on 1 January 2005.

8. WORLD INTELLECTUAL PROPERTY ORGANIZATION

(*a*) Introduction

In the year 2002, the World Intellectual Property Organization (WIPO) concentrated on the implementation of substantive work programmes through three sectors: cooperation with Member States, the international registration of intellectual property rights, and intellectual property treaty formulation and normative development. WIPO also explored and promoted new intellectual property concepts, strategies and issues covering four areas, namely genetic resources, traditional knowledge and folklore, small and medium-sized enterprises (SMEs) and intellectual property, electronic commerce and intellectual property, and intellectual property enforcement issues and strategies.

(*b*) Cooperation for development activities

In 2002, the cooperation for development activities undertaken by WIPO supported developing countries in optimizing their intellectual property systems for economic, social and cultural benefits. The main forms in which WIPO provided assistance to developing countries continued to be the development of human resources, and the provision of legal advice and technical assistance for the automation of administrative procedures.

The Forum on Strategic Issues for the Future, held under the auspices of the Permanent Committee on Cooperation for Development, stimulated debate among Member States on a number of issues to help shape the direction of cooperation for development activities in the next biennium.

WIPO continued to provide legislative assistance to developing countries and least developed countries (LDCs). In 2002, WIPO provided 21 draft laws on intellectual property to 21 countries, and prepared 24 comments on draft or enacted laws at the request of Governments. In addition, consultations on legislation were held with officials from 13 countries.

Responding to the special needs of LDCs, particularly in assisting them in developing policies to effectively implement and use the intellectual property system to meet their development objectives, became an increasingly pressing task given the 2006 deadline for compliance with the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement).

The development of human resources being a crucial strategic component in efforts to modernize the intellectual property system, the WIPO Worldwide Academy (WWA) contributed to this goal through policy development, professional training, and its distance learning programme.

As the richness of the culture and heritage of many developing countries and LDCs originates with their creators and owners of copyright and related rights, WIPO pursued its assistance to national copyright administrations and collective management organizations.

(*c*) Norm-setting activities

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.

The establishment of 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 centralize the discussions, coordinate efforts and establish priorities in these areas.

Standing Committee on the Law of Patents (SCP)

In 2002, discussions continued in the framework of SCP towards the harmonization of substantive patent law, with a view to agreeing on a number of legal principles relating to the examination of patent applications and the grant and validity of patents. Discussions were based on a draft Substantive Patent Law Treaty (SPLT), and SCP made further progress towards a common understanding on several issues arising from differences that exist among patent systems. The SCP agreed, in principle, on a number of provisions contained in the draft SPLT (e.g. scope of the SPLT, definition of prior art, novelty, incentive step/non-obviousness, sufficiency of disclosure). In respect of other issues (e.g. provisions on patentable subject matter or on exceptions to be included in the Treaty), it emerged that there was a need for further discussions. It was also decided to include proposals relating to the protection of public health, genetic resources, traditional knowledge and a number of other policy issues in the draft treaty.

Standing Committee on Trademarks (SCT)

In 2002, SCT made progress towards the harmonization of rules and principles of the law of trademarks, industrial designs and geographical indications and the modernization of the Trademark Law Treaty. Apart from the introduction of provisions on electronic filing, SCT also decided to address other formal requirements for the registration of marks and related procedures.

As regards the protection of geographical indications, the work of SCT in 2002 focused on the promotion of a better understanding of the issues involved and of the characteristics of the existing systems of protection. In this regard, SCT addressed, in particular, questions relating to definitions, protection in the country of origin, protection abroad, practical differences between the existing systems, generic terms, conflicts between trademarks and geographical indications, and conflicts between homonymous geographical indications.

Standing Committee on Copyright and Related Rights (SCCR)

In 2002, SCCR made substantial progress towards preparing the ground for a possible international instrument on the protection of broadcasting organizations. The Committee generally agreed on the need to fully clarify the scope of protection before granting specific rights to the various stakeholders, as well as on the need to balance stakeholder interests with those of the general public. The issue of the protection of non-original databases was also discussed on the basis of six studies on the impact of the protection of such databases, as well as an overview of existing national and regional legislation in this field, prepared by the Secretariat.

The future programme of SCCR was significantly broadened to include such topics as the responsibility of Internet service providers, applicable law in respect of international infringements, voluntary copyright registration systems, resale right or *droit de suite*, ownership of rights on multimedia productions, technological measures of protection, limitations and exceptions in the digital environment, collective management of copyright and related rights and copyright protection of folklore.

Standing Committee on Information Technologies (SCIT)

In 2002, SCIT, through its various meetings (SCIT plenary session, one session of the SCIT Information Technology Projects Working Group and two sessions of the SCIT Standards and Documentation Working Group), continued to serve as a forum to give policy guidance and technical advice on the overall information technology strategy of WIPO, including WIPO standards and the documentation aspects of intellectual property.

(*d*) International registration activities

Patents

Use of the Patent Cooperation Treaty (PCT) continued to grow throughout 2002. About 114,000 applications were filed worldwide under PCT in 2002, representing a 10 per cent increase compared to 2001. The number of countries participating in the PCT system rose as well, to 118.

At its annual session, the Assembly of the PCT Union adopted a number of measures designed to further streamline and simplify the fil-

ing system under PCT. The measures included an enhanced international search and preliminary examination system, the introduction of a new system of designating countries in which patents are sought, and a fee reduction for international applications filed in electronic form.

PCT electronic filing

A new pilot project the PCT-SAFE (Secure Applications Filed Electronically) for PCT electronic filing was launched, based on the present PCT-EASY (Electronic Application System). As part of the pilot, PCT received its first electronically filed application.

Marks

The number of international trademark registrations recorded under the Madrid System in 2002 reached 22,236. This represents a decrease of 7.2 per cent from the previous year, which can be ascribed to the global economic slowdown. Over the course of the year, membership of the Madrid Protocol rose to 56, bringing the total membership of the Madrid Union to 70.

Industrial designs

Under the Hague System, the number of international deposits recorded in 2002 amounted to 4,177 and remained stable compared to the preceding year. Since January 2002, users benefit from a reduction in registration fees resulting from a simplified method of calculating the publication fees and streamlining of the requirements for the presentation of reproductions, as agreed by the Hague Union Assembly.

The membership of the Hague System rose by one to reach a total of 30, and four new instruments of ratification or accession to the 1999 Geneva Act of the Hague Agreement were deposited, totalling seven such instruments deposited. This new Act would enter into force when ratified or acceded to by six countries, of which at least three must have a certain level of activity in the field of industrial design protection.

Appellations of origin

A major revision of the Regulations under the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration entered into force in 2002, which simplify and clarify procedures, making the system more user-friendly and transparent.

(*e*) Intellectual property and global issues

Genetic resources, traditional knowledge and folklore

Two sessions of the Intergovernmental Committee on Intellectual Property and Genetic Resources: Traditional Knowledge and Folklore

(IGC) were held in 2002. The work of IGC is multifaceted, drawing together in one forum empirical surveys, policy debate, reports of national experience, exchange of experiences of local and indigenous communities, analysis of policy options and legal systems, the crafting of specific practical tools and discussion and coordination of capacity-building needs and initiatives in relation to intellectual property and genetic resources, traditional knowledge (TK) and traditional cultural expressions (TCEs).

A major input was also provided to the development of a regional model for protection of TK and TCEs for Pacific island countries.

Throughout the year, an important number of meetings and workshops were organized to promote the understanding and use of intellectual property by holders of TK and folklore and other stakeholders.

Small and medium-sized enterprises (SMEs) and intellectual property

Activities focused on the development of an extensive international network of partners to help deliver the message of the crucial role played by the intellectual property system in enhancing the competitiveness of SMEs in all sectors of the economy. This network included institutions providing support and finance to SMEs worldwide, other United Nations agencies, national SME focal points, intellectual property offices and copyright administrations in Member States.

Throughout the year, the user-friendly and interactive content of the WIPO SMEs website was regularly enhanced and the monthly average number of bits increased considerably, as did the subscribers to the free monthly e-newsletter.

Intellectual property enforcement issues

A single Advisory Committee on Enforcement was established, in charge of global enforcement issues, with the emphasis on coordination with certain organizations and the private sector to combat counterfeiting and piracy, public education, technical assistance and exchange of information. In October 2002, the Enforcement and Special Projects Division was established to serve as the focal point for enforcement activities within WIPO.

Furthermore, the Secretariat made arrangements for the development and launching of an Electronic Forum on Intellectual Property Enforcement Issues and Strategies.

Electronic commerce: Internet domain names

In December 2002, WIPO published a report entitled "Intellectual Property on the Internet: A Survey of Issues" that addressed the far-reaching impact that digital technologies, the Internet in particular, have had on intellectual property and the international intellectual property system.

With respect to the protection of intellectual property in the Domain Name System (DNS), important results were achieved in the form of a decision by WIPO Member States on the recommendations of the Special Sessions of SCT regarding the report of the Second Internet Domain Name Process. Through this decision, WIPO Member States recommended that the names and acronyms of intergovernmental organizations and country names should also be protected against abusive registration as domain names.

The WIPO Arbitration and Mediation Centre

In 2002, the Arbitration and Mediation Centre expanded its position as the pre-eminent provider of services for domain name and other intellectual property issues. The Centre received 15,086 domain name cases in the year. The exceptionally high number of cases filed in 2002 was due in large part to the introduction of a number of new top-level domains (TLDs), such as .info and .biz. Another highlight of 2002 was the Centre's creation of an online legal index on WIPO domain name panel decisions.

Online services

The Organization continued to expand its online presence, using the latest information technology to reach the widest possible audience worldwide. WIPO launched a Chinese version of its website; users could now access extensive intellectual property resource material in the six official languages of the United Nations, namely Arabic, Chinese, English, French, Russian and Spanish.

New members and new accessions

Among the significant developments in 2002 were the entry into force of the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT), on 6 March and 20 May 2002, respectively, in both cases three months after the deposit of the thirtieth instrument of accession.

In 2002, WIPO received and processed 54 instruments of ratification and accession to WIPO-administered treaties. The following figures show the new adherences to treaties, with the second figure in brackets being the total number of States party to the corresponding treaty by the end of 2002:

—Convention Establishing the World Intellectual Property Organization: 1 (179)

—Paris Convention for the Protection of Industrial Property: 2 (164)

—Berne Convention for the Protection of Literary and Artistic Works: 1 (149)

—Patent Cooperation Treaty: 3 (118)

—Trademark Law Treaty: 5 (31)

—Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks: 1 (56)

—Patent Law Treaty: 4 (5)

—Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks: 2 (70)

—Locarno Agreement Establishing an International Classification for Industrial Designs: 1 (41)

—Strasbourg Agreement Concerning the International Patent Classification: 2 (53)

—WIPO Copyright Treaty (WCT): 9 (39)

—WIPO Performances and Phonograms Treaty: 11 (39)

—Budapest Treaty on the International Recognition of the Deposit of Micro-organisms for the Purposes of Patent Procedure: 2 (55)

—Geneva Convention for the Protection of Procedures of Phonograms Against Unauthorized Duplication of their Phonograms: 2 (69)

—Geneva Act of the Hague Agreement: 4 (7)

---

9. UNITED NATIONS INDUSTRIAL DEVELOPMENT ORGANIZATION

(*a*) Agreements with Governments

UNIDO concluded the following agreements and memorandums of understanding with Governments:

(*a*) Memorandum of Understanding between the United Nations Industrial Development Organization and the Secretariat for Trade and International Economic Relations of the Argentine Republic, signed on 2 August 2002;

(*b*) Agreement between the United Nations Industrial Development Organization and the Government of Arab Republic of Egypt regarding the establishment of a UNIDO regional office in Egypt, signed on 19 November 2002;

(*c*) Basic cooperation agreement between the United Nations Industrial Development Organization and the Government of the Republic of Guatemala, signed on 11 October 2002;

(*d*) Cooperative agreement between the United Nations Industrial Development Organization and the Republic of Peru, signed on 25 March 2002;

(*e*) Memorandum of Understanding between the United Nations Industrial Development Organization and the Republics of Central America (Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama), signed on 1 October 2002;

(*f*) Protocol on the framework cooperation programme between the United Nations Industrial Development Organization and the Russian Federation for the period 2002-2005, signed on 14 October 2002;

(*g*) Protocol on cooperation between the Government of Ukraine and the United Nations Industrial Development Organization, signed on 10 September 2002.

(*b*) Agreements with other intergovernmental, governmental, non-governmental and other organizations and entities

UNIDO concluded the following agreements with other organizations and entities:

(*a*) Memorandum of Understanding between the United Nations Industrial Development Organization and the University of Bologna, signed on 24 May 2002;

(*b*) Renewal of Memorandum of Understanding between the United Nations Industrial Development Organization and The Chancellor, Masters and Scholars of the University of Oxford, signed on 24 May and 10 June 2002;

(*c*) Memorandum of Understanding between the United Nations Industrial Development Organization and the Volunteers Association for International Service, signed on 11 October 2002;

(*d*) Memorandum of Understanding on collaboration between the United Nations Industrial Development Organization, the World Wide Fund for Nature—Denmark, and Huset Mandag Morgen regarding the Nordic Partnership, signed on 21 May and 10 June 2002.

---

10. INTERNATIONAL ATOMIC ENERGY AGENCY

(*a*) Legal instruments

Convention on the Physical Protection of Nuclear Material[194]

In 2002, Albania, Bolivia, Ghana, Grenada, Iceland, India, Israel, Kenya, Latvia, Mali, Morocco and Namibia adhered to the Convention. At the end of the year, there were 81 parties.

Convention on Early Notification of a Nuclear Accident[195]

In 2002, the status of the Convention remained unchanged with 87 parties.

Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency[196]

In 2002, Canada adhered to the Convention. At the end of the year, there were 84 parties.

Vienna Convention on Civil Liability for Nuclear Damage, 1963[197]

In 2002, the Convention ceased to apply to Slovenia, whose notification of termination of application of the Convention was received in 2001. At the end of the year, there were 32 parties.

Optional Protocol Concerning the Compulsory Settlement of Disputes[198]

In 2002, the status of the Protocol remained unchanged, with 2 parties.

Joint Protocol Relating to the Application of the Vienna Convention and the Paris Convention[199]

In 2002, the status of the Protocol remained unchanged, with 24 parties.

Convention on Nuclear Safety[200]

In 2002, Indonesia adhered to the Convention. At the end of the year, there were 54 parties.

Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management[201]

In 2002, Belarus, Belgium and the Republic of Korea adhered to the Convention. At the end of the year, there were 30 parties.

Protocol to Amend the Vienna Convention on Civil Liability for Nuclear Damage[202]

In 2002, the status of the Protocol remained unchanged, with 4 Contracting States and 15 signatories.

Convention on Supplementary Compensation for Nuclear Damage[203]

In 2002, the status of the Convention remained unchanged, with 3 Contracting States and 13 signatories.

African Regional Cooperative Agreement for Research, Development and Training Related to Nuclear Science and Technology[204] *(AFRA)—(Second Extension)*

In 2002, Gabon, Mali and Niger adhered to the Agreement. At the end of the year, there were 25 parties.

Third Agreement to Extend the 1987 Regional Cooperative Agreement for Research, Development and Training Related to Nuclear Science and Technology[205] *(RCA)*

In 2002, Bangladesh, China, India, Indonesia, Japan, the Republic of Korea, Malaysia, Mongolia, Myanmar, Pakistan, the Philippines, Sri Lanka and Viet Nam adhered to the Agreement. At the end of the year, there were 13 parties. Pursuant to article 1 of the Third Agreement to Extend the 1987 RCA, the 1987 Regional Cooperative Agreement "shall continue in force for a further period of five years with effect from 12 June 2002", i.e. through 11 June 2007.

Cooperation Agreement for the Promotion of Nuclear Science and Technology in Latin America and the Caribbean[206] *(ARCAL)*

In 2002, Haiti signed the Agreement and Cuba, Panama and Venezuela adhered to it. At the end of the year, there were 8 Contracting States and 18 signatories.

Cooperation Agreement for Arab States in Asia for Research, Development and Training Related to Nuclear Science and Technology[207] *(ARASIA)*

In 2002, Jordan, Lebanon, the Syrian Arab Republic, the United Arab Emirates and Yemen adhered to the Agreement. At the end of the year there were 5 parties to the Agreement. The Agreement, pursuant to article XII, entered into force upon receipt by the Director General of the Agency of notification of acceptance by three Arab Member States of the Agency in Asia, in accordance with article XI, i.e. on 29 July 2002.

Revised Supplementary Agreement Concerning the Provision of Technical Assistance by IAEA (RSA)

In 2002, the status of the Agreement remained the same, with 95 States that had concluded the RSA Agreement.

(*b*) IAEA legislative assistance activities

As part of its technical cooperation programme for 2002-2003, IAEA provided legislative assistance to a number of Member States from various regions through both bilateral meetings and regional workshops. Legislative assistance was given to 10 countries by means of written comments or advice on specific national legislation submitted to the Agency for review. Also, at the request of 14 Member States, individual training on issues related to nuclear legislation was also provided.

In addition, IAEA's legislative assistance activities in 2002 included:

—A regional workshop on the development of national legislation to fulfil States' obligations under the Additional Protocol for the Baltic countries was held in Tallinn from 9 to 11 January 2002;

—A regional workshop for French-speaking countries of the African Region on the establishment of a legal framework governing radiation protection, the safety of radiation sources and the safe management of radioactive waste was held at IAEA headquarters in Vienna from 29 April to 3 May 2002;

—A regional workshop for English-speaking countries of the African Region for the development of a legal framework governing the safety of radioactive waste management and the safe transport of radioactive material was held in Accra from 14 to 18 October 2002;

—A regional workshop for the Latin American Region for the development of a legal framework governing the safety of radiation waste management, physical protection of nuclear material and the safe transport of radioactive material was held in Buenos Aires from 25 to 29 November 2002.

(*c*) Other activities

Convention on Nuclear Safety

The Second Review Meeting pursuant to article 20 of the Convention was held at the headquarters of IAEA, being the Secretariat under the Convention, from 15 to 26 April 2002. Forty-six Contracting Parties participated. Indonesia, having ratified the Convention on 12 April 2002, could not participate as a full Contracting Party at this Review Meeting. However, in accordance with section IV of the Guidelines regarding the Review Process, Indonesia was invited to attend the final plenary session of the Review Meeting.

Safeguards Agreements

During 2002, four Safeguards Agreements pursuant to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) with Kuwait,[208] Mali,[209] the former Yugolsav Republic of Macedonia[210] and Yemen[211] entered into force. A Safeguards Agreement pursuant to NPT was signed with the United Arab Emirates, and an NPT Safeguards Agreement with Tajikistan was approved by the IAEA Board of Governors. These Agreements have not yet entered into force.

Through an exchange of letters between Albania and the Agency, it was confirmed that the Comprehensive Safeguards Agreement concluded between Albania and IAEA satisfied the obligation of Albania under article III of NPT.

Protocols Additional to the Safeguards Agreement between IAEA and the People's Republic of China,[212] the Czech Republic,[213] Mali[214] and South Africa[215] entered into force. Protocols Additional to the Safeguards Agreement with IAEA were signed by Chile, Haiti, Kuwait, Nicaragua and South Africa but have not entered into force. The IAEA Board of Gover-

nors approved Protocols Additional to the Safeguards Agreement for the Democratic Republic of the Congo, El Salvador, Jamaica, Kiribati, Malta, Paraguay and Tajikistan.

At the end of 2002, there were 229 Safeguards Agreements in force with 145 States (and Taiwan, Province of China). Safeguards Agreements that satisfy the requirements of NPT were in force with 135 States. At the end of 2002, 74 States had signed an Additional Protocol. Of the 74, 28 had entered into force.

---

11. WORLD TRADE ORGANIZATION

(*a*) Director-General

The Director-General of the World Trade Organization (WTO) was Dr. Supachai Panitchpakdi of Thailand. His term was to run 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 the 29 Governments for which a WTO working party has been established (current as of 31 December 2002): Algeria, Andorra, Armenia, Azerbaijan, Bahamas, Belarus, Bhutan, Bosnia and Herzegovina, Cambodia, Cape Verde, Ethiopia, Kazakhstan, Lao People's Democratic Republic, Lebanon, Nepal, Russian Federation, Samoa, Saudi Arabia, Serbia and Montenegro, Seychelles, Sudan, Tajikistan, the former Yugoslav Republic of Macedonia, Tonga, Ukraine, Uzbekistan, Vanuatu, Viet Nam and Yemen.

As of 31 December 2002, there were 144 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 more expansive coverage of WTO relative to its predecessor, the General Agreement on Tariffs and Trade (GATT).

During 2002, WTO received the following new member: Taiwan, Province of China (also known as Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu), by Protocol of Accession (11 November 2001, WT/L/433). Taiwan, Province of China, became the 144th member of WTO 30 days after WTO received notification of the ratification of the agreement by the parliament of Taiwan, Province of China.

The list of WTO members as at 31 December 2002 is contained in the table below.

WTO members (as at 31 December 2002)

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
China
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, China
Hungary
Iceland
India
Indonesia
Ireland
Israel
Italy
Jamaica
Japan
Jordan
Kenya
Kuwait
Kyrgyzstan
Latvia
Lesotho
Liechtenstein
Lithuania
Luxembourg
Macao, China
Madagascar
Malawi
Malaysia
Maldives
Mali
Malta
Mauritania
Mauritius
Mexico
Mongolia
Morocco
Mozambique
Myanmar
Namibia
Netherlands
New Zealand
Nicaragua
Niger
Nigeria
Norway
Oman
Paraguay
Peru
Philippines
Poland
Portugal
Qatar
Republic of Korea
Republic of Moldova
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
Taiwan, Province of China
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 2002, the Ministerial Conference/General Council granted a number of waivers from obligations under the WTO Agreements. These are listed in the table below.

