

*Extract from:*

# UNITED NATIONS JURIDICAL YEARBOOK

2009

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



Copyright (c) United Nations

	<i>Page</i>
(k) Contribution agreement between the European Community and the United Nations Industrial Development Organization on trade-related technical assistance, signed on 6 November 2009 ..	61
(l) Exchange of letters constituting an agreement between the Ministry for Foreign Affairs of Finland and the United Nations Industrial Development Organization on the utilization of the Finnish contribution to UNIDO in the year 2009. 27 October and 16 November 2009. ....	62
(m) Agreement between the United Nations Industrial Development Organization and the Government of the Federal Republic of Nigeria regarding the arrangements for the organization of the high-level conference on the development of agribusiness and agro-industries in Africa, signed on 20 November 2009 .....	62
(n) Grant agreement between the International Fund for Agricultural Development and the United Nations Industrial Development Organization (UNIDO) regarding the implementation of a project entitled "Pro Poor Value Chain Development Tool for Practitioners". 26 and 29 October 2009 .....	64
(o) Standard letter of agreement between the Government of Botswana and the United Nations Industrial Development Organization under national execution regarding the implementation of a project in Botswana entitled "Review of the Industrial Development Policy". 6 November and 11 December 2009 .....	64
6. Organization for the Prohibition of Chemical Weapons Agreement between the Organisation for the Prohibition of Chemical Weapons and the Republic of Serbia on the Privileges and Immunities of the OPCW. ....	65
7. International Criminal Court Headquarters Agreement between the International Criminal Court and the Host State. ....	73

## **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. ....	105
2. Peace and Security	
(a) Peacekeeping missions and operations .....	105
(b) Political and peacebuilding missions .....	109
(c) Other bodies .....	114
(d) Missions of the Security Council .....	116
(e) Other peacekeeping matters .....	118

	<i>Page</i>
(f) Action of Member States authorized by the Security Council . . .	119
(g) Sanctions imposed under Chapter VII of the Charter of the United Nations . . . . .	120
(h) Terrorism . . . . .	123
(i) Humanitarian law and human rights in the context of peace and security . . . . .	125
(j) Piracy . . . . .	127
3. Disarmament and related matters	
(a) Disarmament machinery . . . . .	128
(b) Nuclear disarmament and non-proliferation issues . . . . .	129
(c) Biological and chemical weapons issues . . . . .	132
(d) Conventional weapons issues . . . . .	134
(e) Regional disarmament activities of the United Nations . . . . .	136
(f) Other issues . . . . .	139
4. Legal aspects of peaceful uses of outer space	
(a) The Legal Subcommittee on the Peaceful Uses of Outer Space . . .	141
(b) General Assembly . . . . .	143
5. Human rights	
(a) Sessions of the United Nations human rights bodies and treaty bodies	144
(b) Racism, Racial Discrimination, Xenophobia and All Forms of Discrimination . . . . .	148
(c) Right to development and poverty reduction . . . . .	151
(d) Right of people to self-determination . . . . .	152
(e) Economic, social and cultural rights . . . . .	154
(f) Civil and political rights . . . . .	158
(g) Rights of the child . . . . .	163
(h) Migrants . . . . .	165
(i) Internally displaced persons . . . . .	167
(j) Minorities . . . . .	168
(k) Indigenous issues . . . . .	168
(l) Terrorism and human rights . . . . .	169
(m) Promotion and protection of human rights . . . . .	170
(n) Persons with disabilities . . . . .	172
(o) Contemporary forms of slavery . . . . .	174
(p) Miscellaneous . . . . .	175
6. Women	
(a) Commission on the Status of Women . . . . .	178
(b) General Assembly . . . . .	179
7. Humanitarian matters	
(a) Economic and Social Council . . . . .	180

	<i>Page</i>
(b) General Assembly . . . . .	181
8. Environment	
(a) United Nations Climate Change Conference in Copenhagen . . . .	182
(b) Economic and Social Council . . . . .	182
(c) General Assembly . . . . .	183
9. Law of the sea	
(a) Reports of the Secretary-General . . . . .	186
(b) Consideration by the General Assembly . . . . .	192
10. Crime prevention and criminal justice	
(a) Conference of the States Parties to the United Nations Convention against Corruption . . . . .	194
(b) Commission on Crime Prevention and Criminal Justice . . . . .	194
(c) Economic and Social Council . . . . .	195
(d) General Assembly . . . . .	196
11. International drug control	
(a) Commission on Narcotic Drugs . . . . .	197
(b) Economic and Social Council . . . . .	199
(c) General Assembly . . . . .	199
12. Refugees and displaced persons	
(a) Executive Committee of the Programme of the United Nations High Commissioner for Refugees . . . . .	200
(b) United Nations Economic and Social Council . . . . .	202
(c) General Assembly . . . . .	202
13. International Court of Justice	
(a) Organization of the Court . . . . .	203
(b) Jurisdiction of the Court . . . . .	203
(c) General Assembly . . . . .	204
14. International Law Commission	
(a) Membership of the Commission . . . . .	204
(b) Sixty-first session of the International Law Commission . . . . .	205
(c) Sixth Committee . . . . .	207
(d) General Assembly . . . . .	208
15. United Nations Commission on International Trade Law	
(a) Forty-second session of the Commission . . . . .	208
(b) General Assembly . . . . .	212
16. Legal questions dealt with by the Sixth Committee and other related subsidiary bodies of the General Assembly . . . . .	212
(a) Criminal accountability of United Nations officials and experts on mission . . . . .	212
(b) United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law . . . .	215



	<i>Page</i>
(c) Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization ..	216
(d) The rule of law at the national and international levels .....	219
(e) The scope and application of the principle of universal jurisdiction	221
(f) Measures to eliminate international terrorism .....	223
(g) Revitalization of the work of the General Assembly .....	225
(h) Administration of justice at the United Nations .....	225
(i) Report of the Committee on Relations with the Host Country ...	228
(j) Observer status in the General Assembly .....	229
17. Ad hoc international criminal tribunals	
(a) Organization of the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for the former Rwanda (ICTR) .....	231
(b) General Assembly .....	233
(c) Amendments to the Statutes of ICTY and ICTR .....	234
(d) Amendments to the Rules of Procedure and Evidence of the ICTY and ICTR .....	234
B. GENERAL REVIEW OF THE LEGAL ACTIVITIES OF INTERGOVERNMENTAL ORGANIZATIONS RELATED TO THE UNITED NATIONS	
1. Universal Postal Union	
General review of the legal activities of the Universal Postal Union ...	235
2. Food and Agricultural Organization of the United Nations	
(a) Constitutional and general legal matters .....	236
(b) Legislative matters .....	237
3. United Nations Educational, Scientific and Cultural Organization	
(a) Membership of the Organization .....	239
(b) Internal regulations .....	239
4. International Maritime Organization	
(a) Membership of the Organization .....	242
(b) Review of the legal activities undertaken by the IMO .....	242
(c) Amendments to treaties .....	248
5. World Health Organization	
(a) Constitutional developments .....	249
(b) Other normative developments and activities .....	250
6. International Atomic Energy Agency	
(a) Membership .....	253
(b) Privileges and immunities .....	253
(c) Legal instruments .....	253
(d) IAEA legislative assistance activities .....	256
(e) Convention on nuclear safety .....	257

	<i>Page</i>
(f) Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management. . . . .	258
(g) Code of Conduct on the Safety and Security of Radioactive Sources . . . . .	258
(h) Safeguards agreement. . . . .	259
7. United Nations Industrial Development Organization	
(a) Agreements and other arrangements concluded in 2009 with States . . . . .	260
(b) Agreements and other arrangements concluded in 2009 with the United Nations, its programmes and offices, and the specialized agencies. . . . .	266
(c) Other intergovernmental organizations . . . . .	268
(d) Other entities. . . . .	269
8. World Intellectual Property Organization	
(a) Introduction. . . . .	272
(b) Cooperation with Member States for Development Activities. . . . .	272
(c) Norm-setting activities. . . . .	273
(d) International registration activities. . . . .	274
(e) Intellectual Property and Global Issues . . . . .	276
9. World Trade Organization	
(a) Membership. . . . .	278
(b) Dispute settlement . . . . .	279
(c) Waivers under article XI of the WTO Agreement . . . . .	280
10. Organization for the Prohibition of Chemical Weapons	
(a) Membership. . . . .	281
(b) Legal Status, Privileges and Immunities and International Agreements . . . . .	281
(c) OPCW Legislative Assistance Activities . . . . .	282
CHAPTER IV. TREATIES CONCERNING INTERNATIONAL LAW CONCLUDED UNDER THE AUSPICES OF THE UNITED NATIONS AND RELATED INTERGOVERNMENTAL ORGANIZATIONS	
A. TREATIES CONCERNING INTERNATIONAL LAW CONCLUDED UNDER THE AUSPICES OF THE UNITED NATIONS . . . . .	285
B. TREATIES CONCERNING INTERNATIONAL LAW CONCLUDED UNDER THE AUSPICES OF INTERGOVERNMENTAL ORGANIZATIONS RELATED TO THE UNITED NATIONS	
1. International Civil Aviation Organization	
(a) Convention on Compensation for Damage to Third Parties, Resulting from Acts of Unlawful Interference Involving Aircraft. Montréal, 2 May 2009 . . . . .	285
(b) Convention on Compensation for Damage Caused by Aircraft to Third Parties. Montréal, 2 May 2009 . . . . .	305

**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 2009, the number of Member States of the United Nations remained at 192.

#### 2. Peace and Security

##### (a) Peacekeeping missions and operations

##### (i) *Peacekeeping missions and operations established in 2009*

No peacekeeping missions or operations were established in 2009.

##### (ii) *Changes in the mandate and/or extensions of time limits of ongoing peacekeeping operations or missions in 2009*

##### a. Cyprus

The United Nations Peacekeeping Force in Cyprus (UNFICYP) was established by Security Council resolution 186 (1964) of 4 March 1964. The Security Council decided by resolution 1873 (2009) of 29 May 2009 and resolution 1898 (2009) of 14 December 2009 to extend the mandate of UNFICYP until 15 December 2009 and 15 June 2010, respectively.

##### b. Syria and Israel

The United Nations Disengagement Observer Force (UNDOF) was established by Security Council resolution 350 (1974) of 31 March 1974. The Security Council renewed the mandate of UNDOF by resolution 1875 (2009) of 23 June 2009 and resolution 1899 (2009) of 16 December 2009, until 31 December 2009 and 30 June 2010, respectively.

##### c. Lebanon

The United Nations Interim Force in Lebanon (UNIFIL) was established by Security Council resolution 425 (1978) and 428 (1978) of 19 March 1978. Following a request by

the Prime Minister of Lebanon, presented in a letter dated 4 July 2009 addressed to the Secretary-General, the Secretary-General requested the Security Council to consider the renewal of the mandate of UNIFIL, which was due to expire on 31 August 2009.<sup>1</sup> On 27 August 2009, the Security Council adopted resolution 1884 (2009) by which it decided to extend the mandate of UNIFIL until 31 August 2010.

#### **d. Western Sahara**

The United Nations Mission for the Referendum in Western Sahara (MINURSO) was established by Security Council resolution 690 (1991) of 19 April 1991. By resolution 1871 (2009) adopted on 30 April 2009, the Security Council decided to extend the mandate of MINURSO until 30 April 2010.

#### **e. Georgia**

The United Nations Observer Mission in Georgia (UNOMIG) was established by Security Council resolution 858 (1993) of 24 August 1993. By its resolution 1866 (2009), adopted on 13 February 2009, the Security Council decided to extend the mandate of UNOMIG for a period terminating on 15 June 2009. The mandate was not renewed further by the Security Council.

#### **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 (1999) of 30 November 1999. By resolution 1906 (2009), adopted on 23 December 2009, the Security Council decided to extend the mandate of MONUC until 31 May 2010.

In the same resolution, the Security Council decided that MONUC would be mandated, in order of priority: to ensure the effective protection of civilians, humanitarian personnel and United Nations personnel and facilities; to carry out enhanced activities of disarmament, demobilization and reintegration of Congolese armed groups and of disarmament, demobilization, repatriation, resettlement and reintegration of foreign armed groups; and to support the security sector reform led by the Government of the Democratic Republic of the Congo. Further, MONUC was authorized to use all necessary means, within the limits of its capacity and in the areas where its units are deployed, in carrying out the tasks mandated to it in paragraphs 3 (a) to (e) of resolution 1856 (2008), as well as in the following tasks: to build on best practices and extend successful protection measures on protection piloted in North Kivu; to deter any attempt at the use of force to threaten the Goma and Nairobi processes from any armed group, particularly in the eastern part of the Democratic Republic of the Congo; to undertake all necessary operations to prevent attacks on civilians and disrupt the military capability of armed groups that continue to use violence in that area; to continue its coordination of operations with the Armed Forces of the Democratic Republic of the Congo (FARDC) brigades deployed in the eastern part of the Democratic Republic of the Congo, premised on the protection of civilians as a priority, on operations being jointly planned with these brigades; and to contribute further to the

---

<sup>1</sup> Letter dated 6 August 2009 from the Secretary-General addressed to the President of the Security Council (S/2009/407).

implementation of disarmament, demobilization and reintegration of Congolese combatants and their dependents.

#### g. Liberia

The United Nations Mission in Liberia (UNMIL) was established by Security Council resolution 1509 (1993) of 19 September 1993. The Security Council decided by resolution 1885 (2009) of 15 September 2009 to extend the mandate of UNMIL until 30 September 2010.

In the same resolution, the Council authorized UNMIL to assist the Liberian Government with the 2011 general presidential and legislative elections, by providing logistical support, particularly to facilitate access to remote areas, coordinating international electoral assistance, and supporting Liberian institutions and political parties in creating an atmosphere conducive to the conduct of peaceful elections. It further endorsed the recommendations by the Secretary-General that the conduct of free and fair, conflict-free elections be a core benchmark for UNMIL's future drawdown, and to implement the third stage of its drawdown from October 2009 to May 2010.<sup>2</sup>

#### h. Côte d'Ivoire

The United Nations Operation in Côte d'Ivoire (UNOCI) was established by Security Council resolution 1528 (2004) of 27 February 2004. By resolutions 1865 (2009) of 27 January 2009 and 1880 (2009) of 30 July 2009, the Security Council decided to renew the mandates of UNOCI and of the French forces which support it, as determined in resolution 1739 (2007), until 31 July 2009 and 31 January 2010, respectively, in particular to support the organization in Côte d'Ivoire of free, open, fair and transparent elections.

In resolution 1865 (2009), the Security Council, *inter alia*, endorsed the recommendations by the Secretary-General contained in his report dated 8 January 2009;<sup>3</sup> decided to reduce the level of authorized military personnel from 8115 to 7450; and further endorsed the benchmarks proposed by the Secretary-General for a possible further drawdown.<sup>4</sup>

#### i. Haiti

The United Nations Stabilization Mission in Haiti (MINUSTAH) was established by Security Council resolution 1542 (2004) of 30 April 2004. By its resolution 1892 (2009) of 13 October 2009, the Security Council decided to extend the mandate of MINUSTAH as contained in its resolutions 1542 (2004), 1608 (2005), 1702 (2006), 1743 (2007), 1780 (2007) and 1840 (2008) until 15 October 2010, with the intention of further renewal.

In resolution 1892 (2009), the Council also endorsed the recommendations by the Secretary-General to maintain the current Mission overall force levels until the planned

---

<sup>2</sup> See the recommendations by the Secretary-General contained in Special Report of the Secretary-General on the United Nations Mission in Liberia, 10 June 2009 (S/2009/299), and Nineteenth progress report of the Secretary-General on the United Nations Mission in Liberia, 10 August 2009 (S/2009/411).

<sup>3</sup> See paragraphs 46 and 61 of the Nineteenth progress report of the Secretary-General on the United Nations Operation in Côte d'Ivoire, 8 January 2009 (S/2009/21).

<sup>4</sup> *Ibid.*, paragraph 47.

substantial increase of the Haitian National Police capacity allows for a reassessment of the situation,<sup>5</sup> while adjusting its force configuration to better meet current requirements on the ground, and decided that MINUSTAH will consist of a military component of up to 6940 troops of all ranks and of a police component of up to 2,211 police.

#### j. Sudan

The United Nations Mission in the Sudan (UNMIS) was established by Security Council resolution 1590 (2005) on 24 March 2005. On 30 April 2009, the Security Council decided, by resolution 1870 (2009), to extend the mandate of UNMIS until 30 April 2010, with the intention to renew it for further periods as may be required.

#### k. Timor-Leste

The United Nations Integrated Mission in Timor-Leste (UNMIT) was established by Security-Council resolution 1704 (2006) of 25 August 2006. The mandate of UNMIT was extended by Security Council resolution 1867 (2009) of 26 February 2009, until 26 February 2010.

#### 1. Darfur

The African Union/United Nations Hybrid Operation in Darfur (UNAMID) was established and authorized by Security Council resolution 1769 (2007) of 31 July 2007. On 30 July 2009, the Security Council decided, by resolution 1881 (2009), to extend the mandate of UNAMID for 12 months, until 31 July 2010.

#### 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. On 14 January 2009, the Security Council decided, by resolution 1861 (2009), to extend the mandate of MINURCAT until 15 March 2010.

In the same resolution, the Security Council authorized the deployment of a military component of MINURCAT to follow up the European Union-led peacekeeping force (EUFOR) in both Chad and the Central African Republic at the end of its mandate, and decided that the transfer of authority from EUFOR to the military component of MINURCAT would take place on 15 March 2009. The Council further decided that MINURCAT should include a maximum of 300 police officers, 25 military liaison officers, 5,200 military personnel, and an appropriate number of civilian personnel. It decided that MINURCAT's mandate in eastern Chad and the north-eastern Central African Republic, in liaison with the United Nations Peacebuilding Support Office in the Central African Republic (BONUCA) and without prejudice to the mandate of BONUCA, should include, *inter alia*, to select, train, advise and facilitate support to the *Détachement intégré de sécurité*; to liaise with the Chadian Government and the Office of the United Nations High Commissioner for Refugees (UNHCR) in support of their efforts to relocate refugee camps

<sup>5</sup> See paragraphs 26 and 27 of the report of the Secretary-General on the United Nations Stabilization Mission in Haiti, 1 September 2009 (S/2009/439).



which are in close proximity to the border; to support the initiatives of national and local authorities in Chad to resolve local tensions and promote local reconciliation efforts, in order to enhance the environment for the return of internally displaced persons; and to contribute to the monitoring and to the promotion and protection of human rights in Chad, with particular attention to sexual and gender-based violence, and to recommend action to the competent authorities.

MINURCAT was authorized to take all necessary measures, within its capabilities and its area of operations in eastern Chad, to fulfil the following functions, in liaison with the Government of Chad: to contribute to protecting civilians in danger, particularly refugees and internally displaced persons; to facilitate the delivery of humanitarian aid and the free movement of humanitarian personnel by helping to improve security in the area of operations; to protect United Nations personnel, facilities, installations and equipment and ensure the security and freedom of movement of its staff and United Nations and associated personnel. It was further authorized to take all necessary measures, within its capabilities and its area of operations in the north-eastern Central African Republic, to fulfil the following functions, through establishing a permanent military presence in Birao and in liaison with the Government of the Central African Republic: to contribute to the creation of a more secure environment; to execute operations of a limited character in order to extract civilians and humanitarian workers in danger; and to protect United Nations personnel, facilities, installations and equipment and to ensure the security and freedom of movement of its staff and United Nations and associated personnel.

(iii) *Peacekeeping missions or operations concluded in 2009*

**Georgia**

The United Nations Observer Mission in Georgia (UNOMIG) was established by Security Council resolution 858 (1993) of 24 August 1993. The mandate of UNOMIG, as decided by Security Council resolution 1866 (2009) of 13 February 2009, expired on 15 June 2009.

**(b) Political and peacebuilding missions**

(i) *Political and peacebuilding missions established in 2009*

**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.<sup>6</sup> In a letter dated 3 March 2009, the Secretary-General recommended that BONUCA be succeeded, initially

---

<sup>6</sup> Ninth report of the Secretary-General on the United Nations Mission in the Central African Republic, dated 14 January 2000 (S/2000/24), and the Statement by the President of the Security Council, dated 10 February 2000 (S/PRST/2000/5).

until 31 December 2009, by a United Nations Integrated Peacebuilding Office (BINUCA), with a revised mandate and structure.<sup>7</sup>

(ii) *Changes in the mandate and/or extensions of the time limits of ongoing political and peacebuilding missions in 2009*

**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.

By resolution 1863 (2009) of 16 January 2009, the Security Council decided that UNPOS and the United Nations country team should continue to promote a lasting peace and stability in Somalia through the implementation of the Djibouti Peace Agreement, and to facilitate coordination of international support to these efforts; and requested the Secretary-General to conduct immediate contingency planning for the deployment of United Nations offices and agencies into Somalia. The Council further welcomed the proposal of the Secretary-General contained in his letter of 19 December 2008 to establish within UNPOS a dedicated capacity that would include expertise in police and military training, planning for future disarmament, demobilization and reintegration activities and Security Sector Reform activities, as well as rule of law and correction components.<sup>8</sup>

In resolution 1872 (2009), adopted on 26 May 2009, the Security Council requested the Secretary-General, through his Special Representative for Somalia and UNPOS, *inter alia*, to coordinate effectively and develop an integrated approach to all activities of the United Nations system in Somalia; to provide good offices and political support for the efforts to establish lasting peace and stability in Somalia; and to work with the Transitional Federal Government to develop its capacity to address human rights issues and to support the Justice and Reconciliation Working Group to counter impunity. The Secretary-General was further requested to expedite the proposed deployment of elements of UNPOS and other United Nations offices and agencies, including the United Nations Support Office for African Union Mission in Somalia (UNSOA), to Mogadishu, consistent with the security conditions, as outlined in his report.<sup>9</sup>

**b. Guinea-Bissau**

On 26 June 2009, the Security Council adopted resolution 1876 (2009), by which it decided to extend the mandate of United Nations Peacebuilding Support Office in Guinea-Bissau (UNOGBIS) until 31 December 2009. In the same resolution, the Secretary-General was requested to establish a United Nations Integrated Peacebuilding Office in Guinea-

<sup>7</sup> Letter dated 3 March 2009 from the President of the Security Council addressed to the Secretary-General (S/2009/128).

<sup>8</sup> Letter dated 19 December 2008 from the Secretary-General to the President of the Security Council (S/2008/804).

<sup>9</sup> Report of the Secretary-General on Somalia pursuant to Security Council resolution 1863 (2009), 16 April 2009 (S/2009/210).

Bissau (UNIOGBIS) to succeed UNOGBIS, as recommended by him in his report<sup>10</sup> for an initial period of 12 months, beginning on 1 January 2010.

### c. Afghanistan

The United Nations Assistance Mission in Afghanistan (UNAMA) was established by Security Council resolution 1401 (2002) of 28 March 2002. On 23 March 2009, the Security Council decided by resolution 1868 (2009) to extend the mandate of UNAMA until 23 March 2010.

### d. Iraq

The United Nations Mission for Iraq (UNAMI) was established by Security Council resolution 1500 (2003) of 14 August 2003. By resolution 1883 (2009), adopted on 7 August 2009, the Security Council decided to extend the mandate of UNAMI for a period of twelve months.

### e. 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 1709 (2006) of 25 October 2006. On 17 December 2009, the Council decided by resolution 1902 (2009) to extend the mandate of BINUB until 31 December 2010. The Council also decided thereby that BINUB, in close cooperation with the Government of Burundi, should pay particular attention to supporting the electoral process, democratic governance, the consolidation of peace, sustainable reintegration and gender issues.

### f. Nepal

The United Nations Political Mission in Nepal (UNMIN) was established pursuant to Security Council resolution 1740 (2007) of 23 January 2007. By resolution 1864 (2009) of 23 January 2009, the Security Council decided, in line with a request from the Government of Nepal<sup>11</sup> and the Secretary-General's recommendations,<sup>12</sup> to extend the mandate of UNMIN until 23 July 2009, taking into account the completion of some elements of the mandate, the ongoing work on the monitoring and the management of arms and armed personnel in line with the 25 June agreement among the political parties, which will support the completion of the peace process. The Council further endorsed the Secretary-General's recommendations for a phased, gradual, drawdown and withdrawal of UNMIN staff, including arms monitors, as proposed in his report.

---

<sup>10</sup> Report of the Secretary-General on developments in Guinea-Bissau and on the activities of the United Nations Peacebuilding Support Office in that country, 10 June 2009 (S/2009/302).

<sup>11</sup> Letter from the Government of Nepal contained in the Annex to the Letter dated 30 December 2008 from the Secretary-General addressed to the President of the Security Council (S/2008/837).

<sup>12</sup> Report of the Secretary-General on the request of Nepal for United Nations assistance in support of its peace process, 2 January 2009 (S/2009/1).

By resolution 1879 (2009) of 23 July 2009, the Security Council, in line with the request from the Government of Nepal<sup>13</sup> and the Secretary-General's recommendations<sup>14</sup> further renewed the mandate of UNMIN until 23 January 2010.

#### g. Sierra Leone

The United Nations Integrated Peacebuilding Office in Sierra Leone (UNIPSIL) was established by Security Council resolution 1829 (2008) of 4 August 2008. On 15 September 2009, the Security Council decided by resolution 1886 (2009) to extend the mandate of UNIPSIL until 30 September 2010. The Council *inter alia* called upon the Secretary-General to develop a set of benchmarks for the transition of UNIPSIL into a United Nations Country Team presence. It further called upon the Government of Sierra Leone, UNIPSIL and all other stakeholders in the country to increase their efforts to promote good governance, including through continued measures to combat corruption, improve accountability, promote the development of the private sector to generate wealth and employment opportunities, intensify efforts against drug trafficking and strengthen the judiciary and promote human rights, including through implementation of the recommendations of the Truth and Reconciliation Commission and sustaining support to the National Human Rights Commission.

### (iii) *Other ongoing political and peacebuilding missions in 2009*

#### a. Middle East

The Office of the United Nations Special Coordinator for the Middle East (UNSCO), established by the Secretary-General on 1 October 1999,<sup>15</sup> continued to operate throughout 2009.

#### b. Lebanon

The Secretary-General decided in 2000 to appoint a senior official to serve as his representative in Lebanon.<sup>16</sup> The title of the representative was subsequently changed to Personal Representative for southern Lebanon and to Special Coordinator for Lebanon, in 2005<sup>17</sup> and 2007,<sup>18</sup> respectively. The Special Coordinator for Lebanon continued to operate throughout 2009.

<sup>13</sup> Letter from the Government of Nepal contained in the Letter dated 14 July 2009 from the Secretary-General addressed to the President of the Security Council (S/2009/360).

<sup>14</sup> Report of the Secretary-General on the request of Nepal for United Nations assistance in support of its peace process, 13 July 2009 (S/2009/351).

<sup>15</sup> Exchange of letters between the Secretary-General and the Security Council, dated 10 September and 16 September 1999 (S/1999/983 and S/1999/984).

<sup>16</sup> Report of the Secretary-General on the United Nations Interim Force in Lebanon (for the period from 17 January to 17 July 2000), 20 July 2000 (S/2000/718).

<sup>17</sup> Letter dated 29 March 2005 from the Secretary-General to the President of the Security Council, S/2005/216.

<sup>18</sup> Letter dated 8 February 2007 from the Secretary-General to the President of the Security Council, (S/2007/85).

### c. West Africa

The United Nations Office for West Africa (UNOWA), originally established by the Secretary-General in 2002,<sup>19</sup> and subsequently extended in 2004<sup>20</sup> and 2007,<sup>21</sup> continued operating through 2009. The Secretary-General submitted three reports on UNOWA in 2009.<sup>22</sup>

#### (iv) *Political and Peacebuilding missions concluded in 2009*

##### a. 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 1999.<sup>23</sup> On 26 June 2009, the Security Council adopted resolution 1876 (2009), by which it decided to extend the mandate of UNOGBIS until 31 December 2009. In the same resolution, the Secretary-General was, *inter alia*, requested to establish a United Nations Integrated Peacebuilding Office in Guinea-Bissau (UNIOGBIS) to succeed UNOGBIS, as recommended by him in his report<sup>24</sup> for an initial period of 12 months, beginning on 1 January 2010.

##### b. The Central African Republic

The United Nations Peacebuilding Office in the Central African Republic (BONU-CA) was established by the Secretary-General on 15 February 2000.<sup>25</sup> In a letter dated 3 March 2009, the Secretary-General recommended that BONUCA be succeeded, initially until 31 December 2009, by a United Nations Integrated Peacebuilding Office (BINUCA), with a revised mandate and structure.<sup>26</sup>

<sup>19</sup> Exchange of letters between the Secretary-General and the President of the Security Council dated 26 November and 29 November 2001 (S/2001/1128 and S/2001/1129).

<sup>20</sup> Exchange of letters between the Secretary-General and the President of the Security Council dated 4 October and 25 October 2004 (S/2004/797 and S/2004/858).

<sup>21</sup> Exchange of letters between the Secretary-General and the President of the Security Council dated 28 November and 21 December 2007 (S/2007/753 and S/2007/754).

<sup>22</sup> Reports of the Secretary-General on the United Nations Office for West Africa, of 15 January (S/2009/39) 19 June (S/2009/332) and 31 December (S/2009/682), respectively.

<sup>23</sup> 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).

<sup>24</sup> Report of the Secretary-General on developments in Guinea-Bissau and on the activities of the United Nations Peacebuilding Support Office in that country, 10 June 2009 (S/2009/302).

<sup>25</sup> Ninth report of the Secretary-General on the United Nations Mission in the Central African Republic, dated 14 January 2000 (S/2000/24), and the Statement by the President of the Security Council, dated 10 February 2000 (S/PRST/2000/5).

<sup>26</sup> Letter dated 3 March 2009 from the President of the Security Council addressed to the Secretary-General (S/2009/128).

### c. 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.<sup>27</sup> In a letter dated 26 May 2009, the Secretary-General informed the President of the Security Council that, as his Special Envoy had achieved the main objectives mandated to him, it was his intention to suspend the mandate of the Special Envoy as of 30 June 2009.<sup>28</sup>

### (c) Other bodies

#### (i) *Fact-finding mission on the Gaza conflict*

On 3 April 2009, the President of the Human Rights Council established the United Nations Fact Finding Mission on the Gaza Conflict with the mandate "to investigate all violations of international human rights law and international humanitarian law that might have been committed at any time in the context of the military operations that were conducted in Gaza during the period from 27 December 2008 and 18 January 2009, whether before, during or after".

The Mission convened in Geneva between 4 and 8 May, on 20 May, on 4 and 5 July, and between 1 and 4 August 2009. The Mission conducted three field visits: two to the Gaza Strip between 30 May and 6 June, and between 25 June and 1 July 2009; and one visit to Amman on 2 and 3 July 2009. Several staff members of the Mission's secretariat were deployed in Gaza from 22 May to 4 July 2009 to conduct field investigations.

Following the submission of its report<sup>29</sup> to the Human Rights Council, the Council held a special session on 15 and 16 October 2009.<sup>30</sup> By resolution S-12/1, adopted on 16 October 2009, the Council recommended that the General Assembly consider the report of the fact-finding mission during the main part of its sixty-fourth session.

By resolution 64/10 of 5 November 2009, the General Assembly endorsed the report of the Human Rights Council at its Twelfth Special Session, and requested the Secretary-General to transmit to the Security Council the report of the fact-finding mission. By a letter dated 10 November 2009, the Secretary-General transmitted the report to the Security Council.<sup>31</sup>

<sup>27</sup> Letter dated 21 November 2007 from the Secretary-General addressed to the President of the Security Council (S/2007/719).

<sup>28</sup> Letter dated 26 May 2009 from the Secretary-General addressed to the President of the Security Council (S/2009/281).

<sup>29</sup> Report of the United Nations Fact-Finding Mission on the Gaza Conflict, 25 September 2009 (A/HRC/12/48).

<sup>30</sup> Twelfth Special Session of the Human Rights Council: "The human rights situation in the Occupied Palestinian Territory and East Jerusalem—15 and 16 October 2009". For the report of the Twelfth Special Session, see (A/HRC/S-12/1).

<sup>31</sup> Letter dated 10 November 2009 from the Secretary-General addressed to the President of the Security Council (S/2009/586).

(ii) *The Sudan*

The Panel of Experts for the Sudan was originally appointed pursuant to Security Council resolution 1591 (2005) and was subsequently extended by resolutions 1651 (2005), 1665 (2006), 1713 (2006), 1779 (2007), and 1841 (2008). On 13 October 2009, the Security Council extended the mandate of the Panel of Experts by resolution 1891 (2009), until 15 October 2010. The Panel of Experts was requested, *inter alia*, to provide no later than 31 March 2010 a midterm briefing on its work and no later than 90 days after adoption of resolution 1891 (2009) an interim report to the Committee established pursuant to paragraph 3 (a) of resolution 1591 (2005), and a final report no later than 30 days prior to termination of its mandate to the Council with its findings and recommendations.

(iii) *Guinea*

By a letter dated 28 October 2009,<sup>32</sup> the Secretary-General informed the President of the Security Council that he intended to establish an international Commission of Inquiry to investigate the many killings, injuries and alleged gross human rights violations that took place in the Republic of Guinea on 28 September 2009, in response to widespread appeals from Member States, including the Government of Guinea, members of the Economic Community of West African States (ECOWAS), the African Union (AU) and the Security Council. The Commission was mandated to establish the facts and circumstances of the events of 28 September 2009 and the related events in their immediate aftermath; to qualify the crimes perpetrated; to determine responsibilities; and, where possible, to identify those responsible. It was also to make recommendations, in particular, on accountability measures. By a letter dated 18 December 2009,<sup>33</sup> the Secretary-General transmitted to the members of the Security Council a copy of the report of the Commission of Inquiry.<sup>34</sup>

(iv) *Liberia*

The mandate of the Panel of Experts established pursuant to Security Council resolution 1760 (2007) was extended until 20 December 2010, by resolution 1903 (2009), adopted by the Council on 17 December 2009. The Panel of Experts was mandated, *inter alia*, to conduct two follow-up assessment missions to Liberia and neighbouring States, in order to investigate and compile a midterm and a final report on the implementation, and any violations, of the measures imposed by paragraphs 4 and 6 of resolution 1903 (2009) and of resolution 1521 (2003); to assess the impact of and effectiveness of the measures imposed by paragraph 1 of resolution 1532 (2004); within the context of Liberia's evolving legal framework, to assess the extent to which forestry and other natural resources are contributing to peace, security and development rather than to instability and to what extent relevant legislation is contributing to this transition; to assess the Government of Liberia's compliance with the Kimberley Process Certification Scheme; and to coordinate with the Kimberley Process in assessing compliance.

<sup>32</sup> S/2009/556.

<sup>33</sup> S/2009/693.

<sup>34</sup> *Ibid.*, annex.



### (d) Missions of the Security Council

#### (i) *Haiti*

In a letter dated 3 February 2009, the President of the Security Council informed the Secretary-General that the members of the Council had decided to send a mission to Haiti from 10 to 14 March.<sup>35</sup> In a letter dated 10 March 2009, the Council informed the Secretary-General of the agreed terms of reference of the mission, and of the composition of the mission.<sup>36</sup>

The terms of reference for the mission included, *inter alia*, to reaffirm the Security Council's continued support for the Government and people of Haiti to rebuild their country, consolidate peace and stability and promote recovery and sustainable development, bearing in mind the significant setbacks which occurred in 2008; to reiterate the importance of immediate, medium- and long-term sustained efforts and appropriate international and regional support to consolidate peace, stability and development in Haiti, while bearing in mind the ownership and primary responsibility of the Government and people of Haiti; to assess the status of implementation of relevant Security Council resolutions, in particular resolution 1840 (2008), and to review the progress made by the Government of Haiti, with the assistance of the international community, in particular the United Nations Stabilization Mission in Haiti (MINUSTAH), in addressing the interconnected challenges they face in the areas of security, including security sector reform; border management; institutional support and governance, including elections and reform processes; rule of law; human rights; and economic and social development. The mission was further to urge the Government of Haiti to intensify its efforts to promote an effective and all-inclusive political dialogue aimed at national reconciliation, good governance and sustainable development; to evaluate and discuss with the Government of Haiti the situation and progress in addressing the overall humanitarian situation in the country, including the food security situation, and its implications for security, socio-economic development and stability; and to assess and continue to encourage the implementation of quick-impact projects to complement security and development operations undertaken by the Haitian authorities with the support of MINUSTAH and the country team. The mission was finally to draw insights from lessons learned by MINUSTAH that can inform consideration by the Council members of broader systemic and peacekeeping issues in connection with the Council's ongoing review of peacekeeping operations.

#### (ii) *Africa*

In a letter dated 12 May 2009, the President of the Security Council informed the Secretary-General that the members of the Council had decided to send a mission to Africa from 14 to 21 May 2009.<sup>37</sup> The terms of reference for the mission to the African Union, the

<sup>35</sup> Report of the Security Council mission to Haiti (11 to 14 March 2009), 3 April 2009 (S/2009/175).

<sup>36</sup> Letter dated 10 March 2009 from the President of the Security Council addressed to the Secretary-General (S/2009/139).

<sup>37</sup> Letter dated 12 May 2009 from the President of the Security Council addressed to the Secretary-General (S/2009/243).



Great Lakes Region (Rwanda and the Democratic Republic of the Congo), and Liberia, respectively, were contained in the annexes to that letter.<sup>38</sup>

As to the terms of reference for the mission to the African Union, the mission was: (1) to continue to develop an effective partnership and enhance cooperation between the African Union and the United Nations; (2) to exchange views on situations of interest to both the United Nations Security Council and the African Union Peace and Security Council, which included but were not limited to: a brief overview of the peace and security situation in Africa; the situation in the Sudan; the challenges to the political process and the functioning of the African Union-United Nations Hybrid Operation in Darfur (UNAMID); the humanitarian situation in Darfur; the situation in Somalia; piracy; the situation in the Great Lakes region, in particular eastern Democratic Republic of the Congo; progress and challenges to stabilization in eastern Democratic Republic of the Congo; and the resurgence of unconstitutional changes of government including efforts undertaken by the African Union to resolve and prevent unconstitutional changes of government.

As to the mission to the Great Lakes Region, the terms of reference included, *inter alia*, to recall the commitment of the Security Council to the sovereignty, territorial integrity and political independence of all States in the region; to reiterate support for the strengthening of the regional dynamic, including through the development, where appropriate, of economic projects of common interest and the implementation of appropriate steps to facilitate legal trade and put an end to illegal trafficking of natural resources; to stress that all parties should reinvigorate their participation in the Goma and Nairobi processes, which are the agreed framework for stabilizing the eastern part of the Democratic Republic of the Congo, and urge all parties to fully recommit to their respective disarmament, demobilization and reintegration, and disarmament, demobilization, repatriation, resettlement and reintegration programmes. The mission was further to emphasize the support of the Council for action against the Lord's Resistance Army (LRA); and to underline the importance of full implementation of the sanctions measures put in place through resolution 1857 (2008).

In addition, the mission was provided additional terms of reference for the visit to the Democratic Republic of the Congo and Rwanda, respectively. For the Democratic Republic of the Congo, the terms of reference included, *inter alia*, to acknowledge the primary responsibility of the Government of the Democratic Republic of the Congo to consolidate peace and stability, and to promote recovery and development in the country, which require long-term sustained efforts and appropriate international support; to call on the Congolese authorities to intensify their efforts to reform the security sector, with the assistance of the international community; to emphasize the support of the Council for the strengthening of democratic institutions, the rule of law, and good governance in the Democratic Republic of the Congo, including through the holding of local elections; and to recall the utmost importance of the fight against impunity, notably in the eastern part of the Democratic Republic of the Congo, by bringing to justice those who have committed crimes and atrocities. For Rwanda, the terms of reference included to discuss Rwandan concerns in the region, and how these could be addressed while respecting the sovereignty and territorial integrity of all States in the Great Lakes region.

---

<sup>38</sup> For the report of the mission, see Report of the Security Council mission to the African Union; Rwanda and the Democratic Republic of the Congo; and Liberia, 11 June 2009 (S/2009/303).

As to the mission to Liberia, the terms of reference included, *inter alia*, to reaffirm the continued support of the Security Council for the Government and people of Liberia as they rebuild their country, strengthen the foundations of sustainable peace, constitutional democracy, and economic development and assume their rightful place in the community of nations; to assess the operational capacity and sustainability of the Liberian National Police and other national security institutions, and assess progress made in training the Armed Forces of Liberia; to express support for the efforts of the Government of Liberia to extend and consolidate effective State authority in all 15 counties of the country, with the assistance of the international community; and to examine the impact of subregional factors on the situation in Liberia, and explore ways to strengthen regional cooperation, including measures to counter the threat of illegal drug trafficking. The mission was finally to underline the need for full implementation of the sanctions regime on Liberia.

### (e) Other peacekeeping matters

#### *Criminal accountability of United Nations officials and experts on mission*<sup>39</sup>

On 16 December 2009, the General Assembly adopted resolution 64/110, by which it strongly urged all States to consider establishing to the extent that they had not yet done so jurisdiction, particularly over crimes of a serious nature, as known in their existing domestic criminal laws, committed by their nationals while serving as United Nations officials or experts on mission, at least where the conduct as defined in the law of the State establishing jurisdiction also constitutes a crime under the laws of the host State. The Secretariat was requested to continue to ensure that requests to Member States seeking personnel to serve as experts on mission make States aware of the expectation that persons who serve in that capacity should meet high standards in their conduct and behaviour and be aware that certain conduct may amount to a crime for which they may be held accountable; and the Secretary-General was urged to continue to take such other practical measures as are within his authority to strengthen existing training on United Nations standards of conduct, including through predeployment and in-mission induction training for United Nations officials and experts on mission. The United Nations, when allegations against United Nations officials or experts on mission are determined by a United Nations administrative investigation to be unfounded, was encouraged to take appropriate measures, in the interests of the Organization, to restore the credibility and reputation of such officials and experts on mission. The Secretary-General was further requested to report 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 United Nations officials and experts on mission, and on how the United Nations might support Member States, at their request, in the development of domestic criminal law relating to such crimes committed by their nationals while serving as United Nations officials or experts on mission.

---

<sup>39</sup> See also the section on legal questions dealt with by the Sixth Committee and other related subsidiary bodies of the General Assembly, section 17 of this chapter.

(f) **Action of Member States authorized by the Security Council**

(i) *Authorization by the Security Council in 2009*

**Bosnia and Herzegovina**

By resolution 1895 (2009), adopted on 18 November 2009, the Security Council authorized the 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 (SFOR) under unified command and control, which will fulfil its missions in relation to the implementation of annex 1-A and annex 2 of the Peace Agreement<sup>40</sup> in cooperation with the NATO Headquarters presence. The Council recalled that EURFOR and the continued NATO presence are the legal successors to SFOR for the fulfilment of their missions for the purposes of the Peace Agreement, its annexes and appendices and relevant United Nations Security Council resolutions. The Council further authorized the Member States acting under the above mandate to take all necessary measures to effect the implementation of and to ensure compliance with annexes 1-A and 2 of the Peace Agreement.

(ii) *Changes in authorization and/or extension of time limits in 2009*

**a. Afghanistan**

In its resolution 1890 (2009) of 8 October 2009, the Security Council decided to extend the authorization of the International Security Assistance Force (ISAF), as defined in resolution 1386 (2001) and 1510 (2003), for a period of twelve months beyond 13 October 2009. The Council further authorized Member States participating in ISAF to take all necessary measures to fulfil its mandate.

**b. Somalia<sup>41</sup>**

On 16 January 2009, the Security Council adopted resolution 1863 (2009) by which, acting under Chapter VII of the Charter, it decided to renew for up to six months the authorization of Member States of the African Union to maintain a mission in Somalia, authorized to take all necessary measures to carry out the mandate set out in paragraph 9 of resolution 1772 (2007). The Council underlined in particular that the African Union Mission in Somalia (AMISOM) was authorized to take all necessary measures to provide security for key infrastructure and to contribute, as may be requested and within its capabilities and existing mandate, to the creation of the necessary security conditions for the provision of humanitarian assistance. The Council further expressed its intent to establish a United Nations Peacekeeping Operation in Somalia as a follow-on force to AMISOM, subject to a further decision of the Security Council.

On 26 May 2009, the Security Council adopted resolution 1872 (2009), by which, acting under Chapter VII of the Charter, it decided to authorize the Member States of

<sup>40</sup> General Framework Agreement for Peace in Bosnia and Herzegovina and the Annexes thereto, 30 November 1995 (S/1995/999, annex).

<sup>41</sup> See also, with regard to acts of piracy off the coast of Somalia, section (j) on piracy, p. 127 below.

the African Union to maintain AMISOM until 31 January 2010 to carry out its existing mandate. The Council further requested the Secretary-General to expedite the proposed deployment of elements of the United Nations Political Office for Somalia (UNPOS) and other United Nations offices and agencies, including the United Nations Support Office for AMISOM (UNSOA), to Mogadishu consistent with the security conditions, as outlined in his report.<sup>42</sup>

### c. Sudan

The African Union/United Nations Hybrid operation in Darfur (UNAMID) was originally authorized by Security Council resolution 1769 (2007) of 31 July 2007. By resolution 1881 (2009), adopted on 30 July 2009, the Security Council decided to extend the mandate of UNAMID for 12 months, until 31 July 2010.

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

### (i) *Democratic Republic of the Congo*

On 30 November 2009, the Security Council adopted resolution 1896 (2009), by which it decided to renew until 30 November 2010 the measures on arms imposed by paragraph 1 of resolution 1807 (2008). It further decided to renew for the same period the measures on transport imposed by paragraphs 6 and 8 of resolution 1807 (2008), and the financial and travel measures imposed by paragraphs 9 and 11 of resolution 1807 (2008).

In addition, the Council decided to expand the mandate of the Committee as set out in paragraph 8 of resolution 1533 (2004) and expanded upon in paragraph 18 of resolution 1596 (2005), paragraph 4 of resolution 1649 (2005) and paragraph 14 of resolution 1698 (2006) and reaffirmed in paragraph 15 of resolution 1807 (2008) and paragraphs 6 and 25 of resolution 1857 (2008). The mandate was further expanded to include the following tasks: to promulgate guidelines taking into account paragraphs 17 to 24 of resolution 1857 (2008) within six months, in order to facilitate the implementation of the measures imposed by the resolution, and to keep them under active review as may be necessary; to hold regular consultations with concerned Member States in order to ensure full implementation of the measures set forth in the resolution; and to specify the necessary information that Member States should provide in order to fulfil the notification requirement set out in paragraph 5 of resolution 1807 (2008) and to circulate this among Member States.

### (ii) *Côte d'Ivoire*

By resolution 1893 (2009), adopted on 29 October 2009, the Security Council decided to renew until 31 October 2010 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). It decided to review those measures no later than

<sup>42</sup> Report of the Secretary-General on Somalia pursuant to Security Council resolution 1863 (2009), 16 April 2009 (S/2009/210).

three months after the holding of open, free, fair and transparent presidential elections in accordance with international standards, with a view to possibly modifying the sanctions regime, and no later than 30 April 2010. The Council further decided that the measures imposed by paragraph 6 of resolution 1643 (2005) shall not apply to an import that will be used solely for the purposes of scientific research and analysis to facilitate the development of specific technical information concerning Ivorian diamond production, provided that the research is coordinated by the Kimberley Process.

(iii) *Liberia*

By resolution 1903 (2009) of 17 December 2009, the Security Council decided to renew for a period of 12 months the measures on travel imposed by paragraph 4 of resolution 1521 (2003). It recalled that the measures imposed by paragraph 1 of resolution 1532 (2004) remained in force, and noted with serious concern the findings of the Panel of Experts<sup>43</sup> on the lack of progress with regards to the implementation of the financial measures imposed by paragraph 1 of resolution 1532 (2004). The Council decided that the measures on arms, previously 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), no longer should apply to the supply, sale or transfer of arms and related materiel and the provision of any assistance, advice or training, related to military activities, to the Government of Liberia for a period of twelve months. To replace these provisions, the Council decided 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 materiel and 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 Liberia for a period of 12 months. These measures would not however apply to supplies of arms and related materiel as well as technical training and assistance intended solely for support of or use by the United Nations Mission in Liberia (UNMIL); to protective clothing, including flak jackets and military helmets, temporarily exported to Liberia by United Nations personnel, representatives of the media and humanitarian and development workers and associated personnel, for their personal use only; or to supplies of non-lethal military equipment intended solely for humanitarian or protective use, and related technical assistance and training, as notified in advance to the Committee established by paragraph 21 of resolution 1521 (2003).

(iv) *Democratic People's Republic of Korea*

On 12 June 2009, the Security Council adopted resolution 1874 (2009), by which it condemned in the strongest terms the nuclear test conducted by the Democratic People's Republic of Korea on 25 May 2009 in violation and flagrant disregard of its relevant resolutions, in particular resolutions 1695 (2006) and 1718 (2006), and the statement of its

---

<sup>43</sup> Final report of the Panel of Experts on Liberia submitted pursuant to paragraph 4 (e) of Security Council resolution 1854 (2008), 11 December 2009 (S/2009/640).

President of 13 April 2009.<sup>44</sup> The Security Council *inter alia* demanded that the Democratic People's Republic of Korea not conduct any further nuclear test or any launch using ballistic missile technology and immediately comply fully with its obligations under relevant Security Council resolution. It further called upon all Member States to implement their obligations pursuant to resolution 1718 (2006), including with respect to designations made by the Committee established pursuant to resolution 1718 (2006). The Council decided that the measures in paragraph 8 (a) and (b) of resolution 1718 (2006) shall also apply to all arms and related materiel, as well as to financial transactions, technical training, advice, services or assistance related to the provision, manufacture, maintenance or use of such arms or materiel, except for small arms and light weapons and their related materiel. It also decided to authorize all Member States to, and that all Member States shall, seize and dispose of items the supply, sale, transfer, or export of which is prohibited by paragraph 8 (a), (b) and (c), of resolution 1718 (2006) or by paragraph 9 or 10 of resolution 1874 (2009) that are identified in inspections pursuant to the same resolution. It further decided that Member States shall prohibit the provision by their nationals or from their territory of bunkering services or other servicing of vessels to the Democratic People's Republic of Korea if they have information that provides reasonable grounds to believe they are carrying items the supply, sale, transfer, or export of which is prohibited by resolution 1718 (2006) or resolution 1874 (2009).

(v) *Measures with respect to Al-Qaida, Usama bin Laden and the Taliban, and other individuals, groups, undertakings and entities associated with them*<sup>45</sup>

On 27 December 2009, the Security Council adopted resolution 1904 (2009), by which it decided that all States shall take the measures as previously imposed by paragraph 4 (b) of resolution 1267 (1999), paragraph 8 (c) of resolution 1333 (2000), and paragraphs 1 and 2 of resolution 1390 (2002), with respect to Al-Qaida, Usama bin Laden and the Taliban, and other individuals, groups, undertakings and entities associated with them, as referred to in the list created pursuant to resolutions 1267 (1999) and 1333 (2000), including to freeze without delay the funds and other financial assets or economic resources of these individuals, groups, undertakings and entities, including funds derived from property owned or controlled directly or indirectly, by them or by persons acting on their behalf or at their direction; to deny the entry into or transit through their territories of these individuals, provided that this does not oblige any State to deny entry or require the departure from its territories of its own nationals or where entry or transit is necessary for the fulfilment of a judicial process, or the Committee determines on a case-by-case basis that entry or transit is justified. States were further to prevent the direct or indirect supply, sale, or transfer to these individuals, groups, undertakings and entities from their territories or by their nationals outside their territories, or using their flag vessels or aircraft, of arms and related materiel of all types including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned, and technical advice, assistance, or training related to military activities.

<sup>44</sup> S/PRST/2009/7.

<sup>45</sup> On measures to eliminate terrorism, see further the section on terrorism below.

(vi) *Eritrea*

By resolution 1907 (2009) of 23 December 2009, the Security Council decided that all Member States shall immediately take the necessary measures to prevent the sale or supply to Eritrea by their nationals or from their territories or using their flag vessels or aircraft, of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned, and technical assistance, training, financial and other assistance, related to the military activities or to the provision, manufacture, maintenance or use of these items, whether or not originating in their territories; and that all Member States shall prohibit the procurement of such items, training and assistance from Eritrea by their nationals, or using their flag vessels or aircraft, whether or not originating in the territory of Eritrea. The Council further decided that Eritrea shall not supply, sell or transfer directly or indirectly from its territory or by its nationals or using its flag vessels or aircraft, any arms or related materiel.

In the same resolution, the Council decided that all Member States shall take the necessary measures to prevent the entry into or transit through their territories of individuals, designated by the Committee established pursuant to resolution 751 (1992) and expanded by resolution 1844 (2008) as, *inter alia*, providing support from Eritrea to armed opposition groups which aim to destabilize the region, obstructing implementation of resolution 1862 (2009) concerning Djibouti, or as harbouring, financing, facilitating, supporting, organizing, training, or inciting individuals or groups to perpetrate acts of violence or terrorist acts against other States or their citizens in the region. It further decided that such measures would not apply where the Committee determines on a case-by-case basis that such travel is justified on the grounds of humanitarian need, including religious obligation, or where the Committee determines on a case-by-case basis that an exemption would otherwise further the objectives of peace and stability in the region.

