

*Extract from:*

# UNITED NATIONS JURIDICAL YEARBOOK

2012

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

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



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## Chapter III

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

#### A. GENERAL REVIEW OF THE LEGAL ACTIVITIES OF THE UNITED NATIONS

##### 1. Membership of the United Nations

As of 31 December 2012, the number of Member States of the United Nations remained at 193.

On 23 September 2011, acting in accordance with rule 135 of the rules of procedure of the General Assembly and rule 59 of the provisional rules of procedure of the Security Council, the Secretary-General circulated an application of Palestine for admission to membership in the United Nations, contained in a letter received on 23 September 2011 from its President, Mahmoud Abbas.<sup>1</sup> By resolution 67/19 of 29 November 2012, the General Assembly took note of the report of the Security Council Committee on the Admission of New Members of 11 November 2011<sup>2</sup> in which the Chair of the Committee stated, *inter alia*, that the Committee was unable to make a unanimous recommendation to the Security Council concerning the application of Palestine for admission to membership in the United Nations. In the same resolution, the General Assembly decided to accord to Palestine non-member observer State status in the United Nations, without prejudice to the acquired rights, privileges and role of the Palestine Liberation Organization in the United Nations as the representative of the Palestinian people, in accordance with the relevant resolutions and practice. The General Assembly further requested the Secretary-General to take the necessary measures to implement resolution 67/19 and to report to the General Assembly within three months of its adoption on progress made in this regard.

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<sup>1</sup> Application of Palestine for admission to membership in the United Nations: Note by the Secretary-General of 23 September 2011 (A/66/371—S/2011/592).

<sup>2</sup> Report of the Committee on the Admission of New Members concerning the application of Palestine for admission to membership in the United Nations (S/2011/705).



## 2. Peace and Security

### (a) Peacekeeping missions and operations<sup>3</sup>

#### (i) *Peacekeeping missions and operations established in 2012*

##### Syrian Arab Republic

In accordance with General Assembly resolution 66/253 of 16 February 2012, the former Secretary-General of the United Nations, Mr. Kofi Annan, was appointed Joint Special Envoy of the United Nations and the League of Arab States in relation to the situation in the Syrian Arab Republic.<sup>4</sup> On 21 March 2012, the President of the Security Council welcomed the appointment of Mr. Annan as Joint Special Envoy and expressed the Council's support for an initial six-point proposal outlined by the Joint Special Envoy and submitted to the Syrian authorities.<sup>5</sup> In resolution 2042 (2012) of 14 April 2012, the Council reaffirmed its support for the six-point proposal, annexed to the resolution, and called for the urgent, comprehensive and immediate implementation of all its elements.

On 21 April 2012, the Security Council adopted resolution 2043 (2012) in which it decided to establish for an initial period of 90 days the United Nations Supervision Mission in Syria (UNSMIS),<sup>6</sup> under the command of a Chief Military Observer, comprising an initial deployment of up to 300 unarmed military observers as well as an appropriate civilian component as required to fulfil its mandate. It further decided that the mandate of UNSMIS should be to monitor a cessation of armed violence in all its forms by all parties and to monitor and support the full implementation of the six-point proposal of the Joint Special Envoy

In resolution 2059 (2012) of 20 July 2012, the Council decided to renew the mandate of UNSMIS for a final period of 30 days, taking into consideration the recommendations of the Secretary-General to reconfigure the mission and the operational implications of the increasingly dangerous security situation in Syria.<sup>7</sup> The Council further expressed its willingness to renew the mandate of UNSMIS thereafter only in the event that the Secretary-General reported and the Security Council confirmed the cessation of the use of heavy weapons and a reduction in the level of violence by all sides sufficient to allow UNSMIS to implement its mandate.

In a letter dated 10 August 2012 from the Secretary-General addressed to the President of the Security Council,<sup>8</sup> the Secretary-General informed the Council that the cessation of the use of heavy weapons and a reduction in violence by all sides sufficient to allow UNSMIS to implement its mandate, as set out in resolution 2059 (2012), had not been achieved and, therefore, UNSMIS mandate came to an end at midnight on 19 August 2012. The Secretary-

<sup>3</sup> The missions and operations are listed in chronological order as per their date of establishment.

<sup>4</sup> SG/SM/14124.

<sup>5</sup> Statement by the President of the Security Council of 21 March 2012 (S/PRST/2012/6).

<sup>6</sup> For more information about UNSMIS, see <http://www.un.org/en/peacekeeping/missions/unsmis/> and report of the Secretary-General on the implementation of Security Council resolution 2043 (2012) (S/2012/523).

<sup>7</sup> See report of the Secretary-General on the implementation of Security Council resolution 2043 (2012) (S/2012/523).

<sup>8</sup> S/2012/618.