WAIVERS UNDER ARTICLE IX OF THE WTO AGREEMENT

Member	*Type*	*Decision of*	*Expiry*	*Document*
Argentina, Australia, Bulgaria, Canada, China, Colombia, Croatia, Czech Republic, Estonia, European Communities, Hungary, Iceland, India, Latvia, Lithuania, Malaysia, Mexico, New Zealand, Norway, Republic of Korea, Romania, Singapore, Slovakia, Slovenia, Switzerland, Thailand, Turkey, United States, Uruguay and Hong Kong, China	Introduction of Harmonized System 2002 changes into WTO Schedules of Tariff Concessions	13 May 2002	1 year	WT/L/469
Nicaragua	Establishment of a new Schedule XXIX	13 May 2002	31 October 2002	WT/L/467
Sri Lanka	Establishment of a new Schedule VI	13 May 2002 15 October 2002	31 October 2002 30 April 2003	WT/L/468
Malaysia	Introduction of the Harmonized System 1996 changes into WTO Schedules of Tariff Concessions	13 May 2002	30 April 2003	WT/L/465
Pakistan	Introduction of the Harmonized System 1996 changes into WTO Schedules of Tariff Concessions	13 May 2002	30 April 2003	WT/L/466

Member	*Type*	*Decision of*	*Expiry*	*Document*
Panama	Introduction of the Harmonized System 1996 changes into WTO Schedules of Tariff Concessions	13 May 2002	30 April 2003	WT/L/458
Paraguay	Introduction of the Harmonized System 1996 changes into WTO Schedules of Tariff Concessions	13 May 2002	30 April 2003	WT/L/461
El Salvador	Agreement on the Implementation of Article VII of GATT 1994	8 July 2002	7 March 2003 7 March 2005	WT/L/476
Côte d'Ivoire	Minimum Values under the Customs Valuation Agreement	8 July 2002	1 January 2003	WT/L/475
Romania	Introduction of the Harmonized System 2002 changes into WTO Schedules of Tariff Concessions	8 July 2002	1 January 2003	WT/L/477
Least developed countries	Article 70.9 of the TRIPS Agreement with Respect to Pharmaceutical Products	8 July 2002	1 January 2016	WT/L/478
Argentina	Introduction of the Harmonized System 1996 changes into WTO Schedules of Tariff Concessions	15 October 2002	30 April 2003	WT/L/485

Member	*Type*	*Decision of*	*Expiry*	*Document*
El Salvador	Introduction of the Harmonized System 1996 changes into WTO Schedules of Tariff Concessions	15 October 2002	30 April 2003	WT/L/486
Israel	Introduction of the Harmonized System 1996 changes into WTO Schedules of Tariff Concessions	15 October 2002	30 April 2003	WT/L/487
Morocco	Introduction of the Harmonized System 1996 changes into WTO Schedules of Tariff Concessions	15 October 2002	30 April 2003	WT/L/488
Norway	Introduction of the Harmonized System 1996 changes into WTO Schedules of Tariff Concessions	15 October 2002	30 April 2003	WT/L/489
Thailand	Introduction of the Harmonized System 1996 changes into WTO Schedules of Tariff Concessions	15 October 2002	30 April 2003	WT/L/490
Venezuela	Introduction of the Harmonized System 1996 changes into WTO Schedules of Tariff Concessions	15 October 2002	30 April 2003	WT/L/491

Member	*Type*	*Decision of*	*Expiry*	*Document*
Zambia	Renegotiation of Schedule LXXVIII	15 October 2002	30 April 2003	WT/L/493
Argentina, Australia, Bulgaria, Canada, China, Croatia, Czech Republic, Estonia, European Communities, Hungary, Iceland, India, Latvia, Lithuania, Mexico, Nicaragua, Norway, Republic of Korea, Romania, Singapore, Slovakia, Slovenia, Switzerland, Thailand, United States, Uruguay, Hong Kong, China, and Macao, China	Introduction of the Harmonized System 2002 changes into WTO Schedules of Tariff Concessions	12 December 2002	31 December 2003	WT/L/511

(*d*) Resolution of trade conflicts under the WTO dispute settlement understanding (DSU)

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, which met 23 times during 2002, 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

The serving members of the Appellate Body in 2002 were Luiz Olavo Baptista (Brazil), John S. Lockhart (Australia), Giorgio Sacerdoti (European Communities), J. Bacchus (United States), G. M. Abi-Saab (Egypt), A. V. Ganesan (India) and Y. Taniguchi (Japan).

Dispute settlement activity for 2002

In 2002, DSB received 37 notifications from WTO members of formal requests for consultations under DSU. During this period, DSB established

panels to deal with 11 new cases and adopted Appellate Body and/or panel reports in 12 cases, concerning 11 distinct matters. In addition, mutually agreed solutions were notified in four cases. One panel suspended its work at the request of the parties; this panel was withdrawn by the complaining party following abrogation of the contested measure.

This section briefly describes the procedural history and, where available, the substantive outcome of the cases. It also describes the implementation status of adopted reports where new developments occurred in the covered period; cases in which a panel report had been circulated but where an appeal was pending before the Appellate Body; and cases for which panel reports were issued but not yet adopted or appealed.

Appellate Body and/or panel reports adopted

INDIA—*Measures affecting the automotive sector, complaints by the European Communities and the United States (WT/DS146/R and WT/DS175/R).* This dispute concerns certain measures affecting the automotive sector being applied by India. The European Communities contended that under these measures, imports of complete automobiles and of certain parts and components were subject to a system of non-automatic import licences; that, in accordance with Public Notice No. 60, issued by the Indian Government, import licences might be granted only to local joint venture manufacturers that had signed a Memorandum of Understanding (MoU) with the Government of India, whereby they undertook, inter alia, to comply with certain local content and export balancing requirements; and moreover that the measures violated articles III and XI of GATT 1994 and article 2 of the Agreement on Trade-Related Investment Measures (TRIMs Agreement).

On 15 May 2000, the United States requested the establishment of a panel. DSB established a panel at its meeting on 27 July 2000 (WT/DS175). The European Communities, Japan and the Republic of Korea reserved their third-party rights. On 12 October 2000, the European Communities also requested the establishment of a panel. DSB established a panel at its meeting of 17 November 2000 (WT/DS146). Pursuant to article 9.1 of DSU, DSB decided that this complaint would be examined by the same panel as that established at the request of the United States. Japan and the Republic of Korea reserved their third-party rights.

The Panel concluded that India had acted inconsistently with its obligations under articles III:4 and XI of GATT 1994. On 21 December 2001, the Panel circulated its report to the members. On 31 January 2002, India appealed the Panel report. In particular, India sought review of the following Panel conclusions on the grounds that they were in error and based upon the erroneous findings on issues of law and related legal instruments: (i) articles II and 19.1 of DSU required the Panel to address the question of whether the measures found to be inconsistent with articles III:4 and

XI:1 of GATT had been brought into conformity with GATT as a result of measures taken by India during the course of the proceedings; and (ii) the enforcement of the export obligations that automobile manufacturers incurred until 1 April 2001 under India's former import licensing scheme was inconsistent with articles III:4 and XI:1 of GATT. On 14 March 2002, India withdrew its appeal. Further to India's withdrawal of its appeal, the Appellate Body issued a short report outlining the procedural history of the case. At the DSB meeting on 5 April 2002, DSB adopted Appellate Body and Panel reports.

UNITED STATES—*Section 211 of the Omnibus Appropriations Act, complaint by the European Communities (WT/DS176).* This dispute concerns section 211 of the United States Omnibus Appropriations Act, which was signed into law on 21 October 1998 (sect. 211). Section 211 regulates trademarks, trade names and commercial names that are the same as, or substantially similar to, trademarks, trade names or commercial names that were used in connection with businesses or assets that were confiscated by the Government of Cuba on or after 1 January 1959. Section 211 (*a*) (1) prevents the registration and renewal of such trademarks, trade names or commercial names; section 211 (*a*) (2) prevents United States courts from recognizing, enforcing or validating any rights asserted by Cuba or a Cuban national or its successor-in-interest in respect of such trademarks, trade names or commercial names; and section 211 (*b*) prevents the United States courts from recognizing, enforcing or validating any treaty rights asserted by Cuba or a Cuban national or its successor-in-interest in respect of such trademarks, trade names or commercial names.

Before the Panel, the European Communities argued that section 211 was inconsistent with articles 2.1, 3.1, 4, 15.1, 16.1 and 42 of the TRIPS Agreement, as read with the relevant provisions of the Paris Convention (1967), which is incorporated into the TRIPS Agreement. On 30 June 2000, the European Communities and its member States requested the establishment of a panel. At its meeting on 26 September 2000, DSB established a panel. Canada, Japan and Nicaragua reserved their third-party rights.

The Panel circulated its report on 6 August 2001. The Panel rejected most of the claims by the European Communities and their member States except that relating to the inconsistency of section 211 (*a*) (2) of the Omnibus Appropriations Act with article 42 of the TRIPS Agreement. In this regard, the Panel concluded that this section was inconsistent with the relevant TRIPS article on the grounds that it limited, under certain circumstances, right holders' effective access to, and availability of, civil judicial procedures.

On 4 October 2001, the European Communities and its member States notified their decision to appeal certain issues of law and legal interpretations developed by the Panel report. The Appellate Body report was circulated to members on 12 January 2002. The Appellate Body: (i) found, in

respect of the protection of trademarks, that sections 211 (*a*) (2) and (*b*) of the Omnibus Appropriations Act violated the national treatment and most-favoured-nation obligations under the TRIPS Agreement and the Paris Convention for the Protection of Industrial Property, thereby reversing the Panel's findings to the contrary; (ii) reversed the Panel's finding that section 211 (*a*) (2) was inconsistent with article 42 of the TRIPS Agreement and concluded that article 42 contained procedural obligations, while section 211 affected substantive trademark rights; (iii) upheld the Panel's findings that section 211 did not violate the obligations of the United States under article 2.1 of the TRIPS Agreement in conjunction with article 6 quinquiesA(1) of the Paris Convention, and articles 15 and 16 of the TRIPS Agreement. It also upheld the Panel's finding under article 42 of the TRIPS Agreement in respect of section 211 (*b*); and (iv) reversed the Panel's conclusion that trade names were not a category of intellectual property protected under the TRIPS Agreement and then completed the analysis, reaching the same conclusions for trade names as with respect to trademarks. It also found that sections 211 (*a*) (2) and (*b*) were not inconsistent with article 2.1 of the TRIPS Agreement in conjunction with article 8 of the Paris Convention (1967). DSB adopted the Appellate Body report and the Panel report, as modified by the Appellate Body report, on 1 February 2002.

UNITED STATES—*Definitive safeguard measures on imports of circular welded carbon quality line pipe, complaint by the Republic of Korea (WT/DS202).* This dispute concerns the United States imposition of a definitive safeguard measure on imports of circular welded carbon quality line pipe. On 13 June 2000, the Republic of Korea requested consultations with the United States in respect of concerns regarding the definitive safeguard measure imposed by the United States on imports of circular welded carbon quality line pipe (line pipe). Korea noted that on 18 February 2000 the United States had proclaimed a definitive safeguard measure on imports of line pipe (subheadings 7306.10.10 and 7306.10.50 of the Harmonized Tariff Schedule of the United States). In that proclamation, the United States announced that the proposed date of introduction of the measure was 1 March 2000 and that the measure was expected to remain in effect for three years and one day. Korea considered that the United States procedures and determinations that led to the imposition of the safeguard measure as well as the measure itself contravened various provisions contained in the Safeguards Agreement and GATT 1994. In particular, Korea considered that the measure was inconsistent with United States obligations under articles 2, 3, 4, 5, 11 and 12 of the Safeguards Agreement, and articles I, XIII and XIX of GATT 1994. Further to Korea's request, DSB established a panel at its meeting of 23 October 2000. Australia, Canada, the European Communities, Japan and Mexico reserved their third-party rights.

The Panel found that the United States had imposed its safeguard measure inconsistently with GATT 1994 and the Agreement on Safe-

guards. On 29 October 2001, the Panel circulated its report to the members. On 6 November 2001, the United States notified its decision to appeal certain findings of law and legal interpretations contained in the Panel report. However, on 13 November 2001, it withdrew its notice of appeal. Later, on 19 November 2001, the United Sates notified its decision to refile its appeal to the Appellate Body. The Appellate Body report was circulated to members on 15 February 2002.

The Appellate Body upheld, albeit for different reasons, the Panel's finding, in paragraph 8.1(7) of the Panel report, that the United Sates had acted inconsistently with its obligation under article 12.3 of the Agreement on Safeguards by failing to provide an adequate opportunity for prior consultations with Korea, Korea being a member having a substantial interest in exports of line pipe, and with its obligation under article 8.1 of the Agreement on Safeguards to endeavour to maintain a substantially equivalent level of concessions and other obligations. In addition, the Appellate Body upheld the Panel's finding, in paragraph 8.1(5) of the Panel report, that the United States did not comply with its obligation under article 9.1 of the Agreement on Safeguards that safeguard measures shall not be applied against a product originating in a developing country member as long as its imports do not exceed the individual and collective thresholds in that provision. However, the Appellate Body reversed the Panel's finding that the United States had acted inconsistently with its obligations under articles 3.1 and 4.2 (*c*) of the Agreement on Safeguards by failing to include in its published report a discrete finding that increased imports had caused serious injury, or that increased imports were threatening to cause serious injury. It also reversed the Panel's findings that the United States was entitled to exclude Canada and Mexico from the scope of the safeguard measure and that Korea had failed to make a prima facie case that the United States had applied the safeguard measure beyond the maximum extent permitted under article 5.1 of the Agreement on Safeguards. On 8 March 2002, DSB adopted the Appellate Body report and the Panel report, as modified by the Appellate Body report.

UNITED STATES—*Anti-dumping and countervailing measures on steel plate from India, complaint by India (WT/DS206).* This dispute concerns the imposition by the United States of anti-dumping measures on certain cut-to-length carbon steel plate (steel plate) from India. India argued that these determinations were erroneous and based on deficient procedures contained in various provisions of United States anti-dumping and countervailing duty law. According to India, these determinations and provisions raised questions concerning the obligations of the United States under GATT 1994, the Anti-Dumping Agreement, the Agreement on Subsidies and Countervailing Measures (SCM Agreement), and the Agreement establishing WTO (WTO Agreement). DSB established a Panel at its meeting of 24 July 2001. Chile, the European Communities and Japan reserved their third-party rights.

On 28 June 2002, the Panel circulated its report to members. The Panel concluded that the United States statutory provisions governing the use of facts available, sections 776 (*a*) and 782 (*d*) and (*e*) of the Tariff Act of 1930, as amended, were not inconsistent with articles 6.8 and paragraphs 3, 5 and 7 of annex II to the Anti-Dumping Agreement. The Panel also concluded that the United States had not acted inconsistently with article 15 of the Anti-Dumping Agreement with respect to India in the anti-dumping investigation underlying this dispute. The Panel also concluded that the "practice" of the United States Department of Commerce concerning the application of "total facts available" was not a measure which could give rise to an independent claim of violation of the Anti-Dumping Agreement, and therefore did not rule on India's claim in this regard. However, the Panel found that the United States Department of Commerce's reliance on "facts available" in the investigation underlying the measure in question was inconsistent with article 6.8 and paragraph 3 of annex II to the Anti-Dumping Agreement. At its meeting on 29 July 2002, DSB adopted the Panel report.

CHILE—*Price Band System and safeguard measures relating to certain agricultural products, complaint by Argentina (WT/DS207).* This dispute concerns two distinct matters: Argentina had claimed that: (*a*) Chile's Price Band System (PBS) applicable to imports of wheat, wheat flour and edible vegetable oils was inconsistent with article II:1 (*b*) of GATT 1994 and article 4.2 of the Agreement on Agriculture; and (*b*) Chile's provisional and definitive safeguards measures on imports of wheat, wheat flour and edible vegetable oils, as well as the extension of those measures, were inconsistent with article XIX of GATT 1994 and articles 2, 3, 4, 5, 6 and 12 of the Agreement on Safeguards. At its meeting of 12 March 2001, DSB established a panel. Australia, Brazil, Colombia, Costa Rica, Ecuador, El Salvador, the European Communities, Guatemala, Honduras, Japan, Nicaragua, Paraguay, the United States and Venezuela reserved their third-party rights.

The Panel found that Chile's PBS was a measure "of the kind of which ha[d] been required to be converted into ordinary customs duties", within the meaning of article 4.2 of the Agreement on Agriculture. Specifically, the Panel found that Chile's PBS was a measure similar to a variable import levy and a minimum import price. The Panel found that, by maintaining a measure which should have been converted, Chile had acted inconsistently with article 4.2 of the Agreement on Agriculture. Since it had found that Chile's PBS was a border measure other than an "ordinary customs duty", the Panel concluded that the consistency of PBS with article II:1 (*b*) of GATT 1994 could not be assessed under the first sentence of that provision, because that sentence applied only to "ordinary customs duties". The Panel considered that the duties resulting from Chile's PBS ("PBS duties") were "other duties and charges of any kind", thus falling under the second sentence of article II:1 (*b*). According to that provision, such "other duties

or charges" must not exceed the bindings recorded in the respective column of a member's schedule. Because the PBS duties were not recorded in Chile's schedule, but were nevertheless levied, the Panel found that, in the light of the Understanding on the Interpretation of Article II:1 (*b*) of GATT 1994, Chile had acted inconsistently with the second sentence of article II:1 (*b*). The report was circulated on 3 May 2002. On 24 June 2002, Chile notified its decision to appeal to the Appellate Body certain issues of law covered in the Panel report and certain legal interpretations developed by the Panel.

On 23 September 2002, the report of the Appellate Body was circulated to WTO members. As a procedural matter, the Appellate Body found that the Panel had acted inconsistently with article 11 of DSU in finding that the PBS duties were inconsistent with the second sentence of article II:1 (*b*) of GATT 1994, an issue that was not before the Panel; it therefore reversed that finding. With respect to article 4.2 of the Agreement on Agriculture, the Appellate Body: (i) upheld the Panel's finding that Chile's PBS was a border measure that was similar to a variable import levy and a minimum import price; and (ii) upheld the Panel's finding that Chile's PBS was inconsistent with article 4.2. The Appellate Body, however, reversed the Panel's finding that the term "ordinary customs duties", as used in article 4.2 of the Agreement on Agriculture, was to be understood as "referring to a customs duty which [was] not applied on the basis of factors of an exogenous nature", i.e. not based exclusively on the value of a product in the case of ad valorem duties or the volume of a product in the case of specific duties. Having found that Chile's PBS was inconsistent with article 4.2 of the Agreement on Agriculture, the Appellate Body did not find it necessary to rule on whether that system was consistent with the first sentence of article II:1 (*b*) of GATT 1994. At its meeting on 23 October 2002, DSB adopted the Appellate Body report and the Panel report, as modified by the Appellate Body report.

EGYPT—*Definitive anti-dumping measures on steel rebar from Turkey, complaint by Turkey (WT/DS211).* This dispute concerns the imposition by Egypt of anti-dumping measures on steel rebar from Turkey. Turkey considered that Egypt had made determinations of injury and dumping investigation without a proper establishment of the facts and based on an evaluation of the facts that was neither unbiased nor objective; furthermore, during the investigation of material injury or threat thereof and the causal link, Egypt had acted inconsistently with articles 3.1, 3.2, 3.4, 3.5, 6.1 and 6.2 of the Anti-Dumping Agreement; and also, during the investigation of sales at less than normal value, Egypt had violated article X:3 of GATT 1994, as well as articles 2.2, 2.4, 6.1, 6.2, 6.6, 6.7 and 6.8, and paragraphs 1, 3, 5, 6 and 7 of annex II, and paragraph 7 of annex I to the Anti-Dumping Agreement. At its meeting of 20 June 2001, DSB established a panel. Chile, the European Communities, Japan and the United States reserved their third-party rights.

On 8 August 2002, the Panel report was circulated to WTO members. The Panel concluded that Egypt had acted inconsistently with its obligations under: (*a*) article 3.4 of the Anti-Dumping Agreement, in that while it had gathered data on all of the factors listed in article 3.4, the Egyptian investigating authority failed to evaluate all of the factors listed in article 3.4 as it did not evaluate productivity, actual and potential negative effects on cash flow, employment, wages, and ability to raise capital or investments; and (*b*) article 6.8 of the Anti-Dumping Agreement, and paragraph 6 of annex II thereto, with regard to two of the Turkish exporters, as the Egyptian investigating authority, having received the information that it had identified to these two respondents as being necessary, nevertheless found that they had failed to provide the necessary information and, further, did not inform these two exporters of this finding and did not give them the required opportunity to provide further explanations before resorting to facts available. On 1 October 2002, DSB adopted the Panel report.

UNITED STATES—*Countervailing duties on certain corrosion-resistant carbon steel flat products from Germany, complaint by the European Communities (WT/DS213).* This dispute concerns the obligations that article 21.3 of the SCM Agreement imposes on members in their conduct of five-year, or "sunset", reviews of countervailing duties. The European Communities claimed that certain United States laws and practices regarding sunset reviews, as well as their application in a sunset review of countervailing duties on certain carbon steel products from Germany, were inconsistent with the obligations of the United States under the SCM Agreement and the WTO Agreement. In particular, the European Communities challenged: the failure of the United States to apply in sunset reviews the same 1 per cent *de minimis* standard that must be applied in original countervailing duty investigations, and the automatic self-initiation of sunset reviews by United States authorities in each and every case. Further, the European Communities claimed that United States law precludes the domestic authorities from making a determination in a sunset review consistent with the requirements of article 21.3. A panel was established by DSB on 10 September 2001 further to the request of the European Communities. Japan and Norway reserved their third-party rights.