Further, the Security Council decided that all Member States shall take the necessary measures to prevent the direct or indirect supply, sale or transfer by their nationals or from their territories or using their flag vessels or aircraft of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned 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 or to the supply, sale, transfer, manufacture, maintenance or use of weapons and military equipment, to the individuals or entities designated by the Committee. It further decided that all Member States shall freeze without delay the funds, other financial assets and economic resources which are on their territories that are owned or controlled, directly or indirectly, by the entities and individuals designated by the Committee.

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

The Al-Qaida and Taliban Sanctions Committee was established pursuant to Security Council resolution 1267 (1999) of 15 October 1999. By resolution 1904 (2009) of 17 Decem-



ber 2009, the Security Council directed the Committee to make accessible on the Committee's website, at the same time a name is added to the Consolidated List, a narrative summary of reasons for listing for the corresponding entry or entries; and to amend its Guidelines to extend the period of time for members of the Committee to verify that names proposed for listing merit inclusion in the Consolidated List; and to include adequate identifying information to ensure full implementation of the measures, with exceptions, at the Committee chair's discretion, for emergency and time-sensitive listings. The Committee was further directed to identify possible cases of non-compliance by Member States with the measures imposed by resolutions paragraph 4 (b) of resolution 1267 (1999), paragraph 8 (c) of resolution 1333 (2000), and paragraphs 1 and 2 of resolution 1390 (2002), and to determine the appropriate course of action on each case.

In the same resolution, the Security Council decided that, when considering delisting requests, the Committee shall be assisted by an Office of the Ombudsperson, to be established for an initial period of 18 months.

#### **b. Counter-Terrorism Committee**

The Counter-Terrorism Committee was established pursuant to Security Council resolution 1373 (2001) of 28 September 2001. The Committee continued its operation through 2009, and submitted two reports to the Security Council.<sup>46</sup>

#### **c. 1540 Committee (non-proliferation of weapons of mass destruction)**

On 28 April 2004, the Security Council adopted resolution 1540 (2004), by which it decided that all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery; and established a Committee to report on the implementation of the same resolution. The mandate of the Committee was subsequently extended by resolutions 1673 (2006) and 1810 (2008), respectively. The Committee continued its operation through 2009.

#### **d. Lebanon**

The International Independent Investigation Commission was established pursuant to Security Council resolution 1595 (2005) of 7 April 2005, in order to assist the Lebanese authorities in their investigation of all aspects of the 14 February 2005 terrorist attack in Lebanon, including to help identify its perpetrators, sponsors, organizers and accomplices. The mandate of the Commission, most recently renewed by Security Council resolution 1852 (2008), expired on 28 February 2009. The Special Tribunal for Lebanon began to operate on 1 March 2009.<sup>47</sup>

<sup>46</sup> Report of the Counter-Terrorism Committee to the Security Council for its consideration as part of its interim review of the work of the Counter-Terrorism Committee Executive Directorate, 4 June 2009 (S/2009/289); and Survey of the Implementation of Security Council resolution 1373 (2001) by Member States, 13 November 2009 (S/2009/620).

<sup>47</sup> For information on the activities of the Special Tribunal for Lebanon, see chapter VII of this publication.



(i) **Humanitarian law and human rights in the context of peace and security**

(i) *Children and armed conflict*

In resolution 1882 (2009), adopted on 4 August 2009, the Security Council, *inter alia*, strongly condemned all violations of applicable international law involving the recruitment and use of children by parties to armed conflict as well as their re-recruitment, killing and maiming, rape and other sexual violence, abductions, attacks against schools or hospitals and denial of humanitarian access by parties to armed conflict, and all other violations of international law committed against children in situations of armed conflict. The Council invited the Secretary-General through his Special Representative for Children and Armed Conflict to exchange appropriate information and maintain interaction from the earliest opportunity with the Governments concerned regarding violations and abuses committed against children by parties which may be included in the annexes to his periodic report; and encouraged Member States to devise ways, in close consultations with the United Nations country-level task force on monitoring and reporting and United Nations country teams, to facilitate the development and implementation of time-bound action plans, and the review and monitoring by the United Nations country-level task force of obligations and commitments relating to the protection of children in armed conflict. The Council further requested Member States, United Nations peacekeeping, peacebuilding and political missions and United Nations country teams, within their respective mandates and in close cooperation with Governments of the concerned countries, to establish appropriate strategies and coordination mechanisms for information exchange and cooperation on child protection concerns, in particular cross-border issues, bearing in mind relevant conclusions by the Security Council Working Group on Children and Armed Conflict and paragraph 2 (d) of its resolution 1612 (2005).

(ii) *Protection of civilians in armed conflict*

On 11 November 2009, the Security Council adopted resolution 1894 (2009), in which it demanded that parties to armed conflict comply strictly with the obligations applicable to them under international humanitarian, human rights and refugee law, as well as to implement all relevant decisions of the Security Council; and in this regard, urged them to take all required measures to respect and protect the civilian population and meet its basic needs. The Council noted that the deliberate targeting of civilians as such and other protected persons, and the commission of systematic, flagrant and widespread violations of applicable international humanitarian and human rights law in situations of armed conflict may constitute a threat to international peace and security, and reaffirmed in this regard its readiness to consider such situations and, where necessary, to adopt appropriate steps.

In the same resolution, the Council called upon all parties concerned, *inter alia*, to ensure the widest possible dissemination of information about international humanitarian, human rights and refugee law; to ensure that orders and instructions issued to armed forces and other relevant actors are in compliance with applicable international law, and that they are observed, *inter alia*, by establishing effective disciplinary procedures, central to which must be the strict adherence to the principle of command responsibility to support compliance with international humanitarian law; and to seek, where appropriate, support from United Nations peacekeeping and other relevant missions, as well as

United Nations Country Teams and the International Committee of the Red Cross on training and awareness raising on international humanitarian, human rights and refugee law. The Council also stressed the importance for all, within the framework of humanitarian assistance, of upholding and respecting the humanitarian principles of humanity, neutrality, impartiality and independence, and the importance for all parties to armed conflict to cooperate with humanitarian personnel in order to allow and facilitate access to civilian populations affected by armed conflict.

### (iii) *Women and peace and security*

In 2009, the Security Council adopted two resolutions on women and peace and security, both of which are described below.

On 30 September 2009, the Security Council adopted resolution 1888 (2009), by which it reaffirmed 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 demanded that all parties to armed conflict immediately take appropriate measures to protect civilians, including women and children, from all forms of sexual violence, including measures such as, *inter alia*, enforcing appropriate military disciplinary measures and upholding the principle of command responsibility, training troops on the categorical prohibition of all forms of sexual violence against civilians, debunking myths that fuel sexual violence, and vetting candidates for national armies and security forces to ensure the exclusion of those associated with serious violations of international humanitarian and human rights law, including sexual violence.

The Council urged States to undertake comprehensive legal and judicial reforms, as appropriate, in conformity with international law, without delay and with a view to bringing perpetrators of sexual violence in conflicts to justice and to ensuring that survivors have access to justice, are treated with dignity throughout the justice process and are protected and receive redress for their suffering. All parties to a conflict were further urged to ensure that all reports of sexual violence committed by civilians or by military personnel are thoroughly investigated and the alleged perpetrators brought to justice, and that civilian superiors and military commanders, in accordance with international humanitarian law, use their authority and powers to prevent sexual violence, including by combating impunity. The Council encouraged leaders at the national and local level, including traditional leaders where they exist and religious leaders, to play a more active role in sensitizing communities on sexual violence to avoid marginalization and stigmatization of victims, to assist with their social reintegration, and to combat a culture of impunity for these crimes.

The Security Council further encouraged Member States to deploy greater numbers of female military and police personnel to United Nations peacekeeping operations, and to provide all military and police personnel with adequate training to carry out their responsibilities; and 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.

In resolution 1889 (2009), adopted on 5 October 2009, the Security Council urged Member States, international and regional organizations to take further measures to improve women's participation during all stages of peace processes, particularly in conflict resolution, post-conflict planning and peacebuilding, including by enhancing their engagement in political and economic decision-making at early stages of recovery processes, through *inter alia* promoting women's leadership and capacity to engage in aid management and planning, supporting women's organizations, and countering negative societal attitudes about women's capacity to participate equally. The Council called upon the Secretary-General to develop a strategy, including through appropriate training, to increase the number of women appointed to pursue good offices on his behalf, particularly as Special Representatives and Special Envoys, and to take measures to increase women's participation in United Nations political, peacebuilding and peacekeeping missions. Further, the Council urged Member States, United Nations bodies, donors and civil society to ensure that women's empowerment is taken into account during post-conflict needs assessments and planning, and factored into subsequent funding disbursements and programme activities, including through developing transparent analysis and tracking of funds allocated for addressing women's needs in the post-conflict phase.

#### (j) Piracy<sup>48</sup>

On 30 November 2009, the Security Council adopted resolution 1897 (2009), in which it reiterated that it condemned and deplored all acts of piracy and armed robbery against vessels in the waters off the coast of Somalia; and renewed its call upon States and regional organizations that have the capacity to do so to take part in the fight against piracy and armed robbery at sea off the coast of Somalia, in particular, consistent with this resolution and international law, by deploying naval vessels, arms and military aircraft and through seizures and disposition of boats, vessels, arms and other related equipment used in the commission of piracy and armed robbery at sea off the coast of Somalia, or for which there are reasonable grounds for suspecting such use. The Council acknowledged Somalia's rights with respect to offshore natural resources, including fisheries, in accordance with international law, and called upon States and interested organizations, including the International Maritime Organization (IMO), to provide technical assistance to Somalia, including regional authorities, and nearby coastal States upon their request to enhance their capacity to ensure coastal and maritime security, including combating piracy and armed robbery at sea off the Somali and nearby coastlines.

By the same resolution, States and international or regional organizations fighting piracy off the coast of Somalia were invited 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, in particular countries in the region, to facilitate the investigation and prosecution of persons detained as a result of operations conducted under this resolution for acts of piracy and armed robbery at sea off the coast of Somalia, provided that the advance consent of the Transitional Federal Government is obtained for the exercise of third state jurisdiction by shipriders in Somali territorial waters and that such agreements or arrangements do not prejudice the effective imple-

<sup>48</sup> See also on piracy section (b) (ii) e of chapter III B of this publication.

mentation of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, 1988.<sup>49</sup>

### 3. Disarmament and related matters<sup>50</sup>

#### (a) Disarmament machinery

##### (i) *Disarmament Commission*

The United Nations Disarmament Commission, 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 2009 session in New York, held from 13 April to 1 May 2009, the Commission adopted the agenda which included the item “Elements of a draft declaration of the 2010s as the fourth disarmament decade”, and the item “Practical confidence-building measures in the field of conventional weapons” which would be taken up upon the conclusion of the former item. The Secretary-General transmitted to the Commission the annual report of the Conference on Disarmament,<sup>51</sup> together with all the official records of the sixty-third session of the General Assembly relating to disarmament matters. During the substantive session, Working Group I held extensive discussion on the item “Recommendations for achieving the objective of nuclear disarmament and non-proliferation of nuclear weapons”; and Working Group II considered the item “Elements of a draft declaration of the 2010s as the fourth disarmament decade”. At its 301st plenary meeting, on 1 May 2009, the Commission adopted by consensus the reports submitted by its two Working Groups<sup>52</sup>. At the same meeting, the Commission adopted, as a whole, its own report to be submitted to the General Assembly at its sixty-fourth session.<sup>53</sup>

##### (ii) *Conference on Disarmament*<sup>54</sup>

The Conference on Disarmament held three sessions in 2009; from 19 January to 27 March, 18 May to 3 July and 3 August to 18 September 2009, respectively. On 29 May 2009, the Conference adopted the Programme of Work for the 2009 session,<sup>55</sup> in which it decided to establish a working group to begin negotiations on a treaty banning the production of fissile materials for nuclear weapons. The Programme of Work also included the establishment of working groups to discuss the following issues: cessation of the nuclear arms race and nuclear disarmament; prevention of an arms race in outer space; and effective inter-

<sup>49</sup> United Nations, *Treaty Series*, vol. 1678, p. 201.

<sup>50</sup> For detailed information, see *United Nations Disarmament Yearbook*, vol. 34:2009 (United Nations publication, Sales No. E.10.IX.1). The *Yearbook* can also be downloaded, free of charge, at <http://www.un.org/disarmament/HomePage/ODAPublications/Yearbook>.

<sup>51</sup> *General Assembly, Official Records, Sixty-fourth session, Supplement No. 27 (A/64/27)*.

<sup>52</sup> A/CN.10/2010/CRP.3 and A/CN.10/2010/CRP.4

<sup>53</sup> A/64/42

<sup>54</sup> 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.

<sup>55</sup> See Decision for the establishment of a Programme of Work for the 2009 session (CD/1864).

national arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons. Special coordinators would also be appointed to seek the views of members on issues including new types of weapons of mass destruction and new systems of such weapons, radiological weapons, a comprehensive program of disarmament, and transparency in armaments. On 17 September 2009, the Conference adopted its annual report and transmitted it to the General Assembly for its consideration.<sup>56</sup>

### (iii) *General Assembly*

On 2 December 2009, 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 64/64, entitled "Report of the Conference on Disarmament", the General Assembly welcomed the consensus adoption of a programme of work for the 2009 session of the Conference on Disarmament, including the establishment of four working groups and the appointment of three special coordinators. It also took note of the active discussions held on the implementation of the programme of work at the 2009 session, and further requested all States members of the Conference on Disarmament to cooperate with the current President and successive Presidents in their efforts to guide the Conference to the early commencement of substantive work, including negotiations, in its 2010 session.

In resolution 64/65, entitled "Report of the Disarmament Commission", the General Assembly took note of the report of the Disarmament Commission and requested it to continue its work in accordance with its mandate, and to that end to make every effort to achieve specific recommendations on the items on its agenda, taking into account the adopted "Ways and means to enhance the functioning of the Disarmament Commission".<sup>57</sup> The Assembly further recommended that the Commission continue the consideration of the following items at its substantive session of 2010: (a) the recommendations for achieving the objective of nuclear disarmament and non-proliferation of nuclear weapons; (b) the elements of a draft declaration of the 2010s as the fourth disarmament decade; and (c) the practical confidence-building measures in the field of conventional weapons.

In decision 64/154, the General Assembly decided to include in the provisional agenda of its sixty-fifth session the item 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<sup>58</sup> (NPT) held its third and last session from 4 to 15 May 2009 in New York. The Committee held 25 meetings on substantive

<sup>56</sup> A/64/27.

<sup>57</sup> A/CN.10/137.

<sup>58</sup> United Nations, *Treaty Series*, vol. 729, p. 161.

discussions on three clusters of issues<sup>59</sup> and three specific blocs of issues.<sup>60</sup> The Committee considered the draft rules of procedure for the Conference and agreed to recommend to the Conference the draft rules of procedure as contained in its report. It also decided to change the dates of the 2010 Review Conference, which were originally decided at the first session. On 15 May 2009, at the last meeting, the Committee adopted its final report.<sup>61</sup>

On 28 September 2009, the International Atomic Energy Agency (IAEA) hosted the first Extraordinary Meeting of Contracting Parties of the Convention on Nuclear Safety,<sup>62</sup> pursuant to article 31, paragraph 9 (i), of the Convention. The Meeting reviewed and adopted the revised version of the “Guidelines regarding National Reports under the Convention on Nuclear Safety”.<sup>63</sup> The Contracting Parties agreed to provide their endorsement within two months after the circulation of the revised guidelines, which would help finalizing the process and allow Contracting Parties to rely on in preparation of their participation for the fifth Review Meeting of the Contracting Parties of the Convention on Nuclear Safety.<sup>64</sup>

The fifth Organizational Meeting of the Contracting Parties of the Convention on Nuclear Safety was held on 29 September 2009 in Vienna, in which 46 out of 65 Contracting Parties participated. The Meeting decided on the agenda for the fifth Review Meeting and examined the credentials of participating delegations. It further decided to establish six Country Groups for the fifth Review Meeting and assigned Presidents for the Review Meeting and for the individual Country Groups.<sup>65</sup>

The IAEA also held its 53rd General Conference of Member States from 14 to 18 September 2009, in Vienna. As the Conference began, the Conference approved the appointment of Yukiya Amano of Japan as the next IAEA Director General, for a term of office from December 2009 to November 2013.<sup>66</sup> At the Conference, the Member States adopted nineteen resolutions and three decisions<sup>67</sup> backing the IAEA’s work in key areas.

During 2009, the Director General of the IAEA submitted four reports<sup>68</sup> to the Board of Governors on the implementation of the NPT Safeguards Agreement and relevant provisions of the United Nations Security Council resolutions in the Islamic Republic of Iran.

<sup>59</sup> The cluster issues were the implementation of the provisions of the Treaty relating to, first, Non-Proliferation of nuclear weapons, disarmament and international peace and security; second, Non-Proliferation of nuclear weapons, safeguards and nuclear-weapon-free zones; and third, the inalienable right of all States parties to develop research, production and use of nuclear energy for peaceful purpose.

<sup>60</sup> The blocs of issues included, first, the nuclear disarmament and security assurance; second, regional issues and third, other provisions of the Treaty.

<sup>61</sup> NPT/CONF.2010/1.

<sup>62</sup> The Convention on Nuclear Safety was adopted on 17 June 1994 by a Diplomatic Conference convened by the IAEA at its Headquarters from 14 to 17 June 1994. It entered into force on 24 October 1996. United Nations, *Treaty Series*, vol. 1963, p. 293.

<sup>63</sup> INF/CIRC/572/Rev.3.

<sup>64</sup> See CNS/ExM/2009/3.

<sup>65</sup> See CNS/OM.5/P.08.

<sup>66</sup> GC(53)/RES/3.

<sup>67</sup> General Conference resolution GC(53)/RES/1–19 and decision GC(53)/DEC/11–13.

<sup>68</sup> See reports by the Director General GOV/2009/8, GOV/2009/35, GOV/2009/55 and GOV/2009/74.

On 27 November 2009, the Board of Governors adopted resolution GOV/2009/82, in which it noted, *inter alia*, that the Director General had repeatedly declared that he had been unable to verify that Iran's programme was for exclusively peaceful purposes. With regard to the verification activities in the Democratic People's Republic of Korea, the IAEA ceased the implementation of the *ad hoc* monitoring and verification arrangement in the country on 15 April 2009. Thus, the IAEA had not been able to provide any conclusions regarding the nuclear activities in the Democratic People's Republic of Korea.

With regard to the Comprehensive Nuclear-Test-Ban Treaty<sup>69</sup> (CTBT), the sixth Conference on Facilitating the Entry into Force of the Comprehensive Nuclear-Test-Ban Treaty was convened pursuant to article XIV of the CTBT on 24 and 25 September 2009. The Conference adopted the Final Declaration and Measures to Promote the Entry into Force of the CTBT, in which it reaffirmed, *inter alia*, the firm determination to end nuclear weapon test explosions and any other nuclear explosions, and called upon all States which had not yet done so to sign and ratify the CTBT without delay, in particular, those States whose ratification was needed for the entry into force.<sup>70</sup>

#### (i) General Assembly

On 2 December 2009, the General Assembly adopted, upon the recommendation of the First Committee, eighteen resolutions and one decision concerning nuclear weapons and non-proliferation issues,<sup>71</sup> of which four are described below.

In resolution 60/27, entitled "Conclusion of effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons", the General Assembly recommended that further intensive efforts be devoted to the search for a common approach or common formula and that the Conference on Disarmament actively continue intensive negotiations with a view to reaching early agreement and to concluding effective international agreements with regard to this matter.

In resolution 64/29, entitled "Treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices", the General Assembly urged the Conference on Disarmament to agree early in 2010 on a programme of work that would include the immediate commencement of negotiations on a treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices.

In resolution 64/47, entitled "Renewed determination towards the total elimination of nuclear weapons", the General Assembly called upon all nuclear-weapon States and States not parties to the NPT to declare and maintain moratoriums on the production of fissile material for any nuclear weapons or other nuclear explosive devices pending the entry into force of a fissile material cut-off treaty.

In resolution 64/57, entitled "Towards a nuclear-weapon-free world: accelerating the implementation of nuclear disarmament commitments", the General Assembly urged the Democratic People's Republic of Korea to rescind its announced withdrawal from the NPT,

<sup>69</sup> A/50/1027, Annex.

<sup>70</sup> CTBT-Art.XIV/2009/6.

<sup>71</sup> General Assembly resolutions 64/24, 64/26, 64/27, 64/29, 64/31, 64/35, 64/37, 64/39, 64/44, 64/45, 64/47, 64/52, 64/53, 64/55, 64/57, 64/59, 64/66 and 64/69 and decision 64/516.



to re-establish cooperation with the IAEA and to rejoin the Six-Party Talks, with a view to achieving the denuclearization of the Korean Peninsula in a peaceful manner. It further called upon all parties to the NPT to spare no effort to ensure a successful and constructive outcome of the 2010 Review Conference.

## (ii) *Security Council*

On 24 September 2009, the Security Council adopted resolution 1887 (2009), in which, resolving to seek a safer world for all and to create the conditions for a world without nuclear weapons, it reaffirmed that proliferation of weapons of mass destruction, and their means of delivery, constituted a threat to international peace and security. It called upon all States that were not parties to the NPT to accede to it and upon States parties to the NPT to pursue negotiations on effective measures relating to nuclear arms reduction and disarmament and on a treaty on general and complete disarmament. It also called on all States to refrain from conducting a nuclear test explosion and to sign and ratify the CTBT; and to negotiate a treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices as soon as possible. The Security Council further affirmed the essential role of the effective IAEA safeguards measures and called upon all non-nuclear-weapon States to bring into force a comprehensive safeguards agreement or a modified small quantities protocol immediately. Moreover, the Security Council reaffirmed the need for full implementation of resolution 1540 (2004) and called upon Member States to cooperate actively with the Committee established pursuant to the resolution and with the IAEA.

## (c) **Biological and chemical weapons issues**

In accordance with the decision of the Sixth Review Conference of the States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction<sup>72</sup> (Biological Weapon Convention), the Meeting of Experts was held in Geneva from 24 to 28 August 2009, and the Meeting of States Parties was held from 7 to 11 December 2009. With a view to enhancing international cooperation, assistance and exchange in biological sciences and technology for peaceful purposes, discussions were devoted to the consideration of promoting capacity building in the fields of disease surveillance, detection, diagnosis and containment of infectious diseases: (1) for States Parties in need of assistance, identifying requirements and requests for capacity enhancement; and (2) from States Parties in a position to do so, and international organizations, opportunities for providing assistance related to these fields.

The Meeting of Experts heard an interim report<sup>73</sup> from the Chairman on activities to secure universal adherence to the Biological Weapons Convention,<sup>74</sup> in accordance with the decision of the Sixth Review Conference. At its closing meeting, on 28 August 2009, the

<sup>72</sup> United Nations, *Treaty Series*, vol. 1015, p. 163.

<sup>73</sup> Available at [http://www.unog.ch/80256EDD006B8954/\(httpAssets\)/6141D72B0C21F1B0C12576230053E011/\\$file/BWC+MX+2009+-+Universalization+Report.pdf](http://www.unog.ch/80256EDD006B8954/(httpAssets)/6141D72B0C21F1B0C12576230053E011/$file/BWC+MX+2009+-+Universalization+Report.pdf).

<sup>74</sup> United Nations, *Treaty Series*, vol. 1015, p. 163.



Meeting of Experts adopted its own report by consensus.<sup>75</sup> At the subsequent Meeting of the States Parties, whilst recognizing the importance of developing effective infrastructure for disease surveillance, detection, diagnosis and containment, States parties agreed on the value of developing human resources and ensuring sustainability in this regard, and on the value of implementing standard operating procedures and improving integration of capacity-building activities. They further considered the Report from the Chairman on Universalization Activities<sup>76</sup> on obtaining universality for the Biological Weapons Convention, as well as the 2009 Report of the Implementation Support Unit<sup>77</sup> with regard to confidence-building measures. At its closing meeting, on 11 December 2009, the Meeting of States Parties adopted its report by consensus.<sup>78</sup>

With regard to chemical weapons, the fourteenth session of the Conference of the States Parties to the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction<sup>79</sup> (Chemical Weapons Convention) was held in The Hague, from 30 November to 4 December 2009. The issues considered included the status of implementation of the Chemical Weapons Convention, fostering of international cooperation for peaceful purposes in the field of chemical activities, and ensuring the universality of the Chemical Weapons Convention. Among others, the Conference urged all possessor States parties to take every necessary measure with a view to ensuring their compliance with the final extended destruction deadline of 29 April 2012. The Conference considered and adopted the report of its fourteenth session.<sup>80</sup>

### *General Assembly*

On 2 December 2009, the General Assembly adopted, upon the recommendation of the First Committee, resolution 64/46 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 emphasized that the universality of the Convention was fundamental to the achievement of its objective and purpose, and stressed that the full and effective implementation of all provisions of the Chemical Weapons Convention constituted an important contribution to the efforts of the United Nations in the global fight against terrorism in all its forms and manifestations. In this context, all States parties 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.

On the same day, the General Assembly also adopted, on the recommendation of the First Committee, resolution 64/70 entitled “Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and Their Destruction”, in which it urged States parties to continue to work closely with the

<sup>75</sup> BWC/MSP/2009/MX/3.

<sup>76</sup> BWC/MSP/2009/4.

<sup>77</sup> BWC/MSP/2009/2.

<sup>78</sup> BWC/MSP/2009/5.

<sup>79</sup> United Nations, *Treaty Series*, vol. 1974, p. 45.

<sup>80</sup> C-14/5.

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

#### (d) Conventional weapons issues

The Second Review Conference of the States Parties to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and Their Destruction<sup>81</sup> (Mine-Ban Convention) was held in Cartagena, Colombia, from 30 November to 4 December 2009. Two Preparatory Meetings were held in advance on 29 May 2009 and on 3 and 4 September 2009. The Second Review Conference considered the issues of the operation and status of the Mine-Ban Convention and the requests for extensions of the deadline for completing the destruction of anti-personnel mines in accordance with article 5 of the Mine-Ban Convention. It adopted “A shared commitment for a mine-free world: The 2009 Cartagena Declaration”,<sup>82</sup> in which States parties reaffirmed their commitment to ending the suffering caused by anti-personnel mines and to achieving a world free of mines. The Conference also adopted the “Cartagena Action Plan 2010–2014: Ending the Suffering Caused By Anti-Personnel Mines”,<sup>83</sup> where States parties committed to undertaking a range of specific actions during the next five years in order to strengthen implementation of and to promote universal adherence to the Mine-Ban Convention.

With regard to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects<sup>84</sup> (Convention on Conventional Weapons), the Governmental Group of Experts (GGE) met for two sessions, from 16 to 20 February and from 14 to 17 April 2009. The GGE considered a wide range of issues on the general prohibitions and restrictions, and on the protection of civilian population and civilian objects. An informal consultation was also held from 17 to 21 August 2009 to further the work on the issue of cluster munitions. The GGE was not able to reach a common view on a proposal on cluster munitions, but the Chairperson of the GGE presented, in his personal capacity, a text of a draft protocol on cluster munitions<sup>85</sup> for the consideration of the issue at the Meeting of the High Contracting Parties to the Convention on Conventional Weapons.

The Meeting of the High Contracting Parties to the Convention on Conventional Weapons was held in Geneva on 12 and 13 November 2009.<sup>86</sup> The High Contracting Parties emphasized the importance of achieving universal adherence to, and compliance with, the Convention and its protocols, and took note of the two reports, presented orally, on the implementation of the Plan of Action to Promote the Universality of the Convention and on the implementation of the Sponsorship Programme. The Meeting also decided to establish a Convention on Conventional Weapons Implementation Support Unit, which would work under the authority of the annual Meetings of the High Contracting Parties.

<sup>81</sup> United Nations, *Treaty Series*, vol. 2056, p. 211.

<sup>82</sup> APLC/CONF/2009/WP.8.

<sup>83</sup> APLC/CONF/2009/WP.1/Rev.1.

<sup>84</sup> United Nations, *Treaty Series*, vol. 1342, p. 137.

<sup>85</sup> CCW/MSP/2009/WP.1.

<sup>86</sup> For the report of the Meeting of High Contracting State Parties to the Convention on Conventional Weapons, see CCW/MSP/2009/5.

They decided to keep the issue of mines other than anti-personnel mines (MOTAPM) under consideration under the overall responsibility of the Chairperson-designate. The High Contracting Parties also considered the report of the work of GGE and took note of the report on the negotiation in GGE, including the draft protocol on cluster munitions.

With regard to the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices<sup>87</sup> (Amended Protocol II), the first session of the Group of Experts was held in Geneva on 20 and 21 April 2009, in accordance with the decision of the Tenth Annual Conference of the High Contracting Parties to the Amended Protocol.<sup>88</sup> The main focus of the Group of Experts was to review the operation and status of the Protocol, to consider matters arising from reports by High Contracting Parties as well as the development of technologies to protect civilians against indiscriminate effects of mines, and to address the issue of improvised explosive devices.<sup>89</sup>

The Eleventh Annual Conference of the High Contracting Parties to the Amended Protocol II was held in Geneva on 11 November 2009.<sup>90</sup> The Conference decided to issue an appeal to call upon all States that had not yet done so to take all measures to accede to Amended Protocol II as soon as possible.<sup>91</sup> It also took note of the reports of the two Friends of the President appointed to assist the work of the Group of Experts.<sup>92</sup> Under the current frame of work, the Conference decided that the Group of Experts should further analyze the implementation of the reporting obligations by the States parties and the content of their national annual reports; consider the legal possibility and the feasibility of terminating the original Protocol II, and explore possible practical steps to address the challenges posed by improvised explosive devices.

In addition, the Third Conference of the High Contracting Parties to Protocol V on Explosive Remnants of War was held in Geneva on 9 and 10 November 2009. The Conference considered the work of the Meeting of Experts which was held from 22 to 24 April 2009. The Conference, *inter alia*, took note of the concept for a Web-based Information System for Protocol V (WISP.V) and decided to launch the development of the WISP.V, in cooperation with United Nations Office in Geneva and the Convention on Conventional Weapons Secretariat. It also approved the draft "Guide to National Reporting under CCW Protocol V". At its fourth plenary meeting, the Conference adopted its final document.<sup>93</sup>

---

<sup>87</sup> CCW/CONF.I/16 (Part I).

<sup>88</sup> Final Document of the Tenth Annual Conference of the High Contracting Parties to the Amended Protocol, CCW/AP.II/CONF.10/2.

<sup>89</sup> See discussion papers CCW/AP.II/GX/2010/1, CCW/AP.II/GX/2010/2 and CCW/AP.II/GX/2010/3.

<sup>90</sup> For the final document of the Conference, see CCW/AP.II/CONF.11/4.

<sup>91</sup> *Ibid.*, Conclusions and recommendations.

<sup>92</sup> Report by Mr. Reto Wollenmann of Switzerland, Friend of the President on Improvised Explosive Devices (IEDs), as contained in CCW/AP.II/CONF.11/2; and the report by Mr. Abderrazzak Laassel of Morocco, Friend of the President on the operation and status of the Protocol, on matters arising from reports by High Contracting Parties according to Article 13 (4) of Amended Protocol II, as well as on development of technologies to protect civilians against indiscriminate effects of mines, as contained in CCW/AP.II/CONF.11/3.

<sup>93</sup> CCW/P.V/CONF/2009/9.

### *General Assembly*

On 2 December 2009, the General Assembly adopted, on the recommendation of the First Committee, seven resolutions dealing with conventional arms issues,<sup>94</sup> of which two are highlighted below.

In resolution 64/48, entitled “The arms trade treaty”, the General Assembly recognized that the absence of commonly agreed international standards for the transfer of conventional arms had been a contributory factor to armed conflict, the displacement of people, and organized crime and terrorism, thereby undermining peace, reconciliation, safety, security, stability and sustainable social and economic development. It decided to convene a United Nations Conference on the Arms Trade Treaty to meet in 2012 to elaborate a legally binding instrument on the highest possible common international standards for the transfer of conventional arms, and stressed the need to ensure the widest possible and effective participation in the conference.

In resolution 64/50, entitled “The illicit trade in small arms and light weapons in all its aspects”, the General Assembly, emphasizing the importance of the continued and full implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects,<sup>95</sup> decided that the fourth biennial meeting of States to consider the national, regional and global implementation of the Programme of Action should be held in New York from 14 to 18 June 2010. It further called upon all States to implement the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons.<sup>96</sup>

## **(e) Regional disarmament activities of the United Nations**

### **(i) *Africa***

In 2009, the United Nations Regional Centre for Peace and Disarmament in Africa continued to implement its mandate through various activities in support of disarmament initiatives in Africa region. The Centre continued to implement the project “African security sector reform programme” which aimed at strengthening security and stability and promoting intervention by security forces within a democratic framework.

In 2009, the Centre served as the secretariat of the United Nations Standing Advisory Committee on Security Questions in Central Africa (UNSAC), in which capacity it provided substantive and technical secretariat services for the twenty-eighth ministerial meeting of UNSAC, held in Libreville, Gabon, from 4 to 8 May 2009. It also participated in the 200th meeting of the Peace and Security Council of the African Union held in Addis Ababa, Ethiopia, on 21 August 2009.

On 9 and 10 June 2009, the Centre also provided technical expertise and logistical support for a seminar on transparency in the transfer of conventional arms in West Africa. The Centre offered a regional perspective and advocated coherent and universal participa-

<sup>94</sup> General Assembly resolutions 64/30, 64/36, 64/48, 64/50, 64/51, 64/56 and 64/67.

<sup>95</sup> Report of the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, New York, 9–20 July 2001 (A/CONF.192/15).

<sup>96</sup> A/60/88 and Corr.2, annex and decision 60/519.

tion in the United Nations Register of Conventional Arms.<sup>97</sup> Also in June 2009, the Centre and the Office for Disarmament Affairs organized a meeting of Southern and East African States to discuss the outcome of and ensure follow-up of the decisions of the third Biennial Meeting<sup>98</sup> of States to Consider the Implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Aspects. Further, the Centre and the Office of the High Commissioner for Human Rights, with the participation of the Secretary-General's Special Representative for West Africa, jointly organized a discussion on the integration of the Conakry recommendations at the national level held in Togo, on 13 and 14 May 2009.

The UNSAC held its twenty-eighth ministerial meeting in Libreville, Gabon, from 4 to 8 May 2009. The States members of UNSAC discussed the geopolitical situation of the sub-region in general as well as recent development affecting some countries in particular. The member States concluded and adopted the Code of Conduct for the Defence and Security Forces in Central Africa on 8 May 2009.<sup>99</sup>

## (ii) *Latin America and the Caribbean*

In 2009, the United Nations Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean carried out its mandate within the framework of its 2008–2011 Strategic Plan, and tailored its delivery of practical disarmament measures to the needs of the region by focusing on the issue of armed violence. In particular, the Centre continued to assist in building the capacity of States to implement multi-sectoral responses to combat illicit firearms trafficking. The Centre focused on activities such as law enforcement capacity-building initiatives, the destruction of firearms, the organization of courses and workshops, the development of practical diagnostics and the elaboration of innovative project proposals to address the challenges posed by armed violence. It also contributed to promoting interregional cooperation and multilevel responses to address armed violence, through promoting the conventional and small arms disarmament instrument and assisting countries of the region in the area of policy development. The Centre acted as a focal point in the field for the Coordinating Action on Small Arms mechanism, and collaborated with its principal partners, including the Organization of American States, the country offices of the United Nations Development Programme and the United Nations Office on Drug and Crime.<sup>100</sup>

<sup>97</sup> The United Nations Register of Conventional Arms was established on 1 January 1992 pursuant to General Assembly resolution 46/36 L, which should include data on international arms transfers as well as information provided by Member States on military holdings, procurement through national production and relevant policies.

<sup>98</sup> The Third Biennial Meeting of States to Consider the Implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects was held at United Nations Headquarters in New York, from 14 to 18 July 2008. For the report of the Meeting, see A/CONF.192/BMS/2008/3.

<sup>99</sup> For the Report of the Secretary-General on the United Nations Standing Advisory Committee on Security Questions in Central Africa, see A/64/163.

<sup>100</sup> For the Report of the Secretary-General on the United Nations Regional Centre for Peace and Disarmament in Latin America and the Caribbean, see A/64/116.

(iii) *Asia and the Pacific*

In 2009, the United Nations Regional Centre for Peace, Disarmament and Development in Asia and the Pacific continued to promote disarmament and security dialogue and cooperation in the Asia and the Pacific region. The Centre organized a regional seminar on illicit brokering in small arms and light weapons in Central Asia and South Asia, held in Kathmandu, Nepal.

The Centre also sought to build a regional network of entities working on disarmament and security related issues and began exploring with relevant organizations and institutions possibilities of undertaking joint initiatives and projects in the region. In this context, it hosted a workshop for members of the International Action Network on Small Arms in Nepal. The Centre participated in the first South Asian Regional Conference on International Humanitarian Law and made a presentation on weapon treaties and international humanitarian law. It also participated in a regional meeting for Pacific island States on the Strengthening of the implementation of the United Nations Programme of Action on Small Arms and Light Weapons, held in Sydney, Australia.<sup>101</sup>

(iv) *General Assembly*

On 2 December 2009, the General Assembly adopted, on the recommendation of the First Committee, six resolutions dealing with regional disarmament,<sup>102</sup> of which two are highlighted below.

In resolution 64/42, entitled “Conventional arms control at the regional and sub-regional levels”, the General Assembly, recognizing the crucial role of conventional arms control in promoting regional and international peace and security, decided to give urgent consideration to the issues involved in conventional arms control at the regional and sub-regional levels. It further requested the Conference on Disarmament to consider the formulation of principles that could serve as a framework for regional agreements on conventional arms control.

In resolution 64/43, entitled “Confidence-building measures in the regional and sub-regional context”, the General Assembly reaffirmed the ways and means regarding confidence- and security-building measures set out in the report of the Disarmament Commission on its 1993 session<sup>103</sup> and called upon Member States to pursue these ways and means through sustained consultations and dialogue, while at the same time avoiding actions that may hinder or impair such a dialogue.

---

<sup>101</sup> For the Report of the Secretary-General on the United Nations Regional Centre for Peace and Disarmament in Asia and the Pacific, see A/64/111.

<sup>102</sup> General Assembly resolutions 64/23, 64/41, 64/42, 64/43, 64/61 and 64/68.

<sup>103</sup> A/48/42.

## (f) Other issues

### (i) *Terrorism and disarmament*

#### a. General Assembly

In the area of terrorism and disarmament, on 2 December 2009, the General Assembly adopted, upon the recommendation of the First Committee, resolution 64/38 entitled “Measures to prevent terrorists from acquiring weapons of mass destruction” and decision 64/516 entitled “Preventing the acquisition by terrorists of radioactive materials and sources”. In the resolution, the General Assembly called upon all Member States to support international efforts to prevent terrorists from acquiring weapons of mass destruction and their means of delivery. It appealed to all Member States to consider early accession to and ratification of the International Convention for the Suppression of Acts of Nuclear Terrorism<sup>104</sup> and further urged them to take and strengthen national measures, as appropriate, to prevent terrorists from acquiring weapons of mass destruction, their means of delivery and materials and technologies related to their manufacture.

#### b. Security Council

On 4 June 2009, the Counter-Terrorism Committee, established pursuant to Security Council resolution 1373 (2001), submitted its report to the Security Council as part of the Council’s interim review of the work of the Counter-Terrorism Committee Executive Directorate.<sup>105</sup> A “Technical guide to the implementation of Security Council resolution 1373 (2001)” was also compiled by the Counter-Terrorism Committee Executive Directorate.<sup>106</sup>

On 17 December 2009, the Security Council adopted resolution 1904 (2009).<sup>107</sup>

### (ii) *Outer space*

During its 2009 session, the Conference on Disarmament held a general debate in plenary meetings on the issue of the prevention of an arms race in outer space, and decided to establish for that session a working group to discuss, substantially, without limitation, all issues related to the prevention of an arms race in outer space. The Coordinator on this agenda, held two informal meetings on the issue on 10 and 27 February 2009, and reported orally to the Conference. The discussion during the informal sessions focused on the transparency and confidence building measures and legally-binding instruments. In addition, the Secretary-General submitted its report on “Transparency and confidence-building measures in outer space activities”, which contained the replies received from Governments on the issue.<sup>108</sup>

<sup>104</sup> Resolution 59/290, annex.

<sup>105</sup> The report is annexed to the letter dated 4 June 2009 from the Acting Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council (S/2009/289).

<sup>106</sup> Available at <http://www.un.org/sc/ctc/pdf/Technical%20Guide%20FINAL%202010.pdf>.

<sup>107</sup> For further details on resolution 1904 (2009), see section 2 (f) (v) of the present chapter, above.

<sup>108</sup> A/64/138 and Add.1.



### *General Assembly*

On 2 December 2009, the General Assembly adopted, on the recommendation of the First Committee, two resolutions in the area of outer space.

In resolution 64/49, entitled “Transparency and confidence-building measures in outer space activities”, the General Assembly invited, *inter alia*, all Member States to continue to submit to the Secretary-General concrete proposals on international outer space transparency and confidence building measures in the interest of maintaining international peace and security and promoting international cooperation and the prevention of an arms race in outer space.

In its resolution 64/28, entitled “Prevention of an arms race in outer space”, the General Assembly reaffirmed, *inter alia*, the importance and urgency of the prevention of an arms race in outer space and emphasized the necessity of further measures with appropriate and effective provisions for verification to prevent an arms race in outer space. It further called upon all States to contribute actively to the objective of the peaceful use of outer space and of the prevention of an arms race in outer space in the interest of maintaining international peace and security and promoting international cooperation.

#### (iii) *Relationship between disarmament and development*

Pursuant to General Assembly resolution 63/52 of 2 December 2008, the Secretary-General submitted a report to the General Assembly at its sixty-fourth session on the relationship between disarmament and development.<sup>109</sup> The report summarized the activities in strengthening further the role of the United Nations in the disarmament-development relationship as well as the increased attention given by Member State to such relationship. It also presented the information received from Governments.

On 2 December 2009, the General Assembly adopted, on the recommendation of the First Committee, resolution 64/32, entitled “Relationship between disarmament and development”, in which it stressed, *inter alia*, the central role of the United Nations in the relationship between disarmament and development, and further urged the international community to devote part of the resources made available by the implementation of disarmament and arms limitation agreements to economic and social development, with a view to reducing the ever-widening gap between developed and developing countries.

#### (iv) *Multilateralism and disarmament*

On 2 December 2009, the General Assembly adopted, on the recommendation of the First Committee, resolution 64/34 entitled “Promotion of multilateralism in the area of disarmament and non-proliferation”. In the resolution, the Assembly reaffirmed, *inter alia*, multilateralism as the core principle in negotiations in the area of disarmament and non-proliferation, as well as in resolving disarmament and non-proliferation concerns. It further urged the participation of all interested States in multilateral negotiations on arms regulation, non-proliferation and disarmament in a non-discriminatory and transparent manner.

---

<sup>109</sup> A/64/153.



### (v) *Gender and disarmament*

On 30 September 2009, the Security Council adopted resolution 1888 (2009), in which it reaffirmed, *inter alia*, 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, could significantly exacerbate situations of armed conflict and might impede the restoration of international peace and security. In this regard, the Council affirmed that effective steps to prevent and respond to such acts of sexual violence could significantly contribute to the maintenance of international peace and security. The Council demanded that all parties to armed conflict immediately take appropriate measures to protect civilians, including women and children from all forms of sexual violence. The Council also requested that the Secretary-General appoint a Special Representative to address sexual violence in armed conflict, and further decided to include specific provisions for the protection of women and children from rape and other sexual violence in the mandates of United Nations peacekeeping operations.

### (vi) *Environmental norms and disarmament*

Pursuant to General Assembly resolution 63/51 of 2 December 2008, the Secretary-General submitted to the Assembly at its sixty-fourth session, a report 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.<sup>110</sup>

On 2 December 2009, the General Assembly, upon the recommendation of the First Committee, adopted resolution 64/33, 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, *inter alia*, that international disarmament forums should take fully into account the relevant environmental norms in negotiating treaties and agreements on disarmament and arms limitation. It further called upon States to adopt unilateral, bilateral, regional and multilateral measures so as to contribute to ensuring the application of scientific and technological progress within the framework of international security, disarmament and other related spheres, without detriment to the environment or to its effective contribution to attaining sustainable development.

## 4. Legal aspects of peaceful uses of outer space

### (a) The Legal Subcommittee on the Peaceful Uses of Outer Space

The Legal Subcommittee on the Peaceful Uses of Outer Space held its forty-eighth session<sup>111</sup> at the United Nations Office at Vienna from 23 March to 3 April 2009. One new key item, general exchange of information on national mechanisms relating to space debris mitigation measures, was on the agenda.

<sup>110</sup> A/64/118.

<sup>111</sup> For the report of the Legal Subcommittee, see A/AC.105/935.

The Subcommittee welcomed the inclusion of the new agenda item. It noted that endorsement by the General Assembly<sup>112</sup> of the Space Debris Mitigation Guidelines of the Committee on the Peaceful Uses of Outer Space<sup>113</sup> was a key step in providing space-faring nations with guidance on how to mitigate the problem of space debris. Further, the Subcommittee noted that some States had strengthened their national mechanisms governing space debris mitigation by nominating governmental supervisory authorities; involving academia and industry; and developing new legislative norms, instructions, standards and frameworks.

The Subcommittee agreed that collision and other incidents that had occurred in space in recent years underlined the need for space-faring States to coordinate their activities in a transparent and responsible manner through the tracking, monitoring and dissemination of information on space debris. It urged States to continue to implement the Space Debris Mitigation Guidelines of the Committee on the Peaceful Uses of Outer Space and to study the experience of States that had already established national mechanisms governing space debris mitigation.

Under the agenda item “Status and application of the five United Nations treaties on outer space”, the Subcommittee noted two additional accessions since 1 January 2009 and provided a revised status of the five United Nations treaties<sup>114</sup> on outer space. The Subcommittee noted that while the five treaties constituted the regime to be observed by States, the current legal framework required modification in order to keep pace with advances in space technology. Such modifications include outlining and adopting a set of measures and reviewing key provisions of international space law in a comprehensive, integrated and gradual manner. The view was expressed that successful implementation and application of the international legal framework governing space activities depends on understanding and acceptance on the part of policymakers and decision makers of the United Nations treaties and principles on outer space.

Regarding the agenda item entitled “Examination and review of the developments concerning the draft protocol on matter specific to space assets to the Convention on International Interests in Mobile Equipment”,<sup>115</sup> the Subcommittee reviewed advancements made by the International Institute for the Unification of Private Law (UNIDROIT) concerning the draft space assets protocol. It noted that the steering committee of UNIDROIT had reached a consensus on certain issues and prepared an alternative version of the draft

<sup>112</sup> General Assembly resolution 62/217 of 22 December 2007.

<sup>113</sup> Report of the Committee on the Peaceful Use of Outer Space, *Official Records of the General Assembly, Sixty-second Session, Supplement No. 20 (A/62/20)*, paras. 117 and 118 and annex.

<sup>114</sup> Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, adopted by General Assembly resolution 2222 (XXI) of 19 December 1966; Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space, adopted by General Assembly resolution 2345 (XXII) of 19 December 1967; Convention on International Liability for Damage Caused by Space Objects, adopted by General Assembly resolution 2777 (XXVI) of 29 November 1971; Convention on Registration of Objects Launched into Outer Space, adopted by General Assembly resolution 3235 (XXIX) of 12 November 1975; and Agreement Governing the Activities of States on the Moon and Other Celestial Bodies, adopted by General Assembly resolution 34/68 of 5 December 1979.

<sup>115</sup> United Nations, *Treaty Series*, vol. 2307, p. 285.

space assets protocol at its first meeting held in Berlin, Germany, from 7 to 9 May 2008.<sup>116</sup> The Subcommittee further noted that the alternative version of the draft protocol would be considered by the steering committee at its second meeting, with a view to reconvening the committee of governmental experts and adopting the draft space assets protocol in the third quarter of 2010.

With regard to matters related to the definition and delimitation of outer space and the character and utilization of the geostationary orbit, the Subcommittee reconvened its Working Group on the Definition and Delimitation of Outer Space. The Working Group provided a report on its meetings,<sup>117</sup> which was endorsed by the Subcommittee.<sup>118</sup> In its report, the Working Group agreed to continue to invite members of the Committee on the Peaceful Use of Outer Space to submit information on national legislation or any national practices that might exist or are being developed that relate directly or indirectly to the definition and/or delimitation of outer space. The working group also agreed to continue asking States whether they consider it necessary to define and/or delimit airspace and outer space, or if they would consider another approach to solving this issue.

### (b) General Assembly

On 2 December 2009, the General Assembly adopted, on the recommendation of the First Committee, resolution 64/28 entitled “Prevention of an arms race in outer space”. In this resolution, the Assembly, *inter alia*, reaffirmed its recognition that the legal regime applicable to outer space did not in and of itself guarantee the prevention of an arms race in outer space; that the regime played a significant role in the prevention of an arms race in that environment; that there is a need to consolidate and reinforce that regime and enhance its effectiveness; and that it is important to comply strictly with existing agreements, both bilateral and multilateral. The Assembly invited the Conference on Disarmament to establish a Working Group under its agenda item entitled “Prevention of an arms race in outer space” as early as possible during its 2010 session, and reiterated that the Conference on Disarmament has the primary role in the negotiation of bilateral or multilateral agreements on the prevention of an arms race in outer space. It also urged States conducting, or interested in conducting, activities in outer space to keep the Conference on Disarmament informed of the progress of bilateral and multilateral negotiations regarding these activities.

On the same day, the Assembly adopted, on the recommendation of the First Committee, resolution 64/49 entitled “Transparency and confidence-building measures in outer-space activities”. In this resolution, the Assembly took note, *inter alia*, of the reports of the Secretary-General containing concrete proposals from Member States on international outer space transparency and confidence-building measures. It invited all Member States

<sup>116</sup> UNIDROIT, *Steering Committee to build consensus around the provisional conclusions reached by the Government/industry meeting regarding the preliminary draft Space Assets Protocol held in New York on 19 and 20 June 2007, Launch meeting 7/9 May 2008*.

<sup>117</sup> Report of the Committee on the Peaceful Use of Outer Space, *Official Records of the General Assembly, Sixty-second Session, Supplement No. 20 (A/62/20)*, annex II.

<sup>118</sup> Report of the Committee on the Peaceful Use of Outer Space, *Official Records of the General Assembly, Sixty-second Session, Supplement No. 20 (A/62/20)*, para. 84.

to submit such proposals to the Secretary-General in the interest of maintaining international peace and security and promoting international cooperation and the prevention of an arms race in outer space.

On 10 December 2009, the Assembly adopted, on the recommendation of the Fourth Committee, resolution 64/86 entitled “International cooperation in the peaceful uses of outer space”. In this resolution, the Assembly urged States not already parties to the international treaties governing the use of outer space to consider ratifying or acceding to these treaties in accordance with their domestic law, as well as incorporating them into their national legislation. It also requested entities of the United Nations system and other international organizations to continue or 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.

## 5. Human rights<sup>119</sup>

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

#### (i) *Human Rights Council*

The Human Rights Council, established in 2006 to replace the Commission on Human Rights,<sup>120</sup> 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 universal periodic review.<sup>121</sup> The Council also assumed

<sup>119</sup> 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, the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Racial Discrimination, Committee on the Elimination of Discrimination Against Women, the Committee Against Torture, Committee on the Rights of the Child, the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families, and the 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>.

<sup>120</sup> 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 5.

<sup>121</sup> The first session of review cycle 2008–2011 was held from 7 to 18 April 2008. For a list of countries included and calendar for the full cycle please refer to the homepage of the Human Rights Council, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx>.

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.<sup>122</sup> 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.<sup>123</sup>

In 2009, the Human Rights Council held its tenth, eleventh and twelfth regular sessions<sup>124</sup> and four special sessions on “The grave violations of human rights in the Occupied Palestinian Territory including the recent aggression in the occupied Gaza Strip”,<sup>125</sup> “The impact of the global economic and financial crises on the universal realization and effective enjoyment of human rights”,<sup>126</sup> “The human rights situation in Sri Lanka”,<sup>127</sup> and “The human rights situation in the Occupied Palestinian Territory and East Jerusalem—15 and 16 October 2009”.<sup>128</sup>

### (ii) *Human Rights Council Advisory Committee*

The Human Rights Council Advisory Committee was established pursuant to Human Rights Council resolution 5/1, adopted on 18 June 2007, 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 functions 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 in Geneva its second session from 24 to 30 January 2009<sup>129</sup> and its third session from 3 to 7 August 2009.<sup>130</sup>

<sup>122</sup> Human Rights Council decision 1/102 of 30 June 2006.

<sup>123</sup> 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>.

<sup>124</sup> For the reports of the tenth, eleventh and twelfth sessions respectively, see A/HRC/10/29, A/HRC/11/37 and A/HRC/12/L.10.

<sup>125</sup> Ninth special session of the Human Rights Council held in Geneva on 9 January 2009. See Report of the ninth special session of the Council (A/HRC/S-9/2).

<sup>126</sup> Tenth special session held in Geneva on 20 and 23 February 2009. See the Report of the tenth special session of the Council (A/HRC/S-10/2).