General further informed the Council that he intended to work in the immediate future towards establishing an effective and flexible United Nations presence in Syria that would support the Organization's efforts with the parties to end hostilities and, where possible and agreed, to support the Syrians in taking the steps they identify towards a negotiated and inclusive political settlement. The Council reiterated its support for the mission of good offices of the Secretary-General and for the work of the Joint Special Representative through a letter dated 17 August 2012 from the President of the Security Council addressed to the Secretary-General.<sup>9</sup>

In light of Mr. Annan's decision to step down as Joint Special Envoy at the end of August 2012, Mr. Lakhdar Brahimi was appointed Joint Special Representative of the United Nations and the League of Arab States for Syria on 17 August 2012.<sup>10</sup>

(ii) *Changes in the mandate and/or extensions of time limits of ongoing peacekeeping operations or missions in 2012*

**a. Cyprus**

The United Nations Peacekeeping Force in Cyprus (UNFICYP) was established by Security Council resolution 186 (1964) of 4 March 1964.<sup>11</sup> The Security Council decided by resolution 2058 (2012) of 19 July 2012 to extend the mandate of UNFICYP for a further period ending 31 January 2013.

**b. Syrian Arab Republic and Israel**

The United Nations Disengagement Observer Force (UNDOF) was established by Security Council resolution 350 (1974) of 31 March 1974.<sup>12</sup> The Security Council renewed the mandate of UNDOF by resolutions 2052 (2012) of 27 June 2012 and 2084 (2012) of 19 December 2012, until 31 December 2012 and 30 June 2013, respectively. The Security Council further expressed grave concern at all violations of the 1974 Disengagement of Forces Agreement,<sup>13</sup> including the presence of the Syrian Arab Armed Forces and unauthorized military equipment inside the Area of Separation, and stressed the obligation of both parties to scrupulously and fully respect the terms of the Agreement.

<sup>9</sup> S/2012/654.

<sup>10</sup> SG/SM/14471.

<sup>11</sup> For more information about UNFICYP, see <http://www.unficyp.org> and <http://www.un.org/en/peacekeeping/missions/unficyp/>. See also the report of the Secretary-General on the United Nations operation in Cyprus covering developments from 21 November 2011 to 20 June 2012 (S/2012/507).

<sup>12</sup> For more information about UNDOF, see <http://www.un.org/en/peacekeeping/missions/undof> and the reports of the Secretary-General on the United Nations Disengagement Observer Force for the period from 1 January to 30 June 2012 and for the period from 1 July to 31 December 2012 (S/2012/403 and S/2012/897, respectively).

<sup>13</sup> S/11302/Add.1.

### c. Lebanon

The United Nations Interim Force in Lebanon (UNIFIL) was established by Security Council resolutions 425 (1978) and 428 (1978) of 19 March 1978.<sup>14</sup> Following a request by the Lebanese Foreign Minister, presented in a letter dated 21 July 2012 addressed to the Secretary-General, the Secretary-General recommended the Security Council to consider the renewal of UNIFIL for a further period of one year.<sup>15</sup> The Security Council renewed the mandate of UNIFIL by resolution 2064 (2012) of 30 August 2012 until 31 August 2013.

### d. Western Sahara

The United Nations Mission for the Referendum in Western Sahara (MINURSO) was established by Security Council resolution 690 (1991) of 29 April 1991.<sup>16</sup> By resolution 2044 (2012) of 24 April 2012, the Security Council decided to extend the mandate of MINURSO until 30 April 2013.

### e. Liberia<sup>17</sup>

The United Nations Mission in Liberia (UNMIL) was established by Security Council resolution 1509 (2003) of 19 September 2003.<sup>18</sup> The Security Council decided by resolution 2066 (2012) of 17 September 2012, while acting under Chapter VII of the Charter of the United Nations, to extend the mandate of UNMIL until 30 September 2013.

In the same resolution, also acting under Chapter VII of the Charter of the United Nations, the Security Council decided, *inter alia*, that the primary tasks of UNMIL were to continue to support the Government of Liberia in order to solidify peace and stability in the country and to protect civilians, and that UNMIL should also support the Government's efforts, as appropriate, to achieve a successful transition of complete security responsibility to the Liberia National Police (LNP).

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<sup>14</sup> For more information about UNIFIL, see <http://unifil.unmissions.org> and <http://www.un.org/en/peacekeeping/missions/unifil/>. See also the reports of the Secretary-General on the implementation of Security Council resolution 1701 (2006) (S/2012/124, S/2012/502 and S/2012/837).

<sup>15</sup> Letter dated 14 August 2012 from the Secretary-General addressed to the President of the Security Council (S/2012/632).

<sup>16</sup> For more information about MINURSO, see <http://minurso.unmissions.org/> and <http://www.un.org/en/peacekeeping/missions/minurso/>. See also the report of the Secretary-General on the situation concerning Western Sahara (S/2012/197).

<sup>17</sup> See subsection (d)(ii) below on missions of the Security Council and subsection (f)(iii) on sanctions as concerning Liberia.

<sup>18</sup> For more information about UNMIL, see <http://unmil.unmissions.org> and <http://www.un.org/en/peacekeeping/missions/unmil/>. See also the special report of the Secretary-General on the United Nations Mission in Liberia (S/2012/230) and the twenty-fourth progress report of the Secretary-General on the United Nations Mission in Liberia (S/2012/641).