In its report circulated to members on 3 July 2002, the Panel made a number of rulings on the scope of its terms of reference. With respect to the substantive claims, the Panel found the automatic self-initiation of sunset reviews by domestic authorities to be consistent with the obligations of the United States under article 21.3 of the SCM Agreement. Regarding the determination to be made in sunset reviews, the Panel found that United States law, as such, applicable to such determinations was not inconsistent with article 21.3 of the SCM Agreement, but that the specific determination made in the sunset review of carbon steel products from Germany had violated the requirements of that provision. With respect to the *de minimis* issue, the Panel found that a 1 per cent *de minimis* standard was "implied"

in article 21.3 of the SCM Agreement. The Panel found, therefore, that by failing to apply such a standard, United States law, as such, and as applied in the sunset review of carbon steel products from Germany, was inconsistent with that provision. One member of the Panel issued a dissenting opinion on this issue, concluding instead that no *de minimis* standard applied in sunset reviews.

On 30 August 2002, the United States notified its decision to appeal certain issues of law covered in the Panel report. The United States appealed the Panel's findings regarding the *de minimis* standard in sunset reviews. The European Communities appealed the Panel's findings regarding the automatic self-initiation of sunset reviews, and regarding the consistency of United States law, as such, with obligations relating to the determination to be made in sunset reviews. The United States and the European Communities each appealed different aspects of the Panel's treatment of its terms of reference. However, the Panel's finding that the application of United States law in the sunset review of carbon steel products from Germany was inconsistent with article 21.3 of the SCM Agreement was not appealed.

In its report, circulated 28 November 2002, the Appellate Body reversed the Panel's findings relating to the *de minimis* standard in sunset reviews. The Appellate Body disagreed with the Panel that the *de minimis* standard that applied to original investigations pursuant to article 11.9 of the SCM Agreement must be "implied" in article 21.3 of that Agreement, the provision governing sunset reviews. The Appellate Body found no support for such implication in the text of the relevant provisions, read in their context and in the light of the object and purpose of the SCM Agreement. Having found that the *de minimis* standard of article 11.9 was not applicable in sunset reviews conducted under article 21.3, the Appellate Body reversed the Panel's findings that United States law, as such, and as applied in the sunset review of carbon steel products from Germany, was inconsistent with article 21.3 by virtue of its failure to apply a 1 per cent *de minimis* standard in sunset reviews. The Appellate Body upheld the Panel's findings that United States law, as such, and as applied in the sunset review of carbon steel products from Germany, was consistent with article 21.3 of the SCM Agreement with respect to the automatic self-initiation of sunset reviews. The Appellate Body agreed with the Panel that, when interpreted in accordance with customary rules of interpretation of public international law, article 21.3 of the SCM Agreement did not require WTO members to satisfy any particular evidentiary standard in order to self-initiate such reviews. The Appellate Body also upheld the Panel's finding with respect to the consistency of United States law, as such, with obligations regarding the determination to be made in a sunset review. The European Communities' appeal on this issue was, in large part, based upon an assertion that the Panel had failed to make an objective assessment of the matter, as required by article 11 of DSU. The Appellate Body, however, found that

the Panel had acted within the bounds of its discretion in its treatment of this issue and thus saw no reason to disturb the Panel's finding. Finally, the Appellate Body upheld, with respect to each of the appeals related to jurisdiction, the Panel's interpretation of its terms of reference. At its meeting of 19 December 2002, DSB adopted the Appellate Body report and the Panel report, as modified by the Appellate Body report.

UNITED STATES—*Section 129 (*c*) (1) of the Uruguay Round Agreements Act, complaint by Canada (WT/DS221).* This dispute concerns section 129 of the Uruguay Round Agreements Act which established a procedure by which the United States administration might obtain advice it required to determine its response to an adverse WTO panel or Appellate Body report (hereafter "WTO report") concerning obligations of the United States under the Anti-Dumping Agreement or the SCM Agreement. Section 129 also established a mechanism that permitted the agencies concerned to issue a second determination (hereafter a "section 129 determination"), where such action was appropriate, to respond to the recommendations in a WTO panel or Appellate Body report. At issue in this dispute was the latter mechanism, specifically section 129 (*c*) (1). Canada claimed that section 129 (*c*) (1) had the effect of precluding the United States from implementing adverse WTO reports with respect to what it termed "prior unliquidated entries" (i.e. entries that had occurred before the end of the reasonable period of time for implementing adverse WTO reports, but remained unliquidated as of that date). At its meeting of 23 August 2001, DSB established a panel. Chile, the European Communities, India and Japan reserved their third-party rights. In its report circulated on 15 July 2002, the Panel found that section 129 (*c*) (1) only spoke to the treatment of unliquidated entries that occurred after the end of the reasonable period of time and was not convinced by Canada's assertion that section 129 (*c*) (1) nevertheless had the effect of precluding the United States from implementing adverse WTO reports with respect to "prior unliquidated entries". Since Canada did not succeed in establishing that section 129 (*c*) (1) had such an effect, the Panel did not consider it necessary to examine whether Canada was correct in arguing that GATT 1994, the Anti-Dumping Agreement and the SCM Agreement required the United States to implement adverse WTO reports with respect to "prior unliquidated entries". For these reasons, the Panel concluded that Canada had failed to establish that section 129 (*c*) (1) was inconsistent with GATT 1994, the Anti-Dumping Agreement or the SCM Agreement. Because Canada had failed to establish that section 129 (*c*) (1) was inconsistent with GATT 1994, the Anti-Dumping Agreement or the SCM Agreement, the Panel did not uphold Canada's additional claim under the WTO Agreement, namely that the United States had failed to ensure the conformity of its laws with its WTO obligations. At its meeting on 30 August 2002, DSB adopted the Panel report.

CANADA—*Export credits and loan guarantees for regional aircraft, complaint by Brazil (WT/DS222).* This dispute concerns subsidies which

were allegedly being granted to Canada's regional aircraft industry. Brazil claimed that export credits, within the meaning of item (*k*) of annex I to the SCM Agreement, were being provided to Canada's regional aircraft industry by the Export Development Corporation (EDC) and the Canada Account; that loan guarantees, within the meaning of item (*j*) of annex I to the SCM Agreement, were being provided by EDC, Industry Canada and the Province of Quebec to support exports of Canada's regional aircraft industry. Brazil took the view that all of the above-mentioned measures were subsidies, within the meaning of article 1 of the SCM Agreement, since they were financial contributions that conferred a benefit. According to Brazil, they were also contingent, in law or in fact, upon export, and constituted, therefore, a violation of article 3 of the SCM Agreement.

On 28 January 2002, the Panel circulated its report to the members. The Panel rejected Brazil's claims that the EDC Corporate Account, Canada Account and Investissement Québec (IQ) programmes "as such" constituted prohibited export subsidies contrary to article 3.1 (*a*) of the SCM Agreement. They considered that it was not appropriate to make separate findings regarding the EDC Corporate Account, Canada Account and Investissement Québec programmes "as applied". Where claims relating to specific transactions were concerned, the Panel rejected Brazil's claim that the EDC Corporate Account financing to Kendell, Air Nostrum and Comair in December 1996, March 1997 and March 1998 constituted a prohibited export subsidy contrary to article 3.1 (*a*) of the SCM Agreement. In addition, the Panel rejected Brazil's claim that Investissement Québec equity guarantees to ACA, Air Littoral, Midway, Mesa Air Group, Air Nostrum and Air Wisconsin constituted prohibited export subsidies contrary to article 3.1 (*a*) of the SCM Agreement; and finally, they also rejected Brazil's claim that Investissement Québec loan guarantees to Mesa Air Group and Air Wisconsin constituted prohibited export subsidies contrary to article 3.1 (*a*) of the SCM Agreement.

The Panel upheld Brazil's claim that the EDC Canada Account financing to Air Wisconsin, to Air Nostrum and to Comair in July 1996, August 1997 and February 1999 constituted a prohibited export subsidy contrary to article 3.1 (*a*) of the SCM Agreement. The report of the Panel was circulated to WTO members on 28 January 2002, and was adopted by DSB at its meeting on 19 February 2002.

EUROPEAN COMMUNITIES—*Trade description of sardines, complaint by Peru (WT/DS231).* This dispute concerns the European Communities Regulation (EEC) 2136/89 (the "EC Regulation") which, according to Peru, prevented Peruvian exporters from continuing to use the trade description "sardines" for their products. Peru submitted that, according to the relevant Codex Alimentarius standards (STAN 94-181 rev. 1995), the species *Sardinops sagax sagax* was listed among those species which can be traded as "sardines". Peru, therefore, considered that the EC Regulation constituted an unjustifiable barrier to

trade, and, hence, was in breach of articles 2 and 12 of the Agreement on Technical Barriers to Trade (TBT Agreement) and article XI:1 of GATT 1994. In addition, Peru argued that the Regulation was inconsistent with the principle of non-discrimination, and, hence, in breach of articles I and III of GATT 1994. A panel was established at the DSB meeting of 24 July 2001. Canada, Chile, Colombia, Ecuador, the United States and Venezuela reserved their third-party rights.

The Panel report was circulated to members on 29 May 2002. The Panel found that the EC Regulation was inconsistent with article 2.4 of the TBT Agreement. The Panel held that the European Communities, by not allowing Peruvian sardines to be marketed as "sardines" combined with the name of the country, the name of the geographical area, the name of the species or the common name of the species, did not use the relevant international standard, i.e. Codex Stan 94, as a basis for its technical regulation even though it would have been an effective or appropriate means to fulfil the legitimate objectives of consumer protection, market transparency and fair competition.

On 28 June 2002, the European Communities notified its decision to appeal to the Appellate Body certain issues of law covered in the Panel report and certain legal interpretations developed by the Panel. On 26 September 2002, the report of the Appellate Body was circulated. The Appellate Body upheld the Panel's finding that the EC Regulation was inconsistent with article 2.4 of the TBT Agreement because the European Communities did not use the standard developed by the Codex Alimentarius, Codex Stan 94—a relevant international standard—as a basis for the EC Regulation. However, the Appellate Body reversed the Panel's finding that the European Communities had the burden of proving that the relevant international standard was ineffective and inappropriate under article 2.4 and found, instead, that the burden rested on Peru to prove that the standard was effective and appropriate to fulfil the legitimate objectives pursued by the European Communities through the EC Regulation. In any event, the Panel's ultimate finding was upheld because the Panel also found that Peru had proved that Codex Stan 94 was effective and appropriate to fulfil those objectives. The Appellate Body also made rulings on two procedural issues. First, the Appellate Body found that it was permissible for the European Communities to withdraw its Notice of Appeal and replace it with another one. Second, the Appellate Body confirmed that it could accept and consider amicus curiae briefs submitted by private individuals and found, for the first time, that it could accept and consider amicus curiae briefs submitted by WTO members that were not parties to the dispute. Nevertheless, the Appellate Body did not find it necessary to consider the amicus curiae briefs submitted, because their content were not of assistance to them in this appeal. On 23 October 2002, DSB adopted the Appellate Body report and the Panel report, as modified by the Appellate Body report.

UNITED STATES—*Preliminary determinations with respect to certain softwood lumber from Canada, complaint by Canada (WT/DS236).*

This dispute concerns the preliminary countervailing duty determination and the preliminary critical circumstances determination made by the United States Department of Commerce on 9 August 2001, with respect to certain softwood lumber from Canada. This dispute also concerns United States law on expedited and administrative reviews in the context of countervailing measures. As far as the preliminary countervailing duty determination was concerned, Canada considered this determination to be inconsistent with the obligations of the United States under articles 1, 2, 10, 14, 17.1, 17.5, 19.4 and 32.1 of the SCM Agreement and article VI:3 of GATT 1994. With respect to the preliminary critical circumstances determination, Canada considered this determination to be inconsistent with articles 17.1, 17.3, 17.4, 19.4 and 20.6 of the SCM Agreement. As regards United States measures on company-specific expedited reviews and administrative reviews, Canada considered these measures to be inconsistent with the obligations of the United States under article VI:3 of GATT 1994 and articles 10, 19.3, 19.4, 21.1, 21.2 and 32.1 of the SCM Agreement. Canada also asserted that the United States had failed to ensure that its laws and regulations were in conformity with its WTO obligations as required by article 32.5 of the SCM Agreement and article XVI:4 of the WTO Agreement. At its meeting on 5 December 2001, DSB established a panel. The European Communities and India reserved their third-party rights to participate in the panel proceedings. On 17 December 2001, Japan requested to participate in the proceedings as a third party.

The Panel circulated its report on 27 September 2002. The Panel found that imposition of provisional countervailing measures by the United States was inconsistent with the obligations of the United States under articles 1.1 (*b*), 14 and 14 (*d*) of the SCM Agreement as well as articles 10 and 17.1 (*b*) of the SCM Agreement, as these provisional measures were imposed on the basis of an inconsistent preliminary determination of the existence of a subsidy. According to the Panel, the United States Department of Commerce's preliminary countervailing duty determination had failed to determine the existence and amount of benefit to the producers of the subject merchandise on the basis of the prevailing market conditions in Canada as required by article 1.1 (*b*) and article 14 and 14 (*d*) of the SCM Agreement. The Panel also found that the Canadian "stumpage" practices constituted the provision of a good or service by the Government which, if conferring a benefit, could be considered as a subsidy. With regard to the preliminary critical circumstances determination, the Panel found that the application of provisional measures in the form of cash deposits or bonds under the Department of Commerce's preliminary critical circumstances determination was inconsistent with article 20.6 of the SCM Agreement, as this provision did not allow for the retroactive application of provisional measures. In addition, the Panel found that the provisional measures at issue had been applied in violation of article 17.3 and 17.4 of the SCM Agreement as they were imposed less than 60 days after initiation and covered imports for a period of more than four months. Finally, the Panel found that the United

States laws and regulations on expedited and administrative reviews were not inconsistent with the SCM Agreement as they did not require the executive authority to act in a manner inconsistent with the obligations of the United States under articles 19 and 21 of the SCM Agreement concerning expedited and administrative reviews. DSB adopted the Panel report at its meeting of 1 November 2002.

Implementation of adopted reports

DSU requires DSB to keep under surveillance the implementation of adopted recommendations or rulings (DSU, art. 21.6). This section reflects developments concerning this surveillance, and includes information relating to: (i) the determination, where relevant, of a reasonable period of time for the member concerned to bring its measures into conformity with its obligations under the WTO Agreements (DSU, art. 21.3); (ii) recourse to dispute settlement procedures in cases of disagreement regarding the existence or consistency of measures taken to comply with the recommendations and rulings (DSU, art. 21.5); and (iii) suspension of concessions in case of non-implementation of the recommendations of DSB (DSU, art. 22).

EUROPEAN COMMUNITIES—*Regime for the importation, sale and distribution of bananas, complaints by Ecuador, Guatemala, Honduras, Mexico and the United States (WT/DS27).* At its meeting of 25 September 1997, DSB adopted the Appellate Body report and the Panel reports, as modified by the Appellate Body report, recommending that the European Communities bring its regime for the importation, sale and distribution of bananas into conformity with its obligations under GATT 1994 and the General Agreement on Trade in Services (GATS). At the DSB meeting on 18 December 2001, the European Communities welcomed the granting of the two waivers by the Ministerial Conference, which were the prerequisite for the implementation of phase II of the understandings reached with the United States and Ecuador. The European Communities noted that the Regulation implementing phase II would be adopted on 19 December 2001, with effect on 1 January 2002. Ecuador, Honduras, Panama and Colombia noted the progress made and sought information from the European Communities concerning the granting of import licences by one European Communities member State in a manner that was inconsistent with the understandings. On 21 January 2002, the European Communities announced that Regulation (EC) No. 2587/2001 had been adopted by the Council on 19 December 2001 and indicated that through this Regulation, the European Communities had implemented phase II of the understandings with the United States and Ecuador.

CANADA—*Measures affecting the importation of milk and the exportation of dairy products, complaints by the United States and New Zealand (WT/DS103 and WT/DS113).* At its meeting of 27 October 1999, DSB adopted the Appellate Body report and the Panel report, as modified by the Appellate Body report, recommending that Canada bring the measures at

issue into conformity with its obligations under the Agreement on Agriculture and GATT 1994. The Panel and the Appellate Body found that Canada had acted inconsistently with its obligations under articles 3.3 and 8 of the Agreement on Agriculture by providing "export subsidies" in excess of the quantity commitment levels specified by Canada in its Schedule to that Agreement. The Panel and the Appellate Body also found that one of Canada's restrictions on access to a tariff-rate quota constituted a violation of article II:1 (*b*) of GATT 1994.

Pursuant to article 21.3 (*b*) of DSU, the parties to the dispute agreed that Canada should have until 31 January 2001 to implement the recommendations and rulings of DSB. Canada subsequently modified its regimes for both the importation and exportation of dairy products. On 1 March 2001, New Zealand and the United States requested DSB to refer the matter to the original panel, pursuant to article 21.5 of DSU, to determine the consistency of the modified Canadian measures with Canada's obligations under the Agreement on Agriculture. The Panel found that Canada continued to act inconsistently with its obligations under articles 3.3 and 8 of the Agreement on Agriculture by providing "export subsidies" within the meaning of article 9.1 (*c*) in excess of the quantity commitment levels specified in its Schedule to that Agreement. On 4 September 2001, Canada appealed the compliance Panel report. The report of the Appellate Body was circulated to members on 3 December 2001. The Appellate Body reversed the Panel's finding that the measure at issue—the supply of commercial export milk (CEM) by Canadian milk producers to Canadian dairy processors—involved "payments" on the export of milk that were "financed by virtue of governmental action" under article 9.1 (*c*) of the Agreement on Agriculture. The Appellate Body ruled that it did not have a sufficient factual record to enable it to determine whether CEM involved "export subsidies" under the Agreement on Agriculture. On 17 January 2002, a second compliance panel was composed under article 21.5 of DSU. On 26 July 2002, the report was circulated to the members. The Panel concluded that Canada, through the CEM scheme and the continued operation of certain special milk classes, had acted inconsistently with its obligations under articles 3.3 and 8 of the Agreement on Agriculture, by providing export subsidies within the meaning of article 9.1 (*c*) of the Agreement on Agriculture in excess of its quantity commitment levels specified in its Schedule for exports of cheese and "other dairy products". It also concluded that, in the alternative, Canada had acted inconsistently with its obligations under article 10.1 of the Agreement on Agriculture and that therefore Canada had acted inconsistently with its obligations under article 8 of the Agreement on Agriculture. Accordingly, the Panel recommended that DSB request Canada to bring its dairy products marketing regime into conformity with its obligations in respect of export subsidies under the Agreement on Agriculture.

On 23 September 2002, Canada notified its intention to appeal certain issues of law and legal interpretations developed by the second compliance

panel. The report of the Appellate Body on compliance was circulated on 20 December 2002. The Appellate Body upheld the Panel's finding that the measure at issue—the supply of CEM by Canadian milk producers to Canadian dairy processors—involved export subsidies in the form of "payments" on the export of milk that were "financed by virtue of governmental action" within the meaning of article 9.1 (*c*) of the Agreement on Agriculture. The Appellate Body reversed the Panel's interpretation of the rules on burden of proof in article 10.3 of the Agreement on Agriculture. However, the Appellate Body held that this error did not affect any of the Panel's other findings under the Agreement on Agriculture. In view of its conclusion under article 9.1 (*c*) of the Agreement on Agriculture, the Appellate Body declined to rule on the Panel's alternative finding under article 10.1 of that Agreement.

UNITED STATES—*Tax treatment for "foreign sales corporations", complaint by the European Communities (WT/DS108).* At its meeting of 20 March 2000, DSB adopted the Appellate Body report and the Panel report, as modified by the Appellate Body, finding that the tax exemption measure at issue, the FSC measure, constituted a prohibited subsidy under article 3.1 (*a*) of the SCM Agreement and articles 10.1 and 8 of the Agreement on Agriculture. DSB specified that the FSC subsidies should be withdrawn by 1 October 2000. On 12 October 2000, DSB agreed to the request of the United States that the time period for withdrawal of the subsidies should be modified so as to expire on 1 November 2000.

On 15 November 2000, with a view to implementing the rulings and recommendations of DSB, the United States enacted the FSC Repeal and Extraterritorial Income Exclusion Act of 2000 (the ETI Act). On 17 November 2000, the European Communities requested authorization from DSB to suspend concessions and other obligations, as provided for in article 22.2 of DSU. The United States objected to the level of suspension proposed, and the matter was referred to arbitration, pursuant to article 22.6 of DSU and article 4.11 of the SCM Agreement. However, the parties agreed to defer this arbitration proceeding pending the outcome of the article 21.5 proceeding. Following a request made by the European Communities, DSB, at its meeting on 20 December 2000, referred the matter to the original panel, pursuant to article 21.5 of DSU (compliance panel), to determine the consistency of the ETI Act with the obligations of the United States under the SCM Agreement, the Agreement on Agriculture and GATT 1994.

The compliance Panel report, which was circulated to WTO members on 20 August 2001, found that the ETI Act (the amended FSC legislation) was also inconsistent with articles 3.1 (*a*) and 3.2 of the SCM Agreement, with articles 8 and 10.1 of the Agreement on Agriculture and with article III:4 of GATT 1994. On 15 October 2001, the United States notified its decision to appeal certain issues of law and legal interpretations developed by the Panel report.

The Appellate Body upheld the Panel's findings that the United States had acted inconsistently with its obligations under the SCM Agreement, the Agreement on Agriculture and GATT 1994 through the ETI Act, a measure taken by the United States to implement the recommendations and rulings made by DSB in the original proceedings in the United States–FSC dispute. The report of the Appellate Body was circulated to WTO members on 14 January 2002. DSB adopted the Appellate Body report and the Panel report, as modified by the Appellate Body report, at its meeting on 29 January 2002. In accordance with the procedural agreement concluded by the parties to the dispute in September 2000 (WT/DS108/12), the article 22.6 arbitration on the amount of countermeasures and suspension of concessions was automatically reactivated. On 30 August 2002, the arbitrator's award was circulated.