<sup>127</sup> Eleventh special session of the Human Rights Council held in Geneva on 26 and 27 May 2009. See Report of the eleventh special session of the Council (A/HRC/S-11/2).

<sup>128</sup> Twelfth Special session of the Human Rights Council held on 15 and 16 November 2009. See Report of the Human Rights Council on its twelfth special session (A/64/53/Add.1) and (A/HRC/S-12/1).

<sup>129</sup> For the report of the second session of the Advisory Committee, see (A/HRC/AC/2/2).

<sup>130</sup> For the report of the third session of the Advisory Committee, see (A/HRC/AC/3/2).

(iii) *Human Rights Committee*

The Human Rights Committee was established under the International Covenant on Civil and Political Rights of 1966<sup>131</sup> to monitor the implementation of the Covenant and its Optional Protocols<sup>132</sup> in the territory of States parties. The Committee held its ninety-fifth session in New York from 16 March to 3 April 2009, and its ninety-sixth and ninety-seventh sessions in Geneva from 13 to 31 July and from 12 to 30 October respectively.<sup>133</sup>

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

The Committee on Economic, Social and Cultural Rights was established by the Economic and Social Council<sup>134</sup> to monitor the implementation of the International Covenant on Economic, Social and Cultural Rights of 1966<sup>135</sup> by its State parties. The Committee held its forty-second and forty-third sessions in Geneva from 4 to 22 May and from 23 to 26 November 2009, respectively.<sup>136</sup>

(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 1966<sup>137</sup> to monitor the implementation of this Convention by its States parties. The Committee held its seventy-fourth and seventy-fifth sessions in Geneva from 16 February to 6 March and from 3 to 28 August 2009, respectively.<sup>138</sup>

(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 1979<sup>139</sup> to monitor the implementation of this Convention by its States parties.

---

<sup>131</sup> United Nations, *Treaty Series*, vol. 999, p. 171.

<sup>132</sup> Optional Protocol to the International Covenant on Civil and Political Rights, General Assembly resolution 2200A (XXI) of 16 December 1966, annex; and Second Optional Protocol to the International Covenant on Civil and Political Rights, General Assembly resolution 44/128 of 15 December 1989, annex.

<sup>133</sup> For the reports of the ninety-fifth and ninety-sixth sessions, see *Official Records of the General Assembly, Sixty-fourth session, Supplement No. 40, (A/64/40 (Vol. I))*. For the report of the ninety-seventh session, see *Official Records of the General Assembly, Sixty-fifth session, Supplement No. 40, (A/65/40)* (forthcoming).

<sup>134</sup> Economic and Social Council resolution 1985/17 of 28 May 1985.

<sup>135</sup> United Nations, *Treaty Series*, vol. 993, p. 3.

<sup>136</sup> The reports of the sessions can be found in *Official Records of the Economic and Social Council, 2010, Supplement No. 2, (E/2010/22-E/C.12/2009/3)*.

<sup>137</sup> United Nations, *Treaty Series*, vol. 660, p. 195.

<sup>138</sup> The respective reports can be found in *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 18 (A/64/18)*.

<sup>139</sup> United Nations, *Treaty Series*, vol. 1249, p. 13.

The Committee held its forty-third session in Geneva from 19 January to 6 February 2009 and its forty-fourth session in New York from 20 July to 7 August 2009.<sup>140</sup>

(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 1984<sup>141</sup> to monitor the implementation of the Convention by its States parties. In 2009, the Committee held its forty-second and forty-third sessions from 27 April to 15 May and from 2 to 20 November, respectively, in Geneva.<sup>142</sup> 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,<sup>143</sup> held its seventh, eighth and ninth sessions from 9 to 13 February, from 22 to 26 June and from 16 to 20 November 2009 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 1989<sup>144</sup> to monitor the implementation of this Convention by its States parties. The Committee held its fiftieth, fifty-first and fifty-second sessions in Geneva, from 12 to 30 January, from 25 May to 12 June, and from 14 September to 2 October 2009, respectively.<sup>145</sup>

(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 1990<sup>146</sup> to monitor the implementation of this Convention by its States parties in their territories. In 2009, the

<sup>140</sup> The reports of the forty-second and forty-third sessions can be found in *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 38* (A/64/38). The report of the forty-fourth session can be found in *Official Records of the General Assembly, Sixty-fifth Session, Supplement No. 38* (A/65/38) (forthcoming).

<sup>141</sup> United Nations, *Treaty Series*, vol. 1465, p. 85.

<sup>142</sup> The report of the forty-second session can be found in *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 44* (A/64/44). The report of the forty-third session can be found in *Official Records of the General Assembly, Sixty-fifth Session, Supplement No. 44* (A/65/44) (forthcoming).

<sup>143</sup> The Optional Protocol was adopted in General Assembly resolution 57/199 on 18 December 2002. For further information on the mandate of the Subcommittee, see *United Nations Juridical Yearbook 2006*, United Nations Publication, Sales No. E.08.V.1 (ISBN 978-91-1-133664-1), chapter III, section 6.

<sup>144</sup> United Nations, *Treaty Series*, vol. 1577, p. 3.

<sup>145</sup> The report of the fiftieth, fifty-first and fifty-second sessions can be found in *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 41* (A/64/41) (forthcoming).

<sup>146</sup> General Assembly resolution 45/158 of 18 December 1990.



Committee held its tenth and eleventh sessions in Geneva from 20 April to 1 May and from 12 to 16 October 2009, respectively.<sup>147</sup>

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

The Committee on the Rights of Persons with Disabilities is the body of independent experts established under the Convention on the Rights of Persons with Disabilities<sup>148</sup> and its Optional Protocol<sup>149</sup> to monitor the implementation of this Convention and Optional Protocol by States Parties. The Committee meets in Geneva and holds two regular sessions per year.

Under the Convention, all State parties are obliged to submit regular reports to the Committee on how they implement the rights contained in it, initially within two years of accepting the Convention, and thereafter every four years. The Committee examines each report, and makes such suggestions and general recommendations to the State party on the report as it considers appropriate.

Furthermore, under the Optional Protocol<sup>150</sup> to the Convention, the Committee has competence to examine individual complaints relating to alleged violations of the Convention by States that are parties to the Protocol.

The Committee held its first session from 23 to 27 February 2009, and its second from 19 to 23 October 2009.<sup>151</sup>

(b) **Racism, Racial Discrimination, Xenophobia and All Forms of Discrimination**

(i) *Human Rights Council*

On 27 March 2009, the Human Rights Council adopted resolution 10/30, entitled “Elaboration of complementary standards to the Convention on the Elimination of All Forms of Racial Discrimination”, in which it welcomed, *inter alia*, the progress achieved in the first session of the Ad Hoc Committee of the Human Rights Council on the Elabora-

<sup>147</sup> The report of the tenth session can be found in *Official Records of the General Assembly, Supplement No. 48 (A/64/48)*. The report of the eleventh session can be found in *Official Records of the General Assembly, Sixty-fifth Session, Supplement No. 48 (A/65/48)* (forthcoming).

<sup>148</sup> General Assembly Resolution 61/106 of 13 December 2006. Adopted on 13 December 2006 at the United Nations Headquarters in New York, and opened for signature on 30 March 2007, entered into force on 3 May 2008, in accordance with article 45(1).

<sup>149</sup> General Assembly Resolution 61/106 of 13 December 2006. Adopted on 13 December 2006 at the United Nations Headquarters in New York, and opened for signature on 30 March 2007, entered into force on 3 May 2008, in accordance with article 13(1).

<sup>150</sup> General Assembly Resolution 61/106 of 13 December 2006. Adopted on 13 December 2006 at the United Nations Headquarters in New York, and opened for signature on 30 March 2007, entered into force on 3 May 2008, in accordance with article 13(1).

<sup>151</sup> The report of the first session can be found in (CRPD/C/1/2). The report of the second session can be found in (CRPD/C/2/2).



tion of Complementary Standards.<sup>152</sup> It noted the Committee's mandate to develop complementary standards in the form of either a convention or an additional protocol to the International Convention on the Elimination of All Forms of Racial Discrimination.<sup>153</sup> In addition, it endorsed a road map adopted by the Ad Hoc Committee in its first session as a guiding framework document for all work in this regard.

Also on 27 March 2009, the Human Rights Council adopted resolution 10/25, entitled "Discrimination based on religion or belief and its impact on the enjoyment of economic, social and cultural rights, in which it stressed that the right to freedom of thought, conscience and religion applies equally to all people, regardless of their religions or beliefs and without discrimination as to their equal protection by the law. It urged States, *inter alia*, to ensure that individuals have available to them appropriate legal and other remedies, allowing them to seek redress against discrimination based on religion or belief that affects their enjoyment of economic, social or cultural rights, subject to international human rights law. It also encouraged the promotion and implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief<sup>154</sup> by all actors in society.

## (ii) General Assembly

On 18 December 2009, the General Assembly adopted, on the recommendation of the Third Committee, resolution 64/164 entitled "Elimination of all forms of intolerance and of discrimination based on religion or belief". In this resolution, the Assembly stressed, *inter alia*, that the right to freedom of thought, conscience and religion applies equally to all persons, regardless of their religion or beliefs, and without any discrimination as to their equal protection by the law. It emphasized that, as underlined by the Human Rights Committee, restrictions on the freedom to manifest one's religion or belief are permitted only if prescribed by law, if necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others, if non-discriminatory, and if applied in a manner that does not vitiate the right to freedom of thought, conscience and religion. It further emphasized that legal procedures relating to religious or belief-based groups and places of worship are not required for the right to manifest one's religion or belief to exist, and that any such procedures should be non-discriminatory. It urged States to ensure that their constitutional and legislative systems provide adequate and effective guarantees or freedom of thought, conscience, religion and belief without distinction. It further urged States to ensure that the freedom of all persons and members of groups to establish and maintain charitable, religious or humanitarian institutions is fully respected and protected, in accordance with appropriate national legislation and international human rights law.

On the same day, the General Assembly adopted, on the recommendation of the Third Committee, resolution 64/148 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". In this

<sup>152</sup> Report of the Ad Hoc Committee on the elaboration of complementary standards on its first session, 24 February 2009 (A/HRC/10/88).

<sup>153</sup> United Nations, *Treaty Series*, vol. 660, p. 195.

<sup>154</sup> General Assembly resolution 36/55 of 25 November 1981.

resolution, the Assembly, *inter alia*, called upon States to formulate without delay policies and plans of action to combat racism, racial discrimination, xenophobia and related intolerance at the national, regional and international levels. It acknowledged that no derogation from the prohibition on racial discrimination, genocide, the crime of apartheid or slavery is permitted under relevant human rights instruments, and urged States to review and revise their national immigration laws, policies and practices so that they are free from racial discrimination and compatible with their obligations under international human rights law. It further emphasized that it is the responsibility of States to adopt effective measures to combat criminal acts motivated by racism, racial discrimination, xenophobia and related intolerance, and to ensure that the rule of law is applied. It called upon States which had not yet done so to accede to the Convention on the Elimination of All Forms of Racial Discrimination of 1966,<sup>155</sup> and encouraged Member States and other relevant stakeholders to consider implementing recommendations of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, contained in his reports.<sup>156</sup>

Also on 18 December 2008, the General Assembly adopted, on the recommendation of the Third Committee, resolution 64/147 entitled “Inadmissibility of certain practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance”. In this resolution, the Assembly noted with concern an increase in racist and xenophobic violence in certain countries targeting members of minority ethnic, religious or cultural communities and national minorities. The General Assembly reaffirmed that such acts of violence may fall under the class of activity described in article 4 of the Convention on the Elimination of All Forms of Racial Discrimination of 1966,<sup>157</sup> and an abuse of the right to freedom of opinion and expression under that Convention, as well as the Universal Declaration of Human Rights of 1948<sup>158</sup> and the International Covenant on Civil and Political Rights of 1966.<sup>159</sup> It stressed that failure by Member States to address such practices is incompatible with their obligations under the Charter of the United Nations, and emphasized the need for States to take more effective measures, in accordance with international human rights law, to combat contemporary forms of racism, racial discrimination, xenophobia and related intolerance. It also reaffirmed the importance of human rights education as a complement to legislative measures undertaken by States, and recalled the obligation for States under the International Convention on the Elimination of All Forms of Racial Discrimination,<sup>160</sup> *inter alia*, to declare illegal organizations and propaganda activities that promote and incite racial discrimination.

---

<sup>155</sup> United Nations, *Treaty Series*, vol. 660, p. 195.

<sup>156</sup> See, for example, the Special Rapporteur’s most recent report entitled “Contemporary forms of racism, racial discrimination, xenophobia and related intolerance”, 17 August 2009 (A/64/295).

<sup>157</sup> United Nations, *Treaty Series*, vol. 660, p. 195.

<sup>158</sup> General Assembly resolution 217 A (III) of 10 December 1948.

<sup>159</sup> United Nations, *Treaty Series*, vol. 999, p. 171.

<sup>160</sup> United Nations, *Treaty Series*, vol. 660, p. 195.

### (c) Right to development and poverty reduction

#### (i) Human Rights Council

On 2 October 2009, the Human Rights Council adopted resolution 12/23 entitled “The right to development”. In this resolution, the Council decided to continue to ensure that its agenda promotes and advances sustainable development and the achievement of the Millennium Development Goals;<sup>161</sup> and to ensure that the right to development is raised to the level of all other human rights and fundamental freedoms. It also decided that the Working Group on the Right to Development would establish a set of standards for the implementation of the right to development, with a view to potentially developing these standards into an international legal standard of a binding nature.

#### (ii) General Assembly

On 18 December 2009, the General Assembly adopted, on the recommendation of the Third Committee, resolution 64/172 entitled “The right to development”. In this resolution, the Assembly stressed, *inter alia*, that the primary responsibility for the promotion and protection of human rights lies with States. It recognized that good governance and the rule of law at the national level assist all States in promoting and protecting human rights, and called upon States to institute measures to implement the right to development as an integral part of fundamental human rights. In particular, it acknowledged the need to integrate the important role of women, children and indigenous people in the process of realizing the right to development, and emphasized the need to criminalize all forms of corruption at all levels. With regard to the activities of the United Nations, it called upon United Nations funds, programmes and specialized agencies to mainstream the right to development in their operational programmes and activities, and requested that the Secretary-General submit a report, at the Assembly’s sixty-fifth session, on the implementation of this resolution.

On the same day, the General Assembly adopted, on the recommendation of the Third Committee, resolution 64/135 entitled “Implementation of the outcome of the World Summit for Social Development and of the twenty-fourth special session of the General Assembly”. In this resolution, the Assembly emphasized, *inter alia*, that the major United Nations conferences and summits had reinforced the priority of poverty eradication within the United Nations development agenda. It recognized the need to promote broad respect for human rights and fundamental freedoms in order to address the needs of people living in poverty, including the strengthening and consolidation of democratic institutions and governance. It acknowledged the important nexus between international migration and social development, and stressed the importance of enforcing labour laws effectively with regard to migrant workers’ labour relations and working conditions. It also acknowledged the importance of recognizing the rights of indigenous people, and of anticipating and offsetting the negative social and economic consequences of globalization for people living in rural areas. In addition, it recognized that both the public and private sectors have a role to play in promoting social development: the public sector in developing an environment

<sup>161</sup> General Assembly resolution 55/2 of 8 September 2000.

that allows for full employment and decent work for all; and the private sector in generating new investments, employment and financing for development.

On 21 December 2009, the General Assembly adopted, on the recommendation of the Second Committee, resolution 64/216 entitled “Second United Nations Decade for the Eradication of Poverty”. In this resolution, the Assembly reaffirmed, *inter alia*, that the objective of the Second United Nations Decade for the Eradication of Poverty is to support the implementation of internationally agreed development goals. While reaffirming that each country is primarily responsible for its own development, and that there should be respect for national ownership, strategies and sovereignty, it recognized that States’ efforts should be complemented by supportive international programmes. To this end, it acknowledged a current action plan for poverty eradication involving more than twenty-one agencies, funds, programmes and regional commissions, and recalled its decision to convene a General Assembly high-level political meeting on the theme of poverty eradication.

On the same day, the General Assembly adopted, on the recommendation of the Second Committee, resolution 64/215 entitled “Legal empowerment of the poor and eradication of poverty”. In this resolution, the Assembly emphasized, *inter alia*, the importance of equal access to justice for all, the improvement of administration of justice and identity and birth registration systems, and awareness-raising concerning existing legal rights. It recognized that respect for the rule of law and property rights, as well as appropriate policy and regulatory frameworks, encourage business formation and entrepreneurship, which in turn contribute to poverty eradication. It emphasized the importance of protecting labour rights, including fundamental principles laid down by the International Labour Organization, and encouraged countries to continue their efforts in the legal empowerment of the poor, emphasizing in particular the need to improve and expand literacy.

#### (d) Right of people to self-determination

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

###### a. General Assembly

On 18 December 2009, the General Assembly adopted, on the recommendation of the Third Committee, resolution 64/149 entitled “Universal realization of the right of peoples to self-determination”. In this resolution, the Assembly reaffirmed that the universal realization of the right of all peoples, including those under colonial, foreign or alien domination, to self-determination is a fundamental condition for the effective guarantee and observance of human rights. It also declared its firm opposition to acts of foreign military intervention, aggression and occupation, since these have resulted in the suppression of the right of peoples to self-determination and other human rights in certain parts of the world. It called upon States to cease military intervention and occupation of foreign countries, as well as 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 26 March 2009, the Human Rights Council adopted resolution 10/11 entitled “The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination”. In this resolution, the Council reaffirmed that the use of mercenaries and their recruitment, financing and training are causes for grave concern for all States and violate the purposes and principles enshrined in the Charter of the United Nations. It urged all States to take necessary steps and to exercise the utmost vigilance against the activities of mercenaries, including legislative measures to ensure that their territories under their control are not used for the recruitment, assembly, financing, transit and training of mercenaries. It also called upon States which had not yet done so to consider taking action to become parties to the International Convention against the Recruitment, Use, Financing and Training of Mercenaries,<sup>162</sup> and called upon the international community to cooperate with and assist the judicial prosecution of accused mercenary activities in transparent, open and fair trials, in accordance with international law. It also called upon 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 to consult with intergovernmental and non-governmental organizations on the content and scope of a possible draft convention, accompanying model law and other legal instruments on private companies offering military assistance, consultancy and other military security-related services on the international market.

b. **General Assembly**

On 18 December 2009, the General Assembly adopted, on the recommendation of the Third Committee, resolution 64/151 entitled “Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination”. In this resolution, the Assembly reaffirmed, *inter alia*, that the use of mercenaries and their recruitment, financing and training are causes for grave concern to all States and violate the purposes and principles enshrined in the Charter of the United Nations. It called upon States which had not yet done so to consider taking necessary action to accede to or ratify the International Convention against the Use, Financing and Training of Mercenaries, and to investigate and bring to trial criminal acts of a terrorist nature in accordance with domestic law and bilateral or international treaties. It further called upon Member States to cooperate with and assist the judicial prosecution of accused mercenary activities in transparent, open and fair trials, in accordance with their obligations under international law, and urged States to cooperate with 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.

---

<sup>162</sup> United Nations, *Treaty Series*, vol. 2163, p. 75.

## (e) Economic, social and cultural rights

### (i) *Right to food*

#### a. Human Rights Council

On 26 March 2009, the Human Rights Council adopted resolution 10/12, entitled “The right to food”. In this resolution, the Council reaffirmed, *inter alia*, the right of every person to have adequate food and be free from hunger, and acknowledged that the goal of halving the number of people who are undernourished by 2015 is consistent with Millennium Development Goal 1,<sup>163</sup> as well as the Rome Declaration on World Food Security.<sup>164</sup> It reiterated that food should not be used as an instrument of political or economic pressure, and that it is necessary for States to refrain from unilateral measures that endanger food security and that are not in accordance with international law. Further, it encouraged States to ensure that women and girls have equal access to resources, including land, food and water, in accordance with their obligations under the Convention on the Elimination of All Forms of Discrimination against Women,<sup>165</sup> and to fulfil their obligations relating to the right to adequate food in the International Covenant on Civil and Political Rights.<sup>166</sup>

#### b. General Assembly

On 18 December 2009, the General Assembly adopted, on the recommendation of the Third Committee, resolution 64/159 entitled “The right to food”. In this resolution, the Assembly resolved to act to ensure that the human rights perspective is taken into account at the national, regional and international levels in measures to address the global food crisis. It encouraged States to take steps towards the full realization of the right to food, reaffirming the right of every person to have adequate food and be free from hunger, and encouraging States to ensure that women and girls have equal access to resources, including land, food and water, in accordance with their obligations under the Convention on the Elimination of All Forms of Discrimination against Women. It also urged States to give priority in their development strategies and expenditure to the realization of the right to food, and to fulfil their obligations relating to the right to adequate food in the International Covenant on Civil and Political Rights.

### (ii) *Right to education*

#### a. Human Rights Council

In 2009, Mr Vernoz Muñoz, the Special Rapporteur on the right to education, focused in his annual report to the Human Rights Council<sup>167</sup> on the right to education of persons in detention. In his report, the Special Rapporteur acknowledged that although many prison

<sup>163</sup> United Nations Millennium Declaration, General Assembly resolution 55/2 of 8 September 2000.

<sup>164</sup> Report of the World Food Summit, 13–17 November 1996 (WFS 96/REP), appendix.

<sup>165</sup> United Nations, *Treaty Series*, vol. 1249, p.13.

<sup>166</sup> United Nations, *Treaty Series*, vol. 999, p. 171.

<sup>167</sup> Report of the Special Rapporteur on the right to education of persons in detention, 2 April 2009 (A/HRC/11/8).

systems are in crisis, overcrowded and inadequately resourced, human rights are not relinquished upon imprisonment, and that the right to education is inviolable. He noted that the international community has a long-standing concern to humanize criminal justice, and that international standards had been developed that aim to confront the stigma, indifference and marginalization that often characterizes education in detention. In the Special Rapporteur's opinion, education should be aimed at the full development of the whole person, and therefore requires prisoner access to a range of education resources, including both formal and informal education, literacy programmes, vocational training, creative, religious and cultural activities, physical education and sport, social education, higher education and the provision of library facilities. The Special Rapporteur recommended, *inter alia*, that States entrench the right to education for persons in detention in their Constitutions or related legislation; that education for persons in detention be resourced from public funds; and that particular attention should be given to the education needs of traditionally marginalized groups, including women, children and people with physical, learning and psychosocial disabilities.

On 17 June 2009, the Human Rights Council adopted resolution 11/6 entitled "The right to education: follow-up to Human Rights Council resolution 8/4". In this resolution, the Council called upon States to take all measures to implement resolution 8/4, adopted on 18 June 2008, and to ensure the right to education, an imperative in its own right, of persons in detention in the criminal justice system. It further urged States to provide education that fosters reintegration into society and reduces recidivism by, *inter alia*, ensuring equal access to education for male and female detainees; removing barriers to education in detention, including its possible negative impact on opportunities for remuneration in detention; developing comprehensive education programmes aimed at the development of each detainee's full potential; and ensuring primary education is compulsory, accessible and available free to all.

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

#### Human Rights Council

The Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context presented her report to the Human Rights Council on 9 March 2009.<sup>168</sup> In her report, the Special Rapporteur noted the increasing perception of housing as a mere commodity or financial asset, rather than a human right to be enjoyed by all. She noted that the present financial crisis provided an opportunity to consider the adoption of a human rights-based approach to housing, and that the provision of housing for all cannot be achieved by markets alone, but would likely require public intervention. The Special Rapporteur recommended that the right to adequate housing should be fully integrated into all policies, projects and activities concerning housing, and that decision-making with respect to housing should

---

<sup>168</sup> Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and the right to non-discrimination in this context, 4 February 2009, (A/HRC/10/7).



be coherent, both at the national and international levels, and for all relevant public agencies and actors.

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

a. Human Rights Council

On 1 October 2009, the Human Rights Council adopted resolution 12/8 entitled “Human rights and access to safe drinking water and sanitation”. In this resolution, the Council recognized that States have an obligation to address and eliminate discrimination with regard to access to sanitation. It called upon States to create an enabling environment to address the issue of lack of sanitation at all levels including, where appropriate, by budgeting, legislation and the establishment of regulatory, monitoring and accountability frameworks and mechanisms; the assignment of clear institutional responsibilities; and the appropriate inclusion of sanitation in national poverty reduction strategies and development plans. It also called upon States to adopt a gender-sensitive approach to all relevant policy-making, and stressed the importance of international cooperation and technical assistance by specialized agencies of the United Nations system.

b. General Assembly

On 21 December 2009, the General Assembly adopted resolution 64/198, on the recommendation of the Second Committee, entitled “Midterm comprehensive review of the International Decade for Action, ‘Water for Life’, 2005–2015”. In this resolution, the Assembly reaffirmed, *inter alia*, the internationally agreed development goals on water and sanitation, including those set out in the United Nations Millennium Declaration,<sup>169</sup> and welcomed activities undertaken by Member States relating to the implementation of the International Decade for Action “Water for Life”, 2005–2015. It invited the President of the General Assembly to convene a high-level interactive dialogue of the sixty-fourth session of the General Assembly on the implementation of the Decade, and invited the Secretary-General, in cooperation with UN-Water, to take appropriate action to support Member States in the second half of the decade.

(v) *Right to health*

a. Human Rights Council

The Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Mr Anand Grover, submitted his report to the Human Rights Council on 31 March 2009.<sup>170</sup> In this report, the Special Rapporteur noted that the right to health is an inclusive right, covering not only the provision of timely and appropriate healthcare, but also access to clean water and sanitation, adequate housing and nutrition, as well as social determinants such as gender, racial and ethnic discrimination and disparities. The Special Rapporteur emphasized that if the right to health is integrated

<sup>169</sup> General Assembly resolution 55/2 of 8 September 2000.

<sup>170</sup> Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 31 March 2009 (A/HRC/11/12).



into national and international health policymaking, it can help to establish laws, policies and practices that are sustainable, equitable, meaningful and responsive to the needs of people living in poverty. In addition, the Special Rapporteur expressed the view that States have an obligation to ensure that their laws and practices, including those related to intellectual property attached to medicines, take into account the right to health and the need to ensure access to affordable medicines for all. Further, the Special Rapporteur noted the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS),<sup>171</sup> and recommended that developing and least developed countries review their laws and policies to ensure they have made full use of flexibilities afforded to them under the TRIPS. The Special Rapporteur also recommended that these countries incorporate into their national patent laws all possible grounds upon which compulsory licences may be issued.

### b. General Assembly

The Special Rapporteur also submitted a report to the General Assembly.<sup>172</sup> In this report, the Special Rapporteur focused on the issue of informed consent in the provision of healthcare and medical decision-making. The Special Rapporteur noted that informed consent invokes several elements of human rights law, namely the right to self-determination, freedom from discrimination, freedom from non-consensual experimentation, security and dignity of the human person, recognition before the law, freedom of thought and expression and reproductive self-determination. The Special Rapporteur recommended that States consider whether they are meeting their obligations to safeguard informed consent as a critical element of the right to health through their legal framework and judicial and administrative mechanisms, including policies and practices to protect against abuses.

On 10 December 2009, the General Assembly adopted resolution 64/108 entitled “Global Health and Foreign Policy”. In this resolution, the Assembly noted the report and recommendations of the Secretary-General<sup>173</sup> and recognized the close relationship between foreign policy and global health and their interdependence. It stressed the importance of achieving the health-related Millennium Development Goals,<sup>174</sup> and emphasized the need for further international cooperation to meet emerging, new and unforeseen threats and epidemics. It further acknowledged that the current global influenza vaccine production capacity remains insufficient to meet anticipated need in pandemic situations, and noted with serious concern the lack of health care workers throughout the world, particularly in developing countries. To this end, it urged Member States to consider health issues in the formulation of foreign policy and to affirm their commitment to training health care workers in accredited institutions.

---

<sup>171</sup> Agreement on Trade-Related Aspects of Intellectual Property Rights, 15 April 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1C, United Nations, *Treaty Series*, vol. 1869, p. 299.

<sup>172</sup> Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (A/64/272).

<sup>173</sup> Report of the Secretary-General on global health and foreign policy: strategic opportunities and challenges, 23 September 2009 (A/64/365).

<sup>174</sup> General Assembly resolution 55/2 of 8 September 2000.

## (f) Civil and political rights

### (i) *Torture*

#### a. Human Rights Council

The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Mr. Manfred Nowak, submitted his report to the Human Rights Council.<sup>175</sup> In this report, the Special Rapporteur acknowledged an increasing trend among States towards the abolition of capital punishment, reflected in recent protocols to existing treaties in Europe and the Americas.<sup>176</sup> Nevertheless, the Special Rapporteur noted that there is no explicit prohibition of the death penalty in the text of either the International Covenant on Civil and Political Rights<sup>177</sup> or the European<sup>178</sup> or American<sup>179</sup> Conventions on Human Rights, and that for States which have not ratified the optional Protocols to these Conventions, the use of the death penalty does not constitute an violation of the right to life. In light of this, the Special Rapporteur was of the view that the question of abolishing capital punishment at international law should be considered in the context of States' present-day understanding of "cruel, inhuman or degrading treatment". The Special Rapporteur suggested that the Human Rights Council may wish to follow the call of the General Assembly<sup>180</sup> to request a more comprehensive legal study on the compatibility of the death penalty with the right not to be subject to cruel, inhuman or degrading treatment under international human rights law.

The Special Rapporteur also considered the application of a human rights-based approach to drug policy, particularly with regard to drug users and the right to personal integrity and human dignity. The Special Rapporteur concluded that drug dependence should be treated like any other health-care condition, and that denial of medical treatment in custodial situations, or *de facto* denial of access to pain relief, may constitute cruel, inhuman or degrading treatment. He recommended, *inter alia*, that States refrain from using capital punishment in relation to drug-related offences and avoid discriminatory treatment of drug offenders, such as solitary confinement.

#### b. General Assembly

On 18 December 2009, the General Assembly adopted resolution 64/153 entitled "Torture and other cruel, inhuman or degrading treatment or punishment". In this resolution, the Assembly emphasized that all acts of torture must be made criminal under States' domestic criminal law, and encouraged States to also prohibit acts constituting cruel, inhuman or degrading treatment or punishment. It further condemned any action

<sup>175</sup> Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, 14 January 2009 (A/HRC/10/44).

<sup>176</sup> For example, the sixth and thirteenth Additional Protocols to the European Convention on Human Rights and the Protocol to the American Convention on Human Rights to Abolish the Death Penalty.

<sup>177</sup> United Nations, *Treaty Series*, vol. 999, p. 171.

<sup>178</sup> The European Convention on Human Rights, 4 November 1950.

<sup>179</sup> American Convention on Human Rights, 22 November 1969.

<sup>180</sup> General Assembly resolution 62/149 of 18 December 2007.

or attempt by States or public officials to legalize, authorize or acquiesce in torture or other cruel, inhuman or degrading treatment or punishment under any circumstances, including on grounds of national security or through judicial decisions. In addition, it stressed that national systems must ensure that victims of torture or other cruel, inhuman or degrading treatment or punishment obtain redress, are awarded fair and adequate compensation and receive appropriate social and medical rehabilitation. It called upon States to take appropriate legislative, administrative, judicial and other measures to prevent the production, trade, export and use of equipment specifically designed to inflict torture or other cruel, inhuman or degrading treatment or punishment, and urged States to comply strictly with their obligations under the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.<sup>181</sup> It also urged States not to expel, return (“refouler”), extradite or in any other way transfer a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture, and recognized that diplomatic assurances, where used, do not release States from their obligations under international human rights, humanitarian and refugee law, in particular the principle of *non-refoulement*.

(ii) *Arbitrary detention and extrajudicial, summary and arbitrary execution*

a. **Human Rights Council**

The Special Rapporteur on extrajudicial, summary or arbitrary executions, Mr. Philip Alston, submitted his annual report to the Human Rights Council in 2009.<sup>182</sup> In the report, the Special Rapporteur considered the incidence around the world of vigilante killings, which he defined as unlawful killings of suspected criminals by private citizens, carried out in violation of the law and with the purported aim of crime control. Although vigilante killings are undertaken by private citizens, the Special Rapporteur acknowledged that in many cases they can be attributable to States, in circumstances where States fail to effectively prevent the killings and prosecute perpetrators, or where they give implied approval or tacit support for killings. In this regard, the Special Rapporteur noted that where senior officials of a State do not publicly denounce instances of vigilante killing, there is a reasonable presumption that they have failed to take appropriate measures required of them under international human rights law. The Special Rapporteur particularly focused on the obligation of States to guarantee respect for the right to life within their territory and in areas under their control, and noted that this could be achieved through the adoption of legislative, judicial, administrative, educative and other measures.

On 25 March 2009, the Human Rights Council adopted resolution 10/2, entitled “Human rights in the administration of justice, in particular juvenile justice”. In this resolution, the Council, *inter alia*, called upon Member States to spare no effort in providing effective legislative, judicial, social, educative and other relevant mechanisms and procedures to fully implement United Nations standards in the administration of justice. It invited Governments to provide training on human rights to professionals working in the field of administration of justice, including judges, lawyers, prosecutors, social work-

<sup>181</sup> United Nations, *Treaty Series*, vol. 1465, p. 85.

<sup>182</sup> Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, 20 May 2010 (A/HRC/14/24).

ers, and immigration and police officers. It recognized that all children and juveniles in conflict with the law of a particular state must be treated in a manner consistent with their rights, dignity and needs, and in accordance with international law. Further, it urged States to ensure that capital punishment and life imprisonment without the possibility of release are not imposed for people under the age of 18, neither in their legislation nor their practice.

On 26 March 2009, the Human Rights Council adopted resolution 10/9 entitled “Arbitrary detention”. In this resolution, the Council, *inter alia*, encouraged States to take appropriate measures to ensure that their legislation, regulations and practices remain in conformity with the relevant international standards and applicable international legal instruments concerning detention. It also encouraged States to respect and promote the right of any person who has been arrested or criminally charged to be entitled to a trial within a reasonable period, and if a court determines that the person’s detention has been unlawful, the right of that person to be released from detention. Further, the Council encouraged all States to ensure that immigrants in an irregular situation and asylum-seekers are protected from arbitrary arrest or detention.

### (iii) *Enforced disappearances*

#### a. Human Rights Council

On 26 March 2009, the Human Rights Council adopted resolution 10/10 entitled “Enforced or involuntary disappearances”. In this resolution, the Council, *inter alia*, urged States to promote and give effect to the Declaration on the Protection of All Persons from Enforced Disappearance,<sup>183</sup> and to ensure that authorities charged with investigation and prosecution have sufficient resources to resolve cases and bring perpetrators to justice. It further urged States to make provision in their legal system to ensure victims of enforced disappearance are able to seek fair, prompt and adequate reparation. It invited States to take legislative, administrative, legal and other steps to take action at the national and regional levels, and in cooperation with the United Nations. It encouraged States that have not yet signed, ratified or acceded to the International Convention for the Protection of All Persons from Enforced Disappearance<sup>184</sup> to consider doing so.

#### b. General Assembly

On 18 December 2009, the General Assembly adopted, on the recommendation of the Third Committee, resolution 64/167 entitled “International Convention for the Protection of All Persons from Enforced Disappearance”. In this resolution, the Assembly, *inter alia*, welcomed the adoption of the International Convention for the Protection of All Persons from Enforced Disappearance. It acknowledged the work of the International Committee of the Red Cross in promoting compliance with international humanitarian law and acknowledged that acts of enforced disappearance are recognized by the Convention as crimes against humanity, in certain circumstances. Further, it noted the fact that eighty-one States had signed the Convention and sixteen had ratified or acceded to it, but called

<sup>183</sup> General Assembly resolution 47/133 of 18 December 1992.

<sup>184</sup> General Assembly resolution 61/177 of 20 December 2006.

upon States that had not done so to consider signing, ratifying or acceding to it. It also requested United Nations agencies, intergovernmental and non-governmental organizations and the Working Group on Enforced or Involuntary Disappearances to disseminate information on the Convention and promote understanding of it.

(iv) *Integration of human rights of women and a gender perspective*<sup>185</sup>

a. Human Rights Council

On 17 June 2009, the Human Rights Council adopted resolution 11/2 entitled “Accelerating efforts to eliminate all forms of violence against women”. In this resolution, the Council, *inter alia*, strongly condemned all acts of violence against women and girls, whether perpetrated by the State, private persons or non-state actors. It stressed that all forms of violence against women and girls must be treated as criminal offences punishable by law, and called upon States to ensure that their legislation includes measures to enhance protection of victims and prosecute, punish and redress wrongs done to women and girls, in accordance with international human rights instruments and international humanitarian law. Further, it encouraged States to implement Security Council resolutions 1325 (2000) of 31 October 2000 and 1820 (2008) of 19 June 2008 in their efforts to eliminate all forms of violence against women and girls. It stressed that challenges and obstacles remain in the implementation of international standards and norms to address the inequality between men and women, and violence against women in particular, and pledged to intensify action to ensure their full and accelerated implementation.

b. General Assembly

On 21 December 2009, the General Assembly adopted, on the recommendation of the Second Committee, resolution 64/217 entitled “Women in development”. In this resolution, the Assembly, *inter alia*, urged Member States, non-governmental organizations and the United Nations system to accelerate further efforts to empower women to participate actively and effectively in the development, implementation and evaluation of national development and/or poverty eradication policies, strategies and programmes. It encouraged Governments, the private sector, non-governmental organizations and other actors of civil society to promote and protect the rights of women workers; to take action to remove structural and legal barriers as well as stereotypical attitudes towards gender equality at work; and to initiate positive steps to promote equal pay for equal work or work of equal value. Further, it urged Member States to adopt and review legislation and policies to ensure women’s equal access to and control over land, housing and property; to provide training designed to make the legislative, judicial and administrative system more responsive to gender equality issues; and to provide legal aid to women seeking to claim their rights.

On 18 December 2009, the General Assembly adopted, on the recommendation of the Third Committee, resolution 64/141 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 session of the General Assembly”. In this resolution, the

<sup>185</sup> For more information on the rights of women, see section 6 of this chapter.

Assembly, *inter alia*, reaffirmed the Beijing Declaration and Platform for Action adopted at the Fourth World Conference on Women,<sup>186</sup> the outcome of the twenty-third special session of the General Assembly,<sup>187</sup> and the declaration adopted by the Commission on the Status of Women on the occasion of the ten-year review and appraisal of the implementation of Beijing Declaration and Platform for Action.<sup>188</sup> It also called upon State parties, *inter alia*, to comply fully with their obligations under the Convention on the Elimination of All Forms of Discrimination Against Women<sup>189</sup> and its Optional Protocol,<sup>190</sup> to elaborate and implement laws and strategies to eliminate violence against women and girls; and to intensify action to achieve the full and effective implementation of the Beijing Declaration and Platform for Action, and the outcome of the twenty-third special session of the General Assembly.

On the same day, the General Assembly adopted, on the recommendation of the Third Committee, resolution 64/137 entitled “Intensification of efforts to eliminate all forms of violence against women”. In this resolution, the Assembly, *inter alia*, called upon the international community to support national efforts to promote the empowerment of women and gender equality in order to enhance national efforts to eliminate violence against women and girls. It stressed that adequate resources should be assigned to United Nations bodies, specialized agencies, funds and programmes responsible for promoting gender equality and women’s rights, and welcomed the adoption by the Statistical Commission of an interim set of indicators to measure violence against women.<sup>191</sup>

## (v) *Trafficking*

### a. Human Rights Council

On 17 June 2009, the Human Rights Council adopted resolution 11/3 entitled “Trafficking in persons, especially women and children”. In this resolution, the Council reiterated its concerns about, *inter alia*, the increasing activities of those who profit from trafficking in persons, especially women and children, without regard for dangerous and inhumane conditions, in flagrant violation of domestic laws and international law, and contrary to international standards. It urged Governments to take appropriate measures to address the root factors that encourage trafficking in persons; to criminalize trafficking of persons in all its forms; to ensure protection and assistance to the victims of trafficking with full respect for their human rights, including through legislation, where appropriate; and to adopt or strengthen legislation or other measures to discourage the demand that fosters all forms of exploitation of persons and leads to trafficking of persons.

<sup>186</sup> Report of the Fourth World Conference on Women, 4–15 September 2005 (A/CONF.177/20).

<sup>187</sup> General Assembly resolutions S-23/2, annex, and S-23/3, annex.

<sup>188</sup> *Official Records of the Economic and Social Council, 2005, Supplement No. 7 and corrigendum (E/2005/27 and Corr.1)*, chap. I, sect. A; see also Economic and Social Council decision 2005/232

<sup>189</sup> United Nations, *Treaty Series*, vol. 1249, p. 13.

<sup>190</sup> United Nations, *Treaty Series*, vol. 2131, p. 83.

<sup>191</sup> Report of the Friends of the United Nations Statistical Committee on the Indicators on Violence Against Women, 24–27 February 2009 (E/CN.3/2009/13).

## b. General Assembly

On 18 December 2009, the General Assembly adopted, on the recommendation of the Third Committee, resolution 64/178 entitled “Improving the coordination of efforts against trafficking in persons”. In this resolution, the Assembly *inter alia* urged Member States that have not yet done so to consider taking measures to ratify or accede to international instruments concerning trafficking in persons, including the United Nations Convention against Transnational Organized Crime;<sup>192</sup> the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children;<sup>193</sup> and the Optional Protocol to the Convention on the Rights of the Child concerning sale of children, child prostitution and child pornography.<sup>194</sup> It called upon Governments to continue their efforts to criminalize trafficking in all its forms, including labour and sexual exploitation of children.

## (g) Rights of the child

### a. Human Rights Council

The Special Rapporteur on the sale of children, child prostitution and child pornography, Ms. Najat M’jid Maalla, submitted her report to the Human Rights Council on 2 July 2009.<sup>195</sup> In her report, the Special Rapporteur noted that Internet child pornography is criminalized by legislation in some countries, but is punishable only on the grounds that it is against public morals in other States. In order to prevent and eradicate child pornography, and to prevent the Internet from being used to disseminate and produce child pornography, or to solicit children for sexual purposes, the Special Rapporteur recommended that States ratify regional and international instruments dealing with child pornography. The Special Rapporteur also recommended that States adopt clear and comprehensive legislation that, *inter alia*, defines, prohibits and criminalizes child pornography on the Internet; stipulates that a minor can never consent to participation in sexual exploitation; and ensures that child victims of sexual exploitation are considered to be victims of human rights violations and receive appropriate care. In addition, the Special Rapporteur recommended that extraterritorial jurisdiction be established for all cases of sexual exploitation of children; that the principle of double jeopardy be abolished; and that mutual legal assistance be facilitated with a view to guaranteeing the appropriate prosecution of these crimes and the imposition of appropriate penalties.

On 17 June 2009, the Human Rights Council adopted resolution 11/1 entitled “Open-ended Working Group on the optional protocol to the Convention on the Rights of the Child to provide a communications procedure”. In this resolution, the Council, *inter alia*, noted that there is no procedure under the Convention on the Rights of the Child for children and their representatives to have their concerns about implementation of rights set out in the Convention considered by an appropriate committee of independent experts. To this end, the Council decided to establish an open-ended working group to explore the

<sup>192</sup> General Assembly resolution 55/25 of 15 November 2000.

<sup>193</sup> General Assembly resolution 55/25 of 15 November 2000 (A/55/383).

<sup>194</sup> United Nations, *Treaty Series*, vol. 2171, p.247.

<sup>195</sup> Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, 2 July 2009 (A/HRC/12/23).



possibility of elaborating an optional protocol providing a communications procedure complementary to the reporting procedure under the Convention.

On the same day, the Human Rights Council adopted resolution 11/7 entitled “Guidelines for the Alternative Care of Children”. In this resolution, the Council, *inter alia*, considered the “Guidelines for the Alternative Care of Children”<sup>196</sup> and decided to submit them to the General Assembly for consideration, with a view to their adoption on the twentieth anniversary of the Convention on the Rights of the Child.

## b. General Assembly

On 7 December 2009, the General Assembly adopted resolution 64/80 entitled “International Decade for a Culture of Peace and Non-Violence for the Children of the World, 2001–2010”. In this resolution, the Assembly, *inter alia*, reiterated that the objective of the International Decade is to strengthen further global movement for a culture of peace following the observance of the International Year for the Culture of Peace in 2000. It encouraged civil society, including non-governmental organizations, to strengthen its efforts in furtherance of the objectives of the Decade.

On 18 December 2009, the General Assembly adopted, on the recommendation of the Third Committee, resolution 64/146 entitled “The Rights of the Child”. In this resolution, the Assembly commemorated the twentieth anniversary of the adoption of the Convention on the Rights of the Child<sup>197</sup> and the fiftieth anniversary of the Declaration on the Rights of the Child.<sup>198</sup> It urged, *inter alia*, States that had not yet done so to become parties to the Convention and its Optional Protocols,<sup>199</sup> and called upon States already parties to the Convention to withdraw reservations that are incompatible with the object and purpose of the Convention or the Optional Protocols. It further urged State Parties to comply with their obligations under the Convention, particularly with regard to family relations, adoption or other forms of alternative care affecting children; economic and social well-being of children, including eradication of poverty, right to education, enjoyment of the highest attainable standard of physical and mental health and right to food; elimination of violence against children; and children affected by armed conflict. It also called for the prevention and eradication of the sale of children, child prostitution and child pornography, as well as protection of children in particularly difficult situations, and children alleged to have infringed or recognized as having infringed a penal law. Further, the Assembly recognized that children who are capable of forming their own views should be assured the right to express their views on all matters concerning them, and called upon States, *inter alia*, to provide support to children and adolescents to form and register their own associations and other child and adolescent-led initiatives, in accordance with national and international law. The Assembly also called upon States to ensure that a child’s right to be heard is respected and their best interests taken as a primary consideration, in accordance with

<sup>196</sup> Report of the Human Rights Council on its eleventh session, 16 October 2009 (A/HRC/11/37), annex.

<sup>197</sup> United Nations, *Treaty Series*, vol. 1577, p. 3.

<sup>198</sup> General Assembly resolution 14/1386 of 20 November 1959.

<sup>199</sup> United Nations, *Treaty Series*, vol. 2171 p. 227 and vol. 2173 p. 222.



legal procedures and applicable international agreements, in situations where they are wrongfully removed or subjected to enforced disappearance.

On the same day, the General Assembly adopted, on the recommendation of the Third Committee, resolution 64/145 entitled “The girl child”. In this resolution, the Assembly, *inter alia*, recognized that girl children are often at greater risk than boy children of being exposed to and encountering various forms of discrimination and violence. It stressed the need for full implementation of the rights of the girl child as provided under human rights instruments, and urged States to consider signing, ratifying or acceding to the Convention on the Rights of the Child,<sup>200</sup> the Convention on the Elimination of All Forms of Discrimination against Women<sup>201</sup> and the Convention on the Rights of Persons with Disabilities,<sup>202</sup> and the Optional Protocols<sup>203</sup> to these Conventions. It urged States to promote gender equality and equal access to basic social services, including education, nutrition, birth registration and health care, and to enact and strictly enforce laws to ensure that marriage is only entered into with the full and free consent of the intending spouses. In this respect, the Assembly called upon States with the support of international organizations, civil society and non-governmental organizations to generate social support for the enforcement of laws on the minimum legal age for marriage. It also urged States to enact and enforce legislation to protect girls from all forms of violence and exploitation, as well as the distribution over the Internet of child pornography. Further, it called upon the international community to create an environment where the well-being of the girl child is ensured, in order to ensure that all internationally agreed development and poverty eradication goals, including those set out in the Millennium Declaration,<sup>204</sup> are realized.

The General Assembly also adopted, on 18 December 2009, on the recommendation of the Third Committee, resolution 64/142, entitled “Guidelines for the Alternative Care of Children”. In this resolution, the Assembly welcomed the Guidelines as a set of orientations to help inform policy and practice. It encouraged, *inter alia*, States to take the Guidelines into account and to bring them to the attention of the executive, legislative and judiciary bodies of the government, human rights defenders and lawyers, the media and the public in general.

## (h) Migrants

### a. Human Rights Council

On 18 June 2009, the Human Rights Council adopted resolution 11/9 entitled “The human rights of migrants in detention centres”. In this resolution, the Council noted the work of the Special Rapporteur on the human rights of migrants and emphasized the importance of addressing the situation of migrants in detention centres and administra-

<sup>200</sup> United Nations, *Treaty Series*, vol. 1577, p. 3.

<sup>201</sup> United Nations, *Treaty Series*, vol. 2131 p. 83.

<sup>202</sup> General Assembly resolution 61/106 of 13 December 2006. Adopted on 13 December 2006 at the United Nations Headquarters in New York, and opened for signature on 30 March 2007, entered into force on 3 May 2008, in accordance with article 45 (1).

<sup>203</sup> United Nations, *Treaty Series*, vol. 2171 p. 81 and vol. 2173 p. 222; vol. 2131 p. 81.

<sup>204</sup> General Assembly resolution 55/2 of 8 September 2000.

tive detention, where there is the potential for migrants' human rights to be violated. It decided, *inter alia*, to hold a panel discussion on the issue of human rights of migrants in detention at its following session, in September 2009, where it proposed to discuss trends, good practices and challenges, as well as means of reducing recourse to and duration of detention for migrants entering a country in an irregular manner.

## b. General Assembly

On 18 December 2009, the General Assembly adopted, on the recommendation of the Third Committee, resolution 64/139 entitled "Violence against women migrant workers". In this resolution, the Assembly encouraged Member States to consider signing and ratifying or acceding to conventions relating to the rights of migrant workers, and human rights treaties that contribute specifically to the protection of women migrant workers. It called upon all Governments to incorporate a human rights and gender perspective in legislation and policies relating to migration, labour and employment, for the protection of women migrant workers against violence, discrimination, exploitation and abuse. It also called upon Governments to adopt or strengthen measures to protect the human rights of women migrant workers, regardless of their immigration status, and to consider expanding dialogue with other States on devising innovative ways to promote legal channels of migration. In addition, it called upon Governments to put in place penal and criminal sanctions to punish perpetrators of violence against women migrant workers, and to take action to prevent any illegal deprivation of liberty of women migrant workers by organizations or individuals.

On the same day, the General Assembly adopted, on the recommendation of the Third Committee, resolution 64/166 entitled "Protection of migrants". In this resolution, the Assembly, *inter alia*, expressed concern over the impact of the economic and financial crisis on international migrants, and strongly condemned acts of racism, racial discrimination, xenophobia and related intolerances against migrants and the stereotypes often applied to them. It urged States to apply or reinforce existing laws against such acts, and in this context, reaffirmed the rights set out in the Universal Declaration of Human Rights<sup>205</sup> and the obligations under the International Covenant on Civil and Political Rights.<sup>206</sup> It further expressed concern about legislation and measures adopted by some States that may restrict the human rights and fundamental freedoms of migrants, and reminded States of their duty to comply with international human rights law obligations with regard to their treatment of migrants, including when migrants are in transit or at borders or migration checkpoints. It also requested States to enforce labour law effectively, in order to protect migrant workers' labour relations and work conditions, and reaffirmed the obligation of States to ensure full respect for the Vienna Convention on Consular Relations,<sup>207</sup> in particular with regard to allowing foreign nationals to contact consular officers of their country of origin in the event of arrest, imprisonment or detention.

---

<sup>205</sup> General Assembly resolution 3/217(III) of 10 December 1948.

<sup>206</sup> United Nations, *Treaty Series*, vol. 999, p. 171.

<sup>207</sup> United Nations *Treaty Series*, vol. 596, p. 261.

## (i) Internally displaced persons

### a. Human Rights Council

On 9 February 2009, the Representative of the Secretary-General on the human rights of internally-displaced persons, Mr. Walter Kälin, presented his report to the Human Rights Council.<sup>208</sup> In this report, the Representative noted with regret that the occurrence of internal displacement of people had increased over the past ten years, as a result not only of climate change, but also because of situations of protracted displacement. These usually occur as a result of unresolved conflicts, lack of political will amongst national Governments, or insufficient support by international actors. In light of this, the Representative re-emphasized the significance of the Guiding Principles on Internal Displacement,<sup>209</sup> presented to the Commission on Human Rights in its fifty-fourth session by the previous Representative of the Secretary-General Mr. Francis Deng, and called on Member States to develop the capacity and political will to implement them in practice. The Representative acknowledged that there had been increasing efforts to incorporate the Guiding Principles into national legal and policy frameworks, acknowledging in particular national policies of Iraq and Germany, and of the Organization for Security and Co-operation in Europe. The Representative noted, however, that the number of displaced persons had not declined over the past ten years. Further, the Representative acknowledged that many countries affected by internal displacement had not enacted legislation and policies in line with the Guiding Principles, and that where such legislation and policies did exist, there was often a significant gap between the texts of the laws and policies and their implementation in practice. The Representative recommended that States draft national legislation and policies consistent with the Guiding Principles, scrupulously respect their obligations under international human rights law, international humanitarian law and international criminal law to refrain from acts amounting to violations of the Guiding Principles, and protect internally displaced persons. In addition, the Representative recommended that, where violations occur, States should investigate, prosecute and punish crimes against humanity and war crimes causing internal displacement or committed against those who have been displaced.

