

Extract from:

UNITED NATIONS JURIDICAL YEARBOOK

2008

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

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



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Part Two

**LEGAL ACTIVITIES OF THE UNITED NATIONS
AND RELATED INTERGOVERNMENTAL
ORGANIZATIONS**

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. Membership of the United Nations

As of 31 December 2008, the number of Member States remained at 192.

2. Peace and Security

(a) Peacekeeping missions and operations

(i) *Peacekeeping operations and missions established in 2008*

No peacekeeping operations and missions were established by the Security Council in 2008.

(ii) *Changes in the mandate and/or extensions of time limits of ongoing peacekeeping operations or missions in 2008*

a. Cyprus

The United Nations Peacekeeping Force in Cyprus (UNFICYP) was established by Security Council resolution 186 (2004) of 4 March 1964. The Security Council extended, by resolution 1818 (2008), adopted on 13 June 2008, and resolution 1847 (2008), adopted on 12 December 2008, the mandate of UNFICYP until 15 December 2008 and 15 June 2009, respectively.

In resolution 1818 (2008), the Council welcomed the appointment of Tayé-Brook Zerihoun as the Secretary-General's new Special Representative to Cyprus.

b. Syria and Israel

The United Nations Disengagement Observer Force (UNDOF) was established by Security Council resolution 350 (1974) of 31 May 1974. The Security Council renewed, by

resolution 1821 (2008) of 27 June 2008, and resolution 1848 (2008) of 12 December 2008, the mandate of UNDOF until 31 December 2008 and 30 June 2009, respectively.¹

In a letter dated 6 May 2008 from the Secretary-General to the President of the Security Council, the Secretary-General informed the Council that, having served in UNDOF since May 1998, Slovakia would withdraw its troops in July 2008 and that the Government of Croatia had offered to replace the departing Slovak contingent within the Austrian battalion. The Members of the Security Council took note of the Secretary-General's intention to add Croatia to the list of countries that had agreed to provide military personnel to UNDOF.²

c. Lebanon

The United Nations Interim Force in Lebanon (UNIFIL) was established by Security Council resolutions 425 (1978) and 426 (1978) of 19 March 1978. Following a request by the Government of Lebanon, presented in a letter dated 18 August 2008 from the Lebanese Prime Minister to the Secretary-General, and a recommendation by the Secretary-General,³ the Council adopted on 27 August 2008 resolution 1832 (2008), by which it decided to extend the mandate of UNIFIL until 31 August 2009.

d. Western Sahara

The United Nations Mission for the Referendum in Western Sahara (MINURSO) was established by Security Council resolution 690 (1991) of 29 April 1991. The Council extended, by resolution 1813 (2008) of 30 April 2008, the mandate of MINURSO until 30 April 2009.

e. Georgia

The United Nations Observer Mission in Georgia (UNOMIG) was established by Council resolution 858 (1993) of 24 August 1993. By resolution 1808 (2008), adopted on 15 April 2008, and resolution 1839 (2008), adopted on 9 October 2008, the Security Council extended the mandate of UNOMIG until 15 October 2008 and 15 February 2009, respectively.

In resolution 1808 (2008), the Council welcomed the reports of the Secretary-General on the activities of the United Nations Observer Mission in Georgia of 23 January 2008⁴ and 2 April 2008⁵ respectively, and requested the Secretary-General to make use of this mandate in order to encourage and support the parties in implementing measures to build confidence and to establish an intensive and meaningful dialogue, with a view to achiev-

¹ Report of the Secretary-General on the United Nations Disengagement Observer Force (S/2008/737).

² Exchange of letters between the President of the Security Council and the Secretary-General (S/2008/306 and S/2008/307).

³ Letter from the Secretary-General addressed to the President of the Security Council, dated 21 August 2008 (S/2008/568).

⁴ S/2008/38.

⁵ S/2008/219.

ing a lasting and comprehensive settlement, including the facilitation of a meeting at the highest level.

In resolution 1839 (2008), the Council took note of the Secretary-General reports dated 23 July 2008⁶ and 3 October 2008⁷ on the situation in Abkhazia.

f. Democratic Republic of the Congo

The United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) was established by Security Council resolution 1279 of 30 November 1999. The Council extended, by resolution 1843 (2008), adopted on 20 November 2008, and resolution 1856 (2008), adopted on 22 December 2008, the mandate of MONUC until 31 December 2008 and 31 December 2009, respectively.

On 30 January 2008, the Security Council adopted resolution 1797 (2008) authorizing MONUC, in close coordination with international partners and the United Nations Country Team, to provide assistance to the Congolese authorities, including the National Independent Electoral Commission, in the organization, preparation and conduct of local elections, as recommended in the letter from the Secretary-General dated 11 October and 30 November 2007.⁸

In resolution 1843 (2008), the Security Council, taking note of the recommendation of the Secretary-General in his letter dated 31 October 2008,⁹ decided to temporarily increase MONUC authorized military strength by up to 2,785 military personnel and the strength of its formed police unit by up to 300 personnel, and authorized the immediate deployment of those additional capacities.

In its resolution 1856 (2008), after taking note of the fourth special report¹⁰ of the Secretary-General on MONUC dated 21 November 2008 and the recommendations contained therein, the Security Council authorized the continuation until 31 December 2009 of up to 19,815 military personnel, 760 military observers, 391 police personnel and 1,050 personnel of formed police units.

In addition, the Council decided that MONUC would have the mandate, *inter alia*, and in this order of priority, to work in close cooperation with the Government of the Democratic Republic of the Congo, to protect civilians, humanitarian personnel and United Nations personnel and facilities, to disarm, demobilize, monitor resources of foreign and Congolese armed groups and to train and mentor the Armed Forces of the Democratic Republic of the Congo (FARDC) in support of security sector reform.

In the same resolution, Security Council decided that MONUC would also have the mandate to support the strengthening of democratic institutions and the rule of law in close cooperation with the Congolese authorities, the United Nations Country Team and donors by, *inter alia*, providing advice to strengthen democratic institutions and processes at the national, provincial, regional and local levels, promoting national reconciliation

⁶ S/2008/480.

⁷ S/2008/631.

⁸ S/2007/694.

⁹ S/2008/703.

¹⁰ S/2008/728.

and internal political dialogue, assist in the promotion and protection of human rights, with particular attention to women, children and vulnerable persons, investigating human rights violations, assisting in the development and implementation of a transitional justice strategy, and cooperating in national and international efforts to bring to justice perpetrators of grave violations of human rights and international humanitarian law.

g. Ethiopia and Eritrea¹¹

The United Nations mission in Ethiopia and Eritrea (UNMEE) was established by Security Council resolution 1312 (2000) of 31 July 2000. The Council extended, by resolution 1798 (2008), adopted on 30 January 2008, the mandate of UNMEE for a period of six months, until 31 July 2008.

In a Presidential Statement dated 30 April 2008, the Security Council noted that the continuation of Eritrea's obstructions towards UNMEE had reached a level that undermined the basis of the mission's mandate, and had compelled UNMEE to temporarily relocate.¹² In a letter to the President of the Security Council dated 5 June 2008, the Secretary-General proposed that the temporarily relocated troops be considered as repatriated while pending a decision of the Security Council on this issue, in the light of consultations with the parties. In a letter dated 30 June 2008, the President of the Security Council informed the Secretary-General that the members of the Council agreed with that proposal.¹³

In a letter dated 28 July 2008 from the Secretary-General addressed to the President of the Security Council, the Secretary-General reported on the Secretariat's consultations with the parties as to the terms of a future United Nations engagement and on the future of UNMEE.¹⁴

In a letter dated 2 October 2008 from the Secretary-General addressed to the President of the Security Council, the Secretary-General brought to the attention of the Council the final report of the Eritrea-Ethiopia Boundary Commission.¹⁵ The Commission was established pursuant to the Agreement of 12 December 2000 between the Government of the State of Eritrea and the Government of the Federal Democratic Republic of Ethiopia, with the mandate to delimit and demarcate the colonial treaty border based on pertinent colonial treaties and applicable international law.

h. Liberia

The United Nations Mission in Liberia (UNMIL) was established by Security Council resolution 1509 (2003) of 19 September 2003. The Security Council decided, in resolu-

¹¹ See further, regarding UNMEE, under the section concerning the conclusion of peacekeeping missions, below.

¹² S/PRST/2008/12.

¹³ Exchange of letters between the President of the Security Council and the Secretary-General, dated 5 June 2008 and 30 June 2008, respectively (S/2008/368 and S/2008/427).

¹⁴ Letter dated 28 July 2008 from the Secretary-General addressed to the President of the Security Council (S/2008/496).

¹⁵ Letter from the Secretary-General to the President of the Security Council and the twenty-seventh report of the Eritrea-Ethiopia Boundary Commission (S/2008/630).

tion 1836 (2008), adopted on 29 September 2008, to extend the mandate of UNMIL until 30 September 2009.

In the same resolution, endorsed the Secretary-General's recommendation¹⁶ for a reduction of an additional 1,460 personnel deployed as part of UNMIL military component and for the streamlining of the current four sectors into two, authorized the him to implement that recommendation during the period October 2008 to March 2009.

In addition, the Council approved, with immediate effect, the Secretary-General's recommendation for an increase of 240 in the authorized number of personnel deployed as part of UNMIL police component in order to, *inter alia*, provide strategic advice and expertise in specialized fields, provide operational support to regular policing activities and react to urgent security incidents.

Furthermore, the Secretary-General was requested, *inter alia*, to continue to monitor progress on the core benchmarks detailed in paragraph 66 of his report of 8 August 2007¹⁷ and his report of 19 March 2008,¹⁸ to include in his report long-range scenarios for a phased drawdown and withdrawal of UNMIL troop contingent, as the situation would permit and without compromising the security of Liberia. The Council also requested the Secretary-General to develop further detailed benchmarks to measure and track progress towards the achievement of security in Liberia.

i. Côte d'Ivoire

The United Nations Operation in Côte d'Ivoire (UNOCI) was established by Security Council resolution 1528 (2004) of 27 February 2004. The Security Council, by resolution 1795 (2008), adopted on 15 January 2008, and resolution 1826 (2008), adopted on 29 July 2008, extended the mandate of UNOCI and the mandate of the French forces which support it until 30 July 2008, respectively.

In its resolution 1795 (2008), the Security Council recalled that the Special Representative of the Secretary-General in Côte d'Ivoire shall certify that all stages of the electoral process would provide all the necessary guarantees for the holding of open, free, fair and transparent presidential and legislative elections in accordance with international standards.

In resolution 1826 (2008) of 29 July 2008, the Security Council, having taken note of the report of the Secretary-General dated 10 July 2008,¹⁹ requested UNOCI to support the full implementation of the Ouagadougou Political Agreement and its Supplementary Agreements, in particular to contribute to bringing the security needed by the peace process and by the electoral process and to provide logistical support to the Independent Electoral Commission for the preparation and the holding of the elections.

Furthermore, it strongly encouraged the Defense and Security Force of Côte d'Ivoire and the Forces Nouvelles to jointly develop a comprehensive plan for the security of the

¹⁶ For more information, see report of the Secretary-General dated 15 August 2008 (S/2008/553).

¹⁷ S/2007/479.

¹⁸ S/2008/183.

¹⁹ S/2008/451.

elections, in close coordination with the Facilitator, with the technical and logistical support of UNOCI.

j. Haiti

The United Nations Stabilization Mission in Haiti (MINUSTAH) was established by the Security Council in its resolution 1542 of 30 April 2004. The Security Council adopted on 14 October 2008 resolution 1840 (2008), by which it decided to extend the mandate of MINUSTAH until 15 October 2009.

In the same resolution, the Council expressed its satisfaction with the reconfiguration of the Mission carried out in accordance with resolution 1780 (2007), and decided that MINUSTAH will continue to consist of a military component of up to 7,060 troops of all ranks and of a police component of a total of 2,091 police.²⁰

k. The Sudan

The United Nations Mission in the Sudan (UNMIS) was established by Security Council resolution 1590 (2005) of 24 March 2005. On 30 April 2008, the Council adopted resolution 1812 (2008) by which it extended the mandate of UNMIS until 30 April 2009.

l. Timor-Leste

The United Nations Integrated Mission in Timor-Leste (UNMIT) was established by Security Council resolution 1704 (2006) of 25 August 2006. The Council extended, by its resolution 1802 (2008) of 25 February 2008, the mandate of UNMIT until 26 February 2009.

m. Chad and the Central African Republic

The United Nations Mission in the Central African Republic and Chad (MINURCAT) was established by Security Council resolution 1778 (2007) of 25 September 2007. The Security Council extended, by resolution 1834 (2008), adopted on 24 September 2008, the mandate of MINURCAT until 15 March 2009.

In the same resolution, the Council expressed its intention to extend beyond 15 March 2009 the multidimensional presence established in Chad and the Central African Republic to help create the security conditions conducive to a voluntary, secure and sustainable return of refugees and displaced persons.

To this end, the Council expressed its intention to authorize the deployment of a United Nations military component to follow up EUFOR Chad/CAR in both Chad and the Central African Republic. The Council further requested the Secretary-General to submit a report on the progress towards the full deployment of MINURCAT and the *Détachement Intégré de Sécurité* (DIS) and on updating the planning and conducting preparations of the proposed United Nations military presence in the north-eastern Central African Republic to take over EUFOR presence, including options on its size, structure and mandate.

²⁰ See, for further information, the report of the Secretary-General on the United Nations Stabilization Mission in Haiti dated 27 August 2008, paragraph 20 (S/2008/586).

(iii) *Other ongoing peacekeeping operations or missions in 2008*

During 2008, there were a number of other ongoing peacekeeping operations or missions, including the United Nations Truce Supervision Organization (UNTSO) in Israel, established by Security Council resolution 50 (1848) of 29 May 1948; the United Nations Military Observer Group (UNMOGIP) in India and Pakistan, established by Security Council resolution 91 (1951) of 30 March 1951; and the United Nations Interim Mission in Kosovo (UNMIK), established by Security Council resolution 1244 (1999) of 12 June 1999.²¹

(iv) *Peacekeeping operations or missions concluded in 2008*

Ethiopia and Eritrea

The United Nations mission in Ethiopia and Eritrea (UNMEE) was established by Security Council resolution 1312 (2000) of 31 July 2000. The Council, by resolution 1827 (2008) of 30 July 2008, decided to terminate UNMEE mandate on 31 July 2008.

(b) Political and peacebuilding missions

(i) *Political and peacebuilding missions established in 2008*

a. Sierra Leone

On 4 August 2008, the Security Council adopted resolution 1829 (2008) by which it requested the Secretary-General to establish the United Nations Integrated Peacebuilding Office in Sierra Leone (UNIPSIL), as recommended in his report,²² for a period of 12 months beginning on 1 October 2008. UNIPSIL was requested to focus on and support the Government of Sierra Leone in the following areas: providing political support to national and local efforts for identifying and resolving tensions and threats of potential conflict; monitoring and promoting human rights, democratic institutions and the rule of law, including efforts to counter transnational organized crime and drug trafficking; consolidating good governance reforms with special focus on anti-corruption instruments such as the Anti-Corruption Commission; supporting decentralization, reviewing the 1991 Constitution and the enactment of relevant legislation; and closely coordinating with and supporting the work of the Peacebuilding Commission, as well as the implementation of the Peacebuilding Cooperation Framework and projects supported through the Peacebuilding Fund; and closely coordinating with and supporting the work of the Peacebuilding Commission, as well as the implementation of the Peacebuilding Cooperation Framework and projects supported through the Peacebuilding Fund.

The Security Council further stressed the importance of a smooth transition between the United Nations Integrated Office in Sierra Leone (UNIOSIL) and the new UNIPSIL, and of the effective and efficient operation of the Office.

²¹ Report of the Secretary-General on UNMIK, dated 24 November 2008 (S/2008/692).

²² S/2008/281.

In its resolution 1793 (2007), the Council requested the Secretary-General to submit for its consideration a completion strategy for UNIOSIL that would include, *inter alia*, at least a 20 per cent reduction in staff by 31 March 2008, a continued mission at 80 per cent of the strength as at 21 December 2007 until 30 June 2008, and the termination of the UNIOSIL mandate by 30 September 2008. The Secretary-General submitted to the Security Council the completion strategy for UNIOSIL in its letter dated 1 February addressed to the President of the Security Council. The Council took note of the submission in a letter dated 28 February 2008.²³

b. Djibouti and Eritrea

Following clashes between the Djibouti Armed Forces and Eritrean Defence Forces along the undemarcated border between Djibouti and Eritrea known as Doumeira, and a statement made by the President of the Security Council on 12 June 2008,²⁴ the Secretary-General directed the Department of Political Affairs to dispatch a fact-finding mission to Eritrea and Djibouti.

The fact-finding mission visited Djibouti and Ethiopia from 28 July to 6 August 2008. The mission did not obtain approval from the Eritrean authorities to visit Eritrea, and as a result, the terms of reference of the mission were amended. The mandate of the fact-finding mission was, *inter alia*, to achieve a better understanding of critical aspects like the state of relations between Djibouti and Eritrea (both past and present), including an appreciation of the series of conventions, treaties and protocols that defined the frontier between the two territories at different points in the nineteenth and twentieth centuries; the chronology of events that led to the clashes of 10 to 12 June; the current military, security and humanitarian situation in the border area; and the efforts undertaken by the African Union, the League of Arab States and the African, Caribbean and Pacific Group of States to defuse the tension and create an enabling environment for dialogue between the two States.

The report of the fact-finding mission was transmitted to the Security Council through a letter from the Secretary-General on 12 September 2008.²⁵

(ii) *Changes in the mandate and/or extensions of the time limits of ongoing political and peacebuilding missions in 2008*

a. Somalia

The United Nations Political Office for Somalia (UNPOS) was created by the Secretary-General on 15 April 1995, to advance the cause of peace and reconciliation through contacts with Somali leaders, civic organizations and the States and organizations concerned.

On 15 May 2008, acting under Chapter VII of the Charter, the Security Council adopted resolution 1814 (2008), in which it welcomed the report presented by the Secre-

²³ Exchange of letters between the Secretary-General and the President of the Security Council (S/2008/63 and S/2008/137).

²⁴ S/PRST/2008/20.

²⁵ S/2008/602.

tary-General,²⁶ in particular its assessment of renewed opportunities for increased United Nations presence and the deployment of a United Nations peacekeeping operation to succeed the African Union Mission to Somalia (AMISOM). Furthermore, the Security Council approved the joint planning unit in the office of the Special Representative of the Secretary-General proposed by the Secretary-General.

In the same resolution, the Security Council decided that UNPOS and the United Nations country team should, in promoting a comprehensive and lasting settlement in Somalia and through the promotion of the ongoing political process, enhance their support to the Transitional Federal Institutions (TFIs) with the aim of developing a constitution and holding a constitutional referendum and free and democratic elections in 2009, as required by the Transitional Federal Charter (TFC).

Furthermore, the Secretary-General was requested by Security Council to establish an effective capacity within UNPOS to monitor and enhance the protection of human rights in Somalia, and to ensure coordination, as appropriate, between UNPOS, the Office of the High Commissioner for Human Rights and the Human Rights Council Independent Expert.

In a presidential statement of 4 September 2008,²⁷ the Security Council requested the Secretary-General to elaborate on contingency plans and to provide, in consultation with the parties and other relevant stakeholders, a detailed and consolidated description of a feasible multinational force. The Secretary-General responded to Security Council's request by submitting a report dated 17 November 2008,²⁸ in which it provided details on the status of contingency planning for the possible deployment of a United Nations peacekeeping operation, the multinational force, as well as the international stabilization force capabilities.

b. Guinea-Bissau

The United Nations Peacebuilding Support Office in Guinea-Bissau (UNOGBIS) was established, with the support of the Security Council, by the Secretary-General in March 1999.²⁹ On 10 December 2008, in a letter addressed to the President of the Security Council, the Secretary-General recommended that the mandate of UNOGBIS be extended for an additional year until 31 December 2009. The Council took note of the Secretary-General's recommendation.³⁰

The Secretary-General further reaffirmed his recommendation to transform UNOGBIS into an integrated mission, and informed the Council of his intention to deploy a technical assessment mission in the first quarter of 2009 to consult on integration-related strategies.

²⁶ S/2008/178.

²⁷ S/PRST/2008/33.

²⁸ S/2008/709.

²⁹ Exchange of letters between the Secretary-General and the President of the Security Council dated 26 February 1999 and 3 March 1999 (S/1999/232 and S/1999/233).

³⁰ Exchange of letters between the Secretary-General and the President of the Security Council dated 28 November and 3 December 2007 (S/2008/777 and S/2008/778).

c. The Central African Republic

The United Nations Peacebuilding Office in the Central African Republic (BONUCA) was established by the Secretary-General on 15 February 2000.³¹ In his report of 28 November 2008 the Secretary-General recommended that the mandate of BONUCA be extended for an additional year, until 31 December 2009.³²

d. Afghanistan

The United Nations Assistance Mission in Afghanistan (UNAMA) was established by Security Council resolution 1401 (2002) of 28 March 2002. In its resolution 1806 (2008) of 20 March 2008, the Security Council decided to extend the mandate of UNAMA until 23 March 2009.

e. Iraq

The United Nations Assistance Mission for Iraq (UNAMI) was established by the Security Council in resolution 1500 (2003) of 14 August 2003. Welcoming the letter of 4 August 2008 from the Minister of Foreign Affairs of Iraq to the Secretary-General,³³ the Security Council decided by resolution 1830 (2008), adopted on 7 August 2008, to extend the mandate of UNAMI for another period of twelve months. The Council further decided that the Special Representative of the Secretary-General and UNAMI would continue to pursue their expanded mandate as stipulated in resolution 1770 (2007).

In a letter dated 12 December 2008 to the President of the Security Council, the Secretary-General noted the United Nations relied for the purpose of security and logistical support on the multinational forces in Iraq, pursuant to the authority granted to it by Security Council resolution 1546 (2004) of 8 June 2004 and subsequent relevant resolutions. As the agreement between the United Nations and the Government of the United States of America containing detailed arrangements concerning the provision of that security support would expire on 31 December 2008, the Secretary-General expressed his intention to negotiate an amended agreement for the provision of security support by the United States forces in Iraq, should the authorization of the multinational forces not be renewed by the Security Council. In a letter dated 16 December 2008, Security Council welcomed the proposed arrangements set out by the Secretary-General.³⁴

On 22 December 2008, the Security Council adopted resolution 1859 (2008), in which it decided to extend until 31 December 2009 the arrangements established in resolution 1483 (2003) for the depositing of proceeds from export sales of petroleum, petroleum products, and natural gas into the Development Fund for Iraq and the arrangements referred to in resolutions 1483 (2003) and 1546 (2004) for the monitoring of the Development Fund for Iraq by the International Advisory and Monitoring Board.

³¹ Ninth report of the Secretary-General on the United Nations Mission in the Central African Republic, dated 14 January 2000 (S/2000/24), and Statement by the President of the Security Council, dated 10 February 2000 (S/PRST/2000/5).

³² S/RES/2008/733.

³³ S/2008/523 and annex.

³⁴ Exchange of letters between the Secretary-General and President of the Security Council (S/2008/783 and S/2008/784).

In the same resolution, the Security Council decided that, subject to some exceptions,³⁵ petroleum, petroleum products, and natural gas originating in Iraq would continue to be immune from legal proceedings against them and not be subject to any form of attachment, garnishment, or execution, including with respect to defined funds and financial assets and economic resources,³⁶ until 31 December 2009. The Security Council decided that the provisions for the deposit of proceeds into the Development Fund for Iraq and for the role of the International Advisory and Monitoring Board and the provisions of resolution 1483 (2003) should be reviewed at the request of the Government of Iraq³⁷ or no later than 15 June 2009.

f. Liberia

The Security Council established the United Nations Mission in Liberia (UNMIL) by its resolution 1509 (2003) of 19 September 2003. The Council adopted resolution 1819 on 18 June 2008 and resolution 1854 on 19 December 2008, by which it extended the mandate of the Panel of Experts, established pursuant to resolution 1760 (2007), until 20 December 2008 and 20 December 2009, respectively.

g. The Sudan

In 15 October 2008, the Security Council adopted resolution 1841 (2008), by which it decided to extend until 15 October 2009 the mandate of the current Panel of Experts, originally appointed pursuant to resolution 1591 (2005). The Panel of Experts was requested to provide, no later than 29 March 2009, a midterm briefing on its work and, no later than 90 days after adoption of this resolution, an interim report to the Committee.³⁸ Furthermore, the Council requested the Panel of Experts to coordinate its activities as appropriate with the operations of the African Union/United Nations Hybrid operation in Darfur (UNAMID).

The Secretary-General was requested by the Security Council to take the necessary administrative measures related to the appointment of five experts to serve on the Panel of Experts until 15 October 2009. In a letter dated 26 November 2008, from the Secretary-General addressed to the President of the Security Council,³⁹ the Secretary-General appointed Abdelaziz Abdelaziz (United States of America), Awni Al-Momani (Jordan), Enrico Carisch (Switzerland), Bernard Stuart Saunders (Canada), and Kuldip Sharma (India) to serve as experts on the Panel of Experts. The Secretary-General furthermore designated Mr. Carisch to serve as Coordinator of the Panel of Experts.

h. Sierra Leone

The United Nations Integrated Office in Sierra Leone (UNIOSIL) was established by Security Council resolution 1620 (2005) of 31 August 2005.

³⁵ See paragraph 27 of resolution 1546 (2004).

³⁶ See paragraphs 22 and 23 of resolution 1483 (2003).

³⁷ Annexed to Security Council resolution 1859 of 22 December 2008.

³⁸ Established pursuant to paragraph 3 (a) of Security Council resolution 1591 (2005).

³⁹ S/2008/743.

In 2007, the Security Council adopted resolution 1793 (2007) in which it requested the Secretary-General to submit for its consideration a completion strategy which would include the termination of the UNIOSIL mandate by 30 September 2008. By a letter dated 1 February 2008, the Secretary-General submitted the completion strategy to the Security Council.⁴⁰ In a letter dated 28 February 2008, the President of the Security Council informed the Secretary-General that the Security Council had taken note of the completion strategy, and welcomed the action taken by UNIOSIL to provide details of the reduction in number of staff by 31 March 2008.

In resolution 1829 (2008) Security Council stressed the importance of a smooth transition between UNIOSIL and the new UNIPSIL, and of the effective and efficient operation of the Office.

i. Burundi

The United Nations Integrated Office in Burundi (BINUB) was established, for an initial period of 12 months commencing on 1 January 2007, by Security Council resolution 1719 (2006), adopted on 25 October 2006. Having considered the fourth report⁴¹ of the Secretary-General on BINUB, the Council adopted resolution 1858 (2008) on 22 December 2008, in which it decided to extend the mandate of BINUB until 31 December 2009.

In addition, in resolution 1858 (2008), the Security Council requested the Peacebuilding Commission, with support from BINUB and the United Nations Country Team, to continue to assist the Government of Burundi in laying the foundations for sustainable peace and security and long-term development and urged BINUB to strengthen current provisions for cooperation with the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC).

j. Nepal

The United Nations Political Mission in Nepal (UNMIN)⁴² was established pursuant to Security Council resolution 1740 (2007) of 23 January 2007, for an initial period of twelve months, under the leadership of a Special Representative of the Secretary-General.

In resolution 1796 (2008) of 23 January 2008, and resolution 1825 (2008) of 23 July 2008, the Security Council decided, following a request from the Government of Nepal,⁴³ and based on the Secretary-General's recommendation,⁴⁴ to renew the mandate of UNMIN until 23 July 2008 and 23 January 2009, respectively.

In resolution 1796 (2008), the Secretary-General was requested by the Council to review the activities of UNMIN in light of the elections scheduled for 10 April 2008, taking into account the views of the Government of Nepal.

⁴⁰ S/2008/63.

⁴¹ S/2008/745.

⁴² Report of the Secretary-General on the request of Nepal for United Nations assistance in support of its peace process dated 9 January 2007 (S/2007/7).

⁴³ Letters from the Government of Nepal dated 18 December 2007 and 22 July 2008 (S/2007/789 and annex, and S/2008/476 and annex).

⁴⁴ Report of the Secretary-General on UNMIN dated 3 January 2008 (S/2008/5).

In resolution 1825 (2008), the Security Council called upon the Government of Nepal to continue to take the necessary decisions to create conditions conducive to completion of UNMIN activities by the end of the current mandate, including through implementation of the 25 June Agreement, in order to facilitate UNMIN withdrawal from Nepal.

k. Uganda and affected areas

The temporary Liaison Office for the Special Envoy for the Lord's Resistance Army (LRA)-affected areas in Uganda was in 2007 upgraded to a special political mission.⁴⁵ In a letter dated 23 December 2008, the Secretary-General recommended that the mandate of the Office of its Special Envoy for the LRA-affected areas in Uganda be extended for an additional year, until 31 December 2009, and that it inherit its existing mandate as a special political mission.⁴⁶ In a letter dated 29 December 2008 from the President of the Security Council, the Secretary-General was informed that the Security Council had taken note of his recommendation.⁴⁷

(iii) *Other ongoing political and peacebuilding missions in 2008*

The Office of the United Nations Special Coordinator for the Middle East (UNSCO), established by the Secretary-General on 1 October 1999,⁴⁸ continued operating through 2008.

The United Nations Office for West Africa (UNOWA), established by the Secretary-General for an initial period of three years from January 2002,⁴⁹ continued operating through 2008.⁵⁰

The Cameroun-Nigeria Mixed Commission was established by the Secretary-General to facilitate the implementation of the 10 October 2002 ruling of the International Court of Justice on the Cameroon/Nigeria boundary dispute. In a letter dated 3 December 2008, from the Secretary-General addressed to the President of the Security Council,⁵¹ the Secretary-General referred to his letter dated 30 November 2007 in which he expressed his intention to continue the activities of the United Nations support team to the Mixed Commission with funding from the regular budget. He also referred to a letter dated 5 December 2007 in which the Security Council took note of that intention.⁵²

⁴⁵ S/2007/719.

⁴⁶ S/2008/826.

⁴⁷ S/2008/827.

⁴⁸ Exchange of letters between the Secretary-General and the President of the Security Council, 10 and 16 September 1999 (S/1999/983 and S/1999/984).

⁴⁹ Exchange of letters between the Secretary-General and the President of the Security Council, 26 and 29 November 2001 (S/2001/1128 and S/2001/1129).

⁵⁰ For further information, see exchange of letters between the Secretary-General and the President of the Security Council dated 21 February 2008 and 26 February 2008 (S/2008/127 and S/2008/128).

⁵¹ S/2008/756.

⁵² Exchange of letters between the Secretary-General and the President of the Security Council dated 30 November 2007 and 5 December 2007, respectively (S/2007/695 and S/2007/710).

(iv) *Political and peacebuilding missions concluded in 2008*

No political or peacebuilding missions were concluded in 2008.

(c) **Other peacekeeping matters**

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

On 11 September 2008, at its sixty-second session, the General Assembly adopted its resolution 62/273 (2008) entitled “Comprehensive review of the whole question of peacekeeping operations in all their aspects”. In that resolution, the Assembly welcomed the report of the Special Committee of Peacekeeping Operations,⁵³ endorsed the proposals, recommendations and contained in paragraphs 15 to 199 of its report, and urged Member States, the Secretariat and relevant organs of the United Nations to take all necessary steps to implement the proposals, recommendations and conclusions of the Special Committee. The General Assembly also decided that the Special Committee, in accordance with its mandate, should continue its efforts for a comprehensive review of the whole question of peacekeeping operations in all their aspects and should review the implementation of its previous proposals and consider any new proposals so as to enhance the capacity of the United Nations to fulfil its responsibilities in this field.

(ii) *Question of sexual exploitation and abuse in Peacekeeping operations*

On 19 June 2008, the Security Council adopted resolution 1820 (2008), in which it noted that civilians account for the vast majority of those adversely affected by armed conflict, that women and girls are particularly targeted by the use of sexual violence, including as a tactic of war to humiliate, dominate, instil fear in, disperse and/or forcibly relocate civilian members of a community or ethnic group, and that sexual violence perpetrated in this manner may in some instances persist after the cessation of hostilities. The Security Council condemned all sexual and other forms of violence committed against civilians in armed conflict, in particular women and children, and welcomed the ongoing coordination of efforts within the United Nations system, marked by the inter-agency initiative “United Nations Action against Sexual Violence in Conflict,” to create awareness about sexual violence in armed conflicts and post-conflict situations.

The Security Council further stressed that the Peacebuilding Commission could play an important role by including in its advice and recommendations for post-conflict peacebuilding strategies, ways to address sexual violence committed during and in the aftermath of armed conflict, and in ensuring consultation and effective representation of women’s civil society in its country-specific configurations, as part of its wider approach to gender issues. The Secretary-General and his Special Envoys were requested to invite women to participate in discussions pertinent to the prevention and resolution of conflict, the maintenance of peace and security, and post-conflict peacebuilding, and encourage all parties to such talks to facilitate the equal and full participation of women at decision-making levels.

⁵³ See *Official Records of the General Assembly, Sixty-second Session, Supplement No. 19, A/62/19*.

(iii) *Criminal accountability of United Nations officials and experts on mission*⁵⁴

In resolution 1820 (2008), the Security-Council requested the Secretary-General to, in consultation with the Security Council and the Special Committee on Peacekeeping Operations and its Working Group, to develop and implement appropriate training programs for all peacekeeping and humanitarian personnel deployed by the United Nations in the context of missions as mandated by the Council to help them better prevent, recognize and respond to sexual violence and other forms of violence against civilians and relevant States. The Council also requested the Secretary-General to continue and strengthen efforts to implement the policy of zero tolerance of sexual exploitation and abuse in United Nations peacekeeping operations. Troop and police contributing States were requested to take appropriate preventative action, including pre-deployment and in-theater awareness training, and other action to ensure full accountability in cases of such conduct involving their personnel.

(d) Action of Member States authorized by the Council*Changes in authorization and/or extension of time limits in 2008***a. Somalia**

The Security Council adopted resolution 1801 (2008) on 20 February 2008 and resolution 1831 (2008) on 19 August 2008, in which it decided to renew the authorization of member States of the African Union to maintain a mission in Somalia (AMISOM), for a further period of six months, respectively.

In both resolutions, authorization was given by the Council to AMISOM, to take all necessary measures to carry out its mandate, *inter alia*, measures to provide security for key infrastructure and to contribute to the creation of the necessary security conditions for the provision of humanitarian assistance.

In resolution 1801 (2008), the Council recalled the report of the Secretary-General⁵⁵ to the Security Council on the development of contingency plans for the possible deployment of a United Nations peacekeeping operation to succeed AMISOM.

In resolution 1831 (2008), the Secretary-General was encouraged by the Security Council to continue to explore with the African Union Commission Chairperson ways and means to strengthen United Nations logistical, political and technical support for the African Union, to build the African Union's institutional capacity to carry out its commitments in addressing the challenges it faces in supporting AMISOM, and to assist AMISOM full deployment, to the extent possible, and, in this regard, took note of the proposals set out in the report of the Secretary-General on Somalia.⁵⁶

⁵⁴ For further information about this topic, see Section 16 (b) of this chapter.

⁵⁵ S/2008/466.

⁵⁶ *Ibid.*

b. The Sudan

The African Union/United Nations Hybrid operation in Darfur (UNAMID) was authorized by Security Council resolution 1769 of 31 July 2007. The Council adopted resolution 1828 (2008) of 31 July 2008, by which it extended the mandate of UNAMID for a further 12 months until 31 July 2009.

c. Afghanistan

In its resolution 1833 (2008) adopted on 22 September 2008, the Security Council, decided to extend the authorization of the International Security Assistance Force (ISAF), as defined in resolutions 1386 (2001) and 1510 (2003), for a period of 12 months beyond 13 October 2008, and it further authorized the Member States participating at ISAF to take all necessary measures to fulfil its mandate.⁵⁷

d. Bosnia and Herzegovina

The Security Council, by resolution 1845 (2008) of 20 November 2008, decided to extend the authorization of Member States, acting through or in cooperation with the European Union (EU), to establish for a further period of 12 months a multinational stabilization force (EUFOR) as a legal successor to the Stabilization Force in Bosnia and Herzegovina (SFOR) under unified command and control.

The Council decided that EUFOR would fulfil its missions in relation to the implementation of the General Framework Agreement for Peace in Bosnia and Herzegovina and the Annexes thereto⁵⁸ (the Peace Agreement), in cooperation with the North Atlantic Treaty Organization (NATO) presence and in accordance with the arrangements agreed between NATO and the European Union, as communicated to the Security Council in their respective letters of 19 November 2004,⁵⁹ which recognized that EUFOR would have the main peace stabilization role under the military aspects of the Peace Agreement. The Council further requested member States acting through or in cooperation with the European Union and the member States acting through or in cooperation with NATO to report to the Council on the activity of EUFOR and NATO Headquarters presence.⁶⁰

⁵⁷ For further information, see quarterly reports to the United Nations on the operations of the International Security Assistance Force (S/2008/319, S/2008/597 and S/2008/770).

⁵⁸ General Framework Agreement for Peace in Bosnia and Herzegovina and the annexes thereto, (S/1995/999, annex).

⁵⁹ Exchange of letters between the High Representative of the EU and the Secretary-General of NATO annexed to the letter from the Permanent Representative of the Netherlands to the United Nations to the President of the Security Council dated 19 November 2004 (S/2004/915) and letter from the Chargé d'affaires a.i. of the Permanent Mission of Germany to the United Nations addressed to the President of the Security Council (S/2004/916).

⁶⁰ For further information, see the exchange of letters between the President of the Security Council and the Secretary-General of 11 April 2008, 23 June 2008, 25 November 2008 and 30 December 2008, respectively (S/2008/242, S/2008/413, S/2008/732 and S/2008/838).

(e) Sanctions imposed under Chapter VII of the Charter of the United Nations

(i) *Democratic Republic of the Congo*

On 15 February 2008, the Security Council adopted resolution 1799 (2008), in which it decided, acting under Chapter VII of the Charter, to extend until 31 March 2008 the measures on arms imposed by paragraph 20 of resolution 1493 (2003) as amended and expanded by paragraph 1 of resolution 1596 (2005). The measures on transport imposed by paragraphs 6, 7 and 10 of resolution 1596 (2005) and the financial and travel measures imposed by paragraphs 13 and 15 of resolution 1596 (2005), paragraph 2 of resolution 1649 (2005) and paragraph 13 of resolution 1698 (2006) were extended for the same period. The Security Council furthermore decided to extend for the same period the mandate of the Group of Experts referred to in paragraph 9 of resolution 1771 (2007).

On 31 March 2008 the Security Council adopted resolution 1807 (2008), in which the Council decided, acting under Chapter VII of the Charter, that all States shall take the necessary measures to prevent the direct or indirect supply, sale or transfer, from their territories or by their nationals, or using their flag vessels or aircraft, of arms and any related material for a further period ending on 31 December 2008. This measure included the provision of any assistance, advice or training related to military activities, including financing and financial assistance, to all non-governmental entities and individuals operating in the territory of the Democratic Republic of the Congo, but would exclude the supply, sale, or transfer related to military activities to the Government of the Democratic Republic of the Congo. Furthermore, the Council decided that the measures on arms would not apply, *inter alia*, to supplies of arms and related *matériel* as well as technical training and assistance intended for support of or use by MONUC. The mandate of the Group of Experts referred to in paragraph 9 of resolution 1771 (2007) was also extended for a period expiring on 31 December 2008.

In resolution 1857 (2008), adopted on 22 December 2008, the Security Council decided to renew until 30 November 2009 the measures on arms, the measures on transport and the financial and travel measures imposed by resolution 1807 (2008). The Council furthermore decided that the measures referred to in the resolution should apply to the list of individuals and entities, as designated by the Committee referred to in paragraph 7 of Security Council resolution 1771 (2007). The Committee's mandate was extended for a further period ending on 30 November 2009.

(ii) *Somalia*

On 29 April 2008, the Security Council adopted resolution 1811 (2008), in which it took note of the observations and recommendations contained in the report⁶¹ of the Monitoring Group referred to in paragraph 3 of resolution 1558 (2007), and, acting under Chapter VII of the Charter, decided to extend the mandate of the Monitoring Group for a further six months.

⁶¹ S/2008/274.

In resolution 1853 (2008), adopted on 19 December 2008, the Security Council, acting under Chapter VII of the Charter, took note of the report of the Monitoring Group dated 10 December 2008,⁶² stressed the obligation of all States to comply fully with the measures imposed by resolution 733 (1992) and decided to extend for a period of twelve months the mandate of the Monitoring Group referred to in resolution 1558 (2004). The mandate of the Monitoring Group was extended to include, *inter alia*, to continue to investigate, in coordination with relevant international agencies, all activities, including in the financial, maritime and other sectors, which generate revenues used to commit arms embargo violations; and to continue to investigate any means of transport, routes, seaports, airports and other facilities used in connection with arms embargo violations. The Monitoring Group was furthermore requested to, *inter alia*, continue refining and updating information on the draft list of those individuals and entities that violate the measures implemented by member States; and to assist in identifying areas where the capacities of States in the region can be strengthened to facilitate the implementation of the arms embargo.

(iii) *Rwanda*

On 10 July 2008, the Security Council adopted resolution 1823 (2008), in which, acting under Chapter VII of the Charter, it decided to terminate the prohibitions imposed by resolution 1011 (1995) concerning the sale and supply of arms and related *matériel* to non-governmental forces for use in Rwanda and the reselling, transfer or making available for use of arms or related *matériel* sold or supplied to the Government of Rwanda. The Security Council further decided to dissolve the Committee established pursuant to resolution 918 (1994) concerning Rwanda.

(iv) *Côte d'Ivoire*

In its resolution 1842 (2008) of 29 October 2008 on the situation in Côte d'Ivoire, the Security Council, acting under Chapter VII of the Charter, decided to renew until 31 October 2009 the measures on arms and the financial and travel measures imposed by paragraphs 7 to 12 of resolution 1572 (2004) and the measures preventing the importation by any State of all rough diamonds from Côte d'Ivoire imposed by paragraph 6 of resolution 1643 (2005). The Council further took note of the report of the Secretary-General dated 14 October 2008,⁶³ and of the reports of the United Nations Group of Experts on Côte d'Ivoire dated 14 April 2008⁶⁴ and 15 October 2008.⁶⁵ In a letter dated 16 December 2008 from the Secretary-General addressed to the President of the Security Council, the Secretary-General appointed Grégoire Bafouatika, Republic of the Congo (aviation), James Bevan, United Kingdom of Great Britain and Northern Ireland (arms), Noora Jamsheer, Bahrain (diamonds) and El Hadi Salah, Algeria (customs) to the Group of Experts.⁶⁶

⁶² S/2008/769.

⁶³ S/2008/645

⁶⁴ S/2008/235

⁶⁵ S/2008/598

⁶⁶ Letter from the Secretary-General addressed to the President of the Security Council dated 16 December 2008 (S/2008/793).

(v) *Liberia*

In resolution 1854 (2008), adopted on 19 December 2008, the Security Council, acting under Chapter VII of the Charter, decided to renew the measures on arms imposed by paragraph 2 of resolution 1521 (2003) and modified by paragraphs 1 and 2 of resolution 1683 (2006) and by paragraph 1 (b) of resolution 1731 (2006), and to further renew the measures on travel imposed by paragraph 4 of resolution 1521 (2003) for a further period of 12 months.

(f) **Terrorism**(i) *The United Nations Global Counter-Terrorism Strategy*

On 5 September 2008, the General Assembly adopted resolution 62/272 entitled “The United Nations Global Counter-Terrorism Strategy”, in which it reiterated its strong condemnation of terrorism in all its forms and manifestations, committed by whomever, wherever and for whatever purposes, as it constituted one of the most serious threats to international peace and security. The Assembly further recognized the importance of institutionalizing the Task Force within the Secretariat and took note of the report of the Secretary-General on the subject.⁶⁷ Non-governmental organizations and civil society were encouraged to engage on how to enhance efforts to implement the Strategy,⁶⁸ including through interaction with Member States and the United Nations system, and the Assembly called upon the United Nations entities involved in supporting counter-terrorism efforts to continue to facilitate the promotion and protection of human rights and fundamental freedoms while countering terrorism. The Assembly further reaffirmed the need to enhance international cooperation in countering terrorism, and in this regard, the Assembly recalled the role of the United Nations system in promoting international cooperation and capacity-building as one of the elements of the Strategy.

(ii) *Security Council Committees*a. **Al-Qaida and Taliban Sanctions Committee**

The Committee known as “the Al-Qaida and Taliban Sanctions Committee” was established pursuant to Security Council resolution 1267 (1999), which also established a sanction regime, modified and strengthened by subsequent resolutions.⁶⁹

On 30 June 2008, the Security Council adopted resolution 1822 (2008), in which, acting under Chapter VII of the Charter, it decided that all States should take the measures as previously imposed by the provisions of resolutions 1267 (1999), 1333 (2000), 1390 (2002), with respect to Al-Qaida, Usama bin Laden and the Taliban, and other individuals,

⁶⁷ For more information, see the report of the Secretary-General entitled “United Nations Global Counter-Terrorism Strategy: activities of the United Nations system in implementing the Strategy”, A/62/898.

⁶⁸ United Nations Global Counter-Terrorism Strategy, adopted by Member States on 8 September 2006, in the form of a resolution and an annexed Plan of action, see A/RES/60/288.

⁶⁹ Security Council resolutions, 1333 (2000), 1390 (2002), 1455 (2003), 1526 (2004), 1617 (2005), 1735 (2006) and 1822 (2008).

groups, undertakings, and entities associated with them, as referred to in the list created pursuant to resolutions 1267 (1999) and 1333 (2000), also called the “Consolidated List”. The Council further decided that Member States may permit the addition to accounts frozen pursuant to the above provision of any payment in favour of listed individuals, groups, undertakings or entities, provided that any such payments continued to be subject to this provisions and were frozen.

In the same resolution, Member States were encouraged to submit to the Committee for inclusion in the Consolidated List names of individuals, groups, undertakings, and entities participating, by any means, in the financing or support of acts or activities of Al-Qaida, Usama bin Laden and the Taliban, and other individuals, groups, undertakings, and entities associated with them.

With regard to delisting, the Security Council welcomed the establishment within the Secretariat of the Focal Point,⁷⁰ which provided listed individuals, groups, undertakings or entities with the option to submit a petition for de-listing directly to the Focal Point. The Council directed the Committee to continue to work, in accordance with its guidelines, to consider petitions for the removal from the Consolidated List of individuals and entities who no longer meet the criteria established in the relevant resolutions and to consider an annual review of the names on the Consolidated List of individuals reported to be deceased, in order to ensure that the Consolidated List would be as updated and accurate as possible. The Committee was further requested to conduct a review of all names on the Consolidated List by 30 June 2010, and to consider, where and when appropriate, visits to selected countries by the Chairman and/or Committee members to enhance the full and effective implementation of the measures with a view to encouraging States to comply fully with this resolution and relevant previous resolutions.⁷¹

In order to assist the Committee in the fulfilment of its mandate, the Council decided to extend the mandate of the current New York-based Monitoring Team,⁷² for a further period of 18 months, and requested the Secretary-General to make the necessary arrangements to this effect. The Council furthermore decided to review the sanctions measures of this resolution, with a view to their possible further strengthening in 18 months or sooner if necessary.⁷³

b. Lebanon

The United Nations International Independent Investigation Commission (UNIIC) (“the Commission”), based in Lebanon, was established by Security Council resolution 1595 (2005) on 7 April 2005 to assist the Lebanese authorities in their investigation of all aspects of the terrorist bombing in Beirut on 14 April 2005 that killed former Lebanese Prime Minister Rafiq Hariri and others. In 2008, the Security Council adopted resolution 1815 (2008) on 2 June 2008 and resolution 1852 (2008) on 17 December 2008 by which it

⁷⁰ For further information, see Security Council resolution 1730 (2006).

⁷¹ Security Council resolutions 1267 (1999), 1333 (2000), 1390 (2002), 1455 (2003), 1526 (2004), 1617 (2005) and 1735 (2006).

⁷² Appointed by the Secretary-General pursuant to paragraph 20 of resolution 1617 (2005).

⁷³ Letters from the Secretary-General to the President of the Security Council dated 7 July 2008 and 2 October 2008 (S/2008/441 and S/2008/632).

extended the mandate of the Commission until 31 December 2008 and 28 February 2009, respectively.

In resolution 1815 (2008), the Security Council examined the report of the Commission⁷⁴ and responded favourably to the request to extend the mandate of the Commission expressed by the Commissioner in his briefing to the Security Council on 8 April 2008, and expressed by the Prime Minister of Lebanon in a letter to the Secretary-General, dated 8 May 2008.⁷⁵ The Council furthermore declared its readiness to terminate the mandate earlier if the Commission reported that it has completed the implementation of its mandate.

In resolution 1852 (2008), the Council welcomed the report of the Commission⁷⁶ and took note of the Commission and the Prime Minister of Lebanon's request⁷⁷ to extend the mandate of the Commission up to 28 February 2009, so that it could continue its investigation without interruption and gradually transfer operations, staff and assets to The Hague with a view to completing the transition by the time the Tribunal would start functioning.

In a letter dated 30 January 2008 from the Secretary-General to the President of the Security Council,⁷⁸ the Secretary-General conveyed the request of the Prime Minister of Lebanon, Mr. Fuad Siniora, for technical assistance for the Government of Lebanon's efforts to investigate the murder of Major Wissam Eid of the Internal Security Forces, Adjutant Oussama Merheb and other civilians. The Government requested that the International Independent Investigation Commission contact the relevant Lebanese authorities for that purpose. The Security Council responded positively to the request through a letter dated 31 January 2008 from the President of the Security Council addressed to the Secretary-General,⁷⁹ in which it invited the Commission to extend appropriate technical assistance to the Lebanese authorities in the investigation.

c. Counter-Terrorism Committee

The Counter-Terrorism Committee was created by Security Council resolution 1373 (2001), with the mandate to bolster the ability of United Nations Member States to prevent terrorist acts, both within their borders and across regions.

In resolution 1805 (2008), adopted on 20 March 2008, the Security Council welcomed the revised "Organizational plan for the Counter-Terrorism Committee Executive Directorate" submitted by its Executive Director and the recommendations contained therein.⁸⁰ The Security Council decided that the Counter Terrorism Committee Executive Directorate would continue to operate as a special political mission under the policy guidance of the Counter-Terrorism Committee for the period ending on 31 December 2010.

⁷⁴ See letter dated 28 March 2008 from the Secretary-General addressed to the President of the Security Council, (S/2008/210), tenth report of the International Independent Investigation Commission.

⁷⁵ See letter of Prime Minister of Lebanon dated 8 May 2008 (S/2008/334, Enclosure).

⁷⁶ See letter dated 2 December 2008 from the Secretary-General to the President of the Security Council (S/2008/752), eleventh report of the International Independent Investigation Commission.

⁷⁷ See letter of the Prime Minister of Lebanon dated 4 December 2008 (S/2008/764).

⁷⁸ S/2008/60.

⁷⁹ S/2008/61.

⁸⁰ S/2008/80.

(g) Piracy

Security Council

During the year 2008, the Security Council adopted, under Chapter VII of the Charter, resolution 1816 (2008) of 2 June 2008, resolution 1838 (2008) of 7 October 2008, resolution 1844 (2008) of 20 November 2008, resolution 1846 (2008) of 2 December 2008, and resolution 1851 (2008) of 16 December 2008, in which it iterated its condemnation of all acts of piracy and armed robbery at sea against vessels off the coast of Somalia.

In resolution 1816 (2008) the Security Council decided that, for a period of six months from the date of the resolution, States cooperating with the Transitional Federal Government (TFG) in the fight against piracy and armed robbery at sea off the coast of Somalia, could enter the territorial waters of Somalia for the purpose of repressing acts of piracy and armed robbery at sea, and to use within the territorial waters of Somalia, in a manner consistent with action permitted on the high seas with respect to piracy under relevant international law, all necessary means to repress acts of piracy and armed robbery. The cooperating States undertaking activities pursuant to this authorization were requested to ensure that those activities would not have the practical effect of denying or impairing the right of innocent passage to the ships of any third State. The Council affirmed that the authorization provided in the resolution applied only to the situation in Somalia, that the authorization had been given only following the consent of the TFG, and that it should not be considered a precedent establishing customary international law.

In resolution 1838 (2008) the Security Council called upon States interested in the security of maritime activities to take part actively in the fight against piracy on the high seas off the coast of Somalia, and States whose naval vessels and military aircraft operate on the high seas and airspace off the coast of Somalia, to use on the high seas and airspace off the coast of Somalia the necessary means, in conformity with international law, for the repression of acts of piracy. In the same resolution, States that had the capacity to do so were urged by the Council to cooperate with the TFG in the fight against piracy and armed robbery at sea in conformity with the provisions of resolution 1816 (2008), and to, in conformity with the provisions of resolution 1814 (2008), to continue to take action to protect the World Food Programme maritime convoys, which were vital to bring humanitarian assistance to the affected populations in Somalia.

On 20 November 2008, the Security Council adopted resolution 1844, in which it decided, *inter alia*, that all Member States should take the necessary measures to prevent the entry into or transit through their territories of individuals designated by the Committee,⁸¹ and that all Member States should freeze without delay the funds, other financial assets and economic resources which were on their territories, and which were owned or controlled, directly or indirectly, by the individuals or entities designated by the Committee or by individuals or entities acting on their behalf or at their direction, or by entities owned or controlled by them, as designated by the Committee. The Security Council further decided that all Member States should take the necessary measures to prevent the direct or indirect supply, sale or transfer of weapons and military equipment and the direct or indirect supply of technical assistance or training, financial and other assistance including investment, brokering or other financial services, related to military activities

⁸¹ Established pursuant to Security Council resolution 751 (1992).

or to the supply, sale, transfer, manufacture, maintenance or use of weapons and military equipment, to the individuals or entities designated by the Committee.

Furthermore, the Council decided to expand the mandate of the Committee to include, *inter alia*, the tasks to monitor, with the support of the Monitoring Group,⁸² to implement the measures above imposed in the resolution, in addition to the general and complete arms embargo; to seek from all Member States, in particular those in the region, information regarding the actions taken by them to implement effectively the measures; to designate individuals and entities pursuant to the provisions of the resolution; to consider and decide upon requests for exemptions to the measures; to review regularly the list of individuals and entities designated by the Committee; and to identify possible cases of non-compliance with the measures. The mandate of the Monitoring Group was expanded to include, *inter alia*, the tasks to assist the Committee in monitoring the implementation of the resolution by providing any information on violations of the measures imposed, in addition to the general and complete arms embargo, and to include in its reports to the Committee any information relevant to the Committee's designation of the individuals and entities.

In addition, the Security Council encouraged Member States to submit to the Committee, for inclusion in its list of designees, names of individuals or entities who meet the criteria set out in the resolution. The Council directed the Committee to consider requests, in accordance with its guidelines, for the removal from the Committee's list of designees those who no longer meet the criteria pursuant to this resolution, and encouraged the Committee to ensure that fair and clear procedures existed for placing individuals and entities on the Committee's list of designees and for removing them, as well as for granting humanitarian exemptions.