The arbitrator determined that the suspension by the European Communities of concessions under GATT 1994 in the form of the imposition of a 100 per cent ad valorem charge on imports of certain goods from the United States in a maximum amount of $4,043,000,000 per year, as described in the European Communities request for authorization to take countermeasures and suspend concessions, would constitute appropriate countermeasures within the meaning of article 4.10 of the SCM Agreement.

THAILAND—*Anti-dumping duties on angles, shapes and sections of iron or non-alloy steel and H-beams from Poland, complaint by Poland (WT/DS122).* At its meeting of 5 April 2001 DSB adopted the Appellate Body report and the Panel report, as modified by the Appellate Body report, recommending that Thailand bring its measures into conformity with its obligations under the Anti-Dumping Agreement. At the DSB meeting on 18 December 2001, Thailand announced that it had fully implemented the recommendations of DSB. Poland said that it could not accept the way in which Thailand had implemented the DSB recommendations because it expected that the measures in question would be either rescinded or modified. In Poland's view, Thailand only changed the justification for the imposition of the measures. Poland reserved its rights under article 21.5 of DSU.

On 18 December 2001, Thailand and Poland concluded an understanding with regard to possible proceedings under articles 21 and 22 of DSU. Pursuant to the understanding, in the event that Poland initiated proceedings under articles 21.5 and 22 of DSU, Poland agreed to initiate complete proceedings under article 21.5 prior to any proceedings under article 22. On 21 January 2002, the parties informed DSB that they had reached an agreement to the effect that the implementation of the recommendations of DSB in this dispute should no longer remain on the agenda of DSB.

UNITED STATES—*Anti-Dumping Act of 1916, complaints by the European Communities and Japan (WT/DS136 and WT/DS162).* At its meeting

of 26 September 2000, DSB adopted the Appellate Body report and the Panel report, as upheld by the Appellate Body report, recommending that the United States bring the Anti-Dumping Act of 1916 into conformity with its obligations under the Anti-Dumping Agreement. At the DSB meeting of 23 October 2000, the United States stated that it was its intention to implement the recommendations and rulings of DSB. The United States also stated that it would require a reasonable period of time for implementation and that it would consult with the European Communities and Japan on this matter. On 7 January 2002, on the grounds that the United States had failed to bring its measures into conformity within the reasonable period of time, the European Communities and Japan requested authorization to suspend concessions pursuant to article 22.2 of DSU. On 17 January 2002, the United States objected to the levels of suspension of obligations proposed by the European Communities and Japan and requested DSB to refer the matter to arbitration, in accordance with article 22.6 of DSU. At the DSB meeting on 18 January 2002, the matter was referred to arbitration.

On 25 February 2002, the United States submitted to DSB a status report regarding implementation of the DSB recommendations and rulings. On 27 February 2002, the parties requested the arbitrator to suspend the arbitration proceeding, noting that a proposal to repeal the 1916 Act and to terminate cases pending under the Act was being examined by the United States Congress. The parties noted, however, that the arbitration proceeding could be reactivated at the request of either party after 30 June 2002 if no substantial progress had been made in resolving the dispute by then. At the DSB meeting on 17 April 2002, the United States submitted its status report regarding implementation of the DSB recommendations and rulings. The United States stated that a bill had already been introduced to repeal the 1916 Act and terminate some pending cases. While acknowledging the progress made, the European Communities and Japan stressed the necessity for prompt compliance. Japan noted that under its bilateral agreement with the United States, either party could reactivate the arbitration proceedings after 30 June 2002. At the DSB meeting on 22 May 2002, the United States submitted its status report regarding the implementation of the DSB recommendations and rulings. The United States stated that on 23 April 2002 a bill had been introduced in the United States Senate which would repeal the 1916 Act and apply to all pending court cases. At consecutive DSB meetings the European Communities and Japan expressed concern about the lack of progress in this matter and urged the United States to repeal the 1916 Act as soon as possible; they indicated that swift action was imperative to prevent their companies from incurring huge expenses under WTO-inconsistent legislation.

EUROPEAN COMMUNITIES—*Anti-dumping duties on imports of cotton-type bed linen, complaint by India (WT/DS141).* At its meeting of 12 March 2001, DSB adopted the Appellate Body report and the Panel report, as modified by the Appellate Body report, recommending that India bring

its measures found to be inconsistent with the Anti-Dumping Agreement into conformity with its obligations under that Agreement. On 8 March 2002, India sought recourse to article 21.5 of DSU, stating that there was disagreement as to the existence or consistency with a covered agreement of measures taken to comply with the recommendations and rulings. On 4 April 2002, India requested the establishment of a compliance panel. At the DSB meeting on 17 April 2002, India informed DSB that, pursuant to an understanding reached between the European Communities and India, it was requesting the withdrawal of the item from the agenda in accordance with rule 6 of the rules of procedure for WTO meetings. DSB agreed to India's request. On 7 May 2002, India again requested the establishment of a compliance panel. At the DSB meeting on 22 May 2002, it was agreed that, if possible, the matter would be referred to the original panel. The United States reserved its third-party rights to participate in the proceedings.

The Panel circulated its report to members on 29 November 2002. The Panel concluded that the European Communities' definitive anti-dumping measure on imports of bed linen from India, based on a redetermination of injury and a recalculation of dumping margins for Indian producers, was not inconsistent with the Anti-Dumping Agreement or DSU and therefore considered that the European Communities had implemented the recommendation of the original Panel, the Appellate Body and DSB to bring its measure into conformity with its obligations under the Anti-Dumping Agreement.

INDIA—*Measures affecting the automotive sector, complaint by the European Communities and the United States (WT/DS146 and WT/DS175).* At the DSB meeting on 5 April 2002, DSB adopted the Appellate Body and Panel reports. On 2 May 2002, India informed DSB that it would need a reasonable period of time to implement the recommendations and rulings of DSB and that it was ready to enter into discussions with the European Communities and the United States in this regard. On 18 July 2002, the parties informed DSB that they had mutually agreed that the reasonable period of time to implement the recommendations and rulings of DSB would be five months, from 5 April 2002 to 5 September 2002. On 6 November 2002, India informed DSB that it had fully complied with the recommendations of DSB in this dispute by issuing Public Notice No. 31, on 19 August 2002, terminating the trade balancing requirement. India also reported that on 4 September 2001 it had removed the indigenization requirement in respect of Public Notice No. 30.

ARGENTINA—*Measures on the export of bovine hides and the import of finished leather, complaint by the European Communities (WT/DS155).* At the DSB meeting on 16 February 2001, DSB adopted the Panel report recommending that Argentina bring its measures into conformity with its obligations under GATT 1994. The reasonable period of time determined by binding arbitration pursuant to article 21.3 (*c*) of DSU expired on 28 February 2002. In view of the concrete action undertaken by

Argentina to comply with the DSB recommendations and rulings during the reasonable period of time in this dispute, and in light of the economic problems that Argentina was currently facing, the parties agreed on the following procedures: the parties would pursue their discussions on compliance by Argentina with the DSB recommendations and rulings, and the European Communities would retain the right to make a request for authorization to suspend concessions or other obligations under DSU at any time after the expiry of the reasonable period of time, but only after completion of proceedings under article 21.5 of DSU. On 25 February 2002, the parties requested DSB to circulate their agreement on procedures under articles 21 and 22 of DSU. On 8 March 2002, the parties notified DSB of their agreement.

UNITED STATES—*Section 110(5) of the United States Copyright Act, complaint by the European Communities (WT/DS160).* At its meeting of 27 July 2000, DSB adopted the Panel report recommending that the United States bring subparagraph (B) of section 110(5) of the United States Copyright Act into conformity with its obligations under the TRIPS Agreement. On 7 January 2002, on the grounds that the United States had failed to bring its measures into conformity within the reasonable period of time, the European Communities requested authorization to suspend concessions pursuant to article 22.2 of DSU. The European Communities proposed to suspend concessions under the TRIPS Agreement in order to permit the levying of a special fee from United States nationals in connection with border measures concerning copyright goods. On 17 January 2002, the United States objected to the level of suspension of obligations proposed by the European Communities and requested DSB to refer the matter to arbitration, in accordance with article 22.6 of DSU. The United States claimed that the principles and procedures of article 22.3 had not been followed. During the DSB meeting on 18 January 2002, the parties indicated, however, that they were engaged in constructive negotiations and were hopeful of finding a mutually satisfactory solution. On 25 February 2002, the United States submitted a status report regarding implementation of the DSB recommendations and rulings. On 26 February 2002, the parties requested the arbitrator to suspend the arbitration proceeding, while noting that the proceeding could be reactivated at the request of either party after 1 March 2002.

At the DSB meetings throughout 2002, the United States presented status reports in which it stated that the United States and the European Communities were committed to finding a positive and mutually acceptable solution to the dispute and that the United States administration would continue to engage the United States Congress with a view to settling this dispute as soon as practicable. The European Communities expressed disappointment with the lack of implementation by the United States and urged the United States to take rapid and concrete action to settle this dispute.

UNITED STATES—*Section 211 of the Omnibus Appropriations Act, complaint by the European Communities (WT/DS176).* DSB adopted the Appellate Body report and the Panel report, as modified by the Appellate Body report, on 1 February 2002, recommending that the United States bring its measure found to be inconsistent with the TRIPS Agreement into conformity with its WTO obligations. At the DSB meeting on 19 February 2002, the United States stated that it needed a reasonable period of time to comply with the rulings and recommendations of DSB. On 28 March 2002, the United States and the European Communities informed DSB that they had reached a mutual agreement on the reasonable period of time for the United States to implement the recommendations and rulings of DSB. The reasonable period of time was due to expire on 31 December 2002, or on the date on which the current session of the United States Congress adjourned, and in no event later than 3 January 2003. On 20 December 2002, the European Communities and the United States informed DSB that they had mutually agreed to modify the reasonable period of time for the United States to implement the recommendations and rulings of DSB, so as to expire on 30 June 2003.

UNITED STATES—*Anti-dumping measures on certain hot-rolled steel products from Japan, complaint by Japan (WT/DS184).* At its meeting of 23 August 2001 DSB adopted the Appellate Body report and the Panel report, as modified by the Appellate Body report recommending that the United States bring its measures into conformity with its obligations under the Anti-Dumping Agreement. On 20 November 2001, Japan requested that the reasonable period of time for implementation of the recommendations of DSB be determined by binding arbitration under article 21.3 (*c*) of DSU. Pending the appointment of the arbitrator, Japan and the United States agreed to extend the time period under that provision. They agreed that the award of the arbitrator was to be made no later than 19 February 2002. On 19 February 2002, the arbitrator circulated his award. The arbitrator concluded that the reasonable period of time for implementation by the United States of the recommendations of DSB was 15 months from 23 August 2001. Accordingly, this period expired on 23 November 2002.

At the DSB meeting on 1 October 2002, the United States presented its status report regarding the implementation of the recommendations and rulings of DSB. At the DSB meeting of 28 November 2002, the United States stated that the Department of Commerce had issued a new final determination in the hot-rolled steel anti-dumping duty investigation, which implemented the recommendations and rulings of DSB with respect to the calculation of anti-dumping margins in that investigation. Regarding the recommendations and rulings of DSB with respect to the United States anti-dumping statute, the United States stated that the United States administration was continuing to consult and to work with the United States Congress with a view to resolving the dispute in a mutually satisfactory manner. To that end, the United States was consulting with Japan and had

sought its agreement to extend the reasonable period of time in this case to 31 December 2003 or the end of the first session of the next Congress, whichever was earlier. Japan stated that, while it would probably agree to an extension of the reasonable period of time, it expected the United States to bring its measures into compliance as soon as practicable. Japan also reserved its right to take appropriate action in the event of non-compliance occurring again by the United States. At its meeting on 5 December 2002, DSB agreed to the request by the United States for an extension of the reasonable period of time for the implementation of the recommendations and rulings of DSB in this dispute.

ARGENTINA—*Definitive anti-dumping measures on imports of ceramic floor tiles from Italy, complaint by the European Communities (WT/DS189).* At its meeting on 5 November 2001, DSB adopted the Panel report recommending that Argentina bring its measures into conformity with its obligations under the Anti-Dumping Agreement. On 20 December 2001, the European Communities and Argentina informed DSB that they had mutually agreed a reasonable period of time of five months to implement the recommendations and rulings of DSB, i.e. from 5 November 2001 until 5 April 2002. At the DSB meeting of 22 May 2002, Argentina announced that on 24 April 2002 the Ministry of Production had enacted resolution 76/02 revoking the anti-dumping measures at issue in this case. With the publication of this resolution, Argentina considered that it had fully implemented the recommendations and rulings of DSB in this dispute. The European Communities welcomed Argentina's prompt implementation in this case.

UNITED STATES—*Definitive safeguard measures on imports of circular welded carbon quality line pipe from the Republic of Korea, complaint by the Republic of Korea (WT/DS202).* On 8 March 2002, DSB adopted the Appellate Body report and the Panel report, as modified by the Appellate Body report recommending that the United States bring the line pipe measure found to be inconsistent with the obligations of the United States under the Agreement on Safeguards and GATT 1994 into conformity with its obligations under those Agreements. On 29 April 2002, the Republic of Korea proposed to DSB that the "reasonable period of time" should be determined by binding arbitration pursuant to article 21.3 (*c*) of DSU. On 13 May 2002, Korea requested the Director-General to appoint an arbitrator. The issuance of the award was scheduled for 12 July 2002. By joint letter of 12 July 2002, the parties requested the arbitrator to delay the issuance of the award until 22 July 2002 in order to allow time for additional bilateral negotiations between the parties. The arbitrator acceded to the request. Further joint requests for delay were requested and agreed to. By letters dated 24 July 2002, the parties informed the arbitrator that they had reached agreement on the reasonable period of time for compliance in this matter. Accordingly, the arbitrator did not issue his award and, instead, issued a report setting out the procedural history of this arbitration.

UNITED STATES—*Anti-dumping and countervailing measures on steel plate from India, complaint by India (WT/DS206).* At its meeting on 29 July 2002, DSB adopted the Panel report recommending that India bring its disputed measure into conformity with its obligations under the Anti-Dumping Agreement. On 1 October 2002, the United States and India informed DSB that pursuant to article 21.3 (*b*) of DSU they had mutually agreed that the reasonable period of time to implement the DSB recommendations and rulings in this dispute would be five months, from 29 July 2002 to 29 December 2002.

CHILE—*Price band system and safeguard measures relating to certain agricultural products, complaint by Argentina (WT/DS207).* At its meeting on 23 October 2002, DSB adopted the Appellate Body report and the Panel report, as modified by the Appellate Body report requesting Chile to bring its price band system into conformity with its obligations under the Agreement on Agriculture. At the DSB meeting of 11 November 2002, Chile stated that it intended to comply with the recommendations and rulings of DSB. To that end, Chile was engaged in consultations with Argentina to find a mutually satisfactory solution to the dispute. Chile further stated that it would need a reasonable period of time to bring its measures into conformity with the recommendations and rulings of DSB. On 6 December 2002, Chile informed DSB that to date Chile and Argentina had been unable to agree on the length of the reasonable period of time and thus Chile was requesting that the determination of the reasonable period of time be the subject of binding arbitration in accordance with article 21.3 (*c*) of DSU. On 16 December 2002, Argentina and Chile informed DSB that they had agreed to postpone the deadline for the binding arbitration, which would now be completed no later than 90 days from the appointment of the arbitrator (instead of 90 days from the date of adoption of the rulings and recommendations of DSB).

EGYPT—*Definitive anti-dumping measures on steel rebar from Turkey, complaint by Turkey (WT/DS211).* On 1 October 2002, DSB adopted the Panel report recommending that Egypt bring its definitive anti-dumping measures on imports of steel rebar from Turkey into conformity with the relevant provisions of the Anti-Dumping Agreement. On 14 November 2002, Egypt and Turkey informed the Chairman of DSB that they had mutually agreed that the reasonable period of time to implement the recommendations and rulings of DSB should not be more than nine months, that is from 1 November 2002 until 31 July 2003.

CANADA—*Export credits and loan guarantees for regional aircraft, complaint by Brazil (WT/DS222).* The report of the Panel recommending that Canada withdraw the disputed subsidies was adopted by DSB at its meeting on 19 February 2002. On 23 May 2002, on the grounds that Canada had failed to implement the recommendations of DSB within the 90-day time period granted by DSB, Brazil requested authorization to suspend concessions pursuant to article 22.2 of DSU. Brazil proposed that the

suspension of concessions should take the form of some or all of the following countermeasures: (i) suspension of its obligations under paragraph 6 (*a*) of article VI of GATT 1994 to determine the effect of subsidization under Export Development Canada (EDC) Canada Account and EDC Corporate Account programmes; (ii) suspension of application of obligations under the Agreement on Import Licensing Procedures relating to licensing requirements on imports from Canada; and (iii) suspension of tariff concessions and related obligations under GATT 1994 concerning those products in the list attached to Brazil's communication of 23 May 2002.

At the DSB meeting on 3 June 2002, Brazil and Canada informed DSB that they had reached an agreement in this matter. Under the terms of the agreement, the parties agreed that it would in no way prejudice the right of Brazil to request authorization to take appropriate countermeasures under article 4.10 of the SCM Agreement and article 22.2 of DSU, nor affect the relevant time periods under DSU. At the DSB meeting on 24 June 2002, Brazil stated that it was requesting authorization to suspend concessions for an amount of US$ 3.36 billion towards Canada as the latter had failed to withdraw its prohibited export subsidies within the time frame specified by the Panel. Canada disputed Brazil's right to request authorization from DSB to suspend concessions. It argued that Brazil had not fulfilled the conditions spelled out in article 22.2 of DSU and as such it could not avail itself of article 22.6 of DSU. Canada also objected to the countermeasures proposed by Brazil. DSB referred the matter to arbitration according to article 22.6 of DSU and article 4.11 of the SCM Agreement.

EUROPEAN COMMUNITIES—*Trade description of sardines, complaint by Peru (WT/DS231).* On 23 October 2002, DSB adopted the Appellate Body report and the Panel report, as modified by the Appellate Body report recommending that the European Communities bring its measure into conformity with its obligations under the TBT Agreement. At the DSB meeting of 11 November 2002, the European Communities stated that it was working towards implementing the rulings and recommendations of DSB in a manner consistent with its obligations under WTO rules, in particular, article 2.4 of the TBT Agreement. However, the European Communities stated that in order to be able to achieve this it would need a reasonable period in which to bring its measures into conformity with its obligations under the TBT Agreement, especially given that implementation would entail the repeal of a statutory measure. To that end, the European Communities was willing to consult with Peru, pursuant to article 21.3 of DSU, in order to achieve agreement on the reasonable period of time needed for implementation of the rulings and recommendations of DSB. On 19 December 2002, Peru and the European Communities informed DSB that they had agreed that the reasonable period of time for the European Communities to implement the recommendations and rulings of DSB would expire on 23 April 2003.

UNITED STATES—*Preliminary determinations with respect to certain softwood lumber from Canada, complaint by Canada (WT/DS236).* DSB adopted the Panel report at its meeting of 1 November 2002 recommending that the United States bring its measure into conformity with its obligations under the SCM Agreement. At the DSB meeting of 28 November 2002, the United States said that the measures at issue in this dispute were no longer in effect and that the provisional cash deposits that Canada had challenged had been refunded prior to the circulation of the Panel report. As such, it was not necessary for the United States to take any further action to comply with the recommendations and rulings of DSB. Canada dismissed the view of the United States that no action was required on its part to implement the recommendations and rulings of DSB. Canada stated that the methodologies found by the Panel to be plainly illegal in the United States preliminary countervailing duty determination remained unchanged in the final determination.

Panel reports pending before the Appellate Body

UNITED STATES—*Continued dumping and subsidy offset act of 2000, joint complaint by Australia, Brazil, Chile, the European Communities, India, Indonesia, Japan, the Republic of Korea and Thailand (WT/DS217) and by Canada and Mexico (WT/DS234).* This dispute concerns the amendment to the Tariff Act of 1930 signed into law by the President on 28 October 2000, entitled the "Continued Dumping and Subsidy Offset Act of 2000" (the Act), usually referred to as the Byrd Amendment. According to the complainants, the Act mandates the United States customs authorities to distribute, on an annual basis, the duties assessed pursuant to a countervailing duty order, an anti-dumping order or a finding under the Anti-dumping Act of 1921 to the "affected domestic producers" for their "qualifying expenses". According to the complainants, the Act is inconsistent with the obligations of the United States under several provisions of GATT, the Anti-Dumping Agreement, the SCM Agreement and the WTO Agreement.

On 16 September 2002, the Panel report was circulated to members. The Panel concluded that the Act was inconsistent with articles 5.4, 18.1 and 18.4 of the Anti-Dumping Agreement, articles 11.4, 32.1 and 32.5 of the SCM Agreement, articles VI:2 and VI:3 of GATT 1994 and article XVI:4 of the WTO Agreement. The Panel rejected the complaining parties' claims that the Act was inconsistent with articles 8.3 and 15 of the Anti-Dumping Agreement, articles 4.10, 7.9 and 18.3 of the SCM Agreement and article X:3 (*a*) of GATT 1994. They also rejected Mexico's claim that the Act violated article 5 (*b*) of the SCM Agreement. The Act was a new and complex measure, applied in a complex legal environment. In concluding that the Act was in violation of the above-mentioned provisions, the Panel had been confronted by sensitive issues regarding the use of subsidies as trade remedies. If members were of the view that subsidi-

zation was a permitted response to unfair trade practices, the Panel suggested that they clarify the matter through negotiation.