On 3 August 2009, the Representative presented a report to the Human Rights Committee entitled “Protection of and assistance to internally displaced persons”.<sup>210</sup> In this report, the Representative outlined relevant legal frameworks and identified typical human rights protection challenges which persons displaced or at risk of being displaced may face as a result of climate change. The Representative again acknowledged that the normative framework for human rights protection with regard to internally displaced persons is the Guiding Principles on Internal Displacement, but noted that there is a lack of distinction in the Principles between voluntary population movements, for example where people

<sup>208</sup> Report of the Representative of the Secretary-General on the human rights of internally-displaced persons, 9 February 2009 (A/HRC/10/13).

<sup>209</sup> Report of the Representative of the Secretary-General, Mr Francis M. Deng, submitted pursuant to Commission resolution 1997/39, 11 February 1998 (E/CN.4/1998/53/Add.2).

<sup>210</sup> Report of the Representative of the Secretary-General on protection of and assistance to internally displaced persons, 3 August 2009, (A/64/214). See also Report of the Representative of the Secretary-General on protection of internally displaced persons in situations of natural disasters, 5 March 2009 (A/HRC/10/13/Add.1).

relocate to find a better life in areas not affected by extreme weather events, and forced displacement, where movement is triggered by a threat to life, health, property or livelihood. The Representative also noted that where internally displaced persons move across international boundaries, they are entitled to general human rights guarantees in the receiving state, but not to a right of entry into that state, unless the Government in their state of origin has withheld or obstructed assistance to them in order to punish or marginalize them on one of the grounds specified in the 1951 Convention relating to the status of refugees.<sup>211</sup> In addition to the conclusions made in the report of 9 February 2009, the Representative recommended that States criminalize arbitrary displacement, to the extent that it amounts to an international crime, and bring all perpetrators to justice, regardless of their affiliation or rank; adopt and implement disaster-management laws, policies and mechanisms to protect persons from natural hazards; mitigate the effects of natural disasters and protect persons during and after natural disasters; and adopt laws and policies on internal displacement that outline the specific duties of national actors, assign responsibilities among State institutions and establish adequate funding mechanisms.

### (j) Minorities

#### Human rights Council

On 16 February 2009, the Independent Expert on Minority Issues, Ms. Gay McDougall, presented her report to the Human Rights Council.<sup>212</sup> In her report, the Independent Expert outlined the outcomes of her visits to Guyana and Greece, her engagement with non-governmental organizations, including participation in the Regional Workshop on Minority Issues in Southeast Asia from 21 to 23 February 2008, and engagement in the Forum on Minority Issues in accordance with Human Rights Council resolution 6/15 of 28 September 2007.

### (k) Indigenous issues

#### Human rights Council

On 15 July 2009, the Special Rapporteur on the situation on human rights and fundamental freedoms of indigenous people, Mr. James Anaya, presented his report to the Human Rights Council.<sup>213</sup> In this report, the Special Rapporteur summarized his principal areas of work, and discussed in detail States' compliance with the duty to consult in good faith with indigenous people on decisions affecting them, as contained in the United Nations Declaration on the Rights of Indigenous People<sup>214</sup> and rooted in international human rights law. In the Special Rapporteur's view, the duty applies whenever a State makes a decision that may affect indigenous peoples in a way not felt by others in society, even if it does not affect a recognized right or legal entitlement. Further, the Special

<sup>211</sup> United Nations, *Treaty Series*, vol. 189, p. 137.

<sup>212</sup> Report of the independent expert on minority issues, 16 February 2009 (A/HRC/10/11).

<sup>213</sup> Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, 15 July 2009 (A/HRC/12/34).

<sup>214</sup> General Assembly resolution 61/295 of 13 September 2007.

Rapporteur noted that the duty of States to protect the human rights of indigenous peoples cannot be avoided by delegation to a private company or other entity, and that it should take place at the earliest possible opportunity and at all stages of decision-making. The Special Rapporteur recommended that States develop adequate analyses and impact assessments of proposed legislative or administrative measures, and make these available to the indigenous peoples concerned well in advance of consultation. He also recommended that States endeavour to ensure that indigenous people have sufficient resources to participate in consultations, and that, where private companies are involved, States should develop specific mechanisms to monitor closely company behaviour and ensure full respect for indigenous peoples' rights.

### **(I) Terrorism and human rights<sup>215</sup>**

#### **a. Human rights Council**

On 26 March 2009, the Human Rights Council adopted resolution 10/10 entitled "Protection of human rights and fundamental freedoms while countering terrorism". In this resolution, the Council, *inter alia*, called upon States to ensure that any measures taken to counter terrorism comply with international law, and in particular international human rights, refugee and humanitarian law. It urged States to ensure respect for the right to be equal before the courts and tribunals and to a fair trial, as required under relevant international human rights law, and in particular under article 14 of the International Covenant on Civil and Political Rights.<sup>216</sup> In addition, it requested that the Special Rapporteur on the promotion and protection of human rights while countering terrorism prepare a compilation of good practices on legal and institutional frameworks and measures that ensure human rights, for the benefit of intelligence agencies. It also stressed the important role of United Nations bodies that provide technical assistance related to the prevention and suppression of terrorism to consenting States, including, where appropriate, assistance with regard to the respect of international human rights law, international humanitarian law, refugee law and the rule of law.

#### **b. General Assembly**

On 18 December 2009, the General Assembly adopted, on the recommendation of the Third Committee, resolution 64/168 entitled "Protection of human rights and fundamental freedoms while countering terrorism".<sup>217</sup> In this resolution, the Assembly reaffirmed that States must ensure that any measures taken to combat terrorism comply with their obligations under international law, including recognition of non-derogable rights, as well as international human rights, refugee and humanitarian law. In particular, it urged States, in countering terrorism, to take all necessary steps to ensure that persons deprived of their liberty benefit from guarantees to which they are entitled under international law, including review of detention and other fundamental judicial guarantees. Further, it called upon

<sup>215</sup> For further information on terrorism, see sections 2 (g) and 16 (f) of this chapter.

<sup>216</sup> United Nations, *Treaty Series*, vol. 999, p. 171.

<sup>217</sup> See also General Assembly resolution 64/235 of 24 December 2009 entitled "Institutionalization of the Counter-Terrorism Implementation Task Force".

States to ensure that their pre-entry and border control mechanisms are clear and fully respect international law; to fully respect *non-refoulement* obligations under international refugee and human rights law; to refrain from exposing an individual to cruel, inhuman or degrading treatment or punishment by way of returning them to another country, insofar as it would be contrary to international law to do so; and to ensure that their laws criminalizing acts of terrorism are accessible, formulated with precision, non-discriminatory, non-retroactive, and in accordance with international law, including international human rights law. It also urged States to ensure that interrogation methods used against terrorist suspects are consistent with their international obligations, and that any person whose human rights or fundamental freedoms have been violated has access to an effective remedy, and receives adequate, effective and prompt reparations, where appropriate.

On the same day, the General Assembly also adopted, on the recommendation of the Third Committee, resolution 64/177 entitled “Technical assistance for implementing the international conventions and protocols related to terrorism”. In this resolution, the Assembly, *inter alia*, urged Member States that have not yet done so to consider becoming parties to international conventions and protocols related to terrorism, and recognized the importance of developing and maintaining fair and effective criminal justice systems in establishing strategies to combat terrorism. It requested the United Nations Office of Drugs and Crime to reinforce the provision of technical assistance to Member States for the ratification and legislative incorporation of those international legal instruments, as well as the building of national capacity to strengthen criminal justice systems and the rule of law. The Assembly also urged Member States to strengthen international cooperation in order to prevent and combat terrorism, including by entering into bilateral and multilateral treaties on extradition and mutual legal assistance.

### **(m) Promotion and protection of human rights**

#### **(i) *International cooperation and universal instruments***

##### **a. Human Rights Council**

On 26 March 2009, the Human Rights Council adopted resolution 10/6 entitled “Enhancement of international cooperation in the field of human rights”. In this resolution, the Council, *inter alia*, reaffirmed that it is 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, including through international cooperation. It recognized that States have a collective responsibility to uphold the principles of human dignity, equality and equity at the global level, and called upon all Member States, specialized agencies and intergovernmental organizations to carry out a constructive dialogue and consultations for the enhancement of understanding, and promotion and protection of all human rights and fundamental freedoms. The Council also took note of the report of the United Nations High Commissioner for Human Rights<sup>218</sup> on the enhancement of international cooperation in the field of human rights.

---

<sup>218</sup> Report of the United Nations High Commissioner for Human Rights, 14 January 2009 (A/HRC/10/26).

## b. General Assembly

On 18 December 2009, the General Assembly adopted, on the recommendation of the Third Committee, resolution 64/171 entitled “Enhancement of international cooperation in the field of human rights”. In this resolution, the Assembly, *inter alia*, reaffirmed that it is 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, including through international cooperation. It also recognized that States have a collective responsibility to uphold the principles of human dignity, equality and equity at the global level, and called upon all Member States, specialized agencies and intergovernmental organizations to carry out a constructive dialogue and consultations for the enhancement of understanding, and promotion and protection of all human rights and fundamental freedoms.

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

#### General Assembly

On 18 December 2009, the General Assembly adopted, on the recommendation of the Third Committee, resolution 64/161 entitled “National institutions for the promotion and protection of human rights”. In this resolution, the Assembly, *inter alia*, reaffirmed the importance of developing national institutions for the promotion and protection of human rights in working together with Governments to ensure full respect for human rights at the national level. It also recognized that under the Vienna Declaration and Programme of Action,<sup>219</sup> States have the right to choose the framework for national institutions that is best suited to its particular needs in order to promote human rights and fundamental freedoms for all. It encouraged national institutions for the promotion and protection of human rights to continue to play an active role in preventing and combating all violations of human rights as enumerated in the Vienna Declaration and Programme of Action and relevant international instruments.

### (iii) *The right to the truth*

#### Human Rights Council

On 1 October 2009, the Human Rights Council adopted resolution 12/12 entitled “Right to the truth”. In this resolution, the Council, *inter alia*, 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. It encouraged States to consider establishing specific judicial mechanisms and, where appropriate, truth and reconciliation commissions to complement the justice system, in order to investigate gross violations of human rights and serious violations of international humanitarian law. It also encouraged States to participate in exchange of information concerning administrative, legislative, judicial and non-judicial measures. Further, it encouraged States to design programmes and other measures

<sup>219</sup> Report of the World Conference on Human Rights, 14–25 June 1993 (A/CONF.157/24 (Part I)).



to protect witnesses and other individuals who cooperate with judicial and quasi-judicial bodies, such as human rights and truth commissions. In this regard, it requested that the United Nations High Commissioner for Human Rights prepare a report on the need to develop common standards and best practices for the protection of witnesses.

(iv) *Human rights and the right to promote and protect universally recognized human rights*

**General Assembly**

On 18 December 2009, the General Assembly adopted, on the recommendation of the Third Committee, resolution 64/163 entitled “Declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms”. In this resolution, the Assembly, *inter alia*, noted with deep concern that people engaged in defending human rights and fundamental freedoms frequently face threats and harassment, and expressed grave concern that in some instances, national security and counter-terrorism legislation has been used to target human rights defenders, or hindered their work and safety in a manner contrary to international law. It called upon all States to promote and give full effect to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.<sup>220</sup> It also encouraged States to promote awareness and training in regard to the Declaration, in order to enable officials, agencies, authorities and members of the judiciary to observe the provisions of the Declaration and thus promote a better understanding of individuals, groups and organs of society engaged in promoting and protecting human rights, as well as their work. Further, it reaffirmed that national legislation consistent with the Charter of the United Nations, along with other international obligations of States in the field of human rights and fundamental freedoms, is the juridical framework within which human rights defenders conduct their activities. To this end, it called upon States, in accordance with national legislation and international law, to respect, protect and ensure the rights to freedom of expression and association of human rights defenders, and to ensure registration procedures for civil society organizations are transparent, non-discriminatory, expeditious and inexpensive, and allow the possibility for appeal.

**(n) Persons with disabilities**

**a. Human Rights Council**

On 26 March 2009, the Human Rights Council adopted resolution 10/7 entitled “Human rights of persons with disabilities: national frameworks for the promotion and protection of human rights of persons with disabilities”. In this resolution, the Council, *inter alia*, welcomed the entry into force of the Convention on the Rights of Persons with Disabilities<sup>221</sup> and its Optional Protocol<sup>222</sup> on 3 May 2008, and the first meeting of the

<sup>220</sup> General Assembly resolution of 9 December 1998 (A/RES/53/144), annex.

<sup>221</sup> General Assembly resolution 61/106 of 13 December 2006, annex I.

<sup>222</sup> *Ibid.*, annex II.



Conference of States and of the Committee on the Rights of Persons with Disabilities. It encouraged States that had made reservations to the Convention to regularly review the effect and continued relevance of such reservations, and to consider the possibility of withdrawing them. It also encouraged States to promptly undertake a review of all legislation and other measures, and to identify, modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities. The Council also encouraged States to exchange information on legislative measures and models that guarantee the rights of persons with disabilities, and called upon them to give practical effect to the principle of non-discrimination on the basis of disability, particularly with regard to enjoyment of political rights and effective access to justice, and the availability of redress where rights are denied.

#### b. General Assembly

On 18 December 2009, the General Assembly adopted, on the recommendation of the Third Committee, resolution 64/131 entitled “Realizing the Millennium Goals for persons with disabilities”. In this resolution, the Assembly urged Member States to promote the Millennium Goals for persons with disabilities, *inter alia*, by explicitly including disability issues and persons with disabilities in national plans and tools designed to contribute to the full realization of the Goals. It encouraged Governments to develop and accelerate the exchange of information, guidelines and standards, best practices, legislative measures and government policies regarding the situation of persons with disabilities and disability issues, in particular as they relate to inclusion and accessibility. It also called upon Governments to build a knowledge base of data and information about the situation of persons with disabilities that could be used to enable development policy planning, monitoring, evaluation and implementation to be disability-sensitive. It further called upon Governments to enable persons with disabilities to participate as agents and beneficiaries of development, particularly in including persons with disabilities in the development areas, *inter alia*, of poverty and hunger eradication, achieving universal primary education, promoting gender equality and reducing child mortality.

On the same day, the General Assembly adopted, on the recommendation of the Third Committee, resolution 64/154, entitled “Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto”. In this resolution, the Assembly welcomed the fact that an increasing number of States had signed or ratified the Convention on the Rights of Persons with Disabilities and its Optional Protocol, and called upon States which had not yet signed and ratified them to consider doing so as a matter of priority. To this end, it invited the Secretary-General to provide assistance to States in ratifying the Convention and its Optional Protocol, and to continue to implement standards and guidelines for the accessibility of facilities and services of the United Nations system. It also requested the Secretary-General to take further action to promote the rights of persons with disabilities in the United Nations system in accordance with the Convention, including the retention and recruitment of persons with disabilities, and called upon United Nations agencies and organizations, as well as intergovernmental and non-governmental organizations, to continue to strengthen efforts to disseminate information on the Convention and its Optional Protocol, including to young people and children.

## (o) Contemporary forms of slavery

### a. Human Rights Council

The Special Rapporteur on Contemporary Forms of Slavery, Ms. Gulnara Shahinian, presented her report to the Human Rights Council on 10 July 2009.<sup>223</sup> In her report, the Special Rapporteur considered the effect of forced labour and the lack of national legislative measures to prevent it from occurring. The Special Rapporteur noted that slavery is prohibited in international human rights law, under not only the Universal Declaration of Human Rights,<sup>224</sup> but also the International Covenant on Civil and Political Rights,<sup>225</sup> the International Covenant on Economic, Social and Cultural Rights,<sup>226</sup> the International Slavery Convention and Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery.<sup>227</sup> The Special Rapporteur also considered the occurrence of bonded labour, where safeguards such as reasonable conditions of repayment or agreed interest rates do not exist, potentially leaving a person vulnerable to protect themselves from long-term or perpetual debt. The Special Rapporteur linked the occurrence of bonded labour with poverty and low-level education, most prevalent in socially excluded groups such as indigenous communities, minorities and migrants, and noted the view expressed by certain non-governmental organizations that isolation, lack of guidance, lack of contact with institutions and authorities and lack of basic services created an environment that facilitated exploitation and forced labour. The Special Rapporteur noted that it is the responsibility of States to enact relevant legislation and policies to combat forced labour and protect victims, but that where such legislation has been enacted by States, it has nonetheless been difficult to enforce. The Special Rapporteur recommended that human rights be mainstreamed into development programmes to address the root causes of slavery, and that specific, enforceable legislation be enacted to address forced labour in a global context, incorporating criminalization of different forms of forced labour, including human trafficking.

### b. General Assembly

On 16 November 2009, the General Assembly adopted, without reference to a Main Committee, resolution 64/15 entitled “Permanent memorial to and remembrance of the victims of slavery and the transatlantic slave trade”. In this resolution, the Assembly welcomed the initiative of the States members of the Caribbean Community to erect, at a place of prominence at the United Nations Headquarters, a permanent memorial acknowledging the tragedy and legacy of slavery and the transatlantic slave trade. It also welcomed the appointment of a Goodwill Ambassador to assist with re-engaging international attention on the horrific nature of slavery, the transatlantic slave trade and its legacy of discrimination. Further, it took note of the report of the Secretary-General on the programme of educational outreach on transatlantic slave trade and slavery,<sup>228</sup> which highlights develop-

<sup>223</sup> A/HRC/12/21.

<sup>224</sup> General Assembly resolution 3/217(III) of 10 December 1948.

<sup>225</sup> United Nations, *Treaty Series*, vol. 999, p. 171.

<sup>226</sup> United Nations, *Treaty Series*, vol. 993, p. 3.

<sup>227</sup> United Nations, *Treaty Series*, vol. 266, p. 3.

<sup>228</sup> A/64/299.

ments relating to the diverse educational outreach strategy to increase awareness of and educate future generations about the causes, consequences, lessons and legacy of the four-hundred-year-long slave trade and to communicate the dangers of racism and prejudice. The Assembly finally decided to include in the provisional agenda of its sixty-fifth session an item entitled “Follow-up to the commemoration of the two-hundredth anniversary of the abolition of the transatlantic slave trade”.

### (p) Miscellaneous

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

#### Human Rights Council

On 17 June 2009, the Human Rights Council adopted resolution 11/7 entitled “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”. In this resolution, the Council, *inter alia*, welcomed the report of the independent expert on the effects of foreign debt and other related international financial obligations on the full enjoyment of human rights,<sup>229</sup> and in particular the development of draft general guidelines on foreign debt and human rights, and the issue of illegitimate debt. While it recognized that States have the right and responsibility to choose its means and goals of development, it urged the international community to take appropriate measures and actions for the implementation of pledges, commitments, agreements and decisions of the major United Nations conferences and summits, including the Millennium Summit,<sup>230</sup> the World Conference on Human Rights,<sup>231</sup> the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance,<sup>232</sup> the World Conference on Sustainable Development<sup>233</sup> and the International Conference for Financing and Development.<sup>234</sup> The Council also stressed the need for economic reform programmes arising from foreign debts to be country-driven, and for any negotiations and conclusion of debt relief and new loan agreements to be formulated with public knowledge and transparency, and with the effective participation of all components of society, including legislative bodies and human rights organizations.

<sup>229</sup> Report 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 of 3 April 2009 (A/HRC/11/10).

<sup>230</sup> United Nations Millennium Declaration, General Assembly resolution 55/2 of 8 September 2000.

<sup>231</sup> Report of the World Conference on Human Rights, 14–25 June 1993 (A/CONF.157/24 (Part I)).

<sup>232</sup> Commission on Human Rights resolution 2003/30 of 23 April 2003 (E/CN.4/RES/2003/30).

<sup>233</sup> Report of the World Summit on Sustainable Development, 26 August–4 September 2002 (A/CONF.199/20) and General Assembly resolution 57/253 of 20 December 2002.

<sup>234</sup> Report of the Secretary-General on the outcome of the International Conference on Financing for Development, 20 December 2002, (A/57/344); Report of the Secretary-General on follow-up efforts to the International Conference on Financing for Development, 18 June 2003 (A/57/319-E/2005/85); and Report on the International Conference on Financing for Development, 18–22 March 2002 (A/CONF.198/11).

The Council also urged States, international financial institutions and the private sector to take urgent measures to alleviate the debt problems of developing countries, so that more financial resources can be used for health care, research and treatment for their populations. It further reaffirmed that the exercise of the basic rights of people from debtor countries to food, housing, clothing, employment, education, health services and a healthy environment cannot be subordinated to the implementation of structural adjustment policies, growth programmes and economic reforms arising from the debt.

On 23 February 2009, the Council also adopted resolution S-10/11 entitled “The impact of the global economic and financial crises on the universal realization and effective enjoyment of human rights”. In this resolution, the Council, *inter alia*, recognized the severe impact of the economic and financial crises on the ability of countries to mobilize resources for development and to address the impact of these crises, and called upon States and the international community to alleviate any negative impacts of these crises on the realization and effective enjoyment of human rights. In particular, it called upon States to refrain from reducing financial resources for development, and to make concerted and sustained efforts to contribute to an early recovery. It reaffirmed that an open, equitable, predictable and non-discriminatory multilateral trading system can substantially stimulate development worldwide, and urged the international community to support national efforts to, *inter alia*, establish and preserve social safety nets for the protection of the most vulnerable segments of their society. Finally, it invited relevant thematic special procedures and treaty bodies to consider the impact of the global economic and financial crises on the realization and effective enjoyment of human rights, and called upon States to continue their financial contributions to international organizations, particularly to the Office of the United Nations High Commissioner for Human Rights.

(ii) *Human rights and unilateral coercive measures*

a. **General Assembly**

On 18 December 2009, the General Assembly adopted, on the recommendation of the Third Committee, resolution 64/170 entitled “Human rights and unilateral coercive measures”. In this resolution, the Assembly, *inter alia*, urged States to cease adopting or implementing any unilateral measures not in accordance with international law, the Charter of the United Nations and the norms and principles governing peaceful relations among States. In particular, it urged States to cease implementing measures which create obstacles to trade relations between States, and which impede the full achievement of economic and social development by the population of affected countries, in particular children and women, or that hinder their well-being and enjoyment of human rights. It further called upon Member States to neither recognize nor apply measures of an extraterritorial nature that threaten the sovereignty of States, and to take administrative and legislative measures, as appropriate, to counteract the extraterritorial applications or effects of such measures. In addition, it reaffirmed that essential goods such as food and medicines should not be used as tools for political coercion, and urged the Human Rights Council to take fully into account the impact of unilateral coercive measures, including through the enactment of national laws and their extraterritorial application, which are not in conformity with international law.

(iii) *Human rights and climate change*

a. **Human Rights Council**

On 25 March 2009, the Human Rights Council adopted resolution 10/4 entitled “Human rights and climate change”. In this resolution, the Council noted that climate change-related impacts have a range of implications on, *inter alia*, the right to life, the right to adequate food the right to the highest attainable standard of health, the right to adequate housing, the right to self-determination and human rights obligations related to access to safe drinking water and sanitation. It decided to hold a panel discussion on the relationship between climate change and human rights in order to contribute to the realization of the goals set out in the Bali Action Plan.<sup>235</sup> Further, it welcomed the report of the Special Rapporteur<sup>236</sup> on adequate housing as a component of the right to an adequate standard of living and encouraged other special mandate holders to give consideration to climate change within their respective mandates.

b. **General Assembly**

On 4 December 2009, the General Assembly adopted, on the recommendation of the Second Committee, resolution 64/73 entitled “Protection of global climate for present and future generations of humankind”. In this resolution, the Assembly, *inter alia*, called upon States to work cooperatively towards achieving the ultimate objective of the 1992 United Nations Framework Convention on Climate Change<sup>237</sup> through urgent implementation of its provisions. It urged States that had not yet ratified the Convention to do so in a timely manner, and recognized that efforts to address climate change should be carried out through the promotion of economic development, social development and environmental protection, with a view to enhancing the sustainable development and sustained economic growth of developing countries, as well as eradicating poverty. It also recognized the urgency of providing financial and technical resources, as well as capacity-building and access to and transfer of technology, to assist countries adversely affected by climate change, and invited the international community to fulfil its commitments to replenish the Global Environment Facility Trust Fund.

---

<sup>235</sup> Report of the Conference of the Parties on its thirteenth session, 3–15 December 2007 (FCCC/CP/2007/6/Add.1).

<sup>236</sup> A/64/225.

<sup>237</sup> United Nations, *Treaty Series*, vol. 1771, p. 107.

## 6. Women<sup>238,239</sup>

### (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-third session in New York from 2 to 13 March 2009. In 2009, the Commission was mandated, in the multi-year programme of work adopted by the Economic and Social Council, in its resolution 2006/9 of 25 July 2006, to consider as its priority the theme "The equal sharing of responsibilities between women and men, including in caregiving in the context of HIV/AIDS".<sup>240</sup>

During its fifty-third session, the Commission adopted two resolutions<sup>241</sup> to be brought to the attention of the Economic and Social Council, of which one is highlighted below.

In its resolution 53/2, entitled "Women, the girl child and HIV and AIDS", the Commission welcomed the report of the Secretary-General on women, the girl child and HIV and AIDS,<sup>242</sup> and reaffirmed the need for Governments to intensify efforts in the implementation of commitments contained in the Declaration of Commitment on HIV/AIDS,<sup>243</sup> the Political Declaration on HIV/AIDS,<sup>244</sup> the Beijing Platform for Action,<sup>245</sup> and the Programme of Action of the International Conference on Population and Development.<sup>246</sup> It also reaffirmed the commitment to achieve universal access to reproductive health by 2015, and to comprehensive HIV prevention programmes, treatment, care and support by 2010. The Commission urged Governments to strengthen legal, policy, administrative and other measures for the prevention and elimination of all forms of violence against women and girls, and to ensure that violence against women is addressed as an integral part of

<sup>238</sup> See also the section 5 of this chapter on human rights.

<sup>239</sup> 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](http://www.treaties.un.org/Pages/ParticipationStatus.aspx).

<sup>240</sup> For the report of the Commission on the status of Women on its fifty-third session, see *Official Records of the Economic and Social Council, 2009 Supplement No. 7, E/2009/27-E/CN.6/2009/15*.

<sup>241</sup> Resolutions 53/1 entitled "Preparations for the fifty-fourth session of the Commission on the Status of Women", and resolution 53/2 entitled "Women, the girl child and HIV and AIDS".

<sup>242</sup> Report of the Secretary-General, "Women, the girl child and HIV/AIDS" of 9 December 2008.

<sup>243</sup> General Assembly resolution S26-2, "Declaration of Commitment on HIV/AIDS" of 27 June 2001 (A/RES/S-26/2).

<sup>244</sup> General Assembly resolution 60/262, "Political Declaration on HIV/AIDS" of 2 June 2006 (A/RES/60/262).

<sup>245</sup> Report of the Fourth World Conference on Women, 4–15 September 2005 (A/CONF.177/20).

<sup>246</sup> Report of the International Conference on Population and Development, 5–13 September 1994, chap. 1, resolution 1, Annex.

their national HIV and AIDS responses. It also urged Governments, where they had not done so, to institute and ensure the enforcement of laws to protect women and girls from early and forced marriage and rape, and to ensure that the dignity, rights and privacy of women and girls are protected. In addition, it urged Governments to prioritize and expand access to treatment for all people in all settings, and to ensure that women and girls have equitable and sustained access to treatment for HIV/AIDS, opportunistic infections and other HIV-related diseases appropriate to their age, health and nutritional status, with the full protection of their human rights.

### (b) General Assembly

On 18 December 2009, the General Assembly adopted, on the recommendation of the Third Committee, resolution 64/141, 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”. In this resolution, the Assembly, *inter alia*, took note with appreciation of the report of the Secretary-General on the measures taken and progress achieved in follow-up to the Beijing Declaration and Platform for Action, and the outcome of the twenty-third special session of the General Assembly.<sup>247</sup> It called upon States which are parties to the Convention on the Elimination of All Forms of Violence against Women<sup>248</sup> to comply fully with their obligations under that Convention, and urged all Member States which had not ratified or acceded to the Convention or its Optional Protocol<sup>249</sup> to consider doing so. It also reaffirmed that States have an obligation, *inter alia*, to implement laws and strategies to eliminate violence against women and girls; to provide protection to victims; and to investigate, prosecute and punish perpetrators of violence against women and girls, with failure to do so amounting to a violation, nullification or impairment of their human rights and fundamental freedoms.

On the same day, the General Assembly adopted, on the recommendation of the Third Committee, resolution 64/140 entitled “Improvement of the situation of women in rural areas”. In this resolution, the Assembly, *inter alia*, took note of a report of the Secretary-General on this topic<sup>250</sup> and urged Member States to attach greater importance to the improvement of the situation of rural women in their national, regional and global development strategies. It suggested that this could be achieved by, *inter alia*, adopting national legislation to protect the knowledge, innovations and practices of women in indigenous and local communities relating to traditional medicines, biodiversity and indigenous technologies; and designing, revising and implementing laws to ensure that rural women are accorded full and equal rights to own and lease land and other property. It also strongly encouraged Member States, United Nations entities and all other relevant stakeholders

<sup>247</sup> Report of the Secretary-General, “Measures taken and progress achieved in follow-up to the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly”, 3 August 2009 (A/64/218).

<sup>248</sup> United Nations, *Treaty Series*, vol. 2131, p. 81.

<sup>249</sup> United Nations, *Treaty Series*, vol. 2131, p. 83.

<sup>250</sup> Report of the Secretary-General, “Improvement of the situation of women in rural areas”, 29 July 2009 (A/64/190).



to take measures to identify and address any negative impact of the current global crises on women in rural areas, including legislation, policies and programmes that strengthen gender equality and the empowerment of women.

Also on the same day, the General Assembly adopted, on the recommendation of the Third Committee, resolution 64/139 entitled “Violence against women migrant workers”,<sup>251</sup> In this resolution, the Assembly, *inter alia*, took note with appreciation of the report of the Secretary-General on this topic,<sup>252</sup> and encouraged Member States to consider signing and ratifying or acceding to relevant international labour law conventions, human rights treaties and other relevant conventions, including the International Covenant on the Protection of the Rights of All Migrant Workers and Members of their Families;<sup>253</sup> the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime;<sup>254</sup> and the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime.<sup>255</sup> It called upon all Governments to incorporate a human rights and gender perspective in legislation and policies on international migration and labour and employment, and to adopt or strengthen measures to protect the rights of women migrant workers, regardless of their immigration status. It also urged Governments to enhance bilateral, regional, interregional and international cooperation to address violence against women migrant workers, and to take into account the best interests of the child, by adopting or strengthening measures to promote and protect the rights of migrant girls, including unaccompanied girls.

## 7. Humanitarian matters

### (a) Economic and Social Council

On 22 July 2009, the Economic and Social Council adopted resolution 2009/3 entitled “Strengthening of the coordination of emergency humanitarian assistance of the United Nations”. In this resolution, the Council, *inter alia*, took note of the report of the Secretary-General on strengthening coordination of emergency humanitarian assistance of the United Nations<sup>256</sup> and encouraged Member States and relevant regional organizations to strengthen operational and legal frameworks for international disaster relief. It also urged all actors engaged in providing international humanitarian assistance to fully commit to and duly respect the guiding principles contained in the annex to General Assembly resolution 46/182 adopted on 19 December 1991, and called on all parties to armed conflict to comply with their obligations under international humanitarian law, human rights law and refugee law.

<sup>251</sup> For more information on the human rights of migrants and the integration of human rights of women and the gender perspective, see section 5 of this chapter.

<sup>252</sup> Report of the Secretary-General, “Violence against women migrant workers”, 16 July 2009, (A/64/152).

<sup>253</sup> United Nations, *Treaty Series*, vol. 2220, p. 3.

<sup>254</sup> United Nations, *Treaty Series*, vol. 2237, p. 343.

<sup>255</sup> United Nations, *Treaty Series*, vol. 2241, p. 507.

<sup>256</sup> A/64/84-E/2009/87.

### (b) General Assembly

On 7 December 2009, the General Assembly adopted resolution 64/76<sup>257</sup> entitled “Strengthening of the coordination of emergency humanitarian assistance of the United Nations”. In this resolution, the Assembly, *inter alia*, urged Member States to promote greater respect for, and adherence to, the humanitarian principles of humanity, neutrality, impartiality and independence. With specific regard to disaster risk reduction, it encouraged the United Nations system and humanitarian partners to strengthen response capacities and coordination with development actors at the local, national and regional levels.

On the same day, the General Assembly adopted resolution 64/77 entitled “Safety and security of humanitarian personnel and protection of United Nations personnel”. In this resolution, the Assembly, *inter alia*, recalled the need to promote and ensure respect for the principles and rules of international law, and that the primary responsibility under international law for the security and protection of humanitarian and United Nations or associated personnel lies with the Government hosting a United Nations operation. The Assembly urged all parties involved in armed conflicts to ensure the security and protection of all humanitarian and United Nations or associated personnel, in accordance with their obligations under international humanitarian law. In addition, the Assembly affirmed the need for States to ensure that perpetrators of attacks against humanitarian and United Nations or associated personnel are brought to justice under local laws and in accordance with international law obligations. The Assembly also recalled that attacks intentionally directed against personnel involved in a humanitarian or peacekeeping mission in accordance with the Charter of the United Nations are included as war crimes under the Rome Statute of the International Criminal Court.<sup>258</sup> It called upon States to consider becoming parties to the Optional Protocol to the Convention on the Safety of the United Nations and Associated Personnel<sup>259</sup> and to put in place appropriate national legislation, as necessary, to enable its effective implementation. Further, the Assembly strongly urged all States to take measures to ensure respect for the inviolability of United Nations premises, and stressed the need for better coordination between the United Nations and host Governments on the use and deployment of essential equipment required to provide for the safety and security of United Nations and associated personnel.

On 22 January 2010, the General Assembly adopted resolution 64/251 entitled “International cooperation on humanitarian assistance in the field of natural disasters, from relief to development”. In this resolution, the Assembly, *inter alia*, called upon States to fully implement the Hyogo Declaration<sup>260</sup> and to accelerate the implementation of the Hyogo Framework for Action 2005—2015: Building the Resilience of Nations and Communities

---

<sup>257</sup> For other resolutions dealing with humanitarian assistance, see resolution 64/74 entitled “Humanitarian assistance, emergency relief and rehabilitation for El Salvador as a result of the devastating effects of Hurricane Ida”; resolution 64/75 entitled “Participation of volunteers, “White Helmets”, in the activities of the United Nations in the field of humanitarian relief, rehabilitation and technical cooperation for development”; and resolution 64/250 entitled “Humanitarian assistance, emergency relief and rehabilitation for Haiti in response to the devastating effects of the earthquake in that country”.

<sup>258</sup> United Nations, *Treaty Series*, vol. 2187, p.3.

<sup>259</sup> Adopted on 8 December 2005 by resolution General Assembly 60/42.

<sup>260</sup> A/CONF.206/6 and Corr.1, chapter I, resolution 1.

to Disasters.<sup>261</sup> It also emphasized the promotion and strengthening of disaster preparedness at all levels, in particular in hazard-prone areas, and called upon States to continue to implement necessary legislative and other appropriate measures to mitigate the effects of natural disasters and integrate disaster risk reduction strategies into development planning. The Assembly took note of the report of the Secretary-General,<sup>262</sup> and stressed the importance of strengthening international cooperation, particularly through the effective use of multilateral mechanisms and timely provision of humanitarian assistance through all phases of a disaster, including the provision of adequate resources. Further, the Assembly acknowledged that global climate change, among other factors, contributes to the intensity and frequency of natural disasters, and encouraged Member States and relevant regional and international organizations to strengthen disaster risk reduction and early warning systems in order to minimize the humanitarian consequences of natural disasters. It requested the United Nations system to improve its coordination of disaster recovery efforts, *inter alia*, by strengthening institutional, coordination and strategic planning efforts in disaster recovery, in support of national authorities. It also called upon Member States and invited the private sector to consider increasing voluntary contributions to the Central Emergency Response Fund.

## 8. Environment

### (a) United Nations Climate Change Conference in Copenhagen

The United Nations Climate Change Conference was held in Copenhagen, Denmark, from 7 to 19 December 2009. During the Conference, the fifteenth session of the Conference of the States Parties to the United Nations Framework Convention on Climate Change,<sup>263</sup> and the fifth session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol<sup>264</sup> were held.

The Conference of the States Parties to the United Nations Framework Convention on Climate Change adopted 13 decisions and one resolution. By decision 2/CP.15, the Conference took note of the Copenhagen Accord of 18 December 2009, annexed to that decision.<sup>265</sup> The Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol adopted 10 decisions and one resolution.<sup>266</sup>

### (b) Economic and Social Council

On 31 July 2009, the Economic and Social Council adopted resolution 2009/28 entitled "The role of the United Nations system in implementing the ministerial declaration on

<sup>261</sup> *Ibid.*, resolution 2.

<sup>262</sup> A/64/331.

<sup>263</sup> United Nations, *Treaty Series*, vol. 1771, p. 107.

<sup>264</sup> United Nations, *Treaty Series*, vol. 2303, p. 148.

<sup>265</sup> For the report of the Conference of the Parties, see FCCC/CP/2009/11 and FCCC/CP/2009/11/Add.1.

<sup>266</sup> For the report of the Conference of the Parties, see FCCC/KP/CMP/2009/21 and FCCC/KP/CMP/2009/21/Add.1.

the internationally agreed goals and commitments in regard to sustainable development adopted at the high-level segment of the substantive session of the Economic and Social Council in 2008". In this resolution, the Council, *inter alia*, reiterated that sustainable development in its economic, social and environmental aspects is a key element of the overarching framework for United Nations activities. It invited the funds, programmes and agencies of the United Nations system to support initiatives directed towards implementing green initiatives in developing countries, and to integrate their work on water issues into United Nations-level efforts to support sustainable development strategies. It further requested that these bodies mainstream sustainable urbanization and upgrade urban poverty and slums; integrate social justice and equity concerns into United Nations system programmes; and continue to promote gender equality and empowerment of women.

### (c) General Assembly

On 24 December 2009, the General Assembly adopted resolution 64/236,<sup>267</sup> on the recommendation of the Second Committee, entitled "Implementation of Agenda 21, the programme for the further implementation of Agenda 21 and the outcomes of the World Summit on Sustainable Development". In this resolution, the Assembly, *inter alia*, took note of the report of the Secretary-General on this topic<sup>268</sup> and reiterated that sustainable development is a key element of the overarching framework for United Nations activities, particularly in achieving internationally agreed development goals, including the Millennium Development Goals<sup>269</sup> and those contained in the Plan of Implementation of the World Summit on Sustainable Development ("the Johannesburg Plan of Implementation").<sup>270</sup> It called for effective follow-up and action with regard to commitments, programmes and time-bound targets adopted at the World Summit on Sustainable Development,<sup>271</sup> and for fulfilment of the provisions relating to the means of implementation, as contained in the Johannesburg Plan of Implementation. It reiterated that the Commission on Sustainable Development is the high-level body responsible for sustainable development in the United Nations system, and encouraged countries to present to the Commission national reports focussing on concrete progress in the implementation of development goals. The Assembly decided to organize the United Nations Conference on Sustainable Development at the highest possible level in 2012, where the objective will be to secure renewed political

<sup>267</sup> For other resolutions dealing with the environment, see resolution 64/195 entitled "Oil slick on Lebanese shores"; resolution 64/196 entitled "Harmony with nature"; and resolution 64/199 entitled "Follow-up to and implementation of the Mauritius Strategy for the further implementation of the programme of action for the sustainable development of small island developing states".

<sup>268</sup> Report of the Secretary-General on implementation of Agenda 21, the programme for the further implementation of Agenda 21 and the outcomes of the World Summit on Sustainable Development, 10 August 2009 (A/64/275).

<sup>269</sup> Adopted in General Assembly resolution 55/2 of 8 September 2000, entitled "Millennium Declaration".

<sup>270</sup> Report of the World Summit on Sustainable Development, Johannesburg, South Africa, 26 August-4 September 2002, (A/CONF.199/20), chap. I, resolution 1, annex.

<sup>271</sup> Report of the World Summit on Sustainable Development, Johannesburg, South Africa, 26 August-4 September 2002, (A/CONF.199/20).

commitment for sustainable development, and to assess progress on the implementation of outcomes of the major summits on sustainable development.

On 21 December 2009, the General Assembly adopted, on the recommendation of the Second Committee, resolution 64/204 entitled “Report of the Governing Council of the United Nations Environment Programme on its twenty-fifth session”. In this resolution, the Assembly, *inter alia*, took note of the report of the Governing Council,<sup>272</sup> and underlined the need to further advance and fully implement the Bali Strategic Plan for Technology Support and Capacity-Building.<sup>273</sup> It reiterated the need for the United Nations Environment Programme to continue to conduct comprehensive, integrated and scientifically credible global environment assessments in order to support decision-making processes at all levels. Further, it emphasized the need to enhance coordination and cooperation among the relevant United Nations organizations, and between the United Nations Environment Programme and regional and subregional organizations, in promoting the environmental component of sustainable development.

On the same day, the General Assembly adopted resolution 64/198 entitled “Mid-term comprehensive review of the implementation of the International Decade for Action, ‘Water for Life,’ 2005—2015”. In this resolution, the Assembly took note of two reports of the Secretary-General on sustainable development of water resources,<sup>274</sup> and encouraged Member States, the Secretariat, organizations of the United Nations system and major groups to continue in their efforts to achieve the internationally agreed water-related goals contained in Agenda 21,<sup>275</sup> the Programme for the Further Implementation of Agenda 21,<sup>276</sup> the United Nations Millennium Declaration,<sup>277</sup> and the Johannesburg Plan of Implementation.<sup>278</sup> In addition, the Assembly decided to convene a high-level international conference, in which it will assess the progress made in the implementation of the first half of the International Decade for Action, ‘Water for Life,’ 2005—2015,<sup>279</sup> and related internationally agreed water-related goals. It called upon Member States to undertake national reviews on implementation, and on the realization of internationally agreed water-related goals, with

<sup>272</sup> *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 25 (A/64/25).*

<sup>273</sup> Governing Council of the United Nations Environment Programme, International environmental governance: implementation of decisions of the seventh special session of the Governing Council/Global Ministerial Environment Forum and the World Summit on Sustainable Development on the report of the Intergovernmental Group of Ministers or Their Representatives on International Environmental Governance, 23 December 2004 (UNEP/GC.23/6/Add.1 and Corr.1, annex).

<sup>274</sup> Report of the Secretary-General on activities undertaken during the International Year of Freshwater, 2003, and further efforts to achieve the sustainable development of water resources (A/59/167); and Report of the Secretary-General on actions taken in organizing the activities of the International Decade for Action, “Water for Life”, 2005—2015, (A/60/158).

<sup>275</sup> Implemented in Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3–14 June 1992 (A/CONF.151/26/REV.1).

<sup>276</sup> Programme for the further implementation of Agenda 21, adopted on 28 June 1997, (A/RES/S/19–2).

<sup>277</sup> General Assembly resolution 55/2 of 8 September 2000, entitled “Millennium declaration”.

<sup>278</sup> Report of the World Summit on Sustainable Development, Johannesburg, South Africa, 26 August–4 September 2002 (A/CONF.199/20), chapter I, resolution 1, annex.

<sup>279</sup> General Assembly resolution 58/217 of 23 December 2003.

a particular focus on progress, obstacles, constraints, actions and measures necessary for further implementation.

The General Assembly also adopted, on 21 December 2009, on the recommendation of the Second Committee, resolution 64/205 entitled “Sustainable mountain development”. In this resolution, the Assembly recognized, *inter alia*, that sustainable mountain development is a key component in intergovernmental discussion on climate change, biodiversity loss and combating desertification. It encouraged Governments to integrate mountain sustainable development in national, regional and global policymaking and development strategies, and invited the international community to support developing countries in developing sustainable development strategies. This support may take the form of assistance in enabling policies and laws for the sustainable development of mountains, or in developing bilateral and multilateral and South-South cooperation relating to sustainable mountain development.

On the same day, the General Assembly adopted resolution 64/203, on the recommendation of the Second Committee, entitled “Convention on Biological Diversity”. In this resolution, the Assembly took note of the report of the Executive Secretary of the Convention on Biological Diversity on the work of the Conference of the Parties to the Convention,<sup>280</sup> and urged Member States to fulfil their commitment to significantly reduce the rate of loss of biodiversity by 2010. It reaffirmed, subject to national legislation, the commitment to respect, preserve and maintain the knowledge, innovations and practices of indigenous and local communities relevant to the conservation and sustainable use of biological diversity. In addition, it invited countries which had not yet done so to ratify the Convention on Biological Diversity,<sup>281</sup> the Cartagena Protocol on Biosafety to the Convention on Biological Diversity<sup>282</sup> and the International Treaty on Plant Genetic Resources for Food and Agriculture.<sup>283</sup>

The General Assembly also adopted on the same day resolution 64/200 entitled “International strategy for disaster reduction”. In this resolution, the Assembly, *inter alia*, urged Member States to continue to develop, update and strengthen disaster risk reduction, and called upon the international community to increase its efforts to fully implement the commitments set out in the Hyogo Declaration<sup>284</sup> and the Hyogo Framework for Action.<sup>285</sup> It encouraged the international community to continue providing adequate voluntary financial contributions to the United Nations Trust Fund for Disaster Reduction, and stressed the importance of implementing long-term programmes related to the eradication of poverty, sustainable development and disaster risk reduction management,

<sup>280</sup> Report of the Executive Secretary of the Convention on Biological Diversity, 30 July 2009 (A/64/202), chapter III.

<sup>281</sup> United Nations, *Treaty Series*, vol. 1760, p. 79.

<sup>282</sup> United Nations, *Treaty Series*, vol. 2226, p. 208.

<sup>283</sup> Food and Agriculture Organization of the United Nations, *Report of the Conference of FAO, Thirty-first Session, Rome, 2–13 November 2001* (C2001/REP), appendix D. Adopted by the Food and Agriculture Organization of the United Nations, resolution 3/200 of 3 November 2001.

<sup>284</sup> Report of the World Conference on Disaster Reduction, Kobe, Hyogo, Japan, 18–22 January 2005 (A/CONF.206/6), resolution 1.

<sup>285</sup> Report of the World Conference on Disaster Reduction, Kobe, Hyogo, Japan, 18–22 January 2005 (A/CONF.206/6), resolution 2.

particularly in developing countries. The Assembly designated 13 October as the date to commemorate International Day for Disaster Reduction.<sup>286</sup>

## 9. Law of the sea

### (a) Reports of the Secretary-General

The Secretary-General submitted a number of reports<sup>287</sup> to the General Assembly at its sixty-fourth session under the agenda item entitled “Oceans and the law of the sea”. In the comprehensive report on oceans and the law of the sea, the Secretary-General provided an overview of developments relating to the implementation of the United Nations Convention on the Law of the Sea<sup>288</sup> (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 2009.<sup>289</sup> That report contained 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 comprehensive report provided an overview of State practice, maritime claims and delimitation of maritime zones.<sup>290</sup>

The report also outlined the work carried out in 2009 by the three bodies established by the Convention, namely, the International Seabed Authority (ISA), the International Tribunal for the Law of the Sea (ITLOS)<sup>291</sup> and the Commission on the Limits of the Continental Shelf (CLCS).

In 2009, the ISA held its fifteenth session, during which the Council continued its deliberations on the draft regulations on prospecting and exploration for polymetallic sulphides in the international seabed Area beyond the limits of national jurisdiction. The Council could not adopt the draft as there was no agreement on the provision dealing with anti-monopoly and overlapping claims to potential mine sites in the seabed Area. It was agreed that deliberations would continue at the sixteenth session of the Authority, in 2010. In addition, the Legal and Technical Commission, a subsidiary organ of the Council, adopted revised Regulations on prospecting and exploration for ferromanganese crusts in the Area, which are to be considered by the Council at the sixteenth session.<sup>292</sup>

<sup>286</sup> General Assembly resolution 44/236 of 22 December 1989; General Assembly resolution 54/219 of 22 December 1999; General Assembly resolution 56/195 of 21 December 2001; and General Assembly resolution 57/256 of 20 December 2002.

<sup>287</sup> A/64/66, A/64/66/Add.1, A/64/66/Add.2 and A/64/305. At the time of preparation of this chapter the Secretary-General report to the General Assembly at its sixty-fifth session was not published yet. It will contain further details on activities carried out in 2009. Therefore, in this chapter, references have been made to other relevant United Nations documents, wherever possible.

<sup>288</sup> United Nations, *Treaty Series*, vol. 1833, p. 3.

<sup>289</sup> A/64/66/Add.1.

<sup>290</sup> A/64/66, Chapter III, and A/64/66/Add.1, Chapter III.

<sup>291</sup> For the work of the Tribunal, see chapter VII of this publication.

<sup>292</sup> For more information on the fourteenth session of the ISA see A/64/66/Add.1, paragraphs 62–66, and SPLOS/203, paragraphs 55–66.



In 2009, the CLCS held its twenty-third and twenty-fourth sessions,<sup>293</sup> during which it continued the examination of the submissions made, respectively, by Norway in the North East Atlantic and the Arctic, France in respect of the areas of French Guiana and New Caledonia, Mexico in respect of the Western Polygon in the Gulf of Mexico, Barbados, and the United Kingdom of Great Britain and Northern Ireland in respect of Ascension Island, as well as the joint submission made by France, Ireland, Spain and the United Kingdom in the area of the Celtic Sea and the Bay of Biscay. At the twenty-third session, formal presentations of submissions were made in the plenary by Indonesia in respect of the area of North West Sumatra, by Japan, as well as jointly by the Republic of Mauritius and the Republic of Seychelles, in respect of the Mascarene Plateau. At that session, the CLCS adopted its recommendations in regard to the submission made by Norway in the North East Atlantic and the Arctic, by Mexico in respect of the Western Polygon in the Gulf of Mexico, as well as its recommendations in regard to the joint submission made by France, Ireland, Spain and the United Kingdom in the area of the Celtic Sea and the Bay of Biscay.

At the twenty-fourth session, formal presentations of submissions were made in the plenary by Suriname, Myanmar, the United Kingdom in respect of Hatton Rockall Area, Ireland in respect of Hatton Rockall Area, Uruguay, the Philippines in the Benham Rise region, the Cook Islands in respect of the Manihiki Plateau, Fiji, Argentina, Ghana, Denmark in the area North of the Faroe Islands, Kenya, Mauritius in the region of Rodrigues Island, Viet Nam in respect of the North Area (VNM-N), Nigeria, Seychelles concerning the Northern Plateau Region, Côte d'Ivoire, as well as the joint submission made by Malaysia and Viet Nam in respect of the Southern part of the South China Sea. It also adopted its recommendations in regard to the submission made by France in respect of the areas of French Guiana and New Caledonia.

In 2009, the workload of the Commission increased significantly in view of the expiration in May 2009 of the time-period for the making of submissions as set out in article 4 of annex II to the Convention and in accordance with the decision of the eleventh Meeting of States Parties (SPLOS/72), reaching a total number of 51 submissions. Thus, in addition to the submissions in respect of which formal presentations were made, submissions were also received from France in respect of areas of the French Antilles and the Kerguelen Islands, Yemen in respect of South East of Socotra Island, Iceland in the Ægir Basin area and in the Western and Southern parts of Reykjanes Ridge, Pakistan, Norway in respect of Bouvetøya and Dronning Maud Land, South Africa in respect of the mainland of the territory of the Republic of South Africa, France in respect of La Réunion Island and Saint-Paul and Amsterdam Islands, Palau, Sri Lanka, Portugal, the United Kingdom “in respect of the Falkland Islands,<sup>294</sup> and of South Georgia and the South Sandwich Islands”,<sup>295</sup> Tonga, Spain in respect of the area of Galicia, by India, Trinidad and Tobago, Namibia and by Cuba, as well as the joint submission made by the Federated States of Micronesia, Papua New

<sup>293</sup> For more information on the twenty-third and twenty-fourth sessions of the CLCS see A/64/66/Add.1, chapter III, section D, as well as CLCS/62 and CLCS/64.

<sup>294</sup> Note by the Secretariat: a dispute exists between the Governments of Argentina and the United Kingdom of Great Britain and Northern Ireland concerning sovereignty over the Falkland Islands (Malvinas).

<sup>295</sup> See the title of the executive summary of the submission by the United Kingdom, available at [http://www.un.org/Depts/los/clcs\\_new/clcs\\_home.htm](http://www.un.org/Depts/los/clcs_new/clcs_home.htm).

Guinea and Solomon Islands concerning the Ontong Java Plateau and the joint submission made by France and South Africa in the area of the Crozet Archipelago and the Prince Edward Islands. Formal presentations in respect of these submissions were deferred by the concerned States to a future session of the Commission to be determined.

In addition, pursuant to the decision taken at the eighteenth Meeting of States Parties (SPLOS/183), the following coastal States transmitted preliminary information to the Secretary-General, indicative of the outer limits of their continental shelf beyond 200 nautical miles: Angola, Bahamas, Benin, Brunei Darussalam, Cameroon, Cape Verde, Chile, China, Comoros, Congo, Costa Rica, Democratic Republic of the Congo, Equatorial Guinea, Fiji, France in respect of Polynésie française, Wallis and Futuna, France in respect of Saint-Pierre-et-Miquelon, Gabon, Gambia, Guinea, Guinea-Bissau, Guyana, Mauritania, Mauritius in respect of the Chagos Archipelago, Mexico in respect of the Eastern Polygon in the Gulf of Mexico, Micronesia (Federated States of), Mozambique, New Zealand, in respect of Tokelau, Oman, Papua New Guinea, Republic of Korea, Sao Tome and Principe, Senegal, Seychelles in respect of the Aldabra Island Region, Sierra Leone, Solomon Islands, Somalia, Spain in respect of West of Canary Islands, Togo, the United Republic of Tanzania, Vanuatu, and jointly from Benin and Togo, from Fiji and Solomon Islands as well as from Fiji, Solomon Islands and Vanuatu.