#### f. Côte d'Ivoire<sup>19</sup>

The United Nations Operation in Côte d'Ivoire (UNOCI) was established by Security Council resolution 1528 (2004) of 27 February 2004.<sup>20</sup> By resolution 2062 (2012) of 26 July 2012, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided to extend the mandate of UNOCI as set out in resolution 2000 (2011) of 27 July 2011, paragraph 7, (a), (b), (c), (d), (e), (f), (g), (h), (j), (k) and (m) until 31 July 2013.

In the same resolution, also acting under Chapter VII of the Charter, the Security Council decided, *inter alia*, that protection of civilians should remain the priority for UNOCI and that it should put added focus on supporting the Government of Côte d'Ivoire on the disarmament, demobilization and reintegration programme and security sector reform, in accordance with paragraph 7 (e) and (f) of resolution 2000 (2011). The Council called upon UNOCI, where consistent with its authorities and responsibilities, to continue to support national and international efforts to bring to justice perpetrators of grave abuses of human rights and violations of international humanitarian law in Côte d'Ivoire, irrespective of their status or political affiliation. The Council authorized UNOCI to assist, as appropriate, the Ivorian Government in the holding of upcoming local elections, upon request, within its existing resources, capacities and areas of deployment and without prejudice to the core-priorities of the mandate

#### g. Haiti<sup>21</sup>

The United Nations Stabilization Mission in Haiti (MINUSTAH) was established by Security Council resolution 1542 (2004) of 30 April 2004.<sup>22</sup> By resolution 2070 (2012) of 12 October 2012, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided to extend the mandate of MINUSTAH as contained in its resolutions 1542 (2004), 1608 (2005), 1702 (2006), 1743 (2007), 1780 (2007), 1840 (2008), 1892 (2009), 1908 (2010), 1927 (2010), 1944 (2010) and 2012 (2011) until 15 October 2013, with the intention of further renewal.

#### h. Republic of the Sudan (Darfur)<sup>23</sup>

The African Union-United Nations Hybrid Operation in Darfur (UNAMID) was established and authorized by Security Council resolution 1769 (2007) of 31 July 2007.<sup>24</sup> By

<sup>19</sup> See subsection (d)(ii) below on missions of the Security Council and (f)(v) subsection on sanctions as concerning Côte d'Ivoire.

<sup>20</sup> For more information about UNOCI, see <http://www.onuci.org> and <http://www.un.org/en/peacekeeping/missions/unoci/>. See also the progress reports of the Secretary-General on the United Nations Operation in Côte d'Ivoire (S/2012/186, S/2012/506 and S/2012/964).

<sup>21</sup> See also subsection (d)(i) below for information on a mission by the Security Council to Haiti.

<sup>22</sup> For more information about MINUSTAH, see <http://minustah.org> and <http://www.un.org/en/peacekeeping/missions/minustah/index.shtml>. See also the reports of the Secretary-General on the United Nations Stabilization Mission in Haiti (S/2012/128 and S/2012/678).

<sup>23</sup> See subsection (e)(ii)(d) below on action of Member States authorized by the Security Council and subsection (f)(vi) on sanctions as concerning Darfur.

<sup>24</sup> For more information about UNAMID, see <http://unamid.unmissions.org> and <http://www.un.org/en/peacekeeping/missions/unamid/>. See also the reports of the Secretary-General on UNAMID (S/2012/231, S/2012/548 and S/2012/771).

resolution 2063 (2012) of 31 July 2012, the Security Council decided to extend the mandate of UNAMID as set out in resolution 1769 (2007), until 31 July 2013. In the same resolution, the Council, *inter alia*, emphasized the Chapter VII mandate of UNAMID to deliver its core tasks to protect civilians without prejudice to the primary responsibility of the Government of Sudan and to ensure the freedom of movement and security of humanitarian workers and personnel of UNAMID. In this context, it urged UNAMID to deter any threats against itself and its mandate. The Council further emphasized the importance of UNAMID acting to promote human rights, bringing abuses and violations to the attention of the authorities and requested the Secretary-General to provide reporting on all the human rights issues identified in the resolution in his regular reports to the Security Council, and to report promptly gross violations and abuses to the Security Council.<sup>25</sup>

In a letter dated 19 March 2012 from the Secretary-General addressed to the President of the Security Council, the Secretary-General transmitted a framework for African Union and United Nations facilitation of the Darfur peace process.<sup>26</sup> In its resolution 2063 (2012), the Council welcomed the framework and the priority given to the efforts of UNAMID, in coordination with the United Nations country team, to support it.

#### i. Democratic Republic of the Congo<sup>27</sup>

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.<sup>28</sup> As of 1 July 2010, MONUC was renamed United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO). By resolution 2053 (2012) of 27 June 2012, the Council, acting under Chapter VII of the Charter of the United Nations, decided to extend the mandate of MONUSCO as set out in resolution 1925 (2010), paragraphs 2, 11 and 12 (a) to (p) and (r) to (t) until 30 June 2013.