Pursuant to article 3.8 of DSU, the Panel concluded that to the extent that the Act was inconsistent with the provisions of the Anti-Dumping Agreement, the SCM Agreement and GATT 1994, the Act nullified or impaired benefits accruing to the complaining parties under those agreements. The Panel recommended that DSB should request the United States to bring the Act into conformity with its obligations under the Anti-Dumping Agreement, the SCM Agreement and GATT 1994 by repealing the Act.

On 18 October 2002, the United States notified its decision to appeal to the Appellate Body certain issues of law covered in the Panel report and certain legal interpretations developed by the Panel; more particularly, the United States appealed the Panel's conclusion that the Act was inconsistent with article 18.1 of the Anti-Dumping Agreement and article 32.1 of the SCM Agreement, and with article 5.4 of the Anti-Dumping Agreement and article 11.4 of the SCM Agreement.

Appellate Body reports circulated

UNITED STATES—*Countervailing measures concerning certain products from the European Communities, complaint by the European Communities (WT/DS212).* This request, dated 8 August 2001, concerns the imposition and continued application by the United States of countervailing duties on a number of products. In particular, the European Communities claimed that the continued imposition and application by the United States of countervailing duties was based on an irrefutable presumption that non-recurring subsidies granted to a former producer of goods, prior to a change of ownership, "pass through" to the current producer of the goods following the change of ownership.

On 31 July 2002, the Panel report was circulated to members. One of the determinations by the United States Department of Commerce was based on the "same person" methodology. The Panel found that such determination was inconsistent with the requirements of the SCM Agreement because, in situations where the State-owned enterprise and the newly privatized firm have the same legal personality, the United States Department of Commerce is prevented from evaluating whether a "benefit" in fact continues to exist after privatization. The other 11 determinations were based on the "gamma" methodology (which was the subject of the United States—Lead and bismuth II Appellate Body report, WT/DS138).

The Panel concluded that those determinations were inconsistent with the SCM Agreement because the United States Department of Commerce had not examined whether the privatizations had taken place at arm's length and for fair market value and thus had not determined whether the new privatized producers had received any "benefit" from the previous subsidy to the State-owned enterprise. The Panel concluded that privatization at arm's

length and for fair market value always extinguishes any remaining part of a "benefit" previously bestowed to the State-owned enterprise by a non-recurring financial contribution. The Panel further concluded that, since two of those privatizations had taken place at arm's length and for fair market value, the "benefit[s]" resulting from the subsidy to the previous State trading enterprise were extinguished vis-à-vis the new privatized producer. As regards the consistency of United States internal legislation with WTO obligations, the Panel found that the United States statute was inconsistent with the WTO obligations of the United States because it mandated the United States Department of Commerce to exercise discretion, preventing it from "systematically" (that is, automatically) determining that a privatization at arm's length and for fair market value extinguishes the "benefit". In other words, vesting the United States Department of Commerce with discretion in determining the continuing existence of a "benefit" renders the legislation inconsistent with the WTO obligations of the United States.

On 9 September 2002 the United States notified its decision to appeal all the "conclusions" of the Panel. On 9 December 2002, the Appellate Body report was circulated to members. The Appellate Body: (i) upheld the Panel's findings that the determinations of the United States Department of Commerce in 12 countervailing duty cases were inconsistent with the SCM Agreement because the investigating authority had failed to ascertain the continued existence of a "benefit" following privatization of recipients of prior non-recurring financial contributions; (ii) reversed the Panel's finding that an investigating authority must "systematically" (i.e. automatically) conclude that a "benefit" no longer exists for a firm that has been privatized at arm's length and for fair market value; and (iii) consequently, reversed the Panel's conclusion that the relevant United States statue was inconsistent with the SCM Agreement and article XVI:4 of the WTO Agreement as the Panel had based its conclusion on the WTO-consistency of the United States internal legislation on its erroneous finding that an arm's length, fair market value privatization necessarily and always prevents the benefit from accruing to the new private firm.

Panels established by DSB

The following table lists the panels established by DSB in 2002.

Dispute	*Complainant*	*Panel established*
Argentina Definitive safeguard measure on imports of preserved peaches (WT/DS238)	Chile	18 January 2002
Mexico Measures affecting telecommunications services (WT/DS204)	United States	17 April 2002

Dispute	*Complainant*	*Panel established*
Argentina Definitive anti-dumping duties on poultry (WT/DS241)	Brazil	17 April 2002
United States Sunset review of anti-dumping duties on corrosion-resistant carbon steel flat products from Japan (WT/DS244)	Japan	22 May 2002
Japan Measures affecting the importation of apples (WT/DS245)	United States	3 June 2002
United States Definitive safeguard measures on imports of certain steel products (WT/DS248, WT/DS249, WT/DS251, WT/DS252, WT/DS253, WT/DS254, WT/DS258, WT/DS259)	European Communities, Japan, Republic of Korea, China, Switzerland, Norway, New Zealand, Brazil	14 June 2002
United States Rules of origin for textiles and apparel products (WT/DS243)	India	24 June 2002
European Communities Provisional safeguard measures on imports of certain steel products (WT/DS260)	United States	16 September 2002
United States Equalizing excise tax imposed by Florida on processed orange and grapefruit products (WT/DS250)	Brazil	1 October 2002
United States Final countervailing duty determination with respect to certain softwood lumber from Canada (WT/DS257)	Canada	1 October 2002

Active panels

The following table lists those panels that were still active as at 31 December 2002 (the list excludes panels established in 2002).

Dispute	*Complainant*	*Panel established*
Argentina Measures affecting imports of footwear (WT/DS164)	United States	26 July 1999
Nicaragua Measures affecting imports from Honduras and Colombia (WT/DS188)	Colombia	18 May 2000
Philippines Measures affecting trade and investment in the motor vehicle sector (WT/DS195)	United States	17 November 2000
United States Definitive safeguard measures on imports of steel wire rod and circular welded carbon quality line pipe (WT/DS214)	European Communities	10 September 2001
European Communities Anti-dumping duties on malleable cast iron tube or pipe fittings from Brazil (WT/DS219)	Brazil	24 July 2001

Requests for consultations

The following list does not include those disputes where a panel was either requested or established in 2002.

Dispute	*Complainant*	*Date of request*
European Communities Conditions for the granting of tariff preferences to developing countries (WT/DS246)	India	5 March 2002
United States Provisional anti-dumping measure on imports of certain softwood lumber from Canada (WT/DS247)	Canada	6 March 2002

Dispute	*Complainant*	*Date of request*
Peru Tax treatment on certain imported products (WT/DS255)	Chile	22 April 2002
Turkey Import ban on pet food from Hungary (WT/DS256)	Hungary	3 May 2002
Uruguay Tax treatment on certain products (WT/DS261)	Chile	18 June 2002
United States Sunset reviews of anti-dumping and countervailing duties on certain steel products from France and Germany (WT/DS262)	European Communities	25 July 2002
European Communities Measures affecting imports of wine (WT/DS263)	Argentina	4 September 2002
United States Final dumping determination on softwood lumber from Canada (WT/DS264)	Canada	13 September 2002
European Communities Export subsidies on sugar (WT/DS265)	Australia	27 September 2002
European Communities Export subsidies on sugar (WT/DS266)	Brazil	27 September 2002
United States Subsidies on upland cotton (WT/DS267)	Brazil	27 September 2002
United States Sunset review of anti-dumping measures on oil country tubular goods from Argentina (WT/DS268)	Argentina	7 October 2002
European Communities Customs classification of frozen boneless chicken (WT/DS269)	Brazil	11 October 2002

Dispute	*Complainant*	*Date of request*
Australia Certain measures affecting the importation of fresh fruit and vegetables (WT/DS270)	Philippines	18 October 2002
Australia Certain measures affecting the importation of fresh pineapple (WT/DS271)	Philippines	18 October 2002
Peru Provisional anti-dumping duties on vegetable oils from Argentina (WT/DS272)	Argentina	21 October 2002
Republic of Korea Measures affecting trade in commercial vessels (WT/DS273)	European Communities	21 October 2002
United States Definitive safeguard measures on imports of certain steel products (WT/DS274)	Taiwan, Province of China	1 November 2002
Venezuela Import licensing measures on certain agricultural products (WT/DS275)	United States	7 November 2002
Canada Measures relating to exports of wheat and treatment of imported grain (WT/DS276)	United States	17 December 2002
United States Investigation of the International Trade Commission in softwood lumber from Canada (WT/DS277)	Canada	20 December 2002
Chile Definitive safeguard measure on imports of fructose (WT/DS278)	Argentina	20 December 2002
India Import restrictions maintained under the export and import policy 2002-2007 (WT/DS279)	European Communities	23 December 2002

Notifications of a mutually agreed solution/settlement

The following table lists the disputes concerning which a solution/settlement were notified.

Dispute	*Complainant*	*Date of notification*
Slovakia Safeguard measure on imports of sugar (WT/DS235)	Poland	11 January 2002
Argentina Patent protection for pharmaceuticals and test data protection for agricultural chemicals (WT/DS171)	United States	31 May 2002
Argentina Certain measures on the protection of patents and test data (WT/DS196)	United States	31 May 2002
Peru Tax treatment on certain imported products (WT/DS255)	Chile	25 September 2002
Turkey Fresh fruit import procedures (WT/DS237)	Ecuador	22 November 2002

(*e*) The legal activities in the councils

The following sections list and summarize the legal activities of the councils and committees of WTO.

General Council

The General Council held six meetings since the period covered by the previous report. The minutes of these meetings and special sessions, which remain the record of the General Council's work, are contained in documents WT/GC/M/72-77.

Trade Negotiations Committee

Reports of the Trade Negotiations Committee (WT/GC/M/73, 74, 75, 76, 77). At the General Council meeting on 13 and 15 February and 1 March 2002, the Chairman of the Trade Negotiations Committee (TNC) reported on the Committee's first meeting on 28 January and 1 Febru-

ary 2002. The representative of Cuba and the Chairman spoke. The General Council took note of the statements and of the report by the TNC Chairman.

At the General Council meeting on 13 and 14 May 2002, the Chairman of the Trade Negotiations Committee reported on the Committee's second meeting on 24 April. The General Council took note of the report by the TNC Chairman.

At the General Council meeting on 8 and 31 July 2002, the Chairman of the Trade Negotiations Committee reported on the Committee's third meeting on 18 and 19 July. The General Council took note of the report by the TNC Chairman.

At the General Council meeting on 15 October 2002, the Chairman of the Trade Negotiations Committee reported on the Committee's fourth meeting on 3 and 4 October. The representative of Kenya (on behalf of the African Group) spoke. The General Council took note of the statements and of the report by the TNC Chairman.

At the General Council meeting on 10-12 and 20 December 2002, the Chairman of the Trade Negotiations Committee reported on the Committee's activities since the last report to the General Council in October. The representatives of Norway, Bulgaria, India, Kenya (on behalf of the African Group) and China, and the Chairman spoke. The General Council took note of the report by the TNC Chairman and of the statements.

Committee on Trade and Development

At its meeting on 8 and 31 July 2002, the General Council considered the report of the Chairman of CTD in special session (TN/CTD/3). The representatives of Kenya (on behalf of the African Group), Zambia, Uganda, the Republic of Korea, Thailand, Brazil, China, Cuba, Indonesia, Paraguay, Malaysia, India, the United States, the European Communities and Nigeria spoke. The General Council took note of the statements and of the report of the Chairman and approved the recommendations contained in paragraphs 14-19 of the report.

At the General Council meeting on 10-12 and 20 December 2002, the Chairman recalled that at its July meeting the General Council had agreed, inter alia, to extend the time period for completion of work to be elaborated by the special session of the Committee on Trade and Development to December 2002. The General Council had also agreed to establish a monitoring mechanism for special and differential treatment, and instructed the special session of CTD to elaborate the functions, structure and terms of reference of this mechanism for approval by the General Council. On 10 December, the Chairman of the special session of CTD reported on the work under the mandate of the Committee. The General

Council took note of the report by the Chairman and suspended its consideration of this item.

On 11 December, the Chairman of the special session of CTD made an interim progress report to the General Council in an informal session. The General Council agreed to suspend consideration of this item and revert to it subsequently in light of the advice from the Chairman, but in any event not later than 20 December.

At the resumed meeting on 20 December, the Chairman of CTD in special session said, inter alia, that although no agreement had been possible on a report to the General Council, this was far too important an area of work to be left without exerting further efforts towards fulfilment of the mandate. He therefore proposed that the General Council agree to provide additional time to allow CTD in special session to finalize its report. The Chairman proposed that the General Council take note of the statements and authorize CTD in special session to continue its work towards finalizing its report on special and differential treatment pursuant to paragraph 12.1 of the Doha Ministerial Decision on Implementation-Related Issues and Concerns, and to report back to the General Council at its first meeting in 2003. The General Council so agreed.

Committee on Subsidies and Countervailing Measures

Report on review of provisions regarding countervailing duty investigations in pursuance of paragraph 10.3 of the Doha Ministerial Decision on Implementation-Related Issues and Concerns (WT/GC/M/75). At its meeting on 8 and 31 July 2002, the General Council considered a report by the Chairman of the Committee on Subsidies and Countervailing Measures (G/SCM/45). The Vice-Chairman of the Committee, speaking on behalf of the Chairman, introduced the report. The representatives of Brazil, India and the United States spoke. The General Council took note of the report of the Chairman and of the statements by delegations.

Statement by the Chairman of the Committee on the work undertaken pursuant to paragraph 10.6 of the Doha Ministerial Decision on Implementation-Related Issues and Concerns (WT/GC/M/77). At the General Council meeting on 10-12 and 20 December 2002, the Chairman of the Committee on Subsidies and Countervailing Measures reported on the work undertaken in the Committee pursuant to this mandate. The representatives of the United States, Colombia, Japan, Barbados and the European Communities spoke. The General Council took note of the report by the Chairman and of the statements.

Committee on Agriculture

Report on the follow-up to the recommendations of the Committee on Agriculture concerning implementation-related issues approved by the

Doha Ministerial Conference (WT/GC/M/76). At its meeting on 15 October 2002, the General Council considered a report by the Committee on Agriculture (G/AG/14) which was introduced by the Chairman of the Committee. The representatives of Brazil and Argentina spoke. The General Council took note of the statements and of the report by the Committee.

Committee on Anti-Dumping Practices

Report on matters referred to the Committee by the Doha Ministerial Decision on Implementation-Related Issues and Concerns (WT/GC/M/77). At the General Council meeting on 10-12 and 20 December 2002, the Chairman of the Committee on Anti-Dumping Practices introduced the Committee's recommendations with regard to articles 18.6 and 5.8 of the Agreement on Implementation of Article VI of GATT 1994, and reported on the Committee's consideration of the issue relating to article 15 of the Agreement. The representatives of the Republic of Korea, Brazil, Chile, Colombia, India, the United States, Japan, Malaysia, Canada and Indonesia, and the Chairman spoke. The General Council took note of the report and of the statements, and approved the recommendation contained in document G/ADP/9. The General Council then took note of the recommendation contained in document G/ADP/10, as well as the report by the Chairman of the Committee relating to article 15 of the Anti-Dumping Agreement.

Committee on Market Access

At its meeting on 10-12 and 20 December 2002, the General Council considered a report by the Committee on Market Access (G/MA/119) which was introduced by the Chairman of the Committee. The representatives of Honduras, Jamaica and Mauritius spoke. The Chairman suggested that members might wish to reflect further over the end-of-year break on the various views that had been expressed on this matter, particularly with regard to the future course of action, and said that, as all delegations were aware, this issue might be raised again by any member in any WTO forum it deemed appropriate, including in the negotiations under the Doha agenda. The General Council took note of the report and of the statements.

Committee on Customs Valuation

At its meeting on 10-12 and 20 December 2002, the General Council considered a report by the Committee on Customs Valuation (G/VAL/50). The Chairman of the Committee introduced the report. The General Council took note of the report and of the progress to date and authorized the Committee to continue its work under the existing mandate and to report back to the General Council once its work had been completed.

Report of the Inter-Agency Panel (WT/GC/M/75, 76, 77). At its meeting on 8 and 31 July 2002, the General Council considered the report of the Inter-Agency Panel (WT/GC/62-G/AG/13). The representative of Japan, on behalf of the Chairman of the Inter-Agency Panel, introduced the Panel report. The representatives of Sri Lanka, Egypt, Jordan, Cuba, Pakistan, Japan, Mauritius and Tunisia, and the Chairman spoke. The General Council took note of the report and of the statements, and agreed to revert to this matter at its reconvened meeting on 31 July. At the reconvened meeting of the General Council on 31 July, the representatives of Canada, Mauritius, Japan, Egypt, Zambia (on behalf of the LDCs), the European Communities, Chile, Sri Lanka, the United States, Switzerland, Djibouti, Cuba, Hungary and Senegal, and the Chairman spoke. The Chairman proposed that at this stage the General Council should take note of the statements and agree to return to the matter at its next meeting and that, in order not to lose time, it should invite the Chairman of the Committee on Agriculture to consult with interested members on the way forward with regard to following up on the Panel's recommendations, especially with regard to paragraph 168 (*b*), and to report on the results of his consultations to the General Council at its next meeting. The General Council so agreed.

At the General Council meeting on 15 October 2002, the Chairman of the Committee on Agriculture reported on the results of his consultations. The representatives of Kenya (on behalf of the African Group) and Senegal, and the Chairman spoke. The General Council took note of the statements and of the report of the Inter-Agency Panel (WT/GC/62-G/AG/13 and Corr.1), and approved the recommendations contained in paragraph 168 of the report. With regard to the recommendations in paragraph 168 (*a*), (*c*) and (*d*), the General Council authorized its Chairman to write to IMF, the World Bank and the agencies members of the Integrated Framework for LDCs requesting them to review the Panel report as it related to the issues within their competence. Finally, with regard to the recommendation in paragraph 168 (*b*), the General Council approved the recommendation of the Committee on Agriculture that the question of feasibility of an ex ante financing mechanism aimed at food importers be pursued by the Committee, on the understanding that a proposal regarding the establishment of an ex ante financing mechanism would be submitted by the WTO net food-importing developing countries, and that a follow-up report concerning the discussion of the proposal would be submitted to the General Council following the regular meeting of the Committee in November.

At the General Council meeting on 10-12 and 20 December 2002, the Chairman of the Committee on Agriculture reported on his consultations on the follow-up to the recommendation in paragraph 168 (*b*) of the Inter-Agency Panel report. The representatives of Jordan, Cuba, Nigeria and Tunisia, and the Chairman spoke. The General Council took note of the report and of the statements and authorized the Agriculture Committee Chairman to continue his consultations with a view to preparing a deci-

sion by the Committee on the proposed ex ante financing mechanism at its regular meeting in March 2003, and to report back to the General Council on the outcome as soon as possible thereafter.

Work programme on harmonizing rules of origin
(WT/GC/M/72, 75, 77)

At its meeting on 19 and 20 December 2001, the General Council considered a report by the Chairman of the Committee on Rules of Origin (CRO) covering a review of progress made, identification of the scope of remaining issues and the future course of work for the conclusion of the harmonization work programme (G/RO/49). The Chairman of CRO, in introducing his report, outlined the results of his consultations since the circulation of his report regarding the future course of work on this matter. The representatives of the Republic of Korea, the Philippines, India, Norway, Thailand, Singapore, Brazil, New Zealand, Australia, the European Communities, Hungary, the United States, Mexico and Canada spoke. The Chairman proposed that CRO should hold two additional sessions in the first half of 2002 to resolve remaining issues. In that process, it might identify a limited number of core policy-level issues which in its view needed to be reported to the General Council for discussion and decision at that level. The outcome of the Committee's further work would be reported by the Chairman of CRO, on his own responsibility, to the General Council at its first regular meeting after the end of June 2002, at which point the matter would be in the hands of the General Council. The deadline for completion of the harmonization work programme would be extended to the end of 2002. The General Council took note of the statements and so agreed.

At its meeting on 8 and 31 July 2002, the General Council considered a report by the Chairman of the Committee (G/RO/52). The Vice-Chairman of the Committee introduced the report on behalf of the Chairman. The representatives of Japan, India, Chile, New Zealand, Switzerland, Brazil, the Philippines, Norway, China, Thailand, Australia, Singapore, the United States, Colombia, Pakistan and the European Communities, and the Chairman spoke. The Chairman proposed that the General Council should take note of the report and of the recommendations contained therein, as well as of the statements by members, and that it should agree to hold a first meeting on the 12 core policy-level issues identified in paragraph 5.1 of that report. That meeting would be preceded by informal consultations after the summer recess for the purpose of preparing and organizing the meeting. It was understood that these General Council–level meetings would deal with all of the issues identified by CRO in document G/RO/52. The General Council so agreed.

At the General Council meeting on 10-12 and 20 December 2002, the Chairman recalled that since July, the General Council had held two informal meetings to discuss the 12 crucial issues mentioned by the Chairman

of the Committee on Rules of Origin in his report. He recalled further that, at his request, both the Chairman and the Vice-Chairman of the Committee had recently held informal consultations on the outstanding core policy issues with a view to furthering this work as much as possible before the present meeting. The Vice-Chairman of CRO, on behalf of its Chairman, reported on progress in the harmonization work programme since July. The representatives of India, Brazil, the United States, Japan, Norway and Hong Kong, China, spoke. The Chairman said that in the light of the report of the Chairman of CRO, members had to face the fact that despite their best efforts to date, the deadline of end December 2002 for completing the harmonization work programme could not be met. He proposed that the General Council extend, to July 2003, the deadline for completion of negotiations on the core policy issues identified in the report to the General Council of 15 July 2002 (G/RO/52). He also proposed that following resolution of these core policy issues, the Committee on Rules of Origin complete its remaining technical work, including the work referred to in article 9.3 (*b*) of the Agreement on Rules of Origin, by 31 December 2003. The General Council took note of the statements and agreed to the Chairman's proposal.

Work programme on electronic commerce
(WT/GC/M/72, 74, 75, 76, 77)

At the General Council meeting on 19 and 20 December 2001, the Chairman proposed three elements with regard to future work on electronic commerce. The General Council took note of the statement and agreed to the Chairman's proposal.