In resolution 1846 (2008) the Security Council decided that, for a period of 12 months, States and regional organizations cooperating with the TFG in the fight against piracy and armed robbery at sea off the coast of Somalia could enter into the territorial waters of Somalia for the purpose of repressing acts of piracy and armed robbery at sea and use, within the territorial waters of Somalia and under relevant international law, all necessary means to repress acts of piracy and armed robbery at sea.

By resolution 1851 (2008) the Security Council decided that, for a period of twelve months from the date of adoption of resolution 1846 (2008), States and regional organizations cooperating in the fight against piracy and armed robbery at sea off the coast of Somalia, for which advance notification had been provided by the TFG to the Secretary-General, may undertake all necessary measures that were appropriate for the purpose of suppressing acts of piracy and armed robbery at sea, pursuant to the request of the TFG, provided that the measures were undertaken consistently with applicable international humanitarian and human rights law. The Council further invited all States and regional organizations fighting piracy off the coast of Somalia to conclude special agreements or arrangements with countries willing to take custody of pirates in order to embark law enforcement officials ("shipriders") from the latter countries to facilitate the investigation and prosecution of persons detained as a result of operations conducted under this resolution, provided that the advance consent of the TFG was obtained for the exercise of third

⁸² Established pursuant to Security Council resolution 1519 (2003).

state jurisdiction by shipriders in Somali territorial waters, and provided that such agreements or arrangements did not prejudice the effective implementation of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation.⁸³

(h) Human rights and humanitarian questions considered by the Security Council

Women and peace and security

In a Presidential Statement dated 29 October 2008,⁸⁴ the Security Council reaffirmed its commitment to the full and effective implementation of resolution 1325 (2000) on Women and Peace and Security. The Security Council urged Member States, international, regional and sub-regional organizations to take measures to increase the participation of women in conflict prevention, conflict resolution and peacebuilding, and to strengthen the role of women as decision-makers in these areas. The Council furthermore called upon the Secretary-General to appoint more women to pursue good offices on his behalf, particularly as Special Representatives and Special Envoys. In addition, the Security Council condemned all violations of international law committed against women and girls during and after armed conflicts, and urged for the complete cessation by all parties of such acts with immediate effect, and also urged Member States to bring to justice those responsible for crimes of this nature. Furthermore, the Secretary-General was requested to provide a report on the implementation of resolution 1325 (2000) over the coming year, including information on the impact of armed conflict on women and girls in situations of which the Council was seized; on the obstacles and challenges to strengthening women's participation in conflict prevention, conflict resolution and peacebuilding. In addition, the Secretary-General was requested to provide recommendations to address those issues, to be submitted to the Security Council by October 2009.

(i) Missions of the Security Council

(i) *Africa*

In a letter dated 30 May 2008, the President of the Security Council informed the Secretary-General that the members of the Security Council had decided to send a mission to Africa from 31 May to 10 June 2008, that would travel to Djibouti (on Somalia), the Sudan, Chad, the Democratic Republic of the Congo and Côte d'Ivoire.⁸⁵

With regard to Somalia, the terms of reference for the mission were to reaffirm the commitment of the Security Council to a comprehensive and lasting settlement of the situation in Somalia through the Transitional Federal Charter, and to welcome and encourage the continued efforts of the President, the Prime Minister and the transitional federal institutions to advance the political process and to implement the relevant steps of the transitional period, as required by the Transitional Federal Charter. The mission would further

⁸³ United Nations, *Treaty Series*, vol. 1678, p. 201.

⁸⁴ S/PRST/2008/39.

⁸⁵ See letter dated 30 May 2008 from the President of the Security Council addressed to the Secretary-General (S/2008/347).

express the determination of the Security Council to assist the Somali efforts through a strengthened presence and a more active role of the United Nations, including practical support of the Special Representative of the Secretary-General and the United Nations Political Office for Somalia. Furthermore, the mission was to commend the contribution that the African Union Mission in Somalia (AMISOM) was making to lasting peace and stability in Somalia, and to express the Council's deep concern at the persistence of violations of human rights and international humanitarian law in Somalia, and to call upon all parties and armed groups in Somalia to take appropriate steps to protect, *inter alia*, the civilian population, United Nations and humanitarian personnel, and to permit safe and unhindered access for the delivery of humanitarian assistance to all those in need.

The terms of reference for the mission in the Sudan were to urge the Government of the Sudan to intensify its efforts to resolve the crisis in Darfur, to reiterate the Security Council's support for the political process under the mediation of the United Nations Special Envoy for Darfur,⁸⁶ and to urge all parties to end the violence and to engage constructively in a peace process with view to finding lasting peace in the Sudan. The mission would further reiterate the Council's profound appreciation of, and support for, the African Union-United Nations Hybrid Operation in Darfur (UNAMID), and underline its concern for the security of civilians and humanitarian aid workers and for humanitarian access to populations in need. In addition, the mission was to call upon the Governments of Chad and the Sudan to abide by their obligations under the Dakar Agreement of 13 March 2008, the Tripoli Agreement of 8 February 2006 and other bilateral agreements. Finally, the mission was to underline the need to ensure that all Security Council resolutions were implemented, that the rule of law was upheld in all situations and that due process took its course.

The terms of reference for the mission in Chad were to reaffirm the Security Council's commitment to the cause of peace in the region, in the context of the ongoing violence and activities of armed groups in Darfur, eastern Chad and the north-eastern Central African Republic, and to stress the Council's commitment to help the Chadian and Central African authorities to protect refugees from Darfur, internally displaced persons and other vulnerable civilian populations and to facilitate the delivery of humanitarian assistance in those areas of Chad and the Central African Republic. The mission was further to call upon the Governments of the Sudan and Chad to abide by their obligations under the Dakar Agreement of 13 March 2008, the Tripoli Agreement of 8 February 2006, and other bilateral agreements, to recall the Council's condemnation of the continuing activity of rebel armed groups in Chad, and to urge all parties to respect the Syrte Agreement of 25 October 2007. Finally, the mission was to encourage the Chadian authorities to persevere in promoting political dialogue with respect for the constitutional framework, as initiated by the agreement of 13 August 2007.

The terms of reference for the mission in Democratic Republic of the Congo were to acknowledge the primary responsibility of the Government of the Democratic Republic of the Congo to consolidate peace and stability, and to reaffirm the Security Council's commitment to contribute to the consolidation of peace and stability in the Democratic Republic of

⁸⁶ In his letter dated 1 February 2008, addressed to the President of the Security Council (S/2008/130), the Secretary-General extended the appointment of his Special Envoy for Darfur to 30 June 2008.

the Congo, in particular through the United Nations Organization Mission (MONUC). The Mission would express the Council's strong support for the new dynamic launched by the Nairobi joint communiqué of 9 November 2007 and the Goma conference of 6 to 23 January 2008, which together represented a major step towards the restoration of lasting peace and stability in the eastern part of the Democratic Republic of the Congo and the Great Lakes region. It would further stress the Council's demand that the militias and armed groups that were still present in the eastern part of the Democratic Republic of the Congo lay down their arms, and would encourage efforts by the Government of the Democratic Republic of the Congo and regional cooperation to that effect, including improved relations between the Democratic Republic of the Congo and the Republic of Rwanda. The mission would also urge the Congolese authorities to take appropriate steps to end the illegal trade in natural resources, and call on the former to intensify as a matter of urgency their efforts to reform the security sector. Furthermore, the Mission would emphasize the Council's support for the strengthening of democratic institutions, the rule of law, and good governance in the Democratic Republic of the Congo as well as encourage further efforts to address the grave humanitarian situation that persisted in the Democratic Republic of the Congo.

The terms of reference for the mission in Côte d'Ivoire were to welcome the ownership of the peace process by the Ivorian parties in the framework of the Ouagadougou Political Agreement and its supplementary agreements, to encourage all parties to implement fully and in good faith all the provisions of the Agreement and its supplementary agreements, and to underline the need to meet the timetables established therein. Welcoming the signing of regulatory decrees relating to the organization of the elections, the mission would urge the Government and the Independent Electoral Commission to resolve promptly the technical issues concerning the elections, and, welcoming the signing on 24 April 2008 of the Code of Good Conduct by the major political parties in Côte d'Ivoire, the mission would further stress the need for it to be observed scrupulously by all the signatories. The mission was furthermore to call upon the parties to ensure an environment favourable to the holding of free, open, fair and transparent elections, to recall the importance of certification of all stages of the electoral process by the Special Representative of the Secretary-General and to encourage the Government of Côte d'Ivoire to facilitate the presence of international observers during the elections. The Council would examine the sanctions regime in the light of developments in the peace process and the elections. Finally, the mission was to urge the Ivorian parties to ensure the protection of the civilian population, in particular women and children, and to commend and encourage the United Nations Operation in Côte d'Ivoire and Force Licorne for their peacekeeping efforts.

(ii) *Afghanistan*

In a letter dated 14 November 2008, the President of the Security Council informed the Secretary-General that the members of the Security Council had decided to send a mission to Afghanistan from 21 to 28 November 2008.⁸⁷

The terms of reference for the mission to Afghanistan were to reaffirm the Security Council's continued support for the Government and people of Afghanistan as they rebuild their country, and to review the progress made by the Afghan Government, with

⁸⁷ S/2008/708.

the assistance of the international community and in accordance with the Afghanistan Compact, in addressing the interconnected challenges in the areas of security, governance, rule of law and human rights, economic and social development, as well as on the crosscutting issue of counter-narcotics. The mission would assess the status of implementation of relevant Security Council resolutions, in particular resolutions 1806 (2008) and 1833 (2008), as well as the mutual pledges and commitments made by the participants in the International Conference in Support of Afghanistan, held in Paris on 12 June 2008, and to further express the Security Council's strong support for the ongoing efforts of the Secretary-General, his Special Representative for Afghanistan and the women and men of the United Nations Assistance Mission in Afghanistan (UNAMA). The mission's aim was furthermore to review the implementation of the enhanced coordinating role assigned to UNAMA and to the Special Representative of the Secretary-General by Security Council resolution 1806 (2008), as well as efforts made by the Afghan authorities, and to address the threat to the security and stability of Afghanistan posed by the Taliban, Al-Qaida, illegal armed groups, criminals and those involved in the narcotics trade and in the diversion of chemical precursors. The humanitarian situation in the country, including the food security situation, and the implications for security and stability were also to be reviewed by the mission, which would also assess the cooperation, coordination and mutual support between UNAMA and the International Security Assistance Force, including on humanitarian and human rights issues.

3. Disarmament and related matters⁸⁸

(a) Disarmament machinery

(i) *Disarmament Commission*

The United Nations Disarmament Commission (UNDC), a subsidiary organ of the General Assembly with a general mandate on disarmament questions, is the only body composed of all Member States of the United Nations for in-depth deliberation on relevant disarmament issues.

At its 2008 session in New York, held from 7 to 24 April 2008, the Commission concluded its three-year cycle focusing on the two agenda items concerning recommendations for achieving the objectives of nuclear disarmament and nuclear non-proliferation; and practical confidence-building measures in the field of conventional weapons. By a note dated 4 March 2008, the Secretary-General transmitted to the Commission the annual report of the Conference on Disarmament, together with all the official records of the sixty-second session of the General Assembly relating to disarmament matters.⁸⁹ At its 289th plenary meeting, on 24 April 2008, the Disarmament Commission adopted the reports submitted by its two Working Groups, and agreed to submit the text of those reports to the General Assembly. At the same meeting, the Commission adopted the Chairman's proposal on procedural and

⁸⁸ For detailed information, see *United Nations Disarmament Yearbook*, vol. 33:2008 (United Nations publication, Sales No. E.09.IX.1). The *Yearbook* can also be downloaded, free of charge, at <http://www.un.org/disarmament/HomePage/ODAPublications/Yearbook>.

⁸⁹ A/CN.10/205.

organizational elements for the possible participation of experts in the work of the Commission and decided to continue the consideration of this issue in the future.

(ii) *Conference on Disarmament*⁹⁰

In 2008, the Conference on Disarmament was in session from 23 January to 28 March, from 12 May to 27 June, and from 28 July to 12 September. On 24 January 2008, the Conference adopted its agenda, which read as follows: cessation of the nuclear arms race and nuclear disarmament; prevention of nuclear war, including all related matters; prevention of an arms race in outer space; effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons; new types of weapons of mass destruction and new systems of such weapons; radiological weapons; and comprehensive programme of disarmament; transparency in armaments. On 9 September 2008, the Conference adopted the report on its 2008 session,⁹¹ and decided to transmit it to the General Assembly.

(iii) *General Assembly*

On 2 December 2008 the General Assembly adopted, on the recommendation of the First Committee, two resolutions and one decision concerning the institutional make-up of the United Nations' efforts in the field of disarmament, which are highlighted below.

In resolution 63/82, entitled "Report of the Conference on Disarmament", the Assembly called upon the Conference to further intensify its efforts towards reaching an agreement on a programme of work. The Assembly also requested State members of the Conference to cooperate with the current President and successive Presidents in their efforts to guide the Conference to the early commencement of substantive work in its 2009 session.

In resolution 63/83, entitled "Report of the Disarmament Commission", the Assembly recommended that the Disarmament Commission intensify consultations with a view to reaching agreement on the remaining agenda items, in accordance with decision 52/492, before the start of its substantive session of 2009.

The Assembly also adopted decision 63/519, entitled "Convening of the fourth special session of the General Assembly devoted to disarmament".

(b) Nuclear disarmament and non-proliferation issues

The Preparatory Committee for the 2010 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT)⁹² held its second session from 28 April to 9 May 2008 in Geneva, Switzerland. The meeting was the second of three sessions to be held prior to the 2010 Review Conference. The Preparatory Committee held

⁹⁰ The Conference on Disarmament, established in 1979 as the single multilateral disarmament negotiating forum of the International Community, was a result of the First Special Session on Disarmament of the United Nations General Assembly in 1978.

⁹¹ CD/1853.

⁹² For the final report of the 2008 Preparatory Committee for the 2010 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, see NPT/CONF.2010/PC.II/13.

nine meetings for substantive discussion on three main clusters⁹³ and three specific blocs of issues.⁹⁴ As the Preparatory Committee could not agree to attach the Chairman's factual summary to its report, the summary was issued as a Chairman's Working Paper.⁹⁵

From 14 to 25 April 2008, the International Atomic Energy Agency (IAEA) hosted its fourth Review Meeting of the Contracting Parties of the Convention on Nuclear Safety in Vienna.⁹⁶ Based on submitted national reports of Contracting Parties, the Review Meeting observed a high degree of compliance with the Convention on Nuclear Safety. Participating countries further recognized the importance of transparency with respect to nuclear safety including via such activities as public meetings, revised legislation and increased use of websites. In addition, all participating Contracting Parties reported some progress regarding their regulatory framework for nuclear safety and many reported substantial progress regarding safety management and culture, in relevant national organizations and regulatory bodies.

Also in 2008, the IAEA held its 52nd General Conference of member States in Vienna from 29 September to 4 October.⁹⁷ At its concluding session, the General Conference adopted several resolutions and decisions⁹⁸ backing the IAEA work in key areas including nuclear safety and applications, technology transfer and safeguards implementation. This included GC(52)/RES/12, entitled "Strengthening the Agency's activities related to nuclear science, technology and applications" and GC(52)/DEC/10, entitled "Cooperation agreements with intergovernmental organizations."

During 2008, the Director General submitted four reports⁹⁹ to the Board of Governors on the implementation of the Islamic Republic of Iran's NPT safeguards agreement and relevant United Nations Security Council resolutions. The Agency was able to verify the non-diversion of the declared nuclear material in Iran in 2008. As Iran had not provided the information and access that would have allowed the Agency to make progress on a number of outstanding issues related to Iran's past nuclear activities, and Iran had not implemented its additional protocol, the Agency remained unable to draw a conclusion regarding the absence of undeclared nuclear material and activities in Iran. The reports concluded that, contrary to the decisions of the Security Council, Iran had not suspended its uranium enrichment-related activities, and had continued its heavy water-related projects.

⁹³ Cluster one dealt with nuclear non-proliferation, disarmament and international peace and security; cluster two with nuclear non-proliferation, safeguards and nuclear-weapon-free zones; and cluster three with the inalienable right of all Treaty parties to develop research, production and use of nuclear energy for peaceful purposes.

⁹⁴ The first block addressed nuclear disarmament and security assurances, the second addressed regional issues and the third addressed other Treaty provisions.

⁹⁵ See NPT/CONF.2010/PC.II/WP.43.

⁹⁶ CNS/RM/2008/6 FINAL.

⁹⁷ For detailed information regarding the Conference, see IAEA website <http://www.iaea.org/About/Policy/GC/GC52/#day-5>.

⁹⁸ See resolutions GC(52)/RES/9, GC(52)/RES/11, GC(52)/RES/13, GC(52)/RES/14 and GC(52)/RES/15, and decision GC(52)/DEC/10

⁹⁹ GOV/2008/4 of 22 February 2008; GOV/2008/15 of 26 May 2008; GOV/2008/38 of 15 September 2008; and GOV/2008/59 of 19 November 2008.

(i) *General Assembly*

On 2 December 2008, the General Assembly adopted, on the recommendation of the First Committee, 13 resolutions and one decision¹⁰⁰ dealing with nuclear disarmament and non-proliferation issues, three of which are highlighted below.

In its resolution 63/73, entitled “Renewed determination towards the total elimination of nuclear weapons” reaffirmed the crucial importance of the Treaty on the Non-Proliferation of Nuclear Weapons as the cornerstone of the international nuclear disarmament and non-proliferation regime, and expressed regret over the lack of agreement on substantive issues at the Review Conference of the Parties to the Treaty during the World Summit Outcome in 2005. Thus, the Assembly called on States to redouble their efforts to prevent and curb the proliferation of nuclear and other weapons of mass destruction¹⁰¹ and their means of delivery. The Conference on Disarmament was called upon to immediately resume its substantive work to its fullest. The Assembly further stressed the importance of the immediate commencement of negotiations on a fissile material cut-off treaty in the Conference on Disarmament.

In its resolution 63/58 entitled “Towards a nuclear-weapon-free world: accelerating the implementation of nuclear disarmament commitments”, the General Assembly mindful of the approaching 2010 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, urged State parties to intensify their constructive engagement in the work of the Preparatory Committee. All States parties were further called upon to spare no effort to achieve the universality of the Treaty on the Non-Proliferation of Nuclear Weapons, and, in this regard, India, Israel and Pakistan were urged to accede to the Treaty as non-nuclear-weapon States promptly and without conditions.

In its resolution 63/49, entitled “Follow-up to the advisory opinion of the International Court of Justice on the Legality of the Threat or Use of Nuclear Weapons and on Their Destruction”, the General Assembly underscored the unanimous conclusion of the International Court of Justice that there exists an obligation to pursue in good faith and to bring to a conclusion negotiations leading to the nuclear disarmament in all its aspects. The Assembly, therefore, continued to call upon States to immediately fulfil this obligation by commencing multilateral negotiations leading to an early conclusion of a nuclear weapons convention that prohibits, *inter alia*, the development, production, threat or use of nuclear weapons, and that provides for their elimination.

(ii) *Security Council*

In its resolution 1803 (2008) adopted on 3 March 2008, the Security Council, acting under Chapter VII of the Charter, reaffirmed that the Islamic Republic of Iran should without further delay take the steps required by the IAEA Board of Governors in its resolution GOV/2006/14 and by Security Council resolution 1737 (2006). The Council called upon all States to exercise vigilance and restraint regarding entry into or transit through their territories of individuals engaged in or providing support for Iran’s proliferation-sensitive

¹⁰⁰ See General Assembly resolutions 63/36, 63/39, 63/41, 63/46, 63/47, 63/55, 63/64, 63/70, 63/75 and 63/87, and decision 63/520.

¹⁰¹ See also resolution 63/36.

nuclear activities or for the development of nuclear-weapon delivery systems. In that connection, the Council decided that all States should notify the Committee established pursuant to paragraph 18 of resolution 1737 (2007) of entry or transit of persons mentioned in the annex to resolution 1737, annex 1 to resolution 1747 (2007) or annex 1 to the present resolution, as well as other persons designated by the Committee or the Council as being engaged in, directly associated with or providing support for Iran's proliferation sensitive nuclear activities or for the development of nuclear weapon delivery systems. The Council further decided that all States shall take the necessary measures to prevent the entry into or transit through their territories of individuals designated in annex II to the present resolution as well as of additional persons designated by the Security Council or the Committee. In addition, the Council called upon all States to exercise vigilance over the activities of financial institutions in their territories with all banks domiciled in Iran, in particular with Bank Melli and Bank Saderat.

On 25 April 2008, the Council adopted resolution 1810 (2008) on non-proliferation of chemical, biological and nuclear weapons. In the resolution, the Council reaffirmed that the proliferation of nuclear, chemical and biological weapons as well as their means of delivery, constituted a threat to international peace and security. Acting under Chapter VII of the Charter, the Council reiterated its decisions in and the requirements of resolution 1540 (2004) and emphasized the importance for all States to implement fully that resolution. The Council further decided to extend the mandate of the 1540 Committee, with the assistance of experts, until 25 April 2011, and requested the Committee to consider a comprehensive review of the status of implementation of resolution 1540 (2004) and to report the outcome to the Council by 31 January 2009.

(c) Biological and chemical weapons issues

The 2008 Meeting of the States Parties of the Biological Weapons Convention,¹⁰² in which 97 States parties participated, was held from 1 to 5 December 2008 in Geneva.¹⁰³ In accordance with the decision of the Sixth Review Conference in 2006, the Meeting of States Parties considered the work of the Meeting of Experts¹⁰⁴ to discuss and promote a common understanding and effective action on: (i) National, regional and international measures to improve biosafety and biosecurity, including laboratory safety and security of pathogens and toxins; and (ii) Oversight, education, awareness raising, and adoption and/or development of codes of conduct with the aim of preventing misuse in the context of advances in bio-science and bio-technology research.

Concerning chemical weapons issues, the second special session of the Conference of the States parties to Review the Operation of the Chemical Weapons Convention¹⁰⁵ was held

¹⁰² 1972 Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, United Nations, *Treaty Series*, vol. 1015, p. 163.

¹⁰³ For the report of the Meeting of State Parties, see BWC/MSP/2008/5.

¹⁰⁴ For the report of the Meeting of Experts, see BWC/MSP/2008/MX/3.

¹⁰⁵ 1992 Convention on the Prohibition of the Development, Production and Stockpiling and Use of Chemical Weapons and on their Destruction, United Nations, *Treaty Series*, vol. 1974, p. 45.

from 7 to 18 April 2008 in The Hague, the Netherlands.¹⁰⁶ The Conference reaffirmed that the complete destruction of chemical weapons and the conversion or complete destruction of chemical weapons production facilities was essential for the realisation of the object and purpose of the Convention. The Conference further noted with satisfaction the verification activities of the Organisation for the Prohibition of Chemical Weapons, and the collective efforts of State parties, policy-making organs, the Secretariat and the Director-General towards the implementation of the Action Plan for the Universality of the Chemical Weapons Convention. The Conference further requested State parties to continue to review progress towards the full and effective national implementation of the Convention. The thirteenth session of the Conference of the State Parties to the Chemical Weapons Convention was subsequently held between 2 and 5 December 2008, also in the Hague, the Netherlands. Major agenda items discussed included the status of the implementation of the Convention and ensuring the universality of the Convention.

After the decision of the Council in June 2007 to terminate its mandate, the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC) was officially closed down on 29 February 2008. On 9 June 2008, the Secretary-General presented a final account of the activities of UNMOVIC, in particular progress achieved regarding the future of UNMOVIC archives and other property, and financial issues related to its closure.¹⁰⁷

General Assembly

On 2 December 2008, the General Assembly adopted resolution 63/53 entitled “Measures to uphold the authority of the 1925 Geneva Protocol”, in which it renewed its previous call to all States to observe strictly the principles and objectives of the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare.¹⁰⁸ The Assembly further reiterated its call on States that continue to maintain reservations to the 1925 Geneva Protocol to withdraw them.

On the same date, the General Assembly adopted resolution 63/48, entitled “Implementation of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction”, in which the Assembly stressed that the implementation of the Convention makes a major contribution to international peace and security through the elimination of existing stockpiles of chemical weapons. In this context, all States parties to the Convention were urged to meet in full and on time their obligations under the Convention and to support the Organization for the Prohibition of Chemical Weapons in its implementation activities.

The General Assembly also adopted resolution 63/88, entitled “Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and Their Destruction”, in which the Assembly urged States parties to continue to work closely with the Implementation Support Unit of the Conference on Disarma-

¹⁰⁶ For the report of the Second Review Conference, Organization for the Prohibition of Chemical Weapons, document RC-2/4.

¹⁰⁷ Note by the Secretary-General, entitled “United Nations Monitoring, Verification and Inspection Commission” (S/2007/314).

¹⁰⁸ League of Nations, *Treaty Series*, vol. 94, p. 65.

ment Secretariat and Conference Support Branch of the Office for Disarmament Affairs in fulfilling its mandate, in accordance with the decision of the Sixth Review Conference.

(d) Conventional weapons issues

On 30 May 2008, the Convention of Cluster Munitions¹⁰⁹ was adopted by 107 States in Dublin, Ireland. The Convention prohibits all use, stockpiling, production and transfer of cluster munitions, as defined in the Convention. The Convention also addresses assistance to victims, clearance of contaminated areas and destruction of stockpiles. Furthermore, it includes transparency measures as well as guidance to address possible compliance issues. The Convention was opened for signature at a signing conference in Oslo on 3 December 2008 and will enter into force six months after its ratification by 30 States parties.

In the area of anti-personnel mines, the ninth Meeting of the State Parties to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and Their Destruction (1997 Mine-Ban Convention)¹¹⁰ was held in Geneva from 24 November 2008 to 28 November 2008. The Meeting considered particularly the implementation of articles 4 and 5 of the Convention. The 15 States that had requested extensions to their 2009 demining deadlines were granted such deadlines after separate majority votes.

Regarding the 1980 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,¹¹¹ the Governmental Group of Experts met for a total of five sessions in 2008. Although the States parties had decided that the Group would meet four times in 2008, the dynamics that prevailed over the negotiations on cluster munitions compelled the Group's Chairperson, in consultation with the regional groups, to convene an additional session in April.¹¹²

The Meeting of the High Contracting Parties was held on 13 and 14 November 2008 in Geneva.¹¹³ The Meeting considered the status of implementation of, and compliance with, the Convention and its Protocols. In this context, the State Parties took note of the report on the implementation of the Plan of Action to Promote the Universality of the Convention and further recognized the value of the Sponsorship Programme, established within the framework of the Convention, for strengthening implementation endeavours. The Meeting of the High Contracting Parties also decided to keep the issue of Mines Other Than Anti-Personnel Mines under the overall responsibility of the chair-person designate and agreed that the Group of Governmental Experts would continue its negotiations concerning the humanitarian impact of cluster munitions.

Concerning the Convention's protocols, the Tenth Annual Conference¹¹⁴ of State parties to the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and

¹⁰⁹ See chapter IV of this publication.

¹¹⁰ United Nations, *Treaty Series*, vol. 2056, p. 211.

¹¹¹ United Nations, *Treaty Series*, vol. 1341, p. 137.

¹¹² The session was held from 7 to 11 April 2008. See CCW/GGE/2008-I/3, para. 17.

¹¹³ For the report of the Meeting of State Parties, see CCW/MSP/2008/4.

¹¹⁴ For the final document of the Conference, see CCW/AP.II/CONF.10/2.

Other Devices¹¹⁵ (1996 Amended Protocol II) was held on 12 November 2008 over the course of two plenary meetings. The Conference decided to issue an appeal on the occasion of the tenth anniversary of the Protocol to all non-member States to take all measures to accede to the amended Protocol II. The Conference also decided to establish, for the 2009 session, an informal open-ended Group of Experts which would review the operation and status of the Protocol, consider matters arising from reports by high contracting parties, and to address the issue of improvised explosive devices and the development of technologies to protect civilians against indiscriminate effects of mines. The work of the Group of Experts was to be considered by the Eleventh Annual Conference. In addition, the Second Conference of the High Contracting Parties to Protocol V on Explosive Remnants of War¹¹⁶ was held in Geneva on 10 and 11 November 2008.

The Third Biennial Meeting of States on the implementation of the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects¹¹⁷ was held at the United Nations Headquarters in New York from 14 to 18 July 2008, during which 10 plenary meetings were held to consider the implementation of the Programme of Action.¹¹⁸ The Meeting considered, *inter alia*, the topics of illicit brokering, stockpile management and surplus disposal, international cooperation, assistance and national capacity-building.

General Assembly

On 2 December 2008, the General Assembly adopted, on the recommendation of the First Committee, 10 resolutions¹¹⁹ dealing with conventional arms issues, of which two are highlighted below.

In resolution 63/61, entitled “Problems arising from the accumulation of conventional ammunition stockpiles in surplus”, the General Assembly welcomed the report¹²⁰ by the Governmental Group of experts established pursuant to resolution 61/72, and took note of the replies submitted by Member States in response to the Secretary-General’s request for views regarding the risks arising from the accumulation of conventional ammunition stockpiles in surplus and regarding national ways of strengthening controls on conventional ammunition.¹²¹ The Assembly further appealed to all interested States to determine the size and nature of their surplus stockpiles of conventional ammunition, whether they represent a security risk, if appropriate, their means of destruction, and whether external assistance is needed to eliminate this risk.

In resolution 63/72, entitled “The illicit trade in small arms and light weapons in all its aspects”, the General Assembly underlined the fact that the issue of the illicit trade in

¹¹⁵ Doc. CCW/CONF.I/16 (Part I).

¹¹⁶ Doc.CCW/MSP/2003/2.

¹¹⁷ A/CONF.192/15.

¹¹⁸ For the final report of the Third Biennial Meeting, see A/CONF.192/BMS/2008/3.

¹¹⁹ General Assembly resolutions 63/42, 63/54, 63/57, 63/61, 63/62, 63/66, 63/69, 63/71, 63/72 and 63/85.

¹²⁰ A/63/182.

¹²¹ A/61/118 and Add.1, and A/62/166 and Add.1.

small arms and light weapons in all its aspects requires concerted efforts at the national, regional and international levels to prevent, combat and eradicate the illicit manufacture, transfer and circulation of small arms and light weapons, and that their uncontrolled spread in many regions of the world has a wide range of humanitarian and socio-economic consequences and poses a serious threat to peace, reconciliation, safety, security, stability and sustainable development at the individual, local, national, regional and international levels. The Assembly further encouraged all initiatives, including those of the United Nations, other international organizations, regional and subregional organizations, non-governmental organizations and civil society, for the successful implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, and emphasized the need to facilitate the implementation at the national level of the Programme of Action through the strengthening of national coordination agencies or bodies and institutional infrastructure.

In addition, the General Assembly adopted on 24 December 2008 resolution 63/240, entitled “Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms”. In the resolution, the Assembly endorsed the report of the Secretary-General, prepared with the assistance of the Governmental Group of Experts, taking into account the views of Member States.¹²² The Assembly further encouraged all States to implement and address, on a national basis, the relevant recommendations contained in paragraphs 28 and 29 of the report of the Secretary-General, and commended all States to carefully consider how to achieve such implementation in order to ensure that their national systems and internal controls are at the highest possible standards to prevent the diversion of conventional arms from the legal to the illicit market.

(e) Regional disarmament activities of the United Nations

(i) *Africa*

In 2008, the United Nations Regional Centre for Peace and Disarmament in Africa¹²³ continued to implement its mandate through various activities in support of disarmament initiatives in the African region. The Centre provided logistical and technical support for the second workshop of the international tracing instrument for small and light weapons held in Lomé on 17 and 18 April 2008. The Centre further provided technical and logistical support for the regional seminars held in April 2008, also in Lomé, by the Office of Disarmament Affairs in Cooperation with the Government of Togo and with funding from the European Union.

(ii) *Latin America and the Caribbean*

In 2008, the United Nations Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean concluded major multi-year projects in assisting States to address illicit firearms trafficking, while fostering national ownership of disarma-

¹²² The report of the Governmental Group of Experts is contained in document A/63/334.

¹²³ For the Report of the Secretary-General on the United Nations Regional Centre for Peace and Disarmament in Africa, see A/63/163.

ment activities. Specifically, it helped to train law-enforcement officials in both populated and border areas as well as to consolidate capacity-building efforts in Brazil, Colombia, the Dominican Republic, Jamaica and Paraguay. To strengthen regional information exchange on illicit firearms trafficking and other public security issues, the Centre continued to collaborate with the Brazilian Ministry of the Interior and UNDP-Brazil to maintain a network of relevant entities in the field, such as the International Criminal Police Organization (INTERPOL), the World Customs Organization and United Nations agencies. In 2008, this network was reinforced by the participation of the newly created American Police Community and the Latin America and Caribbean Community for Police Intelligence. In the context of peacekeeping operations, the Centre engaged in greater coordination with representatives from NGOs, research institutions and the media on disarmament and weapons destruction training of Brazilian and Peruvian peacekeepers. The Centre participated in training programmes with a view to introducing the United Nations Inter-Agency Disarmament, Demobilization and Reintegration Standards into the curriculum of peacekeeping training centres in both countries.

(iii) *Asia and the Pacific*

On 18 August 2008, the United Nations Regional Centre for Peace and Disarmament in Asia and the Pacific's office was relocated from New York to Kathmandu, Nepal. The Centre also continued to perform its mandate, during the year, through a variety of activities including the organization of seminars such as the UN Regional Seminar on Promoting the Universality of the Convention on Certain Conventional Weapons (CCW) and its Annexed Protocols in South Asia, Southeast Asia and the South Pacific (UNRCPD) held in Kathmandu on 17 and 18 December 2008.

The Centre carried out a programme of activities, organizing several annual conferences. The twentieth United Nations Conference on Disarmament Issues was held from 27 to 29 August in Saitama City, Japan, that focused on means of reinforcing the three pillars of the Non-Proliferation Treaty (NPT); the nuclear renaissance and nuclear non-proliferation, arms control and security in East Asia, and cooperation with civil society. The UNRCPD and the Government of the Republic of Korea organized the seventh joint conference entitled "Nuclear Renaissance and the NPT: Reinforcing the Three Pillars of the NPT". The Conference was held from 24 to 26 November in Jeju Island, Republic of Korea, with more than 50 representatives of Governments, international organizations, academia, research institutions and civil society in attendance. The conference focused on ways to revitalize the NPT process, as well as on nuclear and missile issues in Northeast Asia.

(iv) *General Assembly*

On 2 December 2008, the General Assembly adopted, on the recommendation of the First Committee, 14 resolutions¹²⁴ dealing with regional disarmament, of which two are highlighted below.

¹²⁴ General Assembly resolutions 63/38, 63/43, 63/45, 63/56, 63/63, 63/65, 63/74, 63/76, 63/77, 63/78, 63/80, 63/84 and 63/86 and decision 63/517.

In resolution 63/43 entitled “Regional disarmament”, the Assembly affirmed that global and regional approaches to disarmament complement each other and should therefore be pursued simultaneously to promote regional and international peace and security. The Assembly further stressed that sustained efforts are needed, within the framework of the Conference on Disarmament and under the umbrella of the United Nations, to make progress on the entire range of disarmament issues.

In its resolution 63/44, entitled “Conventional arms control at the regional and subregional levels”, the General Assembly recognized the crucial role of conventional arms control in promoting regional and international peace and security, and decided to give urgent consideration to the issues involved in conventional arms control at the regional and subregional levels. The Assembly further requested the Conference on Disarmament to consider the formulation of principles that can serve as a framework for regional agreements on conventional arms control.

(f) Other Issues

(i) *Terrorism and disarmament*

On 18 January 2008 the Counter-Terrorism Committee, established pursuant to Security Council resolution 1373 (2001), submitted its second report¹²⁵ on the implementation of resolution 1624 (2005), which called upon all States to take a number of steps in connection with the imperative to combat terrorism in all its forms, including those aimed at legally prohibiting and preventing incitement to commit terrorist acts.

a. General Assembly

In the area of terrorism and disarmament, the General Assembly adopted on 2 December 2008, on the recommendation of the First Committee, resolution 63/60 entitled “Measures to prevent terrorists from acquiring weapons of mass destruction”, in which the Assembly called upon all Member States to support international efforts to prevent terrorists from acquiring weapons of mass destruction and their means of delivery, and to strengthen their national capacity in this regard. A further appeal was made to all Member States to consider early accession to and ratification of the International Convention for the Suppression of Acts of Nuclear Terrorism.¹²⁶

b. Security Council

In 2008, the Security Council adopted three resolutions on terrorism and disarmament, under Chapter VII of the Charter, of which one highlighted below.¹²⁷

On 27 September 2008, the Security Council adopted resolution 1835 (2008), reaffirming its commitment to the Treaty on the Non-Proliferation of Nuclear Weapons as well as its commitment to an early negotiated solution to the Iranian nuclear issue. The Security

¹²⁵ The Second report is annexed to the letter dated 18 January 2008 to the President of the Security Council, S/2008/29.

¹²⁶ Annexed to General Assembly 59/290 of 13 April 2005.

¹²⁷ See also Security Council resolution 1803 (2008).

Council further called upon the Islamic Republic of Iran to comply fully and promptly with its obligations under prior Security Council resolutions¹²⁸ and to meet the requirements of the IAEA Board of Governors.

(ii) *Outer space*

The Conference on Disarmament addressed the issue of the prevention of an arms race in outer space in plenary sessions, as well as through three rounds of informal deliberations.¹²⁹ During the first session, China and the Russian Federation presented the text of a draft treaty entitled the “Treaty on the Prevention of the Placement of Weapons in Outer Space and of the Threat or Use of Force Against Outer Space Objects”. Under the proposed treaty, States would commit not to place in orbit any objects carrying any kind of weapons. The draft treaty, which also repeatedly emphasized use of space for peaceful purposes, was welcomed by numerous delegations.

General Assembly

The General Assembly adopted on 2 December 2008, on the recommendation of the First Committee, two resolutions in the area of outer space. In its resolution 63/40, entitled “Prevention of an arms race in outer space”, the Assembly recognized that prevention of an arms race in outer space would avert a grave danger for international peace and security. The Assembly further emphasized the paramount importance of strict compliance with existing arms limitation and disarmament agreements relevant to outer space by all States.

In its resolution 63/68, entitled “Transparency and confidence-building measures in outer space activities”, the Assembly continued to assert that an enhanced level of transparency in armaments contributed greatly to confidence-building and security among States, and that the establishment of the United Nations Register of Conventional Arms¹³⁰ therefore constituted an important step forward in the promotion of transparency in military matters. The Assembly further invited the Conference on Disarmament to consider continuing its work undertaken in the field of transparency in armaments.

(iii) *Relationship between disarmament, development and education*¹³¹

General Assembly

Pursuant to General Assembly resolution 62/48 of 5 December 2007, the Secretary-General submitted a report to the General Assembly at its 63rd session on the relationship between disarmament and development.¹³² The report summarized the United Nations activities in implementing the action programme adopted at the 1987 International Conference on the Relationship between Disarmament and Development, activities related to the Govern-

¹²⁸ See resolutions 1696 (2006), 1737 (2006), 1747 (2007) and 1803 (2008).

¹²⁹ For the Final Record of the 1111th Plenary Meeting of the Conference on Disarmament, see CD/PV.1111.

¹³⁰ See General Assembly resolution 46/36 L.

¹³¹ See also General Assembly resolution 63/81 of 2 December 2008 and decision 63/518.

¹³² A/63/134.

mental Group of Experts' recommendations on the relationship between disarmament and development,¹³³ and information received from Governments on the subject.

On 2 December 2008, the General Assembly, on the recommendation of the First Committee, adopted resolution 63/52 entitled "Relationship between disarmament and development", in which the Assembly encouraged relevant regional and subregional organizations, non-governmental organizations and research institutes to incorporate issues regarding the relationship between disarmament and development in their agendas. The international community was also encouraged to make greater efforts to integrate disarmament, humanitarian and development activities.

On the same date, the General Assembly also adopted, on the recommendation of the First Committee, resolution 63/70 entitled "United Nations Study on disarmament and non-proliferation education", in which the Assembly made a request to the Secretary-General to prepare a report reviewing the results of the implementation of the recommendations contained in the United Nations study on disarmament and non-proliferation education, and to submit it to the General Assembly at its sixty-fifth session.

(iv) *Multilateralism and disarmament*

General Assembly

On 2 December 2008, the General Assembly adopted, on the recommendation of the First Committee, resolution 63/50 entitled "Promotion of multilateralism in the area of disarmament and arms control", in which it recognized the complementarity of bilateral, plurilateral and multilateral negotiations and reaffirmed the absolute validity of multilateral diplomacy in the field of disarmament and non-proliferation.

(v) *Gender and disarmament*

Security Council

On 19 June 2008, the Security Council adopted resolution 1820 (2008), in which it stressed that sexual violence, when used or commissioned as a tactic of war in order to deliberately target civilians or as a part of a widespread or systematic attack against civilian populations, can significantly exacerbate situations of armed conflict and may impede the restoration of international peace and security, and affirmed in this regard that effective steps to prevent and respond to such acts of sexual violence can significantly contribute to the maintenance of international peace and security. The Council further demanded the immediate and complete cessation by all parties to armed conflict of all acts of sexual violence against civilians. The Council urged the Secretary-General and his Special Envoys to invite women to participate in discussions pertinent to the prevention and resolution of conflict, the maintenance of peace and security, and post-conflict peacebuilding, and encouraged all parties to such talks to facilitate the equal and full participation of women at decision-making levels. The Secretary-General was also requested to, *inter alia*, submit

¹³³ See note by Secretary-General containing the report of the GGE on the relationship between disarmament and development in the current international context of 23 June 2004, A/59/119.

a report to the Council by 30 June 2009 on the implementation of the present resolution in the context of situations which were on the agenda of the Council.

(vi) *Environmental norms and disarmament agreements*

General Assembly

Pursuant to General Assembly resolution 62/38 of 5 December 2007, the Secretary-General submitted to the sixty-third session of the General Assembly a report¹³⁴ containing a compilation of communications from Member States on the question of observance of environmental norms in the drafting and implementation of agreements on disarmament and arms control.

On 2 December 2008, the General Assembly, upon the recommendation of the First Committee, adopted resolution 63/51 entitled "Observance of environmental norms in the drafting and implementation of agreements on disarmament and arms control". In the resolution, the Assembly, mindful of the detrimental environmental effects of the use of nuclear weapons, reaffirmed that international disarmament forums should take into full account the relevant environmental norms in negotiating treaties and agreements on disarmament and arms limitation. States should further endeavour to ensure compliance with these norms in the implementation of treaties and conventions to which they are parties. The Assembly also took note of the report submitted by the Secretary-General.

4. Legal aspects of peaceful uses of outer space

(a) Committee on the Peaceful Uses of Outer Space

The Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space held its forty-seventh session¹³⁵ at the United Nations Office at Vienna from 31 March to 11 April 2008. Two new key items, capacity-building in space law and exchange of information on national legislation relevant to the peaceful exploration and use of outer space, were on the agenda.

In the context of capacity-building, the areas of education and training as well as research and information dissemination were identified as in need of increased attention. The Subcommittee noted that addressing these areas would enable Member States to put in place the foundation necessary for the universal and informed application of the existing international legal regime governing the activities of States in outer space, and for the further development of the regime. The Subcommittee noted that capacity-building, particularly in developing countries, could be strengthened further by, *inter alia*, the creation of regional and international space law information networks and partnerships as well as the establishment of a fellowship programme to fund the educational pursuits of young professionals in the field.

In conjunction with these matters, the United Nations Office for Outer space (UNOOSA) presented its efforts to develop a curriculum for a basic course on space law that would initiate

¹³⁴ A/63/116.

¹³⁵ For the report of the Legal Subcommittee, see A/AC.105/917.

space law studies in the four Regional Centres for Space Science and Technology Education, affiliated to the United Nations, which are located in Africa, Asia and South America. The Office also presented an updated directory of education opportunities in space law including information on fellowships and scholarships available on its website.¹³⁶

Under the second new agenda item entitled “General Exchange of information on national legislation relevant to the peaceful explorations and use of outer space”, the Legal Subcommittee noted that the exchange of information on national legislation would allow it to examine the main developments taking place at the national level in order to identify common principles, norms and procedures. Such information could also be of value to any State involved in space activities in their efforts to establish a domestic regulatory framework. In addition, information dissemination could stimulate the development of national space laws to the particular benefit of developing countries. The view was also expressed that, although the development of national legislation was crucial to the administration of space activities, it could only have a complementary character to international space law. The Subcommittee will continue to consider this item under the multi-year work plan for the period of 2008-2011. In 2009, a working group on this item will be established to examine the responses received by Member States on their manner of regulating governmental and non-governmental space activities.

Regarding the agenda item entitled “Status and application of the five United Nations treaties on outer space”,¹³⁷ the Working Group on this item addressed, in particular, the low participation of States in the Agreement Governing the Activities of States on the Moon and Other Celestial Bodies.¹³⁸ It further reviewed activities currently being carried out on the moon and other celestial bodies or to be carried out in the near future and discussed whether existing international rules adequately addressed activities on the moon and other celestial bodies. The Working Group also noted that national legislation governing activities on the moon existed in a number of States involved in space activities. It also agreed that the Subcommittee, at its forty-eighth session in 2009, should continue its discussion on the issue.

Under the agenda item, “Examination and review of the developments concerning the draft protocol on matters specific to space assets to the Convention on International Interests in Mobile Equipment”,¹³⁹ the Subcommittee reviewed the advancements made by the International Institute for the Unification of Private Law (UNIDROIT) in developments regarding the above mentioned draft protocol including the results of the second meeting, held in New York on 19 and 20 June 2007, on the views of industry and Governments regarding how best to finalize the expansion of the Convention to cover space assets.

¹³⁶ <http://www.oosa.unvienna.org>.

¹³⁷ The treaties include: Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and other Celestial Bodies, 1967 (General Assembly resolution 222 (XXI), annex); Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space, 1968 (General Assembly resolution 2345 (XXII), annex); Convention on International Liability for Damage Caused by Space Objects, 1972 (General Assembly resolution 2777 (XXVI), annex); Convention on Registration of Objects Launched into Outer Space, 1975 (United Nations, *Treaty Series*, vol. 1023, p. 15) and Agreement Governing the Activities of States on the Moon and Other Celestial Bodies, 1979 (United Nations, *Treaty Series*, vol. 1363, p. 3).

¹³⁸ United Nations, *Treaty Series*, vol. 1363, p. 3.

¹³⁹ United Nations, *Treaty Series*, vol. 2307, p. 285.

Regarding matters related to the definition and delimitation of outer space and the character and utilization of the geostationary orbit, the related Working Group considered, *inter alia*, responses by Member States to questionnaires prepared by the Secretariat on possible legal issues regarding aerospace objects,¹⁴⁰ on the general definition and delimitation of outer space¹⁴¹ and in relation to national legislation and practice.¹⁴² On the basis of its discussions, the Working Group decided to suspend Member State questionnaires related to aerospace objects, but to continue to address to the Governments of Member States, through the Secretariat, existing questions regarding the definition and delimitation of outer space as related to national practice and legislation.

(b) General Assembly

On 2 December 2008, the General Assembly adopted two resolutions on the recommendation of the First Committee related to the legal uses of outer space: resolution 63/40 entitled "Prevention of an arms race in outer space", and resolution 63/68 entitled "Transparency and confidence-building measures in outer space activities".

Furthermore, on 5 December 2008, the General Assembly, on the recommendation of the Fourth Committee, adopted resolution 63/90 entitled "International Cooperation in the peaceful uses of outer space", in which it requested entities of the United Nations system and other international organizations to continue to enhance their cooperation with the Committee on the Peaceful Uses of Outer Space and to provide it with reports on the issues dealt with in the work of the Committee and its subsidiary bodies.

¹⁴⁰ A/AC.105/635 and Add.1-16, Add.7/Corr.1 and Add.11/Corr.1

¹⁴¹ A/AC.105/889 and Add.1

¹⁴² A/AC.105/865 and Add.1-3

5. Human Rights¹⁴³

(a) Sessions of the United Nations human rights bodies and treaty bodies

(i) *Human Rights Council*

The Human Rights Council was established in 2006 to replace the Commission on Human Rights.¹⁴⁴ The Council meets as a quasi-standing body in three annual regular sessions and additional special sessions as needed. Reporting to the General Assembly, its agenda and programme of work provide the opportunity to discuss all thematic human rights issues and human rights situations that require the attention of the Assembly.

The Council's mandate includes the review on a periodic basis of the fulfilment of the human rights obligations of all countries, including the members of the Council, over a cycle of four years through the newly-established universal periodic review.¹⁴⁵ The Council also assumed the thirty-eight country and thematic special procedures existing under the Commission on Human Rights while reviewing the mandate and criteria for the establishment of these special procedures.¹⁴⁶ Moreover, based on the previous "1503 procedure", the new confidential complaint procedure of the Council allows individuals and organizations to continue to bring complaints revealing a consistent pattern of gross and reliably attested violations of human rights to the attention of the Council.¹⁴⁷

In 2008, the Human Rights Council held its seventh, eighth, and ninth regular sessions¹⁴⁸ and three special sessions on "Human rights violations emanating from Israeli mili-

¹⁴³ This section covers the resolutions adopted, if any, by the Security Council, the General Assembly and the Economic and Social Council. This section also includes a selective coverage of the legal activities of the Human Rights Council, in particular activities of Special Rapporteurs and selected resolutions on specific human rights issues. Other legal developments in human rights may be found under the section in the present chapter entitled "Peace and security". The present section does not cover resolutions addressing human rights issues arising in particular States, nor does it cover in detail the legal activities of the treaty bodies (namely, the Human Rights Committee, Committee on Economic, Social and Cultural Rights, Committee on the Elimination of Racial Discrimination, Committee on the Elimination of Discrimination Against Women, Committee Against Torture, Committee on the Rights of the Child, Committee on the Protection of the Rights of All Migrant Workers and Members of their Families and Committee on the Rights of Persons with Disabilities). Detailed information and documents relating to human rights are available on the website of the Office of the United Nations High Commissioner for Human Rights at <http://www/ohchr.org>. For a complete list of signatories and States parties to international instruments relating to human rights that are deposited with the Secretary-General, see chapter IV of *Multilateral Treaties Deposited with the Secretary-General*, available at <http://treaties.un.org/Pages/ParticipationStatus.aspx>.

¹⁴⁴ General Assembly resolution 60/251 of 15 March 2006. For further details on its establishment, see the *United Nations Juridical Yearbook* for 2006, chapter III, section 6.

¹⁴⁵ The 1st session of review cycle 2008-2011 is scheduled to be held from 7 to 18 April 2008. For a list of countries included and calendar for the full cycle, please refer to the home page of the Human Rights Council, at www.ohchr.org/EN/HRBodies/UPRmain.aspx.

¹⁴⁶ See Human Rights Council decision 1/102 of 30 June 2006.

¹⁴⁷ More detailed information on the mandate, work and methods of the Human Rights Council is available online at <http://www2.ohchr.org/english/bodies/hrcouncil>.

¹⁴⁸ For the reports on the seventh, eighth and ninth sessions respectively, see Report of the Human Rights Council, General Assembly, *Official Records, Sixty-third session, Supplement No. 53 (A/63/53 and Add.1)*.

tary incursions in the Occupied Palestinian Territory, including the recent ones in occupied Gaza and West Bank town of Nablus”,¹⁴⁹ “The negative impact on the realization of the right to food of the worsening of the world food crisis, caused inter alia by the soaring food prices”¹⁵⁰ and “The situation of the human rights in the East of the Democratic Republic of the Congo”.¹⁵¹

(ii) *Human Rights Council Advisory Committee*

The Human Rights Council Advisory Committee was established pursuant to Human Rights Council resolution 5/1, and replaced the Sub-Commission for the Promotion and Protection of Human Rights as the main subsidiary body of the Human Rights Council. The Advisory Committee is composed of eighteen experts, and is to function as a think-tank for the Council, working under its direction and providing expertise in the manner and form requested by the Council, focusing mainly on studies and research-based advice, suggestions for further enhancing its procedural efficiency, as well as further research proposals within the scope of the work set out by the Council. The Advisory Committee held its first session in Geneva from 4 to 15 August 2008.¹⁵²

(iii) *Human Rights Committee*

The Human Rights Committee was established under the International Covenant on Civil and Political Rights of 1966,¹⁵³ to monitor the implementation of the Covenant and its Optional Protocols in the territory of States parties. In 2008, the Committee held its ninety-second session from 17 March to 4 April in New York, and its ninety-third and ninety-fourth sessions from 7 to 25 July and from 13 to 31 October, respectively, in Geneva.¹⁵⁴

(iv) *Committee on Economic, Social and Cultural Rights*

The Committee on Economic, Social and Cultural Rights was established by the Economic and Social Council¹⁵⁵ to monitor the implementation of the International Covenant

¹⁴⁹ Sixth Special session held in Geneva from 23-24 January 2008. See the Report on the Human Rights Council on its Sixth Special Session, General Assembly, *Official Records, Sixty-third session, Supplement No. 53 (A/63/53)*.

¹⁵⁰ Seventh Special session of the Human Rights Council held in Geneva on 22 May 2008. See Report of the Human Rights Council on its Seventh Special Session, General Assembly, *Official Records, Sixty-third session, Supplement No. 53 (A/63/53)*.

¹⁵¹ Eighth Special session of the Human Rights Council held on 28 November 2008. See Report of the Human Rights Council on its Eighth Special Session, General Assembly, *Official Records, Sixty-fourth session (A/64/53)*.

¹⁵² For the report of the first session of the Advisory Committee, see A/HRC/10/2-A/HRC/AC/2008/1/2.

¹⁵³ United Nations, *Treaty Series*, vol. 999, p. 171.

¹⁵⁴ For the reports of the ninety-second and ninety-third sessions, see A/63/40 (Vol. I) and A/63/40 (Vol. II). For the report of the ninety-fourth session, see A/64/40 (vol. I).

¹⁵⁵ Economic and Social Council resolution 1985/17 of 28 May 1985.

on Economic, Social and Cultural Rights of 1966¹⁵⁶ by its States parties. In 2008, the Committee held its fortieth and forty-first sessions from 28 April to 16 May and from 3 to 21 November respectively, in Geneva.¹⁵⁷

(v) *Committee on the Elimination of Racial Discrimination*

The Committee on the Elimination of Racial Discrimination was established under the Convention on the Elimination of All Forms of Racial Discrimination of 1966¹⁵⁸ to monitor the implementation of this Convention by its States parties. In 2008, the Committee held its seventy-second and seventy-third sessions in Geneva from 18 February to 7 March 2008 and from 28 July to 15 August, respectively.¹⁵⁹

(vi) *Committee on the Elimination of Discrimination against Women*

The Committee on the Elimination of Discrimination against Women was established under the Convention on the Elimination of All Forms of Discrimination against Women of 1979¹⁶⁰ to monitor the implementation of this Convention by its States parties. In 2008, the Committee held its fourteenth session in Geneva from 14 January to 1 February, its forty-second session from 30 June to 18 July in New York and its forty-third session from 20 October to 7 November, in Geneva.¹⁶¹

(vii) *Committee against Torture*

The Committee against Torture was established under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1984¹⁶² to monitor the implementation of this Convention by its States parties. In 2008, the Committee held its fortieth and forty-first sessions from 28 April to 16 May and from 3 to 21 November, respectively, in Geneva.¹⁶³ The Subcommittee on Prevention of Torture, established in October 2006 under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,¹⁶⁴ held its fourth, fifth and sixth

¹⁵⁶ United Nations, *Treaty Series*, vol. 993, p. 3.