In the same resolution, the Security Council decided, *inter alia*, that MONUSCO should support the organization and conduct of provincial and local elections, through the provision of technical and logistical support, in accordance with the paragraph 7 of resolution 1991 (2011). The Council stressed that while protection of civilians remained the priority of MONUSCO, security sector reform should be the primary focus within the stabilization and peace consolidation mandate of the mission. The Council further stressed the importance of the Congolese Government actively seeking to hold accountable those responsible for war crimes and crimes against humanity in the country and of regional cooperation to this end, including through cooperation with the International Criminal Court and called upon MONUSCO to support the Congolese authorities in this regard, and took note of the recent positive steps taken by the Congolese authorities to apprehend Bosco Ntaganda. In addition, the Council decided that MONUSCO should pursue its monitoring, reporting and following-up on human rights violations, including by

<sup>25</sup> See also, with regard to children and armed conflict in the Sudan, subsection (h) below.

<sup>26</sup> S/2012/166.

<sup>27</sup> See subsections (f)(ii) below on sanctions concerning the Democratic Republic of the Congo.

<sup>28</sup> For more information about MONUSCO, see <http://monusco.unmissions.org> and <http://www.un.org/en/peacekeeping/missions/monusco/index.shtml>. See also the reports of the Secretary-General on the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (S/2012/65, S/2012/355 and S/2012/838).

using the good offices of the Special Representative of the Secretary-General for the Democratic Republic of the Congo as required. The Council further encouraged MONUSCO to enhance its interaction with the civilian population to raise awareness and understanding about its mandate and activities and to collect reliable information on violations and abuses of international humanitarian and human rights law perpetrated against civilians.

#### j. Republic of the Sudan (Abyei)<sup>29</sup>

The United Nations Interim Security Force for Abyei (UNISFA) was established by the Security Council in resolution 1990 (2011) of 27 June 2011.<sup>30</sup> By resolutions 2047 (2012) of 17 May 2012 and 2075 (2012) of 16 November 2012, the Security Council decided to extend the mandate of UNISFA for a period of 6 months and until 31 May 2013, respectively, as set out in paragraph 2 of resolution 1990 (2011) and modified by resolution 2024 (2011), and acting under Chapter VII of the Charter of the United Nations, the tasks set out in paragraph 3 of resolution 1990 (2011). The Council determined that for the purposes of paragraph 1 of resolution 2024 (2011), the Safe Demilitarized Border Zone should be defined as provided by the 27 September 2012 Agreement on Security Arrangements between the Republic of the Sudan and the Republic of South Sudan.<sup>31</sup> It reiterated its decisions in resolution 2046 (2012) of 2 May 2012 that Sudan and South Sudan should unconditionally withdraw all of their armed forces to their side of the border in accordance with previously adopted agreements, and activate the necessary border security mechanisms. The Council further expressed its intention to review as appropriate the mandate of UNISFA for possible reconfiguration of the mission in light of the compliance by Sudan and South Sudan with the decisions set forth in resolution 2046 (2012), and their commitments as set forth in the agreements of 20 June, 29 June, 30 July 2011, and 27 September 2012.

#### k. Republic of South Sudan

The United Nations Mission in the Republic of South Sudan (UNMISS) was established by the Security Council in resolution 1996 (2011) of 8 July 2011.<sup>32</sup> By resolution 2057 (2012) of 5 July 2012, the Security Council, while acting under Chapter VII of the Charter of the United Nations, decided, *inter alia*, to extend the mandate of UNMISS as set out in paragraph 3 of resolution 1996 (2011) through 15 July 2013. The Council noted the priority of the mandated tasks of UNMISS in resolution 1996 (2011) for the protection of civilians and for the achievement of an improved security environment and urged UNMISS to

<sup>29</sup> See also, with regard to children and armed conflict in the Sudan, subsection (h) below.

<sup>30</sup> For more information about UNISFA, see <http://www.un.org/en/peacekeeping/missions/unisfa/>. See also the report of the Secretary-General on the Sudan and South Sudan (S/2012/877) and the reports of the Secretary-General on the situation in Abyei (S/2012/68, S/2012/175, S/2012/358, S/2012/583, S/2012/722 and S/2012/890).

<sup>31</sup> See letter dated 1 October 2012 from the Permanent Representative of the Sudan to the United Nations addressed to the President of the Security Council (S/2012/733, annex).

<sup>32</sup> For more information about UNMISS, see <http://unmiss.unmissions.org/> and <http://www.un.org/en/peacekeeping/missions/unmiss/>. See also the report of the Secretary-General on the Sudan and South Sudan (S/2012/877); the reports of the Secretary-General on South Sudan (S/2012/140, S/2012/486 and S/2012/820); and the letter dated 13 November 2012 from the Chair of the Security Council Working Group on Children and Armed Conflict to the Secretary-General (S/2012/880, annex).