The nineteenth Meeting of States Parties, held in June 2009, addressed the issue of the workload of the Commission. Following deliberations, the Meeting adopted an agreed outcome in which it requested “the Secretariat to prepare an update of the note contained in document SPLOS/157, on the basis of the discussions at the nineteenth Meeting of States Parties and any further information provided by States parties and observers, and in due time before the next Meeting, to facilitate a comprehensive review by States parties”.<sup>296</sup> It also decided that “the bureau of the nineteenth Meeting of States Parties [would] facilitate an informal working group to continue consideration of the issues related to the workload of the Commission”.<sup>297</sup> The informal Working Group started its work in 2009. In addition, the Bureau of the nineteenth Meeting of States Parties met with the members of the Commission on 1 September 2009, during its twenty-fourth session, to discuss the difficulties the Commission faced in dealing with its increased workload.<sup>298</sup>

The comprehensive Secretary-General’s report also provided an overview with regard to a number of other ocean issues, including international shipping activities;<sup>299</sup> people at sea;<sup>300</sup> maritime security;<sup>301</sup> marine science and technology;<sup>302</sup> conservation and manage-

<sup>296</sup> SPLOS/203, paragraph 95 (4). The update to document SPLOS/157 will be contained in document SPLOS/208, which, at the time of preparation of this Yearbook, was not yet published.

<sup>297</sup> SPLOS/203, paragraph 95 (4).

<sup>298</sup> For more details see CLCS/64, paragraph 125. The presentation delivered to the Bureau on 1 September 2009 is available online at: [http://www.un.org/Depts/los/clcs\\_new/presentation\\_to\\_bureau\\_msp\\_2009.pdf](http://www.un.org/Depts/los/clcs_new/presentation_to_bureau_msp_2009.pdf).

<sup>299</sup> A/64/66/Add.1, chapter V. See also section 4 of chapter IIIB of the present publication, concerning the activities of the International Maritime Organization.

<sup>300</sup> *Ibid.*

<sup>301</sup> A/64/66/Add.1, chapter VII.

<sup>302</sup> A/64/66/Add.1, chapter VIII.

ment of marine living resources;<sup>303</sup> marine biological diversity;<sup>304</sup> protection and preservation of the marine environment and sustainable development;<sup>305</sup> climate change and oceans;<sup>306</sup> international cooperation and coordination,<sup>307</sup> including progress regarding the “assessment of assessments”<sup>308</sup> 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, Office of Legal Affairs, United Nations (the Division).<sup>309</sup>

In addition, the Secretary-General’s report contained information on the settlement of disputes relating to law of the sea matters by the International Tribunal for the Law of the Sea (ITLOS)<sup>310</sup> and the International Court of Justice (ICJ).<sup>311</sup>

With regard to maritime security, the report provided an overview of legal developments relating to piracy and armed robbery against ships worldwide, including actions being taken to combat it. Particular attention was given to piracy and armed robbery off the coast of Somalia, as it continued to be a serious problem threatening the safety and security of international navigation, the lives and livelihoods of seafarers and the security situation in the Horn of Africa.<sup>312</sup> IMO adopted a series of documents, which provided guidance on how to prevent, prepare for, and react to, incidents of piracy and armed robbery against ships. Within the regional context, the Djibouti Code of Conduct concerning the Repression of Piracy and Armed Robbery against Ships in the Western Indian Ocean and the Gulf of Aden, which is a non-binding cooperative mechanism for States in this region, was concluded under IMO auspices on 29 January 2009.<sup>313</sup> Also concerning the situation off the coast of Somalia, the anti-piracy programme of the United Nations Office on Drugs and Crime focused on providing assistance in States in the region to enable them to undertake piracy prosecutions to ensure that the trials of suspects are effective, efficient and fair.<sup>314</sup>

<sup>303</sup> A/64/66/Add.1, chapter IX.

<sup>304</sup> A/64/66/Add.1, chapter X; A/64/66/Add.2. See also, for information on the environment, section 8 of this chapter; and for information on the activities of the World Intellectual Property Organization, section 8 of chapter IIIB, of the present publication.

<sup>305</sup> A/64/66/Add.1, chapter IX; see also section 8 of the present chapter on the environment.

<sup>306</sup> A/64/66/Add.1, chapter XII; see also section 8 of the present chapter on the environment.

<sup>307</sup> A/64/66/Add.1, chapter XIV.

<sup>308</sup> A/64/65/Add.1, chapter XIV.B.

<sup>309</sup> A/64/66/Add.1, chapter XV.

<sup>310</sup> A/64/66/Add.1, Chapter X, section B. For further information on the work of ITLOS, see chapter VII of the present publication.

<sup>311</sup> A/64/66/Add.1, Chapter X, section A. For further information on the work of the ICJ, see chapter VII of the present publication.

<sup>312</sup> For an overview of some of the activities undertaken to combat piracy off the coast of Somalia in 2009, see Report of the Secretary-General pursuant to Security Council resolution 1846 (2008), S/2009/590.

<sup>313</sup> See Secretary-General’s report on Oceans and the Law of the Sea A/64/66/Add.1 and <http://www.imo.org>. For further information on piracy, see section 2 (j) of the present chapter.

<sup>314</sup> <http://www.unodc.org>.

With regard to marine science, the Secretary-General reported on the revision of “Marine Scientific Research: a Guide to the Implementation of the Relevant Provisions of the United Nations Convention on the Law of the Sea”, published in 1991. The Division revised the Guide with the assistance of a Group of Experts, which met in April 2009. The revised Guide focuses on the implementation of the Convention’s core provisions on marine scientific research, particularly on those concerning the consent procedure. Part I of the revised Guide addresses the provisions of the Convention on marine scientific research. Part II provides information on State practice and on challenges facing developing coastal States, in particular. Part III identifies some best practices and provides practical guidance for the implementation of the relevant provisions of the Convention. The annexes include standard forms to facilitate the process of granting consent for marine scientific research projects.<sup>315</sup>

With respect to marine biological diversity, the Secretary-General published an addendum<sup>316</sup> to his report to assist 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 preparing the agenda of its third meeting, to be convened in 2010. The report contains information on activities undertaken by relevant organizations since the last report of the Secretary-General on the matter,<sup>317</sup> including an overview of the legal aspects of this issue. It also provides information on possible options and approaches to promote international cooperation and coordination, and identifies key issues and questions for which more detailed background studies would facilitate consideration by States.

Another Secretary-General’s report to the sixty-fourth session of the General Assembly focused on the “Implementation of the outcomes of the Consultative Process, including a review of its achievements and shortcomings in the first nine meetings”,<sup>318</sup> the topic chosen for the tenth meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea. It provided, *inter alia*, information on the establishment of the Informal Consultative Process and an overview of its functioning, including a summary of the outcomes of its meetings. It also reviewed how those outcomes have generally been incorporated in the relevant General Assembly resolutions and what subsequent major actions have been taken and summarized the views that have been expressed on the achievements and shortcomings of the Informal Consultative Process at its meetings and in the contributions that were made to the report. The tenth meeting was held in New York in June 2009.<sup>319</sup>

---

<sup>315</sup> A/64/66/Add.1, paragraph 151.

<sup>316</sup> A/64/66/Add.2.

<sup>317</sup> A/62/66/Add.2.

<sup>318</sup> A/64/66.

<sup>319</sup> A/64/131. See also A/64/66/Add. 1, chapter XIV.

In his report to the General Assembly on sustainable fisheries,<sup>320</sup> the Secretary-General provided an overview of actions taken by States and regional fisheries management organizations and arrangements (RFMO/As) to give effect to paragraphs 83 to 90 of General Assembly resolution 61/105 on sustainable fisheries, including through the United Nations Fish Stocks Agreement (the Agreement). The report described the most vulnerable marine ecosystems and the impacts of bottom fishing on those ecosystems, and outlined actions taken by States and RFMO/As to adopt and implement measures aimed at regulating bottom fisheries and protecting vulnerable marine ecosystems from destructive fishing practices. It also described recent initiatives by States to establish new RFMO/As in the north-west and south Pacific with the competence to regulate bottom fisheries, and interim measures adopted by these States pending the establishment of such organizations or arrangements. It concluded that the international community had responded to the call for action contained in General Assembly resolution 61/105 and had adopted a wide range of measures to address the impacts of bottom fishing on vulnerable marine ecosystems. Despite progress, the implementation of the resolution had been uneven and further efforts were needed in the adoption and implementation of conservation and management measures. The report highlighted the importance of support tools, including a global database on vulnerable marine ecosystems, and the need to increase cooperation and coordination on data collection and sharing, and for capacity-building and transfer of appropriate technology to developing States to ensure their participation in deep sea fisheries and the protection of vulnerable marine ecosystems.

In addition to issues concerning the conservation and management of marine fishery resources,<sup>321</sup> the Secretary-General reported on the work of the eighth round of Informal Consultations of States Parties to the Agreement, which was held in New York, in March 2009, in accordance with paragraph 33 of General Assembly resolution 63/112 of 5 December 2008.<sup>322</sup> The Informal Consultations were held to consider, *inter alia*, promoting a wider participation in the Agreement through a continuing dialogue, in particular with developing States, and initial preparatory work for the resumption of the Review Conference on the Agreement. The continuing dialogue addressed: promoting a wider participation in the Agreement; the relationship between the Agreement and the Convention, as well as other international instruments; capacity-building; compatibility of conservation and management measures; and cooperation in enforcement and port State measures. The

---

<sup>320</sup> The report of the Secretary-General, entitled "Actions taken by States and regional fisheries management organizations and arrangements to give effect to paragraphs 83 to 90 of General Assembly resolution 61/105 on 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" (A/64/305), was a follow-up to the report of the Secretary-General, entitled "Impacts of fishing on vulnerable marine ecosystems: actions taken by States and regional fisheries management organizations and arrangements to give effect to paragraphs 66 to 69 of the General Assembly resolution 59/25 on sustainable fisheries, regarding the impacts of fishing on vulnerable marine ecosystems" (A/61/154). See also the interim reports of the Secretary-General on measures taken by States and RFMO/As to implement resolution 61/105 (A/62/260, paragraphs 60–96, and A/63/128, paragraphs 63–78).

<sup>321</sup> A/64/66/Add.1, chapter IX.A.

<sup>322</sup> A/64/66/Add.1, chapter II.C.

continuing dialogue initiated an important process to increase participation in the Agreement that will continue in other forums.<sup>323</sup>

As regards the initial preparatory work for the resumed Review Conference, the Informal Consultations agreed to recommend, in accordance with the agreed timeline and programme of work, that the General Assembly should request the Secretary-General to: (a) convene a ninth round of Informal Consultations of States Parties to the Agreement for a duration of two days to serve primarily as a preparatory meeting for the resumed Review Conference; and (b) prepare, in cooperation with the Food and Agriculture Organization of the United Nations, the updated comprehensive report referred to in paragraph 32 of General Assembly resolution 63/112, taking into account the specific guidance proposed by the eighth round of Informal Consultations of States Parties to the Agreement, and make available an advance unedited version of the report, in accordance with past practice, on the website of the Division.<sup>324</sup>

## (b) Consideration by the General Assembly

### (i) *Oceans and law of the sea*

The General Assembly considered the agenda item “Oceans and the law of the sea” on 4 December 2009. It had before it the following documents: report of the Secretary-General on oceans and the law of the sea;<sup>325</sup> Regular process for global reporting and assessment of the state of the marine environment, including socio-economic aspects: the “assessment of assessments”: letter dated 11 May 2009 from the Intergovernmental Oceanographic Commission of the United Nations Educational, Scientific and Cultural Organization and the United Nations Environment Programme addressed to the Secretary-General;<sup>326</sup> report on the work of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea at its 10th meeting; letter dated 10 July 2009 from the Co-Chairpersons of the Consultative Process addressed to the President of the General Assembly;<sup>327</sup> report on the work of the *Ad Hoc* Working Group of the Whole to Recommend a Course of Action to the General Assembly on the Regular Process for Global Reporting and Assessment of the State of the Marine Environment, including Socio-Economic Aspects; letter dated 10 September 2009 from the Co-Chairs of the *Ad Hoc* Working Group of the Whole addressed to the President of the General Assembly;<sup>328</sup> and letter dated 10 December 2010 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to

<sup>323</sup> The report of the eighth round of Informal Consultations of States Parties to the Agreement is available on the website of the Division at: <http://www.un.org/Depts/los/index.htm>.

<sup>324</sup> The ninth round of Informal Consultations of States Parties to the Agreement was held at United Nations Headquarters in New York in March 2010. For the updated comprehensive report of the Secretary-General to the resumed Review Conference on the Agreement, see A/CONF.210/2010/1.

<sup>325</sup> A/64/66, A/64/66/Add.1 and Add.2.

<sup>326</sup> A/64/88.

<sup>327</sup> A/64/131.

<sup>328</sup> A/64/347.

the Secretary-General.<sup>329</sup> On 4 December 2009, the General Assembly, without reference to a Main Committee, adopted resolution 64/71<sup>330</sup> entitled “Oceans and the law of the sea”.

The resolution was divided into 17 sections and covered a wide range of ocean issues, such as the implementation of the Convention and related agreements and instruments; capacity-building; the Meeting of States Parties; peaceful settlement of disputes; the Area; effective functioning of the ISA and the ITLOS; the continental shelf and the work of the CLCS; 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.

## (ii) *Sustainable fisheries*

The General Assembly considered the agenda item “Oceans and the law of the sea: 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” on 4 December 2009. It had before it the report of the Secretary-General on actions taken by States and regional fisheries management organizations and arrangements to give effect to paragraphs 83 to 90 of General Assembly resolution 61/105 on 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.<sup>331</sup> On 4 December 2009, the General Assembly, without reference to a Main Committee, adopted resolution 64/72 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 was adopted without a vote.

The resolution was divided into 13 sections and addressed a number of issues, including measures to achieve sustainable fisheries; implementation of the United Nations Fish Stocks Agreement; implementation of related fisheries instruments; illegal, unreported and unregulated fishing; monitoring, control and surveillance and 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.

<sup>329</sup> A/64/569.

<sup>330</sup> The resolution was adopted by a recorded vote of 120 votes to 1, with 3 abstentions.

<sup>331</sup> A/64/305.



## 10. Crime prevention and criminal justice<sup>332</sup>

### (a) Conference of the States Parties to the United Nations Convention against Corruption

The Conference of the States Parties to the United Nations Convention against Corruption<sup>333</sup> was established pursuant to article 63 of the Convention to improve the capacity of and cooperation between States Parties to the Convention, with a view to achieving the Convention's objectives and to promoting and reviewing its implementation. The third session of the Conference was held in Doha, Qatar, from 9 to 13 November 2009.<sup>334</sup> During this session, three resolutions were adopted, relating to the timing of the Conference's review cycle, preventative measures, asset recovery and technical assistance for the implementation of the Convention.<sup>335</sup>

### (b) 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, covering 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 regular and reconvened eighteenth session of the Commission on Crime Prevention and Criminal Justice were held in Vienna from 16 to 24 April 2009 and 3 to 4 December 2009 respectively. In its annual report,<sup>336</sup> CCPCJ brought to the attention of the Economic and Social Council a number of resolutions, including resolution 18/1 entitled "Supplementary rules specific to the treatment of women in detention and in custodial and non-custodial settings", resolution 18/2 entitled "Civilian private security services: their role, oversight and contribution to crime prevention and community safety", and

<sup>332</sup> 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 [www.unodc.org](http://www.unodc.org).

<sup>333</sup> United Nations, *Treaty Series*, vol. 2349, p. 41.

<sup>334</sup> Report of the Conference of the State Parties to the United Nations Convention against Corruption on its third session, held in Doha from 9 to 13 November 2009, (CAC/COSP/2009/15).

<sup>335</sup> See Report of the Conference of the State Parties to the United Nations Convention against Corruption on its third session, held in Doha from 9 to 13 November 2009, (CAC/COSP/2009/15), resolution 3/1; resolution 3/2; resolution 3/3; and resolution 3/4. See also decision 3/1, entitled "Venues for the fourth and fifth sessions of the Conference of the State Parties to the United Nations Convention against Corruption".

<sup>336</sup> For the report on the seventeenth session of CCPCJ, see E/CN.15/2008/22.

resolution 18/3 entitled “Improving the governance and financial situation of the United Nations Office on Drugs and Crime”. In resolution 18/1, the Commission urged Member States that have developed legislation, procedures, policies or practices regarding women in detention and in custodial and non-custodial settings to make available information on those initiatives to other States. It also requested that the UNODC provide technical assistance and advisory services to support Member States in developing legislation, procedures, policies and practices for women in prison and on alternatives to imprisonment for women offenders. In resolution 18/2, the Commission invited Governments to determine whether national legislation provides adequate oversight of the role played by civilian private security services, and decided to establish an *ad hoc* open-ended intergovernmental expert group to study the role of civilian private security services and their contribution to crime prevention and community safety. In resolution 18/3, the Committee adopted the recommendations of the open-ended intergovernmental group on improving the governance and financial situation of the United Nations Office on Drugs and Crime, and decided to establish a standing open-ended intergovernmental working group on governance and finances, which will have a mandate until the Commission’s session in early 2011.

### (c) Economic and Social Council

On 30 July 2009, following the submission by the Commission on Crime Prevention and Criminal Justice of draft resolutions on this item, the Economic and Social Council adopted five resolutions which are highlighted below.

In resolution 2009/22, entitled “International cooperation in the prevention, investigation, prosecution and punishment of economic fraud and identity related-crime”, the Council encouraged Member States, *inter alia*, to strengthen international cooperation to prevent and combat economic fraud and identity-related crime, in particular by making full use of relevant international law instruments. It also called upon States to develop and maintain adequate law enforcement and investigative capacity to keep abreast of and deal with new developments in the exploitation of information, communications and commercial technologies in economic and identity-related fraud.

In resolution 2009/23, entitled “Support for the development and implementation of the regional programmes of the United Nations Office on Drugs and Crime”, the Council invited all Member States, as well as subregional and regional institutions, to mainstream measures to counter organized crime, corruption and illicit drug trafficking, and to make every effort to allocate resources for the implementation of those measures, in accordance with relevant international conventions. It also encouraged bilateral and multilateral aid agencies, as well as financial institutions, to support the implementation of the regional programmes of the United Nations Office on Drugs and Crime.

The Council also adopted resolution 2009/24, entitled “International cooperation to prevent, combat and eliminate kidnapping and to provide assistance to victims of kidnapping”. In this resolution, the Council vigorously condemned and rejected the crime of kidnapping under any circumstance and for any purpose. It encouraged Member States to continue to foster international cooperation, especially extradition, mutual legal assistance, collaboration between law enforcement agencies and the exchange and joint analysis of information. It also encouraged Member States to take measures intended to provide

adequate assistance and protection to victims of kidnapping and their families, including measures addressing their rights and legal interests. In addition, it requested Member States, *inter alia*, to provide training for judges, judicial officials, prosecutors and law enforcement officials to promote their understanding of processes and mechanisms available for disbanding criminal organizations.

In resolution 2009/25, entitled “Improving the collection, reporting and analysis of data to enhance knowledge on trends in specific areas of crime”, the Council invited Member States to strengthen their efforts to review and improve data collection tools in order to obtain an objective, scientific, balanced and transparent assessment of emerging trends in specific areas of crime. It further invited Member States to share information on the progress made and obstacles encountered in fostering the exchange among States of information related to crime and to the function of the criminal justice system.

The Council also adopted resolution 2009/26 entitled “Supporting national and international efforts for child justice reform, in particular through improved coordination in technical assistance”. In this resolution, the Council urged Member States to pay particular attention to the issue of child justice, and, in this respect, to take into account relevant international instruments, United Nations standards and norms for the treatment of children in conflict with the law. It also invited Member States to adopt a comprehensive approach to child justice reform, including through policy and legal reform; the establishment of data collection and information management systems; the strengthening of institutional capacity, including with regard to social workers and providers of legal assistance; awareness-building and monitoring; and the establishment of child-sensitive procedures and institutions.

#### (d) General Assembly

On 18 December 2009, the General Assembly adopted, on the recommendation of the Third Committee,<sup>337</sup> four resolutions under this agenda item, of which three are highlighted below.<sup>338</sup>

In resolution 64/178 entitled “Improving the coordination of efforts against trafficking in persons”, the Assembly urged all States that had not yet done so to consider taking measures to ratify or accede to the United Nations Convention against Transnational Organized Crime<sup>339</sup> and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children,<sup>340</sup> as well as the Optional Protocol to the Convention on the Rights of the Child,<sup>341</sup> the Convention on the Elimination of All Forms of Discrimination Against Women,<sup>342</sup> and the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery.<sup>343</sup> It called upon Governments to continue their efforts to criminalize trafficking of persons in all its forms, and

<sup>337</sup> For the report of the Third Committee, see A/63/431.

<sup>338</sup> The General Assembly also adopted resolution 64/181 of 18 December 2009 entitled “United Nations African Institute for the Prevention of Crime and the Treatment of Offenders”.

<sup>339</sup> General Assembly resolution 55/25 of 15 November 2000.

<sup>340</sup> United Nations document, A/55/383-General Assembly resolution 55/25 of 15 November 2000.

<sup>341</sup> United Nations, *Treaty Series*, vol. 2171, p.247.

<sup>342</sup> United Nations, *Treaty Series*, vol. 1249, p.13.

<sup>343</sup> United Nations, *Treaty Series*, vol. 266, No. 3822.

encouraged all stakeholders to strengthen coordination of efforts in this respect, including through the Inter-Agency Coordination Group against Trafficking in Persons, as well as bilateral and regional initiatives that promote cooperation and collaboration.

On the same day, the General Assembly adopted resolution 64/179 entitled “Strengthening the United Nations Crime Prevention and Criminal Justice Programme, in particular its technical cooperation capacity”. In this resolution, the Assembly reaffirmed the importance of the United Nations Convention against Transnational Organized Crime<sup>344</sup> and its Protocols<sup>345</sup> as the main tools of the international community to fight transnational organized crime. It called upon Member States to strengthen their efforts in international cooperation with regard to crime prevention and criminal justice, and requested that the United Nations Office on Drugs and Crime continue to provide technical assistance to States, with a view to fostering international cooperation, in particular mutual legal assistance.

The General Assembly also adopted resolution 64/180 entitled “Preparations for the Twelfth United Nations Congress on Crime Prevention and Criminal Justice”. In this resolution, the Assembly encouraged Governments to make preparations for the Twelfth United Nations Congress on Crime Prevention and Criminal Justice at an early stage by all appropriate means. It called upon the Twelfth Congress to formulate concrete proposals for further follow-up and action, paying particular attention to practical arrangements relating to the effective implementation of the international legal instruments pertaining to transnational organized crime, terrorism and corruption and technical assistance activities related to them.

## **11. International drug control**

### **(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. The Commission convenes ministerial-level segments of its sessions to focus on specific themes. During its fifty-second session,<sup>346</sup> held in Vienna from 11 to 20 March 2009, the Commission held a thematic debate on “tools for enhancing the effectiveness of international drug control and international cooperation in the fight against illicit drugs,

<sup>344</sup> General Assembly resolution 55/25 of 15 November 2000.

<sup>345</sup> Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, 15 November 2000, General Assembly resolution 55/25 of 15 November 2000, annex III; and Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 15 November 2000, General Assembly resolution 55/25 of 15 November 2000.

<sup>346</sup> Report of the fifty-second session of the Commission on Narcotic Drugs, 14 March 2008 and 11–20 March 2009 (E/2009/28 E/CN.7/2009/12).

specifically: data collection for effective drug control, including on the misuse of cyberspace; and strengthening of regional and cross-border cooperation, including data-sharing". The Commission also held a reconvened fifty-second session, which was held from 1 to 2 December 2009.

Thirteen resolutions<sup>347</sup> were adopted by the Commission and brought to the attention of the Economic and Social Council, of which four are highlighted below.

In resolution 52/1, entitled "Promoting international cooperation in addressing the involvement of women and girls in drug trafficking, especially as couriers", the Commission devoted particular attention to the role of women and girls in drug trafficking, and to the worrying trend of illicit drugs use. It urged, *inter alia*, Member States to implement broad-based programmes aimed at preventing women and girls from being used as couriers for trafficking in drugs, and encouraged them to consider establishing programmes of assistance to support income-generating projects for the educational, economic and social development and rehabilitation of women and girls involved in drug trafficking.

By resolution 52/2, entitled "Strengthening the law enforcement capacity of the transit States neighbouring Afghanistan, based on the principle of shared responsibility", the Commission requested, *inter alia*, the international community to provide, on the basis of the principle of shared responsibility, urgent technical assistance and support to States neighbouring Afghanistan that are most affected by the transit of illicit drugs. The Commission urged Member States and the United Nations Office on Drugs and Crime (UNODC) to organize training seminars and workshops for relevant law enforcement agencies in Afghanistan and neighbouring States to assist them in strengthening their capacity to respond to drug-related threats. Relevant international organizations, financial institutions and donors were also urged to provide technical and financial assistance to States neighbouring Afghanistan, including by building and promoting human resource capacity in those States, and by providing relevant technical equipment and facilities to support those States in combating drug trafficking more effectively.

In resolution 52/4, entitled "Strengthening international support for States in West Africa in their efforts to combat drug trafficking", the Commission, *inter alia*, called upon Member States, especially the main countries of origin, transit and destination of illicit drugs smuggled through West Africa, to strengthen their efforts to reduce the supply of, trafficking in and demand for illicit drugs, in conformity with relevant provisions of international drug control treaties.

By resolution 52/9, entitled "Strengthening measures against the laundering of assets derived from drug trafficking and related offences", States parties to the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988<sup>348</sup> were called upon to apply fully the provisions of that Convention. Member States were invited to ensure that banking secrecy laws do not impede criminal investigations into the laundering of assets derived from drug trafficking and related offences; enhance effective international judicial cooperation in detecting and prosecuting those involved in money-

<sup>347</sup> For a complete list of the resolutions, see E/2009/28 E/CN.7/2009/12. See also resolution 52/14 entitled "Budget for the biennium 2010–2011 for the Fund of the United Nations International Drug Control Programme", adopted at the reconvened fifty-second session of the Commission on Narcotic Drugs, 1–2 December 2009 (E/2009/28/Add.1 E/CN.7/2009/12/Add.1).

<sup>348</sup> United Nations, *Treaty Series*, vol. 1582, p. 164.

laundering, and in developing witness protection programmes; and establish procedures for determining legal ownership of assets proved to be of illegal origin.

### (b) Economic and Social Council

On 30 July 2009, the Economic and Social Council adopted, on the recommendation of the Commission on Narcotic Drugs, resolution 2009/23 entitled “Support for the development and implementation of the regional programmes of the United Nations Office on Drugs and Crime”.<sup>349</sup> In this resolution, the Council, *inter alia*, welcomed the adoption by the UNODC and Crime of a regional approach for programming based on consultation and partnership at the national and regional levels. It encouraged Member States to draw, where appropriate, upon the regional programmes of the UNODC, and the technical assistance activities outlined in them in the development of national legislation, procedures, policies and strategies to strengthen criminal justice systems and related institutions. The Council also invited all Member States, as well as regional and subregional institutions, to mainstream measures to counter organized crime, corruption and illicit drug trafficking in their national and regional development strategies, in accordance with the relevant international conventions.

On the same day, the Council also adopted resolution 2009/22 entitled “International cooperation in the prevention, investigation, persecution and punishment of economic fraud and identity-related crime”. In this resolution, the Council took note of the report of the Secretary-General on international cooperation in the prevention, investigation, persecution and punishment of economic fraud and identity-related crime.<sup>350</sup> It encouraged Member States to, *inter alia*, ensure that they have adequate investigative powers to combat economic fraud and identity-related crime, and to review and update relevant laws in this respect. It also encouraged Member States to develop and maintain adequate law enforcement and investigative capacity, in order to keep abreast of new developments in the exploitation of information, communications and commercial technologies in economic fraud and identity-related crime; to consider the establishment of new offences in their jurisdictions, in response to the evolution of economic fraud and identity-related crime; and to make full use of relevant international legal instruments to strengthen international cooperation, with a view to preventing and combating economic fraud and identity-related crime.

### (c) General Assembly

On 18 December 2009, the General Assembly adopted, on the recommendation of the Third Committee, resolution 64/182 entitled “International cooperation against the world drug problem”. In this resolution, the General Assembly undertook, *inter alia*, to promote bilateral, regional and international cooperation, including through intelligence-sharing and cross-border cooperation, with a view to countering the world drug problem

<sup>349</sup> See also decision 2009/248 entitled “Report of the Commission on Narcotic Drugs on its fifty-second session and provisional agenda and documentation for the fifty-third session of the Commission” and decision 2009/249 entitled “Report of the International Narcotics Control Board”.

<sup>350</sup> Report of the Secretary-General, “International cooperation in the prevention, investigation, persecution and punishment of economic fraud and identity-related crime” (E/CN.15/2009/2).

more effectively. In particular, it sought to encourage and support cooperation by States most directly affected by illicit crop cultivation and the illicit production, manufacture, transit, distribution and abuse of narcotic drugs and psychotropic substances. The Assembly highlighted the increasing link between drug trafficking, corruption and other forms of organized crime, and stressed the need to address the significant challenges faced by law enforcement and judicial authorities in responding to the ever-changing means used by transnational criminal organizations to avoid detection and prosecution. Further, it urged States that had not yet done so to ratify, accede to or implement all provisions of the Single Convention on Narcotic Drugs of 1961 as amended by the Protocol of 1972,<sup>351</sup> the Convention on Psychotropic Substances of 1971,<sup>352</sup> the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988,<sup>353</sup> the United Nations Convention against Transnational Organized Crime and its protocols,<sup>354</sup> and the Convention against Corruption.<sup>355</sup> It also urged all Member States to implement the Action Plan for the Implementation of the Declaration on the Guiding Principles of Drug Demand Reduction,<sup>356</sup> and to strengthen their national efforts to counter the abuse of illicit drugs in their populations, in particular among children and young people.

## 12. Refugees and displaced persons<sup>357</sup>

### (a) Executive Committee of the Programme of the United Nations High Commissioner for Refugees<sup>358</sup>

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, reporting to it through the Third Committee. The Executive Committee meets annually in Geneva to review and approve the programmes and budget of the UNHCR and its intergovernmental and non-governmental partners. The sixtieth plenary session of the Executive Committee was held in Geneva from 28 September to 2 October 2009.<sup>359</sup>

During its sixtieth plenary session, the Executive Committee adopted one conclusion, in which it concluded that a consensus on the text of a draft conclusion on protracted refugee situations had not been reached between States at the time of the plenary session. The

<sup>351</sup> United Nations, *Treaty Series*, vol. 976, p. 105.

<sup>352</sup> *Ibid.*, vol. 1019, p. 175.

<sup>353</sup> *Ibid.*, vol. 1582, p. 95.

<sup>354</sup> *Ibid.*, vol. 2225, p. 209; *Ibid.*, vol. 2237, p. 304; *Ibid.*, vol. 2326, p. 209; and *Ibid.*, vol. 2241, p. 478.

<sup>355</sup> United Nations, *Treaty Series*, vol. 2349, p. 41.

<sup>356</sup> General Assembly resolution 54/132 of 17 December 1999, annex.

<sup>357</sup> For complete lists of signatories and State parties to international instruments relating to refugees that are deposited with the Secretary-General, see *Multilateral Treaties Deposited with the Secretary-General, Status as at 31 December 2009*, available at <http://treaties.un.org/Pages/Home.aspx?lang=en>.

<sup>358</sup> For detailed information and documents regarding this topic generally, see the website of the UNHCR at <http://www.unhcr.org>.

<sup>359</sup> For the report of the sixtieth session of the Executive Committee, see *Official Records of the General Assembly, Sixtieth Session, Supplement No. 12A (A/64/12/Add.1)*.



Executive Committee noted, however, that negotiations would be pursued between States so that a conclusion may later be adopted.

At an extraordinary meeting convened on 8 December 2009, the Executive Committee adopted a “Conclusion on Protracted Refugee Situations”. In its conclusion, the Executive Committee welcomed initiatives taken by the UNHCR to maximize opportunities and find comprehensive solutions to existing protracted refugee situations, including the convening of a High Commissioner’s Dialogue on Protection Challenges in 2008 on the specific topic of protracted refugee situations. It expressed deep concern about refugees in “protracted refugee situations” for five years or more after their initial displacement, without immediate prospects for implementation of durable solutions, and noted the detrimental effects of long-lasting and intractable exile on the physical, mental, social, cultural and economic well-being of refugees.

In the same conclusion, the Executive Committee recognized that local integration is a sovereign option for States to exercise, and that protracted refugee situations impose considerable burdens for host States, which are themselves often developing, in transition, or with limited resources and facing other constraints. In this regard, the Executive Committee affirmed that support should be provided for addressing the problems and needs of host States which face additional difficulties and suffer negative consequences to their local environment and natural resources. Nevertheless, the Executive Committee acknowledged that protracted refugee situations can increase the risks to which refugees may be exposed, and that at present, there is a particular need to give attention to those refugees most affected by global financial and economic crises.

The Executive Committee also recalled in this conclusion the need for countries of origin to undertake all possible measures to prevent refugee situations, particularly those that can become protracted; to address their root causes; and to promote and facilitate refugees’ voluntary return home from exile and their sustainable reintegration in safety, dignity and social and economic security. It also recognized that in principle, all refugees should have the right to have restored to them or be compensated for any housing, land or property of which they were deprived in an illegal, discriminatory or arbitrary manner before or during exile. To this end, the Executive Committee noted the potential need for fair and effective restitution mechanisms.

With regard to strategic action to be taken by States, the Executive Committee noted, in the same conclusion, that all feasible and practical efforts should be taken to unlock all continuing protracted situations, especially through the implementation of durable solutions, in the spirit of international solidarity and burden sharing. The Executive Committee reiterated that voluntary repatriation remains the preferred durable solution of refugee situations, but that some situations may require tailoring, sequencing and phasing, while others will require simultaneous application of different solutions. It noted that attention will need to be given to additional legal, protection, health, social and economic problems that arise in all refugee situations, and that States’ domestic laws could offer more protection, as appropriate, than outlined in the 1951 Convention Relating to the Status of Refugee.<sup>360</sup>

---

<sup>360</sup> United Nations, *Treaty Series*, vol. 189, p. 137.

The Executive Committee encouraged both States and UNHCR to actively pursue the strategic and increased use of resettlement, and recalled the need for countries of origin to undertake all possible measures to prevent refugee situations, particularly those that may become protracted. Further, the Executive Committee urged States to continue pursuing proactive measures with a view to reducing dependency and promoting self-sufficiency of refugees, and to pursue active and effective partnerships with humanitarian and development partners to implement durable solutions, and the objectives of the Delivering as One initiative.

### **(b) United Nations Economic and Social Council**

On 30 July 2009, the United Nations Economic and Social Council adopted decision 2009/252, 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-fourth session, decide on the question of enlarging the membership of the Executive Committee from seventy-eight to seventy-nine States.

### **(c) General Assembly**

On 18 December 2009, the General Assembly adopted, on the recommendation of the Third Committee, resolution 64/128, entitled “Enlargement of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees”.<sup>361</sup> In this resolution, 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-eight to seventy-nine States, and requested the Economic and Social Council to elect the additional member at its resumed organizational session in 2010.

On the same day, the General Assembly adopted, also on the recommendation of the Third Committee, resolution 64/129, entitled “Assistance to refugees, returnees and displaced persons in Africa”, in which the Assembly, *inter alia*, condemned all acts posing a threat to the well-being of refugees and asylum-seekers, as well as those threatening the security of staff in the Office of the High Commissioner and humanitarian organizations. The Assembly also called upon the international community to intensify their support for African governments through appropriate capacity-building activities, and recognized that although voluntary repatriation is the pre-eminent solution, local integration and third-country resettlement are also viable options in the context of African refugees unable to return home.

---

<sup>361</sup> For other resolutions dealing with refugees, see resolution 64/127, entitled “Office of the United Nations High Commissioner for Refugees” adopted on the same date; resolution 64/87, entitled “Assistance to Palestine refugees” adopted on 10 December 2009; resolution 64/89, entitled “Operations of the United Nations Relief and Works Agency for Palestine refugees in the Near East” adopted on 10 December 2009; and resolution 64/90, entitled “Palestine refugees’ properties and their revenues” adopted on 10 December 2009.

### 13. International Court of Justice<sup>362</sup>

#### (a) Organization of the Court

On 6 February 2009, Judge Hisashi Owada (Japan) was elected President of the International Court of Justice, and Judge Peter Tomka (Slovakia) was elected Vice-President.

At the end of 2009, the composition of the Court was as follows:

President: Hisashi Owada (Japan);

Vice-President: Peter Tomka (Slovakia);

Judges: Shi Jiuyong (China), Abdul G. Koroma (Sierra Leone), Awn Shawkat Al-Khasawneh (Jordan), Thomas Buergenthal (United States of America), Bruno Simma (Germany), Ronny Abraham (France), Kenneth Keith (New Zealand), Bernardo Sepúlveda-Amor (Mexico), Mohamed Bennouna (Morocco), Leonid Skotnikov (Russian Federation), Antônio A. Cançado Trindade (Brazil), Abdulqawi Ahmed Yusuf (Somalia), and Christopher Greenwood (United Kingdom of Great Britain and Northern Ireland).

The Registrar of the Court is Mr. Philippe Couvreur; the Deputy-Registrar 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 in accordance with Article 29 of the Statute to ensure the speedy dispatch of business, is composed as follows:

##### *Members:*

President: Hisashi Owada;

Vice-President: Peter Tomka;

Judges: Abdul G. Koroma, Thomas Buergenthal and Bruno Simma.

##### *Substitute members:*

Judges: Bernardo Sepúlveda-Amor and Leonid Skotnikov.

#### (b) Jurisdiction of the Court<sup>363</sup>

On 31 December 2009, 192 States were Parties to the Statute of the Court.

No declarations were made, in 2009, recognizing the compulsory jurisdiction of the Court as contemplated by Article 36, paragraph 2 of the Statute.

Thus, at the end of 2009, the following 66 States had recognized such compulsory jurisdiction: Australia, Austria, Barbados, Belgium, Botswana, Bulgaria, Cambodia,

<sup>362</sup> For more information about the Court, see the reports of the International Court of Justice to the General Assembly, *Official Records of the General Assembly, Sixty-fourth session, Supplement No. 4, (A/64/4)* (for the period 1 August 2008 to 31 July 2009) and *Official Records of the General Assembly, Sixty-fifth session, Supplement No. 4, (A/65/4)* (for the period 1 August 2009 to 31 July 2010) (forthcoming).

<sup>363</sup> For further information regarding the jurisdiction of the International Court of Justice, see chapter I of *Multilateral Treaties Deposited with the Secretary-General*, available on the website <http://treaties.un.org/Pages/ParticipationStatus.aspx>.

Cameroon, Canada, the Commonwealth of Dominica, Costa Rica, Côte d'Ivoire, Cyprus, the Democratic Republic of the Congo, Denmark, Djibouti, Dominican Republic, Egypt, Estonia, Finland, Gambia, Georgia, Germany, Greece, Guinea-Bissau, Haiti, Honduras, Hungary, India, Japan, Kenya, Lesotho, Liberia, Liechtenstein, Luxembourg, Madagascar, Malawi, Malta, Mauritius, Mexico, the Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Pakistan, Panama, Paraguay, Peru, the Philippines, Poland, Portugal, Guinea, Senegal, Slovakia, Somalia, Spain, Sudan, Suriname, Swaziland, Sweden, Switzerland, Togo, Uganda, the United Kingdom of Great Britain and Northern Ireland, and Uruguay.

### (c) General Assembly

On 29 October 2009, the General Assembly adopted, without reference to a Main Committee, decision 64/508, in which it took note of the report of the International Court of Justice for the period from 1 August 2008 to 31 July 2009.<sup>364</sup>

On 2 December 2009, the General Assembly adopted, on the recommendation of the First Committee, resolution 64/55 entitled "Follow-up to the advisory opinion of the International Court of Justice on the Legality of the Threat or Use of Nuclear Weapons". The Assembly underlined once again the unanimous conclusion of the International Court of Justice that there exists an obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international control, and called once again upon all States immediately to fulfil that obligation by commencing multilateral negotiations leading to an early conclusion of a nuclear weapons convention prohibiting the development, production, testing, deployment, stockpiling, transfer, threat or use of nuclear weapons and providing for their elimination. The Assembly further requested all States to inform the Secretary-General of the efforts and measures they have taken on the implementation of that resolution and nuclear disarmament, and requests the Secretary-General to apprise the General Assembly of that information at its sixty-fifth session.

## 14. International Law Commission<sup>365</sup>

### (a) Membership of the Commission

On 4 May 2009, the Commission elected Mr. Shinya Murase (Japan) to fill the casual vacancy occasioned by the resignation of Mr. Chusei Yamada.<sup>366</sup>

The membership of the International Law Commission at its sixty-first session consisted of Mr. Ali Mohsen Fetais Al-Marri (Qatar), 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.

<sup>364</sup> For the text of the decisions, see *Official Records of the General Assembly, Sixty-fourth session, Supplement No. 4, (A/64/49)*.

<sup>365</sup> Detailed information and documents relating to the work of the International Law Commission may be found on the Commission's website at <http://www.un.org/law/ilc/>.

<sup>366</sup> A/CN.4/613 and Add.1.

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. Shinya Murase (Japan), 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), Mr. Michael Wood (United Kingdom) and Ms. Hanqin Xue (China).

### (b) Sixty-first session of the International Law Commission

The International Law Commission held, at its seat at the United Nations Office in Geneva, the first part of its sixty-first session from 4 May to 5 June 2009, and the second part of the session from 6 July to 7 August 2009.<sup>367</sup> The Commission considered the topics entitled “Responsibility of international organizations”, “Reservations to treaties”, “Expulsion of aliens”, “Protection of persons in the event of disasters”, “Shared natural resources”, “The obligation to extradite or prosecute (*aut dedere aut judicare*)”, “The Most-Favoured-Nation clause”, and “Treaties over time”. The consideration by the Commission of these topics is outlined below.

Concerning the topic “Responsibility of international organizations”, the Commission had before it the seventh report of the Special Rapporteur, Mr. Giorgio Gaja,<sup>368</sup> which contained a review of comments made by States and international organizations on the draft articles provisionally adopted by the Commission and certain proposals of amendments thereto. The seventh report also addressed certain outstanding issues, such as the general provisions of the draft articles and the place of the chapter concerning the responsibility of a State in connection with the act of an international organization. Following its debate on the report, the Commission referred these amendments and six draft articles to the Drafting Committee. As a result of its consideration of the topic, the Commission adopted on first reading a set of 66 draft articles, together with commentaries thereto, on responsibility of international organizations. The Commission also decided, in accordance with articles 16 to 21 of its Statute, to transmit the draft articles, through the Secretary-General, to Governments and international organizations for comments and observations, with the request that such comments and observations be submitted to the Secretary-General by 1 January 2011.

In connection with the topic “Reservations to treaties”, the Commission considered the fourteenth report of the Special Rapporteur, Mr. Alain Pellet,<sup>369</sup> dealing, in particular, with outstanding issues relating to the procedure for the formulation of interpretative declarations, and with the permissibility of reactions to reservations, interpretative declarations and reactions to interpretative declarations. The Commission referred to the Draft-

<sup>367</sup> For the report of the International Law Commission on the work at its sixty-first session, see *Official Records of the General Assembly, Sixty-fourth session, Supplement No. 10 (A/64/10)*.

<sup>368</sup> A/CN.4/610.

<sup>369</sup> A/CN.4/614 and Add.1.

ing Committee two draft guidelines on the form and communication of interpretative declarations, and seven draft guidelines on the permissibility of reactions to reservations and on the permissibility of interpretative declarations and reactions thereto. One of the main issues in the debate was the existence of conditions for permissibility of objections to reservations, in particular with respect to objections with “intermediate effect”. The Commission also adopted 32 draft guidelines, together with commentaries thereto. In the consideration of these draft guidelines, the Commission proceeded on the basis of the draft guidelines contained in the tenth,<sup>370</sup> twelfth,<sup>371</sup> thirteenth<sup>372</sup> and fourteenth reports of the Special Rapporteur, which were referred to the Drafting Committee in 2006, 2007, 2008 and 2009, respectively.

In relation to the topic “Expulsion of aliens”, the Commission considered the fifth report of the Special Rapporteur, Mr. Maurice Kamto,<sup>373</sup> dealing with questions relating to the protection of the human rights of persons who have been or are being expelled. In the light of the debate on the report, the Special Rapporteur submitted to the Commission a revised version of the draft articles contained therein,<sup>374</sup> as well as a new draft workplan with a view to structuring the draft articles.<sup>375</sup> The Commission decided to postpone to its next session the consideration of the revised draft articles presented by the Special Rapporteur.

Concerning the topic “Protection of persons in the event of disasters”, the Commission had before it the second report of the Special Rapporteur, Mr. Eduardo Valencia-Ospina,<sup>376</sup> which focused on issues relating to the scope of the topic *ratione materiae*, *ratione personae* and *ratione temporis*, the definition of disaster, as well as the principles of solidarity and cooperation. Following a debate in the plenary on each of the three draft articles proposed by the Special Rapporteur, the Commission decided to refer all three draft articles to the Drafting Committee. The Commission took note of five draft articles provisionally adopted by the Drafting Committee, relating to scope, purpose, the definition of disaster, the relationship with international humanitarian law and the duty to cooperate. These draft articles, together with commentaries thereto, will be considered by the Commission at its next session.

As regards the topic “Shared natural resources”, the Commission established, under the chairmanship of Mr. Enrique Candioti, a working group on shared natural resources, which, *inter alia*, had before it a working paper on oil and gas,<sup>377</sup> prepared by Mr. Chusei Yamada, Special Rapporteur on the topic, before he resigned from the Commission. The focus of work of the Working Group was on the feasibility of any future work by the Commission on aspects of the topic relating to transboundary oil and gas resources. The Working Group decided to entrust Mr. Shinya Murase with the responsibility of preparing a study, with the assistance of the Secretariat, to be submitted to the Working Group

<sup>370</sup> A/CN.4/558 and Corr.1, Add.1 and Corr.1 and Add.2.

<sup>371</sup> A/CN.4/584.

<sup>372</sup> A/CN.4/600.

<sup>373</sup> A/CN.4/611 and Corr.1.

<sup>374</sup> A/CN.4/617.

<sup>375</sup> A/CN.4/618.

<sup>376</sup> A/CN.4/615 and Corr.1.

<sup>377</sup> A/CN.4/608.

on Shared Natural Resources that may be established at the next session of the Commission. Moreover, the Working Group recommended, and the Commission endorsed, that a decision on any future work on oil and gas be deferred until 2010; and that, in the meantime, the 2007 questionnaire on oil and gas be recirculated to Governments, while also encouraging them to provide comments and information on any other matter concerning the issue of oil and gas, including, in particular, whether or not the Commission should address the subject.

Concerning the topic “The Obligation to Extradite or prosecute (*aut dedere aut judicare*)”, the Commission established an open-ended Working Group under the chairmanship of Mr. Alain Pellet. The Working Group elaborated a general framework of issues that may need to be addressed in future work by the Special Rapporteur.

In relation to the topic “The Most-Favoured-Nation clause”, the Commission established, under the co-chairmanship of Mr. Donald M. McRae and Mr. A. Rohan Perera, a study group on the Most-Favoured-Nation clause, which considered and agreed on a framework to serve as a road map of future work, in the light of issues highlighted in the syllabus on the topic. In particular, the Study Group made a preliminary assessment of the 1978 draft articles and decided on eight papers to be dealt with under the topics identified and assigned primary responsibility to its members for the preparation of the papers.

As regards the topic “Treaties over time”, the Commission established, under the chairmanship of Mr. Georg Nolte, a study group on treaties over time, which considered the question of the scope of the work of the Study Group and agreed on a course of action to begin the consideration of the topic.

Further, the Commission appointed Mr. Lucius Caflisch as Special Rapporteur of the topic “Effects of armed conflicts on treaties”; and set up the Planning Group to consider its programme, procedures and working methods. Finally, the Working Group on the long-term programme of work was reconstituted, under the chairmanship of Mr. Enrique Candiotti.

### (c) Sixth Committee

The Sixth Committee considered the agenda item entitled “Report of the International Law Commission on the work of its sixty-first session” at its 15th to 23rd and 25th meetings, from 26 to 30 October and on 2, 3 and 12 November 2009, respectively. The Chairman of the International Law Commission at its sixty-first session introduced the report of the Commission: chapters I to IV and XIII at the 15th meeting, on 26 October 2009, chapters V and VI at the 17th meeting, on 28 October 2009, chapters VII and VIII at the 18th meeting, on 28 October 2009, and chapters IX, XI and XII at the 22nd meeting, on 2 November 2009.<sup>378</sup>

At the 25th meeting, on 12 November 2009, the representative of the Islamic Republic of Iran, on behalf of the Bureau, introduced a draft resolution entitled “Report of the International Law Commission on the work of its sixty-first session”. At the same meeting, the Committee the adopted draft resolution without a vote.<sup>379</sup>

<sup>378</sup> Summary records of the Sixth Committee, A/C.6/64/SR.15, 17, 18 and 22.

<sup>379</sup> A/C.6/64/L.15.



### (d) General Assembly

On 16 December 2009, the General Assembly adopted, on the recommendation of the Sixth Committee, resolution 64/114, by which it took note of the report of the International Law Commission on the work of its sixty-first session. The Assembly, *inter alia*, expressed its appreciation to the International Law Commission for the work accomplished at its sixty-first session, in particular for the completion, on first reading, of the draft articles on the topic “Responsibility of international organizations”, and drew the attention of Governments to the importance for the Commission of having their comments and observations by 1 January 2011 on the draft articles and commentaries on the topic “Responsibility of international organizations”.<sup>380</sup> The Assembly invited the Commission to continue taking measures to enhance its efficiency and productivity and to consider making proposals to that end, and encouraged it to continue taking cost-saving measures at its future sessions, without prejudice to the efficiency and effectiveness of its work.

In the same resolution, General Assembly took note of the report of the Secretary-General on assistance to special rapporteurs of the International Law Commission<sup>381</sup> and of paragraphs 240 to 242 of the report of the International Law Commission, and requested the Secretary-General to submit to the General Assembly at its sixty-fifth session options regarding additional support for the work of special rapporteurs. In addition, the Assembly welcomed the enhanced dialogue between the International Law Commission and the Sixth Committee at the sixty-fourth session of the General Assembly; stressed the desirability of further enhancing the dialogue between the two bodies, and in this context encouraged, *inter alia*, the continued practice of informal consultations in the form of discussions between the members of the Sixth Committee and the members of the Commission attending the sixty-fifth session of the Assembly. Finally, the General Assembly approved the conclusions reached by the International Law Commission in paragraph 232 of its report, and reaffirmed its previous decisions concerning the documentation and summary records of the Commission.<sup>382</sup>

## 15. United Nations Commission on International Trade Law<sup>383</sup>

### (a) Forty-second session of the Commission

The United Nations Commission on International Trade Law (UNCITRAL) held its forty-second session in Vienna from 29 June to 17 July 2009 and adopted its report on 17 July 2009.<sup>384</sup>

At the session, the Commission finalized and adopted the UNCITRAL Practice Guide on Cross-Border Insolvency Cooperation. In adopting the Practice Guide, the Commis-

<sup>380</sup> *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 10 (A/64/10)*, chap. IV, sect. C.

<sup>381</sup> A/64/283.

<sup>382</sup> See General Assembly resolutions 32/151, para. 10, and 37/111, para. 5, and all subsequent resolutions on the annual reports of the International Law Commission to the General Assembly.

<sup>383</sup> For the membership of the United Nations Commission on International Trade Law, see *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 17 (A/64/17)*, para. 4.

<sup>384</sup> *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 17 (A/64/17)*.

sion noted that coordination and cooperation in cross-border insolvency cases had the potential to significantly improve the chances for rescuing financially troubled individuals and enterprise groups. Acknowledging that familiarity with cross-border insolvency cooperation and coordination and the means by which it might be implemented in practice was not widespread, the Commission requested the Secretary-General to publish and widely disseminate the Practice Guide as a valuable source of readily accessible information on current practice with respect to cross-border cooperation and coordination, and recommended that the Practice Guide be given due consideration, as appropriate, by various stakeholders involved in cross-border insolvency proceedings.<sup>385</sup>

Concerning the ongoing work in the field of insolvency law, the Commission noted the progress of its Working Group V (Insolvency Law) regarding consideration of the treatment of enterprise groups in insolvency, as reflected in the reports of its thirty-fifth<sup>386</sup> and thirty-sixth<sup>387</sup> sessions. The Commission noted the Working Group's decision that the text resulting from the work on enterprise groups would form part III of the UNCITRAL Legislative Guide on Insolvency Law.<sup>388, 389</sup>

As regards the review of the 1994 UNCITRAL Model Law on Procurement of Goods, Construction and Services,<sup>390</sup> the Commission noted the progress made by its Working Group I (Procurement) as reflected in the reports on the work of its fourteenth to sixteenth sessions.<sup>391</sup> The Commission established a committee of the whole to consider at the session a draft revised UNCITRAL model law on public procurement.<sup>392</sup> Upon recommendation of the committee of the whole, the Commission concluded that the revised model law was not ready for adoption at that session of the Commission and requested the Working Group to continue its work, noting the importance of completing the revised model law as soon as possible.<sup>393</sup>

Concerning work on the revision of the 1976 UNCITRAL Arbitration Rules,<sup>394</sup> the Commission noted the progress made by its Working Group II (Arbitration and Conciliation) as reflected in the reports of its forty-ninth<sup>395</sup> and fiftieth<sup>396</sup> sessions and expressed the hope that the revised UNCITRAL Arbitration Rules would be adopted at the forty-third session of the Commission, in 2010.<sup>397</sup> In response to a proposal aimed at expanding the

<sup>385</sup> *Ibid.*, para. 24.