¹⁵⁷ The reports of the sessions can be found in *Official Records of the Economic and Social Council, Supplement No. 2 (E/2009/22)*.

¹⁵⁸ United Nations, *Treaty Series*, vol. 660, p. 195.

¹⁵⁹ The respective reports can be found in *Official Records of the General Assembly, Supplement No. 18 (A/63/18)*.

¹⁶⁰ United Nations, *Treaty Series*, vol. 1249, p. 13.

¹⁶¹ The respective reports can be found in *Official Records of the General Assembly, Supplement No. 38 (A/63/38)*.

¹⁶² United Nations, *Treaty Series*, vol. 1465, p. 85.

¹⁶³ The respective reports can be found in *Official Records of the General Assembly, Sixty-first Session, Supplement No. 44 (A/61/44)* and *Official Records of the General Assembly, Sixty-second Session, Supplement No. 44 (A/62/44)*.

¹⁶⁴ The Optional Protocol was adopted in General Assembly resolution 57/199 of 18 December 2002. For further information on the mandate of the Subcommittee, see the *United Nations Juridical Yearbook* for 2006, Chapter III, section 6.

sessions from 11 to 15 February 2008, from 23 to 27 June 2008 and from 17 to 21 November, respectively.

(viii) *Committee on the Rights of the Child*

The Committee on the Rights of the Child was established under the Convention on the Rights of the Child of 1989¹⁶⁵ to monitor the implementation of this Convention by its States parties. In 2008, the Committee held its forty-seventh, forty-eighth, and forty-ninth sessions in Geneva, from 14 January to 1 February, from 19 May to 6 June, and from 15 September to 3 October, respectively.¹⁶⁶

(ix) *Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families*

The Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families was established under the International Convention for the Protection of the Rights of All Migrant Workers and Members of Their Families of 1990¹⁶⁷ to monitor the implementation of this Convention by its States parties in their territories. In 2008, the Committee held its eighth and ninth sessions from 14 to 25 April and from 24 to 28 November 2008, respectively, in Geneva.¹⁶⁸

(x) *Committee on the Rights of Persons with Disabilities*

The Committee on the Rights of Persons with Disabilities is a body of independent experts established under the Convention on the Rights of Persons with Disabilities and its Optional Protocol,¹⁶⁹ which has the mandate to monitor the implementation of the Convention by the States Parties. The Committee is to meet in Geneva and hold two regular sessions per year. No sessions were held in 2008. On 3 November 2008, the members of the Committee were elected by the Conference of the States parties to the Convention, which held its first session in New York on 31 October and 3 November 2008.

Under the Convention, all States parties undertook the obligation to submit regular reports to the Committee on the manner in which they implement the rights contained therein, initially within two years of accepting the Convention, and thereafter every four years. The Committee shall examine each report and make such suggestions and general recommendations on the report, as it considers appropriate, and forward them to the State Party concerned.

¹⁶⁵ United Nations, *Treaty Series*, vol. 1577, p. 3.

¹⁶⁶ The report of the forty-seventh session can be found in *Official Records of the General Assembly, Supplement No. 41*.

¹⁶⁷ General Assembly resolution 45/158 of 18 December 1990.

¹⁶⁸ The reports can be found in *Official Records of the General Assembly, Supplement No. 48 (A/63/48)*.

¹⁶⁹ Adopted on 13 December 2006 at the United Nations Headquarters in New York, opened for signature on 30 March 2007, and entered into force on 3 May 2008, in accordance with Article 45 (1).

Furthermore, under the Optional Protocol to the Convention, the Committee has competence to examine individual complaints relating to alleged violations of the Convention by States parties to the Protocol.

(b) Racism, racial discrimination, xenophobia and all forms of discrimination

(i) Human Rights Council

In its resolution 7/33, entitled “From rhetoric to reality: a global call for concrete action against racism racial discrimination, xenophobia and related intolerance” adopted on 28 March 2008, the Human Rights Council saluted all positive developments in the fight against racism, racial discrimination, xenophobia and related intolerance and urged Governments that have not done so to issue formal apologies to the victims of past and historic injustices and to take all necessary measures to achieve the healing and reconciliation of and the restoration of dignity to those victims, and to take decisive steps to combat racism in all its forms and manifestations. In the same report, the Council acknowledged the report of the Working Group of Experts on People of African Descent on its eighth session,¹⁷⁰ and the report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.¹⁷¹ The Council further welcomed the convening of the first part of the sixth session of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action¹⁷² in January 2008, during which the Working Group made an initial contribution to the preparatory process of the Durban Review Conference.

On 18 June 2008, the Human Right Council adopted resolution 8/13 on the “Elimination of discrimination against persons affected by leprosy and their family members”. In that resolution, the Council encouraged States to share best practices on combating discrimination against persons affected by leprosy and their family members and also on their efforts to achieve full recovery from, and manage, this disease. The Council also called upon Governments to take effective measures to eliminate any type of discrimination against persons affected by leprosy and their family members, including awareness-raising. The Office of the United Nations High Commissioner for Human Rights was requested to include the issue of discrimination against persons affected by leprosy and their family members as an important matter in its human rights education and awareness-raising activities.

(ii) General Assembly

On 18 December 2008, the General Assembly adopted resolution 63/162 entitled “Inadmissibility of certain practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance”, in which it took note of the report of the Special Rapporteur on contemporary forms of racism, racial discrimination,

¹⁷⁰ A/HRC/7/36.

¹⁷¹ A/HRC/7/19.

¹⁷² A/HRC/7/36.

xenophobia and related intolerance,¹⁷³ reaffirmed the condemnation of the persistence and resurgence of neo-Nazism, neo-Fascism and violent nationalist ideologies based on racial and national prejudice, and stated that those phenomena could never be justified in any instance or in any circumstances. It also expressed deep concern about the glorification of the Nazi movement, as well as about recurring attempts to desecrate or demolish monuments erected in remembrance of those who fought against Nazism during the Second World War. Noting with concern the increase in the number of racist incidents in several countries and the rise of skinhead groups, which had been responsible for many of these incidents, as well as the resurgence of racist and xenophobic violence targeting members of ethnic, religious or cultural communities and national minorities, the General Assembly emphasized the need to take the necessary measures to put an end to such practices, and called upon States to take more effective measures in accordance with international human rights law to combat those phenomena and the extremist movements, which posed a real threat to democratic values.

On 24 December 2008 the General Assembly adopted, on the recommendation of the Third Committee, resolution 63/242 entitled “Global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action” and resolution 63/243 entitled “International Convention on the Elimination of All Forms of Racial Discrimination”.

In its resolution 63/242 of 24 December 2008, the General Assembly called upon all States, in accordance with the commitments undertaken in the Durban Programme of Action,¹⁷⁴ to take all necessary measures to combat incitement to violence motivated by racial hatred, including through the misuse of print, audio-visual and electronic media and new communication technologies, and, in collaboration with service providers, to promote the use of such technologies, in conformity with international standards of freedom of expression and taking all necessary measures to guarantee that right. The States were furthermore encouraged to include in their educational curricula and social programmes at all levels, knowledge of and tolerance and respect for all cultures, civilizations, religions, peoples and countries, as well as information on the follow-up to, and implementation of, the Durban Declaration and Programme of Action.

The Assembly expressed grave concern at the fact that universal ratification of the International Convention on the Elimination of All Forms of Racial Discrimination¹⁷⁵ had not been attained by 2005 in accordance with commitments under the Durban Declaration and Programme of Action, and called upon those States that had not yet done so to accede to the Convention as a matter of urgency. The Assembly recalled that the Committee on the Elimination of Racial Discrimination held the prohibition of the dissemination of ideas based on racial superiority or racial hatred to be compatible with the right to freedom of opinion and expression as outlined in the Universal Declaration of Human Rights and in the Convention. Appreciation was expressed by the Assembly for the commitment of the United Nations High Commissioner for Human Rights to contribute to the success-

¹⁷³ A/63/339.

¹⁷⁴ For further information, see Report of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, A/CONF.189/12 and Corr.1, chap. I.

¹⁷⁵ United Nations, *Treaty Series*, vol. 660, No. 9464.

ful outcome of the Durban Review Conference, including her appeal to all Member States and other stakeholders to participate in the Durban Review Conference.

In its resolution 63/243, the General Assembly took note of the reports of the Committee on the Elimination of Racial Discrimination on its seventieth, seventy-first,¹⁷⁶ seventy-second and seventy-third¹⁷⁷ sessions and expressed its concern at the fact that a great number of reports continued to be overdue, which constituted an obstacle to the full implementation of the Convention. States parties to the Convention whose reports were seriously overdue were encouraged to avail themselves of the advisory services and technical assistance that the Office of the United Nations High Commissioner for Human Rights can provide for the preparation of the reports.

The Assembly authorized the Committee on the Elimination of Racial Discrimination to meet for an additional week per session, as a temporary measure, with effect from August 2009, until 2011. The Assembly also took note of the report of the Secretary-General on the status of the International Convention on the Elimination of All Forms of Racial Discrimination,¹⁷⁸ and urged States parties to comply fully with their obligations under the Convention and to take into consideration the concluding observations and general recommendations of the Committee on the Elimination of Racial Discrimination. It reaffirmed its conviction that ratification of, or accession to, the Convention on a universal basis and the implementation of its provisions were necessary for the effectiveness of the fight against racism, racial discrimination, xenophobia and related intolerance and for the implementation of the commitments undertaken under the Durban Declaration and Programme of Action.

(c) Right to development and poverty reduction

(i) *Human Rights Council*

On 28 March 2008, the Human Rights Council adopted resolution 7/27 in which it affirmed that the fight against extreme poverty must remain a high priority for the international community, and noted with satisfaction the report of the United Nations High Commissioner for Human Rights on the draft guiding principles on extreme poverty and human rights: the rights of the poor.¹⁷⁹ The Council further invited the Office of the High Commissioner for Human Rights to submit a report to the Council, no later than at its last session of 2009 to allow it to take a decision on the ways forward with a view to a possible adoption of guiding principles on the rights of persons living in extreme poverty.

At its eight session, on 18 June 2008, the Human Rights Council adopted resolution 8/11 entitled "Human rights and extreme poverty". In that resolution, the Council acknowledged the report of the Independent Expert on extreme poverty¹⁸⁰ and took note of his proposal to define extreme poverty as the combination of income poverty, human development poverty and social exclusion. It further decided to extend the mandate of the Independent Expert for

¹⁷⁶ *Official Records of the General Assembly, Sixty-second Session, Supplement No. 18 (A/62/18).*

¹⁷⁷ *Ibid.*, *Sixty-third Session, Supplement No. 18 (A/63/18).*

¹⁷⁸ A/63/473.

¹⁷⁹ A/HRC/7/32.

¹⁸⁰ A/HRC/7/15.

a period of three years. The Council requested the Office of the United Nations High Commissioner for Human Rights to give high priority to the question of the relationship between extreme poverty and human rights, and invited it to pursue further work in this area, integrating and cooperating fully with the Independent Expert in the various activities, notably the Social Forum and the consultation on the draft guiding principles on extreme poverty.

During its ninth session, on 24 September 2008, the Human Rights Council adopted resolution 9/3 entitled “The right to development”. In that resolution, the Council welcomed the report of the Working Group on the right to development,¹⁸¹ and decided, *inter alia*, to endorse the work plan for the task force for the period 2008-2010, outlined in paragraph 43 of the report of the Working Group, which would ensure that the criteria for the periodic evaluation of global partnerships, as identified in Millennium Development Goal 8, to be submitted by the task force to the Working Group at its eleventh session in 2010, was extended to other components of Millennium Development Goal 8, and to renew the mandate of the Working Group until it completes the tasks entrusted to it by Council in its resolution 4/4.

(ii) *General Assembly*

The General Assembly adopted on 18 December 2008 resolution 63/176 entitled “Globalization and its impact on the full enjoyment of all human rights”, in which it underlined the urgent need to establish an equitable, transparent and democratic international system to strengthen and broaden the participation of developing countries in international economic decision-making and norm-setting. Moreover, the Assembly expressed concern at the negative impact of international financial turbulence on social and economic development and on the full enjoyment of all human rights, particularly in the light of the current international financial challenges. Further expressing concern at the negative impact of the rising global food and energy challenges on social and economic development and on the full enjoyment of all human rights, the Assembly recognized that globalization should be guided by the fundamental principles that underpin the corpus of human rights, such as equity, participation, accountability, non-discrimination at both the national and the international levels, respect for diversity, tolerance and international cooperation and solidarity.

In its resolution 63/178 on “The right to development”, adopted on 18 December 2008, the General Assembly, *inter alia*, stressed that the primary responsibility for the promotion and protection of all human rights lies with the State, reaffirmed that States have the primary responsibility for their own economic and social development and that the role of national policies and development strategies could not be overemphasized. It also reaffirmed the primary responsibility of States to create national and international conditions favourable to the realization of the right to development, as well as their commitment to cooperate with each other to that end, and recognized the need for strong partnerships with civil society organizations and the private sector in pursuit of poverty eradication and development, as well as for corporate social responsibility.

The General Assembly adopted on 19 December 2008 resolution 63/230 entitled “Second United Nations Decade for the Eradication of Poverty (2008–2017)”, in which it expressed concern that, after the First United Nations Decade for the Eradication of Poverty (1997–2006) and midway to the 2015 Millennium Development Goals target date,

¹⁸¹ A/HRC/9/17.

while there had been progress in reducing poverty in some regions, this progress had been uneven and the number of people living in poverty in some countries continued to increase, with women and children constituting the majority of the most affected groups, especially in the least developed countries and particularly in sub-Saharan Africa. The Assembly further expressed concern over the number of people living in poverty, which was higher than previously estimated, despite significant progress, and over the current financial and food insecurity crises and unpredictable energy prices that may pose significant challenges for the achievement of the internationally agreed development goals, including the Millennium Development Goals.

In the same resolution, the Assembly underlined the priority and urgency given by the Heads of State and Government to the eradication of poverty, as expressed in the outcomes of the major United Nations conferences and summits in the economic and social fields. It also took note of the report of the Secretary-General on the implementation of the Second United Nations Decade for the Eradication of Poverty (2008–2017),¹⁸² and reaffirmed that the objective of the Second United Nations Decade was to support the follow-up to the implementation of the internationally agreed development goals, including the Millennium Development Goals, related to the eradication of poverty and to coordinate international support to that end.

The Assembly further reaffirmed that each country should take primary responsibility for its own development and that the role of national policies and strategies could not be overemphasized in the achievement of sustainable development and poverty eradication, and recognized that increased effective national efforts should be complemented by, *inter alia*, concrete, effective and supportive international programmes. Emphasis was put upon the need to accord the highest priority to poverty eradication within the United Nations development agenda, while stressing the importance of addressing the causes and challenges of poverty, and upon education and training considered as critical factors in empowering those living in poverty, while recognizing the complexity of the challenge of poverty eradication.

While calling upon the international community to continue to give priority to the eradication of poverty, and upon donor countries in a position to do so to support the effective national efforts of developing countries in this regard, through adequate predictable financial resources on either a bilateral or a multilateral basis, the General Assembly also welcomed recent efforts and initiatives to enhance the quality of aid and to increase its impact, including the Paris Declaration on Aid Effectiveness and the Accra Agenda for Action.¹⁸³ The Assembly furthermore recognized that, for developing countries to reach the targets set in the context of national development strategies for the achievement of the internationally agreed development goals, and for such poverty eradication strategies to be effective, it was imperative that developing countries increase their efforts to be integrated into the world economy in order to share the benefits of globalization.

On 19 December 2008, the General Assembly adopted resolution 63/229 entitled “Role of microcredit and microfinance in the eradication of poverty” on the recommendation of

¹⁸² A/63/190.

¹⁸³ A/63/539, annex.

the Second Committee, in which it took note of the report of the Secretary-General,¹⁸⁴ and underlined the need for greater access to microfinance, including microcredit, in developing countries, in particular for small farmers, which can contribute to increased agricultural productivity and rural development. The Assembly also underlined the importance of strengthening domestic financial sectors as a source of capital by making them inclusive, thus expanding access to financial services. The Assembly noted that, despite progress, there was still lack of relevant statistical data on inclusive financial sectors, in particular microcredit and microfinance programmes, in particular at the national and regional levels, and in this regard invited the international community, in particular the donor community, to support developing countries in collecting and preserving necessary statistical data and information on this issue.

The General Assembly encouraged Member States to adopt coherent financial regulatory frameworks, including in consultation with microfinance providers which can effectively protect the stability of their national financial systems and increase access of the poor, microenterprises and small enterprises to financial services. States were also encouraged to protect consumers, in particular the poor, and in this regard the Assembly invited the development partners to support the efforts of developing countries in the promotion of entrepreneurship development programmes, including for microenterprises and small and medium-sized enterprises. The Assembly furthermore recognized that the current financial crisis could adversely impact financial flows to microcredit and microfinance institutions as well as the services that they provide to the poor, and emphasized that such instruments should be protected, as appropriate, from potential credit deficiency.

In 2008, General Assembly adopted two other resolutions concerning the right to development and poverty reduction; resolution 63/142, adopted on 11 December 2008, entitled “Legal empowerment of the poor and eradication of poverty”, and resolution 63/175, adopted on 18 December 2008, entitled “Human rights and extreme poverty”. In the former resolution, the General Assembly reaffirmed that each country must take primary responsibility for its own development and stressed the importance of sharing best national practices in the area of legal empowerment of the poor. In the latter resolution, concerned by the challenges faced today, including those derived from the food crisis, the energy crisis and the financial crisis, and by their impact on the increase in the number of people living in extreme poverty and their negative effect on the capacity of all States, especially developing countries, to fight extreme poverty, the General Assembly encouraged the international community to strengthen its efforts to address challenges that were contributing to extreme poverty, including those posed by the current food, energy and financial crises in all parts of the world, especially in developing countries, by enhancing its cooperation to help build national capacities. The Assembly furthermore took note of the report of the United Nations High Commissioner for Human Rights to the General Assembly.¹⁸⁵

¹⁸⁴ A/63/159.

¹⁸⁵ A/63/274.

(d) Right of people to self-determination

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

General Assembly

On 18 December 2008, The General Assembly adopted, on the recommendation of the Third Committee, resolution 63/163 entitled “Universal realization of the right of peoples to self-determination”. In the resolution, the Assembly took note of the report of the Secretary-General,¹⁸⁶ and reaffirmed that the universal realization of the right of all peoples, including those under colonial, foreign and alien domination, to self-determination was a fundamental condition for the effective guarantee and observance of human rights and for the preservation and promotion of such rights. It also declared its firm opposition to acts of foreign military intervention, aggression and occupation, since these had resulted in the suppression of the right of peoples to self-determination and other human rights in certain parts of the world, and called upon those States responsible to cease immediately their military intervention in, and occupation of, foreign countries and territories and all acts of repression, discrimination, exploitation and maltreatment, in particular the brutal and inhuman methods reportedly employed for the execution of those acts against the peoples concerned.

(ii) *Mercenaries*

a. Human rights Council

On 28 March 2008, at its seventh session, the Human Rights Council adopted resolution 7/21 entitled “Mandate of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination”. In the resolution, the Council acknowledged with appreciation the work and contributions made by the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, and took with appreciation note of its latest report.¹⁸⁷ The Council decided to extend the mandate of the Working Group for a period of three years to, *inter alia*, elaborate and present concrete proposals on possible complementary and new standards aimed at filling existing gaps, as well as general guidelines or basic principles encouraging the further protection of human rights, in particular the right of peoples to self-determination, while facing current and emergent threats posed by mercenaries or mercenary-related activities. The Working Group was further requested to seek opinions and contributions from Governments and intergovernmental and non-governmental organizations on questions relating to its mandate, and to study and identify sources and causes, emerging issues, manifestations and trends regarding mercenaries or mercenary-related activities and their impact on human rights, particularly on the right of peoples to self-determination. In addition, the Council requested the Office of the High Commissioner for Human Rights to, as a matter of priority, publicize the adverse effects of the activities of mercenaries on the right of peoples to

¹⁸⁶ For further information, see report of the Secretary-General on the right of peoples to self-determination, A/63/254.

¹⁸⁷ A/HRC/7/7.

self-determination and, when requested and where necessary, to render advisory services to States that were affected by those activities, and to inform the Council, in a timely manner, of the dates and places for the convening of the other regional governmental consultations on this matter, in conformity with paragraph 15 of General Assembly resolution 62/145, bearing in mind that this process may lead to the holding of a high-level round table of States, under the auspices of the United Nations.

b. General Assembly

On 18 December 2008, the General Assembly adopted, on the recommendation of the Third Committee, resolution 63/164 entitled "Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination". In the resolution, the Assembly, taking note of the report of the Working Group,¹⁸⁸ stressed the importance for the Working Group of looking into sources and root causes, as well as the political motivations of mercenaries and for mercenary-related activities. The Group was requested to continue the work already done by the previous Special Rapporteurs on the strengthening of the international legal framework for the prevention and sanction of the recruitment, use, financing and training of mercenaries, taking into account the proposal for a new legal definition of a mercenary.¹⁸⁹ The Group was further requested to elaborate and present concrete proposals on possible complementary and new standards aimed at filling existing gaps, as well as general guidelines or basic principles encouraging the further protection of human rights, in particular the right of peoples to self-determination. The Group was also requested to continue to take into account the fact that mercenary activities continued to occur in many parts of the world and were taking on new forms, manifestations and modalities, and in this regard its members were requested to continue to pay particular attention to the impact of the activities of private companies offering military assistance, consultancy and security services on the international market on the enjoyment of human rights and the exercise of the right of peoples to self-determination.

(e) Economic, social and cultural rights

(i) *The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights*¹⁹⁰

General Assembly

On 10 December 2008, the General Assembly adopted, on the recommendation of the Third Committee, resolution 63/117 entitled "Optional Protocol to the International Covenant on Economic, Social and Cultural Rights". The Assembly adopted the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, which was annexed to the resolution. The Assembly further recommended that the Optional Protocol be opened for signature at a signing ceremony to be held in 2009.

¹⁸⁸ See A/63/325.

¹⁸⁹ Drafted by the Special Rapporteur in his report to the Commission on Human Rights at its sixtieth session. For further information, see E/CN.4/2004/15, para. 47.

¹⁹⁰ For the text of the Optional Protocol, see chapter IV of this publication.

(ii) *Right to food*

a. **Human Rights Council**

On 27 March 2008, the Human Rights Council adopted resolution 7/14 entitled “The right to food”, in which it affirmed that hunger constitutes an outrage and a violation of human dignity, and therefore required the adoption of urgent measures at the national, regional and international levels for its elimination. The Council expressed its concern that women and girls were disproportionately affected by hunger, food insecurity and poverty, in part as a result of gender inequality and discrimination; that in many countries, girls are twice as likely as boys to die from malnutrition and preventable childhood diseases, and that it was estimated that almost twice as many women as men suffered from malnutrition, and encouraged all States to take action to address gender inequality and discrimination against women, in particular where it contributed to the malnutrition of women and girls. The Council further took note of the report of the Special Rapporteur,¹⁹¹ and of his valuable work in the promotion of the right to food in all parts of the world and expressed its appreciation for the work and commitment of the first mandate-holder to achieving the realization of the right to food.

On 22 May 2008, the Human Rights Council held a special session on “The negative impact on the realization of the right to food of the worsening of the world food crisis, caused *inter alia* by the soaring food prices”. On the same day, the Council adopted resolution S-7/1, entitled “The negative impact of the worsening of the world food crisis on the realization of the right to food for all”. In the resolution, the Council expressed its grave concern at the worsening of the world food crisis, which seriously undermined the realization of the right to food for all, and the achievement of the Millennium Development Goals. The Council called upon Member States of the United Nations and other relevant stakeholders to participate actively in the High-level Conference on World Food Security: the Challenges of Climate Change and Bioenergy, to be held from 3 to 5 June 2008, in Rome, organized by the Food and Agriculture Organization of the United Nations (FAO), and invited FAO to extend an invitation to the United Nations High Commissioner for Human Rights and to the Special Rapporteur on the right to food to attend and actively participate in the aforementioned High-level Conference, so as to help to mainstream a human rights perspective in the analysis of the world food crisis.

At its ninth session, on 24 September 2008, the Human Rights Council adopted resolution 9/6 entitled “Follow-up to the seventh special session of the Human Rights Council on the negative impact of the worsening of the world food crisis on the realization of the right to food for all”. The Council acknowledged with appreciation the report of the Special Rapporteur,¹⁹² and took note of his recommendations. The Council encouraged all States to invest or promote investment in agriculture and rural infrastructure in a manner that empowers the most vulnerable and affected by the current crisis in order to ensure their realization of the right to food. The Council further encouraged all relevant international organizations and agencies to bring to their studies, research, reports and resolutions on the issue of food security a human rights perspective and the need for the realization of the right to food for all, and requested the Special Rapporteur to report on the implementation

¹⁹¹ A/HRC/7/5.

¹⁹² A/HRC/9/23.

of the present resolution to the Council at its twelfth session, including on the progress made and obstacles encountered in relation with the implementation at the national level of the measures and best practices adopted by States to respond to the global food crisis.

b. General Assembly

At its sixty-third session, the General Assembly adopted, on the recommendation of the Third Committee, resolution 63/187 entitled “The right to food”, dated 18 December 2008. In the resolution, the Assembly reaffirmed that hunger constitutes an outrage and a violation of human dignity and therefore required the adoption of urgent measures at the national, regional and international levels for its elimination, and recognized the advances reached through South-South cooperation in developing countries and regions in connection with food security and the development of agricultural production for the full realization of the right to food. The Assembly noted the need to further examine various concepts such as, *inter alia*, “food sovereignty” and their relation with food security and the right to food, bearing in mind the need to avoid any negative impact on the enjoyment of the right to food for all people at all times, and stressed the need to make efforts to mobilize and optimize the allocation and utilization of technical and financial resources from all sources, including external debt relief for developing countries, and to reinforce national actions to implement sustainable food security policies. The Assembly further took note with appreciation of the interim report of the Special Rapporteur,¹⁹³ welcomed the continued cooperation of the High Commissioner, the Committee and the Special Rapporteur, and encouraged them to continue their cooperation in this regard.

(iii) *Right to education*

a. Human Rights Council

The Human Rights Council adopted resolution 8/4 entitled “The right to education” on 18 June 2008. In the resolution, the Council welcomed the reports of the Special Rapporteur on girls’ right to education,¹⁹⁴ the right to education of persons with disabilities,¹⁹⁵ and on the right to education in emergency situations,¹⁹⁶ and the report of the Secretary-General on economic, social and cultural rights.¹⁹⁷ The Council urged States to give full effect to the right to education and to guarantee that this right would be recognized and exercised without discrimination of any kind, to take all appropriate measures to eliminate obstacles limiting effective access to education, notably by girls, including pregnant girls and young mothers, and *inter alia*, children belonging to minority groups, indigenous children, migrant children, refugee children, children affected by armed conflicts, children affected by natural disasters, children with disabilities, children affected by infectious diseases, including HIV/AIDS, and sexually exploited children. States were furthermore urged to promote the renewal and expansion of basic formal education of good quality, to

¹⁹³ A/63/278.

¹⁹⁴ E/CN.4/2006/45 and Add.1.

¹⁹⁵ A/HRC/4/29 and Add. 1, 2 and 3.

¹⁹⁶ A/HRC/8/10 and Add. 1-4.

¹⁹⁷ A/HRC/7/58.

recognize and promote lifelong learning for all, in both formal and informal settings and to support domestic literacy programmes, including vocational education components and non-formal education, in order to reach marginalized children, youth and adults, especially girls and women, and persons with disabilities, to ensure that they enjoy the right to education. The Council also urged all States to improve school infrastructure, to guarantee a safe school environment and to promote school health, education on reproductive health issues and preventive education against HIV/AIDS and drug abuse. States were urged to also adopt effective measures to encourage regular attendance at school and reduce school dropout rates and to adapt education, if necessary, in order to suit the specific needs of women, girls, teenagers and persons with disabilities.

b. General Assembly

On 18 December 2008, the General Assembly adopted resolution 63/154 entitled “United Nations Literacy Decade: education for all”, in which it took note of the summary outcomes of the Regional Conferences in Support of Global Literacy, held in Azerbaijan, China, India, Mali, Mexico and Qatar in 2007 and 2008,¹⁹⁸ which indicated that the second half of the Decade should develop appropriate networks for greater regional collaboration. The Assembly called upon Member States to further reinforce political will, giving literacy higher priority within their educational planning and budgeting, and appealed to Governments to take full account of the use of languages in different contexts by promoting multilingual approaches to literacy, through which learners may acquire initial literacy in the language they know best. Governments were furthermore requested to strengthen national and subnational professional institutions in their countries and to foster greater collaboration among all literacy partners and to lend greater financial and material support to the efforts to increase literacy and achieve the goals of Education for All and those of the Decade. The United Nations Educational, Scientific and Cultural Organization was also requested to reinforce its coordinating and catalysing role in the fight against illiteracy and to develop, in cooperation with other international partners, in particular the specialized agencies and organizations of the United Nations system, a strategic framework for renewed cooperation and action.

- (iv) *Right to adequate standard of living, including adequate housing and to be free of adverse effects of toxic waste*

Human Rights Council

On 12 March 2008, the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living presented his report to the Human Rights Council.¹⁹⁹

¹⁹⁸ The summary outcomes of the Regional Conferences in Support of Global Literacy are available at <http://www.unesco.org/education/en/literacy/conferences>.

¹⁹⁹ A/HRC/7/16.

(v) *Access to safe drinking water and sanitation*

Human Rights Council

On 28 March 2008, the Human Rights Council adopted resolution 7/22 entitled “Human rights and access to safe drinking water and sanitation”. In the resolution, the Council recalled the report of the United Nations High Commissioner for Human Rights on the scope and content of the relevant human rights obligations related to equitable access to safe drinking water and sanitation under international human rights instruments,²⁰⁰ decided to appoint, for a period of three years, an independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation, and called upon all Governments to cooperate with the independent expert. Governments were invited to share best practices with the independent expert and to provide him or her with all the necessary information related to the mandate to enable him or her to fulfil the mandate.

(vi) *Right to health*

a. Human Rights Council

On 11 March 2008, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health presented his report to the Human Rights Council.²⁰¹

b. General Assembly

In 2008, the Special Rapporteur also presented a report to the General Assembly,²⁰² in which he highlighted the importance of effective, transparent, accessible and independent accountability mechanisms in relation to the right to the highest attainable standard of health, and in which he furthermore provided Human Rights Guidelines for Pharmaceutical Companies in relation to Access to Medicines, which set out the human rights responsibilities of pharmaceutical companies in this context.

On 26 November 2008, the General Assembly adopted, without a reference to a Main Committee, resolution 63/33 entitled “Global health and foreign policy”, in which it recognized the close relationship between foreign policy and global health, and their interdependence. The Assembly further recognized that global challenges required concerted and sustained efforts by the international community, and urged Member States to consider health issues in the formulation of foreign policy. The Assembly recognized that the annual ministerial review to be held by the Economic and Social Council in 2009 would focus on the theme “Implementing the internationally agreed goals and commitments in regard to global public health”, and in that regard called for enhanced coordination within the United Nations system.

²⁰⁰ A/HRC/6/3.

²⁰¹ A/HRC/7/11.

²⁰² A/63/263.

(f) Civil and political rights

(i) *Torture*

a. Human Rights Council

On 10 March 2008, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment presented his second report to the Human Rights Council.²⁰³ The report aimed to respond to, and complement, initiatives in the area of gender mainstreaming and combating violence against women²⁰⁴ to ensure that the torture protection framework was applied in a gender-inclusive manner with a view to strengthening the protection of women from torture. The Special Rapporteur suggested adding to the elements required to meet the threshold of torture²⁰⁵ the criterion of powerlessness which would also allow the specific status of the victim to be taken into consideration, such as sex, age and physical and mental health,²⁰⁶ and in some cases religion, which might render a specific person powerless in a given context. The Special Rapporteur furthermore concluded that torture and ill-treatment can occur in different private contexts, and pointed to the striking parallels between “official” and “private” torture in terms of strategies, process and resulting trauma, while showing that State acquiescence can occur at different levels. Therefore, he strongly recommended that torture and ill-treatment be understood in a gender-inclusive way and that States extend their prevention efforts to fully include torture and ill-treatment of women, even if it occurred in the “private” sphere.

b. General Assembly

On 18 December 2008, the General Assembly adopted, on the recommendation of the Third Committee, resolution 63/166, entitled “Torture and other cruel, inhuman or degrading treatment or punishment”. In the resolution, the Assembly condemned all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which were and shall remain prohibited at any time and in any place whatsoever and can thus never be justified. The Assembly called upon all States to implement fully the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment, and stressed that all acts of torture must be made offences under domestic criminal law. The Assembly welcomed the establishment of national preventive mechanisms to prevent torture and encouraged all States that had not yet done so to establish such mechanisms. It further called upon States parties to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment²⁰⁷ to fulfil their obligation to designate or establish truly independent and effective national preventive mechanisms for the prevention of torture. Furthermore, the Assembly condemned any action or attempt by States or public officials to legalize, authorize or acquiesce in torture and other cruel, inhu-

²⁰³ A/HRC/7/3.

²⁰⁴ For further information, see report of the Special Rapporteur on violence against women, its causes and consequences (A/HRC/4/34, para. 56).

²⁰⁵ Article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), lays down a definition, which sets out four elements required to meet the threshold of torture: severe pain and suffering, physical or mental; intent; purpose; state involvement.

²⁰⁶ See European Court of Human Rights: *Soering v. UK*, 1989 and *Costello v. UK*, 1993.

²⁰⁷ United Nations, *Treaty Series*, vol. 1465, p. 85.

man or degrading treatment or punishment under any circumstances, including on grounds of national security or through judicial decisions, and strongly urged States to ensure that no statement that was established to have been made as a result of torture was invoked as evidence in any proceedings. States were further urged to not to expel, return (“*refouler*”), extradite or in any other way transfer a person to another State where there were substantial grounds for believing that the person would be in danger of being subjected to torture, and recognized that diplomatic assurances, where used, did not release States from their obligations under international human rights, humanitarian and refugee law, and in particular under the principle of *non-refoulement*.

(vii) *Enforced disappearances*

a. **Human Rights Council**

On 27 March 2008, the Human Rights Council adopted two resolutions dealing with enforced disappearances. In its resolution 7/12, the Council took note of the report submitted by the Working Group on Enforced or Involuntary Disappearances,²⁰⁸ and of the recommendations contained therein. The Council decided to extend the mandate of the Working Group for a further period of three years, and encouraged it in fulfilling its mandate to pay particular attention to cases of children subjected to enforced disappearance and children of disappeared persons, to cooperate closely with the Governments concerned in searching for and identifying these children, and to apply a gender perspective in its reporting process. In resolution 7/28 entitled “Missing persons”, the Council called upon States that were parties to an armed conflict to take all appropriate measures to prevent persons from going missing in connection with armed conflict and account for persons reported missing as a result of such a situation, and reaffirmed the right of families to know the fate of their relatives reported missing in connection with armed conflicts.

b. **General Assembly**

On 18 December 2008, the General Assembly adopted, on the recommendation of the Third Committee, resolution 63/183 entitled “Missing persons”. The Assembly welcomed the panel discussion on the question of missing persons held at the ninth session of the Human Rights Council, and invited relevant human rights mechanisms and procedures, as appropriate, to address the problem of persons reported missing in connection with armed conflicts in their forthcoming reports to the General Assembly.

(viii) *Freedom of opinion and expression*

Human Rights Council

At its seventh session, on 28 March 2008, the Human Rights Council adopted resolution 7/36 entitled “Mandate of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression”. In the resolution, the Council took note with appreciation of the reports of the Special Rapporteur on the promotion and protection of the

²⁰⁸ A/HRC/7/2.

right to freedom of opinion and expression,²⁰⁹ and invited all relevant actors to consider the recommendations contained therein. The Council further decided to extend the mandate of the Special Rapporteur for a period of three years, and requested that he submit each year to the Council a report covering activities relating to his or her mandate.

(iv) *Freedom of religion or belief*

a. **Human Rights Council**

The Special Rapporteur on the freedom of religion or belief submitted her annual report to the Human Rights Council on the activities that she undertook in 2008.²¹⁰ She appended to her report a summary of communications that she had sent from 1 December 2006 to 30 November 2007 and the replies received from Governments by 30 January 2008.²¹¹ She furthermore reported on her visits in 2007 to Tajikistan,²¹² the United Kingdom of Great Britain and Northern Ireland²¹³ and Angola.²¹⁴

On 27 March 2008, the Human Rights Council adopted resolution 7/19 entitled “Combating defamations of religions”, in which it expressed concern at negative stereotyping of religions and manifestations of intolerance and discrimination in matters of religion or belief, and emphasized that equating any religion with terrorism should be rejected and combated by all at all levels.

The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance submitted in 2008, pursuant to Human Rights Council resolution 7/19, a report on the manifestations of defamation of religions and in particular on the serious implications of islamophobia on the enjoyment of all rights.²¹⁵ The Special Rapporteur strongly recommended that the Human Rights Council encourage a shift away from the sociological concept of defamation of religions towards a legal norm of non-incitement to national, racial or religious hatred, on the basis of legal provisions laid down in international human rights instruments. He further recommended that the Human Rights Council invite Member States to promote the dialogue between cultures, civilizations and religions, taking into consideration, among other things, the need to accord equal treatment to combating defamation of religions in all its forms so as to avoid establishing any hierarchy in the different manifestations of discrimination, even if they might vary in nature and degree depending on historical, geographical and cultural contexts. Attention should also be attributed to the deep historical and cultural roots of all forms of defamation of religions and the corresponding need to combine legal measures with an intellectual, cultural and ethical approach that would take account of the processes, mechanisms and representations at the origin of these manifestations of discrimination over time.

²⁰⁹ E/CN.4/2006/55, A/HRC/4/27 and A/HRC/7/14.

²¹⁰ A/HRC/7/10.

²¹¹ A/HRC/7/10/Add.1.

²¹² A/HRC/7/10/Add.2.

²¹³ A/HRC/7/10/Add.3.

²¹⁴ A/HRC/7/10/Add.4.

²¹⁵ A/HRC/9/12.

b. General Assembly

The General Assembly adopted on 18 December 2008, on the recommendation of the Third Committee,²¹⁶ resolution 63/181 entitled “Elimination of all forms of intolerance and of discrimination based on religion or belief”, in which it expressed concern over the persistence of institutionalized social intolerance and discrimination practised against many in the name of religion or belief. The Assembly recalled that legal procedures pertaining to religious or belief-based groups and places of worship were not a prerequisite for the exercise of the right to manifest one’s religion or belief and such procedures at the national or local level, when legally required, should be non-discriminatory in order to contribute to the effective protection of the right of all persons to practise their religion or belief either individually or in community with others and in public or in private. The States were urged to step up their efforts to eliminate intolerance and discrimination based on religion or belief by, *inter alia*, ensuring that no one is discriminated against on the basis of his or her religion or belief when accessing, *inter alia*, education, medical care, employment, humanitarian assistance or social benefits; ensuring that no official documents are withheld from the individual on the grounds of religion or belief and that everyone has the right to refrain from disclosing information concerning one’s religious affiliation on such documents. The Assembly emphasized that no religion should be equated with terrorism, as this may have adverse consequences on the enjoyment of the right to freedom of religion or belief of all members of the religious communities concerned. It furthermore welcomed the work and the interim report of the Special Rapporteur on freedom of religion or belief.²¹⁷

On 18 December 2008, the General Assembly adopted, on the recommendation of the Third Committee,²¹⁸ resolution 63/171 entitled “Combating defamation of religions”. In the resolution, the Assembly took note of the report of the Secretary-General²¹⁹ and the conclusions contained therein, and expressed its concerns at the negative stereotyping of religions and manifestations of intolerance and discrimination in matters of religion or belief still evident in the world. It noted the intensification of the overall campaign of defamation of religions, and incitement to religious hatred in general, including the ethnic and religious profiling of Muslim minorities in the aftermath of the tragic events of 11 September 2001. States were invited by the Assembly to put into practice the provisions of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief,²²⁰ and were urged, *inter alia*, to provide, within their respective legal and constitutional systems, adequate protection against acts of hatred, discrimination, intimidation and coercion resulting from defamation of religions, and to take all possible measures to promote tolerance and respect for all religions and beliefs as well as the understanding of their value systems. The Assembly further urged all States to ensure that all public officials, including members of law enforcement bodies, the military, civil servants and educators, in the course of their official duties, respect people regardless of their different religions and beliefs. In the same resolution the General Assembly welcomed the initiative by the United Nations High Commissioner for Human Rights on the recently held expert semi-

²¹⁶ A/62/439/Add.2.

²¹⁷ See A/62/280 and Corr.1.

²¹⁸ A/63/430/Add.2.

²¹⁹ A/63/365.

²²⁰ General Assembly resolution 36/55 of 25 November 1981.

nar on freedom of expression and advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence, on 2 and 3 October 2008.

The Special Rapporteur on the freedom of religion or belief also presented an interim report to the General Assembly at its sixty-third session,²²¹ in which she addressed citizenship issues and religious discrimination in administrative procedures. She noted that while most States did not openly discriminate on the basis of religion with respect to citizenship issues and in administrative procedures, there were instances where State practice or domestic legislation was inconsistent with human rights standards. The Rapporteur expressed particular concerns about the denial or deprivation of citizenship based on, *inter alia*, a person's religious affiliation; requirements to denounce a particular faith when applying for official documents; and restricted eligibility for State functions for persons of certain faiths. Therefore, she emphasized that the legitimate interests of the State had to be balanced on a case-by-case basis with the individual's freedom of religion or belief, also taking into account his or her right to privacy, liberty of movement, right to nationality,²²² and the principle of non-discrimination.

(v) *Administration of justice; arbitrary detention and extrajudicial, summary and arbitrary execution*

a. **Human Rights Council**

At its eighth session, on 8 June 2008, the Human Rights Committee adopted resolution 8/3 entitled "Mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions". In the resolution, the Council strongly condemned once again all extrajudicial, summary or arbitrary executions, in all their forms, that continue to take place throughout the world, and acknowledged the importance of relevant special procedures of the Council in their key role as early warning mechanisms in preventing the crime of genocide, crimes against humanity and war crimes, and encouraged the relevant special procedures, within their mandates, to cooperate towards this end. The Council took note of the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions,²²³ and decided to extend the mandate of the Special Rapporteur for a period of three years.

On the same date, the Human Rights Council adopted resolution 8/6 entitled "Mandate of the Special Rapporteur on the independence of judges and lawyers", in which it commended the Special Rapporteur on the independence of judges and lawyers for the important work undertaken in the discharge of his mandate, and decided to extend his mandate for a period of three years.

²²¹ A/63/161.

²²² The Human Right Council also adopted, on 27 March 2008, resolution 7/10 entitled "Human rights and arbitrary deprivation of nationality" in which it reaffirmed that the right to a nationality of every human person is a fundamental human right and recognized that arbitrary deprivation of nationality on racial, national, ethnic, religious, political or gender grounds is a violation of human rights and fundamental freedoms.

²²³ A/HRC/8/3.

b. General Assembly

On 18 December 2008, the General Assembly adopted resolution 63/182 entitled “Extrajudicial, summary or arbitrary executions”. In the resolution, the Assembly called upon all States, in order to prevent extrajudicial, summary and arbitrary executions, to comply with their obligations under relevant provisions of international human rights instruments. In the same vein, the Assembly affirmed the obligation of States to protect the lives of all persons deprived of their liberty in all circumstances and to investigate and respond to deaths in custody. The Assembly welcomed the International Criminal Court as an important contribution to ending impunity concerning extrajudicial, summary or arbitrary executions, and acknowledged the importance of ensuring the protection of witnesses for the prosecution of those suspected of extrajudicial, summary or arbitrary executions. It further noted with appreciation the report of the Special Rapporteur to the General Assembly.²²⁴

(vi) *Integration of human rights of women and gender perspective*²²⁵

Human Rights Council

On 28 March 2008, the Human Rights Council adopted resolution 7/24 entitled “Elimination of violence against women” in which it strongly condemned all acts of violence against women and girls, whether these acts were perpetrated by the State, private persons or non-State actors, and called for the elimination of all forms of gender-based violence in the family, within the general community and where perpetrated or condoned by the State. The Council took note of the latest report of the Special Rapporteur,²²⁶ which included efforts to formulate indicators on violence against women, as well as her previous reports on intersections between culture and violence against women²²⁷ and on the due diligence standard as a tool for elimination of violence against women.²²⁸ The Council further welcomed the launch of the campaign of the Secretary-General in February 2008 to end violence against women, as well as the work of the Special Rapporteur on violence against women, its causes and consequences. The Council decided to extend the mandate of the Special Rapporteur for a period of three years and invited her to carry out her mandate by, *inter alia*, recommending measures, ways and means, at the local, national, regional and international levels, that would eliminate all forms of violence against women and its causes, and would remedy its consequences, and by continuing to adopt a comprehensive and universal approach to the elimination of violence against women, its causes and consequences, including causes of violence against women related to the civil, cultural, economic, political and social spheres.

²²⁴ A/63/313.

²²⁵ See also section 6 of this chapter.

²²⁶ A/HRC/7/6.

²²⁷ A/HRC/4/34.

²²⁸ E/CN.4/2006/61.

(vii) *Trafficking*a. **Human Rights Council**

At its eighth session, on 18 June 2008, the Human Rights Council adopted resolution 8/12 entitled “Special Rapporteur on trafficking in persons, especially women and children”. The Council expressed concern at, *inter alia*, the high number of persons, especially women and children, in particular from developing countries and countries with economies in transition, who were being trafficked to developed countries, as well as within and between regions and States, and the increasing activities of transnational and national organized crime and others that profit from trafficking in persons without regard for dangerous and inhumane conditions and in flagrant violation of domestic laws and international standards. Governments were urged to, *inter alia*, take appropriate measures to address the root factors, including external factors, that encourage trafficking in persons for prostitution and other forms of commercialized sex, forced marriages and forced labour, slavery or practices similar to slavery, servitude or for the removal of organs; to criminalize trafficking in persons in all its forms and to condemn and penalize traffickers, facilitators and intermediaries; and to ensure protection and assistance to the victims of trafficking with full respect for their human rights. The Council took note of the work undertaken by the Special Rapporteur on trafficking in persons, especially women and children, and decided to extend the mandate of the Special Rapporteur on trafficking in persons, especially women and children, for a period of three years.

b. **General Assembly**

On 18 December 2008, the General Assembly adopted, on the recommendation of the Third Committee, resolution 63/194 entitled “Improving the coordination of efforts against trafficking in persons”. In the resolution, the Assembly urged Member States that had not yet done so to consider taking measures to ratify or accede to the United Nations Convention against Transnational Organized Crime²²⁹ and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children,²³⁰ and to implement fully all aspects of those instruments. The General Assembly encouraged all stakeholders, including the private sector, to strengthen the coordination of efforts, including through the Inter-Agency Coordination Group against Trafficking in Persons and regional as well as bilateral initiatives that promote cooperation and collaboration, and welcomed the holding of the Vienna Forum to Fight Human Trafficking, from 13 to 15 February 2008, as a part of the awareness-raising efforts to fight human trafficking. Furthermore, Member States were invited to accelerate the consideration of the advisability of a global plan of action on preventing trafficking in persons, prosecuting traffickers and protecting and assisting victims of trafficking, which would achieve the full and effective coordination of efforts against trafficking in persons.

On the same day, the General Assembly adopted, on the recommendation of the Third Committee, resolution 63/156 entitled “Trafficking in women and girls”. The Assembly welcomed the efforts of Governments, United Nations bodies and agencies and inter-governmental and non-governmental organizations to address the particular problem of

²²⁹ General Assembly resolution 55/25 of 15 November 2000, annex I.

²³⁰ General Assembly resolution 55/25 of 15 November 2000, annex II.

trafficking in women and girls, and encourages them to enhance their efforts and cooperation, including by sharing their knowledge, technical expertise and best practices as widely as possible, and called upon Governments to discourage, with a view to eliminating, the demand that fosters the trafficking of women and girls for all forms of exploitation, and in this regard to enhance preventive measures, including legislative measures, to deter exploiters of trafficked persons, as well as ensure their accountability. The Assembly further called upon Governments, the international community and all other organizations and entities that deal with conflict and post-conflict, disaster and other emergency situations to address the heightened vulnerability of women and girls to trafficking and exploitation, and associated gender-based violence, and called upon all Governments to criminalize all forms of trafficking in persons, recognizing its increasing occurrence for purposes of sexual exploitation, commercial sexual exploitation and abuse, sex tourism and forced labour, and to bring to justice and punish the offenders and intermediaries involved, whether local or foreign, through the competent national authorities.

(g) Rights of the child

(i) *Human Rights Council*

On 27 March 2008, the Human Rights Council adopted resolution 7/13 entitled “Mandate of the Special Rapporteur on the sale of children, child prostitution and child pornography”. The Council welcomed the work and contributions of the Special Rapporteur on the sale of children, child prostitution and child pornography, and decided to extend the mandate of the Special Rapporteur for three years.

On 28 March 2008, the Human Rights Council adopted resolution 7/29 entitled “Rights of the Child”. In the resolution, the Council reaffirmed the general principles of, *inter alia*, the best interests of the child, non-discrimination, participation and survival and development provide the framework for all actions concerning children, including adolescents, acknowledged that the Convention on the Rights of the Child²³¹ was the most universally ratified human rights treaty, and urged the States that had not yet done so to become parties to the Convention and the Optional Protocols thereto as a matter of priority. It further affirmed its commitment to effectively integrate the rights of the child in its work and that of its mechanisms in a regular, systematic and transparent manner, taking into account specific needs of boys and girls, and urged all stakeholders to take into full account the rights of the child in the universal periodic review. The Council, deeply concerned by the horrific scale and impact of all forms of violence against children, in all regions, in their homes and families, in schools, care and justice systems, workplaces and in communities, urged States to take effective and appropriate legislative and other measures to prohibit and eliminate all forms of violence against children, and to take appropriate measures to assert the right of children to respect for their human dignity and physical integrity and to prohibit and eliminate any emotional or physical violence or any other humiliating or degrading treatment. The Council called upon States to take all necessary measures, including legal reforms where appropriate and to ensure the full and equal enjoyment by girls of all human rights and fundamental freedoms, to take effective actions

²³¹ United Nations, *Treaty Series*, vol. 1577, p. 3.

against violations of those rights and freedoms, to end impunity and to base programmes and policies on the rights of the child, taking into account the special situation of girls. The Council also recognized that children with disabilities should have full enjoyment of all human rights and fundamental freedoms on an equal basis with other children.

With regard to children alleged to have or recognized as having infringed penal law, the Council called upon States, in particular those States in which the death penalty had not been abolished, to comply with their obligations as assumed under relevant provisions of international human rights instruments and to give greater consideration to restorative justice practices, including mediation, as an alternative to sentencing, or as part of the sentencing process with regard to offenders under the age of 18.

In the same resolution, the Human Rights Council strongly condemned any recruitment and use of children in armed conflicts contrary to international law, urged all parties to an armed conflict to end such practice, and all other violations and abuses committed against children, and noted with appreciation the steps taken regarding Security Council resolution 1612 (2005) of 26 July 2005 and the efforts of the Secretary-General to implement the monitoring and reporting mechanism, including in collecting and providing timely, objective, accurate and reliable information on children and armed conflict.

Finally, the Council requested the Secretary-General to submit to the Council at its tenth session a report on the rights of the child, and the Special Rapporteur on the sale of children, child prostitution and child pornography to submit a report to the Council according to its programme of work.

(ii) *General Assembly*

Resolution 63/241 entitled “Rights of the child”, was adopted by the General Assembly, on the recommendation of the Third Committee, on 24 December 2008. In the resolution, the Assembly reaffirmed that the general principles of, *inter alia*, the best interests of the child, non-discrimination, participation and survival and development provide the framework for all actions concerning children, including adolescents. The Assembly welcomed the work of the Special Rapporteur on the right to education and took note of his report on the right to education in emergency situations. It further recognized that the right to education was to be respected at all times, and therefore called upon Member States to adopt legal and other measures to ensure that education was included in emergency preparedness plans. Member States were urged to implement strategies for the realization of the right to education as an integral element in the context of humanitarian assistance.

In the same resolution, the Assembly expressed grave concern at the worsening of the world food crisis, which seriously undermined the realization of the right to food for all, including mothers and children, and also expressed grave concern that this crisis threatened to further undermine the achievement of the Millennium Development Goals. As a consequence, States were invited to take immediate steps to eliminate child hunger, including through the adoption or strengthening of national programmes to address food security and adequate livelihoods, as well as nutritional security. Furthermore, the Assembly called upon States to give attention to the impact of parental detention and imprisonment of children and to give priority consideration to non-custodial measures when sentencing

or deciding on pre-trial measures for a child's sole or primary caretaker, subject to the need to protect the public and the child, and bearing in mind the gravity of the offence.

Concerned by children affected by armed conflicts, the Assembly called upon States to ensure timely and adequate funding for national disarmament, demobilization and reintegration programmes for children and for settlement, rehabilitation and reintegration efforts for all children associated with armed forces and groups, including detained children. The Assembly furthermore recognized that child labour contributed to the perpetuation of poverty and remained a central obstacle to realizing the right of all children to education and to protection from violence, abuse and exploitation, and therefore called upon all States to translate into concrete action their commitment to the progressive and effective elimination of child labour.

(h) Migrants

(i) *Human Rights Council*

On 24 September 2008, the Human Rights Council adopted resolution 9/5 entitled "Human rights of migrants", in which the Council encouraged States to consider the possibility of adopting immigration programmes, as adopted by some countries, that allowed migrants to integrate fully into the host countries, facilitated family reunification and promoted a harmonious and tolerant environment. States were further encouraged to apply a gender perspective in developing international migration policies and programmes in order to adopt the necessary measures to better protect women and girls against dangers and abuse during migration. Due attention should also be attributed to protecting the human rights of migrant children, given their vulnerability, particularly unaccompanied migrant children, and therefore States were called upon to ensure that the best interests of the children are a primary consideration in their policies of integration, return and family reunification and to eliminate discriminatory policies that deny migrant children access to education. The Council welcomed the adoption by the World Health Organization of its resolution WHA61.17 on the health of migrants.

(ii) *General Assembly*

On 18 December 2008, the General Assembly adopted, on the recommendation of the Third Committee, resolution 62/184 entitled "Protection of migrants". In the resolution, the Assembly called upon States to put an end to arbitrary arrest and detention and to review detention periods in order to avoid excessive detention of irregular migrants, and in the same vein, to adopt alternative measures to detention. States were requested to adopt concrete measures to prevent the violation of the human rights of migrants while in transit, including at borders checkpoints, and to train public officials to treat migrants respectfully and in accordance with the law, as well as to prosecute any act of violation of the human rights of migrants including, *inter alia*, arbitrary detention, torture and extrajudicial executions, during their transit from their country of origin to the country of destination and *vice versa*. It also urged States to ensure that repatriation mechanisms allowed for the identification and special protection of persons in vulnerable situations, and took into account the principle of the best interest of the child and family reunifica-

tion. Furthermore, the Assembly underlined the right of migrants to return to their country of citizenship, recalling at the same time that States must ensure that their returning nationals were duly received.