At its meeting on 13 and 14 May 2002, the General Council heard a progress report by the Chairman. Deputy Director-General Andrew Stoler reported on the second dedicated discussion on cross-cutting issues under the auspices of the General Council, held on 6 May 2002. The representatives of Japan, Uruguay, Brazil, Panama, the United States, India, the European Communities, Australia, Singapore, Pakistan and Hong Kong, China, and the Chairman spoke. The Chairman said that he would consult with members on future work under the work programme, and report at the next General Council meeting. The General Council took note of the statements and agreed to revert to this matter at its next meeting.

At its meeting on 8 and 31 July 2002, the General Council heard a progress report by the Chairman on the results of consultations by Deputy Director-General Stoler on the most appropriate way to continue the work on cross-cutting issues. Regarding the separate issue of the most appropriate institutional arrangements for handling the work programme as a whole, the Chairman invited delegations to reflect on this with a view to taking a decision at the General Council meeting in October, before which informal consultations would be held. The representatives of Taiwan,

Province of China, and the United States spoke. The General Council took note of the statements and agreed to revert to the question of appropriate institutional arrangements for the conduct of the work programme as a whole at its next meeting.

At the General Council meeting on 15 October 2002, the Chairman proposed, on the basis of consultations held by Deputy Director-General Stoler, that the General Council agree to maintain, for the duration of the work until the Fifth Ministerial Conference, the current arrangements for handling the work programme on electronic commerce as outlined by him. The General Council so agreed. The Chairman informed the General Council that at the consultations held by the Deputy Director-General, delegations had been in agreement with a notional schedule of future dedicated discussions on cross-cutting issues under the auspices of the General Council, which he read out. The General Council took note of this information.

At the General Council meeting on 10-12 and 20 December 2002, Deputy Director-General Rufus Yerxa reported on the third dedicated discussion on cross-cutting issues held under the auspices of the General Council on 25 October. The Chairman spoke. The General Council took note of the report by Deputy Director-General Yerxa and of the statement.

Work programme on small economies

Framework and procedures for the conduct of the work programme (WT/GC/M/73). At its meeting on 13 and 15 February and 1 March 2002, the General Council heard a report by its Chairman on consultations under way with regard to a possible framework for the conduct of this work programme, in which he indicated that more time would be needed for delegations to consider proposals only just circulated (WT/GC/W/468), and for the initial consultations to be widened.

The General Council agreed to the Chairman's proposal that it suspend its discussion on this item following his statement, that Deputy Director-General Ablassé Ouedraogo pursue consultations on this matter in order to reach agreement on the framework for the conduct of the work programme, and that Mr. Ouedraogo report at the end of the following week to the incoming Chairman of the General Council, who would set a time to resume the General Council's discussion on this item.

At the resumed meeting on 1 March 2002, the Chairman drew attention to a text that had resulted from the consultations held by Deputy Director-General Ouedraogo (WT/GC/W/469), and proposed that the General Council take note of the proposed framework and procedures for the conduct of the work programme on small economies contained in that document, following which action the substantive work on the work programme would begin in dedicated sessions of the Committee on Trade and Development as soon as possible. The General Council so agreed.[216]

The representatives of Mauritius, Barbados, the United States, Malaysia, Guatemala, El Salvador, Egypt, Hungary, Paraguay, Sri Lanka, Georgia, Belize, Trinidad and Tobago, Jamaica, Lithuania, India, the European Communities, Saint Lucia (also on behalf of Dominica, Saint Kitts and Nevis, and Saint Vincent and the Grenadines), Bangladesh, Gabon, Bolivia and Macao, China, and Deputy Director-General Ouedraogo spoke. The General Council took note of the statements.

Reports (WT/GC/M/74, 75, 76, 77). At the General Council meeting on 13 and 14 May 2002, Deputy Director-General Ouedraogo, speaking on behalf of the Chairman of the Dedicated Sessions of the Committee on Trade and Development, reported on the first dedicated session of CTD on the work programme on small economies. The representative of Mauritius (on behalf of the co-sponsors of the work programme on small economies) spoke. The General Council took note of the statement and of the report by Deputy Director-General Ouedraogo on behalf of the Chairman of the dedicated sessions of CTD.

At the General Council meeting on 8 and 31 July 2002, the Chairman of the dedicated sessions of CTD reported on the Committee's activities on this matter. The representatives of Mauritius (on behalf of the small-economy WTO members) and the United States spoke. The General Council took note of the statements and of the report by the Chairman of the dedicated sessions of CTD.

At the General Council meeting on 15 October 2002, Deputy Director-General Kipkorir Aly Azad Rana, speaking on behalf of the Chairman of the dedicated sessions of CTD, reported on the Committee's activities on this matter, and indicated that the next dedicated session would be held in early November back to back with the "Geneva week" for non-resident WTO members and observers, as requested by the proponents of the work programme. The General Council took note of the report by Deputy Director-General Rana, on behalf of the Chairman of the dedicated sessions of CTD.

At its meeting on 10-12 and 20 December 2002, the General Council heard a progress report by Deputy Director-General Roderick Abbott on behalf of the Chairman of the dedicated sessions of CTD. The representatives of Japan and the United States, and the Chairman spoke. The General Council took note of the report by Deputy Director-General Abbott on behalf of the Chairman of the dedicated sessions of CTD and of the statements.

Work programme for least developed countries (WT/GC/M/73)

At the General Council meeting on 13 and 15 February and 1 March 2002, the Chairman of the Subcommittee on Least Developed Countries reported on the results of the Subcommittee's deliberations on this matter and introduced the work programme for least developed countries as agreed by the Subcommittee (WT/COMTD/LDC/11). The representatives of Uganda (on behalf of the LDCs) and Brazil, and the Director-General spoke. The

General Council took note of the statements and of the work programme and encouraged the Subcommittee to follow up on the work programme, taking into account the statements by delegations at the present meeting.

Subcommittee on Least Developed Countries

Recommendations for facilitating and accelerating the accession of LDCs to the WTO Agreement (WT/GC/M/77). At its meeting on 10-12 and 20 December 2002, the General Council considered a draft decision on guidelines to facilitate and accelerate negotiations with acceding LDCs, which had been agreed by the Subcommittee on Least Developed Countries at its meeting on 2 December (WT/COMTD/LDC/12). The Chairman of the Subcommittee introduced the draft decision. The General Council adopted the decision (WT/L/508). The representatives of the United States, Zambia (on behalf of the LDCs), Japan, the European Communities, India, Norway, Kenya (on behalf of the African Group), Canada, Hungary, China and Cuba, and the Chairman spoke. The General Council took note of the statements.

Issues affecting least developed countries

Interim report by the Director-General pursuant to paragraph 43 of the Doha Ministerial Declaration (WT/GC/M/77). At its meeting on 10-12 and 20 December 2002, the General Council considered an interim report by the Director-General pursuant to paragraph 43 of the Doha Ministerial Declaration (WT/GC/W/485). The Director-General introduced the report. The representatives of Djibouti, Japan, the European Communities, Zambia (on behalf of the LDCs), Haiti, the United States, Norway, Switzerland, Canada, Kenya, Benin and Guinea spoke. The General Council took note of the interim report by the Director-General and of the statements.

Implementation and adequacy of technical cooperation and capacity-building commitments in the Doha Ministerial Declaration

Interim report by the Director-General pursuant to paragraph 41 of the Doha Ministerial Declaration (WT/GC/M/77). At its meeting on 10-12 and 20 December 2002, the General Council considered an interim report by the Director-General pursuant to paragraph 41 of the Doha Ministerial Declaration (WT/GC/W/484). The Director-General introduced the report. The representatives of Japan, the European Communities, Egypt, Norway, India, Kenya, Djibouti, the United States, Thailand, Zambia, Pakistan, Jamaica, Canada, Morocco, Côte d'Ivoire, Nigeria, Mauritius, Cuba and Burkina Faso, and the Chairman spoke. The General Council took note of the Director-General's interim report and of the statements.

Council for TRIPS

Report on the implementation of paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health (WT/GC/M/77). Ministers at Doha recognized that members with insufficient or no manufacturing capacities in the pharmaceutical sector could face difficulties in making

effective use of compulsory licensing under the TRIPS Agreement, and instructed the Council for TRIPS to find an expeditious solution to this problem and to report to the General Council before the end of 2002 (WT/MIN(01)/DEC/2, para. 6).

At the General Council meeting on 10-12 and 20 December 2002, the General Council considered this matter.

On 10 December, the Chairman of the Council for TRIPS reported on that Council's work to date, and proposed that the General Council suspend its discussion on this item and revert to it at the end of its meeting. The General Council took note of the report by the Chairman of the Council for TRIPS and so agreed.

On 11 December, the Chairman of the Council for TRIPS provided an interim report on the basis of his assessment of developments. The Chairman spoke. The General Council took note of the statement, and agreed to suspend consideration of this item and revert to it subsequently in the light of the advice from the Chairman of the TRIPS Council, but in any event not later than 20 December.

At the resumed meeting on 20 December, the Chairman of the TRIPS Council said, inter alia, that the consultations had not led to a resolution of the coverage problem in paragraph 1 (*a*) of the Chairman's text of 16 December in regard to the so-called "scope of diseases" question. He proposed that the TRIPS Council be asked to resume work on this matter promptly at the beginning of 2003 to resolve the outstanding issues in the Chairman's 16 December text and to report to the General Council so that a decision implementing a solution to the problem identified in paragraph 6 of the Doha Declaration on TRIPS and Public Health would be taken at the first General Council meeting in 2003.

The representatives of the United States, Kenya (on behalf of the African Group), Brazil, India, China, Malaysia, Canada, Argentina, the Philippines, Botswana, Indonesia, Chile, Thailand, Cuba, Pakistan, Peru, Hungary, Taiwan, Province of China, the European Communities, Japan, Switzerland, the Czech Republic, Norway and Hong Kong, China, and the Holy See (as an observer) requested that their statements at the meeting of the TRIPS Council held just prior to the meeting of the General Council be reflected also in the records of the latter. The representatives of Kenya (on behalf of the African Group) and South Africa spoke. The General Council took note of the statements, including those made at the meeting of the TRIPS Council on 20 December, and invited the TRIPS Council to resume work on this matter promptly at the beginning of 2003 to resolve the outstanding issues in the Chairman's text of 16 December and to report to the General Council, so that a decision implementing a solution to the problem identified in paragraph 6 of the Doha Declaration on TRIPS and Public Health was taken at the first General Council meeting in 2003.

Date and venue of the fifth session of the Ministerial Conference (WT/GC/M/72,[217] 74[218])

At its meeting on 19 and 20 December 2001, the General Council considered a communication from Mexico containing an offer by that Government to host the fifth session of the Ministerial Conference (WT/GC/55). The representatives of Mexico, Honduras (on behalf of the Latin American Group), Egypt, Qatar, the United States, Kenya, Botswana, Brazil, Israel, Kuwait, the European Communities, Canada, Lesotho, Singapore, Thailand, Turkey, Morocco, China, India, New Zealand, Australia and Côte d'Ivoire, and the Chairman spoke. The General Council took note of the statements and agreed that Mexico would be the venue of the fifth session of the Ministerial Conference.

At the General Council meeting on 13 and 14 May 2002, the Chairman reported on consultations he had been holding regarding the dates of the fifth session. The representative of Mexico informed the General Council that, having considered a number of sites which could provide the services and infrastructure required to carry out such a meeting, his Government had suggested that the Ministerial Conference be held in Cancún. Regarding possible dates for the meeting, and taking into account the views expressed in the consultations held by the Chairman, as well as logistics and other issues, his delegation proposed 10 to 14 September 2003. The General Council took note of the statements and of Mexico's choice of Cancún as the site for the fifth session, and agreed that the fifth session would be held from 10 to 14 September 2003.

Agreement on Textiles and Clothing

Major review of the implementation of the Agreement on Textiles and Clothing (ATC) during the second stage of the integration process pursuant to article 8.11 of ATC (WT/GC/M/72). At its meeting on 19 and 20 December 2001, the Interim Chairman of the Council for Trade in Goods (CTG) informed the General Council on the situation with regard to the major review of the implementation of ATC during the second stage of the integration process, and reaffirmed the commitment of the CTG Chairman to continue and intensify the consultation process in 2002 with a view to submitting a report for consideration by CTG at an early date. The representatives of India, China, Pakistan and Bangladesh spoke. The General Council took note of the statements.

Composition of the Textiles Monitoring Body (WT/GC/M/72). At its meeting on 19-20 December 2001, the General Council considered a draft decision on the composition of the Textiles Monitoring Body for the final three years of the Agreement on Textiles and Clothing, i.e., from 1 January 2002 to 31 December 2004 (WT/GC/W/465). The Interim Chairman of the Council for Trade in Goods spoke. The General Council took note of the statement and adopted the decision (WT/L/443).

Committee on Balance-of-Payments Restrictions

Consultations—Bangladesh (WT/GC/M/74, 77). At the General Council meeting on 13 and 14 May 2002, the representative of Romania, speaking on behalf of the Chairperson of the Committee on Balance-of-Payments Restrictions, introduced the Committee's report on its resumed consultations with Bangladesh (WT/BOP/R/60). The General Council took note of the statement and adopted the report.

At the General Council meeting on 10-12 and 20 December 2002, the representative of Romania, on behalf of the Chairperson of the Committee on Balance-of-Payments Restrictions, introduced the Committee's report on its consultations with Bangladesh (WT/BOP/R/64). The representatives of Bangladesh and the United States spoke. The General Council took note of the statements and adopted the report.

Notes on meetings (WT/GC/M/74, 77). At the General Council meeting on 13 and 14 May 2002, the representative of Romania, speaking on behalf of the Chairperson of the Committee on Balance-of-Payments Restrictions, introduced the Committee's report on its meeting of 27 February (WT/BOP/R/61). The General Council took note of the statement and of the information in document WT/BOP/R/61.

At the General Council meeting on 10-12 and 20 December 2002, the Chairman drew attention to the note on the Committee's meeting of 18 November (WT/BOP/R/69). The General Council took note of the information in document WT/BOP/R/69.

Committee on Budget, Finance and Administration

Reports (WT/GC/M/72, 74, 75, 76, 77). At its meeting on 19 and 20 December 2001, the General Council considered a report by the Committee on Budget, Finance and Administration (WT/BFA/56). The Chairman of the Committee introduced the report. The representatives of Pakistan, Japan, Canada, Brazil, the European Communities, the United States, India, China, Norway, Switzerland, the Philippines, the United Republic of Tanzania and the United Kingdom of Great Britain and Northern Ireland (also on behalf of Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain and Sweden) spoke. The General Council took note of the statements, approved the Budget Committee's specific recommendations in paragraphs 9, 10, 19, 22, 39, 48, 56, 59 and 65 of its report (WT/BFA/56) and adopted the report.

At the General Council meeting on 13 and 14 May 2002, the Chairman of the Committee on Budget, Finance and Administration reported on the Committee's meetings of 15 April and 8 May 2002. The General Council took note of the statement.

At its meeting on 8 and 31 July 2002, the General Council considered reports by the Committee on Budget, Finance and Administration (WT/

BFA/58 and 59). The Chairman of the Committee introduced the reports, and reported on the Committee's meeting of 5 July 2002. The General Council took note of the statement, approved the Budget Committee's specific recommendation in paragraph 9 of its report in document WT/BFA/58, and adopted the reports.

At its meeting on 15 October 2002, the General Council considered a report by the Committee on Budget, Finance and Administration (WT/BFA/60). The Chairman of the Committee introduced the report. The General Council took note of the statement and adopted the report.

At the General Council meeting on 10-12 and 20 December 2002, the Chairman drew attention to the recommendations of the Committee on Budget, Finance and Administration which had resulted from the Committee's extensive meetings held between October and December (WT/BFA/62). The Chairman of the Committee introduced the Committee's recommendations in document WT/BFA/62.

The Chairman of the General Council made a statement with regard to the Committee's work concerning the review of methodologies for future pay adjustments. The General Council took note of the statements by the Chairman of the Committee and by the Chairman of the General Council, approved the Committee's recommendations contained in document WT/BFA/62, and took note that the Committee would make a progress report in February 2003 on its work concerning the review of methodologies for future pay adjustments. The representatives of China, Chile, Djibouti, Haiti, Kenya (on behalf of the African Group), Taiwan, Province of China, Uruguay, Barbados, Zambia and the United States, and the Director-General and the Chairman spoke. The General Council took note of the statements.

Statement by the Committee Chairman in relation to pledges announced and payments received to finance the implementation of the WTO Secretariat Annual Technical Assistance Plan (WT/GC/M/75). At the General Council meeting on 8 and 31 July 2002, the Chairman of the Committee on Budget, Finance and Administration reported on pledges announced and payments received towards the Doha Development Agenda Global Trust Fund, and urged all donors who had not yet done so to transfer their promised contributions as quickly as possible. The representative of Japan spoke. The General Council took note of the statements.

Statement by the Committee Chairman regarding the Director-General's conditions of service (WT/GC/M/76). At the General Council meeting on 15 October 2002, the Chairman of the Committee on Budget, Finance and Administration drew attention to his 3 October letter to all delegations drawing their attention to a report he had made to the Budget Committee on 2 October regarding a proposed adjustment to the Director-General's salary package, which he outlined. The Chairman proposed that the General Council agree ad referendum to the terms of the Director-General's contract as outlined by the Chairman of the Committee on Budget, Finance and

Administration. If no WTO member indicated any reservations to him by close-of-business on 28 October, the Director-General's conditions of service would be considered agreed and a notice to this effect sent to members. The General Council took note of the statement and so agreed.[219]

Waivers under article IX of the WTO Agreement

(a) *Transposition of schedules into the Harmonized System*

Nicaragua and Sri Lanka. At its meeting on 13 and 14 May 2002, the General Council considered requests by Nicaragua (G/L/515) and Sri Lanka (G/L/516) for extensions of waivers previously granted in connection with their implementation of the Harmonized System, and draft decisions to this effect (Nicaragua—G/C/W/351; Sri Lanka—G/C/W/352). The Chairman of the Council for Trade in Goods reported on the consideration of these requests by that Council. The General Council took note of the report and, in accordance with the decision-making procedures under articles IX and XII of the WTO Agreement agreed in November 1995 (WT/L/93), adopted the decisions (Nicaragua—WT/L/467; Sri Lanka—WT/L/468).

Sri Lanka (WT/GC/M/76). At its meeting on 15 October 2002, the General Council considered a request by Sri Lanka (G/L/565) for an extension of its waiver previously granted in connection with its implementation of the Harmonized System, and a draft decision to this effect (G/C/W/415/Rev.1). The Chairman of the Council for Trade in Goods reported on the consideration of this request by that Council. The General Council took note of the report and, in accordance with the decision-making procedures under articles IX and XII of the WTO Agreement agreed in November 1995 (WT/L/93), adopted the decision (WT/L/492).

(b) *Introduction of the Harmonized System 1996 changes into WTO schedules of tariff concessions*

Argentina, Brazil, El Salvador, Israel, Malaysia, Morocco, Norway, Pakistan, Panama, Paraguay, Switzerland, Thailand and Venezuela (WT/GC/M/74). At its meeting on 13 and 14 May 2002, the General Council considered requests from Argentina (G/L/528), Brazil (G/L/511), El Salvador (G/L/514), Israel (G/L/513), Malaysia (G/L/535), Morocco (G/L/512/Rev.1), Norway (G/L/519), Pakistan (G/L/526), Panama (G/L/518), Paraguay (G/L/525), Switzerland (G/L/523), Thailand (G/L/524) and Venezuela (G/L/517) for extensions of waivers for the introduction of Harmonized System 1996 changes into schedules of tariff concessions, and related draft decisions (Argentina—G/C/W/362; Brazil—G/C/W/348; El Salvador—G/C/W/350; Israel—G/C/W/349 and Corr.1; Malaysia—G/C/W/364; Morocco—G/C/W/358; Norway—G/C/W/355 and Corr.1; Pakistan—G/C/W/365 and Corr.1; Panama—G/C/W/354 and Corr.1; Paraguay—G/C/W/357; Switzerland—G/C/W/356; Thailand—G/C/W/359; and Venezuela—G/C/W/353).

The Chairman of the Council for Trade in Goods reported on the consideration of these requests by that Council. The General Council took note of the report and, in accordance with the decision-making procedures under articles IX and XII of the WTO Agreement agreed in November 1995 (WT/L/93), adopted the decisions (WT/L/464—Argentina; WT/L/454—Brazil; WT/L/456—El Salvador; WT/L/455 — Israel; WT/L/465—Malaysia; WT/L/462—Morocco; WT/L/459—Norway; WT/L/466—Pakistan; WT/L/458—Panama; WT/L/461—Paraguay; WT/L/460—Switzerland; WT/L/463—Thailand; and WT/L/457—Venezuela).

Argentina, El Salvador, Israel, Morocco, Norway, Thailand and Venezuela (WT/GC/M/76). At its meeting on 15 October 2002, the General Council considered requests from Argentina (G/L/559), El Salvador (G/L/563), Israel (G/L/560), Morocco (G/L/568), Norway (G/L/562), Thailand (G/L/564) and Venezuela (G/L/561) for extensions of waivers for the introduction of Harmonized System 1996 changes into schedules of tariff concessions, and related draft decisions (Argentina—G/C/W/409 and Corr.1; El Salvador—G/C/W/413 and Corr.1; Israel—G/C/W/410 and Corr.1; Morocco—G/C/W/417; Norway—G/C/W/412 and Corr.1; Thailand—G/C/W/414 and Corr.1; and Venezuela—G/C/W/411 and Corr.1).