deploy its assets accordingly. The Council authorized UNMISS to use all necessary means, within the limits of its capacity and in the areas where its units are deployed, to carry out its protection mandate as set out in resolution 1996 (2011), paragraphs 3 (b) (iv)-(vi). Pending the activation of the Joint Border Verification and Monitoring Mechanism and the Ad Hoc Committee of the Joint Political and Security Mechanism as called for in resolution 2046 (2012) of 2 May 2012, the Council requested UNMISS to observe and report on any flow of personnel, arms, and related materiel across the border with Sudan. The Council also welcomed the signing of a new action plan to end child recruitment by the Government of the Republic of South Sudan on 12 March 2012, acknowledged the measures taken by the Government of the Republic of South Sudan to implement the new action plan, and requested UNMISS to advise and assist the Government of the Republic of South Sudan in this regard. It further encouraged the Government to ratify and implement key international human rights treaties and conventions, including those related to women and children, refugees, and statelessness, and requested UNMISS, with other United Nations actors, to advise and assist the Government of the Republic of South Sudan in this regard.

(iii) *Other ongoing peacekeeping operations or missions*

**a. Middle East**

The United Nations Truce Supervision Organization (UNTSO) was established by resolution 50 (1948) on 29 May 1948 in order to supervise the observation of the truce in Palestine. UNTSO continued to operate in 2012.<sup>33</sup>

**b. India and Pakistan**

The United Nations Military Observer Group in India and Pakistan (UNMOGIP) was established by resolutions 39 (1948) and 47 (1948) of 20 January and 21 April respectively, in order to supervise, in the State of Jammu and Kashmir, the ceasefire between India and Pakistan. Following the India-Pakistan hostilities at the end of 1971 and a subsequent ceasefire agreement of 17 December of that year, the tasks of UNMOGIP have been to observe, to the extent possible, developments pertaining to the strict observance of the ceasefire of 17 December 1971 and to report thereon to the Secretary-General.<sup>34</sup> UNMOGIP continued to operate in 2012.

**c. Kosovo**

The United Nations Interim Administration Mission in Kosovo (UNMIK) was established by resolution 1244 (1999) on 10 June 1999, and was mandated to help ensure con-

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<sup>33</sup> For more information on UNTSO, see <http://untso.unmissions.org/> and <http://www.un.org/en/peacekeeping/missions/untso/>.

<sup>34</sup> For more information on UNMOGIP, see <http://www.un.org/en/peacekeeping/missions/unmogip/>.



ditions for a peaceful and normal life for all inhabitants of Kosovo and advance regional stability in the western Balkans.<sup>35</sup> UNMIK continued to operate in 2012.

(iv) *Peacekeeping missions or operations concluded in 2012*

**Timor-Leste**

The United Nations Integrated Mission in Timor-Leste (UNMIT) was established by Security-Council resolution 1704 (2006) of 25 August 2006.<sup>36</sup> In resolution 2037 (2012) of 23 February 2012 the Security Council decided to extend the mandate of UNMIT until 31 December 2012 and to endorse the plan of its phased drawdown, in accordance with the wishes of the Government of Timor-Leste, conditions on the ground and following the successful completion of the 2012 electoral process. The Council also requested, *inter alia*, UNMIT to continue to extend the necessary support, within its current mandate, for the preparation and implementation of the presidential and parliamentary elections, as requested by the Government of Timor-Leste, and called upon the international community to provide assistance in this process including through sending election observers and volunteers as requested by the Government of Timor-Leste.

In the same resolution, the Council underlined the importance of a coordinated approach to the justice sector reform and the ongoing need to increase Timorese ownership and strengthen national capacity in judicial line functions, including the training and specialization of national lawyers and judges, and emphasized the need for sustained support of the international community in capacity-building and strengthening of institutions in this sector.

In accordance with the request of the Security Council, the Secretary-General submitted a report assessing the security and political situation, and providing recommendations on the completion of the mission.<sup>37</sup> The Secretary-General reported that UNMIT entered into an innovative partnership with four United Nations country team members to carry out particular mandated activities from July to December 2012, with UNMIT financial support and arrangements set out in memorandums of understanding. These partnership arrangements, related to activities of ensuring security and stability, rule of law, justice and human rights, a culture of democratic governance and dialogue, and socioeconomic development. UNMIT completed its mandate on 31 December 2012.

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<sup>35</sup> For more information on UNMIK, see <http://www.unmikonline.org/pages/default.aspx> and <http://www.un.org/en/peacekeeping/missions/unmik/>. See also the reports of the Secretary-General on the United Nations Interim Administration Mission in Kosovo (S/2012/72, S/2012/275, S/2012/603 and S/2012/818); and the report to the United Nations on the operations of the Kosovo Force (S/2012/420, annex).

<sup>36</sup> For more information about UNMIT, see <http://unmit.unmissions.org> and <http://www.un.org/en/peacekeeping/missions/past/unmit/>. See also the reports of the Secretary-General on the United Nations Integrated Mission in Timor-Leste for the period from 20 September 2011 to 6 January 2012 (S/2012/43) and for the period from 7 January 2012 to 20 September 2012 (S/2012/765).

<sup>37</sup> S/2012/765.



**(b) Political and peacebuilding missions**

(i) *Political and peacebuilding missions established in 2012*

There were no new political or peacebuilding missions established in 2012.