On the same date, the General Assembly adopted resolution 63/188 entitled “Respect for the right to universal freedom of travel and the vital importance of family reunification”, in which the General Assembly stressed how family reunification of documented migrants was an important factor in international migration and how remittances by documented migrants to their countries of origin were instrumental in improving the well-being of relatives left behind. The Assembly noted that in certain cases it had been reported that measures had been adopted that increased the restrictions imposed on documented migrants in relation to family reunification and the possibility of sending remittances to their relatives in the country of origin. Therefore, the Assembly called upon all States to guarantee the universally recognized freedom of travel to all foreign nationals legally residing in their territory and reaffirmed that all Governments, in particular those of receiving countries, must recognize the vital importance of family reunification and promote its incorporation into national legislation in order to ensure protection of the unity of families of documented migrants.

(i) Internally displaced persons

Human Rights Council

On 2 June 2008, at the eighth session of the Human Rights Council, the Representative of the Secretary-General on human rights of internally displaced persons presented his report to the Council.²³²

(j) Minorities

Human Rights Council

On 27 March 2008, the Human Rights Council adopted resolution 7/6 entitled “Mandate of the independent expert on minority issues”. The Council commended the independent expert on minority issues for the work that she had undertaken so far, for the important role that she had played in raising the level of awareness of, and in giving added visibility to, the rights of persons belonging to national or ethnic, religious and linguistic minorities, and for her ongoing efforts to promote and protect their rights in order to ensure equitable development and peaceful and stable societies. The Council further decided to extend the mandate of the Independent Expert for a period of three years.

(k) Indigenous issues

(i) *Human rights Council*

During its ninth session, on 18 September 2008, the Human Rights Council adopted resolution 9/7 entitled “Human rights and indigenous people”. The Council welcomed

²³² A/HRC/8/6.

the report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people,²³³ and the report of the United Nations High Commissioner for Human Rights on indigenous issues.²³⁴ The Council requested the expert mechanism on the rights of indigenous peoples to identify proposals and to suggest them by consensus to the Council, for its consideration in 2009, and to prepare a study, to be concluded in 2009, on lessons learned and challenges to achieve the implementation of the right of indigenous peoples to education.

(ii) *General Assembly*

On 18 December 2008, the General Assembly adopted resolution 63/160 entitled “Indigenous issues”, in which it decided to adjust the mandate of the United Nations Voluntary Fund for Indigenous Populations so as to facilitate the participation of representatives of indigenous peoples’ organizations in the expert mechanism established in accordance with Human Rights Council resolution 6/36 of 14 December 2007.

(I) **Terrorism and human rights**

(i) *Human rights Council*

On 27 March 2008, the Human Rights Council adopted resolution 7/7 entitled “Protection of human rights and fundamental freedoms while countering terrorism”. In the resolution, the Council reaffirmed that States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights, refugee and humanitarian law. It reaffirmed its unequivocal condemnation of all acts, methods and practices of terrorism in all its forms and manifestations, wherever and by whomsoever committed, regardless of their motivation, as criminal and unjustifiable. The Council further reaffirmed the obligation of States, in accordance with article 4 of the International Covenant on Civil and Political Rights,²³⁵ to respect that certain rights are non-derogable in all circumstances. The Council acknowledged with appreciation the reports of the Special Rapporteur on the promotion and protection of human rights while countering terrorism submitted to the Council,²³⁶ and the reports of the High Commissioner for Human Rights on the protection of human rights and fundamental freedoms while countering terrorism submitted to the Council,²³⁷ as well as the work to implement the mandate given to her by the Commission on Human Rights in its resolution 2005/80 and the General Assembly in its resolution 60/158.

²³³ A/HRC/9/9.

²³⁴ A/HRC/9/11.

²³⁵ United Nations, *Treaty Series*, vol. 999, p. 171.

²³⁶ A/HRC/6/17 and Corr.1, A/HRC/4/26 and E/CN.4/2006/98.

²³⁷ E/CN.4/2006/94 and A/HRC/4/88.

(ii) *General Assembly*

In its resolution 63/185, entitled “Protection of human rights and fundamental freedoms while countering terrorism”, adopted on 18 December 2008 on the recommendation of the Third Committee, the General Assembly reaffirmed that counter-terrorism measures should be implemented in full consideration of the human rights of persons belonging to minorities and must not be discriminatory on grounds such as race, colour, sex, language, religion or social origin. It also urged States to fully respect *non-refoulement* obligations under international refugee and human rights law and, at the same time, to review, with full respect for these obligations and other legal safeguards, the validity of a refugee status decision in an individual case, if credible and relevant evidence comes to light that indicates that the person in question has committed any criminal acts, including terrorist acts, falling under the exclusion clauses under international refugee law. The Assembly furthermore called upon States not to resort to profiling based on stereotypes founded on grounds of discrimination prohibited by international law, including discrimination on racial, ethnic and/or religious grounds.

(m) **Promotion and protection of human rights**(i) *International cooperation*a. **Human Rights Council**

On 27 March 2008, the Human Rights Council adopted resolution 7/3 entitled “Enhancement of international cooperation in the field of human rights”. The Council reaffirmed that it was one of the purposes of the United Nations and the responsibility of all Member States to promote, protect and encourage respect for human rights and fundamental freedoms through, *inter alia*, international cooperation, and recognized that, in addition to their separate responsibilities to their individual societies, States have a collective responsibility to uphold the principles of human dignity, equality and equity at the global level. The Council considered that that international cooperation in the field of human rights, in conformity with the purposes and principles set out in the Charter of the United Nations and international law, should make an effective and practical contribution to the urgent task of preventing violations of human rights and fundamental freedoms. It further called upon Member States, specialized agencies and intergovernmental organizations to continue to carry out a constructive dialogue and consultations for the enhancement of understanding and the promotion and protection of all human rights and fundamental freedoms, and encouraged non-governmental organizations to contribute actively to this endeavour. The Council took note of the report of the United Nations High Commissioner for Human Rights on the enhancement of international cooperation in the field of human rights.²³⁸

b. **General Assembly**

On 18 December 2008, the General Assembly adopted, on the recommendation of the Third Committee, resolution 63/180 entitled “Enhancement of international coopera-

²³⁸ A/HRC/7/31.

tion in the field of human rights”, in which it reaffirmed that it was one of the purposes of the United Nations and the responsibility of all Member States to promote, protect and encourage respect for human rights and fundamental freedoms through, *inter alia*, international cooperation. In the same resolution, the Assembly called upon Member States, the specialized agencies and intergovernmental organizations to continue to carry out a constructive dialogue and consultations for the enhancement of understanding and the promotion and protection of all human rights and fundamental freedoms.

(ii) *The role of the Ombudsman, mediator and other national human rights institutions in the promotion and protection of human rights*

General Assembly

On 18 December 2008, the General Assembly adopted, on the recommendation of the Third Committee, resolution 63/169 entitled “The role of the Ombudsman, mediator and other national human rights institutions in the promotion and protection of human rights”, in which it recognized the role of the existing Ombudsman, whether male or female, mediator and other national human rights institutions in the promotion and protection of human rights and fundamental freedoms, and in contributing to the effective realization of the rule of law and respect for the principles of justice and equality. Member States were therefore encouraged, *inter alia*, to consider the creation or the strengthening of independent and autonomous Ombudsman, mediator and other national human rights institutions and to give serious consideration to implementing the recommendations and proposals of such institutions, with the aim of addressing claims of the complainants, in accordance with the principles of justice, equality and the rule of law.

On the same date, the General Assembly adopted resolution 63/172 entitled “National institutions for the promotion and protection of human rights”, in which it took note with appreciation of the reports of the Secretary-General on national institutions for the promotion and protection of human rights,²³⁹ and encouraged Member States to establish effective, independent and pluralistic national institutions or to strengthen them for the promotion and protection of human rights. The Assembly recognized the role played by national institutions for the promotion and protection of human rights in the Human Rights Council, including its universal periodic review mechanism and the special procedures, and in the same vein urged the Secretary-General to continue to give high priority to requests from Member States for assistance in the establishment and strengthening of national human rights institutions. The Assembly furthermore welcomed the national institutions website as an important vehicle for the delivery of information to national institutions and also the launch of a database of comparative analysis of procedures and methods of complaint-handling by national human rights institutions.

²³⁹ A/HRC/7/69 and A/63/486.

(iii) *The right to the truth*

Human Rights Council

On 24 September 2008, the Human Rights Council adopted resolution 9/11 entitled “Right to the truth”. The Council recognized the importance of respecting and ensuring the right to the truth so as to contribute to ending impunity and to promote and protect human rights, and welcomed the establishment in several States of specific judicial mechanisms and other non-judicial mechanisms such as truth and reconciliation commissions, that complement the justice system, to investigate violations of human rights and violations of international humanitarian law. In this regard, the Council encouraged the States concerned to disseminate, implement and monitor implementation of the recommendations of non-judicial mechanisms such as truth and reconciliation commissions. Other States were also encouraged to consider establishing specific judicial mechanisms and truth and reconciliation commissions to complement the justice system, to investigate and address gross violations of human rights and serious violations of international humanitarian law. In the same resolution, the Office of the United Nations High Commissioner for Human Rights was requested to prepare a comprehensive study, to be presented to the Council at its twelfth session, on best practices for the effective implementation of this right, including, in particular, practices relating to archives and records concerning gross violations of human rights with a view to creating guidelines on protecting archives and records concerning gross human rights violations, and programmes for the protection of witnesses and other persons involved in trials connected with such violations.

(n) **Persons with disabilities**

(i) *Human Rights Council*

On 27 March 2008, the Human Rights Council adopted resolution 7/9, entitled “Human rights of persons with disabilities”, in which it recognized that disability was an evolving concept and that disability resulted from the interaction between persons with impairments and attitudinal and environmental barriers that hinder their full and effective participation in society on an equal basis with others. It also acknowledged the importance of accessibility to the physical, social, economic and cultural environment, to health, education, information and communication, in enabling persons with disabilities to enjoy all human rights and fundamental freedoms fully. Furthermore, as women and girls with disabilities were often subject to multiple discriminations, the Council emphasized the need to incorporate a gender perspective in all efforts to promote the full enjoyment of human rights and fundamental freedoms by persons with disabilities.

(ii) *General Assembly*

On 18 December 2008, the General Assembly adopted, on the recommendation of the Third Committee, resolution 63/192 entitled “Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto”, in which it welcomed the entry into force of the

Convention on the Rights of Persons with Disabilities²⁴⁰ and the Protocol thereto.²⁴¹ The Assembly further welcomed the holding of the first session of the Conference of States Parties to the Convention on 31 October and 3 November 2008, the establishment of the Committee on the Rights of Persons with Disabilities, and the report of the Secretary-General.²⁴²

On the same day, the General Assembly adopted, also on the recommendation of the Third Committee, resolution 63/150 entitled “Realizing the Millennium Development Goals for persons with disabilities through the implementation of the World Programme of Action concerning Disabled Persons and the Convention on the Rights of Persons with Disabilities”. The Assembly welcomed the report of the Secretary-General on the fifth quinquennial review and appraisal of the World Programme of Action concerning Disabled Persons,²⁴³ and his report on the status of the Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto.²⁴⁴ The Assembly expressed concern about the persistent gap between policy and practice regarding mainstreaming the perspective of persons with disabilities in the work of the United Nations in realizing the Millennium Development Goals, and urged States to involve persons with disabilities on an equal basis with other persons in the formulation of strategies and plans, in particular those of most relevance to them. States were further encouraged to collect and analyse appropriate information, including statistical and research data that were disaggregated by age and sex, on the situation of persons with disabilities, bearing in mind appropriate protection of personal data, for purposes of policy planning, analysis and evaluation that included the perspective of persons with disabilities. States were invited to consider including in country reports in connection with the forthcoming periodic reviews of progress in achieving the Millennium Development Goals a review and evaluation of the impact of development efforts on the rights, well-being and livelihood of persons with disabilities.

(o) Contemporary forms of slavery

Human Rights Council

In its resolution 6/14 of 28 September 2007, the Human Rights Council appointed Ms. Gulnara Shahinian for a three-year period as Special Rapporteur on contemporary forms of slavery, including its causes and consequences. Under this new mandate, replacing the Working Group on Contemporary Forms of Slavery, the Special Rapporteur submitted her first report in 2008.²⁴⁵

²⁴⁰ 61/106, annex I.

²⁴¹ *Ibid.*, annex II.

²⁴² A/63/264 and Corr.1.

²⁴³ A/63/183.

²⁴⁴ A/63/264 and Corr.1.

²⁴⁵ A/HRC/9/20.

(p) **Miscellaneous**

- (i) *Effects of economic reforms policies and foreign debt on the full enjoyment of all human rights, particularly economic, social and cultural rights*

Human Rights Council

On 27 March 2008, the Human Rights Council adopted resolution 7/4 entitled “Mandate of the independent expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights”. The Council took into account the report²⁴⁶ presented by the outgoing holder of the mandate of the independent expert on the effects of economic reform policies and foreign debt on the full enjoyment of all human rights. The Council decided to redefine the mandate of the special thematic procedure and rename it “independent expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights”, and to extend the mandate for a period of three years. The independent expert was requested to explore further, in his or her analytical annual report to the Human Rights Council, the interlinkages with trade and other issues, including HIV/AIDS, when examining the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights and to contribute, as appropriate, to the process entrusted with the follow-up to the International Conference on Financing for Development, with a view to bringing to its attention the broad scope of his or her mandate.

- (ii) *Human rights and unilateral coercive measures*

On 18 December 2008, the General Assembly adopted, on the recommendation of the Third Committee, resolution 63/179 entitled “Human rights and unilateral coercive measures”. Similarly to the Human Rights Council,²⁴⁷ the Assembly urged all States not to adopt any unilateral measures that impeded the full achievement of economic and social development by the population of the affected countries, in particular children and women, that hindered their well-being and that created obstacles to the full enjoyment of their human rights, including the right to an adequate standard of living, the right to health and right to food, and to ensure that food and medicine were not used as tools for political pressure. The Assembly strongly objected to the extraterritorial nature of such measures which, in addition, threatened the sovereignty of States, and called upon all Member States to neither recognize those measures nor to apply them, as well as to take administrative or legislative measures to counteract the extraterritorial applications or effects of unilateral coercive measures.

²⁴⁶ A/HRC/7/9.

²⁴⁷ On 24 September 2008, the Human Rights Council adopted its resolution 9/4 entitled “Human Rights and unilateral coercive measures”.

(iii) *Human rights and climate change*

The Human Rights Council adopted, on 28 March 2008, resolution 7/23 entitled “Human rights and climate change”, in which it expressed its concern that climate change posed an immediate and far-reaching threat to people and communities around the world and had implications for the full enjoyment of human rights. The Council recognized that climate change was a global problem and that it required a global solution, and stated that the United Nations Framework Convention on Climate Change remained the comprehensive global framework to deal with climate change issues. Also recognizing that human beings were at the centre of concerns for sustainable development and that the right to development must be fulfilled so as to equitably meet the development and environmental needs of present and future generations, the Council noted that the world’s poor were especially vulnerable to the effects of climate change, in particular those concentrated in high-risk areas, and that they tended to have more limited adaptation capacities. The Council decided in the same resolution to request the Office of the United Nations High Commissioner for Human Rights, in consultation with and taking into account the views of States and other relevant actors and stakeholders, to conduct, within existing resources, a detailed analytical study on the relationship between climate change and human rights, to be submitted to the Council.

6. Women^{248,249}

(a) Commission on the Status of Women

The Commission on the Status of Women was established by the Economic and Social Council in its resolution 11 (II) of 21 June 1946 as a functional commission to deal with questions relating to gender equality and the advancement of women. It is the principal global policy-making body in this field and prepares recommendations and reports to the Council on the promotion of women’s rights in political, economic, civil, social and educational fields.

The Commission held its fifty-second session from 25 February to 7 March and 13 March 2008 in New York. In 2008, the Commission was mandated, in the multi-year programme of work adopted by the Economic and Social Council in its resolution 2006/9, to consider as its priority the theme “Financing for gender equality and the empowerment of women”.²⁵⁰

During its fifty-second session, the Commission adopted a number of resolutions²⁵¹ to be brought to the attention of the Economic and Social Council dealing with, *inter alia*, the release of women and children taken hostage, including those subsequently imprisoned, in

²⁴⁸ See also the Human rights section of the present chapter.

²⁴⁹ For a complete list of signatories and States parties to international instruments relating to women that are deposited with the Secretary-General, see the chapters relating to human rights and the status of women, in *Multilateral Treaties Deposited with the Secretary-General*, available at www.treaties.un.org/Pages/ParticipationStatus.aspx.

²⁵⁰ For the report of the Commission on the status of Women on its fifty-second session, see *Official Records of the Economic and Social Council, 2008 Supplement No. 7, E/2008/27-E/CN.6/2008/11*.

²⁵¹ Resolutions 52/1, 52/2, 52/3, 52/4, 52/101, and 52/102.

armed conflicts; ending female genital mutilation; the strengthening of the International Research and Training Institute for the Advancement of Women; women, the girl child and HIV/AIDS; and the future work of the Working Group on Communications.

In its resolution 52/1, entitled “Release of women and children taken hostage, including those subsequently imprisoned, in armed conflicts”, the Commission, *inter alia*, strongly urged all parties to armed conflicts to respect fully the norms of international humanitarian law and to take all necessary measures for the protection of the civilian population including measures to prevent and combat acts of hostage-taking, and to release immediately all women and children who have been taken hostage. The Commission stressed both the need to put an end to impunity and the responsibility of all States to prosecute or bring to justice in accordance with international law those responsible for war crimes, including hostage-taking, and requested the Secretary-General and all relevant international organizations to use their capabilities and undertake efforts to facilitate the immediate release of civilian women and children who have been taken hostage.

In its resolution 52/2, entitled “Ending female genital mutilation”, the Commission welcomed the report of the Secretary-General on ending female genital mutilation and the recommendations contained therein.²⁵² It also welcomed the in-depth study of the Secretary-General on all forms of violence against women²⁵³ and took note of the report of the independent expert for the United Nations study on violence against children.²⁵⁴ The Commission welcomed the adoption of the call for accelerated action on the implementation of the Plan of Action towards Africa Fit for Children (2008-2012),²⁵⁵ and urged States to provide education and training on the rights of girls to families, community leaders and members of all professions relevant to the protection and empowerment of girls. Furthermore, States were urged to review, revise, amend or abolish all laws, regulations, policies, practices and customs, in particular female genital mutilation, and were called upon to develop policies, protocols and rules to ensure the effective implementation of national legislative frameworks on eliminating discrimination and violence against girls.

(b) General Assembly

On 18 December 2008, the General Assembly adopted, on the recommendation of the Third Committee, a number of resolutions dealing with the rights of women, which are highlighted below.

In its resolution 63/155, entitled “Intensification of efforts to eliminate all forms of violence against women”, the General Assembly, *inter alia*, took note with appreciation of the report of the Secretary-General on the intensification of efforts to eliminate all forms of violence against women,²⁵⁶ as well as the report of the Secretary-General on eliminating rape and other forms of sexual violence in all their manifestations, including in conflict and

²⁵² E/CN.6/2008/3.

²⁵³ A/61/122 and Add.1, and Add.1/Corr.1.

²⁵⁴ See A/62/209.

²⁵⁵ A/62/653, annex.

²⁵⁶ A/63/214 and Corr.1.

related situations.²⁵⁷ The second thematic report on violence against women, its causes and consequences, submitted by the Special Rapporteur to the Human Rights Council in 2008 was also welcomed by the Assembly.²⁵⁸ In addition, the Assembly urged States to continue to develop their national strategy and a more systematic, comprehensive, multisectoral and sustained approach aimed at eliminating all forms of violence against women, including by achieving gender equality and the empowerment of women, and by using best practices to end impunity and a culture of tolerance towards violence against women, *inter alia*, in the fields of legislation, prevention, law enforcement, victim assistance and rehabilitation. The Secretary-General was requested to submit to the General Assembly, at its sixty-fourth session, a report with information provided by the United Nations bodies, funds and programmes and the specialized agencies on their follow-up activities to implement the General Assembly resolutions 61/143 and 62/133, and the present resolution, including on their assistance to States in their efforts to eliminate all forms of violence against women. The Secretary-General was further requested to submit to the General Assembly at its sixty-fifth session a report with information provided by States on their follow-up activities to implement the present resolution.

On 18 December 2008, the General Assembly adopted, on the recommendation of the Third Committee, resolution 63/157, entitled “Future operation of the International Research and Training Institute for the Advancement of Women”. In the resolution, the Assembly requested the International Research and Training Institute for the Advancement of Women to, *inter alia*, coordinate further its activities; to develop its programme of work in collaboration with other relevant United Nations entities; and to collaborate with the United Nations system, national machinery, non-governmental organizations and the private sector in promoting international cooperation to foster the empowerment of women and gender equality. The Institute was invited to continue, in close cooperation with other relevant United Nations bodies, to promote and undertake research and training programmes on gender mainstreaming, in the context of the Millennium Development Goals, the implementation of the Convention on the Elimination of All Forms of Discrimination against Women²⁵⁹ and the Beijing Declaration and Platform for Action,²⁶⁰ as well as the commitments made at the twenty-third special session of the General Assembly.²⁶¹ The Assembly requested the Institute to continue to assist countries in promoting and supporting the political participation and economic and social advancement of women through training programmes.

In its resolution 63/159, entitled “Follow-up to the Fourth World Conference on Women and full implementation of the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly”, the General Assembly, *inter alia*, took note with appreciation of the report of the Secretary-General on this item²⁶² and recognized that the implementation of the Beijing Declaration and Platform for Action and

²⁵⁷ A/63/216 and Corr.1.

²⁵⁸ A/HRC/7/6.

²⁵⁹ United Nations, *Treaty Series*, vol. 1249, No 20378.

²⁶⁰ Report of the Fourth World Conference on Women, Beijing, 4–15 September 1995 (United Nations publication, Sales No. E.96.IV.13), chap. I, resolution 1, annexes I and II.

²⁶¹ Resolution S-23/3, annex.

²⁶² A/63/217.

the fulfilment of the obligations under the Convention on the Elimination of All Forms of Discrimination against Women²⁶³ were mutually reinforcing in achieving gender equality and the empowerment of women. The Assembly reaffirmed that States had an obligation to exercise due diligence to prevent violence against women and girls, to provide protection to the victims and investigate, to prosecute and punish the perpetrators of violence against women and girls, and that failure to do so violated and impaired or nullified the enjoyment of their human rights and fundamental freedoms. Furthermore, the Assembly welcomed the work of the Commission on the Status of Women in reviewing the implementation of the Beijing Declaration and Platform for Action, and noted with appreciation the agreed conclusions on financing for gender equality and the empowerment of women, adopted by the Commission at its fifty-second session.²⁶⁴ The Assembly called upon Governments, in this regard, to promote awareness and information campaigns on women's rights and the responsibility to respect them, including in rural areas, and to encourage men and boys to speak out strongly against violence against women.

7. Humanitarian matters

(a) Economic and Social Council

On 25 July 2008, the Economic and Social Council adopted resolution 2008/36 entitled "Strengthening of the coordination of emergency humanitarian assistance of the United Nations", in which it took note of the report of the Secretary-General on this item.²⁶⁵ It also welcomed the decision to consider the theme "Building capabilities and capacities at all levels for timely humanitarian assistance, including disaster risk reduction" at the humanitarian affairs segment of the substantive session the General Assembly in 2008. The Council furthermore took note of the section on the use of foreign military assets in disaster relief contained in the report of the Secretary-General on this item,²⁶⁶ and emphasized at the same time the fundamentally civilian character of humanitarian assistance.

(b) General Assembly

On 11 December 2008, the General Assembly adopted, without reference to a Main Committee, three resolutions dealing with humanitarian matters.

In resolution 63/139, entitled "Strengthening of the coordination of emergency humanitarian assistance of the United Nations", the Assembly urged Member States, the United Nations and other relevant organizations to take further steps to provide coordinated emergency response to food and nutrition needs of affected populations, and to ensure, at the same time, that these measures would be supportive of national strategies and programmes aimed at improving food security. As the Economic and Social Council did in its resolution 2008/36 on the same item, the Assembly encouraged States to create an

²⁶³ United Nations, *Treaty Series*, vol. 1249, No. 20378.

²⁶⁴ See *Official Records of the Economic and Social Council, 2008, Supplement No. 7 (E/2008/27)*, chapter I, section A; see also Economic and Social Council decision 2008/235.

²⁶⁵ A/63/81-E/2008/71.

²⁶⁶ A/63/81-E/2008/71, paras. 50-55.

enabling environment for the capacity building of local authorities and national and local non-governmental and community-based organizations in order to ensure better preparedness in providing humanitarian assistance. Furthermore, the United Nations humanitarian organizations were called upon to strengthen the evidence base for humanitarian assistance by further developing common mechanisms to improve the quality, transparency and reliability of humanitarian needs assessments, and to assess their performance in assistance and to ensure the most effective use of humanitarian resources. The Assembly also decided to designate 19 August as World Humanitarian Day in order to contribute to increasing public awareness about humanitarian assistance activities worldwide and the importance of international cooperation in this regard.

In resolution 63/138, entitled “Safety and security of humanitarian personnel and protection of United Nations personnel”, the General Assembly recalled that the primary responsibility under international law for the security and protection of humanitarian personnel and United Nations and associated personnel lay with the Government hosting a United Nations operation conducted under the Charter of the United Nations or its agreements with relevant organizations. It further recalled the inclusion of attacks intentionally directed against personnel involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter as a war crime in the Rome Statute of the International Criminal Court.²⁶⁷ The Assembly further welcomed the report of the Secretary-General,²⁶⁸ and urged all States to take the necessary measures to ensure the safety and security of humanitarian personnel and United Nations and associated personnel, and to respect and ensure respect for the inviolability of United Nations premises. States were also called upon to consider becoming parties to the Optional Protocol to the Convention on the Safety of United Nations and Associated Personnel²⁶⁹ and to put in place appropriate national legislation, as necessary, to enable its effective implementation. The Assembly welcomed ongoing efforts to promote and enhance security consciousness within the organizational culture of the United Nations system, urged the Secretary-General to continue to intensify such efforts at all levels of leadership and staff, and took note of the report entitled “Towards a Culture of Security and Accountability” of the Independent Panel on Safety and Security of United Nations Personnel and Premises Worldwide.²⁷⁰ The Secretary-General was requested, *inter alia*, through the Inter-Agency Security Management Network, to continue to promote increased cooperation and collaboration among United Nations departments, organizations, funds and programmes and affiliated international organizations in the planning and implementation of measures aimed at improving staff security, training and awareness.

In resolution 63/141, entitled “International cooperation on humanitarian assistance in the field of natural disasters, from relief to development”, the General Assembly called upon States to fully implement the Hyogo Declaration²⁷¹ and the Hyogo Frame-

²⁶⁷ United Nations, *Treaty Series*, vol. 2187, No. 38544.

²⁶⁸ A/63/305 and Corr.1.

²⁶⁹ A/60/518.

²⁷⁰ “Towards a Culture of Security and Accountability” of the Independent Panel on Safety and Security of United Nations Personnel and Premises Worldwide, 9 June 2008, available at www.un.org/News/dh/infocus/terrorism/PanelOnSafetyReport.pdf.

²⁷¹ A/CONF.206/6 and Corr.1, chapter I, resolution 1.

work 2005 2015: Building the Resilience of Nations and Communities to Disasters.²⁷² The Assembly took note of the report of the Secretary-General,²⁷³ and stressed the importance of strengthening international cooperation, particularly through the effective use of multilateral mechanisms, in the timely provision of humanitarian assistance, including the provision of adequate resources. It requested the United Nations system to improve its coordination of disaster recovery efforts, *inter alia*, by strengthening institutional, coordination and planning efforts in disaster recover, in support of national authorities, and called upon Member States, and invited the private sector and all concerned individuals, to consider increasing voluntary contributions to the Central Emergency Response Fund.

On 18 December 2008, the General Assembly adopted, on the recommendation of the Third Committee, resolution 63/147 entitled “New international humanitarian order”, in which the Assembly urged Governments, intergovernmental organizations and civil society, including non-governmental organizations, to extend cooperation and support to the efforts of the Secretary-General in the humanitarian field, *inter alia*, through the relevant United Nations agencies and organizational mechanisms set up to address the assistance and protection needs of affected populations as well as the safety and security of United Nations and other humanitarian workers.

8. Environment

(a) Economic and Social Council

On July 24 2008, the Economic and Social Council adopted resolution 2008/25 entitled, “International cooperation in preventing and combating illicit international trafficking in forest products, including timber, wildlife and other forest biological resources”. In this resolution, the Council encouraged Member States to continue to provide the United Nations Office on Drugs and Crime with information on measures taken pursuant to the Commission on Crime Prevention and Criminal Justice resolution 16/1, in conjunction with the report of the Open-ended Expert Group on the subject. The Expert Group placed emphasis on the need for a holistic, comprehensive and multicultural approach to preventing and combating illicit international trafficking in forest products.

The Council also adopted resolution 2008/13 entitled “Protection against products harmful to health and environment”, in which the Council invited the United Nations Environment Programme and the World Health Organization to continue to update the consolidated list of products whose consumption and/or sale have been banned with respect to chemicals and pharmaceuticals respectively. Both organizations were invited to report to the Council during its substantive session in 2010.

²⁷² *Ibid.*, resolution 2.

²⁷³ A/63/277.

(b) General Assembly

On 19 December 2008, the General Assembly adopted, on the recommendation of the Second Committee, twelve resolutions related to the environment, of which four are highlighted below.²⁷⁴

In the area of sustainable development, the Assembly recognized, in its resolution 63/216 entitled “International Strategy for Disaster Reduction”, the clear relationship between development and disaster risk reduction, response and recovery. The Assembly consequently underlined the need for continued efforts in both directions. In this context, the Assembly stressed the importance of advancing the implementation of the Plan of Implementation of the World Summit on Sustainable Development²⁷⁵ and its relevant provisions and noted the progress made in the development of regional mechanisms for disaster reduction by member States. The Assembly further called upon the international community to increase its efforts to fully implement the commitments of the Hyogo Declaration and the Hyogo Framework for Action and to continue providing adequate financial contributions to the United Nations Trust Fund for Disaster Reduction.

In its resolution 63/217 entitled “Natural disasters and vulnerability”, the Assembly stressed that, in order to reduce natural hazard vulnerability, including geological and hydrometeorological events, closer and more systematic cooperation, and information-sharing on disaster preparedness among the scientific and academic communities including disaster managers at all levels, should be strengthened. The Assembly further emphasized the integration of risk assessments into disaster risk reduction programmes at national and local levels.

In its resolution 63/219, entitled “Convention on Biological Diversity”, the Assembly urged all Member States to fulfil their commitments to significantly reduce the rate of loss of biodiversity by 2010, and emphasized that this would require an appropriate focus on the loss of biodiversity in their relevant policies and programmes as well as continued financial and technical assistance to developing countries. The Assembly stressed the importance of private-sector engagement in the implementation of the objectives of the Convention as well as the achievement of the 2010 target, and invited businesses to align their policies and practices more explicitly with the objectives of the Convention.

In its resolution 63/220, entitled “Report of the Governing Council of the United Nations Environment Programme on its tenth special session”, the Assembly reaffirmed the role of the United Nations Environment Programme as the leading global environmental authority, including in the area of sustainable development needs of developing countries. The Assembly also took note of the organization’s finding that current environmental degradation poses a serious challenge to human wellbeing and sustainable development, in view of unprecedented environmental changes at all levels.²⁷⁶ The potentially adverse

²⁷⁴ See also General Assembly resolutions 63/209, 63/210, 63/211, 63/212, 63/213, 63/214, 63/215 and 63/218.

²⁷⁵ *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), chap. I, resolution 2, annex.

²⁷⁶ *Global Environment Outlook: Environment for Development* (United Nations publication, Sales No. E.07.III.D.19).

impact of the current global crisis on sustainable development was also noted. The Assembly consequently invited governments to increase their contributions to the Environment Fund and emphasized the need to mobilize adequate funding to address the Millennium Development Goals and other international development goals.

9. Law of the Sea

(a) Reports of the Secretary-General

The Secretary-General, in his reports²⁷⁷ to the General Assembly at its sixty-third and sixty-fourth sessions under the agenda item entitled “Oceans and the law of the sea” provided an overview of developments relating to the implementation of the United Nations Convention on the Law of the Sea²⁷⁸ (“the Convention”) and the work of the Organization, its specialized agencies and other institutions in the field of ocean affairs and the law of the sea during the year 2008. The reports contain updates on the status of the Convention and its implementing Agreements, as well as on declarations and statements made by States under articles 287, 298 and 310 of the Convention.

In relation to the topic of maritime space, the reports provided an overview of State practice, maritime claims and delimitation of maritime zones.²⁷⁹

The reports also outlined the work carried out in 2008 by the three bodies established by the Convention, namely, the International Seabed Authority (ISA), the International Tribunal for the Law of the Sea (ITLOS)²⁸⁰ and the Commission on the Limits of the Continental Shelf (CLCS).

The ISA held its fourteenth session, during which its Council continued the consideration of the draft regulations on prospecting and exploration for polymetallic sulphides in the Area. At the same session, the Legal and Technical Commission of the ISA continued its examination of the draft regulations on prospecting and exploration for cobalt-rich ferromanganese crusts and started the consideration of a proposal relating to the criteria for the establishment of preservation reference zones in the Clarion-Clipperton Zone.²⁸¹

In 2008, the CLCS held its twenty-first and twenty-second sessions,²⁸² during which it continued the examination of the submissions made, respectively, by Australia, New Zealand, Norway in the North East Atlantic and the Arctic, France in respect of the areas of French Guiana and New Caledonia, as well as the joint submission made by France, Ireland, Spain and the United Kingdom of Great Britain and Northern Ireland in the area of the Celtic Sea and the Bay of Biscay. At the twenty-first session, the CLCS began the consideration of the submission made by Mexico in respect of the western polygon in the

²⁷⁷ A/63/63/Add.1, A/64/66, A/64/66/Add.1, and A/64/66/Add.2.

²⁷⁸ United Nations, *Treaty Series*, vol. 1833, p. 3.

²⁷⁹ See A/63/63/Add.1, Chapter III, A/64/66, Chapter III, and A/64/66/Add.1, Chapter III.

²⁸⁰ For the work of the Tribunal, see chapter VII B of this publication.

²⁸¹ For more information on the thirteenth session of the ISA see A/63/63/Add.1, Chapter III, section E.

²⁸² For more information on the twenty-first and twenty-second sessions of the CLCS see the reports of the Secretary-General, A/63/63/Add.1, chapter III, section D and A/64/66/Add.1, chapter III, section D, as well as CLCS/58 and CLCS/60.

Gulf of Mexico and adopted its recommendations in regard to the submission made by Australia. At the twenty-second session, the CLCS began the consideration of the submissions made, respectively, by Barbados and by the United Kingdom of Great Britain and Northern Ireland in respect of Ascension Island, and adopted its recommendations in regard to the submission made by New Zealand. In 2008, the CLCS also received submissions made, respectively, by Indonesia in respect of North West of Sumatra Island, Japan, Suriname, Myanmar as well as the joint submission made by the Republic of Mauritius and the Republic of Seychelles in the region of the Mascarene Plateau.

The Secretary-General's reports paid special attention to maritime security and safety, the topic chosen for the ninth meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea, by, *inter alia*, providing an overview of the legal regimes for maritime security and safety, describing the measures taken to address specific threats to maritime security and recent developments in maritime safety and highlighting current challenges in maritime security and safety.²⁸³ The ninth meeting was held in New York from 23 to 27 June 2008.²⁸⁴

The reports of the Secretary-General also addressed developments relating to international shipping activities;²⁸⁵ people at sea;²⁸⁶ marine science and technology;²⁸⁷ conservation and management of marine living resources;²⁸⁸ marine biological diversity;²⁸⁹ protection and preservation of the marine environment and sustainable development;²⁹⁰ climate change;²⁹¹ international cooperation and coordination,²⁹² including progress regarding the "assessment of assessments"²⁹³ launched by General Assembly resolution 60/30 as the start-up phase of the regular process for the global reporting and assessment of the state of the marine environment, including socio-economic aspects; and the capacity-building activities of the Division for Ocean Affairs and the Law of the Sea.²⁹⁴

The Secretary-General reported also on the settlement of disputes relating to law of the sea matters by the ITLOS²⁹⁵ and the International Court of Justice.²⁹⁶

²⁸³ See A/63/63, chapter V.

²⁸⁴ See A/63/174.

²⁸⁵ See A/63/63/Add.1, chapter IV; A/64/66/Add.1, chapter V; see also, for the work of the International Maritime Organization, section 6 of chapter 3 B of this publication.

²⁸⁶ See A/63/63/Add.1, chapter V; A/64/66/Add.1, chapter VI; see also, for the work of the International Labour Organization, section 2 of chapter 3 B of this publication.

²⁸⁷ See A/63/63/Add.1, chapter VII; A/64/66/Add.1, chapter VIII; A/63/63, chapter VI.

²⁸⁸ See A/63/63/Add.1, chapter VIII; A/64/66/Add.1, chapter IX.

²⁸⁹ See A/63/63/Add.1, chapter IX, chapter VIII; A/64/66/Add.1, chapter X; A/64/66/Add.2.

²⁹⁰ See A/63/63/Add.1, chapter X; A/64/66/Add.1, chapter IX.

²⁹¹ See A/63/63/Add.1, chapter XI; A/64/66/Add.1, chapter XII.

²⁹² See A/63/63/Add.1, chapter XIII; A/64/66/Add.1, chapter XIV; A/63/63, chapter XII.

²⁹³ See A/63/63/Add.1, chapter XIII.B; A/64/65/Add.1, chapter XIV.B.

²⁹⁴ See A/63/63/Add.1, chapter XIV; A/64/66/Add.1, chapter XV.

²⁹⁵ Add see A/64/66/Add.1, chapter X, section B. For more information on the work of the International Tribunal for the Law of the Sea, see chapter VII B of this publication.

²⁹⁶ Add see A/63/63/Add.1, chapter X, section A and A/64/66/Add.1, chapter X, section A. For more information on the work of the International Court of Justice, see section 17 of this chapter, and chapter VII A of this publication.

With respect to marine biological diversity, the report included information on the second meeting of the *Ad Hoc* Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction, which met from 28 April to 2 May 2008, in accordance with General Assembly resolutions 61/222 and 62/215. The outcome of the meeting consisted of a joint statement of the Co-Chairpersons,²⁹⁷ which provided a summary of key issues, ideas and proposals raised during the meeting under the various agenda items, as well as some concluding remarks based on their assessment of the discussions. The meeting addressed, *inter alia*: marine genetic resources, including the relevant legal regime in areas beyond national jurisdiction in accordance with the Convention, and whether there was a governance or regulatory gap, and if so, how it should be addressed.

In his report to the General Assembly on sustainable fisheries,²⁹⁸ the Secretary-General provided an overview on steps and initiatives taken or recommended by the international community to improve the conservation and management of fishery resources and other marine living resources with a view to achieving sustainable fisheries and protecting marine ecosystems and biodiversity. The report emphasized the importance of the full implementation by States of all international fishery instruments, whether legally binding or voluntary, which promote the conservation and management and sustainable use of marine living resources. Special attention was given to the implementation of the 1995 United Nations Fish Stocks Agreement. The report also underscored the importance of cooperation among States, directly or through subregional and regional fisheries management organizations or arrangements, to address unsustainable fishing practices and promote sustainable fisheries in areas beyond national jurisdiction, including through implementing their responsibilities as flag States, improving governance of such organizations or arrangements and cooperating in the establishment of new organizations or arrangements where none exist. Special emphasis was further given to international cooperation in enhancing capacity-building and assistance to developing States, as well as the importance of cooperation and coordination within the United Nations system in addressing marine issues.

The Secretary-General also reported on the seventh round of Informal Consultations of States Parties to the United Nations Fish Stocks Agreement,²⁹⁹ which was held in New York on 11 and 12 March 2008, in accordance with paragraph 29 of General Assembly resolution 62/177 of 18 December 2007.³⁰⁰

The Informal Consultations were entrusted by the General Assembly to discuss the implementation of the Agreement at the subregional, regional and global level, taking into consideration the outcome of the Review Conference as regards proposed means of strengthening the implementation of the Agreement, promoting wider participation in the Agreement and making any appropriate recommendations to be considered by the General Assembly. Discussion focused on measures taken by States since the 2006 Review Confer-

²⁹⁷ See A/63/79.

²⁹⁸ See A/63/128.

²⁹⁹ 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, 4 August 1995. United Nations, *Treaty Series*, vol. 2167, p. 3.

³⁰⁰ See A/63/63/Add.1, chapter II.C.

ence to further implement the Agreement; including measures aimed at: (a) enhancing the conservation and management of straddling fish stocks and highly migratory fish stocks; (b) strengthening of monitoring, control, surveillance and enforcement in the context of combating illegal, unreported and unregulated (IUU) fishing; (c) providing capacity-building to developing States pursuant to part VII of the Agreement; (d) promoting wider participation in the Agreement; and (e) initiating preparatory work for the resumption of the Review Conference.

At the end of the session, States agreed to recommend to the General Assembly, *inter alia*, the following:

(a) To request the Secretary-General to resume in 2010 the Review Conference convened pursuant to article 36 of the Agreement and to begin the necessary preparatory work, and adopt budgetary decisions in this regard; and

(b) To request the Secretary-General to convene an eighth round of Informal Consultations in 2009 for a duration of at least four days to consider, *inter alia*, promoting a wider participation in the Agreement through a continuing dialogue and initial preparatory work for the resumption of the Review Conference, and to make any appropriate recommendation to the General Assembly.

(b) Consideration by the General Assembly

(i) *Oceans and law of the sea*

The General Assembly commenced its consideration of the agenda item “Oceans and the law of the sea” on 4 December 2008. On 5 December 2008, the General Assembly, without reference to a Main Committee, adopted resolution 63/111 entitled “Oceans and the law of the sea”.

The resolution is divided into 17 sections and covers a range of ocean issues, such as the implementation of the United Nations Convention on the Law of the Sea and related agreements and instruments; capacity-building; the Meeting of States Parties; peaceful settlement of disputes; the Area; effective functioning of the International Seabed Authority and the International Tribunal for the Law of the Sea; the continental shelf and the work of the Commission on the Limits of the Continental Shelf; maritime safety and security and flag State implementation; marine environment and marine resources; marine biodiversity; marine science; the regular process for global reporting and assessment of the state of the marine environment, including socio-economic aspects; the open-ended informal consultative process on oceans and the law of the sea; coordination and cooperation; and the activities of the Division for Ocean Affairs and the Law of the Sea.

In relation to maritime safety and security, the Assembly recalled that all actions taken to combat threats to maritime security must be in accordance with international law, including the principles embodied in the Charter and the United Nations Convention on the Law of the Sea. It also called upon States to take appropriate steps under their national law to facilitate the apprehension and prosecution of those who are alleged to have committed acts of piracy, and urged them, in cooperation with the International Maritime Organization, to actively combat piracy and armed robbery at sea by adopting measures and national legislation, among others. The Assembly further noted the adop-

tion by the Security Council of resolutions 1816 (2008) of 2 June 2008 and 1838 (2008) of 7 October 2008, and also noted that the authorization in resolution 1816 (2008) and the provisions in resolution 1838 (2008) apply only to the situation in Somalia and do not affect the rights, obligations or responsibilities of Member States under international law, including any rights or obligations under the Convention, with respect to any other situation, and underscored in particular the fact that they are not to be considered as establishing customary international law. In relation to flag State implementation, the Assembly urged flag States without an effective maritime administration and appropriate legal frameworks to establish or enhance the necessary infrastructure, legislative and enforcement capabilities to ensure effective compliance with, and implementation and enforcement of, their responsibilities under international law and, until such action is taken, to consider declining the granting of the right to fly their flag to new vessels, suspending their registry or not opening a registry, and called upon flag and port States to take all measures consistent with international law necessary to prevent the operation of substandard vessels.

With regard to marine biodiversity, the Assembly noted the discussion on the relevant legal regime on marine genetic resources in areas beyond national jurisdiction in accordance with the United Nations Convention on the Law of the Sea, and called upon States to further consider this issue in the context of the mandate of the *Ad Hoc* Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction. In relation to marine science, the Assembly encouraged the Advisory Body of Experts on the Law of the Sea of the Oceanographic Commission to continue its work on the legal framework, within the context of the Convention, which is applicable to the collection of oceanographic data by other specific means.

(ii) *Sustainable fisheries*

Also on 5 December 2008, the General Assembly adopted, without reference to a Main Committee, resolution 63/112 entitled “Sustainable fisheries, including through the 1995 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 related instruments”. The resolution is divided into 13 sections and addresses a number of issues, including: measures to achieve sustainable fisheries; implementation of the Fish Stocks Agreement; implementation of related fisheries instruments; illegal, unreported and unregulated fishing; monitoring, control, surveillance, compliance and enforcement; fishing overcapacity; large-scale pelagic drift-net fishing; fisheries by-catch and discards; subregional and regional cooperation; responsible fisheries in the marine ecosystem; capacity-building; and cooperation within the United Nations system.

In furtherance of the implementation of the Agreement, the Assembly requested the Secretary-General to convene in 2009 an eighth round of informal consultations of States Parties to the Agreement, and to resume the Review Conference on the Agreement, in New York in 2010.

In relation to illegal, unreported and unregulated fishing, the Assembly reaffirmed the need to strengthen, where necessary, the international legal framework for intergov-

ernmental cooperation, in particular at the subregional and regional levels, in the management of fish stocks and in combating illegal, unreported and unregulated fishing, in a manner consistent with international law. It also urged enhanced action consistent with international law, including cooperation and coordination, to eliminate illegal, unreported and unregulated fishing by vessels flying “flags of convenience”, to require that a “genuine link” be established between States and fishing vessels flying their flags, and to clarify the role of the “genuine link” in relation to the duty of States to exercise effective control over such vessels. The Assembly noted the concerns about possible connections between international organized crime and illegal fishing in certain regions of the world, and encouraged States, including through the appropriate international forums and organizations, to study the causes and methods of, and contributing factors to, illegal fishing to increase knowledge and understanding of those possible connections, and to make the findings publicly available, bearing in mind the distinct legal regimes and remedies under international law applicable to illegal fishing and international organized crime.

With regard to regional and subregional cooperation, the Assembly encouraged the development of regional guidelines for States to use in establishing sanctions for non-compliance by vessels flying their flag and by their nationals, to be applied in accordance with national law, that are adequate in severity for effectively securing compliance, deterring further violations and depriving offenders of the benefits deriving from their illegal activities, as well as in evaluating their systems of sanctions to ensure that they are effective in securing compliance and deterring violations.

(c) Piracy and armed robberies against ships off the coast of Somalia

In response to a considerable increase in the number of incidents of piracy and armed robbery off the coast of Somalia, a number of United Nations entities, including the Security Council, the General Assembly and the International Maritime Organization adopted measures for the repression of such acts.³⁰¹

10. Crime prevention and criminal justice³⁰²

The second session of the Conference of the States parties to the United Nations Convention against Corruption³⁰³ was held in Nusa Dua, Indonesia, from 28 January to 1 February 2008.³⁰⁴ The fourth session of the Conference of the Parties to the United Nations Con-

³⁰¹ See further section 2 (g) of this chapter.

³⁰² This section covers the sessions of the General Assembly, the Economic and Social Council and the Commission on Crime Prevention and Criminal Justice. Selected resolutions and decisions are highlighted. Resolutions recommending the adoption of subsequent resolutions by another organ are covered. For more detailed information and documents regarding this topic generally, see the website of the United Nations Office on Drugs and Crimes at <http://www.unodc.org>.

³⁰³ United Nations, *Treaty Series*, vol. 2349, p. 41.

³⁰⁴ For the decisions and resolutions of the Conference, see <http://www.unodc.org/unodc/en/treaties/CAC/CAC-COSP.html>.

vention Against Transnational Organized Crime³⁰⁵ and its Protocols³⁰⁶ was held in Vienna from 8 to 17 October 2008.³⁰⁷

(a) Commission on Crime Prevention and Criminal Justice

The Commission on Crime Prevention and Criminal Justice (CCPCJ) was established by the Economic and Social Council in its resolution 1992/1 of 6 February 1992 as a functional commission to deal with a broad scope of policy matters in this field, including combating national and transnational crime, including organized crime, economic crime and money laundering; promoting the role of criminal law in environmental protection, crime prevention in urban areas, including juvenile crime and violence; and improving the efficiency and fairness of criminal justice administration systems. Aspects of these principal themes are selected for discussion at each of its annual sessions. The Commission also provides substantive and organizational direction for the quinquennial United Nations Congress on Crime Prevention and Criminal Justice.

The seventeenth session of the Commission on Crime Prevention and Criminal Justice was held in Vienna on 30 November 2007 and was reconvened from 14 to 18 April 2008. During the session, the Commission provided policy guidance and direction to the United Nations Office on Drugs and Crime (UNODC) and held a thematic discussion on aspects of violence against women. In its annual report,³⁰⁸ CCPCJ brought to the attention of the Economic and Social Council its resolution 17/1 entitled “Efforts in the fight against trafficking in persons”. In the said resolution, CCPCJ welcomed the Vienna Forum to Fight Human Trafficking, held from 13 to 15 February 2008, as a part of the awareness-raising efforts to fight human trafficking and requested UNODC to ensure that the Global Initiative to Fight Human Trafficking was carried out as a technical assistance project.

(b) Economic and Social Council

On 24 July 2008, following the submission by the Commission on Crime Prevention and Criminal Justice of draft resolutions on this item, the Economic and Social Council adopted three resolutions which are highlighted below.

In resolution 2008/23, entitled “Protection against trafficking in cultural property”, the Council encouraged Member States asserting State ownership of cultural property to consider means of issuing statements of such ownership with the view to facilitating the

³⁰⁵ United Nations, *Treaty Series*, vol. 2225, p. 209.

³⁰⁶ 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, contained in A/55/383; 2000 Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, contained in A/55/383; and 2001 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, contained in A/55/383/Add.2.

³⁰⁷ For the decisions of the Conference, see <http://www.unodc.org/unodc/en/treaties/ctoc-cop-session4-decisions.html>.

³⁰⁸ For the report on the seventeenth session of CCPCJ, see E/CN.15/2008/22.

enforcement of property claims in other States. The Council also urged Member States and relevant institutions to fully implement mechanisms to strengthen international cooperation, including mutual assistance for the prevention and prosecution of crime against cultural property that forms part of the cultural heritage of peoples, and to ratify and implement the relevant international instruments. Furthermore, Member States were encouraged to introduce appropriate legislation, in particular procedures for the seizure, return or restitution of cultural property, and to take national initiatives for the protection of cultural property.

In resolution 2008/24, entitled “Strengthening prevention of urban crime: an integrated approach”, the Council encouraged Member States to adopt and strengthen effective urban crime prevention responses, as well as to integrate crime prevention into all relevant social and economic policies and programmes in order to address the conditions in which crime and violence could emerge. The Council also requested UNODC to explicitly address the crime prevention component in its programme of work and reporting, including good practices that integrate crime prevention and criminal justice.

The Council also adopted resolution 2008/25, entitled “International cooperation in preventing and combating illicit international trafficking in forest products, including timber, wildlife and other forest biological resources”. In the resolution, the Council noted the report of the meeting of the Open-ended Expert Group on International Cooperation in Preventing and Combating Illicit International Trafficking in Forest Products, including Timber, Wildlife and Other Forest Biological Resources, held in Jakarta from 26 to 28 March 2008.³⁰⁹ The Council requested the Executive Director of UNODC to make available the text of the present resolution and the report of the Open-ended Expert Group to the Conference of the Parties to the United Nations Convention against Transnational Organized Crimes at its fourth session. The Executive Director of UNODC was also requested to report on the implementation of the present resolution and to provide a summary of the mandates and the work of other relevant organizations in this area to CCPCJ at its eighteenth session.

Further, on 25 July 2008, without reference to a Main Committee, the Economic and Social Council adopted resolution 2008/33, entitled “Strengthening coordination of the United Nations and other efforts in fighting trafficking in persons”. CCPCJ brought to the attention of the Council its resolution 17/1 entitled “Efforts in the fight against trafficking in persons”,³¹⁰ which underlined the need to continue to work towards a comprehensive and coordinated approach to the problem of human trafficking through the appropriate national, regional and international mechanisms. In its resolution, the Council welcomed the work carried out under the United Nations Global Initiative to Fight Human Trafficking and encouraged UNODC to continue to cooperate with relevant international organizations outside of the United Nations system.³¹¹

³⁰⁹ E/CN.15/2008/20.

³¹⁰ See *Official Records of the Economic and Social Council, 2008, Supplement No. 10, (E/2008/30)*, chap. I, sect. D.

³¹¹ For further information concerning trafficking in persons, see section (f) (vii) of the current chapter.

(c) General Assembly

On 18 December 2007, the General Assembly adopted, on the recommendation of the Third Committee, four resolutions under this agenda item, of which three are highlighted below.³¹²

In its resolution 63/193, entitled “Preparations for the Twelfth United Nations Congress on Crime Prevention and Criminal Justice”, the General Assembly, taking note of the report of the Intergovernmental Group and Criminal Justice,³¹³ decided to hold the Twelfth Congress on Crime Prevention and Criminal Justice in Salvador, Brazil, from 12 to 19 April 2010, and that the main theme of the Twelfth Congress would be “Comprehensive strategies for global challenges: crime prevention and criminal justice systems and their development in a changing world”.

In its resolution 63/194, entitled “Improving the coordination of efforts against trafficking in persons”, the General Assembly, *inter alia*, called upon Governments to continue their efforts to criminalize trafficking in persons in all its forms, including for the sexual exploitation of children, to take measures to criminalize child sex tourism, to condemn the practice of trafficking in persons, and to investigate, prosecute, condemn and penalize traffickers and intermediaries, while providing protection and assistance to the victims of trafficking with full respect for their human rights. In addition, it requested UNODC to continue consultations with Member States, to ensure that the Global Initiative to Fight Human Trafficking was carried out as a technical assistance project. The Secretary-General was requested to ensure the full and effective implementation of all legal instruments relevant to trafficking in persons. Furthermore, the General Assembly invited the Member States to accelerate the consideration of the advisability of a global plan of action on preventing trafficking in persons, prosecuting traffickers and protecting and assisting victims of trafficking, which would achieve the full and effective coordination of efforts against trafficking in persons.

In its resolution 63/195, entitled the “Strengthening the United Nations Crime Prevention and Criminal Justice Programme, in particular its technical cooperation capacity”, the Assembly requested, *inter alia*, that UNODC continue to develop tools for providing technical assistance and cooperation to effectively counter kidnapping as a growing serious crime, and to increase collaboration with intergovernmental, international and regional organizations that have transnational organized crime mandates in order to share best practices. In addition, the General Assembly urged Member States and relevant international organizations to develop national and regional strategies, and other necessary measures, in cooperation with the United Nations Crime Prevention and Criminal Justice Programme, to address effectively transnational organized crime, including trafficking in persons, the smuggling of migrants and illicit manufacturing of and transnational trafficking in firearms, as well as corruption and terrorism.