The Chairman of the Council for Trade in Goods reported on the consideration of these requests by that Council. The General Council took note of the report and, in accordance with the decision-making procedures under articles IX and XII of the WTO Agreement agreed in November 1995 (WT/L/93), adopted the decisions (WT/L/485—Argentina; WT/L/486—El Salvador; WT/L/487—Israel; WT/L/488—Morocco; WT/L/489—Norway; WT/L/490—Thailand; and WT/L/491—Venezuela).

(c) *Introduction of the Harmonized System 2002 changes into WTO schedules of tariff concessions*

Argentina, Australia, Bulgaria, Canada, China, Colombia, Croatia, the Czech Republic, Estonia, the European Communities, Hungary, Iceland, India, Latvia, Lithuania, Malaysia, Mexico, New Zealand, Norway, the Republic of Korea, Romania, Singapore, Slovakia, Slovenia, Switzerland, Thailand, Turkey, the United States, Uruguay and Hong Kong, China (WT/GC/M/74). At its meeting on 13 and 14 May 2002, the General Council considered a draft decision (G/C/W/367/Rev.1) to waive obligations under article II of GATT 1994 for the members listed in the annex to the draft decision in relation to the introduction of the Harmonized System 2002 changes into WTO schedules of tariff concessions.

The Chairman of the Council for Trade in Goods reported on the consideration of this draft decision by that Council. The representatives of Romania and Brazil spoke. The General Council took note of the report and of the statements, including the statement by the Chairperson of the Market Access Committee at the Committee's meeting of 15 March 2002

referred to by Brazil and, in accordance with the decision-making procedures under articles IX and XII of the WTO Agreement agreed in November 1995 (WT/L/93), adopted the decision (WT/L/469).

Romania (WT/GC/M/75). At its meeting on 8 and 31 July 2002, the General Council considered a request by Romania (G/L/553) for a waiver for the introduction of the Harmonized System 2002 changes into WTO schedules of tariff concessions, and the related draft decision (G/C/W/383). The Chairman of the Council for Trade in Goods reported on the consideration of this request by that Council. The General Council took note of the report and, in accordance with the decision-making procedures under articles IX and XII of the WTO Agreement agreed in November 1995 (WT/L/93), adopted the decision (WT/L/477).

Argentina, Australia, Bulgaria, Canada, China, Croatia, the Czech Republic, Estonia, the European Communities, Hungary, Iceland, India, Latvia, Lithuania, Mexico, Nicaragua, Norway, the Republic of Korea, Romania, Singapore, Slovakia, Slovenia, Switzerland, Thailand, the United States, Uruguay and Hong Kong, China, and Macao, China (WT/GC/M/77). At its meeting on 10-12 and 20 December 2002, the General Council considered a draft decision (G/C/W/436 and Corr.1) to waive obligations under article II of GATT 1994 for the members listed in the annex to that decision in relation to the introduction of the Harmonized System 2002 changes into WTO schedules of tariff concessions. The Chairman, on behalf of the Chairman of the Council for Trade in Goods, reported on the consideration of the draft decision by the Council. The General Council took note of the report and, in accordance with the decision-making procedures under articles IX and XII of the WTO Agreement agreed in November 1995 (WT/L/93), adopted the decision (WT/L/511).

(d) *Renegotiation of schedule*

Zambia (WT/GC/M/74, 76). At its meeting on 13 and 14 May 2002, the General Council considered a request by Zambia (G/L/537) for an extension of a waiver previously granted in connection with the renegotiation of its schedule, and a draft decision to this effect (G/C/W/370). The Chairman of the Council for Trade in Goods reported on the consideration of this request by that Council. The General Council took note of the report and, in accordance with the decision-making procedures under articles IX and XII of the WTO Agreement agreed in November 1995 (WT/L/93), adopted the decision (WT/L/470).

At its meeting on 15 October 2002, the General Council considered a request by Zambia (G/L/567) for an extension of a waiver previously granted in connection with the renegotiation of its schedule, and a draft decision to this effect (G/C/W/416). The Chairman of the Council for Trade in Goods reported on the consideration of this request by that Council. The General Council took note of the report and, in accordance with

the decision-making procedures under articles IX and XII of the WTO Agreement agreed in November 1995 (WT/L/93), adopted the decision (WT/L/493).

(e) *Colombia—Article 5.2 of the Agreement on Trade-Related Investment Measures (WT/GC/M/72)*

At its meeting on 19 and 20 December 2001, the General Council considered a request by Colombia (G/C/W/340) for a waiver from its obligations under article 5.2 of the Agreement on Trade-Related Investment Measures, and the related draft decision (G/C/W/343). The Interim Chairman of the Council for Trade in Goods reported on the consideration of this request by that Council. The representative of the United States spoke. The General Council took note of the report and of the statement and, in accordance with the decision-making procedures under articles IX and XII of the WTO Agreement agreed in November 1995 (WT/L/93), adopted the decision (WT/L/441).

(f) *Cuba—Article XV:6 of GATT 1994 (WT/GC/M/72)*

At its meeting on 19 and 20 December 2001, the General Council considered a request by Cuba (G/C/W/303 and Corr.1) for an extension of a waiver previously granted in connection with its obligations under paragraph 6 of article XV of GATT 1994, and the related draft decision (G/C/W/308). The Interim Chairman of the Council for Trade in Goods reported on the consideration of this request by that Council. The General Council took note of the report and, in accordance with the decision-making procedures under articles IX and XII of the WTO Agreement agreed in November 1995 (WT/L/93), adopted the decision (WT/L/440).

(g) *Agreement on Implementation of Article VII of GATT 1994 (Customs Valuation Agreement)*

Côte d'Ivoire (WT/GC/M/75). At its meeting on 8 and 31 July 2002, the General Council considered a request by Côte d'Ivoire (G/C/W/301 and Add.1 and 2) for a waiver from its obligations under the Agreement on Implementation of Article VII of GATT 1994, and the related draft decision (G/C/W/385). The Chairman of the Council for Trade in Goods reported on the consideration of this request by that Council. The General Council took note of the report and, in accordance with the decision-making procedures under articles IX and XII of the WTO Agreement agreed in November 1995 (WT/L/93), adopted the decision (WT/L/475).

Dominican Republic—Minimum values under the Agreement on Implementation of Article VII of GATT 1994 (WT/GC/M/72). At its meeting on 19 and 20 December 2001, the General Council considered a request by the Dominican Republic (G/C/W/286) for a waiver from its obligations

under the Agreement on Implementation of Article VII of GATT 1994, and the related draft decision (G/C/W/310). The Interim Chairman of the Council for Trade in Goods reported on the consideration of this request by that Council. The General Council took note of the report and, in accordance with the decision-making procedures under articles IX and XII of the WTO Agreement agreed in November 1995 (WT/L/93), adopted the decision (WT/L/442).

El Salvador (WT/GC/M/74, 75). At its meeting on 13 and 14 May 2002, the General Council considered a request by El Salvador (G/C/W/300/Rev.2) for extension of a waiver from its obligations under the Agreement on Implementation of Article VII of GATT 1994, and the related draft decision (G/C/W/300/Rev.2/Add.1/Corr.1). The Chairman of the Council for Trade in Goods reported on the consideration of this request by that Council. The General Council took note of the report and, in accordance with the decision-making procedures under articles IX and XII of the WTO Agreement agreed in November 1995 (WT/L/93), adopted the decision (WT/L/453).

At its meeting on 8 and 31 July 2002, the General Council considered a further request by El Salvador (G/C/W/372) for a waiver from its obligations under the Agreement on Implementation of Article VII of GATT 1994, and the related draft decision (G/C/W/388). The Chairman of the Council for Trade in Goods reported on the consideration of this request by that Council. The General Council took note of the report and, in accordance with the decision-making procedures under articles IX and XII of the WTO Agreement agreed in November 1995 (WT/L/93), adopted the decision (WT/L/476).

Haiti (WT/GC/M/72). At its meeting on 19 and 20 December 2001, the General Council considered a request by Haiti (G/C/W/256/Rev.1) for a waiver from its obligations under the Agreement on Implementation of Article VII of GATT 1994, and the related draft decision (G/C/W/326). The Interim Chairman of the Council for Trade in Goods reported on the consideration of this request by that Council. The General Council took note of the report and, in accordance with the decision-making procedures under articles IX and XII of the WTO Agreement agreed in November 1995 (WT/L/93), adopted the decision (WT/L/439).

(h) *Least developed countries—Obligations under article 70.9 of the TRIPS Agreement with respect to pharmaceutical products (WT/GC/M/75)*

At its meeting on 8 and 31 July 2002, the General Council considered a draft decision (IP/C/W/359) to waive from the obligations of least developed country members under article 70.9 of the TRIPS Agreement with respect to pharmaceutical products until 1 January 2016. The Chairman of the Council for TRIPS reported on the consideration of this waiver by that Council. The

representative of Zambia (on behalf of the LDCs) spoke. The General Council took note of the report and of the statement and, in accordance with the decision-making procedures under articles IX and XII of the WTO Agreement agreed in November 1995 (WT/L/93), adopted the decision (WT/L/478).

(i) *New EC special tariff arrangements to combat drug production and trafficking (WT/GC/M/75)*

At the General Council meeting on 8 and 31 July 2002, the Chairman said that, as delegations were aware, this waiver request was currently under consideration by the Council for Trade in Goods, in accordance with the procedures laid down in article IX (3) (*b*) of the WTO Agreement. Although that Council had not yet been able to submit a report, he had been informed that its Chairman was continuing to hold consultations with a view to finalizing the report. He would therefore encourage the Chairman of the Council for Trade in Goods and all delegations to persevere in their efforts to reach agreement as soon as possible. Taking into account the situation he had just described, he proposed that members not, on the present occasion, enter into a discussion of this topic, the positions on which were well known to all the parties. In this regard, he would therefore propose that the General Council take note of his statement and revert to the matter once the Council for Trade in Goods had submitted its report pursuant to article IX (3) (*b*). The General Council took note of the statement and so agreed.

(j) *Review of waivers pursuant to article IX:4 of the WTO Agreement (WT/GC/M/72, 76, 77)*

At its meeting on 19 and 20 December 2001, the General Council considered the following waivers for review under article IX.4:

(i) EC—Autonomous preferential treatment to the countries of the Western Balkans (WT/L/380 and Corr.1); and

(ii) Turkey—Preferential treatment for Bosnia and Herzegovina (WT/L/381).

In so doing, the General Council considered reports on the implementation of the waivers submitted by the European Communities and Turkey in documents WT/L/435 and WT/L/431, respectively. The Chairman spoke. The General Council took note of the statement and of the reports in documents WT/L/435 and 431.

At its meeting on 15 October 2002, the General Council considered the following waivers for review under article IX.4:

(i) Canada—CARIBCAN (WT/L/185);

(ii) Madagascar—Customs Valuation Agreement (WT/L/408);

(iii) Switzerland—Preferences for Albania and Bosnia and Herzegovina (WT/L/406); and

(iv) United States—Former Trust Territory of the Pacific Islands (WT/L/183).

In so doing, the General Council considered reports on the implementation of the waivers submitted by Canada, Switzerland and the United States in documents WT/L/483, WT/L/482 and WT/L/484 respectively. The representative of Paraguay and the Chairman spoke. The General Council took note of the statements and of the reports in documents WT/L/482, WT/L/483 and WT/L/484.

At its meeting on 10-12 and 20 December 2002, the General Council considered the following waivers for review pursuant to article IX.4 of the WTO Agreement:

(i) Cuba—Article XV:6 of GATT 1994 (WT/L/440);

(ii) Colombia—Extension of the application of article 5.2 of the Agreement on Trade-Related Investment Measures (WT/L/441);

(iii) Dominican Republic—Minimum values under the Customs Valuation Agreement (WT/L/442);

(iv) EC—Autonomous preferential treatment to the countries of the Western Balkans (WT/L/380);

(v) EC—Transitional regime for the EC autonomous tariff rate quotas on imports of bananas (WT/L/437);

(vi) EC—The African, Caribbean and Pacific States (ACP)–EC Partnership Agreement (WT/L/436);

(vii) Turkey—Preferential treatment for Bosnia and Herzegovina (WT/L/381);

(viii) United States—Caribbean Basin Economic Recovery Act (WT/L/104); and

(ix) Preferential tariff treatment for least developed countries (WT/L/304).

In so doing, the General Council considered reports on the implementation of the waivers submitted by Cuba, Turkey, the United States, and the European Communities in documents WT/L/496, 503, 504, 499 and 498, respectively. The representatives of Honduras and Ecuador, and the Chairman spoke. The General Council took note of the statements and of the reports in documents WT/L/496, 498, 499, 503 and 504.

Accession matters

Armenia (WT/GC/M/77). At its meeting on 10-12 and 20 December 2002, the General Council considered the report of the Working Party on the Accession of Armenia (WT/ACC/ARM/23 and Add.1 and 2). The representative of Armenia (as an observer) and the representative of Australia,

on behalf of the Chairman of the Working Party, spoke. The General Council approved the text of the Protocol of Accession of Armenia (WT/L/506) and, in accordance with the decision-making procedures under articles IX and XII of the WTO Agreement agreed in November 1995 (WT/L/93), adopted the decision on the accession of Armenia (WT/L/506). The General Council then adopted the report of the Working Party as a whole (WT/ACC/ARM/23 and Add.1 and 2). In this context, the Chairman drew attention to the communication to the Director-General received from Armenia and circulated in WT/ACC/ARM/22 and, on behalf of the General Council and all WTO members, welcomed the accession of Armenia. The representatives of Armenia (as an observer), Indonesia (on behalf of the ASEAN members), Georgia, Slovakia (also on behalf of Bulgaria, Croatia, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania and Slovenia), the European Communities, the United States, Paraguay (on behalf of the Latin American Group), Kyrgyzstan, Lesotho, Japan, India, Cyprus and Australia, and the Chairman spoke. The General Council took note of the statements and of the expressions of welcome and support.

The former Yugoslav Republic of Macedonia (WT/GC/M/76). At its meeting on 15 October 2002, the General Council considered the report of the Working Party established in December 1994 to examine the request of the former Yugoslav Republic of Macedonia for accession to the WTO Agreement (WT/ACC/807/27 and Add.1 and 2). The representative of the former Yugoslav Republic of Macedonia (as an observer) and the Chairman of the Working Party spoke. The General Council approved the text of the Protocol of Accession of the former Yugoslav Republic of Macedonia (WT/L/494) and, in accordance with the decision-making procedures under articles IX and XII of the WTO Agreement agreed in November 1995 (WT/L/93), adopted the Decision on the Accession of the Former Yugoslav Republic of Macedonia (WT/L/494). The General Council then adopted the report of the Working Party as a whole (WT/ACC/807/27 and Add.1 and 2). The representatives of Argentina, Turkey, Paraguay (on behalf of the Latin American Group), China, Slovakia (also on behalf of Bulgaria, Croatia, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania and Slovenia), Croatia, the European Communities, Indonesia (on behalf of the ASEAN members), India, Slovenia, Albania, Bulgaria, Kenya (on behalf of the African Group) and the Federal Republic of Yugoslavia (as an observer), and the Chairman spoke. The General Council took note of the statements and of the expressions of welcome and support.

Islamic Republic of Iran (WT/GC/M/72, 73, 74, 75, 76, 77). At its meeting on 19 and 20 December 2001, the General Council again considered this matter. The representatives of the United States and Malaysia (on behalf of the Informal Group of Developing Countries) spoke. The General Council took note of the statements and agreed to revert to this matter at its next meeting.

At its meeting on 13 and 15 February and 1 March 2002, the General Council again considered this matter. The representatives of the United States and Malaysia (on behalf of the Informal Group of Developing Countries) spoke. The General Council took note of the statements and agreed to revert to this matter at its next meeting.

At its meeting on 13 and 14 May 2002, the General Council again considered this matter. The representatives of the United States and Malaysia (on behalf of the Informal Group of Developing Countries) spoke. The General Council took note of the statements and agreed to revert to this matter at its next meeting.

At its meeting on 8 and 31 July 2002, the General Council again considered this matter. The representatives of the United States and Malaysia (on behalf of the Informal Group of Developing Countries) and the European Communities spoke. The General Council took note of the statements and agreed to revert to this matter at its next meeting.

At its meeting on 15 October 2002, the General Council again considered this matter. The representatives of the United States and Malaysia (on behalf of the Informal Group of Developing Countries) spoke. The General Council took note of the statements and agreed to revert to this matter at its next meeting.

At its meeting on 10-12 and 20 December 2002, the General Council again considered this matter. The representatives of the United States and Malaysia (on behalf of the Informal Group of Developing Countries) spoke. The General Council took note of the statements and agreed to revert to this matter at its next meeting.

Nepal (WT/GC/M/76). At its meeting on 15 October 2002, the Chairman informed the General Council that Mr. Girard (Switzerland) had agreed to chair the Working Party on Accession of Nepal following the departure of the former Chairman, Mr. Farrell (New Zealand). The General Council took note of this information.

Saudi Arabia (WT/GC/M/73). At its meeting on 13 and 15 February and 1 March 2002, the Chairman said, inter alia, that as a result of his recent consultations, he believed that consensus could be reached shortly on the appointment of Mr. Akram (Pakistan) who had offered to make himself available to chair the Working Party on Accession of Saudi Arabia following an indication by its present Chairman, Mr. Weekes (Canada), that he would no longer be able to serve in this post. He or the new General Council Chairman would complete these consultations and, if there were no objections, designate the Chairman of the Working Party and so inform the General Council in writing.[220] The General Council took note of the statement.

Retreat for WTO permanent representatives (WT/GC/M/75)

At the General Council meeting on 8 and 31 July 2002, the Chairman informed delegations of his intention to organize a one-day retreat for

all permanent representatives of WTO members in October, and provided background and organizational details regarding this event. The General Council took note of the statement.

Scheduling of WTO meetings (WT/GC/M/73, 74)

At the General Council meeting on 13 and 15 February and 1 March 2002, Deputy Director-General Miguel Rodríguez Mendoza, recalling that he had been asked by the Director-General to examine the issue of scheduling of meetings, reported his findings on the current situation and made several specific suggestions on how to address concerns expressed by delegations, including that the Secretariat should continue to monitor the situation regularly. The Chairman spoke. The General Council took note of the statements.

At the General Council meeting on 13 and 14 May 2002, Deputy Director-General Rodríguez Mendoza reported on the situation regarding the scheduling of WTO meetings for 2002. The representative of Bangladesh and the Chairman spoke. The General Council took note of the statements.

Better management of WTO meetings (WT/GC/M/76)

At the General Council meeting on 15 October 2002, the Chairman, recalling that a prominent topic at recent meetings had been the sheer volume of meetings that delegations and the Secretariat had to deal with and the need to manage this in the most efficient way possible, said, inter alia, that there was a wider need to think creatively and work cooperatively to lighten the burden on all. He indicated that for the December General Council meeting, which had a very heavy agenda, he was considering encouraging delegations to show discipline and cooperation in limiting the length of their interventions, and suggested some ideas for members to consider in this regard. The General Council took note of the statement.

International Trade Centre UNCTAD/WTO (WT/GC/M/76)

At its meeting on 15 October 2002, the General Council considered the report of the Joint Advisory Group of the International Trade Centre UNCTAD/WTO on its thirty-fifth session (ITC/AG(XXXV)/191). The Chairman recalled that in keeping with customary practice, this report had been considered initially by the Committee on Trade and Development (CTD) at its meeting on 1 July 2002 and was before the General Council for formal adoption. Deputy Director-General Rana, speaking on behalf of the Chairman of CTD, reported on the Committee's discussion of this report. The representatives of Egypt and China spoke.

The Chairman said that he had been informed that the issue of translation of ITC documentation into two additional languages would be taken

up for consideration by the Committee on Budget, Finance and Administration at its meeting on 18 October in the context of considering the 2003 draft budget. He therefore proposed that the General Council await the Budget Committee's consideration of this issue before reverting to it in the General Council. The General Council took note of the report and of the statements, and agreed to the Chairman's proposal.

WTO Pension Plan

Annual Reports of the Management Board (WT/GC/M/72, 77). At its meeting on 19 and 20 December 2001, the General Council considered the Annual Report of the Management Board of the WTO Pension Plan for 2000 (WT/GC/W/463 and Corr.1). The Chairman of the WTO Pension Plan Management Board introduced the report. The General Council took note of the statement and of the Annual Report of the Management Board for 2000 in WT/GC/W/463 and Corr.1.

At its meeting on 10-12 and 20 December 2002, the General Council considered the Annual Report of the Management Board of the WTO Pension Plan for 2001 (WT/L/497). The Chairman of the WTO Pension Plan Management Board introduced the report. The Chairman spoke. The General Council took note of the statements and of the Annual Report of the Management Board for 2001 in WT/L/497.

Agreement on the transfer of pension rights of participants in the WTO Pension Plan and in the Pension Scheme of the Organization for Economic Cooperation and Development (WT/GC/M/72). At its meeting on 19 and 20 December 2001, the General Council considered an agreement on the transfer of pension rights of participants in the WTO Pension Plan and in the Pension Scheme of the Organization for Economic Cooperation and Development (WT/GC/W/462). The Chairman of the WTO Pension Plan Management Board introduced the transfer agreement. The representative of India and the Chairman of the WTO Pension Plan Management Board spoke. The General Council took note of the statements and concurred with the transfer agreement (WT/L/446).

Agreements on the transfer of pension rights between the Pension Plan of WTO and the pension schemes of other Coordinated Organizations[221] *(WT/GC/M/77).* At its meeting on 10-12 and 20 December 2002, the General Council considered agreements on the transfer of pension rights of participants in the WTO pension plan and in the pension schemes of other Coordinated Organizations (WT/GC/W/483). The Chairman of the WTO Pension Plan Management Board introduced the transfer agreements. The General Council took note of the statement and concurred with the transfer agreements (WT/L/513).