(ii) *Changes in the mandate and/or extensions of the time limits of ongoing political and peacebuilding missions in 2012*

**a. Afghanistan**

The United Nations Assistance Mission in Afghanistan (UNAMA) was established by Security Council resolution 1401 (2002) of 28 March 2002.<sup>38</sup> On 22 March 2012, the Security Council decided by resolution 2041 (2012) to extend the mandate of UNAMA until 23 March 2013.

In the same resolution, the Council recognized that the renewed mandate of UNAMA took full account of the transition process and was in support of Afghanistan's full assumption of leadership and ownership in the security, governance and development areas, consistent with the understandings reached between Afghanistan and the international community in the London, Kabul and Bonn Conferences and the Lisbon Summit.<sup>39</sup> The Council requested UNAMA to assist the Government of Afghanistan on its way towards ensuring full Afghan leadership and ownership, as defined by the Kabul Process.<sup>40</sup> The Council further decided that UNAMA and the Special Representative of the Secretary-General, within their mandate and guided by the principle of reinforcing Afghan sovereignty, leadership and ownership would continue to lead and coordinate the international civilian efforts with a particular focus on, *inter alia*, (i) supporting at the request of the Afghan authorities, the organization of future Afghan elections; (ii) promoting through an appropriate UNAMA presence the implementation of the Kabul Process throughout the country including through enhanced cooperation with the United Nations Office on Drugs and Crime, and facilitate inclusion in and understanding of the Afghan Government's policies; and (iii) supporting the efforts of the Afghan Government in fulfilling its commitments to improve governance and the rule of law including transitional justice, budget execution and the fight against corruption, throughout the country.

<sup>38</sup> For more information about UNAMA, see <http://unama.unmissions.org>. See also the reports of the Secretary-General on the situation in Afghanistan and its implications for international peace and security, (A/66/728-S/2012/133, A/66/855-S/2012/462, A/67/354-S/2012/703 and A/67/619-S/2012/907).

<sup>39</sup> See letter dated 6 December 2011 from the Permanent Representatives of Afghanistan and Germany to the United Nations addressed to the Secretary-General (A/66/597-S/2011/762).

<sup>40</sup> See report of the Secretary-General on the situation in Afghanistan and its implications for international peace and security (A/66/855-S/2012/462).

### b. Iraq

The United Nations Assistance Mission for Iraq (UNAMI) was established by Security Council resolution 1500 (2003) of 14 August 2003.<sup>41</sup> By resolution 2061 (2012) of 25 July 2012, the Security Council decided, *inter alia*, to extend the mandate of UNAMI for a period of twelve months. The Council also decided that the Special Representative of the Secretary-General and UNAMI, at the request of the Government of Iraq, and taking into account the letter from the Minister of Foreign Affairs of Iraq to the Secretary-General,<sup>42</sup> should continue to pursue their mandate as stipulated in resolution 2001 (2011) of 28 July 2011. The Council expressed its intention to review the mandate of UNAMI in twelve months or sooner, if requested by the Government of Iraq.

### c. Sierra Leone

The United Nations Integrated Peacebuilding Office in Sierra Leone (UNIPSIL) was established by Security Council resolution 1829 (2008) of 4 August 2008.<sup>43</sup> On 12 September 2012, the Security Council decided by resolution 2065 (2012) to extend the mandate of UNIPSIL until 31 March 2013.

In the same resolution, the Security Council requested UNIPSIL, *inter alia*, to continue providing assistance to the Government of Sierra Leone and its electoral, democratic and security institutions, as requested, in the preparation and conduct of elections. The Council also requested UNIPSIL to continue preparations for its transition, and in this regard requested the Secretary-General to deploy an inter-agency technical assessment mission to Sierra Leone to conduct a review of progress made in the implementation of the mandate of UNIPSIL and to provide a report, for the consideration of the Council, containing detailed proposals and a recommended timeline for the transition, drawdown and exit strategy of UNIPSIL by no later than 15 February 2013.<sup>44</sup>

### d. Central African Region

The United Nations Regional Office for Central Africa (UNOCA)<sup>45</sup> was established by an exchange of letters completed in August 2010 between the Secretary-General and the

<sup>41</sup> For more information about the activities of UNAMI, see <http://www.uniraq.org>. See also the second and third reports of the Secretary-General pursuant to resolution 2001 (2011) (S/2012/185 and S/2012/535, respectively); and the first report of the Secretary-General pursuant to resolution 2061 (2012) (S/2012/848).

<sup>42</sup> S/2012/520, annex.

<sup>43</sup> For more information about the activities of UNIPSIL, see <http://unipsil.unmissions.org>. See also the eighth and ninth reports of the Secretary-General on the United Nations Integrated Peacebuilding Office in Sierra Leone (S/2012/160 and S/2012/679, respectively).

<sup>44</sup> See also, statement by the President of the Security Council of 30 November 2012 (S/PRST/2012/25).