³¹² The General Assembly also adopted resolution 63/196 entitled “United Nations African Institute for the Prevention of Crime and the Treatment of Offenders”.

³¹³ E/CN.15/2007/6.

11. International drug control³¹⁴

(a) Commission on Narcotic Drugs

The Commission on Narcotic Drugs was established by the Economic and Social Council in its resolution 9 (I) of 16 February 1946 as a functional commission and as the central policy-making body within the United Nations system dealing with drug-related matters. Pursuant to Economic and Social Council Resolution 1999/30, the Commission's agenda is structured in two distinct segments: one relating to its normative functions and one to its role as governing body of the United Nations International Drug Control Programme. Furthermore, the Commission also convenes ministerial-level segments of its sessions to focus on specific themes. During its fifty-first session,³¹⁵ held on 28 November 2007 and 10 to 14 March 2008, in Vienna, the Commission held a thematic debate on the "Progress achieved by Governments in meeting the goals for years 2003 and 2008 set out in the Political Declaration adopted by the Assembly at its twentieth special session." Deliberations centred on three sub-themes: "Shared responsibility as a basis for an integrated, balanced and sustainable approach to the fight against drugs through national and international policies"; "Drug demand reduction"; and "Countering illicit drug supply".

Eighteen resolutions and one decision were adopted by the Commission and brought to the attention of the Economic and Social Council.³¹⁶ Five resolutions are highlighted below.

In resolution 51/10 entitled "Strengthening international cooperation for the control of precursor chemicals used in the manufacture of synthetic drugs", Member States were urged to work closely with the relevant industries in the implementation of effective procedures for the control and monitoring of preparations containing substances that can be easily used for the illicit manufacture of drugs.

In resolution 51/11 entitled "Links between illicit drug trafficking and illicit firearms trafficking", Member States were encouraged to exchange information and provide judicial cooperation in order to identify and investigate possible links between drug trafficking activities and those related to the illicit manufacturing of, and trafficking in, firearms and ammunition.

In resolution 51/17 entitled "Reducing the demand for and abuse of cannabis", the Commission called upon States to ensure national restrictions on narcotic drugs and psychotropic substances in relation to cannabis and also to comply fully with the provisions of the international drug control conventions with regard to cannabis.

The Commission further adopted resolution 51/18 entitled "Strengthening international support for States in West Africa in their efforts to combat drug trafficking", in which Member States and relevant international organizations, in coordination with the

³¹⁴ This section covers the sessions of the General Assembly, the Economic and Social Council and the Commission on Narcotic Drugs. Selected resolutions and decisions are highlighted. Resolutions recommending the adoption of subsequent resolutions by another organ are not covered. For detailed information regarding this topic generally, see the website of the United Nations Office on Drugs and Crime at <http://www.unodc.org>.

³¹⁵ For the report of the Commission, see *Official Records of the Economic and Social Council, 2008, Supplement No.8 (E/2008/28)*.

³¹⁶ For a complete list of the resolutions and decisions, see E/CN.7/2008/15.

Economic Community of West African States, were called upon to strengthen ongoing initiatives and programmes to combat drug trafficking in West-Africa by providing technical and financial assistance.

By decision 51/1 entitled “Improving the governance and financial situation of the United Nations Office on Drugs and Crime”, the Commission decided to establish an open-ended intergovernmental working group on how to improve the governance structure and financial situation of the United Nations Office on Drugs and Crime. The United Nations Office on Drugs and Crime was further requested to provide the working group with the necessary assistance to facilitate its work.

(b) Economic and Social Council

On 24 July 2008, the Economic and Social Council adopted, on the recommendation of the Commission on Narcotic Drugs, two resolutions, which are highlighted below, and two decisions.³¹⁷

In its resolution 2008/26 entitled “Promoting sustainability and integrity in alternative development as an important part of drug control strategy in States where illicit crops are grown to produce drugs”, the Council called on Member States to consider measures to enable products of alternative development to have easier access to markets, taking into account applicable multilateral trade rules. Relevant international organizations were also urged to consider measures enabling products of alternative development to have easier access to markets.

Member States were additionally encouraged to consider developing a set of international guiding principles on alternative development, based on the sharing of best practices and lessons learned in different countries and regions, an example being the sustainable alternative livelihood development of Thailand, annexed to the resolution.

In its resolution 2008/27 entitled “Provision of international assistance to the most affected States neighboring Afghanistan”, the Council called upon the Government of Afghanistan to intensify its efforts to implement the eight pillars of the National Drug Control Strategy³¹⁸ in order to identify and dismantle laboratories illicitly manufacturing heroin and morphine as well as to trace and curb the illicit supply of precursors. Member States and the UNODC were also called upon to provide the technical assistance and support needed for strengthening the initiatives of Afghanistan, the Islamic Republic of Iran and Pakistan against drug trafficking. In addition, States neighboring Afghanistan were encouraged to enhance coordination through existing regional mechanisms for strengthening border cooperation and information exchange.

³¹⁷ Decisions 2008/247 on the “Report of the Commission on Narcotic Drugs on its fifty-first session and provisional agenda and documentation for the fifty-second session of the Commission”; and 2008/248 on the “Report of the International Narcotics Control Board”.

³¹⁸ Contained in Annex A of S/2006/106.

(c) General Assembly

On 18 December 2008, the General Assembly, on the recommendation of the Third Committee, adopted resolution 63/197 entitled “International cooperation against the world drug problem”. In this resolution, the General Assembly, *inter alia*, called upon States and other relevant actors to evaluate the progress made since 1998 towards meeting the goals and targets set at the twentieth special session of the General Assembly.

In particular, the Assembly encouraged States to take measures to make drug demand reduction and drug abuse prevention governmental health and social priorities, and to include civil society and the family unit, in the process of developing, implementing and evaluating relevant policies and programmes. The Assembly further called upon States and organizations with expertise in community capacity-building to provide access to health care and social services for drug users, especially those living with HIV/AIDS and other blood-borne diseases, and to extend support to States requiring such expertise.

Member States that had not done so were also encouraged to consider updating their legal and regulatory frameworks, in particular regarding the identification, freezing and confiscation of proceeds of drug trafficking crimes, in order to effectively prevent and combat money-laundering activities.

12. Refugees and displaced persons³¹⁹

(a) Executive Committee of the Programme of the United Nations High Commissioner for Refugees³²⁰

The Executive Committee of the programme of the United Nations High Commissioner for Refugees (UNHCR) was established by the Economic and Social Council in 1958 and functions as a subsidiary organ of the General Assembly and reports to it through the Third Committee. The Executive Committee meets annually in Geneva to review and approve the programmes and budget of UNHCR and its intergovernmental and non-governmental partners. The fifty-ninth session of the Executive Committee was held in Geneva from 6 to 10 October 2008,³²¹ during which it adopted the “General Conclusion on International Protection”.

In the General Conclusion, the Executive Committee urged UNHCR and its partners to continue to draw appropriately upon relevant international humanitarian and human rights law and, in cooperation with States, to adopt a rights- and community-based approach in their work, in order to constructively engage with individual persons of concern and their communities. This includes partnership with relevant international and national human rights organizations as well as the active and inclusive participation of persons of concern.

³¹⁹ For a complete list of signatories and States parties to international instruments relating to refugees that are deposited with the Secretary-General, see *Multilateral Treaties Deposited with the Secretary-General* available at <http://untreaty.un.org/English/treaty.aspx>.

³²⁰ For detailed information and documents regarding this topic generally, see the website of UNHCR at www.unhcr.org.

³²¹ For the report of the fifty-ninth session of the Executive Committee, see *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 12A (A/63/12/Add.1)*.

Furthermore, the Executive Committee expressed deep concern over current and persistent protection problems facing persons of concern, including: rejection of refugees and asylum-seekers at frontiers without examination of claims for asylum or safeguards to prevent *refoulement*, long-term detention, continuing sexual and gender-based violence, and manifestations of xenophobia, racism and related intolerance. States were therefore, *inter alia*, called upon to scrupulously respect the principle of *non-refoulement*, to take steps to prevent acts of violence against refugees and other persons of concern and to facilitate their access without discrimination to effective legal remedies. The Executive Committee stressed the importance of UNHCR being granted access to asylum applicants and refugees to enable the Office to effectively carry out its humanitarian protection functions, and urged States and other parties to cooperate with the High Commissioner in the performance of his functions.

Regarding refugees and others of concern with disabilities, the Executive Committee emphasized the importance of promoting a protection and reception environment, with particular attention given to the vulnerability of children and women, that encourages their systematic inclusion in all areas of society, including in national programmes and policies. The Executive Committee also stressed the mobilization of financial and other necessary resources to support host countries efforts in this regard.

The Executive Committee reaffirmed the strategic use of resettlement as an instrument of protection, especially to resolve protracted refugee situations. States without existing resettlement programmes were urged to offer places for refugees recognized by UNHCR and in need of third country resettlement, while States with existing programmes were encouraged to consider making available more places for resettlement.

The Executive Committee further noted that the primary responsibility for the welfare and protection of internally displaced persons lay with the State concerned, and reaffirmed its support for UNHCR role with internally displaced persons according to criteria specified by the General Assembly, which included not undermining the mandate of the Office for Refugees and the institution of asylum.

States were encouraged to prevent and reduce statelessness by adopting and implementing safeguards in nationality laws and policies, consistent with fundamental principles of international law, and to consider facilitating the naturalization of habitually and lawfully residing stateless persons in accordance with national legislation.

(b) United Nations Economic and Social Council

On 25 July 2008, the United Nations Economic and Social Council adopted decision 2008/25 entitled “Enlargement of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees”, in which the Council recommended that the General Assembly, at its sixty-third session, decide on the question of enlarging the membership of the Executive Committee from seventy-six to seventy-eight States.

(c) General Assembly

On 18 December 2008, the General Assembly adopted, on the recommendation of the Third Committee, resolution 63/146³²² entitled “Enlargement of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees”, in which the Assembly decided to increase the number of members of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees from seventy-six to seventy-eight States and requested the Economic and Social Council to elect the additional members at its resumed organizational session in 2009.

On the same date, the General Assembly adopted, also on the recommendation of the Third Committee, resolution 63/149 entitled “Assistance to refugees, returnees and displaced persons in Africa”, in which the Assembly called upon the international donor community to provide material and financial assistance to support programmes intended for the rehabilitation of the environment and infrastructure affected by refugees in countries of asylum, taking into account the increased needs of programmes in Africa. The Office of the High Commissioner for Refugees as well as interested States were also encouraged to identify protracted refugee situations which might benefit from comprehensive approaches such as the enhancement of international burden- and responsibility-sharing solutions.

13. International Court of Justice³²³

(a) Organization of the Court

In 2008 the composition of the Court was as follows:

President: Dame Rosalyn Higgins (United Kingdom);

Vice-President: Awn Shawkat Al-Khasawneh (Jordan);

Judges: Raymond Ranjeva (Madagascar); Shi Jiuyong (China); Abdul G. Koroma (Sierra Leone); Gonzalo Parra-Aranguren (Venezuela); Thomas Buergenthal (United States of America); Hisashi Owada (Japan); Bruno Simma (Germany); Peter Tomka (Slovakia); Ronny Abraham (France); Kenneth Keith (New Zealand); Bernardo Sepúlveda-Amor (Mexico); Mohamed Bennouna (Morocco); and Leonid Skotnikov (Russian Federation).

The Registrar of the Court, re-elected on 8 February 2007 for a new term of seven years, is Mr. Philippe Couvreur; the Deputy-Registrar, elected on 9 October 2007, also for a term of seven years as from 19 February 2008, is Ms. Thérèse de Saint Phalle.

The Chamber of Summary Procedure, comprising five judges, including the President and Vice-President, and two substitutes, which is established annually by the Court

³²² For other resolutions dealing with refugees, see resolution 63/147 entitled “New international humanitarian order”, resolution 63/148 entitled “Office of the United Nations High Commission for Refugees” and resolution 62/249 entitled “Status of internally displaced persons and refugees from Abkhazia, Georgia”, adopted on the same date on the recommendation of the Third Committee.

³²³ For more information about the Court, see the report of the International Court of Justice to the General Assembly, *Official records of the General Assembly, Sixty-third Session, Supplement No. 4 (A/63/4)* and *Official records of the General Assembly, Sixty-fourth Session, Supplement No. 4 (A/64/4)*. Information about the cases before the International Court of Justice during 2008 is contained in chapter VII of this publication.

in accordance with Article 29 of the Statute to ensure the speedy dispatch of business, is composed as follows:

Members

President: Dame Rosalyn Higgins;

Vice-President: Awn Shawkat Al-Khasawneh;

Judges: Gonzalo Parra-Aranguren, Thomas Buergenthal, Leonid Skotnikov.

Substitute Members

Judges: Abdul G. Koroma and Ronny Abraham.

On 6 November 2008, the General Assembly and the Security Council elected five members to the International Court of Justice for a term of office of nine years, beginning on 6 February 2009. As a result, Mr. Ronny Abraham (France) and Mr. Awn Shawkat Al-Khasawneh (Jordan) were re-elected as members of the Court; and Mr. Antônio Augusto Cançado Trindade (Brazil), Mr. Christopher Greenwood (United Kingdom of Great Britain and Northern Ireland) and Mr. Abdulqawi Ahmed Yusuf (Somalia) were elected members of the Court.³²⁴

(b) Jurisdiction of the Court

On 30 April 2008, the Federal Republic of Germany made a new declaration recognizing the compulsory jurisdiction of the Court, which reads as follows:³²⁵

“The Government of the Federal Republic of Germany declares that it recognizes as compulsory *ipso facto* and without special agreement, in relation to any other state accepting the same obligation, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to the Secretary-General of the United Nations withdrawing the declaration and with effect as from the moment of such notification, over all disputes arising after the present declaration, with regard to situations or facts subsequent to this date other than:

(i) any dispute which the Parties thereto have agreed or shall agree to have recourse to some other method of peaceful settlement or which is subject to another method of peaceful settlement chosen by all the Parties.

(ii) any dispute which

(a) relates to, arises from or is connected with the deployment of armed forces abroad, involvement in such deployments or decisions thereon, or

(b) relates to, arises from or is connected with the use for military purposes of the territory of the Federal Republic of Germany, including its airspace, as well as maritime areas subject to German sovereign rights and jurisdiction;

(iii) any dispute in respect of which any other Party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purpose of the dispute; or where the acceptance of the Court’s compulsory jurisdic-

³²⁴ Decision 63/406 of the General Assembly, *Official Records of the General Assembly, Sixty-third Session, Supplement No. 49 (A/63/49)*, p. 7.

³²⁵ Registered on 1 May 2008 under No. 44914.

tion on behalf of any other Party to the dispute was deposited or ratified less than twelve months prior to the filing of the application bringing the dispute before the Court.

2. The Government of the Federal Republic of Germany also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations, or any that may hereafter be added.

Accept, Mr. Secretary-General, the expression of my highest consideration.

[Signed] FRANK-WALTER STEINMEIER”

In a letter dated 31 January 2007, the Registrar of the Court notified Serbia that, in its Judgment of 15 December 2004, the Court concluded that Serbia and Montenegro was not a member of the United Nations and therefore was not a party to the Statute of the Court at the time that it filed its application to institute the proceedings before the Court on 29 April 1999. In the light of the above-mentioned letter from the Registrar of the Court clarifying the status of Serbia with respect to the Statute, and after confirmation from Serbia, on 13 May 2008, that it did not recognize the declaration of 26 April 1999 made by the Federal Republic of Yugoslavia, the name of Serbia was removed from the list of States which had made declarations under Article 36, paragraph 2, of the Statute.

(c) General Assembly

Following the declaration of independence from Serbia proclaimed on 17 February 2008 by the Provisional Institutions of Self-Government of Kosovo, the General Assembly adopted on 8 October 2008 resolution 63/3, in which it decided, in accordance with Article 96 of the Charter of the United Nations, to request the International Court of Justice, pursuant to Article 65 of the Statute of the Court, to render an advisory opinion on the following question:

“Is the unilateral declaration of independence by the Provisional Institutions of Self-Government of Kosovo in accordance with international law?”³²⁶

On 2 December 2008, the General Assembly adopted resolution 63/49 on the “Follow-up to the advisory opinion of the International Court of Justice on the *Legality of the Threat or Use of Nuclear Weapons*”,³²⁷ in which the Assembly underlined once again the unanimous conclusion of the International Court of Justice that there existed an obligation to pursue in good faith and bring to conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international control.

At its sixty-third session, the General Assembly adopted on 30 October 2008, without reference to a Main Committee, decision 63/508, in which the Assembly took note of the report of the International Court of Justice for the period from 1 August 2007 to 31 August 2008.³²⁸

³²⁶ The Provisional Institutions of Self-Government of Kosovo declared independence from Serbia on 17 February 2008.

³²⁷ *Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996*, p. 226.

³²⁸ *Official Records of the General Assembly, Sixty-third Session, Supplement No. 4 (A/63/49)*.

14. International Law Commission³²⁹

(a) Membership of the Commission

The membership of the International Law Commission at its sixtieth session was: Mr. Ali Mohsen Fetais Al-Marri (Qatar); Mr. Ian Brownlie (United Kingdom of Great Britain and Northern Ireland); Mr. Lucius Caflisch (Switzerland); Mr. Enrique Candioti (Argentina); Mr. Pedro Comissário Afonso (Mozambique); Mr. Christopher John Robert Dugard (South Africa); Ms. Paula Escarameia (Portugal); Mr. Salifou Fomba (Mali); Mr. Giorgio Gaja (Italy); Mr. Zdzislaw Galicki (Poland); Mr. Hussein A. Hassouna (Egypt); Mr. Mahmoud D. Hmoud (Jordan); Ms. Marie G. Jacobsson (Sweden); Mr. Maurice Kamto (Cameroon); Mr. Fathi Kemicha (Tunisia); Mr. Roman Anatolyevitch Kolodkin (Russian Federation); Mr. Donald M. McRae (Canada); Mr. Teodor Viorel Melescanu (Romania); Mr. Bernd H. Niehaus (Costa Rica); Mr. Georg Nolte (Germany); Mr. Bayo Ojo (Nigeria); Mr. Alain Pellet (France); Mr. A. Rohan Perera (Sri Lanka); Mr. Ernest Petrič (Slovenia); Mr. Gilberto Vergne Saboia (Brazil); Mr. Narinder Singh (India); Mr. Eduardo Valencia-Ospina (Colombia); Mr. Edmundo Vargas Carreño (Chile); Mr. Stephen C. Vasciannie (Jamaica); Mr. Marcelo Vázquez-Bermúdez (Ecuador); Mr. Amos S. Wako (Kenya); Mr. Nugroho Wisnumurti (Indonesia); Ms. Hanqin Xue (China); and Mr. Chusei Yamada (Japan).

(b) Sixtieth session of the Commission

The International Law Commission held the first part of its sixtieth session from 5 May to 6 June 2008 and the second part from 7 July to 8 August 2008 at its seat at the United Nations Office at Geneva.³³⁰ The topics that were considered are highlighted below.

In its consideration of the topic “Shared natural resources”, the Commission had before it the fifth report³³¹ of the Special Rapporteur on the law of transboundary aquifers, together with comments and observations received from Governments on the draft articles adopted on first reading. The Commission adopted, on second reading, a preamble and a set of 19 draft articles on the law of transboundary aquifers and recommended, in accordance with article 23 of its Statute, a two-step approach by which the General Assembly would take note of the draft articles to be annexed to its resolution and recommend that States concerned make appropriate bilateral and regional arrangements for the proper management of their transboundary aquifers, and consider, at a later stage, the elaboration of a convention on the basis of the draft articles. Having recommended this two-step approach, it was considered premature to address issues relating to the relationship of the draft articles with other agreements and dispute settlement.

Concerning the topic “Effects of armed conflicts on treaties”, the Commission had before it the fourth report³³² of the Special Rapporteur dealing with the procedure for the suspension or termination of treaties as a consequence of an armed conflict. The Working

³²⁹ Detailed information and documents regarding the work of the Commission may be found on the Commission’s website at <http://www.un.org/law/ilc/index.htm>.

³³⁰ For the report of the International Law Commission on the work of its sixtieth session, see *Official Records of the General Assembly, Sixty-third Session, Supplement No. 10 (A/63/10)*.

³³¹ A/CN.4/591

³³² A/CN.4/589

Group on the Effects of Armed Conflicts on Treaties, re-established by the Commission on 16 May 2008, considered the report in the context of a number of outstanding issues identified by the Commission at its fifty-ninth session in 2007. At its 2968th meeting, on 29 May 2008, the Commission adopted the report of the Working Group.³³³ The Commission provisionally adopted, on first reading, a set of 18 draft articles and an annex. In accordance with articles 16 to 21 of its Statute, the Commission decided to transmit the draft articles, through the Secretary-General to Governments for comments and observations, with a request that such comments and observations be submitted to the Secretary-General by 1 January 2010.

Regarding the topic “Reservation to treaties”, the Commission adopted 23 draft guidelines dealing with the formulation and withdrawal of acceptances and objections, as well as the procedure for acceptance of reservations. In its consideration of these draft guidelines, the Commission proceeded on the basis of the Special Rapporteur’s note on a new draft guideline³³⁴ on statement of reasons for reservations, as well as draft guidelines contained in the eleventh and twelfth reports of the Special Rapporteur which were referred to the Drafting Committee in 2007. The Commission also considered the thirteenth report³³⁵ of the Special Rapporteur on reactions to interpretative declarations and referred to the Drafting Committee’s 10 draft guidelines on reactions to interpretative declarations. Key issues in the debate on the topic concerned the relation between conditional interpretative declarations and reservations, as well as the effects of silence as a reaction to an interpretative declaration.

Concerning the topic “Responsibility of international organizations”, the Commission provisionally adopted eight draft articles dealing with the invocation of the international responsibility of an international organization. These constituted chapter I of part three of the draft articles concerning the implementation of the international responsibility of an international organization. In its consideration of the topic, the Commission had before it the sixth report³³⁶ of the Special Rapporteur which focused on issues relating to the implementation of the responsibility of international organizations. The Commission’s debate on the report focused on issues relating to countermeasures.

In connection with the topic “Expulsion of aliens”, the Commission considered the fourth report³³⁷ of the Special Rapporteur, dealing with questions relating to the expulsion of dual or multiple nationals, and the loss of nationality and denationalization in relation to expulsion. Following the debate on the report, the Commission established a working group to consider the issues raised by the Special Rapporteur in his report. At the end of its meeting on 14 July 2008, the Working Group concluded that the draft articles should indicate that, for the purposes of the draft articles, the principle of the non-expulsion of nationals applied also to persons who had legally acquired one or several other nationalities. The Group also agreed to include in the commentary wording to make it clear that States should not use denationalization as a means of circumventing their obligations under the principle of the non-expulsion of nationals. On 24 July 2008, the Commission

³³³ A/CN.4/L.726.

³³⁴ A/CN.4/586.

³³⁵ A/CN.4/600.

³³⁶ A/CN.4/597.

³³⁷ A.CN.4/594.

approved those conclusions, and requested the Drafting Committee to take them into consideration in its work.

In relation to the topic “Protection of persons in the event of disasters”, the Commission held a debate on the basis of the preliminary report³³⁸ of the Special Rapporteur. It also had before it a memorandum by the Secretariat,³³⁹ focusing primarily on natural disasters. Issues discussed during the debate included whether, as suggested by the Special Rapporteur, a rights-based approach should be adopted in the consideration of the topic, what the scope of the topic should be *ratione materiae*, *ratione personae*, *ratione temporis* and *ratione loci*. The question of a right to humanitarian assistance, and the relevance of the responsibility to protect, were also discussed.

Regarding the topic “Immunity of State officials from foreign criminal jurisdiction”, the Commission held a debate on the basis of the preliminary report³⁴⁰ of the Special Rapporteur. It also had before it a memorandum by the Secretariat.³⁴¹ Among the issues discussed were the main legal questions to be considered when defining the scope of the topic, including the officials, and the nature of the acts to be covered.

In connection with the topic “The obligation to extradite or prosecute (*aut dedere aut judicare*)”, the Commission held a debate on the basis of the third report³⁴² of the Special Rapporteur, as well as comments and information received from Governments. Among the issues discussed were the substantive questions relating to the customary nature of the obligation, the relationship of the obligation to extradite and prosecute with the principle of universal jurisdiction and the surrender of an alleged offender to an international court, as well as procedural aspects to be dealt with in future.

Furthermore, the Commission set up a Planning Group to consider its programme, procedures and working methods. A Working Group on the long-term programme of work was also reconstituted. The Commission decided to include in its current programme of work two new topics, namely “Treaties over time” and “The Most-favoured-Nation clause”. In this regard, it decided to establish, at its next session two study groups on these topics.

(c) Sixth Committee

The Sixth Committee considered agenda item 75 entitled “Report of the International Law Commission on the work of its sixtieth session” at its 16th to 26th meetings, from 27 to 31 October, and from 3 to 5 and on 14 November 2008, respectively.³⁴³

The Chairman of the International Law Commission at its sixtieth session introduced the report of the Commission: chapters I to V and XII at the 16th meeting, on 27 October,

³³⁸ A/CN.4/598.

³³⁹ See *Official Records of the General Assembly, Sixty-third session, Supplement No.10 (A/63/10)*, para. 215.

³⁴⁰ A/CN.4/601.

³⁴¹ A/CN.4/596.

³⁴² A/CN.4/603.

³⁴³ A summary of the debates can be found in Topical summary of the discussion held in the Sixth Committee of the General Assembly during its sixty-third session, prepared by the Secretariat, A/CN.4/606.

chapters VI, VII and VIII at the 18th meeting, on 29 October, and chapters IX, X and XI at the 22nd meeting, on 31 October.³⁴⁴

At the 26th meeting, on 14 November 2008, the representative of New Zealand, on behalf of the Bureau, introduced a draft resolution entitled “Report of the International Law Commission on the work of its sixtieth session” (A/C.6/63/L.20), and orally revised it by adding, after operative paragraph 8, the following paragraph:

“Requests the Secretary-General to submit to the General Assembly, in accordance with the established procedures, and bearing in mind its resolution 56/272, a report on the assistance currently provided to special rapporteurs and options regarding additional support of the work of special rapporteurs”.

At the same meeting, the Committee adopted draft resolution A/C.6/63/L.20, as orally revised, without a vote.

(d) General Assembly

On 11 December 2008, the General Assembly, on the recommendation of the Sixth Committee, adopted resolution 63/123, entitled “Report of the International Law Commission on the work of its sixtieth session”. The General Assembly expressed its appreciation for the work accomplished by the Commission at its sixtieth session, including the completion of the second reading of the draft articles on the law of transboundary aquifers under the topic “shared natural resources”, and the completion of the first reading of the draft articles on the topic “Effects of armed conflicts on treaties”. The Assembly further took note of the decision of the International Law Commission to include the topics “Treaties over time” and “The Most-Favoured-Nation clause” in its programme of work, and encouraged the Commission to continue to take cost-saving measures at its future sessions without prejudice to the efficiency of its work. The Assembly also requested the Commission to continue to pay special attention to indicating in its annual report, for each topic, any specific issues on which expressions of views by Governments, either in the Sixth Committee or in written form, would be of particular interest in providing effective guidance for the Commission in its work.

15. United Nations Commission on International Trade Law³⁴⁵

(a) United Nations Commission on International Trade Law³⁴⁶

The United Nations Commission on International Trade Law (UNCITRAL) held its forty-first session in New York from 16 June to 3 July 2008 and adopted its report on 3 July 2008.

³⁴⁴ See A/C.6/63/SR.16, 18 and 22.

³⁴⁵ Detailed information and documents regarding the work of the Commission can be found on the Commission’s website at <http://www.uncitral.org>.

³⁴⁶ For the membership of the United Nations Commission on International Trade Law, see *Official Records of the General Assembly, Sixty-third session, Supplement No. 17 (A/63/17)*, chapter II, section B.

During the session, the Commission completed its work on the draft Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea³⁴⁷ and recommended it to the General Assembly for consideration and adoption at its sixty-third session. The Commission noted that the Working Group III (Transport) devoted thirteen sessions, held from 2002 to 2008, to the preparation of the draft convention and observed that the harmonized rules governing door-to-door transport operations would reduce legal obstacles to the flow of international trade, promote trade among States, and significantly contribute to the development of international economic relations and the well-being of all peoples. The Commission noted broad participation of all States and interested organizations in the preparation of the draft convention at all sessions of the Working Group, and took note of comments³⁴⁸ from Governments and intergovernmental organizations regarding the draft Convention compiled by the Secretariat.

The Commission also considered reports of Working Group I (Procurement) on its twelfth³⁴⁹ and thirteenth³⁵⁰ sessions, at which the Working Group continued its work on the elaboration of proposals for the revision of the Model Law on Procurement of Goods, Construction and Services.³⁵¹ At those sessions, the Working Group considered the drafting materials relating to framework agreements, suppliers' lists, electronic communications in procurement, publication of procurement-related information and abnormally low tenders, and the use of electronic reverse auctions in public procurement and suggested revisions to those materials. The Commission commended the Working Group and the Secretariat for the progress made in its work and for inclusion of novel procurement practices in the Model Law. The Working Group was invited to proceed expeditiously with the finalization and adoption of the revised Model Law, together with its Guide to Enactment, within a reasonable time.

The Commission commended Working Group II (Arbitration and Conciliation) on the progress made in revising the UNCITRAL Arbitration Rules based on reports of its forty-seventh³⁵² and forty-eighth³⁵³ sessions. At its forty-eighth session, the Working Group discussed the extent to which the revised UNCITRAL Arbitration Rules should include more detailed provisions concerning investor-State dispute settlement or administered arbitration. After discussion, the Commission agreed that the work on investor-State arbitration should be addressed separately after completion of the revision of the UNCITRAL Arbitration Rules in their generic form. The Commission encouraged the Working Group to complete this work as soon as possible so that the revised Rules could be considered by the Commission at its forty-second session, in 2009. The Commission agreed on the importance of ensuring transparency in investor-State arbitration and requested the Secretariat to research and compile information on current practices. As regards future

³⁴⁷ *Ibid.*, annex I.

³⁴⁸ A/CN.9/658 and Add.1-14.

³⁴⁹ A/CN.9/640.

³⁵⁰ A/CN.9/648.

³⁵¹ *Official Records of the General Assembly, Forty-ninth Session, Supplement No. 17 (A/49/17 and Corr. 1)*, annex I.

³⁵² A/CN.9/641.

³⁵³ A/CN.9/646.

work, the Commission recalled that the issue of arbitrability and online dispute resolution should be maintained on the Working Group's agenda.

The Commission noted the progress of Working Group V (Insolvency Law) regarding consideration of the treatment of enterprise groups in insolvency as reflected in the reports of its thirty-third³⁵⁴ and thirty-fourth³⁵⁵ sessions. The Commission also noted further progress with respect to compiling information on practical experience with negotiating and using cross-border insolvency agreements to facilitate cross-border insolvency proceedings.³⁵⁶ The Commission decided that the compilation should be considered by the Working Group at its thirty-fifth session with a view of the Group's further recommendation to the forty-second session of the Commission.

The Commission took note of the report of Working Group VI (Security Interests) on the work of its thirteenth³⁵⁷ session and commended the Working Group on the progress made, which enabled it to request the Secretariat to prepare a first draft of the annex to the Guide dealing with security rights in intellectual property.³⁵⁸ The Commission noted that the Working Group was not able to agree as to whether matters related to the impact of insolvency on a security right in intellectual property were sufficiently linked with secured transactions law so as to justify their discussion in the annex to the Guide. The Commission decided that Working Group V should be invited to provide a preliminary view on those matters at its next session.

In the context of the ongoing project to monitor the legislative implementation of the 1958 New York Convention,³⁵⁹ the Commission considered a written report³⁶⁰ on the implementation, interpretation and application of the New York Convention by States, based on replies submitted by 108 States parties to the New York Convention. It agreed that work should be undertaken to limit the risk of divergence from the spirit of the Convention and to eliminate uncertainties resulting from its imperfect or partial implementation. The Commission requested the Secretariat to study the feasibility of preparing a guide to enactment of the New York Convention, which would promote a uniform interpretation and application of the Convention. After discussion of the recommendation adopted by the Commission at its thirty-ninth session regarding the interpretation of article II, paragraph 2, and article VII, paragraph 1 of the New York Convention and circulated to States for comment, the Commission agreed that any further comments received by the Secretariat from States on the recommendation be made part of the project. The Commission also took note with appreciation of conferences celebrating the fiftieth anniversary of the New York Convention, and requested the Secretariat to continue monitoring such events and encouraged it to participate actively in initiatives for the promotion of the Convention.

³⁵⁴ A/CN.9/643.

³⁵⁵ A/CN.9/647.

³⁵⁶ A/CN.9/654.

³⁵⁷ A/CN.9/649.

³⁵⁸ *Ibid*, para.13.

³⁵⁹ Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958. United Nations, *Treaty Series*, vol. 330, p. 3.

³⁶⁰ A/CN.9/656 and Add.1.

The Commission also considered a note³⁶¹ by the Secretariat on rules of procedure and methods of work describing current practices of the Commission as regards decision-making, the status of observers in UNCITRAL and the preparatory work undertaken by the Secretariat, and a note³⁶² compiling comments by States received prior to the forty-first session. After a discussion, the Commission requested the Secretariat to prepare a draft of a reference document, based on the note by the Secretariat, of a normative nature for use by chairpersons, delegates and observers and by the Secretariat itself. The Secretariat was requested to circulate the draft for comments by States and interested international organizations and to prepare a compilation of those comments for consideration by the Commission at its forty-second session.

With regard to case-law on UNCITRAL texts (CLOUT) and digests of case-law, the Commission noted that as of 8 April 2008, 726 issues of compiled case-law abstracts from the CLOUT system had been prepared for publication, dealing with 761 cases, relating mainly to the United Nations Sales Convention³⁶³ and the UNCITRAL Model Law on International Commercial Arbitration, and including some cases on the UNCITRAL Model Law on Cross-Border Insolvency.

(b) Future work

In the area of electronic commerce, the Commission considered a note³⁶⁴ by the Secretariat presenting policy considerations and legal issues in the implementation and operation of single windows and proposing possible future work in cooperation with other international organizations. The Secretariat was advised to study the legal aspects involved in implementing a cross-border single window facility with a view to formulating a comprehensive international reference document, and to keep under examination legal issues related to electronic equivalents to negotiable documents and other electronic systems for the negotiation and transfer of rights in goods, securities and other rights in electronic form. The Commission requested the Secretariat to engage actively, in cooperation with World Customs Organization and with experts, in the single window project and to report to the Commission on the progress of that work at its next session.

As regards work in the area of commercial fraud, the Commission considered the comments³⁶⁵ of States and organizations submitted to the Secretariat on the text of the indicators of commercial fraud circulated to States.³⁶⁶ Given the technical nature of the comments received, the Secretariat was requested to improve the text and to publish it as a Secretariat informational note for educational purposes and fraud prevention. The Commission agreed that the text could form a part of a broader technical assistance work, including dissemination and explanation to Governments and international organizations. The Commission left the question of future work in the area to be considered by

³⁶¹ A/CN.9/653.

³⁶² A/CN.9/660 and Add.1-4.

³⁶³ United Nations Convention on Contracts for the International Sales of Goods, 1980. United Nations, *Treaty Series*, vol. 1489, p. 3.

³⁶⁴ A/CN.9/655.

³⁶⁵ A/CN.9/659 and Add.1 and 2.

³⁶⁶ A/CN.9/624 and Add.1 and 2.

the Secretariat, enabling it to make appropriate recommendations to the Commission at future sessions. The Commission requested the Secretariat to continue to cooperate with and assist the United Nations Office on Drugs and Crime with respect to commercial and economic fraud and to report to the Commission on the progress of that work.

(c) General Assembly

At its sixty-third session, the General Assembly, on the recommendation of the Sixth Committee, adopted resolution 63/120 of 11 December 2008, in which it took note of the report of the Commission on the work of its resumed fortieth and its forty-first sessions, commended the Commission for the completion and approval of the Legislative Guide on Secured Transactions³⁶⁷ and for the completion and approval of the draft Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea. It welcomed the progress made in its work on procurement, insolvency law, arbitration, and electronic commerce, and reaffirmed the importance, in particular for developing countries, of the technical assistance work of the Commission in the area of international trade law reform and development.

On 11 December 2008, the General Assembly adopted, on the recommendation of the Sixth Committee, resolution 63/122, in which it adopted the United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea and authorized a ceremony for the opening for signature to be held on 23 September 2009 in Rotterdam, the Netherlands. It also recommended that the rules embodied in the Convention be known as the "Rotterdam Rules".

16. Legal questions dealt with by the Sixth Committee and other related subsidiary bodies of the General Assembly

During the sixty-third session of the General Assembly, the Sixth Committee, in addition to the topics concerning the International Law Commission and the United Nations Commission on International Trade Law, discussed above, considered a wide range of topics. The work of the Sixth Committee and of other related subsidiary organs is described below, together with the relevant resolutions and decisions of the General Assembly adopted in 2008.³⁶⁸ The resolutions of the General Assembly referred to in this section were all adopted on 11 December 2008 on the recommendation of the Sixth Committee.³⁶⁹

³⁶⁷ See also General Assembly resolution 63/121 of 11 December 2008.

³⁶⁸ For further information and documents regarding the work of the Sixth Committee and the other related subsidiary organs of the General Assembly mentioned in this section, see <http://www.un.org/ga/sixth/63/index.shtml>.

³⁶⁹ The Sixth Committee adopts drafts resolutions which are recommended for adoption by the General Assembly. These resolutions are contained in the reports of the Sixth Committee to the General Assembly on the various agenda items. The Sixth Committee reports also contain information concerning the relevant documentation on the consideration of the items by the Sixth Committee.

(a) Nationality of natural persons in relation to the succession of States

At its fifty-fourth session, in 1999, the General Assembly, having considered chapter IV of the report of the International Law Commission³⁷⁰ which contained a set of draft articles on nationality of natural persons in relation to the succession of States, decided in resolution 54/112 to include the item on the agenda of its fifty-fifth session. The following year, the Assembly adopted resolution 55/153, to which the same draft articles were annexed, in which it invited Governments to submit comments and observations with a view to considering the elaboration of a convention on the topic at a future session. It further decided to include the item in the provisional agenda of its fifty-ninth session, in 2004. At that session, the General Assembly adopted resolution 59/34, in which it invited Governments to submit comments concerning the advisability of elaborating a legal instrument on the question of nationality of natural person in relation to the succession of States, including the avoidance of statelessness as a result of the succession of States, and decided to include the item in the provisional agenda of its sixty-third session.

(i) Sixth Committee

The Sixth Committee considered the item at its 11th, 25th and 26th meetings, on 21 October, and on 5 and 14 November 2008, respectively.

During the debate on this item, delegations expressed their support for the draft articles on “Nationality of natural persons in relation to the succession of States”, adopted by the International Law Commission in 2001. They stressed the importance of the right to a nationality, as recognised in several international legal instruments, as well as the need to avoid statelessness following the succession of States. Some delegations also underlined the principle of non-discrimination in dealing with nationality issues in the context of State succession. With regard to the outcome of the draft articles, some delegations favoured their adoption by the General Assembly in the form of a declaration, arguing that a non-binding instrument would provide guidance to States in establishing domestic legislation on nationality, while respecting their sovereignty in determining the conditions of attribution of nationality. Other delegations expressed their preference for a convention. It was also proposed that the possibility of elaborating a convention be considered at a later session of the General Assembly. In addition, the view was expressed that further analysis of State practice was needed in order to ensure that the draft articles better reflect contemporary international standards.

At the 25th meeting, on 5 November, the representative of the Democratic Republic of the Congo, on behalf of the Bureau of the Sixth Committee, introduced a draft resolution entitled “Nationality of natural persons in relation to the succession of States”,³⁷¹ which was adopted at the same meeting without a vote.³⁷²

³⁷⁰ A/54/10 and Corr.1 and 2.

³⁷¹ A/C.6/63/L.14.

³⁷² For the report of the Sixth Committee on this item, see A/63/346. For the summary records, see A/C.6/63/SR.11, 25 and 26.

(ii) *General Assembly*

In its resolution 63/118 adopted without a vote, the General Assembly took into consideration the comments and observations of Governments³⁷³ and the discussion held in the Sixth Committee at the fifty-ninth and sixty-third sessions of the General Assembly³⁷⁴ on the question of nationality of natural persons in relation to the succession of States. The Assembly reiterated its invitation to Governments to take into account the provisions of the articles contained in the annex to General Assembly resolution 55/153, in dealing with issues of nationality of natural persons in relation to the succession of States, and encouraged States to consider at the regional or subregional levels, the elaboration of legal instruments regulating questions of nationality of natural persons in relation to the succession of States. In addition, Governments were invited to submit comments concerning the advisability of elaborating a legal instrument on the question. The Assembly further decided to include this item in the provisional agenda of its sixty-sixth session.

(b) **Criminal accountability of United Nations officials and experts on mission**

The item entitled “Comprehensive review of the whole question of peacekeeping operations in all their aspects” was included in the agenda of the General Assembly at its nineteenth session, in February 1965, when the General Assembly established the Special Committee on Peacekeeping Operations that was to undertake a comprehensive review of the whole question of peacekeeping operations in all their aspects.³⁷⁵

At its sixty-first session, the General Assembly decided that the agenda item entitled “Comprehensive review of the whole question of peacekeeping operations in all their aspects”, which had been allocated to the Special Political and Decolonization Committee (Fourth Committee), should also be referred to the Sixth Committee for discussion of the report of the Group of Legal Experts on ensuring the accountability of United Nations staff and experts on mission with respect to criminal acts committed in peacekeeping operations,³⁷⁶ submitted pursuant to Assembly resolutions 59/300 and 60/263 and decision 60/563.³⁷⁷

At the same session, the General Assembly decided to establish an *Ad Hoc* Committee³⁷⁸ for the purpose of considering the report of the Group of Legal Experts, in particular its legal aspects.

³⁷³ For the comments and observations of Governments on this item, see A/59/180 and Add.1 and 2; and A/63/113.

³⁷⁴ *Official Records of the General Assembly, Fifty-ninth Session, Sixth Committee*, 15th meeting (A/C.6/59/SR.15 and Corr.1); and *ibid.*, *Sixty-third Session, Sixth Committee*, 11th meeting (A/C.6/63/SR.11 and Corr.1).

³⁷⁵ General Assembly resolution 2006 (XIX) of 18 February 1965.

³⁷⁶ For more information, see note by Secretary-General, A/60/980.

³⁷⁷ General Assembly decision 61/503 A of 13 September 2006.

³⁷⁸ The Ad Hoc Committee on criminal accountability of United Nations officials and experts on mission was established by General Assembly resolution 61/29 of 4 December 2006.

(i) *Ad Hoc Committee on Criminal Accountability of the United Nations Officials and Experts on Mission*

The Ad Hoc Committee on Criminal Accountability of United Nations Officials and Experts on Mission held its second session at United Nations Headquarters from 7 to 9 and on 11 April 2008. The Committee adopted its work programme at its third meeting, held on 7 April 2008, and decided to proceed with its discussions in the context of a working group of the whole. The Committee also held a general exchange of views, during which delegations made statements.³⁷⁹

(ii) *Sixth Committee*

The Sixth Committee considered the item at its 5th, 14th, 19th, and 26th meetings, on 10, 24 and 29 October and 14 November 2008, respectively.

At the 5th meeting, on 10 October 2008, the Chairperson of the *Ad Hoc* Committee on Criminal Accountability of United Nations Officials and Experts on Mission introduced the report of the Ad Hoc Committee.³⁸⁰ On the recommendation of the Ad Hoc Committee, the Sixth Committee established a working group with a view to continuing the consideration of the report of the Group of Legal Experts. The Working Group held four meetings, on 14, 15 and 17 October, and on 24 October, the Chairperson of the Working Group presented an oral report to the Sixth Committee.³⁸¹

During the debate, delegations reiterated their support for the zero tolerance policy of the Organization concerning criminal conduct, particularly that involving sexual abuse and exploitation, committed by United Nations officials or experts on mission. The point was made that the United Nations system must exemplify the rule of law principles that it sought to foster. Reference was also made to the need to keep in mind similar efforts being undertaken in other parts of the Organization, as well as the impact of the ongoing reform of the internal administration of justice system. Specific issues identified for further deliberation included: the scope of the topic; criminal investigations; the provision of evidence and its assessment in administrative *versus* criminal procedures; strengthening cooperation and the sharing of information; extradition; servicing of sentences; and other judicial assistance mechanisms. The importance of respecting the territorial jurisdiction of the host State was reiterated.

Several delegations expressed support for the proposal to consider, in the long term, the negotiation of an international convention, while others maintained that it was still premature to contemplate such an instrument. Several speakers expressed support for the combined approach of taking both short and long-term measures.³⁸² In the short term, those States which had not already done so were encouraged to extend their respective national criminal jurisdiction to cover criminal activity committed by their nationals employed

³⁷⁹ A summary of the debate is contained in the report of the *Ad Hoc* Committee on Criminal Accountability of United Nations officials and experts on mission, A/63/54, section III, p. 4.

³⁸⁰ For the report of the Ad Hoc Committee on Criminal Accountability of United Nations officials and experts on mission, see A/63/54.

³⁸¹ A/C.6/63/SR.14.

³⁸² As per General Assembly resolution 62/63.

by the United Nations or serving as experts on mission. It was observed that, since many States had already extended such jurisdiction, the possible future treaty could focus exclusively on cooperation and leave the question of jurisdiction to a separate draft model law. During the debate, support was also expressed for the comprehensive strategy on assistance and support to victims of sexual exploitation and abuse by United Nations staff and related personnel.³⁸³

At the 19th meeting, on 29 October 2008, the representative of Greece, on behalf of the Bureau, introduced a draft resolution entitled "Criminal accountability of United Nations officials and experts on mission".³⁸⁴ At its 28th meeting, on 19 November, the Secretary of the Committee made a statement regarding the financial implications of the draft resolution. At its 26th meeting, on 14 November, the Committee adopted the draft resolution without a vote.³⁸⁵

(iii) *General Assembly*

At its sixty-seventh meeting, on 11 December 2008, the General Assembly adopted without a vote resolution 63/119, in which it emphasized the need to enhance international cooperation to ensure the criminal accountability of United Nations officials and experts on mission. The Assembly strongly urged States to take all appropriate measures to ensure that crimes by United Nations officials and experts on mission do not go unpunished, and that the perpetrators of such crimes are brought to justice, without prejudice to the privileges and immunities of such persons and the United Nations under international law, and in accordance with international human rights standards, including due process. States were encouraged, *inter alia*, to afford each other assistance in connection with criminal investigations or criminal or extradition proceedings in respect of crimes of a serious nature committed by United Nations officials or experts on mission, including assistance in obtaining evidence at their disposal in accordance with their domestic law or any treaties or other arrangements on extradition and mutual legal assistance that may exist between them. States were further encouraged to explore ways and means of facilitating the possible use of information and material obtained from the United Nations for purposes of criminal proceedings initiated in their territory for the prosecution of crimes of a serious nature committed by United Nations officials and experts on mission, bearing in mind due process considerations, and to also provide effective protection for victims of, witnesses to, and others who provide information in relation to, crimes of a serious nature alleged to have been committed by United Nations officials and experts on mission.

Furthermore, the General Assembly requested the Secretary-General to prepare a report to be submitted at the sixty-fourth session on the implementation of the said resolution, and on the number and types of credible allegations and any actions taken by the United Nations and its Member States regarding crimes of a serious nature committed by

³⁸³ Adopted by the General Assembly in resolution 62/214.

³⁸⁴ A/C.6/63/L.10.

³⁸⁵ For the report of the Sixth Committee, see A/63/437. For the summary records, see A/C.6/63/SR.5, 14, 19 and 26.

United Nations officials and experts on mission. Finally, the Assembly decided to include the topic on the provisional agenda of its sixty-fourth session.

(c) Status of Protocols³⁸⁶ Additional to the Geneva Conventions of 1949 and Relating to the Protection of Victims of Armed Conflicts

This item was included in the agenda of the thirty-seventh session of the General Assembly, in 1982, at the request of Denmark, Finland, Norway and Sweden.³⁸⁷

(i) Sixth Committee

The Sixth Committee considered the item at its 13th, 14th and 26th meetings, on 23 and 24 October and 14 November 2008, respectively.³⁸⁸

During the debate, delegations recalled the importance of the Geneva Conventions and the Protocols Additional thereto and stressed the need for those States that had not already done so to ratify the Protocols as well as the Rome Statute of the International Criminal Court³⁸⁹ and other relevant instruments. Some delegations encouraged States to accept the competence of the International Fact-Finding Commission, pursuant to Article 90 of the First Additional Protocol. Some speakers welcomed the adoption of the third protocol additional to the Geneva Conventions, relating to the adoption of an additional emblem.³⁹⁰ The adoption in 2008 of the convention on Cluster Munitions³⁹¹ was noted by some delegations. Concern was expressed over the increasing numbers of civilians being targeted in armed conflicts and the need to apply international humanitarian law was stressed.

Delegations commended the International Committee of the Red Cross (ICRC) on its role in the promotion of international humanitarian law and monitoring compliance with it. While some delegations noted with interest the ICRC study on customary international humanitarian law, a view stressing concern about its methodology, and in particular, its conclusion that certain rules contained in the Additional Protocols had become customary international law for all States, was also expressed. Some delegations welcomed the 2008 Montreux Document³⁹² elaborated under the leadership of Switzerland and the ICRC to clarify legal obligations and to define good practices relevant to private military and security companies operating in an armed conflict.

³⁸⁶ United Nations, *Treaty Series*, vol. 1125, p. 3 and United Nations, *Treaty Series*, vol. 1125, p. 609.

³⁸⁷ General Assembly decision A/37/142.

³⁸⁸ For the report of the Sixth Committee on this item, see 63/440. For the summary records, see A/C.6/63/SR.13, 14 and 26.

³⁸⁹ United Nations, *Treaty Series*, vol. 2187, p. 3.

³⁹⁰ Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the adoption of an additional distinctive emblem (Protocol III). United Nations, *Treaty Series*, vol. 2404, p. 19.

³⁹¹ For the text of the Convention, see chapter IV of this publication.

³⁹² Montreux Document on Pertinent International Legal Obligations and Good Practices for States related to Operations of Private Military and Security Companies during Armed Conflict. For more information and the full text of the Montreux Document, see the website of the ICRC, www.icrc.org.

At the 26th meeting, on 14 November, the representative of Sweden introduced a draft resolution entitled “Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts”,³⁹³ which was adopted at the same meeting without a vote.

(ii) *General Assembly*

In its resolution 63/125 adopted without a vote, the General Assembly, having considered the report of the Secretary-General on the item,³⁹⁴ noted the adoption of the Convention on Cluster Munitions in Dublin on 30 May 2008, and the entry into force of the 2005 Protocol relating to the adoption of the additional protocol concerning the adoption of a distinctive emblem (Protocol III). The Assembly called upon States to consider becoming parties to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict,³⁹⁵ and called upon all States parties to the Protocols Additional to the Geneva Conventions to ensure their wide dissemination and full implementation. The Assembly further requested the Secretary-General to submit to the General Assembly at its sixty-fifth session a report on the status of the Additional Protocols relating to the protection of victims of armed conflicts, as well as on measures taken to strengthen the existing body of international humanitarian law, *inter alia*, with respect to its dissemination and full implementation at the national level, based on information received from Member States and the ICRC.

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

This item was included in the agenda of the thirty-fifth session of the General Assembly in 1980, at the request of Denmark, Finland, Iceland, Norway and Sweden.³⁹⁶ The General Assembly considered the item annually at its thirty-sixth to forty-third sessions, and biannually thereafter.

(i) *Sixth Committee*

The Sixth Committee considered the item at its 14th, 25th and 26th meetings, on 24 October and 5 and 14 November 2008, respectively.³⁹⁷

During the debate, delegations welcomed the Secretary-General’s report on the topic.³⁹⁸ They voiced their concern and condemned the continuing acts of violence against the security and safety of diplomatic and consular missions and their representatives, and urged States to respect their obligations under international law and to take all the necessary measures in

³⁹³ A/C.6/63/L.15.

³⁹⁴ For the report of the Secretary-General, see A/63/118 and Corr.1 and Add.1

³⁹⁵ United Nations, *Treaty Series*, vol. 2173, p. 222.

³⁹⁶ General Assembly decision A/35/142.

³⁹⁷ For the report of the Sixth Committee on this item, see A/63/441. For the summary records, see A/C.6/63/SR.14, 25 and 26.

³⁹⁸ A/63/121.

order to protect the diplomatic and consular missions and representatives within their territories. Some delegations urged States to comply with relevant reporting procedures. Some speakers also stressed that the breaches by States of their obligations under the Vienna Conventions on Diplomatic³⁹⁹ and Consular⁴⁰⁰ Relations entailed an obligation to make reparation or to take other remedial action. The need and responsibility to take preventive measures was emphasized by some delegations.

At the 25th meeting, on 5 November, the representative of Finland introduced a draft resolution entitled "Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives", which was adopted by the Committee, without a vote, at its 26th meeting, on 14 November.⁴⁰¹

(ii) *General Assembly*

In its resolution 63/126 adopted without a vote, the General Assembly took note of the report of the Secretary-General on the item,⁴⁰² and strongly condemned all acts of violence against diplomatic and consular missions and representatives, as well as against missions and representatives of international intergovernmental organizations and officials of such organizations. States were urged to strictly observe, implement and enforce the applicable principles and rules of international law governing diplomatic and consular relations, including during a period of armed conflict, and to ensure the protection, security and safety of the missions and representatives present officially in territories under their jurisdiction, as well as to prevent any acts of violence against them. Furthermore, the Assembly urged States to ensure, with the participation of the United Nations, that such acts would be fully investigated with a view to bringing offenders to justice. The Assembly requested all States to report to the Secretary-General as promptly as possible, serious violations of the protection, security and safety of diplomatic and consular missions and representatives, as well as missions and representatives with diplomatic status to international intergovernmental organizations. Further, the State in which the violation took place — and, to the extent possible, the State where the alleged offender was present — was requested to report to the Secretary-General as promptly as possible on measures taken to bring the offender to justice and to eventually communicate the final outcome of the proceedings. The Secretary-General was requested to submit to the General Assembly at its sixty-fifth session a report containing information on the state of ratification of the instruments relevant to the protection, security and safety of diplomatic and consular missions and representatives, and a summary of reports received from, and views expressed by, Member States. The Secretary-General was further invited to include in his report any views he may wish to express on these matters.

³⁹⁹ United Nations, *Treaty Series*, vol. 500, p. 95.

⁴⁰⁰ United Nations *Treaty Series*, vol. 596, p. 261.

⁴⁰¹ A/C.6/63/L.12.

⁴⁰² For the report of the Secretary-General, see A/63/121 and Add.1 and Add.1/Corr.1.

(e) **Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization**

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

At its twenty-ninth session, in 1974, the General Assembly decided to establish an *Ad Hoc* Committee on the Charter of the United Nations to consider any specific proposals that Governments might make with a view to enhancing the ability of the United Nations to achieve its purposes, as well as other suggestions for the more effective functioning of the United Nations that might not require amendments to the Charter.⁴⁰³ At its thirtieth session, the General Assembly decided to reconvene the *Ad Hoc* Committee as the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization to examine suggestions and proposals regarding the Charter and the strengthening of the role of the United Nations with regard to the maintenance and consolidation of international peace and security, the development of cooperation among all nations and the promotion of the rules of international law.⁴⁰⁴ Since its thirtieth session, the General Assembly has reconvened the Special Committee every year.