<sup>386</sup> A/CN.9/666.

<sup>387</sup> A/CN.9/671.

<sup>388</sup> United Nations publication, Sales No. E.05.V.10.

<sup>389</sup> *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 17 (A/64/17)*, paras. 302–304.

<sup>390</sup> *Ibid.*, *Forty-ninth Session, Supplement No. 17 and corrigendum (A/49/17 and Corr. 1)*, annex I.

<sup>391</sup> A/CN.9/664, A/CN.9/668 and A/CN.9/672.

<sup>392</sup> *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 17 (A/64/17)*, paras. 11 and 48.

<sup>393</sup> *Ibid.*, paras. 283–285.

<sup>394</sup> United Nations publication, Sales No. E.77.V.6.

<sup>395</sup> A/CN.9/665.

<sup>396</sup> A/CN.9/669.

<sup>397</sup> *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 17 (A/64/17)*, paras. 291 and 298.

role of the Secretary-General of the Permanent Court of Arbitration at The Hague under the UNCITRAL Arbitration Rules, the Commission agreed that the mechanism existing in the 1976 Rules on designating and appointing authorities should not be changed.<sup>398</sup>

Concerning the preparation of a supplement to the UNCITRAL Legislative Guide on Secured Transactions specific to security rights in intellectual property, the Commission noted the progress made by its Working Group VI (Security Interests) as reflected in the reports of its fourteenth<sup>399</sup> and fifteenth<sup>400</sup> sessions. The Commission noted that the draft supplement would be submitted to the Commission for adoption at its forty-third session, in 2010.<sup>401</sup>

In response to the request from the International Chamber of Commerce, the Commission commended the use of the 2007 revision of the Chamber's Uniform Customs and Practice for Documentary Credits (UCP 600), as appropriate, in transactions involving the establishment of a documentary credit. In doing so, the Commission recognized that UCP 600, which was aimed at establishing uniformity of practice in relation to dealings with documentary credits, provided successful international contractual rules governing documentary credits.<sup>402</sup>

In the context of the ongoing project to monitor the legislative implementation of the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards,<sup>403</sup> the Commission noted that a draft guide to enactment of the New York Convention was being planned for preparation. Noting common features in that work and the work of the International Chamber of Commerce's Commission on Arbitration's task force established to examine the national rules of procedure for recognizing and enforcing foreign arbitral awards, the Commission encouraged more joint activities between the Secretariat and the Commission on Arbitration.<sup>404</sup>

The Commission considered its future work program in a number of areas. In the area of settlement of commercial disputes, the Commission confirmed that the question of transparency in treaty-based investor-State arbitration should be dealt with as a matter of priority<sup>405</sup> and also requested the Secretariat to pursue its efforts towards the preparation of a guide to enactment and use of the UNCITRAL Model Law on International Commercial Arbitration as amended in 2006.<sup>406,407</sup> In the area of transport law, the Commission agreed that the Secretariat should prepare and publish an index to the legislative history of the United Nations Convention on Contracts for the International Carriage of Goods

<sup>398</sup> *Ibid.*, paras. 293–297.

<sup>399</sup> A/CN.9/667.

<sup>400</sup> A/CN.9/670.

<sup>401</sup> *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 17 (A/64/17)*, paras. 312–313.

<sup>402</sup> *Ibid.*, paras. 356 and 357.

<sup>403</sup> United Nations, *Treaty Series*, vol. 330, No. 4739.

<sup>404</sup> *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 17 (A/64/17)*, paras. 360–361.

<sup>405</sup> *Ibid.*, para. 299.

<sup>406</sup> United Nations publication, Sales No. E.08.V.4.

<sup>407</sup> *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 17 (A/64/17)*, para. 300.

Wholly or Partly by Sea<sup>408</sup> (the Rotterdam Rules), and a brief introductory note describing the origin of the Convention.<sup>409</sup> In the area of electronic commerce, the Commission requested the Secretariat to remain engaged in the World Customs Organization (WCO)—UNCITRAL Joint Legal Task Force on Coordinated Border Management incorporating the International Single Window, and to prepare studies on electronic transferable records and on online dispute resolution.<sup>410</sup> The Commission took note of a proposal for future work in the area of financial fraud,<sup>411</sup> and expressed support for the publication and dissemination by the Secretariat of updated indicators of commercial fraud and continuous cooperation between the secretariats of UNCITRAL and the United Nations Office on Drugs and Crime (UNODC) in the work on economic fraud and identity-related crime.<sup>412</sup> In the area of microfinance, the Commission requested the Secretariat to prepare a detailed study of legal and regulatory issues of microfinance as well as proposals as to the form and nature of a reference document that the Commission might in the future consider preparing to establish a favourable legal framework in that area.<sup>413</sup>

The Commission noted the continuing work under the system established for the collection and dissemination of case law on UNCITRAL texts (CLOUT), in particular that as at 8 April 2009, 83 issues of compiled case-law abstracts from the CLOUT system had been prepared for publication, dealing with 851 cases relating mainly to the United Nations Convention on Contracts for the International Sale of Goods<sup>414</sup> and the UNCITRAL Model Law on International Commercial Arbitration, and also including some cases on the UNCITRAL Model Law on Cross-Border Insolvency.<sup>415, 416</sup>

The Commission took note of the status of its texts,<sup>417</sup> of reports of other organizations active in the field of international commercial law,<sup>418</sup> and of reports on international commercial arbitration moot competitions held worldwide.<sup>419</sup> It continued consideration of its technical assistance activities,<sup>420</sup> its working methods,<sup>421</sup> measures aimed at increasing coordination and cooperation with other organizations active in the field of international

---

<sup>408</sup> General Assembly resolution 63/122 of 11 December 2008.

<sup>409</sup> *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 17 (A/64/17)*, paras. 331 and 334.

<sup>410</sup> *Ibid.*, paras. 337–343.

<sup>411</sup> *Ibid.*, para. 355.

<sup>412</sup> *Ibid.*, paras. 348 and 354.

<sup>413</sup> *Ibid.*, paras. 432–433.

<sup>414</sup> United Nations, *Treaty Series*, vol. 1489, No. 25567.

<sup>415</sup> United Nations publication, Sales No. E.99.V.3.

<sup>416</sup> *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 17 (A/64/17)*, paras. 368–373.

<sup>417</sup> *Ibid.*, paras. 376–378.

<sup>418</sup> *Ibid.*, paras. 401–411.

<sup>419</sup> *Ibid.*, paras. 421–426.

<sup>420</sup> *Ibid.*, paras. 362–367.

<sup>421</sup> *Ibid.*, paras. 382–397.

commercial law,<sup>422</sup> and its role in promoting the rule of law at the national and international levels.<sup>423</sup>

### **(b) General Assembly**

At its sixty-fourth session, on 16 December 2009, the General Assembly, on the recommendation of the Sixth Committee,<sup>424</sup> adopted resolution 64/111 on the report of the Commission on the work of its forty-second session and resolution 64/112 on the Practice Guide on Cross-Border Insolvency Cooperation of the United Nations Commission on International Trade Law.

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

During the sixty-fourth 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 adopted by the General Assembly during 2009.<sup>425</sup> The resolutions of the General Assembly described in this section were all adopted during the sixty-fourth session, on 16 December 2009, on the recommendation of the Sixth Committee.<sup>426</sup>

### **(a) 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.<sup>427</sup>

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

<sup>422</sup> *Ibid.*, paras. 398–400.

<sup>423</sup> *Ibid.*, paras. 412–420.

<sup>424</sup> Report of the Sixth Committee (A/64/447).

<sup>425</sup> 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/64/index.shtml>.

<sup>426</sup> 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 in 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.

<sup>427</sup> General Assembly resolution 2006 (XIX) of 18 February 1965.

(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,<sup>428</sup> submitted pursuant to General Assembly resolutions 59/300, and 60/263 and decision 60/563.<sup>429</sup> At the same session, the General Assembly decided to establish an *Ad Hoc* Committee for the purpose of considering the report of the Group of Legal Experts, in particular its legal aspects.<sup>430</sup>

### (i) *Sixth Committee*

The Sixth Committee considered the item at its 7th, 14th, 18th and 25th meetings, on 13, 23 and 28 October and on 12 November 2009, respectively.<sup>431</sup>

On 5 October 2009, the Sixth Committee established, pursuant to General Assembly resolution 63/119, a Working Group to continue to consideration of the report of the Group of Legal Experts,<sup>432</sup> focusing on its legal aspects, and taking into account the views of Member States and the information contained in the note by the Secretariat.<sup>433</sup> The Committee decided to open the Working Group to all Member States of the United Nations or members of the specialized agencies or of the International Atomic Energy Agency. The Working Group held two meetings, on 13 and 15 October. At the 14th meeting of the Sixth Committee, the Chairperson of the Working Group presented an oral report of the work of the Working Group.<sup>434</sup>

All speakers 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. It was reiterated that criminal accountability is a fundamental pillar of the rule of law, and that it is crucial for the Organization's integrity and effectiveness. Several speakers observed that it was important for the Organization to give a clear political signal that it will not tolerate criminal behaviour. It was noted that it was apparent from the Secretary-General's reports that some Member States do have the legislation and capacity to exercise jurisdiction, while others have some provisions for at least a limited exercise of jurisdiction. Member States were encouraged to exercise jurisdiction in applicable cases in order to ensure that criminal acts do not go unpunished. It was noted that the remedial measures adopted under General Assembly resolutions 62/63 and 63/119, if properly implemented, could address the issue of jurisdictional gaps. While a preference was expressed by some for a predominant role to be played by the host State, others preferred to emphasize the role of the State of nationality.

<sup>428</sup> For more information, see note by Secretary-General, A/60/980.

<sup>429</sup> General Assembly decision 61/503 A of 13 September 2006.

<sup>430</sup> 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.

<sup>431</sup> For the summary records of the Sixth Committee, see A/C.6/64/SR.7, 14, 18 and 25.

<sup>432</sup> For the report of the Working Group, see A/60/980.

<sup>433</sup> A/62/329.

<sup>434</sup> A/C.6/64/SR.14

Delegations emphasized the importance of strengthening cooperation between States, including between the host State and the State of nationality of the alleged offender, as well as cooperation between States and the United Nations, in prosecuting alleged crimes of a serious nature. The need for such cooperation was emphasized, *inter alia*, with respect to investigations, exchange of information and the collection of evidence, as well as regarding extradition matters and the execution of sentences. While recognizing that cooperation was to be carried out in conformity with domestic law, some delegations were of the view that such law should not serve as a justification for refraining from cooperating as recommended by the relevant General Assembly resolutions, and that amendments to domestic law should also be considered when necessary.

A number of delegations stressed the importance of receiving from the Secretariat statistics about substantiated allegations. It was also suggested that there was a need to ensure that there be no abuse of the process of waiver of privileges and immunities. A call was also made for the implementation of the amended draft model Memorandum of Understanding,<sup>435</sup> as well as for greater coordination with the work of the Special Committee on Peacekeeping Operations. All speakers expressed gratitude and support for the Organization's efforts in the pre-deployment training of peacekeeping personnel. Several delegations expressed support for the proposal for a negotiation of an international convention requiring parties to exercise criminal jurisdiction over nationals who participate in United Nations operations abroad. Some expressed a preference for including military contingents within the scope of such instrument, while other suggestions included also covering civil liability for economic damage and loss. Other delegations were of the view that it was still too premature to discuss a draft convention.

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".<sup>436</sup> At the 26th meeting, on 14 November 2009, the Committee adopted draft resolution A/C.6/63/L.10 without a vote.

## (ii) *General Assembly*

In resolution 64/110, entitled "Criminal accountability of United Nations officials and experts on mission", the General Assembly, *inter alia*, expressed its appreciation for work of the Working Group of the Sixth Committee. 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. It also urged all States to consider establishing to the extent that they had not yet done so jurisdiction, particularly over crimes of a serious nature, as known in their existing domestic criminal laws, committed by their nationals while serving as United Nations officials or experts on mission, at least where the conduct as defined in the law of the State establishing jurisdiction also constitutes a crime under the laws of the host State.

<sup>435</sup> See A/61/19/Rev.1, annex, as amended by General Assembly resolution 61/291.

<sup>436</sup> A/C.6/63/L.10.



The General Assembly further urged the Secretariat to continue to ensure that requests to Member States seeking personnel to serve as experts on mission make States aware of the expectation that persons who serve in that capacity should meet high standards in their conduct and behaviour and be aware that certain conduct may amount to a crime for which they may be held accountable. The Secretary-General was requested to bring credible allegations that reveal that a crime may have been committed by United Nations officials or experts on mission to the attention of the States against whose nationals such allegations are made and to request from those States an indication of the status of their efforts to investigate and, as appropriate, prosecute crimes of a serious nature, as well as the types of appropriate assistance that States may wish to receive from the Secretariat for the purposes of such investigations and prosecutions. The General Assembly emphasized that the United Nations, in accordance with the applicable rules of the Organization, should take no action that would retaliate against or intimidate United Nations officials and experts on mission who report allegations concerning crimes of a serious nature committed by United Nations officials and experts on mission. It reiterated its request to the Secretary-General to report to the Assembly at its sixty-fifth session on the implementation of the present resolution, and to include in his report, *inter alia*, 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 United Nations officials and experts on mission, and information on how the United Nations might support Member States, at their request, in the development of domestic criminal law relevant to crimes of a serious nature committed by their nationals while serving as United Nations officials or experts on mission.

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

The United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law was established by the General Assembly at its twentieth session, in 1965,<sup>437</sup> to provide direct assistance in the field of international law, as well as through the preparation and dissemination of publications and other information relating to international law. The Assembly authorized the continuation of the Programme at its annual sessions until its twenty-sixth session, and thereafter biennially.<sup>438</sup>

In the performance of the functions entrusted to him by the General Assembly, the Secretary-General is assisted by the Advisory Committee on the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law, the members of which are appointed by the Assembly.

**(i) Sixth Committee**

The Sixth Committee considered the item at its 24th and 25th meetings, on 4 and 12 November 2009, respectively.<sup>439</sup>

<sup>437</sup> General Assembly resolution 2099 (XX) of 20 December 1965.

<sup>438</sup> For further information on the Programme, see <http://www.un.org/law/programmeofassistance/>.

<sup>439</sup> For the summary records, see A/C.6/64/SR.24 and 25.

Several delegations expressed support for the Programme of Assistance and considered it to be a key component in the efforts of the United Nations to strengthen international law. The importance of the United Nations Audiovisual Library of International Law<sup>440</sup> in the teaching and dissemination of international law was particularly emphasized. The view was expressed that due consideration should be given to placing the activities under the Programme of Assistance on the regular budget, which would be supplemented by voluntary contributions, to ensure their effective implementation. The point was also made that it would be useful to receive information from the Secretary-General concerning the possibility of providing funding from the regular budget for the Audiovisual Library, as referred to in paragraph 89 of his report on this item.<sup>441</sup>

At the 25th meeting, on 12 November, the representative of Ghana, on behalf of the Bureau, introduced a draft resolution entitled “United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law”. The Committee adopted the draft resolution without a vote.<sup>442</sup>

## (ii) *General Assembly*

The General Assembly adopted resolution 64/113, in which it, *inter alia*, approved the guidelines and recommendations set out in section III of the report of the Secretary-General on the implementation of the Programme of Assistance,<sup>443</sup> and authorized the Secretary-General to carry out in 2010 and 2011 the activities specified in the report. The General Assembly expressed its appreciation to the Secretary-General for his efforts to strengthen, expand and enhance the international law training and dissemination activities within the framework of the Programme of Assistance in 2008 and 2009, and recognized the importance of the United Nations Audiovisual Library of International Law as a major contribution to the teaching and dissemination of international law around the world. Member States and interested organizations and individuals were requested to make voluntary contributions, *inter alia*, for the International Law Fellowship Programme and the United Nations Audiovisual Library of International Law.

## (c) **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.<sup>444</sup> At its thirtieth

<sup>440</sup> Accessible at <http://www.un.org/law/avl>.

<sup>441</sup> A/64/495.

<sup>442</sup> Draft resolution A/C.6/64/L.17.

<sup>443</sup> A/64/495.

<sup>444</sup> General Assembly resolution 3349 (XXIX) of 17 December 1974.

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.<sup>445</sup> Since its thirtieth session, the General Assembly has reconvened the Special Committee every year.

The Special Committee met at the United Nations Headquarters from 17 to 25 February 2009. The issues considered by the Special Committee during its 2009 session were: maintenance of international peace and security in all its aspects; the working document submitted by the Russian Federation, entitled “Basic conditions and standard criteria for introduction and implementation of sanctions”; and 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.

#### (ii) *Sixth Committee*

The Sixth Committee considered the item at its 11th and 25th meetings, on 19 October and on 12 November 2009, respectively.<sup>446</sup> At the 11th meeting, on 19 October 2009, 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.<sup>447</sup>

Several delegations stressed that sanctions, which are an important tool for the maintenance of international peace and security, should be carefully targeted, take into account the rights of due process for the individuals concerned and the need to minimize their adverse impact on third parties, limited in duration and periodically reviewed. It was pointed out that sanctions should also have clear objectives, be proportionate, and comply with the Charter of the United Nations and human rights. Several other delegations also recalled that sanctions should be used only in last resort and be clearly defined. It was further emphasized that sanctions should strictly comply with international law and never be unilaterally imposed, applied preventively, or aimed at undermining the political and legal order in a State. The progress achieved in various United Nations fora to target and streamline sanctions procedures was welcomed by some delegations.

Regarding the question of peaceful settlement of disputes, several delegations reaffirmed the essential part it played in the maintenance of international peace and security, and the important role of the International Court of Justice as the principle judicial organ of the Organization. The importance of free choice of means in peaceful dispute settlement was also emphasized. While some delegations expressed their support for the proposal submitted by Belarus and the Russian Federation to request an advisory opinion from the Court on the legal consequences of the resort to the use of force by States without prior

<sup>445</sup> General Assembly resolution 3499 (XXX) of 15 December 1975.

<sup>446</sup> For the summary records of the Sixth Committee, see A/C.6/64/SR.11 and 25.

<sup>447</sup> A/64/33.

authorization by the Security Council except in the exercise of the right of self-defense, a divergent view was also voiced.

Regarding the working methods of the Special Committee, several delegations expressed their support for the topics currently on the agenda of the Special Committee. The lack of political will, rather than working methods, was pointed out as the cause for the reduction of productivity of the Special Committee in recent years. Several delegations mentioned the possibility of shortening the meeting time of the Special Committee, and emphasized the need for better approaches to efficiency. It was also stressed that no amendment to the Charter should be made before a clear mandate from the General Assembly was given.

Delegations welcomed the progress made in the preparation of the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*, in particular the efforts undertaken by the Secretariat in order to reduce the backlog of these publications and make them available on the Internet. Several delegations emphasized the importance of ensuring the timely issuance of all language versions of these publications. It was observed that the *Repertory* and the *Repertoire* contributed to the institutional memory of the Organization and were valuable tools for both researchers and practitioners.

At the 25th meeting of the Sixth Committee, on 12 November 2009, 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 Sixth Committee adopted the draft resolution without a vote.<sup>448</sup>

### (iii) *General Assembly*

In resolution 64/115 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, *inter alia*, took note of the report of the Special Committee, and of the document entitled "Introduction and implementation of sanctions imposed by the United Nations",<sup>449</sup> It invited the Special Committee to at its 2010 session continue to identify new subjects for consideration in its future work with a view to contributing to the revitalization of the work of the United Nations, and requested it to submit a report on its work to the General Assembly at its sixty-fifth session. The Assembly commended the Secretary-General for the progress made in the preparation of studies of the *Repertory of Practice of United Nations Organs*, as well as the progress made towards updating the *Repertoire of the Practice of the Security Council*, and noted with appreciation the contributions made by Member States to the trust fund for the updating of the *Repertoire*, as well as the trust fund for the elimination of the backlog in the *Repertory*.

<sup>448</sup> Draft resolution A/C.6/64/L.9.

<sup>449</sup> Set out in the annex to resolution 64/115.

### (d) 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, in 2006, at the request of Liechtenstein and Mexico.<sup>450</sup>

#### (i) *Sixth Committee*

The Sixth Committee considered the item at its 8th, 9th, 10th, 24th and 25th meetings, on 14 and 15 October and on 4 and 12 November 2009, respectively.<sup>451</sup>

In their general observations, delegations emphasized that the rule of law at the national and international levels was an essential condition for peaceful cooperation and coexistence among States, and critical to effectively address global challenges on the basis of the purposes and principles of the Charter and international law. Some delegations stated that a strong international system based on the rule of law was the main guarantor for the protection of the rights of the less powerful. It was pointed out that, in addition to ensuring compliance with international obligations, the concept of the rule of law implied a law-creating process that would involve all States, thereby strengthening the fairness and legitimacy of international law.

With regard to the subtopic “The rule of law at the international level”, there was general agreement that the rule of law was based on a number of core principles. Reference was made in particular to the 2005 World Summit Outcome Document. Some delegations also mentioned the general obligation to honour international obligations in good faith, the obligation to refrain from the threat or use of force, the obligation to settle disputes by peaceful means, the obligation to protect human rights and fundamental freedoms and to abide by international humanitarian law. Some delegations further stated that the principle of sovereign equality of States was an important element in the promotion of the rule of law at the international level; the selective enforcement of international law was mentioned as an example of the failure to respect that basic principle. Several delegations emphasized the important role played by the International Court of Justice and other international tribunals in the peaceful settlement of international disputes. Some delegations supported wider recourse to the Court; other delegations encouraged States to accept the compulsory jurisdiction of the Court. It was noted that international criminal tribunals, by prosecuting international crimes, also contributed to the strengthening of the international rule of law.

With regard to the role of the United Nations in strengthening the rule of law at the international level, some delegations placed emphasis on the role played by the International Law Commission in the codification and progressive development of international law. Some delegations welcomed the contribution of the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law, and the role of the United Nations Audiovisual Library of International Law in the education and dissemination of international law was emphasized. Several delegations welcomed the technical assistance and capacity-building provided by the United

<sup>450</sup> Letter dated 11 May 2006 from the Permanent Representatives of Liechtenstein and Mexico to the United Nations addressed to the Secretary-General (A/61/142).

<sup>451</sup> For the summary records of the Sixth Committee, see A/C.6/64/SR.8, 9, 10, 24 and 25.

Nations; it was pointed out that the Organization should ensure that capacity-building better responded to the needs of States, particularly developing countries.

Delegations commended the work carried out by the Rule of Law Coordination and Resource Group, supported by the Rule of Law Unit, and welcomed the Joint Strategic Plan for 2009–2011 which strengthened the coherence, quality and coordination of rule of law policy within the United Nations system. Some delegations stressed that the Unit should be provided with the necessary financial and human resources to carry out its tasks. The view was expressed that the Group should provide assistance in the collection of information in post-conflict situations for the prosecution of perpetrators of international crimes.

Many delegations stressed the intrinsic relationship between the rule of law at the international and national levels. According to some delegations, the international rule of law could only be meaningful if it was translated into national rule of law based on democratic principles and respect for human rights and fundamental freedoms. It was pointed out that the United Nations should enhance national capacities for domestic implementation of international obligations. Some delegations stressed, however, that the United Nations should provide technical assistance only to States that have requested it.

Some delegations highlighted the importance of strengthening the rule of law within the United Nations. Some delegations welcomed the implementation of the new system of administration of justice at the United Nations and the initiatives aimed at holding United Nations personnel and experts on mission criminally accountable for misconduct. While recognizing the efforts of the Security Council to improve the fairness of sanctions procedures, some delegations stressed the need for further progress in this regard. Concern was expressed at the risk of encroachment by the Security Council of the functions proper to other principal United Nations organs, in particular the General Assembly. Some delegations put emphasis on the importance of United Nations reform.

At the 24th meeting, on 4 November 2009, the representative of Liechtenstein, on behalf of the Bureau, introduced a draft resolution entitled “The rule of law at the national and international levels”. At 25th meeting, on 12 November 2009, the Committee adopted the draft resolution without a vote.<sup>452</sup>

## (ii) *General Assembly*

The General Assembly adopted resolution 64/116, in which it, *inter alia*, took note of the annual report of the Secretary-General on strengthening and coordinating United Nations rule of law activities,<sup>453</sup> and expressed its 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. The International Court of Justice, the United Nations Commission on International Trade Law and the International Law Commission were invited to continue to comment, in their respective reports to the General Assembly, on their current roles in promoting the rule of law. The Assembly stressed the need to provide the Rule of Law Unit with the necessary

<sup>452</sup> Draft resolution A/C.6/64/L.14.

<sup>453</sup> A/64/298.

funding and staff in order to enable it to carry out its tasks in an effective and sustainable manner, and urged the Secretary-General and Member States to continue to support the functioning of the Unit.

### (e) The scope and application of the principle of universal jurisdiction

The topic “The scope and application of the principle of universal jurisdiction” was included on the agenda of the General Assembly at its sixty-fourth session on the request of the United Republic of Tanzania.<sup>454</sup>

#### (i) *Sixth Committee*

The Sixth Committee considered the item at its 12th, 13th, and 25th meetings, on 20 and 21 October and on 12 November 2009, respectively.<sup>455</sup>

In their general observations, most delegations affirmed that the principle of universal jurisdiction was enshrined in international law and constituted an important tool in the fight against impunity for serious international crimes. Several delegations, however, stated that caution should be exercised in addressing this topic, as there were still many ambiguities and inconsistencies in its application. Several delegations pointed out that the purpose of the debate in the Committee was not to question the legitimacy universal jurisdiction, but rather to strengthen the principle by defining its scope and application.

Delegations expressed differing views as to the scope of universal jurisdiction. Some delegations stated that it was uncertain whether the principle had become part of customary international law, whereas other delegations held that that was the case. With regard to the crimes covered under the principle of jurisdiction, some delegations considered that the principle covered crimes both under treaty law, such as war crimes and torture, and other international crimes, such as genocide and crimes against humanity. Some other delegations cautioned against an unwarranted expansion of the crimes covered under universal jurisdiction. Delegations also expressed differing views as to whether the principle required that there be a link between the offender and the State exercising jurisdiction, such as presence in the territory of the State. Several delegations emphasized that universal jurisdiction should be exercised in a subsidiary manner, when the State in which the alleged crimes took place was unable or unwilling to prosecute the offenders.

With regard to the application of the principle, delegations expressed the view that universal jurisdiction should always be exercised in good faith and in accordance with other principles of international law, including the rule of law, the sovereign equality of States, and immunity of State officials. Several delegations expressed concern with regard to the possible politicization of the principle, and the possibility of a unilateral and selective approach in its application. Concern was expressed for the possible application of the principle in cases where there was little understanding of a fragile political situation, and for its selective and unilateral application, which may hinder the development of African States and constitute an infringement of their sovereignty.

<sup>454</sup> Letter dated 29 June 2009 from the Permanent Representative of the United Republic of Tanzania to the United Nations addressed to the Secretary-General (A/63/237/Rev.1).

<sup>455</sup> For the summary records of the Sixth Committee, see A/C.6/64/SR.12, 13 and 25.



As to the future work on this topic, delegations observed that the General Assembly should clearly define the limits of the principle of universal jurisdiction. Some delegations pointed out that while universal jurisdiction was in some ways related to other topics, such as the exercise of jurisdiction by international tribunals, other forms of extraterritorial jurisdiction, the principle of *aut dedere aut judicare* and the immunity of State officials, it should be clearly distinguished from them. It was argued that it would be necessary to gather information about the practice of Member States and their different understandings of the principle before turning to further consideration of the topic.

Some delegations observed that the related topics of the immunity of State officials and the principle of *aut dedere aut judicare* were already under consideration by the International Law Commission and that a duplication of work should be avoided. Some delegations suggested that the topic should be referred to the International Law Commission for further consideration. Some other delegations observed that it would be useful that the Secretary-General prepare a report, on the basis of views submitted by Member States, which would serve as a basis for further consideration of the topic by the Committee. The view was expressed that, while the legal aspects of the topic were appropriately addressed in the Sixth Committee, some political aspects should be addressed at the plenary level of the General Assembly.

As to the possible outcome of the consideration of the item by the General Assembly, a call was made for an international mechanism to monitor prosecutions based on the invocation of universal jurisdiction; some delegations, however, expressed concern that such mechanism may infringe upon the principle of the independence of the judiciary. It was suggested that a set of guidelines or standards be developed that would guide national courts in meeting the challenges of prosecuting perpetrators under universal jurisdiction.

At the 25th meeting, on 12 November 2009, the representative of Rwanda, on behalf of the Bureau, introduced a draft decision entitled “The scope and application of the principle of universal jurisdiction”. At the same meeting, the Sixth Committee adopted the draft resolution without a vote.<sup>456</sup>

## (ii) *General Assembly*

The General Assembly adopted resolution 64/117, in which it requested the Secretary-General to invite Member States to submit, before 30 April 2010, information and observations on the scope and application of the principle of universal jurisdiction, including information on the relevant applicable international treaties, their domestic legal rules and judicial practice, and to prepare and submit to the General Assembly, at its sixty-fifth session, a report based on such information and observations. It further decided that the Sixth Committee shall continue its consideration of the scope and application of the principle of universal jurisdiction, without prejudice to the consideration of related issues in other forums of the United Nations.

---

<sup>456</sup> Draft resolution A/C.6/64/L.18.

### (f) 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.<sup>457</sup>

#### (i) *Ad Hoc Committee established by General Assembly resolution 52/210 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.

At its thirteenth session, the *Ad Hoc* Committee held two plenary meetings, on 29 June to 2 July 2009.<sup>458</sup> Informal consultations were held on 29 June, and informal contacts on 29 and 30 June 2009.

#### (ii) *Sixth Committee*

The Sixth Committee considered the item at its 2nd to 5th, 14th, 24th and 25th meetings, on 6, 7, 9 and 23 October and on 4 and 12 November 2009, respectively.<sup>459</sup> At its 1st meeting, on 5 October 2009, 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, as contained in resolution 63/129. The Working Group held two meetings, on 9 and 15 October 2009, as well as informal consultations on 9, 12 and 22 October. Informal consultations were also held on the draft resolution on this item.

Delegations reiterated their strong condemnation of terrorism in all its forms and manifestations and recalled that terrorism remained a major threat to international peace and security. They underlined that terrorism could never be justified. It was also emphasized that States should refrain from directly or indirectly supporting terrorist activities. Delegations stressed that the fight against terrorism must be carried out in accordance with the purposes and principles of the Charter of the United Nations and international law, especially human rights, humanitarian and refugee law. Several delegations rejected the use or threat of use of force under the pretext of combating terrorism. A number of delegations pointed out the need to address the root causes of terrorism and to eliminate the conditions conducive to its spread. The interconnection between terrorism and organized crime was also highlighted. Concern was further expressed about nuclear terrorism, maritime security and threats caused by new technologies.

<sup>457</sup> A/8791 and Add.1 and Add.1/Corr.1.

<sup>458</sup> For the report of the *Ad Hoc* Committee, see *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 37* (A/64/37).

<sup>459</sup> For the summary records, see A/C.6/64/SR.2–5, 14, 24 and 25.

Some delegations stressed that terrorism should not be associated with any culture or religion; and dialogue among civilizations and religions as an integral part of the fight against terrorism was encouraged. Several delegations also emphasized that a distinction had to be made between acts of terrorism and the exercise of the right to self-determination and independence of peoples under colonial and other forms of alien domination and foreign occupation.

Delegations reiterated their strong condemnation of terrorism in all its forms and manifestations and recalled that terrorism remained a major threat to international peace and security. They underlined that terrorism could never be justified. It was also emphasized that States should refrain from directly or indirectly supporting terrorist activities. Delegations stressed that the fight against terrorism must be carried out in accordance with the purposes and principles of the Charter of the United Nations and international law, especially human rights, humanitarian and refugee law. Several delegations expressed their rejection of the use or threat of use of force under the pretext of combating terrorism.

A number of delegations pointed out the need to address the root causes of terrorism and to eliminate the conditions conducive to its spread. The interconnection between terrorism and organized crime was also highlighted. Concern was further expressed about nuclear terrorism, maritime security and threats caused by new technologies.

Several delegations reiterated their support for the proposal to convene a high-level conference under the auspices of the United Nations to consider the question of terrorism in all its aspects. In this regard, some delegations were of the opinion that the convening of such a conference should not be linked to the conclusion of negotiations on the draft comprehensive convention, while others stated that this question should only be considered once an agreement had been reached on the draft comprehensive convention.

### (iii) *General Assembly*

The General Assembly adopted resolution 64/118, in which it, *inter alia*, called upon all Member States, the United Nations and other appropriate international, regional and subregional organizations to implement the United Nations Global Counter-Terrorism Strategy,<sup>460</sup> as well as the resolution relating to the first biennial review of the Strategy,<sup>461</sup> in all its aspects at the international, regional, subregional and national levels without delay, including by mobilizing resources and expertise. The Assembly reminded States of their obligations under relevant international conventions and protocols and Security Council resolutions, including resolution 1373 (2001), to ensure that perpetrators of terrorist acts are brought to justice, and called upon all States to cooperate to prevent and suppress terrorist acts. Further, the Assembly decided that the Ad Hoc Committee shall, on an expedited basis, continue to elaborate the draft comprehensive convention on international terrorism and shall 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.

---

<sup>460</sup> General Assembly resolution 60/288.

<sup>461</sup> General Assembly resolution 62/272.

### (g) Revitalization of the work of the General Assembly

At its resumed sixty-third session, the General Assembly decided to establish, at its sixty-fourth session, an *Ad Hoc* Working Group on the revitalization of the General Assembly, open to all Member States, to identify further ways to 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 at its sixty-fourth session.<sup>462</sup>

At its 2nd plenary meeting on 18 September 2009, the General Assembly, on the recommendation of the General Committee, decided to allocate the 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-fifth session of the General Assembly.

#### (i) *Sixth Committee*

The Committee considered the item at its 25th meeting, on 12 November 2009.<sup>463</sup> At the 25th meeting, on 12 November 2009, the Chairman introduced the draft decision on the provisional programme of work for the sixty-fifth session of the General Assembly as proposed by the Bureau.<sup>464</sup> At the same meeting, the Committee adopted the draft decision on the provisional programme of work for the sixty-fifth session of the General Assembly.<sup>465</sup>

#### (ii) *General Assembly*

The General Assembly adopted on 16 December 2009 decision 64/525, by which it noted the decision of the Sixth Committee to adopt the provisional programme of work for the sixty-fifth session of the General Assembly, as proposed by the Bureau.

### (h) Administration of justice at the United Nations

In its decision 62/519 of 6 December 2007, the General Assembly decided to establish an *Ad Hoc* Committee on the Administration of Justice at the United Nations, to be open to all Member States of the United Nations, members of the specialized agencies or members of the International Atomic Energy Agency, for the purpose of continuing the work on the legal aspects of the item “Administration of Justice at the United Nations”, taking into account the results of the deliberations of the Sixth Committee on the item,<sup>466</sup> 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.

<sup>462</sup> General Assembly resolution 63/309.

<sup>463</sup> For the summary records, see A/C.6/64/SR.25.

<sup>464</sup> Contained in document A/C.6/64/L.6.

<sup>465</sup> Draft decision A/C.6/64/L.16.

<sup>466</sup> A/C.5/61/21, appendix I, and A/C.5/62/11, appendix I.

(i) *Ad Hoc Committee on the Administration of Justice at the United Nations*

The *Ad Hoc* Committee held its second session 2009 at United Nations Headquarters from 20 to 24 April, pursuant to General Assembly decision 63/531. At its fourth meeting, on 20 April 2009, the Committee decided to proceed with its discussions as a working group of the whole. The Working Group held five meetings, on 20, 21, 22 and 24 April 2009.<sup>467</sup> At its fifth meeting, on 24 April 2009, the *Ad Hoc* Committee adopted its report.<sup>468</sup>

(ii) *Sixth Committee*

At the sixty-fourth session of the General Assembly, the agenda item entitled “Administration of justice at the United Nations” was allocated to the Fifth Committee for its consideration, and to the Sixth Committee for the purpose of considering the legal aspects of the reports to be submitted under this item, including the rules of procedure of the United Nations Dispute Tribunal (UNDT) and the United Nations Appeals Tribunal (UNAT). The Sixth Committee considered this item at its 1st and its 12th meetings, on 5 and 20 October, respectively.<sup>469</sup>

At the first meeting, the Sixth Committee decided to establish a Working Group on the Administration of Justice at the United Nations, in order to fulfil the mandate conferred by the General Assembly on the Committee. The Working Group held four meetings on 5, 6 and 9 October 2009. At the 12th meeting of the Sixth Committee, on 20 October, the Vice-Chairman of the Sixth Committee presented, on behalf of the Chairman of the Working Group, an oral report on the work of the Working Group.

Delegations expressed their support for the implementation of the new system of administration of justice and welcomed the appointment of the judges of the UNDT and UNAT, as well as the establishment of the Office of the Administration of Justice. While stating that the new system had already begun to prove itself, some delegations noted that it was open to further improvements. Some other delegations indicated that more information and experience was needed for a full assessment and effective review of the system. Some delegations called for a progress report from the Secretariat on all components of the new system. Delegations also attached great importance to transitional measures, with some of them reiterating their concern about the backlog of cases before the United Nations Administrative Tribunal.

It was emphasized that the nomination process of candidates for the posts of UNDT and UNAT judges should be based on merit and competency. Some delegations called for the finalization by the Internal Justice Council of the code of conduct for the judges. The importance of preserving multilingualism in the system was also stressed.

Several delegations favoured the approval by the General Assembly of the rules of procedure of the UNDT and UNAT. It was observed that the rules of procedure appeared to be consistent with the Statutes of the two Tribunals. Several delegations expressed their support for the activities of the Ombudsman and the Mediation Division. While some del-

<sup>467</sup> For an informal summary of the discussions in the Working Group of the Whole, see *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 55, (A/64/55), Annex.*

<sup>468</sup> *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 55 (A/64/55).*

<sup>469</sup> Summary records of the Sixth Committee, A/C.6/64/SR.12.

egations advocated for an adequate interaction between the formal and informal system, the importance of an independent mediation mechanism, without any interference by the Tribunals, was also underlined. Some delegations called for the prompt issuance of the terms of reference of the Office of the Ombudsman. A call was also made for the speedy establishment by that office of a list of mediators.

With respect to the scope *ratione personae* of the new system, delegations emphasized the importance of ensuring effective remedies to all individuals working for the United Nations, including non-staff personnel. The possibility for non-staff personnel to request an appropriate management evaluation was welcomed. Some delegations referred to the possibility for staff associations to file applications before the Tribunals as a major outstanding legal issue. The view was expressed that staff associations should be granted standing before the UNDT and UNAT.

Delegations underlined the importance of continued availability of legal assistance for staff and expressed their support to the Office of Staff Legal Assistance. Attention was drawn to the importance of raising awareness about the new system, especially among personnel located in remote duty stations. Reference was made to the possibility for Member States, or other third parties with a cause of action, to submit claims based on the alleged responsibility of United Nations officials, e.g. within the framework of peace-keeping operations.

At the 12th meeting, the Vice-Chairman of the Sixth Committee introduced, on behalf of the Chairman of the Working Group, a draft resolution and a draft decision, both entitled “Administration of justice at the United Nations”. At the same meeting, the Committee adopted the draft resolution<sup>470</sup> and draft decision<sup>471</sup> without a vote. Also at the same meeting, the Committee decided that its Chairman would send to the President of the General Assembly a letter, to be brought to the attention of the Chairman of the Fifth Committee and to be circulated as a document of the General Assembly, indicating a number of elements that, in the view of the Sixth Committee, should be included in the report to be submitted by the Secretary-General pursuant to paragraph 59 of General Assembly resolution 63/253, for consideration at the sixty-fifth session of the Assembly.<sup>472</sup>

### (iii) *General Assembly*

The General Assembly adopted resolution 64/233 entitled “Administration of justice at the United Nations”, by it which approved the rules of procedure of the UNDT and the UNAT, as set out in annexes I and II to the resolution.

In addition, the General Assembly adopted on 22 December 2009, on the recommendation of the Fifth Committee, resolution 64/233, also entitled “Administration of justice at the United Nations”.

---

<sup>470</sup> Draft resolution A/C.6/64/L.2.

<sup>471</sup> Draft decision A/C.6/64/L.3.

<sup>472</sup> Letter dated 4 March 2010 from the President of the General Assembly to the Chairman of the Fifth Committee (A/C.5/64/16).

## (i) 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 of America 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.<sup>473</sup> In 2009, the Committee was composed of the following Member States: Bulgaria, Canada, China, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, France, Honduras, Hungary, Iraq, the Libyan Arab Jamahiriya, Malaysia, Mali, the Russian Federation, Senegal, Spain, the United Kingdom of Great Britain and Northern Ireland, and United States of America.

In 2009, the Committee held four meetings; on 12 March; on 16 June; on 2 October; and on 2 November 2009, respectively. At its 224th meeting, on 2 November 2009, the Committee adopted a number of conclusions and recommendations.<sup>474</sup>

### (ii) *Sixth Committee*

The Sixth Committee considered the item at its 25th meeting, on 12 November 2009.<sup>475</sup>

Appreciation was expressed by some delegations 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<sup>476</sup> and the Headquarters Agreement<sup>477</sup> was stressed. Some delegations welcomed the decision of the host country to partly exempt diplomats from secondary screening procedures and the efforts to ensure the timely issuance of visas. A view was expressed welcoming steps taken by the host country regarding the exemption from property taxes. However, some other delegations urged the host country to remove travel restrictions for staff of certain nationalities. The need to continue to address the outstanding issues concerning the selective treatment of diplomats in the airports, immigration, customs procedures and parking, to treat all missions on the basis of equality and norms of international law as well as to issue visas in a timely fashion was also stressed.

The United States confirmed its commitment to fulfil its obligations under international law and highlighted, in particular, that it continued to regard its efforts aimed at

<sup>473</sup> General Assembly resolution 2819 (XXVI) of 15 December 1971.

<sup>474</sup> For the report of the Committee, see *Official Records of the General Assembly, Sixty-fourth session, Supplement No. 26* (A/64/26).

<sup>475</sup> For the summary records of the Sixth Committee, see A/C.6/64/SR.25.

<sup>476</sup> United Nations, *Treaty Series*, vol. 1, p. 15, and vol. 90, p. 327 (corrigendum to vol. 1).

<sup>477</sup> Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations, 4 August 1947. United Nations, *Treaty Series*, vol. 11, p. 11.



improving immigration procedures for diplomats at its airports and mitigating delays in visa issuance as ongoing and increasingly successful.

At the 25th meeting, on 12 November 2009, the representative of Bulgaria, on behalf of Bulgaria, Canada, Costa Rica, Côte d'Ivoire and Cyprus, introduced a draft resolution entitled "Report of the Committee on Relations with the Host Country". At the same meeting, the Committee adopted the draft resolution<sup>478</sup> without a vote.

### (iii) *General Assembly*

In resolution 64/120, the General Assembly, *inter alia*, endorsed the recommendations and conclusions contained in the report of the Committee on Relations with the Host Country. The Assembly 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 a number of delegations have requested shortening the time frame applied by the host country for issuance of entry visas to representatives of Member States, since this time frame poses difficulties for the full-fledged participation of Member States in United Nations meetings. The Assembly expressed its appreciation for the efforts made by the host country, and hoped that the issues raised at the meetings of the Committee will continue to be resolved in a spirit of cooperation and in accordance with international law.

## (j) **Observer status in the General Assembly**

### (i) *Sixth Committee*

In 2009, the Sixth Committee considered a number of requests for observer status in the General Assembly.

At the 6th meeting, on 12 October 2009, the Sixth Committee considered the request for observer status for the International Olympic Committee. At the 10th meeting, on 15 October 2009, the Committee adopted draft resolution A/C.6/64/L.5 without a vote.

The Sixth Committee considered the request for observer status for the International Humanitarian Fact-Finding Commission, the International Conference of the Great Lakes Region of Africa, and the Global Fund to Fight AIDS, Tuberculosis and Malaria at the 10th meeting, on 15 October 2009. In response to a request made by a delegation, the Secretary of the Sixth Committee read out the text of General Assembly decision 49/426 of 9 December 1994 and paragraphs 2 and 3 of General Assembly resolution 54/195 of 17 December 1999 regarding the question of granting of observer status in the Assembly. At the 14th meeting, on 23 October 2009, the Committee adopted draft resolutions A/C.6/64/L.6, A/C.6/64/L.7 and A/C.6/64/L.4 without a vote.

At the 26th meeting, on 9 December, the Sixth Committee considered the request for observer status for the Parliamentary Assembly of the Mediterranean. A suggestion was made to revise the working methods of the Committee so as to have consistent criteria for the granting of observer status in the General Assembly. Some delegations spoke in favour

<sup>478</sup> Draft resolution A/C.6/64/L.13.

of considering the criteria for the granting of such observer status at the next session of the Assembly. On the 27th meeting, on 14 December 2009, the Committee adopted draft resolution A/C.6/64/L.19 without a vote.

At the 26th meeting, on 9 December 2009, the Committee considered the request for observer status for the Council of Presidents of the General Assembly. While some delegations expressed support for the granting of observer status to the Council of Presidents of the General Assembly, other delegations did not view the Council of Presidents as an intergovernmental organization and considered, in this connection, that it could not meet the criteria for the granting of observer status in the General Assembly established in the Assembly decision 49/426 of 9 December 1994. The need to address various technical legal issues relating to the request was also highlighted and a suggestion was made to study a possibility of granting of an *ad hoc* observer status to the Council of Presidents. A suggestion was also made to reconsider decision 49/426 and the process of granting of observer status in the General Assembly to various organizations and institutions. At the 27th meeting, on 14 December 2009, the representative of Saudi Arabia, on behalf of Saint Lucia, Saudi Arabia and Ukraine, withdrew the draft resolution. The Chair of the Committee read out the text of the letter to be sent by him, with the consent of the Committee, to the President of the General Assembly informing the President that the sponsors of the draft resolution withdrew the draft resolution and that, during the debate, several delegations expressed appreciation of the important contribution of the former Presidents of the General Assembly to the work of the Organization and suggested that appropriate ways of making available the unique expertise and institutional memory of the former Presidents of the General Assembly be identified, during the 64th session, in order to assist the Organization in meeting new challenges facing the international community. At the same meeting, the Sixth Committee concluded its consideration of the item without taking action.

#### (ii) *General Assembly*

On 19 October 2009, the General Assembly adopted resolution 64/3, by which it granted observer status to the International Olympic Committee.

On 16 December 2009, the General Assembly adopted resolutions 64/121, 64/122, 64/123 and 64/124, by which it granted observer status to the Humanitarian Fact-Finding Commission, the Global Fund to Fight AIDS, Tuberculosis and Malaria, the International Conference on the Great Lakes Region of Africa, and the Parliamentary Assembly of the Mediterranean, respectively.

## 17. *Ad hoc international criminal tribunals*<sup>479</sup>

### (a) Organization of the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for the former Rwanda (ICTR)

#### (i) *Organization of the ICTY*

On 26 October 2009, Judge Patrick L. Robinson (Jamaica) and Judge O-Gon Kwon (South Korea) were re-elected as President and Vice-President, respectively, of the Tribunal for a two-year term effective from 17 November 2009.

On 2 September 2009, three new judges were sworn in, replacing Judges Christine Van Den Wyngaert (Belgium), Lord Iain Bonomy (United Kingdom) and Mohamed Shahabuddeen (Guyana), who resigned from the Tribunal. Judges Guy Delvoie (Belgium), Howard Morrison (United Kingdom) and Sir Burton Hall (The Bahamas) were appointed by the Secretary-General in accordance with Article 13*bis* of the ICTY Statute. Their appointments became effective as of 1 September, 31 August and 7 August 2009, respectively, until 31 December 2010 or until the completion of the cases to which they will be assigned if sooner.<sup>480</sup>

At the end of 2009, the permanent judges of the Tribunal were as follows: O-Gon Kwon (South Korea), Carmel A. Agius (Malta), Jean-Claude Antonetti (France), Christopher Flügge (Germany), Burton Hall (The Bahamas), Guy Delvoie (Belgium), Bakone Justice Moloto (South Africa), Howard Morrison (United Kingdom), Alphons M. M. Orie (Netherlands), and Kevin Parker (Australia).

By its resolution 1877 (2009) of 7 July 2009, the Security Council decided to allow for an additional *ad litem* judge to be appointed as a temporary measure, allowing for a maximum of thirteen *ad litem* judges until 31 December 2009. Consequently, Judge Prisca Matimba Nyambe (Zambia) was sworn in as an *ad litem* judge on 1 December 2009.<sup>481</sup> In the same resolution, the Council decided to extend the mandate of 11 *ad litem* judges until 31 December 2010, or until the completion of the cases to which they are assigned if sooner. It further decided to allow *ad litem* Judges Frederik Harhoff (Denmark), Flavia Lattanzi (Italy), Antoine Kesia-Mbe Mindua (Democratic Republic of the Congo), Árpád Prandler (Hungary) and Stefan Trechsel (Switzerland) to serve in the Tribunal beyond the cumulative period of service provided for under article 13 *ter*, paragraph 2, of the Statute of the Tribunal. By resolution 1900 (2009), the Security Council decided that, notwithstanding the expiry of their terms of office on 31 December 2009, *ad litem* Judges Kimberley Prost (Canada) and Ole Bjørn Støle (Norway) complete the case to which they were assigned before the expiry of their term of office; and decided to allow them to serve beyond the cumulative period of service provided for under article 13 *ter*, paragraph 2, of the Statute

<sup>479</sup> This section covers the International Criminal Tribunal for Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR), which were the subjects of resolutions of the Security Council and the General Assembly. Further information regarding the judgments of the ICTY and ICTR is contained in chapter VII of this publication.

<sup>480</sup> Security Council resolution 1877 (2009) of 7 July 2009.

<sup>481</sup> Letter dated 7 August 2009 from the Secretary-General addressed to the President of the Security Council (S/2009/410).

of the Tribunal. In the same resolution, the Council decided to extend until 31 March 2010 the period during which the total number of *ad litem* judges serving at the Tribunal may temporarily exceed the maximum provided for in article 12, paragraph 1, of the Statute of the Tribunal, to a maximum of thirteen at any one time.

At the end of 2009, the *ad litem* judges of the Tribunal were as follows: Melville Baird (Trinidad and Tobago), Pedro David (Argentina), Elizabeth Gwaunza (Zimbabwe), Frederick Harhoff (Denmark), Uldis Kinis (Latvia), Flavia Lattanzi (Italy), Antoine Kesia-Mbe Mindua (Democratic Republic of the Congo), Prisca Matimba Nyambe (Zambia), Michèle Picard (France), Árpád Prandler (Hungary), Kimberly Prost (Canada); Stefan Trechsel (Switzerland), and Ole Bjørn Støle (Norway).

### (ii) *Organization of the ICTR*

Judge Dennis Byron (Saint Kitts and Nevis) and Judge Khalida Rachid Khan (Pakistan) continued to serve as President and Vice-President, respectively, throughout 2009.

In 2009, Judge Bakhtiyar Tuzmukhamedov (Russian Federation) was sworn in as Judge of the ICTR to replace Judge Sergei Aleckseevich Egorov (Russian Federation).<sup>482</sup> By Security Council resolution 1878 (2009) of 7 July 2009, his term of office was extended until 31 December 2010, or until the completion of the cases to which he is assigned if sooner. By resolution 1901 (2009) of 16 December 2009, the Security Council decided that, notwithstanding the expiry of his term of office on 31 December 2009, Judge Erik Møse (Norway) complete the case to which he was assigned before the expiry of his term of office.

At the end of 2009, the permanent judges were as follows: Judge Dennis Byron (Saint Kitts and Nevis), Judge Khalida Rachid Khan (Pakistan), Judge William H. Sekule (United Republic of Tanzania), Judge Erik Møse (Norway), Judge Arlette Ramaroson (Madagascar), Judge Bakhtiyar Tuzmukhamedov (Russian Federation), and Judge Joseph Asoka Nihal De Silva (Sri Lanka).

Following a decision by the Security Council in its resolution 1855 (2008), three new *ad litem* judges were sworn in in 2009. Judge Joseph Masanche (United Republic of Tanzania), Judge Mparany Rajohnson (Madagascar), and Judge Aydin Akay (Turkey), were sworn in on 12, 26 and 29 January, respectively.