<sup>45</sup> For more information about UNOCA, see <http://unoca.unmissions.org>. See also the report of the Secretary-General on the situation of children and armed conflict affected by the Lord's Resistance Army (S/2012/365); and the reports of the Secretary-General on the activities of the United Nations Regional Office for Central Africa and on areas affected by the Lord's Resistance Army (S/2012/421 and S/2012/923).

Security Council.<sup>46</sup> By letter dated 13 August 2012 from the Secretary-General addressed to the President of the Security Council, the Secretary-General recommended to extend the mandate of UNOCA for an additional 18 months, until 28 February 2014.<sup>47</sup> The Secretary-General also indicated that with the extension of its mandate, UNOCA, in addition to its work on the Lord Resistance Army and on piracy in the Gulf of Guinea, would continue, *inter alia*, to carry out good offices roles and special assignments in countries of the subregion, on behalf of the Secretary-General, including in the areas of conflict prevention and peacebuilding efforts. The Security Council took note of the proposal of the Secretary-General.<sup>48</sup>

In its resolution 2039 (2012) of 29 February 2012, the Security Council requested the Secretary-General through UNOCA and the United Nations Office for West Africa (UNOWA),<sup>49</sup> to support States and subregional organizations in convening a joint Summit of Gulf of Guinea States in order to develop a comprehensive strategy to counter piracy and armed robbery at sea.

Furthermore, on 29 June 2012, the Security Council welcomed the development of the United Nations regional strategy to address the threat and impact of the activities of the Lord's Resistance Army<sup>50</sup> by UNOCA in collaboration with the African Union, United Nations missions and country teams in the LRA affected countries.<sup>51</sup> It urged UNOCA and other relevant United Nations presences to support the implementation of the strategy, as appropriate and within the limits of their mandates and capacities.

#### e. Libya<sup>52</sup>

The United Nations Support Mission in Libya (UNSMIL) was established by resolution 2009 (2011) on 16 September 2011, with the Council acting under Chapter VII of the Charter of the United Nations, and taking measures under its Article 41.<sup>53</sup> By resolution 2040 (2012) of 12 March 2012, the Council took note of the recommendation of the Secretary-General for the modification and twelve month extension of the UNSMIL mandate.<sup>54</sup> The Council further recalled the letter of 6 March 2012 from Mr. Abdurrahim el-Keib, Prime Minister of Libya, to the Secretary-General,<sup>55</sup> and while acting under Chapter VII of the Charter of the United Nations, decided to extend the mandate of UNSMIL for a

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<sup>46</sup> Exchange of letters between the Secretary-General and the President of the Security Council dated 11 December 2009 (S/2009/697) and 30 August 2010 (S/2010/457).

<sup>47</sup> S/2012/656.

<sup>48</sup> Letter dated 21 August 2012 from the President of the Security Council addressed to the Secretary-General (S/2012/657).

<sup>49</sup> For more information on UNOWA, see subsection (iii)(d) below.

<sup>50</sup> S/2012/481, annex.

<sup>51</sup> Statement by the President of the Security Council of 29 June 2012 (S/PRST/2012/18).

<sup>52</sup> See subsection (e)(ii)(e) below on action of Member States authorized by the Security Council and subsection (f)(x) on sanctions as concerning Libya.

<sup>53</sup> For more information about UNSMIL, see <http://unsmil.unmissions.org>. See also the reports of the Secretary-General on the United Nations Support Mission in Libya (S/2012/129 and S/2012/675).

<sup>54</sup> S/2012/129.

<sup>55</sup> S/2012/139, annex.

further period of twelve months, subject to review within 6 months, under the leadership of a Special Representative of the Secretary-General.

The Council further decided that the modified mandate of UNSMIL should be to assist the Libyan authorities to define national needs and priorities throughout Libya, and to match these with offers of strategic and technical advice where appropriate, and support Libyan efforts to, *inter alia*: (i) manage the process of democratic transition, including through technical advice and assistance to the Libyan electoral process and the process of preparing and establishing a new Libyan constitution; (ii) promote the rule of law and monitor and protect human rights, in accordance with Libya's international legal obligations; and (iii) counter illicit proliferation of all arms and related materiel of all types, in particular man-portable surface-to-air missiles, clear explosive remnants of war, conduct demining programmes, secure and manage Libya's borders, and implement international conventions on chemical, biological and nuclear weapons and materials.

(iii) *Other ongoing political and peacebuilding missions in 2012*

a. **Somalia**<sup>56</sup>

In 2012, two missions were active in Somalia. First, the United Nations Political Office for Somalia (UNPOS),<sup>57</sup> created by the Secretary-General on 15 April 1995, which aims, in accordance with its revised mandate in resolution 1863 (2009) of 16 January 2009, to advance the cause of peace and reconciliation through contacts with Somali leaders, civic organizations and the States and organizations concerned.