The Special Committee met at United Nations Headquarters from 27 to 29 February and on 3 to 5 and 7 March 2008. At its 254th meeting, on 7 March 2008, the Special Committee adopted the report of its 2008 session.⁴⁰⁵

The Special Committee reported, among other things, on its consideration of the revised working paper submitted by the Russian Federation entitled “Basic conditions and standard criteria for the introduction and implementation of sanctions imposed by the United Nations”. According to the report, the new text was aimed at enhancing the effectiveness of sanctions by providing practical recommendations. The sponsor delegation recommended, *inter alia*, that sanctions should be imposed by the Security Council in accordance with its powers under Chapter VII of the Charter only after the exhaustion of all peaceful means of settlement and should be balanced; that these sanctions should provide for clear objectives, conditions and time frame for introducing and lifting them and be subjected to periodic review. In addition, according to the revised working paper, the sanctions should aim at modifying the behaviour of the target State, be based on the assessment of their possible adverse impact on third States or civilian populations, so as to minimize or avoid such an impact, and should not lead to any retribution or human rights violations. Furthermore, it was stated that sanctions should not be aimed at changing political regimes and that they should not be applied “preventively” in instances of mere violation of international law, norms or standards. The Special Committee also reported that, during the debates on the working paper, it was suggested that the International Law Commission consider the issue of the legal consequences of the imposition of unlawful sanctions. The Committee further related the concern expressed by some delegations over the imposition of unilateral sanctions in violation of the Charter. It also reported on the need to improve sanctions regimes and to strengthen the role of the General Assembly and

⁴⁰³ General Assembly resolution 3349 (XXIX) of 17 December 1974.

⁴⁰⁴ General Assembly resolution 3499 (XXX) of 15 December 1975.

⁴⁰⁵ See *Officials records of the General Assembly, Sixty-third Session, Supplement No. 33 (A/63/33)*.

the Economic and Social Council in relation to sanctions. The text of the revised proposal, as it emerged from informal consultations, submitted by the delegation of the Russian Federation for inclusion in the 2008 report of the Special Committee, was reproduced as an annex to the report of the Special Committee.

The Committee also reported on the general exchange of views on the question of the implementation of the provisions of the Charter relating to assistance to third States affected by sanctions. According to the report of the Committee, there were contradictory views on the consequences of targeted sanctions on third States. On one hand, some delegations argued that the use of targeted sanctions preserved the effectiveness of sanctions while minimizing their unintended consequences; on the other hand, other delegations stated that even targeted sanctions could entail unintended negative effects for third States and, therefore, recommended that the Special Committee remain seized of the matter with the aim of establishing a comprehensive and objective framework which would allow for broad-based adaptation of sanctions and mitigate their adverse effects on third States and civilian populations. The Committee also reported on discussions on the usefulness of actively considering the establishment of a fund, financed from assessed contributions or other United Nations-based financial arrangements, to minimize the losses incurred as a consequence of the application of sanctions; those discussions led to the notice that such costs should be considered through appropriate mechanisms, such as the international financial institutions. Furthermore, during the meetings, it was suggested that any reform of the Charter of the United Nations should include a mandate for the Economic and Social Council to undertake studies relating to the socio-economic and humanitarian effects of sanctions, prior to their application.

During the meetings, the consideration of the working paper submitted by the Russian Federation entitled “Fundamentals of the legal basis for United Nations peacekeeping operations in the context of Chapter VI of the Charter of the United Nations” by the Special Committee was completed; therefore, at its 254th meeting, on 7 March 2008, the Special Committee decided not to keep this topic on its agenda.

The Special Committee, reporting on the general exchange of views of delegations that considered the item entitled “Peaceful settlement of disputes”, related the emphasis by delegations on peaceful settlement of disputes as a basic principle of international law enshrined in Article 2, paragraph 3, of the Charter. The delegations also referred to the important role and record of the International Court of Justice in the judicial settlement of disputes.

(ii) *Sixth Committee*

The Sixth Committee considered the item at its 12th, 13th and 26th meetings, on 22 and 23 October and 14 November 2008, respectively.⁴⁰⁶ At the 12th meeting, on 22 October, the Chairman of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization introduced the report of the Special Committee.⁴⁰⁷

⁴⁰⁶ For the report of the Sixth Committee, see A/63/442. For the summary records, see A/C.6/63/SR.12, 13 and 26.

⁴⁰⁷ A/63/33.

At the 26th meeting, on 14 November, the representative of Egypt, on behalf of the Bureau, introduced a draft resolution entitled “Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization”. At the same meeting, the Committee adopted the draft resolution without a vote.⁴⁰⁸

(iii) *General Assembly*

In its resolution 63/127, entitled “Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization”, the General Assembly took note of the report of the Special Committee and of the report of the Secretary-General on the *Repertory* and the *Repertoire*.⁴⁰⁹

In the same resolution, the Assembly requested the Special Committee to continue, during its next session in 2009, its consideration of all proposals concerning the question of the maintenance of international peace and security in all its aspects in order to strengthen the role of the Organization, and, on a priority basis, the question of the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter. It further requested the Special Committee to keep on its agenda the question of the peaceful settlement of disputes between States, and to continue to consider, on a priority basis, ways and means of improving its working methods and enhancing its efficiency with a view to identifying widely acceptable measures for future implementation. Furthermore, the Special Committee was invited by the Assembly to continue to identify new subjects for consideration in its future work with the view to contributing to the revitalization of the work of the United Nations. In the resolution, the General Assembly noted with appreciation the contributions made by Member States to the trust fund for the *Repertoire* and the *Repertory*, and reiterated its call for voluntary contributions to both trust funds, as well as the sponsoring, on a voluntary basis, and with no cost to the United Nations, of associate experts to assist in the updating of the two publications. It further called upon the Secretary-General to continue his efforts towards updating the two publications and making them available electronically in all their respective language versions.

(f) **The rule of law at the national and international levels**

This item was included in the provisional agenda of the sixty-first session of the General Assembly at the request of Liechtenstein and Mexico.⁴¹⁰

At the same session, the General Assembly requested, among other things, the Secretary-General to prepare an inventory of the current activities of the various organs, bodies, offices, departments, funds and programmes within the United Nations system devoted to the promotion of the rule of law at the national and international levels for submission at its sixty-third session.

⁴⁰⁸ A/C.6/63/L.19.

⁴⁰⁹ A/63/98.

⁴¹⁰ A/61/142.

(i) *Sixth Committee*

The Sixth Committee considered the item at its 6th, 7th, 8th and 26th meetings, on 13 and 14 October and on 14 November 2008, respectively.⁴¹¹

During the debate, delegations reiterated their strong commitment to the promotion of the rule of law, which was at the centre of the United Nations efforts in the field and needed to be articulated with the guarantees for human rights, development goals and support for democratization. Several delegations emphasized the importance of the promotion of the rule of law at the national level and indicated that technical assistance by the United Nations and other external actors should be provided at the request of the recipient State, with a view to further enhancing national ownership. The view was expressed that the promotion of the rule of law at the international level needed to be considered as complementary to activities performed at the national level. On the international plane, delegations put emphasis on the codification and progressive development of international law as well as on issues relating to the adoption and implementation of treaties and to the pacific settlement of disputes, in particular by encouraging resort to the International Court of Justice. Some delegations also mentioned efforts made to enhance the dissemination and teaching of international law. In this regard, reference was made to the need to make a better use of electronic resources, as exemplified by the launch of the United Nations Audiovisual Library of International Law.

Several delegations mentioned the need to pay particular attention to the promotion of the rule of law at the institutional level. According to these views, the functions and mandates of the General Assembly should not be infringed upon by other organs and should be respected by Member States. Mention was specifically made of decisions of the Security Council. The view was expressed that the Security Council should pay particular attention to the requirements of the rule of law in the context of the activities of its Sanctions Committees. Delegations also welcomed the inventory of the current activities performed system-wide by the United Nations for the promotion of the rule of law at the national and international levels⁴¹² and the report aimed at identifying ways and means for strengthening and coordinating the activities listed in the inventory.⁴¹³

At the 26th meeting, on 14 November 2008, the representative of Mexico, on behalf of the Bureau, introduced a draft resolution entitled “The rule of law at the national and international levels”.⁴¹⁴ After the Secretary of the Committee made a statement regarding its financial implications, the draft resolution was adopted at the same meeting without a vote. Following the adoption of the draft resolution, the Committee agreed that the understanding reached in connection with operative paragraph 10 of the draft resolution would be issued in a note by the Chairman.⁴¹⁵

⁴¹¹ For the report of the Sixth Committee, see A/63/443. For the summary records, see A/C.6/63/SR.6, 7, 8 and 26.

⁴¹² A/63/64.

⁴¹³ A/63/226.

⁴¹⁴ A/C.6/63/L.17.

⁴¹⁵ Note by the Chairman, A/C.6/63/L.23.

(ii) *General Assembly*

On 11 December 2008, the General Assembly adopted, without a vote, resolution 63/128, in which it noted with appreciation the inventory of current rule of law activities of the United Nations submitted by the Secretary-General and the report of the Secretary-General on strengthening and coordinating United Nations rule of law activities.⁴¹⁶ In addition, the General Assembly expressed full support for the overall coordination and coherence role of the Rule of Law Coordination and Resource Group within the United Nations system within existing mandates, supported by the Rule of Law Unit in the Executive Office of the Secretary-General, under the leadership of the Deputy Secretary-General. At the same time, it also requested the Secretary-General to submit an annual report on United Nations rule of law activities, in particular the work of the Group and the Unit, with special regard to the improvement of the coordination, coherence and effectiveness of rule of law activities, taking note of the elements set out in paragraphs 77 and 78 of the report of the Secretary-General. Furthermore, the Assembly invited the International Court of Justice, the United Nations Commission on International Trade Law and the International Law Commission to continue to comment, in their respective reports to the General Assembly, on their current roles in promoting the rule of law, and it also invited the Rule of Law Coordination and Resource Group and the Rule of Law Unit to interact with Member States.

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

The item “Measures to eliminate international terrorism” was included in the agenda of the twenty-seventh session of the General Assembly, in 1972, further to an initiative of the Secretary-General.⁴¹⁷

(i) *Ad hoc Committee established by General Assembly resolution 51/210 of 17 December 1996*

On 17 December 1996, the General Assembly adopted resolution 51/210, by which it decided to establish an *Ad Hoc* Committee to elaborate an international convention for the suppression of terrorist bombings and, subsequently, an international convention for the suppression of acts of nuclear terrorism, to supplement related existing international instruments, and thereafter to address means of further developing a comprehensive legal framework of conventions dealing with international terrorism.

In 2008, the *Ad Hoc* Committee held its 40th and 41st meetings on 25 February and on 6 March 2008, respectively.⁴¹⁸ Informal consultations were held from 25 February to 5 March. Informal summaries of the consultations can be found, for reference purposes only, in the annexes to the report of the *Ad Hoc* Committee.

⁴¹⁶ A/63/226.

⁴¹⁷ A/8791 and Add.1 and Add.1/Corr.1.

⁴¹⁸ For the report of the *Ad Hoc* Committee, see *Official Records of the General Assembly, Sixty-third Session, Supplement No. 37 (A/63/37)*.

At its 41st meeting, the *Ad Hoc* Committee decided to recommend that the Sixth Committee, at the sixty-third session of the General Assembly, establish a working group with a view to finalizing the draft comprehensive convention on international terrorism and continue to discuss the item, included in its agenda by General Assembly resolution 54/110, concerning the question of convening a high-level conference under the auspices of the United Nations.

(ii) *Sixth Committee*

The Sixth Committee considered this item at its 2nd, 3rd, 4th, 14th and 26th meetings, on 8, 9 and 24 October and 14 November 2008, respectively.⁴¹⁹

At its 1st meeting, on 6 October, the Sixth Committee established a Working Group to continue to carry out the mandate of the *Ad Hoc* Committee established by General Assembly resolution 51/210. The Working Group held two meetings, on 9 and 16 October. Informal consultations were also held on the resolution on this item.

During the debate, delegations reaffirmed their strong condemnation of terrorism in all its forms and manifestations, and recalled that it remains a major threat to international peace and security. They emphasized the transnational dimension of the phenomenon requiring a global response of the international community, which should be coordinated at the regional and international levels. Delegations further observed that terrorism should not be associated with any culture or religion. The necessity to encourage dialogue among civilizations and religions as an integral part of the fight against terrorism was stressed and, in this regard, the role of the media and the civil society was emphasized.

Several delegations stressed that counter-terrorism measures must be in conformity with the Charter of the United Nations, international law, and in particular human rights, refugee and humanitarian law. Some speakers stressed that the right of peoples to self-determination and to fight against foreign occupation should also be respected and clearly differentiated from terrorist acts. Some delegations also recalled the necessity of addressing the conditions conducive to terrorism, as well as other crimes used to finance terrorism, such as drug trafficking.

Delegations reiterated their support for the United Nations Global Counter-Terrorism Strategy and viewed it as a key achievement in the coordination of the action of the international community against terrorism. It was stressed that the Strategy should be fully implemented by Member States without selectivity. The first review on the implementation of the Strategy in September 2008 was generally welcomed. Delegations further expressed their appreciation for the institutionalization by the Secretary-General of the Counter-Terrorism Implementation Task Force, which they hoped would enhance coordination among various units of the Organization.

At the 26th meeting, on 14 November 2008, the representative of Canada, on behalf of the Bureau, introduced a draft resolution entitled "Measures to eliminate international terrorism".⁴²⁰ At the same meeting, the Secretary of the Committee made a statement

⁴¹⁹ For the report of the Sixth Committee on this item, see A/63/444. For the summary records, see A/C.6/63/SR.2-4, 14 and 26.

⁴²⁰ A/C.6/63/L.11.

regarding the financial implications of the draft resolution, and the Committee adopted this draft resolution without a vote.

(iii) *General Assembly*

In its resolution 63/129 entitled “Measures to eliminate international terrorism” adopted without a vote, the General Assembly reiterated its call upon all States to adopt further measures in accordance with the Charter of the United Nations and the relevant provisions of international law, including international standards of human rights, to prevent terrorism and to strengthen international cooperation in combating terrorism. The Assembly furthermore decided that the *Ad Hoc* Committee should, on an expedited basis, continue to elaborate the draft comprehensive convention on international terrorism, and should continue to discuss the item included in its agenda concerning the question of convening a high-level conference under the auspices of the United Nations.

(h) *Revitalization of the work of the General Assembly*

The item “Revitalization of the work of the General Assembly” was first considered by the General Assembly at its forty-sixth session.⁴²¹

(i) *Ad Hoc Working Group*

At its resumed sixty-second session, on 2 August 2007, the General Assembly adopted resolution 61/292, by which it decided to establish an *Ad hoc* Working Group open to all Member States to evaluate and assess the status of implementation of relevant resolutions, to identify ways to further enhance the role, authority, effectiveness and efficiency of the Assembly, *inter alia*, by building on previous resolutions, and to submit a report thereon to the Assembly.

In 2008, the Working Group held seven meetings on 21 February, 30 May, 19 and 24 June, 21 and 31 July and 11 September 2008. At its 1st meeting, on 21 February, the Working Group held a general discussion on the revitalization of the General Assembly.⁴²²

During the review that followed, Member States underlined that the best way to revitalize the General Assembly was to ensure implementation of previous resolutions on the matter. At the same time, it was indicated that a large number of provisions on revitalization had already been implemented in a satisfactory manner. Some delegations noted, in this context, that in order to make a fair assessment of the progress achieved so far, a parallel should be drawn between the quantity of provisions implemented and their quality. Some argued that it was important to analyse the reasons for the lack of implementation of resolutions before engaging in the identification of ways to strengthen the Assembly. In that context, a recommendation was made that the Secretary-General should continue to report on the implementation of resolutions on revitalization. In addition, several delegations underlined that the General Assembly should continue to engage actively in priority

⁴²¹ General Assembly resolution 46/77 of 12 December 1991.

⁴²² For the report of the Working Group, see A/62/952.

areas, including peace and security, the new peacebuilding architecture, development and the Millennium Development Goals, and to discuss current issues of major relevance. Some delegations underlined the need for an analysis on how the ongoing considerations on Security Council reform, system-wide coherence and mandate review could contribute to revitalization. Furthermore, delegations underscored the lack of balance among and between the principal organs and indicated that it was essential to re-establish the balance between the main bodies of the Organization, as set out in the Charter of the United Nations. During the debate, delegations also noted that the provisions relating to the selection of the Secretary-General were the least implemented provisions of the overall revitalization efforts and expressed the opinion that the procedures for selection of the Secretary-General should be considered well before the start of the next selection process.

The *Ad Hoc* Working Group adopted its report on 11 September, and transmitted it to the General Assembly for consideration.

(ii) *Sixth Committee*

On its 2nd plenary meeting, on 19 September 2008, the General Assembly decided to allocate the agenda item to all the Main Committees for the sole purpose of considering and taking action on their respective tentative programmes of work for the sixty-fourth session of the General Assembly. The Sixth Committee considered the item at its 26th meeting, on 14 November 2008.⁴²³ On the same day, the Chairman introduced the draft decision on the provisional programme of work for the sixty-fourth session of the General Assembly as proposed by the Bureau, which was adopted at the same meeting.⁴²⁴

(iii) *General Assembly*

On 15 September 2008, the General Assembly adopted, without reference to a Main Committee, resolution 62/276, by which it decided to establish, at its sixty-third session, an *ad hoc* working group to identify further ways to enhance the role, authority, effectiveness and efficiency of the Assembly, *inter alia*, by building on previous resolutions, and to report thereon to the Assembly at its sixty-third session.

(i) **Administration of justice at the United Nations**

The item “Administration of Justice at the United Nations” was included in the provisional agenda of the sixty-first session of the General Assembly pursuant to Assembly resolution 59/283 of 13 April 2005 and decision 60/551 B of 8 May 2006.

In its resolution 61/261 of 4 April 2007, the General Assembly decided to continue the consideration of this item during its sixty-second session as a matter of priority with the objective of implementing the new system of administration of justice no later than January 2009. The Assembly also invited the Sixth Committee to consider the legal aspects of the reports to be submitted by the Secretary-General without prejudice to the role of the

⁴²³ For the summary records, see A/C.6/63/SR.26.

⁴²⁴ A/C.6/63/L.16.

Fifth Committee as the Main Committee entrusted with responsibilities for administrative and budgetary matters.

(i) *Ad Hoc Committee on the Administration of Justice at the United Nations*

The *Ad Hoc* Committee on the Administration of Justice at the United Nations was established on 6 December 2007 by General Assembly decision 62/519⁴²⁵ for the purpose of continuing the work on the legal aspects of the item, taking into account the results of the deliberations of the Sixth Committee on the item,⁴²⁶ previous decisions of the Assembly and any further decisions that the Assembly may take during its sixty-second session prior to the meeting of the *Ad Hoc* Committee.

The *Ad Hoc* Committee on the Administration of Justice at the United Nations held its first session in 2008 and met from 10 to 18 and on 21 and 24 April 2008 at the Headquarters of the United Nations in New York. During the debate, delegations expressed their views on several issues, including the scope of the new system of administration of justice, the legal assistance for staff and the jurisdiction and powers of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal. At its 2nd meeting, on 24 April 2008, the Committee adopted its report on its first session and approved various recommendations dealing with the item.⁴²⁷

The *Ad Hoc* Committee held its 3rd plenary meeting on 5 August 2008 for the purpose of taking note of the oral report of the coordinator on the informal intersessional consultations and to request the Secretary-General to issue the coordinator's summary as an addendum to the report of the *Ad Hoc* Committee.⁴²⁸

(ii) *Sixth Committee*

The Sixth Committee considered the item at its 1st, 15th and 26th meetings, on 6 and 24 October, and on 14 November 2008, respectively.⁴²⁹ During its 1st meeting, the Chairman of the *Ad Hoc* Committee on the Administration of Justice at the United Nations introduced the report of the *Ad Hoc* Committee.⁴³⁰

At its 1st meeting, on the recommendation of the *Ad Hoc* Committee on the Administration of Justice at the United Nations, the Sixth Committee decided to establish a Working Group on the Administration of Justice at the United Nations, to finalize, as a priority, its deliberations on the draft statutes of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal, bearing in mind resolution 62/228, in which the General Assembly decided to establish a two-tier formal system of administration of justice as from

⁴²⁵ *Official Records of the General Assembly, Sixty-second Session, Supplement No. 49 (A/62/49)*.

⁴²⁶ A/C.5/61/21, appendix I, and A/C.5/62/11, appendix I.

⁴²⁷ For the report of the *Ad Hoc* Committee on the Administration of Justice at the United Nations, see *Official Records of the General Assembly, Sixty-third Session, Supplement No. 55 (A/63/55)*. The recommendations are contained in section IV of the report.

⁴²⁸ A/63/55/Add.1.

⁴²⁹ For the report of the Sixth Committee, see A/63/451. For the summary records, see A/C.6/63/SR.1, 15 and 26.

⁴³⁰ A/63/55 and Add.1

1 January 2009. The Working Group was also assigned to continue the discussion of the other legal aspects of the administration of justice at the United Nations.⁴³¹

At its 15th meeting, the Sixth Committee adopted, with oral amendments, the text of the draft statutes of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal,⁴³² and decided that its Chairman would transmit the text of the draft statutes to the Chairman of the Fifth Committee, through the President of the General Assembly.⁴³³

At the 15th meeting, on 24 October, the representative of Malaysia, on behalf of the Bureau, introduced a draft decision entitled “Administration of justice at the United Nations”,⁴³⁴ which was adopted at the same meeting without a vote.

(iii) *General Assembly*

On 11 December 2008, the General Assembly adopted without a vote, upon the recommendation of the Sixth Committee,⁴³⁵ decision 63/531 in which it decided that the *Ad Hoc* Committee on the Administration of Justice at the United Nations would continue work on the outstanding legal aspects of the item, taking into account the results of the deliberations of the Fifth and Sixth Committees on the item, previous decisions of the Assembly and any further decisions that the Assembly may take during its sixty-third session prior to the meeting of the *Ad Hoc* Committee.

On 24 December 2008, the General Assembly adopted, on the recommendation of the Fifth Committee, resolution 63/253, by which it adopted the Statutes of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal, annexed thereto.

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

(i) *Committee on Relations with the Host Country*

The Committee on Relations with the Host Country was established by the General Assembly at its twenty-sixth session in 1971, to deal with a wide range of issues concerning the relationship between the United Nations and the United States as the host country, including questions pertaining to security of the missions and their personnel; privileges and immunities; immigration and taxation; housing, transportation and parking; insurance, education and health; and public relations issues with New York as the host city.⁴³⁶ In 2008, the Committee was composed of the following 19 Member States: Bulgaria, Canada, China, Costa Rica, Côte d’Ivoire, Cuba, Cyprus, France, Honduras, Hungary, Iraq, Libyan

⁴³¹ For more information on the work of the Working Group, see oral report presented by the Chairman to the Sixth Committee, Summary record of the 15th meeting, A/C.6/63/SR.15.

⁴³² For the draft Statute of the United Nations Dispute Tribunal, see A/C.6/63/L.7. For draft Statute of the United Nations Appeals Tribunal, see A/C.6/63/L.8.

⁴³³ See letter from the President of the General Assembly to the Chairman of the Fifth Committee, dated 27 October 2008, (A/C.5/63/9).

⁴³⁴ A/C.6/63/L.9.

⁴³⁵ A/63/450.

⁴³⁶ General Assembly resolution 2819 (XXVI) of 15 December 1971.

Arab Jamahiriya, Malaysia, Mali, Russian Federation, Senegal, Spain, United Kingdom of Great Britain and Northern Ireland and United States of America.

In accordance with General Assembly resolution 62/72 of 6 December 2007, the Committee reconvened in 2008 and held five meetings: its 236th meeting, on 22 January 2008; its 237th meeting, on 22 April 2008; its 238th meeting, on 23 July 2008; its 239th meeting, on 2 October 2008 and its 240th meeting, on 31 October 2008.

During its 2008 session, the Committee dealt with the following topics: the question of security of missions and the safety of their personnel, entry visas issued by the host country, acceleration of immigration and customs procedures, and transportation (use of motor vehicles, parking and related matters). The Committee also dealt with other matters raised by the host country concerning, *inter alia*, an update on the changes in the procedure to claim exemptions to taxation of gasoline and other petroleum products, information on developments with regard to reimbursement of taxes paid on gasoline purchases, and the issue of property taxes levied by the City of New York on premises used by permanent missions to host diplomats.

At its 240th meeting, on 31 October 2008, the Committee approved various recommendations and conclusions dealing with the said matters.⁴³⁷

(ii) *Sixth Committee*

The Sixth Committee considered the item at its 26th meeting, on 14 November 2008,⁴³⁸ during which the Chairman of the Committee on Relations with the Host Country introduced the report of the Committee.

During the debate, appreciation was expressed for the continued efforts of the Host Country to accommodate the needs of the diplomatic community. The importance of fulfilling its obligations under the Convention on the Privileges and Immunities of the United Nations of 13 February 1946⁴³⁹ and the Headquarters Agreement⁴⁴⁰ was also stressed at the meeting. Some delegations welcomed the decision of the Host Country to partly exempt the diplomats from secondary screening procedures and the efforts to ensure the timely issuance of visas. However, the Host Country was urged by some delegations to remove travel restrictions for staff of certain nationalities. A point was made that the outstanding issues concerning the selective treatment of diplomats in airports, transportation, immigration, customs procedures and tax exemptions should be addressed. Concerns regarding the imposition of property taxes were also raised. The Host Country was urged to issue visas in a timely fashion and to treat all missions on the basis of equality.

The Host Country confirmed its commitment to fulfil its obligations under international law and highlighted, in particular, the improvements of immigration procedures for diplomats at its airports. It also pointed out that restrictions on private non-official travel did not violate international law.

⁴³⁷ *Official Records of the General Assembly, Sixty-third Session, Supplement No. 26 (A/63/26)*.

⁴³⁸ For the report of the Sixth Committee, see A/63/452. For the summary records, see A/C.6/63/SR.26.

⁴³⁹ United Nations, *Treaty Series*, vol. 1, p. 15, and vol. 90, p. 327 (corrigendum to vol. 1).

⁴⁴⁰ Contained in General Assembly resolution 169 (II) of 31 October 1947.

During the same meeting, the representative of Cyprus introduced a draft resolution entitled “Report of the Committee on Relations with the Host Country”, which was adopted by the Sixth Committee without a vote.⁴⁴¹

(iii) *General Assembly*

On 11 December 2008, the General Assembly adopted without a vote resolution 63/130, in which it endorsed the recommendations and conclusions of the Committee on Relations with the Host Country contained in its report.⁴⁴² In addition, the Assembly 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 were in the interest of the United Nations and all Member States, and it requested the Host Country to continue to solve through negotiations problems that might arise and to take all necessary measures to prevent any interference with the functioning of missions. The Assembly also urged the Host Country to continue to take appropriate action, such as training of police, security, customs and border control officers, with a view to maintaining respect for diplomatic privileges and immunities, and if violations occurred, to ensure that such cases were properly investigated and remedied, in accordance with applicable law. Furthermore, the Assembly noted the problems experienced by some permanent missions in connection with the implementation of the Parking Programme for Diplomatic Vehicles. It also requested the Host Country to consider removing the remaining travel restrictions imposed by it on staff of certain missions and staff members of the Secretariat of certain nationalities, and noted that the Committee anticipates that the Host Country will enhance its efforts to ensure the issuance, in a timely manner, of entry visas to representatives of Member States. The Assembly also noted that a number of delegations had requested shortening the time frame applied by the Host Country for issuance of entry visas to representatives of Member States, since this time frame posed difficulties for the full-fledged participation of Member States in United Nations meetings.

(k) **Observer status in the General Assembly**

(i) *Sixth Committee*

The Sixth Committee considered requests for observer status in the General Assembly by the South Centre, the University for Peace, and the International Fund for Saving the Aral Sea.

A draft resolution entitled “Observer status for the South Centre in the General Assembly”,⁴⁴³ was introduced by the representative of the United Republic of Tanzania, on behalf of several African countries, at the 11th meeting, on 21 October 2008. At its 25th

⁴⁴¹ For the draft resolution submitted by the Sixth Committee, see A/C.6/63/L.18.

⁴⁴² *Official Records of the General Assembly, Sixty-third Session, Supplement No. 26 (A/63/26)*, para. 51.

⁴⁴³ A/C.6/63/L.3.

meeting, on 5 November, the Committee considered and adopted the draft resolution without a vote.⁴⁴⁴

On 5 November 2008, two draft resolutions entitled “Observer status for the International Fund for Saving the Aral Sea in the General Assembly”⁴⁴⁵ and “Observer status for the University for Peace in the General Assembly”⁴⁴⁶ were introduced by the representative of Tajikistan and the Representative of Costa Rica, respectively. The draft resolutions were considered and adopted by the Committee without a vote at its 25th and 26th meeting, on 5 and 14 November 2008.⁴⁴⁷

(ii) *General Assembly*

On 11 December 2008, the General Assembly adopted without a vote resolutions 63/131, 63/132 and 63/133, in which it decided to invite the South Centre, the University for Peace and the International Fund for Saving the Aral Sea, respectively, to participate in the sessions and the work of the General Assembly in their capacity of observers.

17. *Ad hoc international criminal tribunals*⁴⁴⁸

(a) **Organization of the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR)**

(i) *Organization of ICTY*

Judge Fausto Pocar (Italy) continued to act as President and Judge Kevin Parker (Australia) as Vice-President of the Tribunal until 17 November 2008, at which date Judge Patrick L. Robinson (Jamaica) and Judge O-Gon Kwon (South Korea) started their mandate as President and Vice-President, respectively, of the Tribunal. They were elected by the permanent judges in an Extraordinary Plenary Session on 4 November 2008 for a two-year term.

In November 2008, the Secretary-General appointed Judge Christoph Flugge (Germany) to the Tribunal for the remainder of the term of office of Judge Wolfgang Schomburg (Germany), who resigned from the Tribunal.

Thus, at the end of 2008, the 14 permanent judges of the Tribunal were as follows: Carmel Agius (Malta), Jean-Claude Antonetti (France), Iain Bonomy (United Kingdom of Great Britain and Northern Ireland), Liu Daqun (China), Christoph Flugge (Germany), O-Gon Kwon (South Korea), Theodor Meron (United States of America), Bakone Justice

⁴⁴⁴ For the report of the Sixth Committee, see A/63/453.

⁴⁴⁵ A/C.6/63/L.13

⁴⁴⁶ A/C.6/63/L.2.

⁴⁴⁷ For the reports of the Sixth Committee, see, A/63/454 and A/63/455, respectively.

⁴⁴⁸ This section covers the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR), which were the subject of resolutions of the Security Council and the General Assembly. Further information regarding the Judgments and Decisions of the ICTY and ICTR is contained in Chapter VII of the present publication.

Moloto (South Africa), Alphons Orié (Netherlands), Kevin Parker (Australia), Fausto Pocar (Italy), Patrick Robinson (Jamaica) and Christine Van den Wyngaert (Belgium).

On 9 October 2008, the term of office of the following *ad litem* judges was extended until 31 December 2009: Mr. Ali Nawaz Chowhan (Pakistan), Mr. Pedro David (Argentina), Ms. Elizabeth Gwaunza (Zimbabwe), Mr. Frederik Harhoff (Denmark) and Ms. Tsvetana Kamenova (Bulgaria). A temporary increase in the number of *ad litem* judges from a maximum of 12 to a maximum of 16 during the year 2008 was approved by the United Nations Security Council.⁴⁴⁹

The *ad litem* judges during 2008 were: Krister Thelin (Sweden), Janet Nosworthy (Jamaica), Frank Höpfl (Austria), Árpád Prandler (Hungary), Stefan Trechsel (Switzerland), Antoine Kesia-Mbe Mindua (Democratic Republic of the Congo), Ali Nawaz Chowhan (Pakistan), Tsvetana Kamenova (Bulgaria), Kimberly Prost (Canada), Ole Bjørn Støle (Norway), Frederik Harhoff (Denmark), Flavia Lattanzi (Italy), Pedro David (Argentina), Michèle Picard (France), Uldis Ķiniš (Latvia), Elizabeth Gwaunza (Zimbabwe), and Judge Melville Baird (Trinidad and Tobago).

(ii) *Organization of ICTR*

During the year 2008, Judge Dennis Byron (Saint Kitts and Nevis) served as President of the Tribunal and Judge Khalida Rachid Khan (Pakistan) as Vice-President.

The composition of the Tribunal during 2008 was as follows:

Trial Chamber I was composed of Judges Erik Møse (Norway), Jai Ram Reddy (Fiji) and Sergei Alekseevich Egorov (Russian Federation) as permanent judges. Judge Florence Rita Arrey, *ad litem* Judge in Trial Chamber III, also served in Trial Chamber I.

Trial Chamber II was composed of Judges William H. Sekule (United Republic of Tanzania), Arlette Ramaroson (Madagascar) and Solomy Balungi Bossa (Uganda) as permanent judges. Judges Seon Ki Park (Republic of Korea) and Taghrid Hikmet (Jordan) served as *ad litem* judges. Judges Joseph Osaka Nihal de Silva (Sri Lanka), Khalida Rashid Khan (Pakistan), Lee Gacuiga Muthoga (Kenya) and Emile Francis Short (Ghana) served as *ad litem* judges for Trial Chamber II and III.

Trial Chamber III was composed of Judges Dennis Charles Michael Byron (Saint Kitts and Nevis), Gberdao Gustave Kam (Burkina Faso) and Robert Fremr (Czech Republic), as permanent Judges. Judges Inés M. Weinberg de Roca (Argentina) and Judge Vagn Joensen served as *ad litem* judges in Trial Chamber III. *Ad litem* Judge Florence Rita Arrey, who served in Trial Chamber I, and *ad litem* Judges Khalida Rashid Khan, Lee Gacuiga Muthoga, Joseph Osaka Nihal de Silva, and Emile Francis Short in Trial Chamber II, all served as well in Trial Chamber III.

(iii) *Composition of the Appeals Chamber*

At the beginning of 2008, the seven-member bench of the shared Appeals Chamber of the two Tribunals was composed of Fausto Pocar (Italy), Mohamed Shahabuddeen

⁴⁴⁹ For further information on the temporary increase in the number of *ad litem* judges approved by the United Nations Security Council, see section (c) (i) below.

(Guyana), Mehmet Güney (Turkey), Liu Daqun (China), Andresia Vaz (Senegal), Theodor Meron (United States of America), and Wolfgang Schomburg (Germany).

(b) General Assembly

On 13 October 2008, during its sixty-third session, the General Assembly adopted decisions 63/505 and 63/506,⁴⁵⁰ which took note of the respective reports of ICTR⁴⁵¹ and ICTY.⁴⁵²

On 24 December 2008, on the recommendation of the Fifth Committee, the General Assembly also adopted resolutions 63/254 entitled “Financing 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” and resolution 63/255 entitled “Financing 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”.

On the same day, and on the recommendation of the Fifth Committee, the General Assembly adopted two resolutions concerning the internal organization of the two *ad hoc* Tribunals. In resolution 63/256, entitled “Comprehensive proposal on appropriate incentives to retain staff of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia”, the Assembly recognized the critical importance of retaining highly-skilled and specialized staff in order to successfully complete all trial proceedings and to meet the targets set out in the respective completion strategies of the Tribunals in a timely manner, and therefore requested the Secretary-General to use the existing contractual frameworks to offer contracts to staff in order to remove uncertainty with regard to future employment with the aim of ensuring that the Tribunals had the necessary capacity to complete their respective mandates effectively.

In its resolution 63/259 entitled “Conditions of service and compensation for officials other than Secretariat officials: members of the International Court of Justice and judges and *ad litem* judges of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda”, the Assembly recalled its adoption of decision 62/547 on the same issue;⁴⁵³ it also took note of the report of the Secretary-General⁴⁵⁴ and the related report of the Advisory Committee on Administrative and Budgetary Questions.⁴⁵⁵ While reaffirming the principle that the conditions of service and compensation for non-Secretariat United Nations officials shall be separate and distinct from those for officials of the Secretariat, the Assembly decided that any decisions with regard to the

⁴⁵⁰ See *Official Records of the General Assembly, Sixty-third Session, Supplement No. 49* (A/63/49, vol. II).

⁴⁵¹ See A/63/209-S/2008/514.

⁴⁵² See A/63/210-S/2008/515.

⁴⁵³ See *Official Records of the General Assembly, Sixty-second Session, Supplement No. 49*, (A/62/49, vol. III).

⁴⁵⁴ A/62/538/Add.2.

⁴⁵⁵ A/63/570.

pension scheme shall apply only to the members of the International Court of Justice and the judges and *ad litem* judges of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda and shall not constitute a precedent for any other category of judges working within the United Nations system. It was further decided that any decision regarding the service of any other category of judges shall be taken on a case-by-case basis. The Assembly requested the Secretary-General to make the necessary revisions to article 1, paragraph 2, of the Pension Scheme Regulations for the members of the International Court of Justice and for the judges of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda, and to further report to the General Assembly on any additional expenditures resulting from the above decision. Furthermore, the Assembly decided to amend article 1, paragraph 7, of the Pension Scheme Regulations for members of the International Court of Justice and article 1, paragraph 5, of the Pension Scheme Regulations for judges of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda to include a specific reference to the International Criminal Court so as to ensure that no former judge of any of these Courts received a pension while also serving as a judge of the International Criminal Court.

(c) Security Council

(i) *Appointment of additional ad litem Judges*

On 20 February 2008, the Security Council adopted resolution 1800 (2008) in which it considered the proposal made by the President of ICTY that the Secretary-General be authorized to appoint additional *ad litem* Judges upon request of the President of the International Tribunal notwithstanding the fact that their number would from time to time temporarily exceed the maximum of twelve provided under article 12 (1) of the Statute to a maximum of sixteen at any one time, returning to a maximum of twelve by 31 December 2008, to enable the International Tribunal to conduct additional trials once one or more of the permanent Judges of the International Tribunal became available.⁴⁵⁶ Therefore, acting under Chapter VII of the Charter of the United Nations, the Council decided that the Secretary-General may appoint additional *ad litem* Judges accordingly to the above proposal, returning to a maximum of twelve by 31 December 2008. On 12 December 2008, the Council adopted resolution 1849 (2008), extending the terms of its resolution 1800 (2008); it took note of the request of the President of the International Tribunal for the former Yugoslavia,⁴⁵⁷ and decided the returning to a maximum of twelve *ad litem* Judges by 28 February 2009.

On 19 December 2008, the Security Council adopted resolution 1855 (2008) in which it considered the proposal made by the President of the International Tribunal for Rwanda that the Secretary-General be authorized, to appoint additional *ad litem* Judges upon request of the President of the International Tribunal notwithstanding the fact that their

⁴⁵⁶ For more information, see letters from Secretary-General to the President of the Security Council dated 22 January 2008 and 8 February 2008 (S/2008/44 and S/2008/99).

⁴⁵⁷ For further information, see letter from the Secretary-General to the President of the Security Council dated 5 December 2008, attaching the letter to the latter from the President of the International Tribunal for the former Yugoslavia dated 26 November 2008 (S/2008/767, Annex).

number would from time to time temporarily exceed the maximum of nine provided under article 11, paragraph 1, of the Statute to a maximum of twelve at any one time, returning to a maximum of nine by 31 December 2008, to enable the International Tribunal to complete trials and conduct additional trials as soon as possible in order to meet its completion strategy. Therefore, acting under Chapter VII of the Charter of the United Nations, the Council decided that the Secretary-General may appoint additional *ad litem* Judges accordingly to the above proposal, returning to a maximum of nine by 31 December 2009.

(ii) *Amendments to the Statutes*

In 2008, the Security Council adopted three resolutions by which it amended the provisions relating to the composition of the Chambers of the ICTR and the ICTY. In resolution 1824 (2008), adopted on 18 July 2008, and resolution 1855 (2008), adopted on 19 December 2008, the Security Council, acting under Chapter VII of the Charter, decided to amend article 11, paragraphs 1 and 2, and article 11, paragraph 2, of ICTR Statute, respectively. On 29 September 2008, the Council adopted resolution 1837 (2008) by which it decided to amend, without prejudice to resolution 1800 (2008), article 12, paragraphs 1 and 2, of the ICTY Statute.

(iii) *Ad hoc mechanism to carry out functions of the Tribunals*

At the 6053rd meeting of the Security Council, held on 19 December 2008, the President of the Security Council made a statement on behalf of the Council,⁴⁵⁸ in which he expressed the Security Council's acknowledgement of the need to establish an *ad hoc* mechanism to carry out a number of essential functions of the Tribunals, including the trial of high-level fugitives, after the closure of the Tribunals. Through the presidential statement, the Security Council expressed its appreciation to its Informal Working Group on International Tribunals for its work to date on the establishment of this mechanism, including through a thorough examination of which functions of the Tribunals were necessary for the administration of justice after their closure. The Council further requested the Informal Working Group on International Tribunals to continue its efforts in that regard and to concentrate on the main outstanding issues with a view to drafting as soon as possible appropriate instruments necessary for the performance of residual functions of the Tribunals.

(d) *Amendments to the Rules of Procedure and Evidence of the ICTY*

On 28 February 2008, during the thirty-fourth plenary session, rules 67 and 75 of the Rules of Procedure and Evidence (the Rules) of the ICTY were amended.

In amending rule 67, the additional disclosure was provided in favour of the Prosecutor. With the amendment, rule 67 comprised a provision whereby:

“within the time-limit prescribed by the Trial Chamber, at a time not prior to a ruling under Rule 98 *bis*, but not less than one week prior to the commencement of the Defence case, the Defence shall: (i) permit the prosecutor to inspect permit the Prosecu-

⁴⁵⁸ See Presidential statement dated 19 December 2008 (S/PRST/2008/47).

tor to inspect and copy any books, documents, photographs, and tangible objects in the Defence's custody or control, which are intended for use by the Defence as evidence at trial; and (ii) provide to the Prosecutor copies of statements, if any, of all witnesses whom the Defence intends to call to testify at trial, and copies of all written statements taken in accordance with Rule 92 *bis*, Rule 92 *ter*, or Rule 92 *quater*, which the Defence intends to present at trial. Copies of the statements, if any, of additional witnesses shall be made available to the Prosecutor prior to a decision being made to call those witnesses."

Rule 75 was amended as to increase protection for witnesses and victims by allowing the Chamber to order the non-disclosure to the public of any records identifying the victim or witness. In addition, a provision was added in the same rule by which the Victims and Witnesses Section must ensure that consent had been given by the protected victim or witness prior to any rescission, variation or augmentation of protective measures.

On 4 November 2008, at an Extraordinary Plenary Session, rule 45 *ter* was adopted by the Judges to enable the Trial Chamber, if the latter decided that it was in the interests of justice, to instruct the Registrar to assign a counsel to represent the interests of the accused.

B. GENERAL REVIEW OF THE LEGAL ACTIVITIES OF INTERGOVERNMENTAL ORGANIZATIONS RELATED TO THE UNITED NATIONS

1. Universal Postal Union

(a) Agreements

In January 2008, the Universal Postal Union (UPU) and the International Organization for Standardization (ISO) signed a cooperation agreement on the development of international standards in the area of postal services.

In April 2008, UPU signed an agreement with the United Nations Environment Programme (UNEP) aimed at strengthening cooperation on environmental protection and sustainable development.

In July 2008, during the 24th Universal Postal Congress, a memorandum of understanding was signed between the Union Network International (UNI) and UPU, with a view to continuing their collaborative efforts.

UPU was also admitted as an observer to the Governmental Advisory Committee (GAC) of the Internet Corporation for Assigned Names and Numbers (ICANN).

The UPU Council of Administration decided to classify Palestine for terminal dues and Quality of Service Fund purposes. A resolution of the 1999 Universal Postal Congress had authorized Palestine to conduct direct postal exchanges with Union member countries.

(b) Legislative matters

At the 24th UPU Congress, held in Geneva (Switzerland) from 23 July to 12 August 2008, certain amendments were made to the UPU Acts: the Eighth Additional

Protocol to the Constitution⁴⁵⁹ and the new versions of the General Regulations, the Universal Postal Convention⁴⁶⁰ and the Postal Payment Services Agreement⁴⁶¹ will enter into force on 1 January 2010.

The term “postal administration” was replaced throughout the UPU Acts by “member country” or “designated operator”, depending on the context, so as to draw a clearer distinction between the regulatory and operational functions and responsibilities of the bodies of the Union with respect to the provision of international postal services.

(i) *Constitution*

A definition of the term “designated operator”, stemming from the changes referred to above, was added, together with a definition of the term “reservation” in the context of the UPU Acts.

The role of member countries in ensuring that their designated operators fulfil the obligations arising from the UPU Acts was recalled in the Constitution.

(ii) *General Regulations*

A new article in the General Regulations sets out the responsibilities of the Universal Postal Congress.

The conditions of participation by businesses in the Consultative Committee, which represents the interests of the wider postal sector, were clarified: only businesses supporting the mission and objectives of the Union may now be members.

A four-yearly report on the implementation of Union strategy, drawn up by the International Bureau and the Postal Operations Council, was introduced.

It was also specified that designated operators should refer to their member countries any disputes needing to be resolved by arbitration between designated operators.

(iii) *Universal Postal Convention*

There were also a few changes to the Convention. The obligation for member countries to adopt a sustainable development strategy was expanded so as to cover social and economic issues in addition to environmental issues.

The provisions on electronic mail services were also updated to allow for the possibility of designated operators offering a registered e-mail service.

The issue of the sending of infectious substances through the post was clarified and a reference to the relevant UN classification was added.

Concerning terminal dues, the Convention now distinguishes between those countries that were part of the target system prior to 2010, or from 2010 onwards, or are in the

⁴⁵⁹ United Nations, *Treaty Series*, vol. 611, p. 64.

⁴⁶⁰ United Nations, *Treaty Series*, vol. 1687, p. 181.

⁴⁶¹ Postal Payment Services Agreement, Beijing, 15 September 1999, entered into force on 1 January 2001.

transitional system. It provides exceptions to the principle of transparency in rate-setting between designated operators, based on this classification and on certain conditions.

(iv) *Postal Payment Services Agreement*

At the 24th Congress, a new Postal Payment Services Agreement was adopted by Union member countries. The result of work aimed at recasting and improving the old Agreement initiated by the previous Congress. This new multilateral framework covers postal payment services transmitted both in paper form and by electronic means.

(v) *Other Congress decisions*

The 24th Congress adopted the next world postal strategy, which comprises four objectives aimed at modernizing global postal services at all levels, whether in terms of institutional reform or quality of service improvement, postal security and universal postal service, or raising awareness of the impact of postal services on the environment and climate change.

In addition, the member countries adopted a proposal in Geneva to develop and implement a global monitoring system which will measure quality of service for incoming priority mail and establish a link between this quality of service and terminal dues.

2. International Labour Organization

(a) **Declaration and resolutions adopted by the International Labour Conference at its 97th session (Geneva, June 2008)**

At the 97th session of the International Labour Conference the following declaration and resolutions were adopted.⁴⁶²

(i) *Declaration on Social Justice for a Fair Globalization*

The International Labour Organization (ILO) unanimously adopted the ILO Declaration on Social Justice for a Fair Globalization, and its accompanying resolution, on 10 June 2008. This is the third major statement of principles and policies adopted by the International Labour Conference since the ILO Constitution of 1919. The 2008 Declaration expresses the contemporary vision of ILO mandate in the era of globalization. It reaffirms ILO values and emphasizes ILO key role in helping to achieve progress and social justice in the context of globalization. The Declaration, *inter alia*, institutionalizes the “decent work” concept developed by the ILO since 1999, placing it at the core of the Organization’s policies to reach its constitutional objectives. It also recognizes that other international and regional organizations can have an important contribution to make in the implementation of the Decent Work Agenda and ILO should invite them to promote decent work.

⁴⁶² The full text of the declaration and resolutions adopted can be found on the website of the International Labour Organization at: <http://www.ilo.org>.

(ii) *Resolutions*

- (a) Resolution concerning strengthening the ILO capacity.
- (b) Resolution concerning promotion of rural employment for poverty reduction.
- (c) Resolution concerning the ILO and the tripartite constituents' role in tackling the global food crisis.
- (d) Resolution concerning skills for improved productivity, employment growth and development.
- (e) Resolution concerning the Financial Report and Audited Financial Statements for 2006–07.
- (f) Resolution concerning treatment of net premium earned.
- (g) Resolution concerning the scale of assessments of contributions to the budget for 2007.
- (h) Resolution concerning the arrears of contributions of Comoros.
- (i) Resolution concerning the arrears of contributions of the Central African Republic.
- (j) Resolution concerning the arrears of contributions of Iraq.
- (k) Resolution concerning the arrears of contributions of the Solomon Islands.
- (l) Resolution concerning the Statute of the Administrative Tribunal of the International Labour Organization.
- (m) Resolution concerning the composition of the Administrative Tribunal of the International Labour Organization.

(b) *New members*

Tuvalu became the 182nd member of the International Labour Organization and was admitted under article 1.3 of the ILO Constitution on 27 May 2008.

3. International Civil Aviation Organization**(a) General Work Programme of the Legal Committee**

Pursuant to a decision of the 184th Session of the Council, the General Work Programme of the Legal Committee was as follows:

- (i) *Compensation for damage caused by aircraft to third parties arising from acts of unlawful interference or from general risks*

The 33rd Session of the Legal Committee, held in Montreal from 21 April to 2 May 2008, had this subject as its main item for consideration. The Committee agreed on the following texts:

- Draft Convention on Compensation for Damage to third parties, Resulting from Acts of Unlawful Interference Involving Aircraft; and

- Draft Convention on Compensation for Damage Caused by Aircraft to Third Parties.

On 23 June 2008, the Council decided to convene a Diplomatic Conference at International Civil Aviation Organization (ICAO) Headquarters, from 20 April to 2 May 2009, to finalize and adopt the texts of these two draft Conventions.

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

The Sub-Committee of the Legal Committee held its second meeting in February 2008 and prepared two draft texts to amend The Hague Convention of 1970⁴⁶³ and the Montreal Convention of 1971.⁴⁶⁴ The Council agreed in June to convene the 34th session of the Legal Committee in the second half of 2009 for further consideration of these texts.

(iii) *Consideration, with regard to Communication, Navigation, Surveillance/Air Traffic Management systems including global navigation satellite systems (GNSS) and the regional multinational organisms, of the establishment of a legal framework*

The Secretariat continued to monitor the work in this respect.

(iv) *International interests in mobile equipment (aircraft equipment)*

On behalf of the Council in its capacity as the Supervisory Authority of the International Registry, the Secretariat continued monitoring the operation of the Registry to ensure that it functions efficiently in accordance with article 17 of the Cape Town Convention of 2001.⁴⁶⁵ The Council issued its first report to contracting states to the Cape Town Convention and Protocol concerning the discharge of its functions as Supervisory Authority and, at its 183rd session, approved changes to the Regulations and Procedures for the International Registry. At its third meeting in December, the Commission of Experts of the Supervisory Authority of the International Registry (CESAIR) recommended further changes proposed by the Registrar for approval by the Council.

(v) *Review of the question of the ratification of international air law instruments*

The Secretariat continued to take administrative action necessary to encourage ratification, such as the development and dissemination of ratification packages, promotion of ratification at various fora, such as meetings, and continued emphasis on ratification matters by the President of the Council and the Secretary-General during their visits to States.

⁴⁶³ United Nations, *Treaty Series*, vol. 860, p. 105.

⁴⁶⁴ United Nations, *Treaty Series*, vol. 974, p. 177.

⁴⁶⁵ 2001 Convention on international interests in mobile equipment on matters specific to aircraft equipment, United Nations, *Treaty Series*, vol. 2307, p. 285.

(vi) *Safety aspects of economic liberalization and article 83 bis*

In June 2008, the Council requested the Secretariat to further monitor and develop, as necessary, the issue of safety aspects of economic liberalization and article 83 *bis* of the Convention on International Civil Aviation⁴⁶⁶ and to add this item to the General Work Programme of the Legal Committee.

(b) Working Group on Governance (Policy)

In March 2008, during its 183rd session, the Council decided to establish a Working Group on Governance (Policy) (WGOG). The WGOG was mainly tasked to review: the international governance as per the Chicago Convention⁴⁶⁷ as requested by the Assembly; the organization of future sessions of the Assembly; and the presentation of the decisions of the Assembly, as well as the question of reservations thereto. The WGOG decided to prioritize its work on the issues pertaining to the Assembly, including recommendations on the establishment of an electronic voting system for the elections of the Council, so as to present a report on this item in early 2009.

The Council further tasked the WGOG, in June and October respectively, to review the issue of the participation of observers in the Legal Committee as well as the process for electing the officers (Chairman and Vice-Chairmen) of this Committee with a view to establishing a more systematic and effective approach.

Moreover, in November 2008, during its 185th Session, the Council requested the WGOG to consider the increased use of extraordinary sessions of the Assembly to avoid a multiplicity of meetings every year and to facilitate the decision-making process and report thereon to the Council. During the same session, the Council also mandated the WGOG to study the question of allocation of seats on the Council, being understood that the Group would give that issue priority after it had completed its other tasks.

(c) External relations

On 18 November 2008, the Secretary-General announced that the External Relations and Public Information Office (EPO) had been disbanded and that the staff responsible for external relations functions were transferred with their posts to the Legal Bureau, which was renamed the Legal Affairs and External Relations Bureau (LEB).

(d) Ratification of international air law instruments

Work commenced in 2008 to enhance the Legal Bureau's Treaty Collection on the ICAO website. When completed, it will contain current lists of parties to treaties; status forms of individual States with regard to treaties; a composite table showing parties to treaties and status of individual States; a chronological record of depositary activity; and

⁴⁶⁶ United Nations. *Treaty Series*, vol. 15, p. 295.

⁴⁶⁷ Convention on International Civil Aviation, Chicago, 1944. United Nations, *Treaty Series*, vol. 15, p. 296.

administrative packages to assist States in becoming parties to international air law instruments. The current Treaty Collection is being updated with each depositary action.

(e) Settlement of disputes

In a number of instances, the Legal Bureau assisted the President of the Council and the Secretary-General in their efforts to encourage or facilitate negotiations between States in cases of emerging disputes.

(f) Technical cooperation projects and initiatives

Ten technical cooperation projects were implemented to support activities linked to international air law.

ICAO recruited 13 international experts to advise civil aviation administrations in the development or updating of civil aviation legislation, including basic civil aviation law and regulations addressing ICAO Standards and other international civil aviation-related treaties for incorporation into national law.

Eighteen nationals received specialized training in the field of air and space law.