At the end of 2009, the *ad litem* judges were as follows: Judge Solomy Balungi Bossa (Uganda), Judge Lee Gacugia Muthoga (Kenya), Judge Florence Rita Arrey (Cameroon), Judge Emile Francis Short (Ghana), Judge Taghrid Hikmet (Jordan), Judge Seon Ki Park (Republic of Korea), Judge Gberdao Gustave Kam (Burkina Faso), Judge Vagn Joensen (Denmark), Judge Joseph Masanche (United Republic of Tanzania), Judge Mparany Rajohnson (Madagascar), and Judge Aydin Akay (Turkey).

### (iii) *Composition of the Appeals Chamber*

On 28 September 2009, Judge Carmel Agius (Malta) was sworn in as Appeals Judge.

<sup>482</sup> Letter dated 18 August 2009 from the Secretary-General to the President of the Security Council, (S/2009/425).

At the end of 2009, the composition of the Appeals Chamber was as follows: Patrick L. Robinson (Jamaica), Mehmet Güney (Turkey), Fausto Pocar (Italy), Judge Liu Daqun (China), Andréia Vaz (Senegal), Theodor Meron (United States), and Carmel Agius (Malta).

### (b) General Assembly

On 8 October 2009, the General Assembly adopted decisions 64/505 and 64/506, by which it took note of the reports<sup>483</sup> of the ICTR and the ICTY, respectively.<sup>484</sup>

On 24 December 2009, the General Assembly adopted, on the recommendation of the Fifth Committee, resolution 64/239 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”. In the resolution, the Assembly, *inter alia*, took note of the second performance report of the Secretary-General on the budget of the ICTR for the biennium 2010–2011,<sup>485</sup> and endorsed the conclusions and recommendations contained in section III B of the related report of the Advisory Committee on Administrative and Budgetary Questions.<sup>486</sup> It further took note of the report of the Secretary-General on the financing of the International Criminal Tribunal for Rwanda for the biennium 2010–2011<sup>487</sup> and on the revised estimates arising from the effects of changes in rates of exchange and inflation.<sup>488</sup> The Assembly welcomed the work of the Tribunal to ensure the expeditious completion of its mandate and, with regard to the current budget, the commensurate reduction in the cost of the Tribunal, and noted that the Tribunal relies on *ad litem* judges in the implementation of its completion strategy. Finally, it decided to appropriate to the Special Account for the International Criminal Tribunal for Rwanda a total amount of 245,295,800 dollars gross (227,246,500 dollars net) for the biennium 2010–2011, as detailed in the annex to the resolution.

On the same day, the General Assembly adopted resolution 64/240 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”. In the resolution, the General Assembly, *inter alia*, took note of the second performance report on the budget of the ICTY for the biennium 2008–2009,<sup>489</sup> and endorsed the conclusions and recommendations contained in section IV B of the related report of the Advisory Committee on Administrative and Budgetary Questions.<sup>490</sup> The Assembly also took note of the reports of the Secretary-General on the financing of the

<sup>483</sup> A/64/205 and A/64/206.

<sup>484</sup> For the text of the decisions, see *Official Records of the General Assembly, Sixty-fourth session, Supplement No. 4*, (A/64/49).

<sup>485</sup> A/64/538.

<sup>486</sup> A/64/555.

<sup>487</sup> A/64/478.

<sup>488</sup> A/64/570.

<sup>489</sup> A/64/512.

<sup>490</sup> A/64/555.

International Tribunal for the Former Yugoslavia for the biennium 2010–2011<sup>491</sup> and on the revised estimates arising from the effects of changes in rates of exchange and inflation.<sup>492</sup> It decided to appropriate to the Special Account for the International Tribunal for Yugoslavia a total amount of US\$ 290,285,500 gross (US\$ 268,265,300 net) for the biennium 2010–2011, as detailed in the annex to the resolution.

### (c) Amendments to the Statutes of ICTY and ICTR

#### (i) *Amendments to the Statute of the International Criminal Tribunal for Yugoslavia*<sup>493</sup>

By resolution 1877 (2009) of 7 July 2009, the Security Council amended article 14 of the Statute of the ICTY, to allow for four additional permanent judges serving in the Trial Chambers to be assigned to the Appeals Chamber, on the completion of the cases to which each judge is assigned. Similarly, four permanent judges serving in the Trial Chambers of the ICTR could, in consultation with the President of the ICTR, be assigned to the Appeals Chamber.

#### (ii) *Amendments to the Statute of the International Criminal Tribunal for Rwanda*<sup>494</sup>

By resolution 1878 (2009) of 7 July 2009, the Security Council decided to amend article 13, paragraph 3, of the Statute of the ICTY to allow for up to four additional permanent judges serving in the Trial Chambers to be assigned to the Appeals Chamber, on the completion of the cases to which they are assigned.

### (d) Amendments to the Rules of Procedure and Evidence of the ICTY and ICTR

#### (i) *Amendments to the Rules of Procedure and Evidence of the ICTY*

On 24 July 2009, paragraph E of rule 77 (Contempt of Tribunal) was amended as to the set time limit for entering a plea pursuant to Rule 62(A), disclosure pursuant to rule 66(A)(i), or filing of preliminary motions pursuant to rule 72(A) to a maximum of ten days.

<sup>491</sup> A/64/476.

<sup>492</sup> A/64/570.

<sup>493</sup> The Statute of the Tribunal is contained in the annex to the report of the Secretary-General pursuant to paragraph 2 of Security Council resolution 808 (1993), 3 May 1993, (S/25704); and was adopted by the Security Council resolution 827 (1993). The Statute has subsequently been amended by Security Council resolutions 1166 (1998), 1329 (2000), 1411 (2002), 1431 (2002), 1481 (2003), 1597 (2005), 1660 (2006), and 1837 (2008).

<sup>494</sup> The Statute of the Tribunal is contained in the annex to Security Council resolution 955 (1994); and was subsequently amended by Security Council resolutions 1165 (1998), 1411 (2002), 1431 (2002), 1503 (2003), and 1512 (2003).

(ii) *Amendments to the Rules of Procedure and Evidence of the ICTR*

No amendments were made to the Rules of Procedure and Evidence of the ICTR in 2009.

**B. GENERAL REVIEW OF THE LEGAL ACTIVITIES OF  
INTERGOVERNMENTAL ORGANIZATIONS RELATED  
TO THE UNITED NATIONS**

**1. Universal Postal Union**

**General review of the legal activities of the Universal Postal Union**

In July 2009, the Universal Postal Union (UPU) and the International Civil Aviation Organization (ICAO) signed a memorandum of understanding aimed at strengthening their cooperation on the basic rate applicable to the settlement of accounts between postal operators in respect of air conveyance dues.

In March 2009, UPU signed cooperation agreements with Benin, Burkina Faso, Mali, Mauritania, Niger and Senegal on the implementation of a project co-financed by the UPU, the International Fund for Agricultural Development (IFAD), *La Poste* (France) and the above-mentioned countries, aimed at extending the UPU network of electronic payment services in the rural areas of French-speaking West African countries.

On the basis of a resolution of the 1999 Universal Postal Congress authorizing Palestine to carry out direct exchanges of postal services with Union member countries, the UPU Postal Operations Council determined the parcel-post inward land rates applicable to Palestine, facilitating the dispatch of parcels between Palestine and other UPU member countries.

In its resolution CEP 6/2009.1, the UPU Postal Operations Council also provisionally approved a model service agreement for postal payment services.

The UPU Council of Administration decided to create an ethics office at the UPU International Bureau and approved the terms of reference covering the operation of this office, the amendments to be made to the Staff Regulations, the system of financial disclosure and declaration of interest envisaged by the UPU International Bureau and the budget required to introduce this system.

The Council of Administration also approved the UPU Provident Scheme Management Board's decision to implement measures with a view to improving the Scheme's structure. The measures taken are as follows: raising the retirement age to 65 years for new participants in the UPU Provident Scheme, increasing employees' and the employer's contribution rates to the Provident Scheme, lowering the average hypothetical rate for future indexation of benefits, introducing a regulatory mechanism under which the indexation of benefits may be temporarily limited during periods of coverage shortfall and activating the Union guarantee mechanism (1 million Swiss francs per annum until the Scheme's degree of coverage reaches 85%).

In its resolution CA 7/2009, the Council of Administration entrusted a Human Resources Reflection Group with the study of the major issues concerning UPU staffing.



Following the Council of Administration's resolution CA 1/2009, establishing the basic principles for implementing the 'post' project, in December 2009 the UPU signed an agreement with the Internet Corporation for Assigned Names and Numbers (ICANN) under which ICANN granted the UPU the authority to manage the post top level domain for the different players in the postal sector.

## 2. Food and Agricultural Organization of the United Nations

### (a) Constitutional and general legal matters

During 2009, the Governing Bodies of the Food and Agriculture Organization of the United Nations (FAO) reviewed and adopted amendments to the Constitution, the General Rules of the Organization and the Financial Regulations, as well as a number of Resolutions clarifying the functions of the Governing Bodies and other governance processes.

At its eighty-fourth (2 to 4 February 2009),<sup>495</sup> eighty-fifth (23 and 24 February 2009),<sup>496</sup> eighty-sixth (7 and 8 May 2009),<sup>497</sup> eighty-seventh (25 and 26 May 2009),<sup>498</sup> eighty-eighth (23 to 25 September 2009)<sup>499</sup> and eighty-ninth (27 to 28 October 2009)<sup>500</sup> sessions, the Committee on Constitutional and Legal Matters (CCLM) formulated and reviewed draft amendments to the Basic Texts. This work was endorsed by the Council at its hundred and thirty-sixth (15 to 19 June 2009)<sup>501</sup> and hundred and thirty-seventh (28 September to 2 October 2009)<sup>502</sup> sessions. Finally, the amendments were adopted by the Conference at its thirty-sixth session (18–23 November 2009).<sup>503</sup>

The Conference adopted amendments to the FAO Constitution by resolution 5/2009 entitled 'Implementation of the Immediate Plan of Action for FAO Renewal (2009–11), Amendments to the Constitution' and resolution 13/2009 entitled 'Reform of the Committee on World Food Security, Amendments to the Constitution'.<sup>504</sup> The Conference

<sup>495</sup> See the report of the eighty-fourth session of the Committee on Constitutional and Legal Matters (CL 136/11).

<sup>496</sup> See the report of the eighty-fifth session of the Committee on Constitutional and Legal Matters (CL 136/13).

<sup>497</sup> See the report of the eighty-sixth session of the Committee on Constitutional and Legal Matters (CL 136/19).

<sup>498</sup> See the report of the eighty-seventh session of the Committee on Constitutional and Legal Matters (CL 136/20).

<sup>499</sup> See the report of the eighty-eighth session of the Committee on Constitutional and Legal Matters (CL 137/5).

<sup>500</sup> See the report of the eighty-ninth session of the Committee on Constitutional and Legal Matters (C 2009/LIM/12).

<sup>501</sup> See the report of the hundred and thirty-sixth session of the Council of the Food and Agriculture Organization of the United Nations (C 136/REP), paras. 92–97.

<sup>502</sup> See the report of the hundred and thirty-seventh session of the Council of the Food and Agriculture Organization of the United Nations (C 137/REP), paras. 46–64.

<sup>503</sup> See the report of the thirty-sixth session of the Conference of the Food and Agriculture Organization of the United Nations, (C 2009/REP and Corr.1 and Corr.2).

<sup>504</sup> *Ibid.*, paras. 139 and 153.

amended article III paragraph 9, IV paragraph 6, article V paragraphs 2,4, 6 and 7, article VII paragraphs 1 and 3, and article XIV paragraph 7 of the Constitution.

The Conference also adopted amendments to the General Rules of the Organization and to its Financial Regulations by resolution 6/2009 entitled ‘Implementation of the Immediate Plan of Action for FAO Renewal (2009–11), Amendments to the General Rules of the Organization and to the Financial Regulations’ and resolution 14/2009 entitled “Reform of the Committee on World Food Security, Amendments to the General Rules of the Organization”.<sup>505</sup>

The governance reform, as prescribed by the Immediate Plan of Action (IPA), also involved the adoption of a number of resolutions clarifying the functions of the Governing Bodies and other governance processes (resolution 7/2009 entitled “Implementation of the Immediate Plan of Action Regarding the Conference (IPA Actions 2.5, 2.6 and 2.10)”, resolution 8/2009 entitled “Implementation of the Immediate Plan of Action Regarding the Council of FAO (IPA Actions 2.14–2.25)”, resolution 9/2009 entitled “Implementation of the Immediate Plan of Action on the Independent Chairperson of the Council (IPA Actions 2.26 to 2.34)”, resolution 10/2009 “Implementation of the Immediate Plan of Action on Reform of the Programming, Budgeting and Results-based Monitoring System (IPA Actions 3.1 to 3.11)” and resolution 11/2009 entitled “Implementation of the Immediate Plan of Action on Ministerial Meetings (IPA Actions 2.66 and 2.67)”).<sup>506</sup> These resolutions, as well as a definition of Governing Bodies adopted by the Conference,<sup>507</sup> will be included in volume II of the Basic Texts. The Conference endorsed the overall future structure of the Basic Texts of FAO corresponding to existing volume I, with the amended instruments, and new volume II as set out in Section I of document C 2009/LIM/8.

The revised Basic Texts, as amended by the Conference, will be available at the Legal Office’s website.<sup>508</sup> In addition, the website of FAO under the activities of the “Committee on Constitutional and Legal Matters” presents a large number of documents concerning the justification for, and the proposed amendments to, the Basic Texts of the Organization.

## (b) Legislative matters

### (i) *Activities connected with international meetings*

- Meeting of the Group of Technical and Legal Experts on Compliance in the context of the International Regime on Access and Benefit-sharing (Tokyo, 27 to 30 January 2009).
- Steering Committee meeting to prepare for the second regional inter-governmental meeting on the establishment of a Central Asian and Caucasus regional fisheries arrangement (Ankara, 24 to 26 March 2009).
- Twenty-fifth Session of the CODEX Committee on General Principles (Paris, 30 March to 3 April 2009).

<sup>505</sup> *Ibid.*, paras. 140 and 154

<sup>506</sup> *Ibid.*, para. 141.

<sup>507</sup> C 2009/LIM, section H.

<sup>508</sup> See [http://www.fao.org/legal/index\\_en.htm](http://www.fao.org/legal/index_en.htm).

- ECOLEX Participation in the 16th Steering Committee (FAO/ International Union for Conservation of Nature and Natural Resources /United Nations Environmental Programme) (Bonn, 26 to 28 May 2009).
- International Treaty on Plant Genetic Resources for Agriculture, Governing Body, Third Session (Tunis, 1 to 5 June 2009)
- Second Intergovernmental Meeting on the Establishment of Central Asian and Caucasus Regional Fisheries Organization (Trabzon, 3 to 5 June 2009).
- FAO-EC-DIP Regional Seminar on rural development and agricultural and food quality linked to geographical origin in Asia (Bangkok, 8 to 11 June 2009).
- United Nations Commission on International Trade Law, 42nd Session (Vienna, 12 to 16 June 2009).
- United Nations Joint Staff Pension Board, 56th Session (Vienna, 10 to 17 July 2009).
- Asia and Pacific Plant Protection Commission, 26th Session (New Delhi, 31 August to 4 September 2009).
- Meeting of Standing Committee Working Group on Introduction from the Sea (Geneva, 14 to 16 September 2009).
- Division of Environmental Law and Conventions—Multilateral environmental agreement. Knowledge Management Meeting—Knowledge Management in the context of environment related multilateral agreements and conventions (Geneva, 22 to 24 September 2009).
- FAO Commission on genetic resources for food and agriculture, 12th Regular Session (Rome, 19 to 23 October 2009).
- *Ad hoc* open-ended working group on access and benefit-sharing, Eighth meeting (Montreal, 9 to 15 November 2009).

## (ii) *Legislative assistance and advice*

During 2009 legislative assistance and advice were given to the following countries on the following topics:

- Food Safety and Quality: Azerbaijan, Cambodia, Cameroon, Dominican Republic, Laos, Tunisia, Uruguay and Vietnam.
- Animal (animal health, animal welfare, livestock, feed, veterinary drugs): Armenia, Belize, Cameroon, Costa Rica, Dominican Republic, El Salvador, Gabon, Guatemala, Honduras, Nicaragua, Panama, Timor-Leste, Tunisia, Ukraine and Uruguay.
- Plant (pesticides, seeds, organic, plant protection): Afghanistan, Azerbaijan, Bangladesh, Benin, Cambodia, Costa Rica, Croatia, the Commonwealth of Dominica, Iran (Islamic Republic of), Iraq, Kazakhstan, Kyrgyzstan, Lebanon, Lesotho, Madagascar, Maldives, Pakistan, the Arab Republic of Syria, Tajikistan, the United Republic of Tanzania, Tunisia, Turkey, Turkmenistan and Uzbekistan.
- Biotechnology (plant property rights, biosafety, genetic resources): Bangladesh, Croatia and the Commonwealth of Dominica.

- Agrarian (trade, marketing, gender, agrarian): Angola, Cape Verde, the Democratic Republic of the Congo, Iraq, Kenya, Maldives, Morocco, Mozambique, Sao Tome and Principe, Timor-Leste and Uruguay.
- Land and Water: Afghanistan, Angola, Bolivia (Plurinational State of), Cape Verde, China, Djibouti, Guinea, Iraq, Maldives, Mali, Mauritania, Mozambique, Sao Tome and Principe, Senegal, Thailand, Timor-Leste and Uruguay.
- Food Security: Afghanistan, Colombia, Ecuador, Mozambique and El Salvador.
- Fisheries and Aquaculture: Armenia, Azerbaijan, Benin, Bolivia, Cape Verde, People's Republic of China, Côte d'Ivoire, Djibouti, the Gambia, Georgia, Ghana, Guinea, Guinea-Bissau, Islamic Republic of Iran (Islamic Republic of), Iraq, Kyrgyzstan, Liberia, Mauritania, Nigeria, the Russian Federation, Sierra Leone, Senegal, Tajikistan, Togo, Turkey, Uruguay, Uzbekistan and Vietnam.
- Forestry and Environment (wildlife, climate change, natural resources): Burkina Faso, Burundi, Costa Rica, Democratic Republic of the Congo, Ecuador, Kazakhstan, the Gambia, Guinea, Haiti, Côte d'Ivoire, Lebanon, Macedonia, Mali, Mauritania, Rwanda, Senegal, Serbia, Syria, Tajikistan, Togo, Tonga and Tunisia.

### (iii) *Legislative research and publications*

The FAO Legal Office published the following Legal papers online in 2009:

- Legislatively Establishing a Health Certification Programme for Citrus Wildlife legislation and the empowerment of the poor in Latin America;
- Wildlife law and the legal empowerment of the poor in Sub-Saharan Africa: new case studies;
- Wildlife law and the legal empowerment of the poor in Sub-Saharan Africa.

## 3. United Nations Educational, Scientific and Cultural Organization

### (a) Membership or the Organization

At its 10th plenary meeting, on 12 October 2009, the 35th session of the General Conference decided to admit the Faroes as an Associate Member of the Organization. The Organization has now seven Associate Members.

### (b) Internal regulations

#### (i) *Entry into force of previously adopted regulations*

Within the period covered by this review, the Convention on the Protection of the Underwater Cultural Heritage, adopted in Paris on 2 November 2001, entered into force on 2 January 2009.

The text of all UNESCO standard-setting instruments, as well as the list of States parties to the conventions and agreements, can be found on UNESCO's website.<sup>509</sup>

<sup>509</sup> See <http://www.unesco.org/en/la>.

(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**

By its resolution 41, the 35th session of the General Conference invited Member States to pursue opportunities to utilize the work completed thus far, as appropriate and decided to take note of the draft of the declaration of principles relating to cultural objects displaced in connection with the Second World War.

**b. Preliminary study of the technical and legal aspects of a possible international standard-setting instrument for the protection of indigenous and endangered languages**

By its resolution 43, the 35th session of the General Conference invited the Director-General, for the purposes of finalizing this study, to convene a meeting of experts from different regions, including representatives of indigenous peoples, as soon as the necessary extrabudgetary funds have been raised, in consultation with Member States, as requested in 179 EX/Decision 10. The General Conference requested the Director-General to set up a focal point with responsibility for following up and coordinating UNESCO actions in favor of a possible international standard-setting instrument for the protection of indigenous and endangered languages. The General Conference invited the Director-General to continue to monitor: (i) the impact of existing standard-setting instruments on the protection of languages; (ii) national and regional policies on language protection and language planning; and (iii) the international cooperation programmes in this field, together with the provision of funds from donors for that purpose. The General Conference requested the Director-General to continue UNESCO's work on, and to update, the Atlas of the World's Languages in Danger. The General Conference decided to inscribe an item on the agenda of its 36th session on this matter, entitled: 'Preliminary study of the technical and legal aspects of a possible international standard-setting instrument for the protection of indigenous and endangered languages, including a study of the outcomes of the programme implemented by UNESCO relating to this issue.'

**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 landscapes**

By its resolution 42, the 35th session of the General Conference reiterated its conviction that UNESCO should play a leading international role in establishing principles and guidelines for the conservation of historic urban landscapes which may support Member States and local communities in conserving such landscapes. The General Conference decided that existing UNESCO standard-setting instruments relating to the conservation of historic urban landscapes should be supplemented through a new recommendation on this matter. The General Conference invited the Director-General to prepare a preliminary report setting forth the position with regard to the conservation of historic urban landscapes, to convene a meeting of experts (category VI) to compile a first draft of the proposed recommendation to be sent to Member States for comments, to further convene an intergovernmental meeting of experts (category II) to reconsider the draft in the light

of the comments received, and to submit a final report and, if appropriate, a revised draft to the General Conference at its 36th session, in 2011.

## (ii) *Human rights*

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

The Committee on Conventions and Recommendations met in private sessions at UNESCO Headquarters from 16 to 18 April 2009 and from 8 to 10 September 2009 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 2009 session, the Committee examined 20 communications of which one was examined with a view to determining its admissibility or otherwise; 18 were examined as to their substance; and one was examined for the first time. One communication was struck from the list because it was considered as having been settled. The examination of the 19 remaining communications was deferred. The Committee presented its report to the Executive Board at its 181st session.

At its September 2009 session, the Committee examined 22 communications of which one was examined with a view to determining its admissibility or otherwise; 19 were examined 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. One communication was also struck from the list because the alleged victim died during the examination of the case by the Committee. One communication was suspended. The examination of the 19 remaining communications was deferred. The Committee presented its report to the Executive Board at its 182nd session.

## (iii) *Copyright activities*

### **a. Information and public awareness activities**

The collection of national copyrights laws is an essential tool for professionals, students and researchers, which endeavours to provide access to legal texts. It was thoroughly updated in 2009 and currently comprises approximately 145 national copyright and related rights legislations of UNESCO Member States.

The UNESCO World Anti-Piracy Observatory, a web-based reference tool, is another UNESCO information-sharing initiative in the copyright area which was developed in 2009. 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. More than 100 country profiles are available for free down loading and use.

### **b. Training and teaching activities**

Teaching of copyright law has been pursued by the existing network of UNESCO Copyright Chairs.

**c. Administration of the Universal Copyright Convention and the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations**

The 20th session of the Intergovernmental Committee of the Rome Convention<sup>510</sup> (ICR), for which the secretariat is provided jointly by UNESCO, the World Intellectual Property Organization (WIPO) and the International Labour Organization (ILO), was hosted by WIPO and took place in September 2009 in Geneva.

## **4. International Maritime Organization**

### **(a) Membership of the Organization**

As of 31 December 2009, the membership of the International Maritime Organization (IMO) stood at 169.

### **(b) Review of the legal activities undertaken by the IMO**

The Legal Committee (hereinafter the Committee) held its ninety-fifth session from 30 March to 3 April 2009 and its ninety-sixth session from 5 to 9 October 2009.

#### **(i) *Monitoring the implementation of the HNS Convention: Development of a possible draft protocol to the Convention***

The Committee concluded its consideration of a draft protocol to the 1996 International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea (the HNS Convention).<sup>511</sup>

#### **a. Definition of HNS**

The Committee approved a number of amendments to the definition of HNS. In this connection, it also considered a proposal that, rather than restricting the application of the International Maritime Dangerous Goods (IMDG) Code to its 1996 version, the HNS Convention should incorporate subsequent amendments, with specific reference to substances to be excluded, notably coal, fishmeal and woodchips.

After an extensive debate on this issue, the Committee decided to maintain its decision to restrict the reference in the definition of the HNS Convention to IMDG substances, to the substances included in the 1996 version of the IMDG Code.

---

<sup>510</sup> International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations, 1961. United Nations, *Treaty Series*, vol. 496, p. 43.

<sup>511</sup> LEG/CONF.10/8/2 of 9 May 1996.



### b. Treaty law issues

The Committee noted the content of a document submitted by the Secretariat, providing information on the possible legal implications of a new protocol for States which are Contracting States to the HNS Convention.

### c. Scope of application

The Committee approved a proposal to amend the current text of article 3 (d) of The HNS Convention, clarifying the geographic scope of application of the Convention, subject to the substitution of the word 'damages' by 'damage.'

### d. Recommendation for the convening of an international conference

The Committee approved the basic text, as amended by the decisions adopted by the Committee at this session, for the purpose of its submission for consideration by a diplomatic conference, and agreed to advise the Council accordingly.

In line with previous practice, the Committee instructed the Secretariat to prepare and circulate the basic text of the draft protocol, for consideration by a diplomatic conference and authorized the Secretariat to edit the text in line with the style and language of other treaties adopted by the Organization.

## (ii) *Provision of financial security*

### a. 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 approved the recommendations made by the *Ad Hoc* Expert Working Group on Liability and Compensation regarding Claims for Death, Personal Injury and Abandonment of Seafarers, in particular, that financial security should be made mandatory for both death and personal injury and abandonment claims, through amendments to the International Maritime Labour Convention, 2006,<sup>512</sup> once this Convention enters into force. The Committee noted that the Joint IMO/ILO *Ad Hoc* Expert Working Group had fulfilled its mandated. The Committee also noted that both IMO and the International Labour Organization (ILO) should continue to impress on Governments the importance of the voluntary implementation of the existing Guidelines on Provision of Financial Security in Case of Abandonment of Seafarers,<sup>513</sup> pending the adoption and entry into force of the appropriate mandatory solutions.

<sup>512</sup> Maritime Labour Convention, adopted by the 94th session of the General Conference of the International Labour Organization, Geneva, 7 February 2006. For the text of the Convention, see United Nations Juridical Yearbook 2006, United Nations Publication, Sales No. E.09.V.1 (ISBN 978-92-1-133670-2), p. 325.

<sup>513</sup> Contained in IMO resolution A.930(22).

**b. 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 considered a report of the Correspondence Group on its progress in developing a single model compulsory insurance certificate (single model certificate) to cover all IMO liability and compensation regimes. The Committee held an extensive debate on the relative benefits and drawbacks of both the mandatory and the recommendatory options for a single model certificate.

Some delegations noted that legal certainty could be only achieved by amending all six treaties regulating compulsory insurance, so that the single model certificate would replace the original models regulated in each of them. It was acknowledged, however, that this course of action could only be considered in the long-term and was not without its difficulties, as it would require the renegotiation of six convention texts, only three of which were currently in force.

Bearing in mind these obstacles, the Committee focused its discussions on the short-term alternative, involving the adoption of an IMO Assembly resolution.

In view of the legal and practical issues, in particular, the lack of general consensus required to ensure the effective implementation of the draft resolution, the Committee concluded that, at the moment, it was unable to recommend the adoption of the Assembly resolution proposed by the Correspondence Group, as a short-term solution. Nor was it able, at this point in time, to recommend amending the liability conventions in order to introduce a single model certificate, as a long-term solution.

The Committee concluded that the Group had fulfilled its mandate under the terms of reference drawn up by the Committee at its ninety-fifth session; and that there was, consequently, no need for the Correspondence Group to continue its deliberations.

**c. Fair treatment of seafarers in the event of a maritime accident**

The Committee noted that no additional responses had been received since its last session, in response to circular letter N0.2825, which had requested that any information concerning cases of mistreatment of seafarers in the event of a maritime accident should be transmitted to IMO or to ILO.

The Committee requested the IMO Secretariat to continue to consult with the ILO Secretariat and with the social partners, to determine the most convenient meeting dates for reconvening the Joint IMO/ILO *Ad Hoc* Expert Working Group on Fair Treatment of Seafarers in the Event of a Maritime Accident.

**d. International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001: Implementation of the Convention**

The Committee considered a report of the Correspondence Group established by LEG 95 to facilitate further ratifications and to promote harmonized implementation of

the Bunkers Convention,<sup>514</sup> including a draft Assembly resolution at annex thereto on the issuing of Bunkers certificates to bareboat-registered vessels.

A majority of delegations expressed support, in principle, for the draft resolution, which, even if it could not change the legal content of the Convention, was a pragmatic way to resolve the question of responsibility for issuing Bunkers certificates to bareboat-registered vessels; it was noted that the resolution provided the flexible approach needed in view of the possibility of different interpretations of the entitlement to issue the certificate.

For an extensive discussion during which a wide variety of views were expressed in relation to both the precise content of the proposed resolution (including those favouring the issuance of the certificate by the flag State), as well as the form of the resolution, i.e. whether it should be an Assembly resolution or a Legal Committee resolution, the Committee approved a draft Assembly resolution on the issuing of Bunkers certificates to bareboat-registered vessels.

The Committee decided to maintain the Correspondence Group, which would continue to work on the implementation of the Bunkers Convention.

The Assembly adopted the resolution at its twenty-sixth regular session.

#### e. Piracy: Review of national legislation

The Committee noted the information provided by the Secretariat on national legislation on piracy submitted in response to circular letter N0.2933, and information on developments relating to Working Group 2 (on legal and judicial issues) of the Contact Group on Piracy off the coast of Somalia (CGPCS Working Group 2).

In connection with the information received on national legislation, the Committee noted that only a few countries fully incorporate the definition of piracy, contained in article 101 of the United Nations Convention on the Law of the Sea (UNCLOS),<sup>515</sup> as well as a jurisdictional framework based upon the concept of universal jurisdiction regulated by UNCLOS; in most cases, piracy is not addressed as an independent, separate offence with its own jurisdictional framework, but is subsumed within more general categories of crime, such as robbery, kidnapping, abduction, violence against persons, etc.; in some cases, domestic legislation, rather than defining all the elements of the offence of piracy as part of its criminal law, simply makes reference to piracy as defined by international law, in UNCLOS or otherwise. This generic approach may present obstacles for prosecution and punishment in countries where criminal law requires that all elements of any offence are described in detail in the legislation. While most States parties to the 1988 Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation<sup>516</sup> have legislation in place implementing the compulsory establishment of jurisdiction regulated in article 6.1 of this Convention, the lack of establishment of facultative (or optional) jurisdiction authorized in article 6.2, coupled with the lack of precise rules regulating universal

<sup>514</sup> International Convention on Civil Liability for Bunker Oil Pollution Damage, 23 March 2001, entered into force on 21 November 2008. For the text of the Convention, *United Nations Juridical Yearbook, 2001*, United Nations Publication, Sales No. E.04.V.12, chapter IV B.

<sup>515</sup> United Nations, *Treaty Series*, vol. 1833, p. 3.

<sup>516</sup> United Nations, *Treaty Series*, vol. 1678, p. 201.

jurisdiction, can inevitably lead to loopholes, as a result of which some piracy incidents may remain unpunished.

In connection with the developments in CGPCS Working Group 2, the Committee noted that the Working Group's task was to provide guidance to Contact Group members on legal issues related to the fight against piracy, including the prosecution of suspected pirates. With a view to fulfilling this task, the Working Group had agreed that the way forward was to develop a full set of practical tools (checklists, guidelines, templates, compilations) with the aim of providing support to States and organizations participating in the anti-piracy effort. Generic templates on evidence collection, ship-rider agreements, obtaining flag State consent in cases where a military vessel protection detachment is to be embarked on merchant ships, and memoranda of understanding on the conditions of transfer of suspected pirates, would be placed on the CGPCS website when it is established. The Committee noted the efforts undertaken by IMO and the United Nations Office on Drugs and Crime to ensure that legislative data collected by both organizations was shared and analysed in order to ensure that activities of both organizations did not overlap.

The Committee also noted information on the activities of the CGPCS and the adoption by the Maritime Safety Committee (MSC) of updated guidance and recommendations on the suppression of piracy, including specific guidance on piracy and armed robbery against ships in waters off the coast of Somalia, which include the industry-developed Best Management Practices (MSC.1/Circ.1332). In this connection, the importance of the Djibouti Code of Conduct to repress acts of piracy and armed robbery against ships was highlighted, as well as IMO's determination to implement a programme of capacity-building activities funded through the IMO Djibouti Code Trust Fund.

Several delegations referred to the process of elaboration of new anti-piracy legislation in their countries, with the object of ensuring an effective application of the principle of extra-territoriality.

The Committee commended the work done by IMO, the CGPCS and other organizations in the prevention and punishment of acts of piracy, and expressed satisfaction at the growing number of participants in the Djibouti Code.

#### **f. Technical co-operation activities related to maritime legislation**

The Committee noted the list of dissertations and drafting projects concluded by International Maritime Law Institute (IMLI) students in the 2008–2009 academic year and requested the Secretariat to ascertain from IMLI the possibility of obtaining these dissertations and whether any specific policy had been adopted with regard to the choice of dissertation topics so as to maintain a balance between private and public maritime law. The Committee agreed that IMLI should continue submitting the list of dissertations and drafting projects for the Committee's consideration on a regular basis.

The Committee noted the information provided by the Secretariat on technical co-operation activities on maritime legislation from February to July 2009; on activities planned for the 2010–2011 biennium to help implement the Djibouti Code of Conduct; on the inclusion of maritime legislation as one of the subject areas covered by the Impact Assessment Exercise; and the suggestion that States could help to expand the list of experts by mobilizing national legal resources (e.g., graduates from IMLI).

The Committee commended IMO's enhanced capacity-building efforts, in particular those related to IMLI and World Maritime University (WMU) students.

### (iii) *Other business*

#### a. **Proposed new work programme item to consider amendments to LLMC 96 to increase limits of liability under the Bunkers Convention**

The Committee agreed to the inclusion of a new work programme item and planned output for the next biennium (2010–2011) on consideration of amendment of the limits of liability of the 1996 Protocol to amend the Convention on Limitation of Liability for Maritime Claims (LLMC 96),<sup>517</sup> in accordance with the tacit amendment procedures set out in article 8 and to place this item on its agenda for its ninety-seventh session. The Committee did not, however, agree to include on the new work programme item an assessment of whether the current provisions under the LLMC 96 remain relevant, on the grounds that no compelling need had been established and that a broad assessment might lead to unforeseen consequences for the Nairobi Wreck Removal Convention,<sup>518</sup> because the LLMC 96 allows States Parties to reserve the right to exclude the application of certain claims, including those relating to wreck removal.

#### b. **Joint IMO/ILO working group on areas of common interest**

The Committee agreed with the conclusion reached by the MSC and the Marine Environment Protection Committee (MEPC) to the effect that a standing joint IMO/ILO working group should not be established and that a joint group should be established on an *ad hoc* basis only as and when an issue for consideration and advice to the respective parent bodies of the two Organizations arose, with terms of reference being prepared by the Legal Committee and forwarded for joint approval by it and the Governing Body of ILO, and with selection of membership being based on the subject matter at issue.

#### c. **Places of refuge**

The Committee noted document LEG 95/9, introduced by the observer delegation of *Comité Maritime International* (CMI), setting out the principal policy issues addressed by a draft text of an instrument on places of refuge developed by the CMI International Working Group.

However, all the delegations that spoke, although expressing their appreciation to CMI for the high quality of the draft treaty and its contribution in general to the Committee's work, restated the view that there was no need for a new convention at this point in time, since the international regime comprising the existing liability and compensation

<sup>517</sup> Protocol of 1996 to Amend the Convention on the Limitation of Liability for Maritime Claims of 1976, London, 2 May 1996. Entered into force on 13 May 2004. For the text of the Convention, see *United Nations Juridical Yearbook*, 1996, United Nations publication, Sales No. E.01.V.10, chapter IV B.

<sup>518</sup> Nairobi International Convention on the Removal of Wrecks, adopted by the International Conference on the Removal of Wrecks, Nairobi, 18 May 2007, (LEG/CONF.16/19). For the text of the Convention, see the *United Nations Juridical Yearbook*, 2007, United Nations Publication, Sales No. E.10.V.1, p. 330.

conventions for pollution damage at sea provided a comprehensive legal framework, especially when coupled with the Guidelines on places of refuge adopted pursuant to resolution A.949(23) and other regional agreements. Priority should instead be given to enhancing the implementation of existing conventions, which apply in these situations. Once all of these conventions had entered into force and their effectiveness had been assessed, the Committee would be in a better position to ascertain the existence of possible gaps.

The Committee decided not to develop a binding instrument on places of refuge at this stage.

### (c) Amendments to treaties

#### (i) *2009 amendments to the Convention on Facilitation of International Maritime Traffic, 1965*<sup>519</sup>

These amendments were adopted by the Facilitation Committee on 16 January 2009, by resolution FAL.10(35). At the time of their adoption, the Committee determined that the amendments shall enter into force on 15 May 2010 unless, prior to 15 February 2010, at least one-third of the Contracting Governments to the Convention have notified the Secretary-General in writing that they do not accept the amendments. As at 31 December 2009, no such notification of objection had been received.

#### (ii) *2009 amendments to the International Convention for the Safety of Life at Sea, 1974 (SOLAS)*<sup>520</sup> *(chapters II-1 and VI)*

These amendments were adopted by the Maritime Safety Committee on 5 June 2009, by resolution MSC.282(86). At the time of their adoption, the Committee determined that the amendments shall be deemed to have been accepted on 1 July 2010 and shall enter into force on 1 January 2011 unless, prior to 1 July 2010, 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 to the Organization their objections to the amendments. As at 31 December 2009, no such notification of objection had been received.

#### (iii) *2009 amendments to the Protocol of 1988*<sup>521</sup> *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 5 June 2009, by resolution MSC.283(86). At the time of their adoption, the Committee determined that the amendments shall be deemed to have been accepted on 1 July 2010 and shall enter into force on 1 January 2011 unless, prior to 1 July 2010, more than one-third of the Contracting Governments to the 1988 SOLAS Protocol, or Contracting Governments, the combined merchant fleets of which constitute not less than 50 per cent of the gross tonnage of the

<sup>519</sup> United Nations, *Treaty Series*, vol. 591, p. 265.

<sup>520</sup> *Ibid.*, vol. 1184, p. 2.

<sup>521</sup> *Ibid.*, vol. 1566, p. 401.

world's merchant fleet, have notified to the Organization their objections to the amendments. As at 31 December 2009, no such notification of objection had been received.

(iv) *2009 amendments to the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships (MARPOL), 1973*<sup>522</sup>  
(*addition of a new chapter 8 to MARPOL Annex I and consequential amendments to the Supplement to the IOPP Certificate, Form B*)

These amendments were adopted by the Marine Environment Protection Committee on 17 July 2009 by resolution MEPC.186 (59). At the time of their adoption, the Committee determined that the amendments shall be deemed to have been accepted on 1 July 2010 and shall enter into force on 1 January 2011 unless, prior to 1 July 2010, not less than one-third of the Parties to MARPOL 73/78 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 to the Organization their objections to the amendments. As at 31 December 2009, no such notification of objection had been received.

(v) *2009 amendments to the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973 (regulations 1, 12, 13, 17 and 38 of MARPOL Annex I, Supplement to the IOPP Certificate and Oil Record Book Parts I and II)*

These amendments were adopted by the Marine Environment Protection Committee on 17 July 2009 by resolution MEPC.187(59). At the time of their adoption, the Committee determined that the amendments shall be deemed to have been accepted on 1 July 2010 and shall enter into force on 1 January 2011 unless, prior to 1 July 2010, not less than one-third of the Parties to MARPOL 73/78 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 to the Organization their objections to the amendments. As at 31 December 2009, no such notification of objection had been received.

## 5. World Health Organization

### (a) Constitutional developments

No new member states joined the World Health Organization (WHO) in 2009.

No new amendments to the Constitution<sup>523</sup> of the WHO were proposed or adopted, and neither of the two current amendments entered into force. The current amendments are 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 WHO 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 WHA3

<sup>522</sup> United Nations, *Treaty Series*, vol. 1340, p. 61.

<sup>523</sup> *Ibid.*, vol. 14, p. 185.



LI 8 of 18 May 1978. Respectively, they have been accepted by 98 and 112 member States. Amendments shall come into force for all Members when adopted by two-thirds vote of the Health Assembly and accepted by two-thirds of the Members in accordance with their respective constitutional processes.

### **(b) Other normative developments and activities**

#### **(i) *International Health Regulations (2005) (IHR (2005) or the Regulations)***

IHR (2005) did not come into force for any new States parties.

There are 194 States parties to the IHR (2005). In 2009, WHO published a manual for the Public Health Management of Chemical Incidents<sup>524</sup> to help Member States meet the Regulations' core capacity needs relating to chemical incidents.

During 2009, regarding the H1N1 pandemic of 2009, the Director-General of the WHO convened the first meeting of the IHR Emergency Committee, in accordance with article 48 of the IHR. Additionally, the Director-General declared the first public health emergency of international concern, in accordance with article 12, article 49, and annex 2. In accordance with articles 15–18, and article 49, the WHO produced over 30 individual documents containing recommendations and guidelines to prevent and contain the spread of H1N1 pandemic virus. In addition, in accordance with article 13, the WHO Secretariat provided public health guidance and direct technical support, including field missions. The WHO also collaborated with other international and intergovernmental organizations, in accordance with article 14 of the Regulations, especially with the aviation industry and the International Civil Aviation Organization (ICAO) during the H1N1 pandemic (2009). As a result of the emergence of Pandemic (H1 N1) 2009 virus, the six WHO regional offices provided technical guidance to all countries to help improve their national surveillance and response systems to meet the IHR (2005) core capacity requirements by 2012. Finally, for the first time, article 43 “Additional Health Measures” was brought into play, and certain Member States provided reports of measures that could significantly interfere with international travel and trade.

#### **(ii) *Amendments to Basic Documents***

The Sixty-second World Health Assembly, by resolution WHA62.6 of 21 May 2009, decided to amend the Financial Regulations and Financial Rules. This resolution approved the amendments confirmed by the Executive Board during their one hundred and twenty-fourth meeting. The amendments significantly revised the Financial Regulations to bring them into line with the United Nations System Accounting Standards. Specific amendments were made to regulations: 1.3 (Applicability and Delegation of Authority); 2.1 (The Financial Period); 3.1 (The Budget); 4.2, 4.4, 4.5, 4.6, 4.7 (Regular Budget Appropriations); 5.1–5.4 (Provision of Regular Budget Funds); 6.8, 6.11 (Accessed Contributions); 8.1–8.5 (Miscellaneous and other Income); 10 (Custody of Funds); 11.1–11.2 (Investment of Funds); 13.1–13.4 (Accounts and Financial Reports); and 14.4 (External Audit).

<sup>524</sup> Manual for the public health management of chemical incidents. Available on WHO's website, [http://www.who.int/environmental\\_health\\_emergencies/publications/en/](http://www.who.int/environmental_health_emergencies/publications/en/).

The amendments revised the following rules: 103.1 (Regular Budget Appropriations); 104.3–104.6 (Financing); 5 (Funding from Awards for Workplans); 106.1–106.5 (Expenditure Commitments); 108.1–108.2 (The Accounts); 9 (Financial Statements); 110.1–110.6 (Property, Plant and Equipment); and 112.3 (d) (Internal Audit).

The sixty-second World Health Assembly, by resolution WHA62.7 of 21 May 2009, decided to amend the Staff Regulations. Staff regulation 4.2, regarding the paramount consideration of the ‘necessity of securing the highest standards of efficiency, competence, and integrity,’ was amended to also apply to reassignment. Staff regulation 4.3 was amended to ensure the continued ability of the Organization to transfer or reassign staff members without promotion when it is in the interests of the Organization to do so. This resolution approved the amendments confirmed by the Executive Board during their one hundred and twenty-fourth meeting.

The Executive Board, through resolution EB124.R10, recommended the Health Assembly approve the amendments to the Financial Regulations and Financial Rules.

The Executive Board, through resolution EB124.R14, confirmed amendments to Staff Rules made by the Director-General. It also recommended amendments to Staff Regulations resolution EB124.R 15.

The Executive Board, through resolution 124.R11, admitted into official relations with the WHO the International Medical Corps. This was in agreement with the ‘Principles Governing Relations Between the World Health Organization and Nongovernmental Organizations.’

(iii) *Intergovernmental Working Group on Public Health, Innovation, and Intellectual Property*

The Sixty-second World Health Assembly, through resolution WHA62.16, adopted the final plan of action by incorporating into the plan of action additional agreed stakeholders, and proposed time frames. The Health Assembly also accepted the proposed progress indicators and requested the Director-General to provide significantly increased support for greater efficiency and effectiveness in implementation of the global strategy and plan of action.

(iv) *Agreement with the Russian Federation*

The WHO entered into a mutual cooperative agreement with the Russian Federation. The cooperation between the two entities may consist of the Organization making available services of advisers to provide advice to Russian state organizations, organize and conduct seminars, training programmes, demonstration projects, expert working groups and related activities, awarding and financing fellowships for postgraduate training outside the Russian Federation, preparing and executing pilot projects, tests, experiments or research, and other forms of technical advisory cooperation. The Russian Federation agreed to facilitate the effective development of technical advisory cooperation such as gathering or compiling information, publication of any relevant findings, and supporting the Organization in regards to labour, services, supplies and equipment, as required, and

the provision of medical assistance and hospital care to Organization staff on the territory of the Russian Federation.

(v) *Supporting National Law Reform Efforts on WHO Mandated Topics*

In 2009, WHO supported mental health law reform efforts in Bangladesh and Fiji, through the provision of in-depth technical reviews of several drafts of these countries' mental health bills.

WHO completed a systematic and detailed study of 187 national constitutions regarding whether the constitutions included access to essential medicines as part of the realization of the right to health, which is a core country progress indicator of Strategic Objective 11 in the WHO Medium Term Strategic Plan for 2008–2013. Although 135 constitutions recognize one or more aspects of the right to health, only four constitutions specifically include the provision of essential medical products. Based on this review, a model text for revising national constitutions in this respect is in preparation.

In 2009, Reproductive Health and Research (RHR) provided four expert opinions on abortion, family planning, and adolescents' sexual and reproductive health to assist national legislative processes, at the request of WHO country offices and various national stakeholders. RHR developed a human rights and sexual and reproductive health tool that provides a method for countries to use a human rights framework to identify and address legal, policy and regulatory barriers to people's access to, and use of, sexual and reproductive health care services, and to the provision of quality services. RHR provides technical support and briefings to WHO country staff, to ensure that sexual and reproductive health issues are well covered in the United Nations Country Team reports to the Committee on the Elimination of Discrimination against Women (the CEDAW Committee). RHR is actively assisting the Committee on Economic, Social and Cultural Rights in the elaboration of a new General Comment on sexual and reproductive health. RHR provided technical opinion to an individual case being considered by the CEDAW Committee on maternal mortality in Brazil.

The WHO Department of HIV/AIDS participated in an International Task Team on HIV-Related Travel Restrictions that produced a report, which is included in the bibliography, on the lack of public health evidence for the imposition by states of HIV-related restrictions on entry, stay and residence for people living with HIV.

(vi) *WHO Framework Convention on Tobacco Control*<sup>525</sup>

In 2009, the following States became parties to the WHO Framework Convention on Tobacco Control (FCTC): Bosnia and Herzegovina, Gabon, Guinea-Bissau, Liberia, Republic of Moldova, Sierra Leone, and Suriname. There were 167 parties to the Convention at the end of 2009.

The Intergovernmental Negotiating Body (INB) on a Protocol on Illicit Trade in Tobacco Products, established by the Conference of the parties of the FCTC in 2007, held its third session in Geneva from 28 June to 6 July 2009. Representatives of more than 135

<sup>525</sup> United Nations, *Treaty Series*, vol. 2302, p. 166.

parties participated in the session, which resulted in a summary document, the Negotiating text for a protocol to eliminate illicit trade in tobacco products. The document forms the basis for further negotiations and reflects the status of the discussion reached at the third session of the INB.

The INB requested intersessional work to be undertaken regarding several parts of the negotiating text prior to its fourth session in order to facilitate further negotiations which was achieved by the drafting groups established by the INB. The INB is expected to submit the draft of the Protocol to the fourth session of the Conference of the Parties (COP4) to be held in November 2010 in Uruguay. The COP4 is also expected to consider several guidelines for implementation of the Convention, the elaboration of which by intergovernmental working groups started in the second half of 2009.

## **6. International Atomic Energy Agency**

### **(a) Membership**

In 2009, Bahrain, Burundi, Cambodia, Congo, Lesotho and Oman became member States of the International Atomic Energy Agency (IAEA). By the end of the year, there were 151 member States.

### **(b) Privileges and immunities**

In 2009, Bosnia and Herzegovina and Tajikistan became parties to the Agreement on the Privileges and Immunities of the IAEA.<sup>526</sup> By the end of the year, there were 81 parties.

### **(c) Legal instruments**

#### **(i) *Convention on the Physical Protection of Nuclear Material***<sup>527</sup>

In 2009, the Dominican Republic, Jordan, Niue and Saudi Arabia became parties to the Convention. By the end of the year, there were 142 Parties.

#### **(ii) *Amendment to the Convention on the Physical Protection of Nuclear Material***

In 2009, Antigua and Barbuda, Chile, China, Estonia, Jordan, Liechtenstein, Lithuania, Niger, Norway, Slovenia and the United Arab Emirates adhered to the Amendment. By the end of the year, there were 33 contracting States.

<sup>526</sup> *Ibid.*, vol. 374, p. 147.

<sup>527</sup> United Nations, *Treaty Series*, vol. 1456, p. 124.

(iii) *Convention on Early Notification of a Nuclear Accident*<sup>528</sup>

In 2009, the Libyan Arab Jamahiriya, Mozambique, Oman and Senegal became parties to the Convention. By the end of the year, there were 106 parties.

(iv) *Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency*<sup>529</sup>

In 2009, Mozambique, Oman and Senegal became parties to the Convention. By the end of the year, there were 104 parties.

(v) *Convention on Nuclear Safety*<sup>530</sup>

In 2009, Jordan, the Libyan Arab Jamahiriya, Senegal and the United Arab Emirates became parties to the Convention. By the end of the year, there were 66 parties.

(vi) *Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management*<sup>531</sup>

In 2009, Georgia, Portugal, Senegal, the United Arab Emirates and Uzbekistan became parties to the Joint Convention. By the end of the year, there were 51 parties.

(vii) *Vienna Convention on Civil Liability for Nuclear Damage*<sup>532</sup>

In 2009, Senegal became parties to the Convention. By the end of the year, there were 36 parties.

(viii) *Protocol to Amend the Vienna Convention on Civil Liability for Nuclear Damage*<sup>533</sup>

In 2009, 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*<sup>534</sup>

In 2009, Uruguay became party to the Joint Protocol. By the end of the year, there were 26 parties.

---

<sup>528</sup> *Ibid.*, vol. 1439, p. 275.

<sup>529</sup> *Ibid.*, vol. 1457, p. 133.

<sup>530</sup> *Ibid.*, vol. 1963, p. 293.

<sup>531</sup> *Ibid.*, vol. 1963, p. 293.

<sup>532</sup> United Nations, *Treaty Series*, vol. 1063, p. 266.

<sup>533</sup> *Ibid.*, vol. 2241, p. 270.

<sup>534</sup> *Ibid.*, vol. 1672, p. 293.

(x) *Convention on Supplementary Compensation for Nuclear Damage*<sup>535</sup>

In 2009, the status of the Convention remained unchanged with 4 contracting States.

(xi) *Optional Protocol Concerning the Compulsory Settlement of Disputes*<sup>536</sup>

In 2009, the status of the Protocol remained unchanged with 2 parties.

(xii) *Revised Supplementary Agreement Concerning the Provision of Technical Assistance by the IAEA (RSA)*<sup>537</sup>

In 2009, Bosnia and Herzegovina and Mauritania concluded the RSA Agreement. By the end of the year, there were 111 member States which had concluded the RSA Agreement with the Agency.

(xiii) *Fourth Agreement to Extend the 1987 Regional Co-operative Agreement for Research, Development and Training Related to Nuclear Science and Technology (RCA)*<sup>538</sup>

In 2009, Australia and Thailand became party to the Agreement. By the end of the year, there were 15 parties.

(xiv) *African Regional Co-operative Agreement for Research, Development and Training Related to Nuclear Science and Technology (AFRA)—(Third Extension)*<sup>539</sup>

In 2009, Côte d'Ivoire, Mozambique and Zambia became parties to the Agreement. By the end of the year, there were 33 parties.

(xv) *Co-operation Agreement for the Promotion of Nuclear Science and Technology in Latin America and the Caribbean*<sup>540</sup> (ARCAL)

In 2009, Colombia, Nicaragua and Paraguay became parties to the Agreement. By the end of the year, there were 18 parties.

---

<sup>535</sup> INFCIRC/567.

<sup>536</sup> United Nations, *Treaty Series*, vol. 2086, p. 94.

<sup>537</sup> INFCIRC/267.

<sup>538</sup> INFCIRC/167/Add.22.

<sup>539</sup> INFCIRC/377 and INFCIRC/377/Add.18 (Third Extension).

<sup>540</sup> INFCIRC/582.