Election of the Chairman, members and alternates of the Management Board of the WTO Pension Plan (WT/GC/M/75). At its meeting on 8 and 31 July 2002, the General Council considered a proposal by its Chairman

regarding a slate of names for election to the Management Board (WT/GC/W/474). The General Council agreed to the election of the proposed candidates to the Management Board for a three-year term (WT/L/474).

Council for Trade in Goods

During the year 2002, the Council for Trade in Goods (CTG) met eight times in formal session.

Recommendations for appropriate action regarding proposals contained in paragraphs 4.4 and 4.5 of the Doha Ministerial Decision on Implementation-Related Issues and concerns relating to the Agreement on Textiles and Clothing (WT/GC/M/75). At the General Council meeting on 8 and 31 July 2002, the Chairman of CTG, reporting on the results of the Council's examination of these proposals, said, inter alia, that as a result of fundamental differences between the views and understandings of the restraining members and those of the developing country exporting members on both the contents of the report and the recommendations, the required consensus on the report and on the recommendations had not been reached. In view of this, there had been no alternative but to conclude the exercise without results. Consequently, he was not in a position to present a report with recommendations to the General Council. The representatives of Pakistan, China, Brazil, Bangladesh, the European Communities, Thailand (speaking also on behalf of Indonesia), Panama, India, the United States, Canada, Bolivia, Colombia and Hong Kong, China, and the Chairman spoke. The Chairman proposed, in view of the situation and having examined various possible options, that the General Council take note of the statement by the Chairman of CTG and of those by delegations, on the understanding that this would not prejudice the various positions held by members, which would be duly reflected in the minutes of the present meeting. For his part, he would inform the Chairman in detail, who would no doubt wish to examine the situation more in depth with regard to this matter. He was convinced that all members would use the summer break to continue to reflect on the various views that had been expressed. The General Council so agreed.

Council for Trade in Services

The Council for Trade in Services held six formal meetings during 2002. Reports of the meetings are contained in documents S/C/M/58 to 64. The Council also held one special meeting dedicated to the review of air transport under the Annex on Air Transport Services, the report of which is contained in document S/C/M/62. During the period the Council addressed the following matters:

Procedures for the termination, reduction and rectification of article II (MFN) exemptions. At its meeting of 5 June 2002, the Council adopted the procedures for the termination, reduction and rectification of article II (MFN) exemptions (document S/L/106).

Proposals for a technical review of GATS provisions—Article XX:2. In the light of its discussions held at the meeting on 19 March 2002, the Council agreed to focus its consideration of this item on article XX:2, which was one of the provisions of the GATS which some members had earlier proposed to be the object of technical review. The Secretariat produced two notes, the first on the drafting history of this provision, JOB(02)/89, presented in July, and the second a consideration of some practical examples of cases where scheduled commitments might lack clarity, JOB(02)/153, discussed in October.

Transitional review under section 18 of the Protocol of Accession of the People's Republic of China. At its meeting held on 25 October 2002, the Council for Trade in Services conducted and concluded the first transitional review under section 18 of the Protocol of Accession of the People's Republic of China. The Council took note of the report from the Committee on Trade in Financial Services on its review, contained in document S/FIN/7, which formed part of the Services Council's report on this matter to the General Council, contained in document S/C/15.

Negotiations under article X of GATS (Emergency Safeguards)—Extension of the deadline for negotiations. At a special meeting held on 15 March 2002, the Council received a communication from the Chair of the Working Party on GATS Rules proposing to extend the deadline on the negotiations under article X (Emergency Safeguard Measures). The Council adopted the Fourth Decision on Negotiations on Emergency Safeguard Measures (S/L/102), which extended the deadline for negotiations to 15 March 2004.

Other issues addressed by the Council for Trade in Services. At its meeting held on 19 March 2002, the Council continued its discussions on the review of the Understanding of Account rates, as provided for in paragraph 7 of the report of the Group on Basic Telecommunications contained in document S/GBT/4. In subsequent meetings the Council decided to reopen the Fourth Protocol to GATS relating to basic telecommunications for acceptance by Papua New Guinea as well as the Fifth Protocol to GATS relating to financial services for acceptance by the Republic of Bolivia. At three meetings, discussions were held under item "Implementation of commitments by the People's Republic of China—Statement by the United States".

Notes

[1] For detailed information, see *The United Nations Disarmament Yearbook*, vol. 27: 2002 (United Nations publication, Sales No. E.03.IX.1).

[2] United Nations, *Treaty Series*, vol. 729, p. 159.

[3] United Nations, *Treaty Series*, vol. 944, p. 13.

[4] Treaty on Further Reduction 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.

[5] The G-8 comprise Canada, France, Germany, Italy, Japan, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

[6] *International Legal Materials*, vol. 41, No. 4 (July 2002), p. 799.

[7] See Netherlands Ministry of Foreign Affairs website: www.minbuza.nl.

[8] INFCIRC/540 (Corrected).

[9] General Assembly resolution 2826 (XXVI), annex.

[10] United Nations, *Treaty Series*, vol. 1974, p. 45.

[11] S/1999/356, annex I.

[12] S/1999/94, annex.

[13] S/2003/232, annex.

[14] S/2002/515, annex.

[15] See General Assembly resolution 56/24 P.

[16] See General Assembly resolution 56/24 U.

[17] United Nations, *Treaty Series*, vol. 1342, p. 137.

[18] See CCW/CONF.II/2 and Corr.1, part II.

[19] United Nations, *Treaty Series*, vol. 2056, p. 211.

[20] See APLC/MSP.4/2002/1.

[21] CCW/CONF.I/16 (Part I), annex B.

[22] See CCW/AP.II/CONF.4/3 (Part I).

[23] See A/57/221 and corrigenda and addenda.

[24] The members of the Mano River Union are Guinea, Liberia and Sierra Leone.

[25] ECOWAS had extended its moratorium in July 2001 for a period of three years.

[26] United Nations, *Treaty Series*, vol. 634, p. 281.

[27] See the report of the Secretary-General on the Regional Centre (A/57/116).

[28] See the report of the Secretary-General (A/57/260).

[29] Formerly the Conference on Security and Cooperation in Europe (CSCE).

[30] The General Framework Agreement for Peace in Bosnia and Herzegovina (Dayton Peace Agreement) was signed on 14 December 1995, in Paris, between the Republic of Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia, on the basis of which the war in Bosnia and Herzegovina was ended.

[31] See A/50/1027.

[32] Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia and Slovenia.

[33] United Nations, *Treaty Series*, vol. 1833, p. 3.

[34] See also section 8 below on legal questions dealt with by the Sixth Committee of the General Assembly and by ad hoc legal bodies.

[35] See A/57/273-S/2002/875.

[36] A/C.1/57/L.14.

[37] United Nations, *Treaty Series*, vol. 1155, p. 331.

[38] For the report of the Legal Subcommittee, see A/AC.105/787.

[39] Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, of 1967 (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 of 1968 (General Assembly resolution 2345 (XXII), annex); Convention on International Liability for Damage Caused by Space Objects of 1972 (General Assembly resolution 2777 (XXVI), annex); Convention on Registration of Objects Launched into Outer Space of 1975 (General Assembly resolution 3235 (XXIX), annex); and Agreement Governing the Activities of States on the Moon and Other Celestial Bodies of 1979 (General Assembly resolution 34/68, annex).

[40] A/AC.105/769 and Corr.1.

[41] A/AC.105/C.2/2002/CRP.10.

[42] A/AC.105/C.2/2002/CRP.3.

[43] A/AC.105/C.2/L.232.

[44] A/AC.105/768.

[45] A/AC.105/C.2/L.234.

[46] A/AC.105/787, appendix.

[47] A/57/767.

[48] For the report of the session, see *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 25* (A/57/25).

[49] United Nations, *Treaty Series*, vol. 1771, p. 107.

[50] FCCC/CP/1997/7/Add.1, decision 1/CP.3.

[51] United Nations, *Treaty Series*, vol. 1954, p. 3.

[52] A/57/177.

[53] United Nations, *Treaty Series*, vol. 1760, p. 79.

[54] A/57/220.

[55] See UNEP/CBD/ExCop/1/3 and Corr.1, part two, annex.

[56] *Report of the International Conference on Financing for Development, Monterrey, Mexico, 18-22 March 2002* (United Nations publication, Sales No. E.02.II.A.7), chap. I, resolution 1, annex.

[57] *Report of the World Summit on Sustainable Development, Johannesburg, South Africa, 26 August–4 September 2002* (United Nations publication, Sales No. E.03.II.A.1 and corrigendum).

[58] Ibid., chap. I, resolution 1, annex.

[59] Ibid., resolution 2, annex.

[60] See General Assembly resolution 55/2.

[61] *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.

[62] A/57/158 and Add.1 and 2.

[63] Convention: General Assembly resolution 55/25, annex I; 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: General Assembly resolution 55/25, annex II; Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime: General Assembly resolution 55/255.

[64] E/CN.15/2002/10.

[65] *Official Records of the Economic and Social Council, 2002, Supplement No. 10* and corrigendum (E/2002/30 and Corr.1).

[66] Ibid., chap. VII.

[67] A/57/153.

[68] A/57/154.

[69] A/57/170.

[70] United Nations, *Treaty Series*, vol. 1249, p. 13.

[71] Ibid., vol. 1577, p. 3.

[72] General Assembly resolution 54/4, annex.

[73] General Assembly resolution 54/263, annex II.

[74] A/57/171.

[75] See General Assembly resolution S-20/2, annex.

[76] General Assembly resolution 54/132, annex.

[77] General Assembly resolution S-20/3, annex.

[78] The more recent United Nations Conventions include Single Convention on Narcotic Drugs of 1961; Convention on Psychotropic Substances of 1971; Protocol of 25 March 1972 amending the Single Convention on Narcotic Drugs, 1961; Single Convention on Narcotic Drugs, 1961, as amended by the Protocol amending the Single Convention on Narcotic Drugs, 1961, of 1975; and United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988.

[79] 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.

[80] See General Assembly resolution S-17/2, annex.

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

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

[83] Ibid.

[84] General Assembly resolution 44/128, annex.

[85] United Nations, *Treaty Series*, vol. 660, p. 195.

[86] See CERD/SP/45, annex.

[87] *Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 18* and corrigendum (A/56/18 and Corr.1).

[88] Ibid., *Fifty-seventh Session, Supplement No. 18* (A/57/18).

[89] A/57/334.

[90] See A/CONF.189/12 and Corr.1, chap. I.

[91] See A/57/204.

[92] See CEDAW/SP/1995/2.

[93] A/57/406 and Corr.1.

[94] United Nations, *Treaty Series*, vol. 1465, p. 85.

[95] See CAT/SP/1992/L.1.

[96] For the text of the Optional Protocol, see chap. IV of this volume.

[97] See CRC/SP/1995/L.1/Rev.1.

[98] *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 14* and corrigendum (A/57/41 and Corr.1).

[99] A/57/295.

[100] General Assembly resolution 45/158.

[101] A/57/476.

[102] See A/57/56 and A/57/399 and Corr.1.

[103] A/57/138.

[104] E/CN.4/2000/46 and Add.1.

[105] A/53/293 and Add.1.

[106] A/56/207 and Add.1.

[107] General Assembly resolution 217 A (III).

[108] United Nations, *Treaty Series*, vol. 189, p. 137.

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

[110] Ibid., vol. 360, p. 117.

[111] Ibid., vol. 989, p. 175.

[112] A/57/324.

[113] *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 12* (A/57/12).

[114] Ibid., *Supplement No. 12A* (A/57/12/Add.1).

[115] See A/57/379-S/2002/985.

[116] See A/57/163-S/2002/733.

[117] See A/57/491, A/57/492 and Corr.1 and A/57/493.

[118] United Nations, *Treaty Series*, vol. 1833, p. 3.

[119] General Assembly resolution 48/263, annex.

[120] A/CONF.164/37.

[121] SPLOS/25.

[122] International Seabed Authority document ISBA/4/A/8, annex.

[123] A/57/57 and Add.1.

[124] E/CN.17/2002/PC.2/3, annex.

[125] See UNEP/CBD/COP/5/23, annex III.

[126] See UNEP/CBD/COP/6/20, annex I.

[127] *International Fisheries Instruments with Index* (United Nations publication, Sales No. E.98.V.11), sect. III.

[128] Contentious cases before the ICJ are presented when some action was taken by the Court during 2002. For detailed information, see *Yearbook of the International Court of Justice 2001-2002*, No. 56, and *Yearbook of the International Court of Justice 2002-2003*, No. 57.

[129] *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 4* and corrigendum (A/54/4 and Corr.1).

[130] For the membership of the International Law Commission, see *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 10* (A/57/10), chap. I, sect. A.

[131] For detailed information, see *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 10* (A/57/10).

[132] A/CN.4/526 and Add.1 to 3.

[133] A/CN.4/514 and Corr.1 and 2 (Spanish only).

[134] A/CN.4/523 and Add.1.

[135] A/CN.4/525 and Add.1 and 2 and Corr.1, Corr.2 (Arabic and English only) and Add.1.

[136] A/CN.4/524.

[137] *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 22* (A/57/22).

[138] For the membership of the United Nations Commission on International Trade Law, see ibid., *Supplement No. 17* (A/57/17), chap. II, sect. B.

[139] For detailed information, see *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 17* (A/57/17).

[140] For the text, see below, in the "Consideration by the General Assembly" section.

[141] A/CN.9/508.

[142] A/CN.9/504.

[143] A/CN.9/507.

[144] A/CN.9/511.

[145] See A/CN.9/511, paras. 126-127, and A/CN.9/512, para. 88.

[146] A/CN.9/WG.VI/WP.2 and addenda 1 to 12.

[147] A/CN.9/WG.VI/WP.3.

[148] A/CN.9/509.

[149] A/CN.9/510.

[150] A/CN.9/WG.III/WP.21.

[151] Ibid., Add.1.

[152] A/CN.9/505.

[153] A/CN.9/516.

[154] States wishing to enact this Model Law to apply to domestic as well as international conciliation may wish to consider the following changes to the text: delete the word "international" in paragraph 1 of article 1; and delete paragraphs 4, 5 and 6 of article 1.

[155] The term "commercial" should be given a wide interpretation so as to cover matters arising from all relationships of a commercial nature, whether contractual or not. Relationships of a commercial nature include, but are not limited to, the following transactions: any trade transaction for the supply or exchange of goods or services; distribution agreement; commercial representation or agency; factoring; leasing; construction of works; consulting; engineering; licensing; investment; financing; banking; insurance; exploitation agreement or concession; joint venture and other forms of industrial or business cooperation; carriage of goods or passengers by air, sea, rail or road.

[156] The following text is suggested for States that might wish to adopt a provision on the suspension of the limitation period:

Article [...] Suspension of limitation period

1. When the conciliation proceedings commence, the running of the limitation period regarding the claim that is the subject matter of the conciliation is suspended.

2. Where the conciliation proceedings have terminated without a settlement agreement, the limitation period resumes running from the time the conciliation ended without a settlement agreement.

[157] When implementing the procedure for enforcement of settlement agreements, an enacting State may consider the possibility of such a procedure being mandatory.

[158] E/AC.51/2002/5, recommendation 15.

[159] United Nations, *Treaty Series*, vol. 75, Nos. 970-973.

[160] Ibid., vol. 1125, Nos. 17512 and 17513.

[161] A/57/99 and Corr.1 and Add.1 and 2 and A/INF/56/6 and Add.1.

[162] *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 26* (A/57/26).

[163] *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.

[164] *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, First session, New York, 3-10 September 2002* (United Nations publication, Sales No. E.03.V.2 and corrigendum), part II.E.

[165] *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 33* (A/57/33).

[166] S/2002/70; see *Resolutions and Decisions of the Security Council, 1 January 2001–31 July 2002*.

[167] A/AC.182/2000/INF/2.

[168] A/57/183 and Corr.1 and Add.1.

[169] *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 37* and corrigendum (A/57/37 and Corr.1).

[170] A/C.6/57/L.9.

[171] Resolution 52/164, annex.

[172] Resolution 54/109, annex.

[173] United Nations, *Treaty Series*, vol. 2051, p. 363.

[174] *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 51* (A/57/51).

[175] A/C.6/57/L.4.

[176] For detailed information, see *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 14* (A/57/14), covering the period from 1 July 2000 to 30 June 2002.

[177] A/57/479.

[178] *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 14* (A/57/14).

[179] The order of the organizations reflects the chronological order, from earlier to most recent, of the effective date the United Nations entered into a relationship with the Organization. All the organizations listed here are United Nations specialized agencies, except for IAEA and WTO, which are autonomous intergovernmental organizations that work in cooperation with the United Nations and are listed last.

[180] ILC, 90th session, Geneva, 2002, *Record of Proceedings*, Nos. 2 and 20; English, French, Spanish. ILO, *Official Bulletin*, vol. LXXXV, 2002, Series A, No. 2, p. 123; English, French, Spanish.

[181] ILO, *Official Bulletin*, vol. LXXXV, 2002, Series A, No. 2, p. 90; English, French, Spanish. 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 *single discussion* procedure. Regarding preparatory work, see: ILC, 90th session, Geneva, 2002, reports V (1) and (2A and 2B); Arabic, Chinese, English, French, German, Russian, Spanish; ILC, 90th session, Geneva, 2002, *Record of Proceedings*, No. 24, 24A and 24B.

[182] ILO, *Official Bulletin*, vol. LXXXV, 2002, Series A, No. 2, p. 100; English, French, Spanish. Information on the preparatory work for the adoption of these instruments is given in order to facilitate reference work. This instrument has been adopted using the *double discussion* procedure. Regarding preparatory work, see: *First discussion*: ILC, 89th session, Geneva, 2001, reports V (1) and (2); Arabic, Chinese, English, French, German, Russian, Spanish; ILC, 89th session, Geneva, 2001, *Record of Proceedings*, No. 18; English, French, Spanish; *Second discussion*: ILC, 90th session, Geneva, 2002, report IV (1) and reports IV (2A and 2B); Arabic, Chinese, English, French, German, Russian, Spanish; ILC, 90th session, Geneva, 2002, *Record of Proceedings*, No. 23 and 23A; English, French, Spanish.

[183] ILC, 90th session, Geneva, 2002, *Record of Proceedings*, No. 28 (Part Three); English, French, Spanish.

[184] This report has been published as report III (Part 1) to the 91st session of the Conference (2003) and comprises two volumes: Vol. 1A, *General Report and Observations concerning particular countries* (report III (Part 1A); English, French, Spanish) and Vol. 1B, *General Survey of the reports concerning the Protection of Wages Convention (No. 95) and the Protection of Wages Recommendation (No. 85), 1949* (report III (Part 1B)); English, French, Spanish.

[185] GB.283/17/l and GB.285/19.

[186] ILO, *Official Bulletin*, vol. LXXXV, 2002, Series B, No. 1; English, French, Spanish.

[187] Ibid., No. 2; English, French, Spanish.

[188] Ibid., No. 3; English, French, Spanish.

[189] GB.283/WP/SDG/1(Rev.), GB.283/WP/SDG/2, GB.283/WP/SDG/3 and GB.283/WP/SDG/3/1; English, French, Spanish.

[190] GB.285/WP/SDG/2, GB.285/WP/SDG/3/1; English, French, Spanish.

[191] GB.283/LILS/WP/PRS/1/1, GB.283/LILS/WP/PRS/1/2, GB.283/LILS/WP/PRS/3, GB.283/LILS/WP/PRS/4; English, French, Spanish.

[192] Cf. annex 1, Translation of the preliminary draft Convention title in the six working languages of UNESCO General Conference.

[193] The reports of the Legal Committee are contained in documents LEG 84/14 and LEG 85/11.

[194] Reproduced in IAEA document INFCIRC/274/Rev.1.

[195] Reproduced in IAEA document INFCIRC/335.

[196] Reproduced in IAEA document INFCIRC/336.

[197] Reproduced in IAEA document INFCIRC/500.

[198] Reproduced in IAEA document INFCIRC/500/Add.3.

[199] Reproduced in IAEA document INFCIRC/402.

[200] Reproduced in IAEA document INFCIRC/449.

[201] Reproduced in IAEA document INFCIRC/546.

[202] Reproduced in IAEA document INFCIRC/566.

[203] Reproduced in IAEA document INFCIRC/567.

[204] Reproduced in IAEA document INFCIRC/377.

[205] Reproduced in IAEA document INFCIRC/167/Add.20.

[206] Reproduced in IAEA document INFCIRC/582.

[207] Reproduced in IAEA document INFCIRC/613/Add.1.

[208] Reproduced in IAEA document INFCIRC/607.

[209] Reproduced in IAEA document INFCIRC/615.

[210] Reproduced in IAEA document INFCIRC/610.

[211] Reproduced in IAEA document INFCIRC/614.

[212] Reproduced in IAEA document INFCIRC/369/Add.1.

[213] Reproduced in IAEA document INFCIRC/541/Add.1.

[214] Reproduced in IAEA document INFCIRC/615/Add.1.

[215] Reproduced in IAEA document INFCIRC/394/Add.1.

[216] The framework and procedures as taken note of by the General Council were circulated as WT/L/447.

[217] Carried in General Council minutes as "Venue of the Fifth Session of the Ministerial Conference—Communication from Mexico".

[218] Carried in General Council minutes as "Date of the Fifth Session of the Ministerial Conference".

[219] No reservations having been received by the Chairman, the Director-General's conditions of service were thereby considered agreed. A notice to this effect was circulated to members in WT/GC/67.

[220] In the light of further consultations, the Chairman informed members in a communication dated 13 March 2002 (WT/GC/59) that Mr. Akram (Pakistan) would serve as the new Chairman of this Working Party.

[221] The Coordinated Organizations include the Council of Europe, the European Centre for Medium-Range Weather Forecasts (ECMWF), the European Space Agency (ESA), the North Atlantic Treaty Organization (NATO), the Organization for Economic Cooperation and Development (OECD) and the Western European Union (WEU).