4. Food and Agriculture Organization of the United Nations

(a) Legislative matters

(i) *Activities connected with international meetings*

- United Nations Education, Scientific and Cultural Organization (UNESCO) Meeting on draft International Law Commission (ILC) Shared Groundwater Rules (Japan, 26-31 January 2008);
- Food and Agriculture Organization (FAO) Regional Workshop on Port State Measures to Combat Illegal, Unregulated and Unreported (IUU) Fishing (Cape Town, Republic of South Africa, 28-31 January 2008);
- FAO Technical Consultation on International Guidelines for the Management of Deep-Sea Fisheries in the High Seas (Rome, Italy, 4-8 February 2008);
- FAO Expert Consultation on Improving Planning and Policy Development in Aquaculture (Rome, Italy, 26-29 February 2008);
- Report of the Expert Consultation on the Development of a Comprehensive Global Record of Fishing Vessels (Rome, Italy, 25-28 February 2008);
- FAO/Asia-Pacific Fishery Commission (APFIC)/Southeast Asian Fisheries Development Center (SEAFDEC) Regional Workshop on Port State Measures to Combat IUU Fishing (Bangkok, Thailand, 31 March - 4 April 2008);
- FAO Expert Meeting on Climate Change Implications for Fisheries and Agriculture (Rome, Italy, 7-9 April 2008);
- Meeting of Legal Experts for Wild Water Development (Italy, 21-24 April 2008);

- FAO Regional Workshop “Development of Sustainable Wildlife Management Laws in Western and Central Asia” (Antalaya, Turkey, 12-16 May 2008);
- FAO Regional Workshop on Aquatic Animal Health in Western Balkan, Sarajevo, Bosnia and Herzegovina (20-23 May 2008);
- FAO Technical Consultation to Draft a Legally-Binding Instrument on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (Rome, Italy, 23-27 June 2008);
- Second Session of the Technical Consultation on International Guidelines for the Management of Deep-Sea Fisheries in the High Seas (Rome, Italy, 25-29 August 2008);
- Expert Consultation on Best Practice Technical Guidelines for IPOA/NPOA-Sea-birds⁴⁶⁸ (Bergen, Norway, 2-5 September 2008);
- FAO Technical Workshop on Environmental Impact Assessment and Monitoring in Aquaculture (Rome, Italy, 15-17 September 2008);
- Seminar on Climate Change and Developing Countries: International Market-based Instruments, organized by the International Development Law Organization (Rome, Italy, 6-17 October 2008);
- Regional Intergovernmental meeting to initiate the Establishment of a Central Asian Regional Fisheries Organization (Dushanbe, Tajikistan, 10-12 November 2008);
- FAO Expert Consultation on Best Practices for Safety at Sea in the Fisheries Sector (Rome, Italy, 10-13 November 2008);
- FAO Expert workshop on “Guidelines for the implementation of an ecosystem approach to aquaculture (EAA)” (Rome, Italy, 24-26 November 2008);
- Informal open-ended Technical Meeting to Review the Annexes of the Draft Legally-Binding Instrument on Port State Measures to Prevent, Deter and Eliminate TUU Fishing (Rome, Italy, 25-27 November 2008);
- FAO Regional workshop “Ecosystem Approach to Fisheries - Opportunities for Africa” (Rome, Italy, 16 December 2008);

(ii) *Legislative assistance and advice*

During 2008, legislative assistance and advice were given to the following countries and regions on the following topics:

a. **Agrarian legislation**

Angola, Azerbaijan, Bangladesh, Barbados, Belarus, Benin, Burkina Faso, Burundi, Cameroon, Cape Verde, Chile, People’s Republic of China, Colombia, Costa Rica, Dominica, Ethiopia, Ghana, Guinea-Bissau, Haiti, Kosovo, Lebanon, Lithuania, Maldives, Mozambique, Namibia, Togo, Mali, Montenegro, Niger, Rwanda, Sen-

⁴⁶⁸ International Plan of Action for Reducing Incidental Catch of Seabirds in Longline Fisheries (IPOA-Seabirds) and the National Plan of Action for Reducing Incidental Catch of Seabirds in Longline Fisheries (NPOA-Seabirds).

egal, Grenada, Saint Lucia, Saint Vincent and the Grenadines, Sao Tome and Principe, Sierra Leone, the Sudan, Syrian Arab Republic, Tajikistan, Tonga, Uruguay and Yemen.

b. Water legislation

Egypt, Grenada, Kenya, Malaysia, People's Republic of China, Regional Asia and Pacific, the Sudan, Thailand, Tanzania and Viet Nam.

c. Veterinary Legislation

Belize, Cambodia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Guinea-Bissau, Honduras, Nepal, Nicaragua, Panama and the Philippines.

d. Plant protection legislation, including pesticides control

Afghanistan, Cambodia, Costa Rica, El Salvador, Eritrea, Ethiopia, Gambia, Ghana, Kenya, Laos, Maldives, Nepal, Panama, the Philippines, Senegal, Swaziland and Ukraine.

e. Seed legislation and plant variety protection

Afghanistan, Cote d'Ivoire, Iraq, Lesotho, Madagascar, Sri Lanka, Turkmenistan. In addition, legislative assistance was provided through a regional project for the countries of the Economic Cooperation Organisation (ECO), comprising Afghanistan, Azerbaijan, Islamic Republic of Iran, Kazakhstan, Kyrgyz Republic, Pakistan, Tajikistan, Turkey, Turkmenistan and Uzbekistan.

f. Food legislation

Afghanistan, Azerbaijan, Barbados, Colombia, Costa Rica, Dominican Republic, Madagascar, Nepal, Panama, Philippines, Somalia, Tajikistan, Uruguay and Viet Nam.

g. Fisheries and aquaculture legislation

Bolivia, Bosnia and Herzegovina, Colombia, Democratic Republic of the Congo, Honduras, Lao People's Democratic Republic, Mauritania, Morocco, Peru, Senegal, Uruguay and Viet Nam. In addition, legislative assistance was provided through a regional project for the Regional Fisheries Committee for the Gulf of Guinea (COREP), comprising Congo, Democratic Republic of the Congo, Gabon, and Sao Tome and Principe.

h. Forestry and wildlife legislation

Algeria, Altai Republic of the Russian Federation, Angola, Cape Verde, Central African Republic, Chile, Democratic Republic of the Congo, Egypt, Georgia, Honduras, Kenya, Nicaragua, Niue, Rwanda, Syria, South Sudan, Timor-Leste, Tonga and Uzbekistan. In addition, legislative assistance was provided through a regional project for the Central African Forest Commission (COMIFAC), comprising Gabon, Equatorial Guinea, Chad, Sao Tome and Principe, Burundi and Rwanda.

i. Biodiversity and genetic resources legislation

Afghanistan, Dominica, Democratic Republic of the Congo, Kenya, Madagascar, Morocco and Philippines.

j. Biotechnology legislation

Bangladesh, Benin, Croatia, Kenya, Madagascar, the Philippines and Sri Lanka.

k. General agricultural issues (trade, markets and economic reform)

Morocco, Georgia, the Sudan and Tunisia. In addition, legislative assistance was provided through a regional project for the African Union, comprising 53 countries of the African Continent.

(iii) *Legislative Research and publications*

The FAO Legal Office published the following Legal Papers Online⁴⁶⁹ in 2008:

- Customary water rights and contemporary water legislation: Mapping out the interface; Principles for developing sustainable wildlife management laws;
- Trends in food legislation in Southeastern Europe: Lessons from a regional technical cooperation project;
- Pacific land tenures: new ideas for reform;
- *Le droit forestier en République Démocratique du Congo*;
- Terra firma and shared cooperation: how land frameworks facilitate pro-food security public-private partnerships;
- Participatory forestry in Central Asia and the Caucasus: Current legal trends and future perspectives.

(iv) *Collection, translation and dissemination of legislative information*

The FAO Legal Office maintains a database (FAOLEX) of national legislation and international agreements concerning food and agriculture (including fisheries, forestry and water). FAOLEX is designed to provide online access to the full texts of food and agriculture legislation worldwide and offers access to legislation, regulations and international agreements in sixteen different areas related to FAO fields of expertise. It is a comprehensive research tool that can be used to identify the state of national laws on natural resource management and, at the same time, compare legislation in different countries. FAOLEX provides a keyword and category search in four languages (English, French, Spanish and Arabic). Records are provided in English, French or Spanish according to the language of communication used by the originating country.

In 2008, 7600 records were entered into FAOLEX.

⁴⁶⁹ The Legal Papers Online are available on the FAO website at <http://www.fao.org/legal/prs-ol/years/2008/list08.htm>.

Together with FAOLEX, also the Coastal State Requirements for Foreign Fishing (FISHLEX) and the International agreements on international water sources (WATER TREATIES) databases were updated in 2008.

In 2008, the WATERLEX database, started originally as a joint project with the World Health Organization, with a view to having a common and complementary database of both water resources legislation and water quality standards was redesigned. The water legislation component, developed by FAO, being at a more advanced stage, has been redesigned and hosted by the FAO Legal Office Website. Until its migration to the FAO Website, the database was housed at waterlawandstandards.org. The legislative database contains an analysis of the legal framework governing water resources in a large number of countries. The analysis is presented in the form of answers to a detailed list of questions canvassing most of the features of a country's legal framework on water resources. The questions include, for example, whether there is a basic water law in the country; what kinds of water it covers; who owns water; who is authorized to use water and how; whether and how pollution is controlled; and the nature of the government's administrative structure for water abstraction and use. The database can be used to examine the national legislation on water resources of any particular country or across any number of countries, comparing one or more features of the country's or countries' national legislation on water resources. The database can also be searched by region. Where possible, the database provides access to the text of the legislation being analysed, through a link to FAOLEX.

With regard to ECOLEX, which is the information service on environmental law, operated jointly by FAO, the International Union for Conservation of Nature (IUCN) and the United Nations Environmental Programme (UNEP), the bases of the new portal have been designed and work on cross-search including various databases (FAO, IUCN and UNEP) has been finalized and launched in various occasions.

In June 2008, the Database on Port State Measures (Port-Lex) was launched on the FAO website as a result of joint collaboration by FAO Legal Office and the FAO Fisheries Department. Port-Lex provides online access to legislated port state measures adopted by states to prevent, deter and eliminate Illegal, Unreported and Unregulated (IUU) fishing. The database provides users with access to indexed port state measures, extracts of legal documents and links to full versions of legal texts through FAOLEX – FAO legislative database. The main objective of Port-Lex is to make information on port state measures available to policy-makers, national administrations, legal practitioners and civil society members worldwide. By making available “best practices”, the database will contribute to national capacity-building toward adoption and implementation of port state measures to fight against IUU fishing, and help countries coordinate their efforts along the way. The database is available in three languages: English, French and Spanish.

5. 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 United Nations Educational, Scientific and Cultural Organization (UNESCO) entered into force.

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

a. **Draft of the declaration of principles relating to cultural objects displaced in connection with the Second World War**

During 2008, preparatory work was undertaken on the Draft declaration of principles relating to cultural objects displaced in connection with the Second World War. This Draft declaration is inscribed in the provisional agenda of the 35th session of the General Conference (6-23 October 2009).

b. **Preliminary study of the technical and legal aspects of a possible international standard-setting instrument for the protection of indigenous and endangered languages**

During 2008, preparatory work was undertaken on the Preliminary study of the technical and legal aspects of a possible international standard-setting instrument for the protection of indigenous and endangered languages. This Preliminary study is inscribed in the provisional agenda of the 35th session of the General Conference (6-23 October 2009).

c. **Preliminary study on the technical and legal aspects relating to the desirability of a standard-setting instrument on the conservation of the historic urban landscape**

During 2008, preparatory work was undertaken on the Preliminary study on the technical and legal aspects relating to the desirability of a standard-setting instrument on the conservation of the historic urban landscape. This Preliminary study is inscribed in the provisional agenda of the 35th session of the General Conference (6-23 October 2009).

(b) Human Rights

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

The Committee on Conventions and Recommendations met in private sessions at UNESCO Headquarters from 2 to 4 April 2008 and from 1 to 3 October 2008 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 April 2008 session, the Committee examined 26 communications of which 8 were examined with a view to determining their admissibility or otherwise, 16 were exam-

ined as to their substance, and 2 were examined for the first time. One communication was struck from the list because it was considered as having been settled. The examination of the remaining 25 was deferred. The Committee presented its report to the Executive Board at its 179th session.

At its October 2008 session, the Committee examined 26 communications of which one was examined with a view to determining its admissibility, 24 were examined as to their substance and one was examined for the first time. Five communications were struck from the list because they were considered as having been settled. One communication was suspended. The examination of the 20 was deferred. The Committee presented its report to the Executive Board at its 180th session.

(c) Copyright activities

(i) *Information and public awareness activities*

Collection of national copyrights laws. This tool, essential for professionals, students and researchers, endeavours to provide access to legal texts. It comprises more than 120 national copyright and related rights legislations of UNESCO member States.

Another UNESCO information-sharing initiative in the copyright area is the web-based resource (World Anti-Piracy Observatory) currently in development. Its objective is to monitor anti-piracy issues and to serve as an online platform (clearing house) for the exchange of information and best practices in this area.

(ii) *Training and teaching activities*

Teaching of copyright law has been pursued by the existing network of UNESCO Copyright Chairs.

(iii) *Administration of the Universal Copyright convention of 1971⁴⁷⁰ and the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations of 1961⁴⁷¹*

The 14th session of the Intergovernmental Copyright Committee (ICC), established under the Universal Copyright Convention,⁴⁷² for which UNESCO provides the Secretariat, will take place in 2010. The 20th session of the Intergovernmental Committee of the Rome Convention⁴⁷³ (ICR), for which the secretariat is provided jointly by UNESCO, WIPO and ILO, will be hosted by WIPO and will take place in September 2009.

⁴⁷⁰ United Nations, *Treaty Series*, vol. 943, p. 193.

⁴⁷¹ United Nations, *Treaty Series*, vol. 496, p. 43.

⁴⁷² United Nations, *Treaty Series*, vol. 216, p. 132.

⁴⁷³ Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations. United Nations, *Treaty Series*, vol. 496, p. 43.

(iv) *Prevention of piracy through training*

In the framework of the Anti-Piracy Training for Trainers project, launched in 2004, UNESCO organized a sub-regional seminar for copyright enforcement officials from ten countries in West Africa in Dakar, Senegal, in September 2008, and contributed to the organization of national follow-up anti-piracy seminars in some beneficiary countries. The objective of these initiatives is to provide knowledge and expertise in the field of copyright law and intellectual property to large circles of national enforcement officers involved in anti-piracy activities (law-makers, government, police, customs, magistrates etc.).

6. International Maritime Organization

(a) Membership

As of 31 December 2008, the membership of the International Maritime Organization (IMO) stood at 168.

(b) Review of the legal activities

The Legal Committee (the Committee) met only once in 2008 and held its ninety-fourth session from 20 to 24 October 2008.

(i) *Monitoring the implementation of the Convention on Hazardous and Noxious Substance Convention*⁴⁷⁴ (*HNS Convention*)

The Committee considered a draft Protocol to the 1996 HNS Convention.

a. Packaged Hazardous and Noxious Substance

The Committee noted that one of the main reasons preventing States from becoming Party to the HNS Convention was the difficulty in collecting data and reporting on packaged HNS.

There was general agreement that the difficulties presented by packaged HNS could be overcome by not requiring packaged goods to be included in contributing cargo and increasing shipowner liability as a compromise, and that, consequently, entry into force of the HNS Convention would be facilitated.

b. Contributions to the Liquefied Natural Gas Account

The Committee considered proposals for changing the person liable for contributions on Liquefied Natural Gas (LNG) from the titleholder to the receiver to eliminate inconsistencies with other contributing cargo regimes in the Convention and to provide for a

⁴⁷⁴ For the status of the Convention, see the IMO website at www.imo.org/Conventions/main-frame.asp?topic_id=247.

more equitable distribution of financial responsibility between developed and developing countries.

The Committee considered three options: option A, retaining the titleholder as in the 1996 Convention; option B, imposing liability solely on the receiver; and option C, a compromise proposal under which the person liable for contributions would normally be the receiver, except that, by agreement between the titleholder and receiver, the titleholder would be liable.

Most delegations that spoke were in favour of option C, which, in their view, provided the necessary flexibility, took into account industry practice, was easy to manage, put LNG receivers on a level playing-field with receivers in other accounts and resolved the potential legal problem of collecting contributions from a non-member State of the HNS Fund.

In response to the question how the inequitable distribution between developed and developing countries was dealt with in the proposal, it was noted that this was by making the receiver liable in the first instance and giving the option for its substitution by the titleholder.

c. Remedies to ensure submission of contributing cargo reports by States, on ratification of the Convention, and annually thereafter

The Committee considered proposals to address the problem of non-submission of reports before the entry into force of the Convention, and once the Convention had entered into force.

Although article 43 of the 1996 HNS Convention requires States, when depositing their consent to be bound by the Convention and annually thereafter, until the Convention enters into force, to submit to the Secretary-General of IMO data on the relevant quantities of contributing cargoes received, not all the Contracting States had done so. As a consequence, the Secretary-General was not in a position to determine the date of entry into force of the Convention.

In order to rectify this position, it was proposed to require States to submit reports on contributing cargo as an essential precondition for the validity of expressing their consent to be bound by the Protocol. Accordingly, any expression of consent which is not accompanied by such reports would not be accepted by the Secretary-General.

The Contracting State would also be obliged to continue to submit reports annually thereafter until the Protocol enters into force. Failure to do so would render that State temporarily suspended from being a contracting State, which situation would continue until it had submitted the required data. The Protocol would, therefore, not enter into force for a State which is in arrears with its reports nor would that State be counted for the purposes of entry into force of the Protocol.

With regard to the obligation to submit reports after the entry into force of the Protocol, article 10 of the draft Protocol proposed the addition of a new article to the Convention pursuant to which, once the Protocol has entered into force for a State, compensation would be withheld temporarily pending compliance with the reporting obligation, except for claims for death and personal injury. If the State in question failed to report within one year after receiving notification from the Director of its failure to fulfil these obligations, compensation would be denied permanently.

Most delegations that spoke expressed their support for the policy behind these proposed changes.

However, some delegations expressed concern as to whether the temporary suspension, as well as the powers conferred on the Depositary to refuse to accept an instrument not accompanied by data on contributing cargo were in line with international law. The Director, LED, responded to these questions in the affirmative.

Some delegations noted that, in spite of the simplification afforded by the Protocol, it remained a complex treaty instrument, in particular for developing States. In this context, these delegations noted the importance of capacity building in ensuring universal and uniform application of IMO instruments, as addressed in resolution A.998(25). IMO and the International Oil Pollution Compensation Funds (IOPC) were invited to step up their assistance to make sure that developing States could cope with the complexities of the proposed HNS regime and were assisted in its implementation.

The Committee's attention was drawn to the work already undertaken by the Committee in developing an HNS implementation guide as well as the HNS cargo calculator, both of which could be found in the website of the IOPC Funds.

d. Definition of HNS

The Committee discussed and approved amendments to the definition of HNS aimed at ensuring that these were fully up to date.

e. Recommendation for the convening of a diplomatic conference

The Committee exchanged views on the timing for the convening of a diplomatic conference to consider and adopt a Protocol based upon the draft text before the Committee.

A view was expressed that it was premature to go to a diplomatic conference at that point in time and that further discussions on the draft were needed, bearing in mind that some issues had not been properly clarified. Among these issues, mention was made of the legal situation of States that, having become parties to the 1996 HNS Convention, would now have to consider first adopting, and then becoming parties to the Protocol. The argument was made that, theoretically, the possibility existed that both the HNS Convention and the Protocol could enter into force, in which case complex treaty relationships would arise. Even if the 1996 Convention never came into force, Government officials in States that had either signed, or become Contracting parties to it, would be faced with the difficult task of advising their constitutional bodies on a substantive change of policy based upon the fact that they had ratified an unsuccessful treaty and, as a result, would have to withdraw their ratification or signature of the Convention which might violate relevant treaty law rules and should be further considered by those States and the Committee.

In response to these concerns, reference was made to the precedent of the co-existence of the two IOPC Fund Conventions (the 1971 Convention⁴⁷⁵ and its 1992 Protocol⁴⁷⁶) and how this situation had been successfully managed by the progressive denunciation by States of the 1971 Convention in favour of the 1992 Protocol. It was also noted that the

⁴⁷⁵ United Nations, *Treaty Series*, vol. 1110, p. 57.

⁴⁷⁶ United Nations, *Treaty Series*, vol. 1953, p. 330.

option for an HNS Protocol did not imply a change of policy, but rather the enforcement of a remedy to the very serious obstacles to ratification posed by the 1996 treaty.

Reference was also made to the need to develop capacity-building programmes before the adoption of the Protocol, in order to help developing countries to cope with its complexities. In response, it was noted that the need to develop such programmes should not be used to delay the adoption of treaties whose implementation was overdue, as was the case of the HNS Convention. In any event, the Protocol aimed at facilitating the application of the parent Convention by making it simpler for developed and developing countries alike to implement it. It was also proposed that the capacity-building objectives essential to the global application of the HNS regime could be enshrined in the Preamble to the Protocol.

In respect of the timing of a diplomatic conference, the Committee agreed to recommend to the Council that a diplomatic conference be convened as soon as possible in 2010, to consider and adopt the prospective Protocol.

(ii) *Provision of financial security: Progress report on the work of the Joint IMO/ILO Ad Hoc Expert Working Group on Liability and Compensation regarding Claims for Death, Personal Injury and Abandonment of Seafarers*

The Committee unanimously:

- Noted and approved the revised terms of reference in terms of which the Group should continue with its examination of the issue of financial security for crew members/seafarers and their dependants with regard to compensation in cases of personal injury, death and abandonment, taking into account relevant IMO and ILO instruments; continue to monitor the problem of abandonment of crew members/seafarers; agree on principles to facilitate the drafting of mandatory provisions for inclusion in an appropriate instrument or instruments; and formulate appropriate recommendations to the IMO Legal Committee and the ILO Governing Body;

- Urged the Joint Working Group to complete its discussions at its next session, keeping in mind the debates at this session; and

- Encouraged the Group to formulate appropriate recommendations to the Committee and to submit the outcome of its work to the ninety-fifth session of the Committee.

(iii) *Follow-up on resolutions adopted by the International Conference on the Removal of Wrecks, 2007: development of a single model compulsory insurance certificate*

The Committee recalled that the resolution on compulsory insurance certificates under existing maritime liability conventions, adopted by the International Conference on the Removal of Wrecks, 2007, had invited the Committee to develop a model for a single insurance certificate which may be issued by States parties in respect of ships, under the relevant IMO liability and compensation conventions.

At the Committee's request at its ninety-third session, the Secretariat had prepared a draft single model insurance certificate. The model combined certificates issued under article

VII of the Convention on Civil Liability for Oil Pollution Damage, 1969⁴⁷⁷ (CLC), article 7 of the Protocol amending CLC, 1992,⁴⁷⁸ article 12 of the HNS 1996, article 7 of the Bunkers Convention, 2001,⁴⁷⁹ and article 12 of the Nairobi Wreck Removal Convention.⁴⁸⁰ The model certificate did not, however, include the 1976 Athens Protocol,⁴⁸¹ due to its different nature as compared with the other liability conventions, and the IMO Reservation and Guidelines for the implementation of the Athens Convention,⁴⁸² which included a number of specific exclusions in the Protocol, to reflect existing standard market conditions.

There was general consensus that a single insurance certificate would be desirable, since it could lead to a reduction in the administrative burden of States and shipowners/insurers when compared with the system prescribed by the Conventions.

The Committee decided to establish an informal correspondence group in order to progress intersessionally on the legal as well as on the technical and practical aspects of the consolidated model certificate, including port State control and inspection.

The delegation of the Netherlands accepted to act as coordinator of the correspondence group and to submit the outcome of its consultations with other interested delegations to the Committee's ninety-fifth session.

(iv) *Fair treatment of seafarers in the event of a maritime accident*

The Committee noted information relating to the adoption by the Maritime Safety Committee, at its eighty-fourth session in May 2008, of amendments to the International Convention for the Safety of Life at Sea, 1974⁴⁸³ (SOLAS) which included a provision on the right of a seafarer from whom evidence was sought in a casualty investigation to "be informed, and allowed access to legal advice, regarding" the risk of self-incrimination. This decision was taken in the context of the Maritime Safety Committee (MSC) approval of the Code of the International Standards and Recommended Practices for a Safety Investigation into a Marine Casualty or Marine Incident (Casualty Investigation Code).

States were urged to give the Guidelines on fair treatment of seafarers in the event of a maritime accident and the Casualty Investigation Code full and complete effect following a maritime accident.

⁴⁷⁷ United Nations, *Treaty Series*, vol. 973, p. 3.

⁴⁷⁸ United Nations, *Treaty Series*, vol. 1956, p. 255.

⁴⁷⁹ The International Convention on Civil Liability for Bunker Oil Pollution Damage was adopted on 23 March 2001 and entered into force on 21 November 2008. For the status of the Convention, see: http://www.imo.org/Conventions/contents.asp?topic_id=256&doc_id=666.

⁴⁸⁰ The Nairobi International Convention on the Removal of Wrecks. For the text of the Convention, see LEG/CONF.16/19.

⁴⁸¹ United Nations, *Treaty Series*, vol. 1545, p. 339.

⁴⁸² Athens Convention relating to the Carriage of Passengers and their Luggage by Sea. United Nations, *Treaty Series*, vol. 1463, p. 19.

⁴⁸³ United Nations, *Treaty Series*, vol. 1184, p. 2.

(v) *Technical cooperation activities related to maritime legislation*

The Committee received a report of Technical Cooperation activities undertaken by the Organization in the legal field. The Director, Technical Cooperation Division (TCD), referred to the measures being taken to expand the pool of experts through enhancement of capacity building, in particular, by establishing a roster of all International Maritime Law Institute (IMLI) and World Maritime University (WMU) graduates, and sending them on missions with experts to enable them to gain important experience.

In addition, the Director, TCD, advised the Committee that:

- IMO had continued to finance fellowships for IMLI students;
- many countries were being helped with developing maritime legislation, but as such missions were normally limited to 7 to 10 days for cost reasons, countries could help by mobilizing national legal resources, including IMLI graduates, to work with consultants;
- the Integrated Technical Cooperation Programme (ITCP) was designed to enhance capacity for implementing IMO rules and standards. The Technical Cooperation Committee (TCC) had established a framework of major areas of concern in the field of maritime legislation as a base for developing countries to identify their specific needs, and this will guide IMO in developing the ITCP for 2010-2011; and
- in order to demonstrate that technical cooperation acted as a catalyst for change, an Impact Assessment Exercise (IAE) of the ITCP had been carried out, including maritime legislation, and this was submitted to TCC 58 with comments from member States to be discussed at TCC 59.

The Committee noted the recommendations concerning identification of legal experts and the recommendations concerning the time line for requesting assistance in maritime legislation.

(vi) *Work Programme*

Guidelines on methods of work

The Committee recalled that, at its ninety-seventh session, the Council had agreed that it would be appropriate and beneficial that the Legal Committee, taking into consideration its differing needs, harmonize its work methods with those of the Maritime Safety Committee (MSC) and the Marine Environment Protection Committee (MEPC). The Committee also recalled that, at its ninety-third session, it had requested an Informal Working Group to consider what provisions of the MSC-MEPC guidelines on the methods of work might appropriately be incorporated into the Legal Committee's guidelines on methods of work. At that time, the Committee had agreed that the Group's recommendations should be presented to the current session of the Committee for its consideration.

In commenting on the Working Group's recommendations, a number of delegations expressed satisfaction with the proposals and said that it was essential that the Committee establish working methods which were harmonized with those of other IMO bodies.

(vii) *Any other business: International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001*

a. Information regarding fuel oil and other oil spill incidents exceeding the limits of international treaties

The delegation of Japan introduced document LEG 94/11/1 proposing that the IMO Secretariat should collect information on incidents of fuel oil spills that exceeded the limits of the shipowner's liability under the Bunkers Convention and other international conventions. The delegation informed the Committee that the proposal should be expanded to include not only fuel oil spill incidents covered by the Convention, but also spills covered by other treaties.

The Secretariat noted that, following consultations within the Organization, it had concluded that it did not have the means to perform the task of collecting, analysing and distributing such information. As a regulatory body, it was not involved in the processing of claims and, consequently, it might be better to seek this information from other entities, perhaps the P & I Clubs.

The Committee noted with appreciation the P & I Clubs' readiness to assist with regard to the possibility of providing the information required, in consultation with other organizations such as the International Tanker Owners Pollution Federation Ltd. (ITOPF).

b. Issuing of insurance certificates regulated in the Bunkers Convention

The observer delegation of the P & I Clubs introduced document LEG 94/11/2, submitted by the P & I Clubs and the International Chamber of Shipping (ICS), containing information on the issuing of compulsory insurance certificates by States parties to the Bunkers Convention to ships flying the flag of non-Party States. The delegation reported that, while as at August 2008, no Party was ready to issue such certificates, the situation had changed, thanks to the cooperation of several States. He also referred to the increasing number of certificates that would have to be issued on expiration of the present cover on 20 February 2009, and requested States parties to inform the delegation if they would not be prepared to issue certificates to ships calling at one of their ports or terminals. He expressed the hope that, by then, more States would have become parties to the Bunkers Convention and would be in a position to issue certificates, not only in connection with their own ships, but also in connection with ships flying the flag of non-Party States. He reminded the Committee of the advantages of issuing certificates on the strength of electronic blue cards.

Several States parties to the Bunkers Convention indicated their willingness to issue certificates against the presentation of blue cards, including electronic cards, and also for the period between the entry into force of the Bunkers Convention and 20 February 2009. One State Party indicated that it was reviewing its policy in this regard as it had doubts about whether it should issue such certificates to ships on the Paris Port State Control Memorandum of Understanding black or grey list.

c. Implementation of the Bunkers Convention and bareboat registration

The delegation of the Marshall Islands requested the views of the Committee in connection with two issues, namely:

- insurance certificates for bareboat charter registered vessels, which were issued by the Marshall Islands as the flag State and not by the State of the underlying registry; and
- the legal status of offshore drilling units, or Mobile Offshore Drilling Units (MODUs), bearing in mind that the Bunkers Convention does not discriminate between propelled and non-propelled ships and defines a ship as being any type of seagoing vessel and seaborne craft of any type whatsoever. In view of the definition of bunker oil contained in article 1.5, it would appear that MODUs and other non-propelled units which use hydrocarbon mineral oil, including lubricating oil, for the operation of the ship, should be included within the scope of the Convention.

While some delegations supported the views of the Marshall Islands on both issues, others noted that their legislation provided for the State of the underlying registry rather than the flag State to issue certificates attesting compulsory insurance, not only in connection with the Bunkers Convention, but also in connection with the CLC.

The Committee noted that both issues raised complex questions of law and, accordingly, suggested that any further consideration would require submission of documents.

(c) Treaties concerning international law concluded under the auspices of the International Maritime Organization (IMO)

Amendments to treaties

**a. Code of the International Standards and Recommended Practices for a Safety Investigation into a Marine Casualty or Marine Incident⁴⁸⁴
(Casualty Investigation Code) (under SOLAS 1974)**

This Code was adopted by the Maritime Safety Committee on 16 May 2008, by resolution MSC.255(84). At the time of its adoption, the Maritime Safety Committee determined that it would take effect on 1 January 2010, upon the entry into force of the amendments to regulation XI-1 of the International Convention for the Safety of Life at Sea (SOLAS), 1974,⁴⁸⁵ adopted by the Committee by resolution MSC.257(84).

b. 2008 amendments to the International Convention for the Safety of Life at Sea, 1974 (chapters II-1, II-2, III, IV and appendix to the annex)

These amendments were adopted by the Maritime Safety Committee on 16 May 2008, by resolution MSC.256(84). At the time of their adoption, the Maritime Safety Committee determined that the amendments shall be deemed to have been accepted on 1 July 2009 and shall enter into force on 1 January 2010 unless, prior to 1 July 2009, more than one-third of the Contracting Governments to SOLAS 1974, or Contracting Governments the combined merchant fleets of which constitute not less than 50 per cent of the gross tonnage of the world's merchant fleet, have notified their objections to the amendments. As at 31 December 2008, no such notification of objection had been received.

⁴⁸⁴ The Code is available at the IMO website at <http://www.imo.org>.

⁴⁸⁵ United Nations, *Treaty Series*, vol. 1184, p. 2.

c. 2008 amendments to the International Convention for the Safety of Life at Sea, 1974 (chapter XI-1)

These amendments were adopted by the Maritime Safety Committee on 16 May 2008, by resolution MSC.257(84). At the time of their adoption, the Maritime Safety Committee determined that the amendments shall be deemed to have been accepted on 1 July 2009 and shall enter into force on 1 January 2010 unless, prior to 1 July 2009, more than one-third of the Contracting Governments to SOLAS 1974, or Contracting Governments the combined merchant fleets of which constitute not less than 50 per cent of the gross tonnage of the world's merchant fleet, have notified their objections to the amendments. As at 31 December 2008, no such notification of objection had been received.

d. 2008 amendments to the Protocol of 1988 relating to the International Convention for the Safety of Life at Sea, 1974 (appendix to the annex)

These amendments were adopted by the Maritime Safety Committee on 16 May 2008, by resolution MSC.258(84). At the time of their adoption, the Maritime Safety Committee determined that the amendments shall be deemed to have been accepted on 1 July 2009 and shall enter into force on 1 January 2010 unless, prior to 1 July 2009, more than one-third of the Contracting Governments to SOLAS 1974, or Contracting Governments the combined merchant fleets of which constitute not less than 50 per cent of the gross tonnage of the world's merchant fleet, had notified their objections to the amendments. As at 31 December 2008, no such notification of objection had been received.

e. 2008 amendments to the International Code of Safety for High-Speed Craft, 1994 (1994 HSC Code) (under SOLAS 1974)

These amendments were adopted by the Maritime Safety Committee on 16 May 2008, by resolution MSC.259(84). At the time of their adoption, the Maritime Safety Committee determined that the amendments shall be deemed to have been accepted on 1 July 2009 and shall enter into force on 1 January 2010 unless, prior to 1 July 2009, more than one-third of the Contracting Governments to SOLAS 1974, or Contracting Governments the combined merchant fleets of which constitute not less than 50 per cent of the gross tonnage of the world's merchant fleet, have notified their objections to the amendments. As at 31 December 2008, no such notification of objection had been received.

f. 2008 amendments to the International Code of Safety for High-Speed Craft, 2000 (2000 HSC Code) (under SOLAS 1974)

These amendments were adopted by the Maritime Safety Committee on 16 May 2008, by resolution MSC.260(84). At the time of their adoption, the Maritime Safety Committee determined that the amendments shall be deemed to have been accepted on 1 July 2009 and shall enter into force on 1 January 2010 unless, prior to 1 July 2009, more than one-third of the Contracting Governments to SOLAS 1974, or Contracting Governments the combined merchant fleets of which constitute not less than 50 per cent of the gross tonnage of the world's merchant fleet, have notified their objections to the amendments. As at 31 December 2008, no such notification of objection had been received.

g. 2008 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 SOLAS 1974)

These amendments were adopted by the Maritime Safety Committee on 16 May 2008, by resolution MSC.261(84). At the time of their adoption, the Maritime Safety Committee determined that the amendments shall be deemed to have been accepted on 1 July 2009 and shall enter into force on 1 January 2010 unless, prior to 1 July 2009, more than one-third of the Contracting Governments to SOLAS 1974, or Contracting Governments the combined merchant fleets of which constitute not less than 50 per cent of the gross tonnage of the world's merchant fleet, have notified their objections to the amendments. As at 31 December 2008, no such notification of objection had been received.

h. 2008 amendments to the International Maritime Dangerous Goods (IMDG) Code (under SOLAS 1974)

These amendments were adopted by the Maritime Safety Committee on 16 May 2008, by resolution MSC.262(84). At the time of their adoption, the Maritime Safety Committee determined that the amendments shall be deemed to have been accepted on 1 July 2009 and shall enter into force on 1 January 2010 unless, prior to 1 July 2009, more than one-third of the Contracting Governments to SOLAS 1974, or Contracting Governments the combined merchant fleets of which constitute not less than 50 per cent of the gross tonnage of the world's merchant fleet, have notified their objections to the amendments. As at 31 December 2008, no such notification of objection had been received.

i. 2008 amendments to the Convention on the International Mobile Satellite Organization (IMSO)⁴⁸⁶

Amendments to the IMISO Convention, extending IMISO oversight to all Global Maritime Distress Safety System (GMDSS) providers recognized by IMO, and enhancing IMISO role as Long range identification and tracking of ships (LRIT) Coordinator, were adopted by the IMISO Assembly at its twentieth session, on 3 October 2008, in conformity with article 18 of the Convention. The IMISO Assembly decided on a provisional application of the amendments, with effect from 6 October 2008, pending their formal entry into force.

The amendments would enter into force 120 days after notices of acceptance had been received from two-thirds of those States which, at the time of adoption by the Assembly, were parties to the Convention. The number of parties to the Convention at the time of adoption of the amendments was 92. The number of acceptances necessary for entry into force was, therefore, 61. As at 31 December 2008, no such notice of acceptance had been received.

Following the IMISO Assembly's decision to apply the 2008 amendments provisionally, with effect from 6 October 2008, it further decided to terminate, with effect from the same date, the decision, taken at its eighteenth session, to adopt the 2006 amendments to the Convention, as well as the decision taken at its nineteenth (Extraordinary) session, that these amendments should be applied provisionally with effect from 7 March 2007.

⁴⁸⁶ For the text of the Convention, see IMISO website at <http://www.imso.org>.

j. 2008 amendments to the Annex of the Protocol of 1997 to amend the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (revised MARPOL Annex VI)⁴⁸⁷

These amendments were adopted by the Marine Environment Protection Committee on 10 October 2008, by resolution MEPC.176(58). At the time of their adoption, the Marine Environment Protection Committee determined that the amendments shall be deemed to have been accepted on 1 January 2010 and shall enter into force on 1 July 2010 unless, prior to 1 January 2010, not less than one-third of MARPOL parties, or parties the combined merchant fleets of which constitute not less than 50 per cent of the gross tonnage of the world's merchant fleet, have notified their objections to the amendments. As at 31 December 2008, no such notification of objection had been received.

k. 2008 amendments to the Technical Code on Control of Emission of Nitrogen Oxides from Marine Diesel Engines (NO_x Technical Code) (under MARPOL 73/78)

These amendments were adopted by the Marine Environment Protection Committee on 10 October 2008, by resolution MEPC.177(58). At the time of their adoption, the Marine Environment Protection Committee determined that the amendments shall be deemed to have been accepted on 1 January 2010 and shall enter into force on 1 July 2010 unless, prior to 1 January 2010, not less than one-third of MARPOL parties, or parties the combined merchant fleets of which constitute not less than 50 per cent of the gross tonnage of the world's merchant fleet, have notified their objections to the amendments. As at 31 December 2008, no such notification of objection had been received.

7. World Health Organization

(a) Constitutional developments

No new member State joined WHO in 2008.

Also, no new amendments to the Constitution⁴⁸⁸ were proposed or adopted, and neither of the two current amendments entered into force. The current amendments were the amendment to article 7 and the amendment to article 74 of the Constitution. The amendment to article 7 of the Constitution was adopted by the Eighteenth World Health Assembly by resolution WHA 18.48 of 20 May 1965. The amendment to article 74 of the Constitution was adopted by the Thirty-first World Health Assembly by resolution WHA 31.18 of 18 May 1978. Respectively, they had been accepted by 98 and 112 member States. Amendments shall come into force for all members when adopted by a two-thirds vote of the Health Assembly and accepted by two-thirds of the members in accordance with their respective constitutional processes.

⁴⁸⁷ United Nations, *Treaty Series*, vol. 1340, p. 61.

⁴⁸⁸ United Nations, *Treaty Series*, vol. 14, p. 185.

(b) Other normative developments and activities

(i) *International Health Regulations (2005)*⁴⁸⁹ (“IHR (2005)” or the “Regulations”)

In accordance with article 22 of the Constitution of the World Health Organization (WHO) and articles 59 and 60 of the IHR (2005), the Regulations entered into force for Montenegro on 5 February 2008. With the inclusion of Montenegro, there were 194 States parties to the IHR (2005).

In 2008, the Second Edition of the IHR (2005) was published by WHO in the six official languages.⁴⁹⁰

During 2008, in accordance with Annex 2 of the IHR (2005), the case definitions for notification of four specified diseases were established by WHO and published (in English) on the WHO website: Smallpox; Poliomyelitis due to wild-type poliovirus; Human influenza caused by a new subtype; and Severe acute respiratory syndrome (SARS).⁴⁹¹

In resolution WHA 61.2 of 23 May 2008, “Implementation of the IHR” (2005),⁴⁹² the Health Assembly reaffirmed its commitment to implement fully the IHR (2005) in accordance with articles 2 and 3. The Health Assembly also decided: (1) on annual reporting to the Health Assembly by States parties and the Director-General on implementation of the Regulations in accordance with paragraph 1 of article 54; (2) that in accordance with paragraph 2 of article 54, the first review of functioning of the Regulations shall be made to the Sixty-third World Health Assembly; and (3) that in accordance with paragraph 3 of article 54 the first review and evaluation of the functioning of Annex 2 was to be submitted to the Sixty-second World Health Assembly for its consideration. In addition, the Health Assembly urged member States to ensure that their National IHR Focal Point contact details were complete and up to date and to encourage staff to use the WHO IHR Event Information Site, to take steps to ensure that core capacity requirements in Annex of the Regulations were developed and maintained in accordance with articles 5 and 13 of the IHR (2005), to designate an expert (if not already done so) for the IHR Roster of Experts, and to continue to support each other and collaborate with WHO in implementation of the Regulations. The Health Assembly requested the Director-General to submit annually to the Health Assembly a single report including information provided by the States parties and about Secretariat activities pursuant to paragraph 1 of article 54, to support member States with the most vulnerable health systems in strengthening capacity requirements for surveillance and response at points of entry (airports, ports and ground crossings) with special attention to the sub-Saharan Africa laboratory network, and to encourage efforts to ensure effective communication between National IHR Focal Points and WHO IHR Contact Points as well as sharing of information on outbreaks.

⁴⁸⁹ Entered into force on 15 June 2007.

⁴⁹⁰ Available at: http://www.who.int/csr/ihr/IHR_2005/en/index.html.

⁴⁹¹ Available at: http://www.who.int/esr/ihr/case_definitions/en/index.html.

⁴⁹² Available at: http://www.who.int/esr/ihr/A61_R2-en.pdf. All cited resolutions from the World Health Assembly are available at: http://www.who.int/gb/ebwha/pdf_files/WHA61-REC1/A61_REC1-en.pdf.

In resolution WHA 61.1 of 23 May 2008, “Poliomyelitis: mechanism for management of potential risks to eradication”, the World Health Assembly requested the Director-General “to report to the Health Assembly when she determines that transmission of wild poliovirus type 1 is likely to have been interrupted globally, and to submit with that report a proposal or proposals for review by the Executive Board for a mechanism to mitigate the risk of the reintroduction of poliovirus that does not involve amending the International Health Regulations (2005) or developing another binding instrument”.

(ii) *Amendments to Basic Documents*

The sixty-first World Health Assembly, by resolution WHA 61.11, decided on 24 May 2008 to add to the Rules of Procedure of the World Health Assembly a new rule 12*bis*, which reads as follows:

Rule 12*bis* - At each session the provisional agenda and, subject to rule 12, any proposed supplementary item, together with the report of the General Committee thereon, shall be submitted to the Health Assembly for its adoption as soon as possible after the opening of the session.

Furthermore, the sixty-first World Health Assembly by resolution WHA 61.11, decided to abolish the Committee on Nominations, and consequently to delete rules 24 and 25 of the Rules of Procedure of the World Health Assembly. Rules 26, 31, 34, 36 and 92, which referred to the Committee on Nominations or to its report, were amended accordingly.

Moreover, it was decided to amend rule 68 of the Rules of Procedure of the World Health Assembly. Rule 68 provided that, if two or more proposals are moved, the Health Assembly shall vote on them starting with the proposal deemed by the President to be furthest removed in substance from the proposal first presented, then on the proposal next removed there from and so on. This method of voting on multiple proposals used by the Health Assembly and the Board was in contrast with the method employed in the rules of procedure of governing bodies of all other United Nations system organizations. The latter rules consistently provided that, if two or more proposals are moved, the body concerned shall vote on the proposals in the order in which they were submitted, *i.e.* in chronological order. By amending rule 68, the World Health Assembly aligned this rule with the model followed by other United Nations system organizations.

Lastly, the sixty-first World Health Assembly by resolution WHA 61.13 decided on 24 May 2008 to amend article VI of the Statute of the International Agency for Research on Cancer.⁴⁹³ Amendments were made relating to: the number of members of the Scientific Council; the means by which members of the Scientific Council were nominated; and advice to be provided concerning the expertise required on the Scientific Council in the identification of members.

The Executive board in its 122nd session on 24 January 2008 decided, by Resolution EB122.R8, to amend rules 9 and 38 of the Rules of Procedure of the Executive Board. The reason for amending rule 9 was that the Director-General and the Officers of the Board experienced difficulties in drawing up the provisional agenda because member States pro-

⁴⁹³ Established by the Eighteenth World Health Assembly by resolution WHA 18.44 of 20 May 1965, the Statute being annexed thereto.

posing agenda items frequently limited themselves to providing the title of the proposed item without any further explanations. It was therefore decided to add a new paragraph to rule 9, which would require new proposals for inclusion in the provisional agenda of the Board to be accompanied by an explanatory memorandum.

Rule 38 of the Rules of Procedure of the Executive Board was amended for the same reason as the World Health Assembly amended the above mentioned rule 68 of the Rules of Procedure of the World Health Assembly.

(iii) *Intergovernmental Working Group on Public Health, Innovation and Intellectual Property*

In April 2008, the second session of the Intergovernmental Working Group on Public Health, Innovation and Intellectual Property was resumed. The task of the Intergovernmental Working Group on Public Health, Innovation and Intellectual Property, established by resolution WHA 59.24, was to draw up a draft global strategy and plan of action in order to provide a medium-term framework based on the recommendations of the Commission on Intellectual Property Rights, Innovation and Public Health. The framework would aim, *inter alia*, at securing an enhanced and sustainable basis for needs-driven, essential health research and development relevant to diseases that disproportionately affect developing countries.

In its resumed second session, the Working Group continued its consideration of the draft global strategy and plan of action through three drafting groups. Two drafting groups discussed the components of the draft global strategy and the third drafting group reviewed further the matrix containing the plan of action.

The Working Group reached agreement on most aspects of the draft global strategy and transmitted the strategy to the World Health Assembly, which adopted, by Resolution WHA 61.21, the strategy and the agreed parts of the plan of action on public health, innovation and intellectual property

(iv) *Guidelines for Drinking-water Quality*

Since 1958, WHO Guidelines for Drinking-water Quality have been used by developing and developed countries worldwide as the basis of regulation and standard setting to ensure the safety of drinking-water. In 2008, a second addendum further updated the third edition of the Guidelines. The second addendum included more guidance on a variety of issues, including, for example, household water management, rainwater harvesting, vended water, temporary water supplies and pesticides used for vector control in drinking-water sources. It also included a series of new microbial and chemical fact sheets. Moreover, “expanded” fact sheets are included for key chemical risks such as arsenic, fluoride, and nitrate/nitrite.

(v) *Agreement with the Government of Turkey*

On 15 February 2008, WHO signed an Agreement with the Government of Turkey on the establishment of a WHO Country Office in Turkey, by which the Government of Turkey and the WHO agreed to convert the present Liaison Office into a Country Office.

(vi) *Host Agreement with the Government of the Hellenic Republic*

On 29 October 2008, WHO signed a Host Agreement with the Government of the Hellenic Republic concerning the establishment of the Office for the Support to the Prevention and Control of Non-communicable Diseases in Athens, Greece. The establishment of the Athens office was aimed at strengthening the WHO/EURO work on non-communicable diseases as a follow-up to the adoption of the European Strategy for the Prevention and Control of Non-communicable Diseases as per resolution of the Regional Committee for Europe EUR/56/R2.

(c) **Third session of the Conference of the Parties to the WHO Framework Convention on Tobacco Control**⁴⁹⁴

The third session of the Conference of the parties to the WHO Framework Convention on Tobacco Control was held in Durban, South Africa, from 17 to 22 November 2008.

In relation to convention instruments, the Conference adopted three guidelines for implementation of different articles of the Convention, requested continuation of work on elaboration of two other guidelines by existing working groups, and established two new working groups. Regarding implementation and reporting, the Conference promoted reporting arrangements under the Convention, reviewed the global implementation progress and reviewed assistance to parties in implementing the Convention. Concerning institutional and budgetary matters, the Conference, in particular, adopted the next budget and work plan, accredited new observers and adopted a logo.

The Intergovernmental Negotiating Body (INB) on a Protocol on Illicit Trade in Tobacco Products that had been established by the second session of the Conference, held two sessions, from 11 to 15 February and from 20 to 25 October 2008, in Geneva. Representatives of more than 130 parties participated in each session. The INB reported to the third session of the Conference on the progress of its work. The Conference requested the INB to continue its work for the purpose of submitting the text of a draft protocol on illicit trade in tobacco products to the fourth session of the Conference, to be held in late 2010.

In 2008, the following States became parties to the WHO Framework Convention on Tobacco Control: Colombia, Costa Rica, Croatia, Guinea, Iraq, Italy, Nicaragua, the Russian Federation and Zambia. There were 160 parties to the Convention at the end of 2008.

8. International Atomic Energy Agency

(a) Membership

In 2008, Nepal became a member State of the International Atomic Energy Agency (IAEA). By the end of the year, there were 145 member States.

⁴⁹⁴ United Nations, *Treaty Series*, vol. 2302, p. 166.

(b) Privileges and immunities

In 2008, the Republic of Moldova became party to the Agreement.⁴⁹⁵ By the end of the year, there were 79 States parties.

(c) Legal instruments

(i) *Convention on the Physical Protection of Nuclear Material, 1979*⁴⁹⁶

In 2008, the Bahamas, the Central African Republic, Fiji, Gabon, Guinea-Bissau, Mauritania and Saint Kitts and Nevis became party to the Convention. By the end of the year, there were 138 parties.

(ii) *Amendment to the Convention on the Physical Protection of Nuclear Material, 2005*⁴⁹⁷

In 2008, Australia, Fiji, Gabon, Hungary, Mauritania, Republic of Moldova, the Russian Federation, Switzerland and Ukraine adhered to the Amendment. By the end of the year, there were 22 contracting States.

(iii) *Convention on Early Notification of a Nuclear Accident, 1986*⁴⁹⁸

In 2008, Gabon became party to the Convention. By the end of the year, there were 102 parties.

(iv) *Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency, 1986*⁴⁹⁹

In 2008, Denmark and Gabon became party to the Convention. By the end of the year, there were 101 parties.

(v) *Convention on Nuclear Safety, 1994*⁵⁰⁰

In 2008, Iceland and Malta became party to the Convention. By the end of the year, there were 62 parties.

⁴⁹⁵ Agreement on the Privileges and Immunities of the International Atomic Energy Agency, 1 July 1959. United Nations, *Treaty Series*, vol. 374, p. 147.

⁴⁹⁶ United Nations, *Treaty Series*, vol. 1456, p. 124.

⁴⁹⁷ United Nations, *Treaty Series*, vol. 1456, p. 101.

⁴⁹⁸ United Nations, *Treaty Series*, vol. 1439, p. 275.

⁴⁹⁹ United Nations, *Treaty Series*, vol. 1457, p. 133.

⁵⁰⁰ United Nations, *Treaty Series*, vol. 1963, p. 293.

(vi) *Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management, 1997*⁵⁰¹

In 2008, Tajikistan became party to the Joint Convention. By the end of the year, there were 46 parties.

(vii) *Vienna Convention on Civil Liability for Nuclear Damage*⁵⁰²

In 2008, the status of the Convention remained unchanged with 35 parties.

(viii) *Protocol to Amend the Vienna Convention on Civil Liability for Nuclear Damage, 1997*⁵⁰³

In 2008, the status of the Protocol remained unchanged with 5 parties.

(ix) *Joint Protocol Relating to the Application of the Vienna Convention and the Paris Convention, 1988*⁵⁰⁴

In 2008, the status of the Protocol remained unchanged with 25 parties.

(x) *Convention on Supplementary Compensation for Nuclear Damage, 1997*⁵⁰⁵

In 2008, the United States of America became party to the Convention. By the end of the year, there were 4 contracting States.

(xi) *Optional Protocol Concerning the Compulsory Settlement of Disputes*⁵⁰⁶

In 2008, the status of the Protocol remained unchanged with 2 parties.

(xii) *Revised Supplementary Agreement Concerning the Provision of Technical Assistance by the IAEA (RSA)*⁵⁰⁷

In 2008, the status remained unchanged with 109 member States which have concluded the RSA.

⁵⁰¹ United Nations, *Treaty Series*, vol. 1963, p. 293.

⁵⁰² United Nations, *Treaty Series*, vol. 1063, p. 266.

⁵⁰³ United Nations, *Treaty Series*, vol. 2241, p. 270.

⁵⁰⁴ United Nations, *Treaty Series*, vol. 1672, p. 293.

⁵⁰⁵ INFCIRC/567.

⁵⁰⁶ United Nations, *Treaty Series*, vol. 2086, p. 94.

⁵⁰⁷ INFCIRC/267.

- (xiii) *Fourth Agreement to extend the 1987 Regional Co-operative Agreement for Research, Development and Training Related to Nuclear Science and Technology (RCA)*⁵⁰⁸

In 2008, the status of the Agreement remained unchanged with 13 parties.

- (xiv) *African Regional Co-operative Agreement for Research, Development and Training Related to Nuclear Science and Technology (AFRA) - (Third Extension)*⁵⁰⁹

In 2008, the status of the Agreement remained unchanged with 30 parties.

- (xv) *Cooperation Agreement for the Promotion of Nuclear Science and Technology in Latin America and the Caribbean (ARCAL)*⁵¹⁰

In 2008, the Dominican Republic became party to the Agreement. By the end of the year, there were 15 parties.

- (xvi) *Cooperative Agreement for Arab States in Asia for Research, Development and Training Related to Nuclear Science and Technology (ARASIA)*⁵¹¹

The first extension of the Agreement entered into force on 29 July 2008. In 2008 there were 7 parties.

- (xvii) *Agreement on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project*⁵¹²

In 2008, the status of the Agreement remained unchanged with 7 parties.

- (xviii) *Agreement on the Privileges and Immunities of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project*⁵¹³

In 2008, the status of the Agreement remained unchanged with 6 parties.

(d) Legislative assistance activities

A workshop for diplomats on nuclear law was held in Vienna, Austria, in February 2008. Presentations on the international legal framework relating to nuclear safety, nuclear

⁵⁰⁸ INFCIRC/167/Add.22.

⁵⁰⁹ INFCIRC/377 and INFCIRC/377/Add.18 (Third Extension).

⁵¹⁰ INFCIRC/582.

⁵¹¹ INFCIRC/613/Add.1.

⁵¹² INFCIRC/702.

⁵¹³ INFCIRC/703.

security and safeguards were delivered. In addition, participants were provided with an overview of the IAEA Legislative Assistance Programme.

A workshop for senior government officials from selected countries in Africa on Implementing Legislation in Nuclear Security was held in October in Vienna, Austria. The purpose of the workshop was to provide participants with in-depth information on the international instruments governing nuclear security and the synergies between security and safeguards. The workshop also presented participants with best practices and model provisions on implementing legislation in the area of nuclear security as well as information on the IAEA legislative assistance programme and on the assistance available under the IAEA Nuclear Security Plan.