(xvi) *Co-operative Agreement for Arab States in Asia for Research, Development and Training Related to Nuclear Science and Technology*<sup>541</sup> (ARASIA)

In 2009, the status of the Agreement remained unchanged with 7 parties.

(xvii) *Agreement on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project*<sup>542</sup>

In 2009, 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*<sup>543</sup>

In 2009, the status of the Agreement remained unchanged with 6 parties.

#### (d) IAEA legislative assistance activities

During 2009, IAEA saw an increase in the demand for legislative assistance emanating from its member States. In response to this demand, IAEA provided bilateral assistance to 24 countries by means of written comments and advice in drafting national nuclear legislation and regulations. In addition, at the request of member States, individual training was also provided at IAEA Headquarters to seven individuals, notably through short-term scientific visits, as well as longer-term fellowships allowing individuals to gain further practical experience in international nuclear law.

In parallel, IAEA continued to take part in academic activities oriented towards nuclear law such as those organized under the auspices of the World Nuclear University and the International School of Nuclear Law by providing lecturers and by funding a total of 18 participants through appropriate IAEA technical cooperation projects.

Also, a total of six international and regional workshops were organized by the IAEA, both at IAEA Headquarters in Vienna and abroad.

In particular, IAEA conducted three international workshops on nuclear law at IAEA Headquarters. The purpose of these workshops was to provide participants with a comprehensive overview of the international legal instruments adopted under the auspices of IAEA, covering nuclear safety, nuclear security, safeguards and civil liability for nuclear damage,<sup>544</sup> as well on basic requirements needed for the establishment of adequate national legislation incorporating the provisions of the aforementioned instruments.

More specifically in the field of nuclear security, IAEA organized in May 2009 a workshop on implementing legislation in nuclear security for senior government officials from the League of Arab States countries at IAEA Headquarters. The purpose of the workshop

<sup>541</sup> INFCIRC/613/Add.1.

<sup>542</sup> INFCIRC/702.

<sup>543</sup> INFCIRC/703.

<sup>544</sup> United Nations, *Treaty Series*, vol. 1063, p. 265.



was to provide participants with in-depth information on the international instruments governing nuclear security and the synergies with safeguards. Further, IAEA organized at its Headquarters another workshop focused on implementing the Convention on the Physical Protection of Nuclear Material<sup>545</sup> and its Amendment in December.

In the field of civil liability for nuclear damage, the IAEA organized in December 2009 a workshop in Abu Dhabi, United Arab Emirates, for countries having expressed an interest in launching a nuclear power programme. The main purpose of the workshop was to provide information on the existing international liability regime, in particular the international instruments adopted under the auspices of the IAEA, including the Protocol to Amend the Vienna Convention on Civil Liability for Nuclear Damage and the Convention on Supplementary Compensation for Nuclear Damage.

### (e) Convention on nuclear safety

#### (i) *First Extraordinary Meeting of Contracting Parties, 28 September 2009*

In September 2009, the First Extraordinary Meeting of the Contracting Parties to the Convention on Nuclear Safety (CNS) was held at IAEA Headquarters to discuss and agree on certain changes to the 'Guidelines Regarding National Reports under the Convention' proposed by the 'Working Party on National Reports'—an *ad hoc* body composed of representatives of the Contracting Parties—as a result of recommendations reached at the Fourth Review Meeting held in April 2008.

In addition, the contracting parties which had expressed during the Fourth Review Meeting the need to work further on promoting a better understanding of the CNS among both Contracting and non-Contracting Parties—and possibly as a result a wider adherence to the CNS—endorsed a promotional brochure titled 'Introduction to the Convention on Nuclear Safety and its associated Rules of Procedures and Guidelines.' The brochure would constitute an additional tool in IAEA's outreach activities in the field of nuclear safety.

#### (ii) *Fifth Organizational Meeting of Contracting Parties, 29 September 2009*

In conjunction with the Extraordinary Meeting, an Organizational Meeting of the Contracting Parties to the CNS was held in preparation for the Fifth Review Meeting scheduled for April 2011 in Vienna, with 46 of the 65 Contracting Parties participating.

In accordance with the Rules of Procedure and Financial Rules of the CNS, the primary purpose of the meeting was to elect the Officers of the Review Meeting (President, Vice-Presidents and Country Group Officers) and to allocate contracting parties to country groups. The meeting also considered some of the proposals forwarded by the Contracting Parties aiming at enhancing the review process. The proposals included among others the development of processes to enhance the variation of country group composition and to engage national contact points in the review process, as well as considering creating a process for topical issue discussion between Review Meetings. It was also considered that

<sup>545</sup> *Ibid.*, vol. 1456, p. 101.

developing guidance for the contracting parties' review of other national reports might further improve the peer review process.

**(f) Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management<sup>546</sup>**

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 (the Joint Convention) was held in May 2009 in Vienna. Forty-five of the 48 contracting parties participated. Observers included the Nuclear Energy Agency of the Organization for Economic Cooperation and Development (OECD/NEA) and the European Bank for Reconstruction and Development (EBRD). The participants conducted a thorough peer review of the contracting parties' national reports and the conclusion was that all contracting parties in attendance were in compliance with requirements of the Convention and that the safety performance in each contracting party remained strong.

In addition, the Review Meeting adopted a number of recommendations submitted for its consideration by the Open-Ended Working Group established by the Contracting Parties at the beginning of the Review Meeting. In particular, the approved changes dealt with the general organization of the review process, including *inter alia* improving and clarifying the selection process for officers of the Joint Convention, allocating more time for the review of the contracting parties' national reports prior to the start of the Review Meeting, as well as improving the peer review process by maintaining institutional knowledge and continuity of officers between Review Meetings. It also requested the IAEA Secretariat to establish continuity and ongoing dialogue between Review Meetings among the contracting parties and General Committee members.

A further proposal was made for a meeting to be organised between the General Committees of both the Joint Convention and the Convention on Nuclear Safety in order to exchange views on common issues for improving the peer review process.

While welcoming the positive conclusions of the Review Meeting, contracting parties emphasized the need to remain diligent and vigilant in order to avoid complacency in the future.

**(g) Code of Conduct on the Safety and Security of Radioactive Sources<sup>547</sup>**

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 objectives of the Code of Conduct are to achieve and maintain a high level of safety and security of radioactive sources. The number of commitments by States to work towards following the provisions of the Code increased to 95 States as of the end of 2009. Fifty-

<sup>546</sup> United Nations, *Treaty Series*, vol. 2153, p. 303.

<sup>547</sup> Approved by the Board of Governors of the International Atomic Energy Agency on 8 September 2003, (GC(47)/9).

three States also notified their commitment to follow the Supplementary Guidance on the Import and Export of Radioactive Sources.

A technical meeting on implementation of the Code of Conduct with regard to long term strategies for the management of sealed sources was held in Vienna from 29 June to 1 July 2009. The meeting was attended by 75 experts from 51 member States as well as observers from the European Commission and the International Source Suppliers and Producers Association (ISSPA).

The objective of the meeting was to discuss certain legal and technical issues and possible strategies related to the management of sealed sources, in particular when these sources are reaching the end of their life cycle, or when orphan sources are detected at borders or during transport. Constructive discussions were held aiming at the establishment of harmonized strategies based on a more effective communication and cooperation among States, regulators, suppliers, shippers, users and waste management organizations.

The complementary nature of the Code of Conduct and the Joint Convention on the issue of the management of disused sources and orphan sources once they are designated as radioactive waste was also noted under the heading of possible strategies for internationally agreed and harmonized management of disused and orphan sources.

#### (h) Safeguards agreement

During 2009, a Safeguards Agreement pursuant to the Treaty on the Non-Proliferation of Nuclear Weapons<sup>548</sup> (NPT) with Bahrain, the Central African Republic, Comoros, Kenya, Mauritania, Qatar, Saudi Arabia and Sierra Leone entered into force. An Agreement between the Government of India and the International Atomic Energy Agency (IAEA) for the Application of Safeguards to Civilian Nuclear Facilities also entered into force in 2009. In addition, Bulgaria and the Czech Republic acceded to the Safeguards Agreement between the IAEA, European Atomic Energy Community (Euratom) and the non-nuclear-weapon States of Euratom. A Safeguards Agreement pursuant to the NPT was signed by Chad, Rwanda and Timor Leste but had not entered into force as of December 2009. Safeguards Agreements with the Republic of the Congo, Djibouti and Vanuatu pursuant to the NPT were approved by the IAEA Board of Governors in 2009.

In 2009, Protocols Additional to the Safeguards Agreements between IAEA and the Central African Republic, Colombia, Comoros, Kenya, Mauritania and the United States of America entered into force. In addition, Bulgaria and Czech Republic acceded to the Protocol Additional to the Safeguards Agreement between the IAEA, Euratom and the non-nuclear weapon States of Euratom. Additional Protocols were signed by Chad, Rwanda, Serbia, Timor-Leste, the United Arab Emirates and Zambia, but had not entered into force as of December 2009. A Protocol Additional to the Agreement between the Government of India and IAEA for the Application of Safeguards to Civilian Nuclear Facilities was also signed but had not entered into force as of December 2009. Additional Protocols with Bahrain, the Republic of the Congo, Djibouti and Vanuatu were approved by the IAEA Board of Governors in 2009.

<sup>548</sup> United Nations, *Treaty Series*, vol. 729, p. 161.

## 7. United Nations Industrial Development Organization

### (a) Agreements and other arrangements concluded in 2009 with States<sup>549</sup>

#### (i) *Belgium*

Agreement between the United Nations Industrial Development Organization and the Flemish Government—Department of Economy, Science and Innovation regarding the implementation of a project entitled ‘Facilitator mechanism for the establishment of an international industrial biotechnology network (phase 1),’ signed on 9 July 2009.

#### (ii) *Botswana*

Standard letter of agreement between the Government of Botswana and the United Nations Industrial Development Organization under national execution regarding the implementation of a project in Botswana entitled ‘Review of the industrial development policy,’ signed on 6 November and 11 December 2009.

#### (iii) *Cameroon*

Agreement between the United Nations Industrial Development Organization and the Government of the Republic of Cameroon relating to the establishment and management of a trust fund for implementation of the project to improve the productivity and competitiveness of the palm oil sector in Central and West Africa, signed on 10 December 2009.

#### (iv) *Canada*

Grant arrangement between the Government of Canada and the United Nations Industrial Development Organization regarding the implementation of a project in Sudan entitled ‘Recovery of coastal livelihoods in the Red Sea State of Sudan—the modernization of artisanal fisheries and creation of new market opportunities,’ signed on 19 March 2009.

Contribution agreement respecting the implementation of the project entitled ‘Terminal phase-out of methyl bromide in Mexico, structures component, phase I,’ between Her Majesty the Queen in Right of Canada and the United Nations Industrial Development Organization, signed on 17 and 24 August 2009.

#### (v) *China and the Nantong Pesticide Formulation Centre*

Trust fund agreement between the United Nations Industrial Development Organization and the Government of the People’s Republic of China and the Nantong Pesticide Formulation Centre regarding the implementation of a project entitled ‘Reduction of chemical pesticides production and promotion of non-DDT formulations based on biopesticides and water-based formulations using capsule suspension technology,’ signed on 8 and 29 October 2008, and 21 April 2009.

<sup>549</sup> Including governmental agencies and regional governments or provinces.

(vi) *Colombia and the Corporación Centro Provincial de Gestión Minero Agroempresarial del Alto Nordeste Antioqueño*

Trust fund agreement between the United Nations Industrial Development Organization and the Corporación Centro Provincial de Gestión Minero Agroempresarial del Alto Nordeste Antioqueño regarding the implementation of a project entitled 'Project Global Mercury 2—Introduction of cleaner artisanal gold mining and extraction technologies,' signed on 20 May 2009.

(vii) *Comoros and the United Nations system*

Joint declaration of the Government of the Union of the Comoros and the United Nations system regarding the co-piloting of implementation of the 'Delivering as One' initiative, signed on 25 May 2009.

(viii) *Cuba*

Exchange of letters constituting an agreement between the Ministry of Foreign Trade and Investment of Cuba and the United Nations Industrial Development Organization regarding the UNIDO Focal Point in Cuba, dated 28 July and 10 August 2009.

(ix) *Egypt and the United Nations Environment Programme (UNEP)*

Implementation agreement between the United Nations Environment Programme and the United Nations Industrial Development Organization and the Ministry of Trade and Industry of the Government of Egypt for the project entitled 'Assessment and capacity-building in chemicals waste management in Egypt,' signed on 25 March and 20 April 2009.

(x) *El Salvador and the United Nations Environment Programme (UNEP)*

Implementation agreement between the United Nations Environment Programme and the United Nations Industrial Development Organization and the Government of the Republic of El Salvador, represented by its Ministry of Foreign Affairs, for the project entitled 'Life cycle analysis of chemical substances,' signed on 24 March and 3 April 2009.

(xi) *Finland*

Exchange of letters constituting an agreement between the Ministry for Foreign Affairs of Finland and the United Nations Industrial Development Organization on the utilization of the Finnish contribution to UNIDO in the year 2009, signed on 27 October and 16 November 2009.

(xii) *Gabon*

Agreement between the United Nations Industrial Development Organization and the Government of Gabon relating to the establishment of a trust fund for the implementation in Gabon of a project entitled 'Assistance in supporting the diversification of and innovation and investment in small and medium enterprises in Gabon (in two phases),' signed on 9 December 2009.

(xiii) *Germany*

Arrangement between the United Nations Industrial Development Organization and the Government of the Federal Republic of Germany regarding the implementation of a project entitled 'Promotion and implementation of chemical leasing business models in industry,' signed on 21 and 28 April 2009.

Exchange of letters constituting an agreement between the Government of the Federal Republic of Germany and the United Nations Industrial Development Organization regarding the implementation of a project in Iraq entitled 'Promotion of micro-industries for accelerated and sustainable livelihood recovery—Ninewa Governorate of Iraq,' signed on 7 and 14 October 2009.

(xiv) *India*

Trust fund agreement between the United Nations Industrial Development Organization and the North Eastern Council, Government of India, regarding the implementation of a project entitled 'Promoting livelihoods in North Eastern India: The cane and bamboo networking project,' signed on 29 January 2009.

Agreement between the United Nations Industrial Development Organization and the Government of the Republic of India regarding the establishment of a UNIDO subregional Office in India covering the Islamic State of Afghanistan, the People's Republic of Bangladesh, the Kingdom of Bhutan, the Republic of India, the Republic of Maldives, the Federal Democratic Republic of Nepal and the Democratic Socialist Republic of Sri Lanka, signed on 7 August 2009.

(xv) *Iran (Islamic Republic of)*

Trust fund agreement between the United Nations Industrial Development Organization and the Iran Nanotechnology Initiative Council on behalf of the Government of the Islamic Republic of Iran regarding the implementation of a project in Iran entitled 'Support to the establishment and development of an International Centre on Nanotechnology (ICN),' signed on 25 September 2009.

(xvi) *Iraq*

Joint communiqué by H.E. Mr. Ali Ghaleb Baban, Minister of Planning and Development Cooperation of the Republic of Iraq, and Mr. Kandeh K. Yumkella, Director-Gen-

eral of the United Nations Industrial Development Organization, on the occasion of their meeting in Vienna on 28 May 2009, signed on 28 May 2009.

(xvii) *Italy*

Trust fund agreement between the United Nations Industrial Development Organization and the Government of Italy regarding the implementation of a Montreal Protocol project in Morocco entitled 'Phase-out of methyl bromide used as a soil fumigant in the production of green beans and cucurbits,' signed on 4 December 2008 and 7 January 2009.

Trust fund agreement between the United Nations Industrial Development Organization and the Government of Italy regarding the implementation of a Montreal Protocol project in Serbia entitled 'Terminal CTC phase-out project,' signed on 4 December 2008 and 7 January 2009.

Agreement between the Government of the Italian Republic and the United Nations Industrial Development Organization regarding the implementation of a project in Lebanon entitled 'Development and enterprise investment promotion (EDP) programme,' signed on 30 June and 17 September 2009.

(xviii) *Morocco*

Exchange of letters constituting an agreement between the United Nations Industrial Development Organization and the Government of the Kingdom of Morocco amending the agreement establishing a UNIDO Office in Rabat and the trust fund agreement of 4 October 2004, signed on 15 July and 10 August 2009.

(xix) *Nigeria*

Trust fund agreement between the United Nations Industrial Development Organization and the Government of the Federal Republic of Nigeria regarding the implementation of a project in Nigeria entitled 'The Country Programme,' signed on 19 February 2009.

Agreement between the United Nations Industrial Development Organization and the Government of the Federal Republic of Nigeria regarding the arrangements for the organization of the high-level Conference on the development of agribusiness and agro-industries in Africa, signed on 20 November 2009.

(xx) *Norway*

Administrative agreement for project funding between the Ministry of Foreign Affairs, Norway, and the United Nations Industrial Development Organization regarding the implementation of a project in Sri Lanka entitled 'Sri Lanka National Cleaner Production Centre—phase II,' signed on 16 November 2009.



(xxi) *Peru and the United Nations Environment Programme (UNEP)*

Implementation agreement between the United Nations Environment Programme and the United Nations Industrial Development Organization and the Government of Peru, represented by its Ministry of Health, for the project entitled: 'Safe chemicals,' signed on 9 and 24 March and 11 June 2009.

(xxii) *Russian Federation*

Administrative arrangement between the United Nations Industrial Development Organization and the Government of the Russian Federation with regard to a special-purpose contribution to the Industrial Development Fund, signed on 23 June 2009.

Memorandum of cooperation between the United Nations Industrial Development Organization and the Government of the Republic of Tatarstan (Russian Federation), signed on 10 December 2009.

(xxiii) *South Africa*

Addendum to the trust fund agreement for project TE/RAF/08/013 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 in South Africa entitled 'Infrastructure supplier benchmarking programme for South Africa,' signed on 1 and 2 March 2009.

Project funding agreement between the United Nations Industrial Development Organization and the Department of Trade and Industry of the Government of the Republic of South Africa, regarding the implementation of a project in South Africa entitled 'Automotive component supplier development programme,' signed on 30 March 2009.

Project funding agreement between the United Nations Industrial Development Organization, the Department of Trade and Industry of the Government of the Republic of South Africa and the Department of Energy regarding the implementation of a project in South Africa entitled 'Industrial energy efficiency improvement in South Africa,' signed by UNIDO and the Department of Trade and Industry on 19 June 2009.

(xxiv) *Spain*

Exchange of letters constituting an agreement between the United Nations Industrial Development Organization and the Ministry of Foreign Affairs and Cooperation of Spain regarding the implementation of a Montreal Protocol project in the Libyan Arab Jamahiriya entitled 'Phase-out of methyl bromide in horticulture: tomatoes, cucumbers, peppers and others,' signed on 26 February and 14 April 2009.

Memorandum of understanding between the Government of Spain and the United Nations Industrial Development Organization, regarding the implementation of certain projects in Latin America and the Caribbean, signed on 19 May 2009.

(xxv) *Sudan and the United Nations Environment Programme (UNEP)*

Implementation agreement between the United Nations Environment Programme and the United Nations Industrial Development Organization and the Government of the Sudan, represented by its Higher Council for Environment and Natural Resources, for the project entitled 'Development of a sustainable national programme for sound management of chemicals,' signed on 24 March 2009.

(xxvi) *Switzerland*

Letter of agreement between the State Secretariat for Economic Affairs (SECO) and the United Nations Industrial Development Organization regarding the project UE/SAF/09/002—'Industrial energy efficiency improvement in South Africa,' signed on 20 October 2009.

Letter of agreement between the State Secretariat for Economic Affairs (SECO) and the United Nations Industrial Development Organization regarding the project 'Strengthening of the National Cleaner Production Centre in Tunisia, part I and II,' signed on 20 October 2009.

(xxvii) *Syrian Arab Republic*

Basic cooperation agreement between the United Nations Industrial Development Organization and the Government of the Syrian Arab Republic, signed on 10 December 2009.

(xxviii) *Uganda and the Islamic Development Bank*

Trust fund agreement between the Government of the Republic of Uganda and the Islamic Development Bank and the United Nations Industrial Development Organization regarding the implementation of a project in Uganda entitled 'Feasibility study for mini-hydro power plants to reduce the vulnerability of the poor population to climate change impacts by providing economical empowerment,' signed on 17 October and 15 December 2008 and 1 February 2009.

(xxix) *Zambia*

Working agreement between the United Nations Industrial Development Organization and the Government of Zambia regarding the implementation of a Montreal Protocol project in Zambia entitled 'Technical assistance for the total phase-out of methyl bromide in tobacco, cut flowers, horticulture and post-harvest uses in Zambia,' signed on 24 March and 26 May 2009.

**(b) Agreements and other arrangements concluded in 2009 with the United Nations, its programmes and offices, and the specialized agencies**

*(i) Multilateral agreements and arrangements*

Memorandum of understanding relating to the use of common premises by United Nations agencies, programmes, funds and offices in the Lao People's Democratic Republic, signed by UNIDO on 18 March 2009.

Memorandum of understanding between the United Nations Environment Programme, the United Nations Industrial Development Organization and the United Nations Development Programme regarding the operational aspects of the United Nations China appeal for Wenchuan earthquake early recovery support—environment sector (parts I and II) in China, signed by UNIDO on 9 April 2009.

*Aide mémoire* between the Food and Agriculture Organization of the United Nations, the International Fund for Agricultural Development, the United Nations Industrial Development Organization and the United Nations Development Programme regarding a joint programme entitled 'Agricultural value chain and agro-processing development programme for the Union of Comoros,' signed on 29 May 2009.

Memorandum of understanding between the United Nations Environment Programme, the United Nations Development Programme, the Food and Agriculture Organization of the United Nations, the United Nations Industrial Development Organization and the United Nations Educational, Scientific and Cultural Organization regarding a One UN joint programme entitled 'Joint programme on environment,' signed by UNIDO on 19 June 2009.

Memorandum of understanding between the participating United Nations organizations and the United Nations Development Programme regarding the operational aspects of the One UN Coherence Fund for Albania, signed by UNIDO on 23 June 2009.

Memorandum of understanding between the United Nations Integrated Peace Mission in Sierra Leone and the agencies represented on the United Nations Country Team regarding United Nations common services, signed by UNIDO on 23 July 2009.

Memorandum of understanding between the International Labour Organization, the United Nations Children's Fund, the United Nations Educational, Scientific, and Cultural Organization, the United Nations Industrial Development Organization and the World Food Programme, regarding a One UN joint programme entitled 'Joint programme—education,' signed by UNIDO in 2009.

*(ii) International Fund for Agricultural Development (IFAD)*

Grant agreement between the International Fund for Agricultural Development and the United Nations Industrial Development Organization regarding the implementation of a project entitled 'Pro poor value chain development tool for practitioners,' signed on 26 and 29 October 2009.

(iii) *International Labour Organization (ILO)*

Inter-agency letter of agreement between the United Nations Industrial Development Organization and the International Labour Organization regarding the implementation of a UNDP-Spanish MDG Achievement Fund project entitled 'Protecting and promoting the rights of China's vulnerable young migrants,' signed on 30 and 31 July 2009.

Inter-agency letter of agreement between the United Nations Industrial Development Organization and the International Labour Organization regarding the implementation of a project in China entitled 'Sustaining competitive and responsible enterprises (SCORE)—China,' signed on 19 August 2009.

United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) Memorandum of understanding between the Economic and Social Commission for Asia and the Pacific and the United Nations Industrial Development Organization, signed on 14 October and 4 November 2009.

(iv) *United Nations*

Agreement between the United Nations and the United Nations Industrial Development Organization regarding the implementation of a project in Indonesia entitled 'Realizing minimum living standards for disadvantaged communities through peacebuilding and village-based economic development,' signed on 31 December 2008 and 6 February 2009.

Agreement between the United Nations and the United Nations Industrial Development Organization regarding the implementation of a project in Armenia entitled 'Sustainable livelihood for socially vulnerable refugees, internally-displaced and local families,' signed on 3 and 19 March 2009.

Agreement between the United Nations and the United Nations Industrial Development Organization regarding the joint programme entitled 'United Nations joint programme on integrated highland livelihood development in Mae Hong Son,' signed on 7 and 28 October 2009.

Agreement between the United Nations and the United Nations Industrial Development Organization regarding the implementation of a project in Ghana entitled 'Enhancing human security through developing local capacity for holistic community-based conflict prevention in northern Ghana,' signed on 31 May and 24 November 2009.

(v) *United Nations Development Programme (UNDP)*

Exchange of letters between the United Nations Development Programme in Viet Nam and the United Nations Industrial Development Organization as co-convenor of programme coordination group 2: Trade, employment and enterprise development, signed on 10 September 2009.

(vi) *United Nations Office for Projects Services (UNOPS)*

Memorandum of understanding between the United Nations Industrial Development Organization and the United Nations Office for Project Services on collaborative arrange-

ments in the EIF programme regarding the implementation of the enhanced integrated programme for trade-related technical assistance to least developed countries, signed on 24 June 2009.

**(c) Other intergovernmental organizations**

**(i) *European Community (EC) and European Union (EU)***

Memorandum of understanding No. 31298 between the Institute for Energy and the United Nations Industrial Development Organization on scientific cooperation in the field of fuel cells, signed on 17 March and 1 April 2009.

European Community contribution agreement between the European Community and the United Nations Industrial Development Organization on trade-related technical assistance, signed on 6 November 2009.

Addendum No. 1 to contribution agreement No. ASIE/2005/107894 between the European Union and the United Nations Industrial Development Organization regarding component 1 of the Bangladesh quality support programme concluded on 17 November 2005, signed on 20 and 24 December 2009.

**(ii) *Eurasian Economic Community (EURASEC)***

Memorandum of cooperation between the United Nations Industrial Development Organization and the Eurasian Economic Community, signed on 19 January 2009.

**(iii) *Fund for Commodities (CFC) and the International Jute Study Group***

Project agreement between the International Jute Study Group, the United Nations Industrial Development Organization and the Common Fund for Commodities regarding the implementation of a project entitled 'Increased production efficiency in small-holder kenaf production systems for specific industrial applications,' signed on 5, 9 and 13 March 2009.

**(iv) *Islamic Corporation for the Insurance of Investment and Export Credit (ICIEC)***

Trust fund agreement between the United Nations Industrial Development Organization and the Islamic Corporation for the Insurance of Investment and Export Credit regarding the implementation of a project in Uganda entitled 'Investment promotion and technical assistance programme (ITAP) for Uganda,' signed on 9 December 2009.

**(v) *Latin American Energy Organization (OLADE)***

Memorandum of understanding between the United Nations Industrial Development Organization and the Latin American Energy Organization, signed on 16 and 25 February 2009.

## (d) Other entities

(i) *Austrian Development Agency (ADA)*

Agreement between the United Nations Development Organization and the Austrian Development Agency regarding the implementation of a project of the Economic Commission of West African States (ECOWAS) entitled 'Preparatory and first operational phase of the secretariat of the ECOWAS Regional Center for Renewable Energy and Energy Efficiency (ERC),' signed on 9 and 30 November 2009.

(ii) *Agence Française de Développement (AFD)*

Financial agreement No. CZZ1317.01Z between the United Nations Industrial Development Organization and the French Development Agency regarding the implementation of a Montreal Protocol project in six African countries entitled 'Strategic demonstration project for accelerated conversion of CFC chillers in six African countries (Cameroon, Egypt, Namibia, Nigeria, Senegal and Sudan),' signed on 28 July 2009.

Letter of intent between the United Nations Industrial Development Organization and the French Development Agency, signed on 7 December 2009.

(iii) *Gesellschaft für Technische Zusammenarbeit (GTZ)*

Grant agreement between the United Nations Industrial Development Organization and the Deutsche Gesellschaft für Technische Zusammenarbeit GmbH regarding the international energy conference 'Towards an integrated energy agenda beyond 2020,' signed on 14 August and 16 September 2009.

(iv) *Hewlett-Packard*

Donation agreement between the United Nations Industrial Development Organization and Hewlett-Packard International Sarl regarding the implementation of a project entitled 'UNIDO—Hewlett-Packard cooperation for youth entrepreneurship development in Africa and the Middle East,' signed on 23 January 2009.

(v) *Indian Institute of Technology (IIT), Mahindra and Mahindra Ltd and Air Products*

Memorandum of understanding between the United Nations Industrial Development Organization, represented by the International Centre for Hydrogen Energy Technologies (ICHET), and the Indian Institute of Technology and Mahindra and Mahindra Limited and Air Products regarding the 'Delhy-3W project,' signed on 12 March 2009.

(vi) *International Organization for Standardization (ISO)*

Memorandum of understanding on enhanced cooperation between the United Nations Industrial Development Organization and the International Organization for Standardization, signed on 23 June 2009.

(vii) *Istanbul Transport Executive and others*

Memorandum of understanding between the United Nations Industrial Development Organization, represented by the International Centre for Hydrogen Energy Technologies, and the Istanbul Transport Executive and the Institute of Technology and Güleryüz and Tekno Tasarım AS, signed on 23, 25, 26 and 29 June 2009.

(viii) *Japanese Overseas Development Corporation (JODC)*

Trust fund agreement between the United Nations Development Organization and the Japanese Overseas Development Corporation regarding the implementation of a project in Myanmar, entitled 'Assessment of the potential for micro- and small business development in the handicraft sector in Myanmar,' signed on 18 June 2009.

(ix) *Kuwait Finance House (KFH)*

Memorandum of understanding on cooperation between the United Nations Industrial Development Organization and Kuwait Finance House, signed on 3 February 2009.

(x) *Lao National Chamber of Commerce and Industry*

Letter of agreement between the Lao National Chamber of Commerce and Industry and the United Nations Industrial Development Organization regarding the implementation of the project entitled 'Promoting private sector development through strengthening of Lao Chambers of Commerce and Industry and business associations,' signed on 23 and 30 July 2009.

(xi) *METRO Group*

Joint declaration by Mr. Kandeh K. Yumkella, Director-General of the United Nations Industrial Development Organization, and Mr. Eckhard Cordes, Chairman of the Management Board of METRO AG and CEO METRO Group, signed on 9 December 2009.

(xii) *Michigan State University (MSU)*

Joint declaration by Mr. Kandeh K. Yumkella, Director-General of the United Nations Industrial Development Organization and Mr. Kim Wilcox, Provost of the Michigan State University in East Lansing, Michigan, signed on 16 January 2009.



(xiii) *National Agency for Science and Engineering Infrastructure of Nigeria (NASENI)*

Trust fund agreement between the United Nations Industrial Development Organization and the National Agency for Science and Engineering Infrastructure regarding the implementation of a project in Nigeria entitled 'Technical assistance in fabrication of micro-hydro turbines,' signed on 7 July 2009.

(xiv) *Norwegian Agency for Development Cooperation (Norad)*

Administrative agreement for project funding between the Norwegian Agency for Development Cooperation and the United Nations Industrial Development Organization regarding the implementation of a project entitled 'Implementation of ISO 9001 quality system in Asian developing countries: Survey covering system development, certification, accreditation and economic benefits,' signed on 18 and 23 February 2009.

Administrative agreement for project funding between the Norwegian Agency for Development Cooperation and the United Nations Industrial Development Organization regarding the implementation of a project in Zambia entitled 'Joint UNIDO-WTO trade capacity-building programme framework for Zambia,' signed on 18 and 25 March 2009.

Addendum to administrative agreement for project funding between the Norwegian Agency for Development Cooperation and the United Nations Industrial Development Organization regarding the project 'Technical assistance to business registration reform in Viet Nam,' signed on 13 November 2009.

Administrative agreement for project funding between the Norwegian Agency for Development Cooperation and the United Nations Industrial Development Organization regarding the implementation of a project entitled 'Institutional strengthening of the Intra-Africa Metrology System (AFRIMETS),' signed on 13 and 24 November 2009.

(xv) *OSEC Business Network Switzerland*

Trust fund agreement between the United Nations Industrial Development Organization and OSEC Business Network Switzerland regarding the implementation of a project in Madagascar entitled 'Economic Development Board of Madagascar (EDBM)—capacity-building project for investment promotion and partnership,' signed on 1 and 9 October 2009.

(xvi) *SEQUA GmbH*

Administrative agreement between the United Nations Industrial Development Organization and SEQUA GmbH regarding the implementation of a project of the European Commission in Bangladesh entitled 'Re-Tie Bangladesh: Reduction of environmental threats and increase of exportability of Bangladeshi leather products,' signed on 16 and 25 June 2009.

(xvii) *StEP*

Memorandum of understanding between the members of the 'Solving the E-Waste Problem (StEP) Initiative' and the United Nations Industrial Development Organization, signed on 29 August 2008, 13 and 20 February 2009.

(xviii) *Turkish Association of Automobile Gas Stations (ODIDER)*

Memorandum of understanding between the United Nations Industrial Development Organization, represented by the International Centre for Hydrogen Energy Technologies, and the Association of Automobile Gas Stations, signed on 1 December 2009.

## 8. World Intellectual Property Organization

### (a) Introduction

In 2009, the World Intellectual Property Organization (WIPO) continued to address its activities on the implementation of substantive work programs in three main areas: (i) cooperation with its member States for development activities; (ii) intellectual property treaty formulation and norm-setting; and (iii) the international registration of intellectual property rights.

### (b) Cooperation with Member States for Development Activities

During the period under review, the WIPO technical assistance and capacity building activities continued to be directed towards the integration of Intellectual Property (IP) in national development policies and programs in accordance with WIPO's 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), non-governmental organizations (NGOs), and particularly 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 IP areas.

In 2009, 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; genetic resources, traditional knowledge and folklore and protection of traditional cultural expressions; small and medium-sized enterprises; and the establishment of collective management societies.

Earlier 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 CDIP is composed of the member States of WIPO and open to the participation of all accredited IGOs and NGOs. The Development Agenda Coordination Division (DACD) has been established to serve as the Secretariat

for the CDIP. In 2009, in line with its mandate, the CDIP submitted to the WIPO General Assembly a report on its third session held from 27 April to 1 May, 2009, during which (i) the progress in respect of the 19 proposals under implementation was reviewed and discussed, (ii) the remaining proposals were grouped as three thematic projects—IP and the Public Domain; IP and Competition Policy; and IP, Information and Communication Technologies, the Digital Divide and Access to Knowledge—to be implemented in January 2010, and (iii) the necessary mechanisms for coordinating the work of the Committee with the DACD and other relevant WIPO bodies were considered.

### (c) Norm-setting activities

One of the principal tasks of WIPO is to promote the harmonization of IP laws, standards, and practices among its Member States through the progressive development of international approaches in the protection and administration of IP rights. In this respect, the three WIPO Standing Committees on legal matters—respectively dealing with patents; copyright and related rights; and trademarks, industrial designs and geographical indications—help Member States to concentrate discussions, coordinate efforts, and establish priorities in these areas.

#### (i) *Standing Committee on the Law of Patents (SCP)*

At its thirteenth session,<sup>550</sup> held in March 2009, the SCP based its discussions on the Report on the International Patent System,<sup>551</sup> which is intended to provide a framework by which to cover the different needs and interests of Member States, as well as four preliminary studies: (i) Exclusions from Patentable Subject Matter and Exceptions and Limitations to the Rights;<sup>552</sup> (ii) Dissemination of Patent Information;<sup>553</sup> (iii) Standards and Patents;<sup>554</sup> and (iv) The Client-Attorney Privilege.<sup>555</sup> The SCP also decided to add two new issues for its consideration in future sessions: (i) patents and the environment, particularly with respect to climate change and alternative energy sources; and (ii) patent quality management systems.

#### (ii) *Standing Committee on Copyright and Related Rights (SCCR)*

At its eighteenth<sup>556</sup> and nineteenth<sup>557</sup> sessions, held respectively in May and December 2009, the SCCR reconfirmed its commitment to develop norms and anticipate the impli-

---

<sup>550</sup> See the report of the thirteenth session of the Standing Committee on the Law of Patents (SCP/13/8).

<sup>551</sup> SCP/12/3 Rev.2.

<sup>552</sup> SCP/13/3.

<sup>553</sup> SCP/13/5.

<sup>554</sup> SCP/13/2.

<sup>555</sup> SCP/13/4.

<sup>556</sup> See the report of the eighteenth session of the Standing Committee on Copyright and Related Rights (SCCR/18/7).

<sup>557</sup> See the report of the nineteenth session of the Standing Committee on Copyright and Related Rights (SCCR/19/15).

cations of digital technology regarding copyright limitations and exceptions on behalf of educational entities, libraries, archives, and disabled persons. To this end, the SCCR reviewed and discussed new expert studies, analytical documents, draft questionnaires for Member States, and proposals for an international treaty mandating access to protected materials by persons with print disabilities.

Despite an ongoing deadlock, the SCCR decided to maintain informal, open-ended consultations regarding the protection of audiovisual performances and broadcasting organizations on a signal-based approach. The SCCR requested position papers as well as a study to be commissioned on the socioeconomic dimension of the unauthorized use of broadcasting signals.

(iii) *Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT)*

In 2009, the 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. At its twenty-first<sup>558</sup> and twenty-second<sup>559</sup> sessions held respectively in June and November 2009, the SCT considered working documents on (i) possible areas of convergence in industrial design law and practice, (ii) grounds for refusal of all types of marks, (iii) technical and procedural aspects relating to the registration of certification and collective marks, and (iv) the protection of official names of States under Article 6*ter* of the Paris Convention for the Protection of Industrial Property. The SCT also requested the establishment of a Digital Access Service for Priority Documents for industrial designs and trademarks.

(d) **International registration activities**

(i) *Patents*

According to provisional data for 2009, the Secretariat recorded 139,016 international patent applications under the Patent Cooperation Treaty (PCT).<sup>560</sup> While fewer than in 2008, the total number of international patent applications filed in 2009 will be higher than any number of applications received under the PCT in a single year before 2006. The leading country of origin by number of international applications filed was the United States of America (provisionally 41,258 applications).

At its fortieth (seventeenth ordinary) session held from 22 September to 1 October 2009, the Assembly of the PCT Union adopted amendments to the Regulations under the PCT with effect from 1 July, 2010. The amendments address international preliminary

<sup>558</sup> See the report of the twenty-first session of the Standing Committee on the Law of Trademarks (SCT/21/8).

<sup>559</sup> See the report of the twenty-second session of the Standing Committee on the Law of Trade-marks (SCT/22/9).

<sup>560</sup> United Nations, *Treaty Series*, vol. 1160, p. 231.

reports on patentability as well as the appropriate currency, schedule, and refund terms for international filing, handling, and search fees.

During the year under review, Chile, Peru, and Thailand adhered to the PCT, bringing the total number of contracting parties to 142.

### (ii) *Trademarks*

According to data for 2009, the Secretariat recorded 35,925 international registrations of trademarks under the Madrid system.<sup>561</sup>

During the year under review, Egypt, Liberia, and the Sudan adhered to the Madrid Protocol, bringing the total number of contracting parties to 81.

### (iii) *Industrial designs*

According to data for 2009, the Secretariat recorded 1,681 registrations of industrial designs under the Hague system. The number of designs contained in those registrations was 8,872.

During the year under review, Poland, Serbia, and Germany adhered to the Geneva Act of the Hague Agreement,<sup>562</sup> bringing the total number of contracting parties to 56.

### (iv) *Appellations of origin*

According to data for 2009, the Secretariat recorded 4 new appellations of origin in the International Register, which brought to 817 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).<sup>563</sup>

At its twenty-fifth (eighteenth extraordinary) session, which was held from 22 September to 1 October 2009, the Assembly of the Lisbon Union adopted amendments to the Regulations under the Lisbon Agreement with effect from January 1, 2010. In particular, new rule 11 *bis* lays down an optional procedure for the notification and registration of statements of grant of protection, and new rule 23 *bis* defines the procedure governing the establishment and modification of Administrative Instructions.

The total number of contracting parties of the Lisbon Agreement is 26.

---

<sup>561</sup> Madrid Agreement concerning the international registration of marks. United Nations, *Treaty Series*, vol. 828, p. 391.

<sup>562</sup> Geneva Act of the Hague Agreement concerning the international registration of industrial designs (with regulations). United Nations, *Treaty Series*, vol. 2279, p. 31.

<sup>563</sup> United Nations, *Treaty Series*, vol. 923, p. 89.

### (e) 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 fourteenth and fifteenth sessions held respectively in July and December 2009, reviewed the progress made on its substantive agenda, particularly its two working documents for the protection of traditional cultural expressions/folklore and traditional knowledge as well as contributions to and disbursements from the WIPO Voluntary Fund for Accredited Indigenous and Local Communities. The IGC continued to engage member States as well as other Committee participants by accrediting various IGOs and NGOs, drawing attention to the indigenous panels, commissioning surveys of existing practices under the Creative Heritage Project, and soliciting proposals for continuing or further work.

#### (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. In 2009, the Center marked the tenth anniversary of the Uniform Domain Name Dispute Resolution Policy (UDRP), which sets out the legal framework for the resolution of disputes between a domain name registrant and a third party. In December 2009, the Center launched the eUDRP Initiative for essentially paperless UDRP procedures, thus reducing the time and cost involved with filing. The Center has processed 16,770 disputes (2,107 disputes during the year under review) under the UDRP, which applies to all registrations in generic Top-Level Domains as well as country code Top-Level Domains for 62 States that have adopted the policy on a voluntary basis. Together, these administrative proceedings have involved parties from 153 countries and some 30,000 Internet domain names. Apart from UDRP cases, the Center has administered over 15,000 cases under Sunrise policies relating to registrations in the start-up phase of new domains.

The Center has established a list of over 1,500 independent arbitrators, mediators, and experts from 70 countries. These neutral decision-makers are well-reputed for their dispute resolution experience and their substantive expertise in the areas of IP, electronic commerce, and the Internet. In addition to its domain name dispute resolutions and expert determinations, the Center has administered over 210 mediation and arbitration cases with settlement rates of 73 per cent and 58 per cent respectively.

In July 2009, the Center announced plans to open a Singapore office to focus on promoting alternative dispute resolution services in the Asia Pacific region. The Singapore office will provide training and administer cases under the WIPO Rules as well as cooperate in the establishment of an international WIPO Mediation and Arbitration Scheme for Film Related Disputes (the Film ADR Scheme) between the Center and Singapore's Media Development Authority. The WIPO Mediation and Expedited Arbitration Rules for Film and Media, which are specifically tailored to resolve potential disputes in the film and media sectors where parties require an expedited procedure, went into effect on 11 November, 2009. Both the new Rules and the Film ADR Scheme are examples of the Center's efforts to customize dispute resolution for recurrent disputes arising in a specific industry sector or involving a particular subject matter.

(iii) *New members and new accessions*

In 2009, 71 new instruments of ratification and/or accession were received and processed in respect of WIPO-administered treaties.

The following figures show the number of new country adherences to the treaties, with the parenthetical figures representing the total number of States now party to the corresponding treaty at the end of 2009:

- Convention Establishing the World Intellectual Property Organization: 0 (184);
- Paris Convention for the Protection of Industrial Property: 0 (173);
- Bern Convention for the Protection of Literary and Artistic Works: 0 (164);
- Patent Cooperation Treaty: 3 (142);
- Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks: 3 (81);
- Trademark Law Treaty: 3 (45);
- Patent Law Treaty: 3 (22);
- 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: 0 (83);
- Locarno Agreement Establishing an International Classification for Industrial Designs: 2 (51);
- Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks: 2 (27); WIPO Copyright Treaty: 20 (88);
- WIPO Performances and Phonograms Treaty: 19 (86);
- Singapore Treaty on the Law of Trademarks: 8 (17);
- Lisbon Agreement for the Protection of Appellations of Origin and their International Registration: 0 (26);
- Strasbourg Agreement Concerning the International Patent Classification: 2 (61);
- Nairobi Treaty on the Protection of the Olympic Symbol: 0 (47);
- Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure: 0 (72);
- Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations: 0 (88);
- Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs: 3 (56);
- Brussels Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite: 0 (33);
- Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms: 1 (77); and
- International Convention for the Protection of New Varieties of Plants (UPOV): 2 (68).



## 9. World Trade Organization

### (a) Membership

#### (i) *Recently completed accessions*

At its tenth plenary meeting, on 12 October 2009, the thirty-fifth session of the General Conference decided to admit the Faroes as an associate member of the Organization. The Organization has now seven associate members.

#### (ii) *Ongoing accessions*

- |                                      |                            |
|--------------------------------------|----------------------------|
| 1. Afghanistan                       | 16. Lebanon                |
| 2. Andorra                           | 17. Liberia                |
| 3. Algeria                           | 18. Libyan Arab Jamahiriya |
| 4. Azerbaijan                        | 19. Montenegro             |
| 5. Bahamas                           | 20. Russian Federation     |
| 6. Belarus                           | 21. Samoa                  |
| 7. Bhutan                            | 22. Sao Tome and Principe  |
| 8. Bosnia and Herzegovina            | 23. Serbia                 |
| 9. Comoros                           | 24. Seychelles             |
| 10. Equatorial Guinea                | 25. Sudan                  |
| 11. Ethiopia                         | 26. Tajikistan             |
| 12. Iran                             | 27. Uzbekistan             |
| 13. Iraq                             | 28. Vanuatu <sup>563</sup> |
| 14. Kazakhstan                       | 29. Yemen                  |
| 15. Lao People's Democratic Republic |                            |

Of these 29 applicants:

- 24 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 an Elements of a draft Working Party Report has been prepared for 13 applicants.

A Working Party has not yet been established to examine a request for accession from Syria.<sup>565</sup>

<sup>564</sup> 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.

<sup>565</sup> See documents WT/ACC/SYR/1, 2 and 3.

### **(b) Dispute settlement**

During 2009, 14 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:

- United States—Definitive Anti-Dumping and Countervailing Duties on Certain Products from China (WT/DS379);
- United States—Anti-Dumping Measures on Polyethylene Carrier Bags from Thailand (WT/DS383);
- United States—Measures Concerning the Importation, Marketing and Sale of Tuna and Tuna Products (WT/DS381);
- United States—Certain Measures Affecting Imports of Poultry from China (WT/DS392);
- Korea—Measures Affecting the Importation of Bovine Meat and Meat Products from Canada (WT/DS391);
- United States—Anti-Dumping Administrative Reviews and other Measures Related to Imports of certain Orange Juice from Brazil (WT/DS391);
- European Communities—Definitive Anti-Dumping Measures on certain Iron or Steel Fasteners from China (WT/DS397);
- United States—Certain Country of Origin Labelling (COOL) Requirements (WT/DS384, WT/DS386);
- European Communities—Certain Measures Affecting Poultry Meat and Poultry Meat Products from the United States (WT/DS389);
- China—Measures Related to the Exportation of Various Raw Materials (WT/DS394, WT/DS395, WT/DS398);

During 2009, the Dispute Settlement Body adopted panel and Appellate Body reports in the following cases:

- China—Measures Affecting Imports of Automobile Parts (WT/DS339, WT/DS340, WT/DS342) (Appellate Body and Panel reports);
- United States—Continued Existence and Application of Zeroing Methodology (WT/DS350);
- China—Measures Affecting the Protection and Enforcement of Intellectual Property Rights (WT/DS362) (Panel report);
- Colombia—Indicative Prices and Restrictions on Ports of Entry (WT/DS366).

## (c) Waivers under article XI of the WTO Agreement

WAIVERS	GRANTED	EXPIRY	DECISION
LDCs—Article 70.9 of the TRIPS Agreement with respect to pharmaceutical products	8 July 2002	1 January 2016	WT/L/478
European Communities—European Communities' preferences for Albania, Bosnia and Herzegovina, Croatia, Serbia and Montenegro, and the Former Yugoslav Republic of Macedonia	28 July 2006	31 December 2011	WT/L/654
Canada—CARIBCAN	15 December 2006	31 December 2011	WT/L/677
Cuba—Article XV:6 of GATT 1994	15 December 2006	31 December 2011	WT/L/678
Australia, Botswana, Brazil, Canada, Croatia, India, Israel, Japan, Korea, Mauritius, Mexico, Norway, Philippines, Sierra Leone, Chinese Taipei, Thailand, United Arab Emirates, United States, Venezuela—Kimberley Process Certification Scheme for rough diamonds—Extension of waiver	15 December 2006	31 December 2012	WT/L/676
United States—Former Trust Territory of the Pacific Islands	27 July 2007	31 December 2016	WT/L/694
Mongolia—Export duties on raw cashmere	27 July 2007	29 January 2012	WT/L/695
European Communities—Application of Autonomous Preferential Treatment to Moldova	7 May 2008	31 December 2013	WT/L/722
Argentina, Australia, Brazil, China, Costa Rica, Croatia, El Salvador, European Communities, Iceland, India, Republic of Korea, Mexico, New Zealand, Norway, Thailand, United States and Uruguay—Introduction of Harmonized System 2002 Changes into WTO Schedules of Tariff Concessions	18 December 2008	31 December 2010	WT/L/786

WAIVERS	GRANTED	EXPIRY	DECISION
Argentina, Australia, Brazil, Canada, China, Costa Rica, Croatia, El Salvador, European Communities, Guatemala, Honduras; Hong Kong, China; India, Korea; Macao, China; Malaysia, Mexico, New Zealand, Nicaragua, Norway, Pakistan, Singapore, Switzerland, Thailand, United States and Uruguay—Introduction of Harmonized System 2007 Changes into WTO Schedules of Tariff Concessions	18 December 2008	31 December 2010	WT/L/787
United States—Caribbean Basin Economic Recovery Act	27 May 2009	31 December 2014	WT/L/753
United States—African Growth and Opportunity Act	27 May 2009	30 September 2015	WT/L/754
United States—Andean Trade Preference Act	27 May 2009	31 December 2014	WT/L/755
Argentina—Introduction of Harmonized System 1996 Changes into WTO Schedules of Tariff Concessions	27 May 2009	30 April 2010	WT/L/757
Panama—Introduction of Harmonized System 1996 Changes into WTO Schedules of Tariff Concessions	27 May 2009	30 April 2010	WT/L/758
Preferential Tariff Treatment for Least-Developed Countries	27 May 2009	30 June 2019	WT/L/759

## 10. Organization for the Prohibition of Chemical Weapons

### (a) Membership

During 2009, three States, Bahamas, Dominican Republic and Iraq, became parties to the Chemical Weapons Convention<sup>566</sup> (the Convention or CWC). As of 31 December 2009, 188 States are parties to the CWC, and another two countries have signed but not yet ratified the Convention.

### (b) Legal Status, Privileges and Immunities and International Agreements

During 2009, 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. Two agreements on privileges and immunities were signed during the year under review. The first agreement, concluded with Burundi, was signed on 20 April 2009, and the second agreement was signed with the United Arab Emirates on 24 April 2009.

<sup>566</sup> United Nations, *Treaty Series*, vol. 1974, p. 45.

In addition, during the year under review, the Privileges and Immunities Agreements signed between Argentina, El Salvador, Serbia,<sup>567</sup> Poland and OPCW respectively entered into force.

OPCW concluded a number of memoranda of understanding and technical arrangements during 2009. In total, sixteen international agreements were registered during the year under review.

### (c) OPCW Legislative Assistance Activities

Throughout 2009, 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. The OPCW continued to provide tailor-made assistance on national implementation of the Convention to the requesting States parties, pursuant to subparagraph 38 (e) of article VIII of the Convention, as well as to the decision on the implementation of article VII obligations adopted by the Conference of States Parties at its Thirteenth Session.<sup>568</sup>

In its implementation support efforts, the Technical Secretariat of the OPCW acted in accordance with the terms of 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)<sup>569</sup> as well as other decisions regarding the implementation of article VII obligations.<sup>570</sup> These decisions focused on, amongst other things, the obligations of States parties to designate or establish a National Authority to serve as national focal point for effective liaison with the OPCW and other States parties, as required by paragraph 4 of article VII of the Convention, and the steps necessary to enact national implementing legislation, including penal legislation and administrative measures to implement the Convention, as required by paragraph 1 of article VII of the Convention.

During 2009, the Technical Secretariat provided, upon request, 25 comments on draft implementing legislation and 20 comments or guidance on measures at the regulatory level. Such requests for legal assistance were received from 29 States parties from the following regions: 18 from Africa, eight from Asia; one from Eastern Europe; one from the Group of Latin American and Caribbean States; and one from the Group of Western European and other States.

In addition to assistance to individual States parties, a number of national, sub-regional, regional workshops, sensitization and awareness presentations and training courses were held for national authorities, parliamentarians and other national stakeholders involved in the implementation of the Convention. These events dealt, *inter alia*, with matters such as legislative and regulatory drafting.

<sup>567</sup> For the text of the Agreement between the Organisation for the Prohibition of Chemical Weapons and the Republic of Serbia on the Privileges and Immunities of the OPCW, see chapter II B of this publication.

<sup>568</sup> C-13/DEC.7, dated 5 December 2008.

<sup>569</sup> C-8/DEC.16, dated 24 October 2003.

<sup>570</sup> C-10/DEC.16 of 11 November 2005, C-11/DEC.4 of 6 December 2006 and C-12/DEC.9 of 9 November 2007.

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 2009, eight 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 185. These States were: Bahamas, Barbados, Comoros, Congo, the Dominican Republic, Honduras, Iraq and Lebanon. Three States parties have not yet established their respective National Authorities.

In 2009, four additional States parties, Indonesia, Mexico, Montenegro, and Sri Lanka, had notified the OPCW of having adopted measures covering all key areas of the Action Plan. The number of States having legislation covering all these key areas has therefore increased to 87.