In 2008, the IAEA conducted international teams of experts (ITE) missions to five countries in order to promote consideration of adherence to, and implementation of, international legal instruments relevant to the protection against nuclear terrorism.

In 2008, the IAEA conducted three national workshops on the legislative framework governing peaceful uses of nuclear energy. These workshops focussed on the need to establish adequate national legislation covering safety, security, safeguards and liability for nuclear damage. The international legal instruments adopted under the Agency's auspices were also addressed and member States were invited to incorporate the provisions of these instruments into their national nuclear law.

In 2008, the IAEA also assisted 23 countries in their efforts to establish, develop, or review their national laws and regulations governing the safe and peaceful uses of nuclear energy and to adopt implementing legislation for the international instruments to which they had or intended to adhere.

In respect of implementing legislation on the criminal provisions of the international instruments relating to nuclear terrorism, the IAEA and the United Nations Office on Drugs and Crime (UNODC) jointly developed model criminal provisions; the IAEA also cooperated with UNODC in three regional workshops held respectively for the Commonwealth of Independent States in Belarus (January 2008), the Gulf States in Qatar (April 2008) and the League of Arab States in Egypt (November 2008).

(e) Convention on Nuclear Safety

In April 2008, Contracting Parties to the Convention on Nuclear Safety (CNS) met in Vienna for their Fourth Review Meeting, with 55 of the 61 Contracting Parties participating. The participants conducted a thorough peer review of the Contracting parties' national reports. For each Contracting Party, the participants identified good practices and specific areas for improvement. The participants also concluded that all Contracting Parties in attendance were in compliance with the requirements of the CNS and that nuclear safety performance at nuclear power programmes (NPPs) remained strong. The Contracting Parties noted that the nuclear industry and regulators had to avoid any complacency resulting from this success. Contracting Parties also noted that a number of challenges remained, including effective regulatory separation and independence and new reactor licensing. A number of Contracting Parties also noted positive experiences with the IAEA safety standards and review missions. Contracting Parties encouraged those countries considering NPPs to join the CNS well in advance of launching their NPPs.

(f) Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management

In preparation for the Third Review Meeting of the Contracting Parties to the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management (JC) to be held in May 2009, an Organizational Meeting of the Contracting Parties was held in October 2008 in Vienna. In accordance with the Rules of Procedure and Financial Rules of the JC, the primary purpose of the meeting was to elect the Officers of the Review Meeting (President, Vice-Presidents, Country Group Chairs, Country Group Vice-Chairs, Country Group Coordinators and Country Group Rapporteurs), as well as to establish Country Groups. The meeting also considered some of the proposals forwarded by the contracting parties in anticipation of the Third Review Meeting, including among others, on how to establish continuity and ongoing dialogue between Review Meetings, ensure the robustness of the peer review process and increase the number of contracting parties to the JC.

(g) Code of Conduct on the Safety and Security of Radioactive Sources and the supplementary Guidance on the Import and Export of Radioactive Sources

The Code of Conduct on the Safety and Security of Radioactive Sources (the Code of Conduct) is a non-binding international legal instrument which applies to civilian radioactive sources that may pose a significant risk to individuals, society and the environment. The Code of Conduct's objectives are to achieve and maintain a high level of safety and security of radioactive sources. Further to IAEA General Conference resolution GC(47)/RES/7.B, the number of commitments by States to work towards following the Code of Conduct increased to 94 States as of the end of 2008.

Throughout 2008, work has continued to facilitate the implementation of the Code of Conduct's supplementary Guidance on the Import and Export of Radioactive Sources (the Guidance). Further to General Conference resolution GC(48)/RES/10.D, 52 States had written to the IAEA Director General by the end of 2008, indicating their commitment to follow the Guidance.

An Open-ended Meeting of Technical and Legal Experts for Sharing of Information on lessons learned from States' Implementation of the Supplementary Guidance on the Import and Export of Radioactive Sources was held from 26 to 28 May 2008. The objective of the meeting was to provide a forum where participants could share their experiences and lessons learned in implementing the Guidance. The meeting brought to light several significant issues including difficulties in the provision of information to exporting States on the regulatory and technical capacity of importing States, the need for assistance in the development of regional networks and/or the utilization of existing networks to discuss the implementation of the Guidance, and a potential gap that might exist in relation to the notification of the transit or transshipment of sources across the territory of States. Participants noted that implementation of the Guidance had only recently commenced, and that it was therefore too early to make a definitive assessment of its impact; however successes and improvements in the control of the international transfer of sources were shared, as were the challenges and difficulties faced. It was decided that the next information exchange meeting, planned for 2010, would provide an opportunity to undertake a

review of the Guidance in accordance with its paragraph 20; at the same time, it was noted that any revision should be approached with caution.

(h) Code of Conduct on the Safety of Research Reactors

An international meeting on the application of the Code of Conduct on the Safety of Research Reactors was conducted in October 2008 in Vienna. The large number of member States represented at this meeting showed evidence of interest in the Code of Conduct and its application in regulation and operation. This is especially important in light of the renewed interest in nuclear technologies today. In many fields, research reactors are an essential part of building the required nuclear safety and technical infrastructures of the country and realizing the benefits of nuclear technology. Many of the presentations focused on the legal and regulatory infrastructure, in particular to improve the laws and regulations in line with the recommendations of the Code of Conduct. During 2008, safety standards for research reactors continued to be produced. These provide key technical requirements and recommendations that are needed to implement the Code of Conduct and achieve enhanced nuclear safety.

(i) 1997 Protocol to Amend the Vienna Convention on Civil Liability for Nuclear Damage and the 1997 Convention on Supplementary Compensation for Nuclear Damage

The Protocol to Amend the Vienna Convention on Civil Liability for Nuclear Damage (the “1997 Vienna Convention”) and the Convention on Supplementary Compensation for Nuclear Damage (the “1997 CSC”), provide that a contracting party within whose territory a nuclear installation is situated or by which or under the authority of which that installation is operated “may, if the small extent of the risks involved so warrants, exclude any nuclear installation from the application of the Convention, provided that criteria for such exclusion have been established by the Board of Governors of the International Atomic Energy Agency; and any exclusion by an Installation State satisfies such criteria”.

In line with the above, it had been proposed that certain nuclear installations being decommissioned and certain small training and research reactors could be excluded from the scope of application of the 1997 Vienna Convention and the 1997 CSC. These proposals were forwarded for technical evaluation to the IAEA Waste Safety Standards Committee and the IAEA Radiation Safety Standards Committee. In parallel, similar discussions on the possibility for allowing contracting parties to the Paris Convention on Third Party Liability in the Field of Nuclear Energy⁵¹⁴ (“the Paris Convention”) to also exclude such installations and reactors from the scope of application of the Paris Convention were taking place under the auspices of the Organization for Economic Cooperation and Development (OECD) and the Nuclear Energy Agency (NEA).

⁵¹⁴ United Nations, *Treaty Series*, vol. 956, p. 264.

(j) Safeguards Agreements

During 2008, no new Safeguards Agreements pursuant to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) entered into force. Cyprus,⁵¹⁵ Latvia⁵¹⁶ and Lithuania⁵¹⁷ acceded to the Safeguards Agreement between the non-nuclear-weapon States of the European Atomic Energy Community (Euratom), Euratom and the IAEA. A Safeguards Agreement pursuant to the NPT was signed by Montenegro but had not entered into force as of December 2008. A Safeguards Agreement with Qatar⁵¹⁸ pursuant to the NPT was approved by the IAEA Board of Governors. In addition, an agreement with India⁵¹⁹ for the application of safeguards to civilian nuclear facilities was approved by the Board of Governors.

In 2008, Protocols Additional to the Safeguards Agreements between the IAEA and Guatemala⁵²⁰ and Singapore⁵²¹ entered into force. In addition, Cyprus,⁵²² Latvia⁵²³ and Lithuania⁵²⁴ acceded to the Protocol Additional to the Safeguards Agreement between the non-nuclear-weapon States of Euratom, Euratom and the IAEA. Additional Protocols were signed by Cote d'Ivoire, Iraq and Montenegro but had not entered into force as of December 2008. Additional Protocols with Lesotho, Swaziland and Zambia were approved by the IAEA Board of Governors in 2008, but were not signed.

9. United Nations Industrial Development Organization

(a) Constitutional matters

With the accession of Samoa to the Constitution of the United Nations Industrial Development Organization,⁵²⁵ 173 States were members of the United Nations Industrial Development Organization (UNIDO) by the end of 2008.

(b) Agreements and other arrangements concluded in 2008

(i) States

a. Cameroon and the European Community (EC)

European Community contribution agreement signed by the United Nations Industrial Development Organization, the Government of the Republic of Cameroon and the

⁵¹⁵ IAEA document INFCIRC/193/Add.19.

⁵¹⁶ IAEA document INFCIRC/193/Add.21.

⁵¹⁷ IAEA document INFCIRC/193/Add.17.

⁵¹⁸ IAEA document INFCIRC/747.

⁵¹⁹ The Agreement was signed on 2 February 2009.

⁵²⁰ IAEA document INFCIRC/299/Add. 1.

⁵²¹ IAEA document INFCIRC/259/Add. 1.

⁵²² IAEA document INFCIRC/193/Add.2.

⁵²³ IAEA document INFCIRC/193/Add.22.

⁵²⁴ IAEA document INFCIRC/193/Add.18.

⁵²⁵ United Nations, *Treaty Series*, vol. 1401, p. 3.

European Community, represented by the European Development Fund, regarding the “Pilot programme in support for upgrading, standardization and quality in Cameroon”, signed on 16 and 23 April and 6 May 2008.

b. China

Memorandum of understanding between the United Nations Industrial Development Organization and the Department of International Cooperation, Ministry of Agriculture of China, on implementation of outcome 2.1 of the Spanish Millennium Development Goals Achievement Fund – heat-recovery in the coal-gangue brick sector, signed on 14 and 22 July 2008.

c. China and the Southern China Investment Promotion Centre (SCIPC)

Trust fund agreement between the United Nations Industrial Development Organization and the Government of People’s Republic of China and the Southern China Investment Promotion Centre (SCIPC) regarding the implementation of a project entitled “Strengthening the Southern China Investment Promotion Centre for establishment of an Investment Promotion Office for Southern China and neighbouring provinces”, signed on 24 April and 9 June 2008.

d. China and Sierra Leone

Memorandum of understanding between the United Nations Industrial Development Organization, the Government of the People’s Republic of China and the Government of the Republic of Sierra Leone on setting up a small hydro-power plant on the Bankasoka River located in the Port Loko District, Sierra Leone, under the “Lighting up Rural Africa Programme”, signed on 6 November 2008.

e. Croatia

Trust fund agreement between the United Nations Industrial Development Organization and the Ministry of Economy, Labour and Entrepreneurship, Republic of Croatia, regarding the implementation of a project entitled “Establishment of a regional network for corporate social responsibility competence for the CEE/SEE region”, signed on 17 June and 16 July 2008.

f. Democratic People’s Republic of Korea

Agreement between the United Nations Industrial Development Organization and the Ministry of Chemical Industry and the National Coordinating Committee for Environment of the Democratic People’s Republic of Korea concerning the cancellation of the “Plan for terminal phase-out of CTC” and preparation of an alternative project for the phase-out of CTC at 2.8 Vinalon Complex and Siniju Chemical Fiber Factory, signed on 26 September 2008.

g. Lebanon

Memorandum of understanding on the occasion of the visit of Director-General Mr. Kandeh K. Yumkella to the Republic of Lebanon, 21 to 23 August 2008, signed by Mr. Kandeh K. Yumkella and Mr. Ghazi Zeaiter, Minister of Industry, on 23 August 2008.

h. India

Trust fund agreement between the United Nations Industrial Development Organization and the Ministry of Micro, Small and Medium Enterprises of the Government of the Republic of India regarding the implementation of a project entitled “National programme for technology upgrading of brass and bell metal industry/artisan enterprises in Khagra and other areas in the West Bengal and neighbouring states (Phase I)”, signed on 8 September 2008.

i. Iran, Islamic Republic of

Joint declaration by Director-General Mr. Kandeh K. Yumkella, and Mr. Ali Akbar Mehrabian, Minister of Industries and Mines, regarding the enhancement of technical cooperation between UNIDO and the Islamic Republic of Iran, signed on 7 December 2008.

j. Italy

Trust fund agreement between the United Nations Industrial Development Organization and the Region of Tuscany (Italy) regarding the implementation of a project in Burkina Faso entitled “Upgrading agrofood value chains and opening of market channels for West African communities. Phase I: Burkina Faso”, signed on 12 March 2008.

Joint communiqué of Director-General Mr. Kandeh K. Yumkella, Mr. Salif Diallo, Minister of State, Ministry of Agriculture, Water Resources and Fisheries, Burkina Faso, and Mr. Massimo Toschi, Minister of the Region of Tuscany responsible for international cooperation, regarding the programme “Upgrading agro-food value chains and opening the market channels for West African communities. Phase I: Burkina Faso”, signed on 12 March 2008.

Trust fund agreement between the United Nations Industrial Development Organization and the Government of Italy regarding a Montreal Protocol project in Mexico entitled “National phase-out of MB– terminal project”, signed on 11 July 2008.

Agreement between the United Nations Industrial Development Organization and the Government of the Italian Republic regarding the implementation of a project in Viet Nam entitled “SME cluster development”, signed on 1 August 2008.

k. Lao People’s Democratic Republic and the Asian Development Bank

Memorandum of understanding between the United Nations Industrial Development Organization, the Government of the Lao People’s Democratic Republic and the Asian Development Bank on “Proposed technical assistance project for building Lao People’s Democratic Republic’s capacity to develop social economic zones”, signed on 3 April 2008.

I. Mexico

Trust fund agreement between the United Nations Industrial Development Organization, the National Forestry Commission and the Government of the State of Veracruz de Ignacio de la Llave, Mexico, regarding the programme “Establishment of a bamboo skills development and demonstration centre in Huatusco-Veracruz”, signed on 24 April and 1 May 2008.

m. Mozambique and the European Community (EC)

European Community contribution agreement between the United Nations Industrial Development Organization, the European Community and the Government of Mozambique regarding the implementation of the action entitled “Business environment support and trade facilitation project”, signed on 8 May 2008.

n. Nigeria

Administrative agreement between the United Nations Industrial Development Organization and the Government of Ebonyi State of Nigeria with regard to special purpose contributions to the Industrial Development Fund, signed on 1 February 2008.

o. Norway

Cost-sharing agreement between the United Nations Industrial Development Organization and the Norwegian Ministry of Foreign Affairs regarding the project entitled “Qualifying training-insertion of the youth in Côte d’Ivoire”, signed on 8 December 2008.

p. Russian Federation

Agreement between the United Nations Industrial Development Organization and the Government of the Russian Federation on the Trust Fund for the UNIDO Centre for International Industrial Cooperation in the Russian Federation, signed on 11 and 16 December 2008.

q. South Africa

Trust fund agreement between the United Nations Industrial Development Organization and the Department of Trade and Industry of the Government of South Africa regarding the implementation of a project entitled “Comparative analysis of the South Africa motor industry development programme”, signed on 20 March 2008.

Trust fund agreement between the United Nations Industrial Development Organization and the Department of Public Enterprises of the Government of South Africa regarding the implementation of a project entitled “Regional supplier benchmarking programme – Establishment of subcontracting and partnership exchange (SPX) centres in five countries in Southern Africa”, signed on 25 July and 25 August 2008.

r. The Sudan

Trust fund agreement between the United Nations Industrial Development Organization and the Ministry of Investment, the Sudan, regarding the implementation of a project entitled “Investment Promotion and Technical Assistance Programme (ITAP) for the Sudan”, signed on 10 and 17 April 2008.

Memorandum of agreement between the United Nations Industrial Development Organization and the Government of Southern Sudan (GOSS) regarding Youth Entrepreneurship Development (YED) through capacity-building and upgrading of the Malakal Vocational and Technical Training Centre (MVTC), Southern Sudan, signed on 15 April 2008.

Memorandum of agreement between the United Nations Industrial Development Organization and the Government of Southern Sudan (GOSS) regarding the project “Building industrial capacity in Southern Sudan”, signed on 6 August 2008.

s. Switzerland

Letter of agreement between the United Nations Industrial Development Organization and the State Secretariat for Economic Affairs (SECO) concerning the project US/VIE/08/004 – Post WTO accession support to Viet Nam – TBT/SPS compliance capacity development related to key export sectors, signed on 23 June 2008.

t. Syrian Arab Republic

Memorandum of understanding on the occasion of the visit of Director-General Mr. Kandeh K. Yumkella to the Syrian Arab Republic, 23 to 25 August 2008, signed by Mr. Kandeh K. Yumkella and Mr. Fouad Issa Al-Jouni, Minister of Industry, on 24 August 2008.

(ii) *The United Nations, its programmes and offices, and the specialized agencies*

Memorandum of understanding concerning the provision and use of common services by the specialized agencies, commissions, funds and programmes of the United Nations in Uruguay, signed on 24 and 29 September, 2 and 6 October 2008.

One Plan 2006-2010 between the Government of the Socialist Republic of Viet Nam and the United Nations funds, programmes and agencies represented in Viet Nam, signed on 20 June 2008.

Memorandum of understanding between the specialized agencies, funds and programmes of the United Nations in the United Republic of Tanzania concerning the One UN joint programme on wealth creation, employment and economic empowerment, signed in January 2008.

a. Food and Agriculture Organization of the United Nations (FAO)

Project agreement improving the income generating potential of the oil palm in the West and Central African Region (Cameroon and Nigeria) between the United Nations Industrial Development Organization, the Intergovernmental Group on Oilseeds, Oils and

Fats, represented by the Food and Agriculture Organization of the United Nations, and the Common Fund for Commodities, signed on 12 September and 29 October 2008.

b. United Nations Development Programme (UNDP)

Memorandum of understanding between participating United Nations organizations and the United Nations Development Programme regarding the joint programme for capacity-building support to Zanzibar, signed in January 2008.

Memorandum of understanding between participating United Nations organizations, the United Nations Resident Coordinator and the United Nations Development Programme regarding the operational aspects of the One UN Coherence Fund for Uruguay, signed on 26 February 2008.

Memorandum of understanding between participating United Nations organizations, the United Nations Resident Coordinator and the United Nations Development Programme regarding the operational aspects of the Pakistan One Fund, signed on 17 June 2008.

Memorandum of understanding between participating United Nations organizations and the United Nations Development Programme regarding the operational aspects of the Darfur Community Peace and Stability Fund (DCPSF) in the Sudan, signed on 15 January 2008.

c. World Bank/International Development Association (IDA)

Exchange of letters between the United Nations Industrial Development Organization and the IDA/World Bank regarding a grant for the “Blue Nile start-up emergency project”, signed on 24 January 2008.

Letter of agreement between the United Nations Industrial Development Organization, the IDA/World Bank and the Government of the Republic of the Sudan regarding the implementation of the project “Blue Nile start-up emergency project”, signed on 17 March, 18 March and 15 July 2008.

Trust fund administration agreement between the United Nations Industrial Development Organization and the International Development Association concerning the multi-donor trust fund for trade-related assistance in Cambodia, signed on 19 November 2008.

d. World Food Programme (WFP)

Memorandum of understanding between the United Nations Industrial Development Organization and the United Nations World Food Programme (WFP) regarding the provision of services to UNIDO in the Democratic People’s Republic of Korea, signed on 26 June 2008.

e. World Trade Organization (WTO)

Framework agreement on the standards and trade development facility between the World Trade Organization and the United Nations Industrial Development Organization, signed on 19 November 2008.

(iii) *Other intergovernmental organizations***a. Agency for International Trade Information and Cooperation (AITIC)**

Relationship agreement between the United Nations Industrial Development Organization and the Agency for International Trade Information and Cooperation, signed on 31 March and 25 April 2008.

b. Andean Community General Secretariat (SGCAN)

Memorandum of understanding between the United Nations Industrial Development Organization and the Andean Community General Secretariat, signed on 26 February and 13 May 2008.

c. European Community (EC)

European Community contribution agreement between the United Nations Industrial Development Organization and the European Community, represented by the European Commission, regarding the implementation of the action entitled “Upgrading of the technical and personnel capacity of the target Thai chemical-testing laboratories”, signed on 25 July and 15 August 2008.

European Community contribution agreement between the United Nations Industrial Development Organization and the European Community, represented by the European Commission, regarding the implementation of the action entitled “Trade capacity-building in Thailand through strengthening the capacities of testing laboratories for food and agricultural products”, signed on 22 November and 5 December 2008.

European Community contribution agreement between the United Nations Industrial Development Organization and the European Community, represented by the Commission of the European Communities, regarding the implementation of the action entitled “Global identification and evaluation of polluted sites”, signed on 3 and 4 December 2008.

European Community contribution agreement between the United Nations Industrial Development Organization and the European Community, represented by the Commission of the European Communities, regarding the implementation of the action entitled “Helping Vietnamese SMEs adapt and adopt CSR for improved linkages with global supply chains in sustainable production”, signed on 3 and 9 December 2008.

European Community contribution agreement between the United Nations Industrial Development Organization and the European Community, represented by the delegation of the European Community in Côte d’Ivoire, regarding the implementation of the action entitled “Project for restructuring the cotton fibre classification system in Côte d’Ivoire”, signed on 18 December 2008.

European Community contribution agreement between the United Nations Industrial Development Organization and the European Community, represented by the Commission of the European Communities, regarding the implementation of the action entitled “Survey of enterprises in selected ACP countries”, signed on 18 and 19 December 2008.

d. International Bureau of Weights and Measures (BIPM), International Organization of Legal Metrology (OIML)

Memorandum of understanding on cooperation between the United Nations Industrial Development Organization, the International Bureau of Weights and Measures (BIPM) and the International Organization of Legal Metrology (OIML), signed on 3 December 2008.

(iv) *Other entities*

a. Spanish Agency for International Development Cooperation (AECID)

Memorandum of agreement between the United Nations Industrial Development Organization and the Spanish Agency for International Development Cooperation regarding the implementation of the project entitled “Development of female entrepreneurship in the agro-industrial sector in Morocco”, signed on 6 May and 19 June 2008.

b. Agence Française de Développement

Financial agreement No.CZZ1315.01X between the United Nations Industrial Development Organization and the French Development Agency concerning the project “Strategic demonstration project for accelerated conversion of CFC chillers in five African countries (Cameroon, Egypt, Namibia, Nigeria and Sudan), AFROC”, signed on 26 August 2008.

c. Australian Agency for International Development (AusAID)

Trust fund agreement between the United Nations Industrial Development Organization and the Australian Agency for International Development (AusAID) regarding the implementation of a project in Kenya entitled “Recovery of MSMEs through installation of a community power centre (CPC) for productive application”, signed on 10 and 11 September 2008.

d. China Clean Development Mechanism Fund Management Centre

Memorandum of understanding between the United Nations Industrial Development Organization and the China Clean Development Mechanism Fund Management Centre on cooperation with regard to climate change and the clean development mechanism, signed on 6 November 2008.

e. ComMark Trust

Trust fund agreement between the United Nations Industrial Development Organization and the ComMark Trust regarding the implementation of a project in Malawi entitled “Capacity-building for aflatoxin management and control in groundnuts and paprika in Malawi”, signed on 15 September and 3 October 2008.

f. Dizayn Group Teknoloji Arastirma ve Gelistirme Limited Sirketi (Dizayn Teknoloji)

Memorandum of understanding between the United Nations Industrial Development Organization, represented by Mr. Mustafa Hatipoglu, and Dizayn Group Teknoloji

Arastirma ve Gelistirme Limited Sirketi (Dizayn Teknoloji), represented by Mr. Ibrahim Mirmahmutogullari, General Manager, concerning the development of a hydrogen gas permeation test apparatus for piping, signed on 29 May and 17 November 2008.

g. Gesellschaft fuer Technische Zusammenarbeit (GTZ)

Trust fund agreement between the United Nations Industrial Development Organization and the Deutsche Gesellschaft fuer Technische Zusammenarbeit (GTZ) regarding the project “Making renewable energy markets work for Africa”, signed on 19 and 31 March 2008.

h. Hewlett-Packard Company

Memorandum of understanding between United Nations Industrial Development Organization and Hewlett-Packard Company, signed on 7 May 2008.

i. Istanbul Deniz Otobusleri A.S. (IDO)

Memorandum of understanding between the United Nations Industrial Development Organization represented by the International Centre for Hydrogen Energy (ICHET) and Istanbul Deniz Otobusleri A.S. (IDO), signed on 15 and 21 October 2008 and 17 November 2008.

j. Istanbul Enerji Sanayi Ve Ticaret A.S, Hidrosen Arastirma-Gelistirme Merkezi Sanayi Ve Ticaret Ltd. Sti, Temsan

Memorandum of understanding between the United Nations Industrial Development Organization, represented by the International Centre for Hydrogen Energy (ICHET), and Istanbul Enerji Sanayi Ve Ticaret A.S and Hidrosen Arastirma-Gelistirme Merkezi Sanayi Ve Ticaret Ltd. Sti and Temsan, signed on 17, 20 and 21 November and 15 December 2008.

k. Itaipu Binacional, Centrais Elébricas Brasileiras S.A.

Memorandum of understanding between the United Nations Industrial Development Organization, Itaipu Binacional and Centrais Elébricas Brasileiras S.A., signed on 4 December 2008.

l. Joint Stock Company “Moscow Committee on Science and Technologies”

Joint Stock Company “Moscow Committee on Science and Technologies” Trust fund agreement between the United Nations Industrial Development Organization and the Joint Stock Company “Moscow Committee on Science and Technologies” regarding the implementation of a project in Moscow entitled “Identification, assessment and development of ‘atlas’ and the database of water-related best available technologies”, signed on 27 March and 26 April 2008.

m. Norwegian Agency for Development Cooperation (Norad)

Administrative agreement for project funding between the United Nations Industrial Development Organization and the Norwegian Agency for Development Cooperation for the project entitled “Guide to private standards”, signed on 23 January and 7 February 2008.

Administrative agreement for project funding between the United Nations Industrial Development Organization and the Norwegian Agency for Development Cooperation regarding the project “Technical assistance to business registration reform in Viet Nam”, signed on 7 March 2008.

Administrative agreement for project funding between the United Nations Industrial Development Organization and the Norwegian Agency for Development Cooperation regarding the project “Facilitating Pakistan’s capacity to integrate into global trade – six to eight months bridging”, signed on 25 and 28 March 2008.

Administrative agreement for project funding between the United Nations Industrial Development Organization and the Norwegian Agency for Development Cooperation regarding the project “Promotion of GLOBALGAP standards in Uganda”, signed on 14 and 30 October 2008.

Administrative agreement for project funding between the United Nations Industrial Development Organization and the Norwegian Agency for Development Cooperation regarding the project “UNIDO – Trade Compliance Report”, signed on 14 and 30 October 2008.

Administrative agreement for project funding between the United Nations Industrial Development Organization and the Norwegian Agency for Development Cooperation regarding the project “Re-visiting UNIDO’s trade capacity-building approach”, signed on 14 and 30 October 2008.

n. PREPARE Network

Memorandum of understanding between the United Nations Industrial Development Organization and the PREPARE Network, signed on 30 June and 23 July 2008.

o. Small and Medium Enterprises Development Agency of Nigeria

Trust fund agreement between the United Nations Industrial Development Organization and the Small and Medium Enterprises Development Agency of Nigeria regarding the project “SPX Nigeria – Assistance in establishing an industrial subcontracting and partnership exchange in Nigeria”, signed on 21 February 2008.

p. Turkish International Cooperation and Development Agency (TIKA)

Cooperation agreement between the United Nations Industrial Development Organization and the Turkish International Cooperation and Development Agency, signed on 16 June 2008.

q. WAITRO

Memorandum of cooperation between the United Nations Industrial Development Organization and the World Association of Industrial and Technological Research Organizations, signed on 16 May 2008.

r. Arab Science and Technology Foundation (ASTF)

Memorandum of understanding between the United Nations Industrial Development Organization and the Arab Science and Technology Foundation (ASTF), Sharjah, United Arab Emirates, signed on 3 December 2008.

10. World Trade Organization

(a) Membership

Applications for World Trade Organization (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.

(i) *Recently Completed Accessions*

The General Council approved Ukraine's accession package during February 2008. The Ukraine became the 152nd member of WTO on 16 May 2008. The accession package of Cape Verde was adopted by the WTO at the General Council in December 2007. On 23 July 2008 Cape Verde became the 153rd member of WTO.

(ii) *Ongoing Accessions*

As of the date of this document, the following applicants are in the process of accession to the WTO (in alphabetical order):

Afghanistan	Lebanon
Algeria	Liberia
Andorra	Libyan Arab Jamahiriya
Azerbaijan	Montenegro
Bahamas	Russian Federation
Belarus	Samoa
Bhutan	Sao Tome and Principe
Comoros (Union of the)	Serbia
Equatorial Guinea	Seychelles
Ethiopia	The Sudan
Iran (Islamic Republic of)	Tajikistan
Iraq	Ukraine
Kazakhstan	Vanuatu ⁵²⁴
Lao People's Democratic Republic	Yemen

⁵²⁶ The final meeting of the Working Party on the Accession of Vanuatu was held on 29 October 2001. The accession package has not yet been forwarded to the General Council.

(iii) *Remaining accessions*

Of the remaining accessions:

– 22 applicants have submitted a Memorandum on the Foreign Trade Regime – a key document containing the factual information needed for activating the work of the Working Party;

– 21 Working Parties have held their first meeting;

– 19 applicants have tabled their offers on goods and/or services to initiate bilateral market access negotiations with interested members; and

A draft Working Party Report or Elements of a draft Report, which is a document that lays down the basis for the draft Working Party Report, has been prepared for 17 applicants.

A Working Party has not yet been established to examine a request for accession from the Syrian Arab Republic.⁵²⁷

(b) *Dispute settlement*

During 2008, 19 requests for consultations were received pursuant to article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes. The Dispute Settlement Body established panels in the following cases:

– Australia – Measures Affecting the Importation of Apples from New Zealand;⁵²⁸

– Thailand – Customs and Fiscal Measures on Cigarettes from the Philippines;⁵²⁹

– European Communities and its member States – Tariff Treatment of Certain Information Technology Products.⁵³⁰

During 2008, the Dispute Settlement Body adopted Panel Reports and Appellate Body reports in the following cases:

– United States – Continued Suspension of Obligations in the EC – Hormones Dispute/ Canada – Continued Suspension of Obligations in the EC – Hormones Dispute (Appellate Body and Panel reports);⁵³¹

– European Communities – Anti-Dumping Measure on Farmed Salmon from Norway (Panel report);⁵³²

– Mexico – Definitive Countervailing Measures on Olive Oil from the European Communities (Panel report);⁵³³

⁵²⁷ Documents WT/ACC/SYR/1, 2 and 3.

⁵²⁸ WT/DS367.

⁵²⁹ WT/DS371.

⁵³⁰ WT/DS375, WT/DS376, WT/DS377.

⁵³¹ WT/DS320/321.

⁵³² WT/DS337.

⁵³³ WT/DS341.

- United States – Measures Relating to Shrimp from Thailand and United States – Customs Bond Directive for Merchandise Subject to Anti-Dumping/Countervailing Duties (Appellate Body and Panel reports);⁵³⁴
- United States – Final Dumping Measures on Stainless Steel from Mexico (Appellate Body and Panel reports);⁵³⁵
- India – Additional and Extra-Additional Duties on Imports from the United States (Appellate Body and Panel reports).⁵³⁶

During the period under review, the General Council granted the following waivers from obligations under the WTO Agreements, which are still in effect.

MEMBER	TYPE	DECISION OF	EXPIRY	DOCUMENT
Argentina	Introduction of Harmonized System 1996 changes into WTO Schedules of Tariff Concessions – Extension of Time-Limit	31 July 2008	30 April 2009	WT/L/733
Panama	Introduction of Harmonized System 1996 changes into WTO Schedules of Tariff Concessions – Extension of Time-Limit	31 July 2008	30 April 2009	WT/L/734
Argentina, Australia, Brazil, China, Costa Rica, Croatia, El Salvador, European Communities, Iceland, India, Republic of Korea, Mexico, New Zealand, Nicaragua, Norway, Chinese Taipei, Thailand, United States of America and Uruguay	Introduction of Harmonized System 2002 Changes into WTO Schedules of Tariff Concessions	18 December 2008	31 December 2009	WT/L/744

⁵³⁴ WT/DS34/345.

⁵³⁵ WT/DS344.

⁵³⁶ WT/DS360.

MEMBER	TYPE	DECISION OF	EXPIRY	DOCUMENT
Argentina; Australia; Brazil; Canada; Costa Rica; Croatia; Dominican Republic; El Salvador; European Communities; Guatemala; Honduras; Hong Kong, China; India; Israel; Korea; Macao, China; Malaysia; Mexico; New Zealand; Nicaragua; Norway; Pakistan; Singapore; Switzerland; Thailand; United States of America and Uruguay	Introduction of Harmonized System 2007 Changes into WTO Schedules of Tariff Concessions	18 December 2008	31 December 2009	WT/L/745
European Communities	Application of autonomous preferential treatment to Moldova	7 May 2008	31 December 2013	WT/L/722
Senegal	Minimum values in regard to the Agreement on the Implementation of article VII of the General Agreement on Tariffs and Trade 1994	31 July 2008	30 June 2009	WT/L/735

11. World Intellectual Property Organization

In 2008, World Intellectual Property Organization (WIPO) continued its activities on the implementation of substantive work programs in three main areas: cooperation with member States for development activities, intellectual property treaty formulation and norm-setting, and the international registration of intellectual property rights.

(a) Cooperation for development activities

In 2008, the WIPO Technical Assistance and Capacity Building (TACB) activities continued to be directed towards the integration of Intellectual Property (IP) in national development policies and programs in accordance with WIPO Strategic Goal Two, created within the framework of the United Nations Millennium Development Goals. The

technical assistance program and activities have been designated in close consultation with member States, intergovernmental organizations (IGOs) and non-governmental organizations (NGOs) and particularly with developing countries and least-developed countries (LDCs) with which an intensified cooperation has been tailored to respond to the diverse and specific needs in important intellectual property (IP) areas.

In the period under review, substantive legislative and technical assistance was provided in support of national IP building capacity in areas such as: IP infrastructure and exploitation of IP systems; human resources development; information technology (IT); Genetic Resources, Traditional Knowledge and Folklore (TKF) and protection of traditional cultural expressions (TCEs); Small and Medium-Sized Enterprises (SMEs); and the establishment of collective management societies.

In 2007, the WIPO General Assembly adopted the recommendations for action on the 45 agreed proposals submitted by the Provisional Committee on Proposals Related to a WIPO Development Agenda (PCDA). The General Assembly also decided to immediately implement 19 proposals identified by the Chair of the PCDA in consultation with the member States and the Secretariat, and to establish a Committee on Development and Intellectual Property (CDIP). The Committee is composed of the member States of WIPO and open to the participation of all accredited IGOs and NGOs. In line with its mandate, the CDIP submitted to the WIPO General Assembly in 2008 a report on its first and second sessions respectively held in March and July 2008, during which the Rules of Procedures of the CDIP were adopted, the activities to be implemented under the adopted recommendations were reviewed and discussed, the outcome of informal consultations initiated between the two sessions on strategies and activities as well as the necessary mechanisms for coordinating the work of the Committee with other relevant WIPO bodies were considered.

(b) 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 through the progressive development of international approaches in the protection and administration of intellectual property rights. In this respect, the 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 to centralize the discussions, coordinate efforts and establish priorities in these areas.

(i) *Standing Committee on the Law of Patents (SCP)*

The Standing Committee on the Law of Patents (SCP), at its twelfth session held in June 2008, based its discussions on the report on the international patent system aiming at providing a frame of the current situation of the international patent system and attempting to cover the different needs and interests of member States mainly on broader issues such as the economic rationale of the patent system and its role in innovation and technology dissemination as well as the legal and organizational aspects relating to the patent system.

Although constructive discussions were held on the future work plan related to the draft of the Substantive Patent Law Treaty (SPLT), the debate within the SCP revealed that some existing differences on the harmonization of national patent laws could not yet be resolved. In line with the recommendations of the Committee, a “Conference on Intellectual Property and Global Challenges” will be held in July 2009, in the context of discussing a work program for the SCP. The Conference will address issues relating to the interface of intellectual property with other areas of public policy, notably health, environment, climate change, and food security, and serve as a global forum to discuss issues and solutions to some of the major challenges that the world faces today in the area of IP.

(ii) *Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT)*

The Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT) continued to pursue its objective to modernize the international legal framework for trademark office administrative procedures and to find a common working field from diverging national and regional approaches in the area of trademarks, industrial designs and geographical indications law, including the law of unfair competition. The Committee also continued to work on issues identified at its twentieth session held in December 2008, in particular, on grounds for refusal of trademarks, technical and procedural aspects relating to certification and collective marks, possible areas for convergence on industrial design law and practice, and article 6 *ter* of the Paris Convention for the Protection of Industrial Property.⁵³⁷

(iii) *Standing Committee on Copyright and Related Rights (SCCR)*

Since the last seven sessions held from November 1998 to November 2008, the project to establish a modernized and balanced standard for the international protection of broadcasting and cablecasting organizations has been dealt with by the Standing Committee on Copyright and Related Rights (SCCR) without interruption and in line with the Development Agenda. These prolonged discussions were mainly due to divergences and deferring positions which eventually led the Committee to conclude that, despite all the efforts made to converge to a Diplomatic Conference on the protection of the rights of broadcasting organizations, the present situation was not favorable to continue a never-ending debate as there were no substantive grounds for reaching a common agreement. The SCCR concluded that the discussions should therefore be ended by a clear and definitive decision including a timetable for later revisiting and reconsidering the matter.

(c) **International registration activities**

(i) *Patents*

The number of international patent application filings grew by 2.3 per cent in 2008, to 163,600 applications. While the growth rate is modest, as compared to an average 9.3 per cent

⁵³⁷ United Nations, *Treaty Series*, vol. 828, p. 307.

growth rate in the previous three years, the total number of international patent applications filed in 2008 represents the highest number of applications received under the Patent Cooperation Treaty (PCT)⁵³⁸ in a single year. The largest number of international applications filed originated from applicants of the United States of America (53,521 applications).

In 2008, Sao Tome and Principe adhered to the Patent Cooperation Treaty, bringing the total number of contracting parties to 140.

(ii) *Trademarks*

In 2008, the volume of registration activity under the Madrid system continued to increase. The number of 40,985 of international registrations reached the highest ever recorded in one year under the Madrid system, based on a growth of 6.5 per cent, as compared to 2007.

In 2008, with the adherence of Bosnia Herzegovina, Ghana, Madagascar and Sao Tome and Principe to the Madrid Protocol,⁵³⁹ the number of contracting parties rose to 78.

(iii) *Industrial designs*

In 2008, the Secretariat recorded 1,523 registrations of industrial designs. The number of designs contained in those registrations was 7,920.

During the year under review, Bosnia and Herzegovina, Denmark, Ghana, Lithuania, Sao Tome and Principe, the Syrian Arab Republic and the African Intellectual Property Organization (OAPI) became party to the Geneva Act of the Hague Agreement,⁵⁴⁰ bringing the total number of contracting parties to 32.

(iv) *Appellations of origin*

In 2008, the Secretariat recorded three new appellations of origin in the International Register, which brought to 813 the total number of appellations of origin in force under the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration (Lisbon Agreement).⁵⁴¹ The total number of contracting parties to the Lisbon Agreement is 26.

⁵³⁸ United Nations, *Treaty Series*, vol. 1160, p. 231.

⁵³⁹ Madrid Agreement concerning the international registration of marks. United Nations, *Treaty Series*, vol. 828, p. 391.

⁵⁴⁰ Geneva Act of the Hague Agreement concerning the international registration of industrial designs (with regulations). United Nations, *Treaty Series*, vol. 2279, p. 31.

⁵⁴¹ Lisbon Agreement for the protection of appellations of origin and their international registration. United Nations, *Treaty Series*, vol. 923, p. 89.

(d) Intellectual property and global issues

(i) *Genetic resources, traditional knowledge and folklore*

The Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) at its twelfth and thirteenth sessions, held respectively in February and in October 2008, reviewed the progress made on its substantive agenda particularly with the contribution of the WIPO Voluntary Fund and the further strengthening of the indigenous consultative forum and the indigenous panels which form part of the IGC progress, as well as the participation of various intergovernmental organizations.

(ii) *The WIPO Arbitration and Mediation Center*

The WIPO Arbitration and Mediation Center (“the Center”) has been involved in the development of various tailor-made procedures. The most prominent example is the Uniform Domain Name Dispute Resolution Policy (UDRP). The Center has also developed a set of dispute avoidance and resolution best practices for “Application Service Providers” in addition to a “Keyword Dispute Resolution Dispute Service” provided to resolve disputes that may arise concerning the registration of keywords. On 18 September 2008, the WIPO Expedited Arbitration Rules for the Association of International Collective Management of Audiovisual Works (AGICOA), developed by the Center and tailored to the specific needs of AGICOA rights holders’ disputes, entered into force.

The Center has identified a separate panel of highly qualified and recognized copyright and entertainment law arbitrators from various jurisdictions and it has also carried out some 100 arbitrations and 80 cases of mediation proceedings, processed over 25,000 disputes in the area of domain names. 14,000 of those were received under the UDRP, the policy that applies to all registration in generic top-level domains as well as under related policies for country code top-level Domains.

(iii) *New members and new accessions*⁵⁴²

In 2008, 52 new instruments of ratification and/or accession were received and processed in respect of WIPO-administered treaties.

The following figures show the new country adherences to the treaties, with the second figure in brackets being the total number of States party to the corresponding treaty by the end of 2008.

- Convention Establishing the World Intellectual Property Organization: 0 (184);
- Paris Convention for the Protection of Industrial Property: 1 (173);
- Berne Convention for the Protection of Literary and Artistic Works: 1 (164);
- Patent Cooperation Treaty: 1 (140);

⁵⁴² For the status of the treaties listed in this section, see the WIPO website at <http://www.wipo.int/treaties/en/summary.jsp>.

- Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks: 4 (78);
- Trademark Law Treaty: 3 (43);
- Patent Law Treaty: 2 (19);
- Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods: 0 (35);
- Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks: 1 (83);
- Locarno Agreement Establishing an International Classification for Industrial Designs: 0 (49);
- Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks: 1 (25);
- WIPO Copyright Treaty: 4(68);
- WIPO Performances and Phonograms Treaty: 6 (68);
- Singapore Treaty on the Law of Trademarks: 8 (12);
- Lisbon Agreement for the Protection of Appellations of Origin and their International Registration: 0 (26);
- Strasbourg Agreement Concerning the International Patent Classification: 1 (59);
- Nairobi Treaty on the Protection of the Olympic Symbol: 1 (47);
- Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure: 4 (72);
- Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations: 1 (91);
- Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs: 7 (56);
- Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite: 3 (34);
- Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms: 0 (76);
- International Convention for the Protection of New Varieties of Plants (UPOV): 3 (67).

12. International Fund for Agricultural Development

(a) International Fund for Agricultural Development's (IFAD's) 30th Anniversary

The year 2008 marked IFAD 30 years of activity. The Fund was established with the objective of mobilising additional resources to be made available for agricultural development in developing member States. At its anniversary, the Fund renewed its commitment to its mandate and to enabling rural poor to overcome poverty.

(b) Membership

The Commonwealth of the Bahamas became a member of IFAD in 2008. The application for membership presented by the Commonwealth of the Bahamas was approved by Resolution 146/XXXI of the Governing Council at its thirty-first session (13-14 February 2008).

(c) Cooperation agreements and memoranda of understanding and other agreements

(i) *Memorandum of Understanding with the African Development Bank and the African Development Fund*

During the thirty-first session of the Governing Council (13-14 February 2008), the President of IFAD and the President of the African Development Bank signed a Memorandum of Understanding (EB 2008/93/INF.2). The purpose of the Memorandum was to facilitate and intensify the relationship between the parties thereto in matters of common interest and to broaden it by establishing a strategic partnership. The text of this Memorandum was submitted for information at the April session of the Executive Board.

(ii) *Memorandum of understanding between FAO, IFAD, WFP and the Alliance for a Green Revolution in Africa (AGRA)*

On 4 June 2008, IFAD entered into an agreement with the Food and Agriculture Organization of the United Nations (FAO), the World Food Programme (WFP) and the Alliance for a Green Revolution in Africa (AGRA) for the purpose of developing a strategic alliance to help African countries in their efforts to achieve a green revolution aimed at reducing/eradicating hunger and improving the food security and incomes of African farmers and rural households (EB 2008/94/R.37).

(iii) *Agreement concerning the hosting of the Secretariat of the International Land Coalition*

During the ninety-fifth Session of the Executive Board (15-17 December 2008) an Agreement concerning the hosting of the Secretariat of the International Land Coalition (ILC) in Headquarters was signed between IFAD and the Coalition Council of the International Land Coalition. The Agreement defined IFAD hosting arrangements of the Secretariat of the ILC for a limited period of time (EB 2008/95/INF.3).

(iv) *Amendments of supervision arrangements*

In line with the provisions of the IFAD Policy on Supervision and Implementation Support approved by the Executive Board in December 2006, the Fund has been progressively increasing the number of projects under its direct supervision and implementation support. The Executive Board at its ninety-fourth Session (10-11 September 2008) approved a change in the supervision arrangements for 56 projects (EB 2008/94/R.24), whereby the cooperating

institutions were replaced by direct IFAD supervision. The respective loan agreements were amended and the appointments of the cooperating institutions concerned, terminated.

(v) *Framework Agreement with the UNDP*

Further to the 1987 MOU, a Framework Agreement was signed on 30 September 2008 between IFAD and the United Nations Development Programme (UNDP) whereby the latter undertook to assist IFAD in the provision of necessary office space within UNDP premises and administrative services needed for establishing Country Offices in certain of its member States.

(d) **Others**

(i) *Revision of the General Conditions for Agricultural Development Financing*

The Office of the General Counsel, in collaboration with the Programme Management Department and the Finance and Administration Department, carried out a comprehensive revision of the model financing agreement and the General Conditions for Agricultural Development Financing (the “General Conditions”). The documents (EB 2008/95/R.50) were presented to the Board at its ninety-fifth session (15-17 December 2008) during which it was proposed that an informal seminar be held prior to consideration thereof at the next Executive Board session.

(ii) *New Small Grant Agreements and Procedures*

In order to streamline IFAD legal instruments and reduce the time necessary for processing and implementing agreements, a new Small Grant Agreement model was developed, together with a new procedure for clearance and approval of grants and preparation of grant agreement. The new Small Grant Procedure was approved on 29 October 2008 through PB/2008/20 and applies to Grant Agreement below 200,000 USD.

(iii) *Administrative procedures for IFAD Country Office*

Procedures have been developed for administering IFAD Country Offices. The procedures clarify the roles and responsibilities of the Country Presence Initiatives and the various units of IFAD Headquarters (PB/2008/05).

(iv) *Guidelines for Project Design, Guidelines for Quality Enhancement for Project Design and Guidelines for Quality Assurance*

As of 2 January 2008, project designs have to adhere to the approved Guidelines for Project Design, Guidelines for Quality Enhancement for Project Design and the Guidelines for Quality Assurance. The Guidelines include far reaching changes in IFAD internal way of undertaking projects and provide the guidance framework for: a) designing projects; b) internal review of project design; and c) quality assurance of project design.

13. Organization for the Prohibition of Chemical Weapons

(a) Membership

During 2008, two States, Guinea-Bissau and Lebanon, became States parties to the Chemical Weapons Convention (“the Convention” or “CWC”).⁵⁴³

In addition, the Convention entered into force in the Republic of the Congo. At the end of the year the number of States parties stood at 185.

(b) Destruction of chemical weapons

Under article III, paragraph 1, of the Chemical Weapons Convention, each State party shall declare whether it owns or possesses chemical weapons. As at the end of 2007, six States parties had declared the possession of chemical weapons. Under article I, paragraph 2, of the Chemical Weapons Convention “Each State party undertakes to destroy chemical weapons it owns or possesses, or that are located in any place under its jurisdiction or control [...]”. Such destruction was to be concluded not later than 10 years after entry into force of the Convention, i.e. on 29 April 2007 (see article IV, paragraph 6 of the CWC). However, the CWC makes provision for an extension of the deadline for completing the destruction of the declared chemical weapons stockpiles for up to five years (*i.e.*, until 29 April 2012) on the request of a State party. At its eleventh session, held from 5 to 8 December 2006, the Conference of the States parties of the OPCW approved such requests for extensions of the deadline made by possessor State parties.

The Second Review Conference, held in 2008,⁵⁴⁴ reaffirmed that complete destruction of chemical weapons, and conversion or complete destruction of chemical weapons production facilities (CWPFs), is essential for the realisation of the object and purpose of the Convention. The Second Review Conference welcomed the statements of possessor States parties reiterating their commitment to meeting the final, extended deadlines established under the Convention by the eleventh session of the Conference. The Second Review Conference noted the significant progress made so far by possessor States parties in the destruction of chemical weapons and commended the progress made by those States parties which are close to achieving complete destruction of their stockpiles. The Second Review Conference noted that by 1 April 2008, over 38 per cent of the total stockpiles of 70.000 tonnes of Category 1 chemical weapons initially declared by States parties had been destroyed. However, the Second Review Conference expressed its concern that more than 60 per cent of stockpiles still remained to be destroyed.

(c) Legal status, privileges and immunities and international agreements

During 2008, the Organization for the Prohibition of Chemical Weapons (OPCW) continued to negotiate bilateral privileges and immunities agreements with States parties pursuant to paragraph 50 of article VIII of the Convention. Five agreements on privileges

⁵⁴³ Convention on the Prohibition of the Development, Production and Stockpiling and Use of Chemical Weapons and on their Destruction. United Nations, *Treaty Series*, vol. 1974, p. 45.

⁵⁴⁴ Described further in section (d) below.

and immunities were signed during the year under review. The first agreement, concluded with Serbia, was signed on 7 March 2008. Two other agreements, concluded with Mauritius and El Salvador, were signed on 3 July 2008. The fourth agreement, concluded with Ecuador, was signed on 17 July 2008, and the fifth agreement, concluded with Poland, was signed on 5 August 2008. In addition, one agreement was negotiated with another State party and approved by the Executive Council and is to be signed in due course.

Pursuant to paragraph 3 of part III of the Verification Annex to the Convention, each State party must conclude a facility agreement with the OPCW for each facility or plant site declared and subject to on-site inspections.⁵⁴⁵

In 2008, one facility agreement regarding on-site inspections at a Schedule I⁵⁴⁶ protective purposes facility was signed on 25 September 2008 between the OPCW and Sweden, and entered into force on the same day.

During the period under review, three facility agreements regarding on-site inspections at Schedule 2 facilities were signed. In addition, three facility agreements regarding on-site inspections at converted chemical weapons production facilities were signed. These six facility agreements between the OPCW and the United Kingdom were signed on 30 October 2008 and entered into force on the same day.

During the period covered by this review, two facility agreements regarding on-site inspections at small-scale facilities were signed. The first was signed on 30 October 2008 between the OPCW and the United Kingdom, and the second was signed on 1 December 2008 between the OPCW and Canada. Both facility agreements entered into force on the day of their signature.

A facility agreement regarding on-site inspections at a chemical weapons destruction facility was signed between the OPCW and Libya on 3 December 2008 and entered into force on the same day.

The OPCW concluded a number of memoranda of understanding and grant agreements relating to the implementation of activities by States parties and the Technical Secretariat during 2008.

(d) Review of the Chemical Weapons Convention

The Second Special Session of the Conference of the States parties to review the Operation of the Chemical Weapons Convention (“Second Review Conference”) was convened from 7 to 18 April 2008. At the Second Review Conference, all States parties renewed their strong commitment to the goals of the Chemical Weapons Convention, reiterated

⁵⁴⁵ During an initial inspection at a facility or plant site, one of the tasks of an OPCW inspection team is to begin work on a facility agreement, which will govern all future inspections at that facility or plant site. Such agreements are required for all chemical weapons-related facilities, facilities producing Schedule 1 chemicals, and Schedule 2 plant sites. With respect to the last category, however, the Secretariat and the inspected State party can agree that an agreement is not necessary for a particular site. For plant sites producing Schedule 3 chemicals or unscheduled discrete organic chemicals, a facility agreement is not normally needed, although the inspected State Party may request one.

⁵⁴⁶ For the purpose of implementing the Chemical Weapons Convention, toxic chemicals which have been identified for the application of verification measures are listed in Schedules contained in the Annex on Chemicals.

the critical importance of such an instrument, and reaffirmed the essential contribution such a Convention makes to confidence-building and to cooperation among States parties, as well as to their own national security. States parties affirmed that the Convention sets new standards for both disarmament and non-proliferation notably through its non-discriminatory and multilateral verification regime.

During this session, the Conference considered, among other issues, the role of the Chemical Weapons Convention in enhancing international peace and security, the importance of the destruction of declared chemical weapons stockpiles within the applicable deadlines, the importance of achieving universal adherence to, and full and prompt implementation of the Convention, and the relevance of the provisions of article X of the Convention for assistance and protection against chemical weapons. Additionally, the Second Review Conference stressed the importance of the provisions of article XI on the economic and technological development of States parties, and recalled that the full, effective and non-discriminatory implementation of article XI is essential for the realisation of the goals of the Convention.

(e) OPCW legislative assistance activities

Throughout 2008, the Technical Secretariat of the OPCW continued to render assistance, upon request, to States parties that had yet to adopt legislative and other measures to implement their obligations under the Convention.

In its implementation support efforts, the Technical Secretariat of the OPCW acted in accordance with subparagraph 38 (e) of article VIII of the Convention and the provisions of the plan of action regarding the implementation of article VII obligations adopted by the Conference at its eighth session (“the Action Plan”) (C-8/DEC.16. dated 24 October 2003) as well as other decisions regarding the implementation of article VII obligations (C-12/DEC.9 of 9 November 2007, C-10/DEC.16 of 11 November 2005 and C-M/DF.C.4 of 6 December 2006). These decisions focussed on, amongst other things, the obligations of States parties to designate or establish a national authority to serve as a national focal point for effective liaison with the OPCW and other States parties, as required by article VII, paragraph 4 of the Convention, and to take the steps necessary to enact national implementing legislation, including penal legislation and administrative measures to implement the Convention, as required by article VII, paragraph I, of the Convention.

In addition to assistance to individual States parties, a number of national, sub-regional, regional workshops and training courses were held for national authorities, parliamentarians and other national bodies involved in the implementation of the Convention. These events dealt with matters such as legislative drafting, declarations, enactment of national implementing legislation, etc.

The Technical Secretariat also reviewed and commented on 28 drafts of measures to implement the Convention transmitted by 16 States parties. It also provided assistance in identifying areas in which legislation or regulations were required and, in this regard, offered drafting guidance to 8 States parties.

The Secretariat continued to maintain informal working contacts with States parties with which it had built a relationship through technical assistance visits and consultations,

in order to identify additional needs for assistance, to follow up on assistance already provided and to coordinate future assistance activities.

In the course of 2008, two further States parties designated or established their national authority bringing the number of States parties having fulfilled the requirement of article VII (4) CWC to 177 (96%). In the same year, five further States parties had notified the OPCW that they had adopted measures covering all key areas of the Action Plan. The number of States having legislation covering all these key areas therefore increased to 83 (45 per cent).