On 24 January 2012, the Special Representative of the Secretary-General for Somalia and an UNPOS office moved back to Mogadishu after an absence of 17 years. By resolution 2036 (2012) of 22 February 2012, the Security Council welcomed the relocation to Mogadishu and encouraged the United Nations to achieve a more permanent, full relocation to Somalia when security conditions allowed.<sup>58</sup>

Second, the United Nations Support Office for AMISOM (UNSOA), which is a field support operation led by the United Nations Department of Field Support. Its mandate, as provided by Security Council resolution 1863 (2009) of 16 January 2009, is to deliver a logistics capacity support package to AMISOM (African Union Mission in Somalia) critical in achieving its operational effectiveness and in preparation for a possible United Nations peacekeeping operation.

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<sup>56</sup> See subsection (f)(iv) below on sanctions as concerning Somalia.

<sup>57</sup> For more information about UNPOS and UNSOA, see <http://unpos.unmissions.org>. See also the reports of the Secretary-General on the situation in Somalia (S/2012/283 and S/2012/643); the report of the Secretary-General on the modalities for the establishment of specialized Somali anti-piracy courts (S/2012/50); and the special report of the Secretary-General on Somalia (S/2012/74).

<sup>58</sup> See also Statement by the President of the Security Council of 5 March 2012 (S/PRST/2012/4).

### b. 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>59</sup> continued to operate throughout 2012.<sup>60</sup>

### c. Lebanon

The Secretary-General decided in 2000 to appoint a senior official to serve as his representative in Lebanon.<sup>61</sup> The title of the representative was subsequently changed to Personal Representative for southern Lebanon and to Special Coordinator for Lebanon, in 2005<sup>62</sup> and 2007,<sup>63</sup> respectively. The Special Coordinator for Lebanon continued to operate throughout 2012.<sup>64</sup>

### d. West Africa

The United Nations Office for West Africa (UNOWA), originally established by the Secretary-General in 2002,<sup>65</sup> with subsequent extensions of its mandate in 2004,<sup>66</sup> 2007<sup>67</sup> and 2010,<sup>68</sup> continued to operate throughout 2012.<sup>69</sup>

### e. Central Asia

The United Nations Regional Centre for Preventive Diplomacy for Central Asia (UNRCCA) was established on 10 December 2007 by a letter dated 7 May 2007 from the

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<sup>59</sup> Exchange of letters between the Secretary-General and the Security Council (S/1999/983 and S/1999/984).

<sup>60</sup> For more information about UNSCO, see <http://www.unsco.org>.

<sup>61</sup> S/2000/718.

<sup>62</sup> Letter dated 29 March 2005 from the Secretary-General to the President of the Security Council (S/2005/216).

<sup>63</sup> Letter dated 8 February 2007 from the Secretary-General to the President of the Security Council (S/2007/85).

<sup>64</sup> For more information about the activities of the Office of the United Nations Special Coordinator for Lebanon (UNSCOL), see <http://unscol.unmissions.org>.

<sup>65</sup> Exchange of letters between the Secretary-General and the President of the Security Council dated 26 November 2001 (S/2001/1128) and 29 November 2001 (S/2001/1129).

<sup>66</sup> Exchange of letters between the Secretary-General and the President of the Security Council dated 4 October 2004 (S/2004/797) and 25 October 2004 (S/2004/858).

<sup>67</sup> Exchange of letters between the Secretary-General and the President of the Security Council dated 28 November 2007 (S/2007/753) and 21 December 2007 (S/2007/754).

<sup>68</sup> Exchange of letters between the Secretary-General and the President of the Security Council dated 14 December 2010 (S/2010/660) and 20 December 2010 (S/2010/661).

<sup>69</sup> For more information about the activities of UNOWA, see <http://unowa.unmissions.org>. See also the report of the Secretary-General on the activities of the United Nations Office for West Africa (S/2012/510).

Secretary-General to the President of the Security Council.<sup>70</sup> UNRCCA continued to function throughout 2012.<sup>71</sup>

#### f. Guinea Bissau<sup>72</sup>

The United Nations Integrated Peacebuilding Office in Guinea-Bissau (UNIOGBIS) established by Security Council resolution 1876 (2009) of 26 June 2009 continued to operate throughout 2012.<sup>73</sup>

#### g. Central African Republic

On 1 January 2010, the United Nations Integrated Peacebuilding Office in the Central African Republic (BINUCA) succeeded the United Nations Peacebuilding Office in the Central African Republic (BONUCA),<sup>74</sup> which had been established by the Secretary-General on 15 February 2000. BINUCA continued to operate throughout 2012.<sup>75</sup>

#### h. Burundi

The United Nations Office in Burundi (BNUB), established by resolution 1959 (2010) of 16 December 2010, with a subsequent extension of its mandate until 15 February 2013 by resolution 2027 (2011) of 20 December 2011, continued to operate throughout 2012.<sup>76</sup>

#### (iv) *Political and peacebuilding missions concluded in 2012*

No political or peacebuilding missions were concluded in 2012.

#### (c) Other bodies

##### (i) *Cameroon-Nigeria Mixed Commission*

On 15 November 2002, the Secretary-General established the Cameroon-Nigeria Mixed Commission, at the request of the Presidents of Nigeria and Cameroon, to facilitate the implementation of the 10 October 2002 ruling of the International Court of Jus-

<sup>70</sup> S/2007/279.

<sup>71</sup> For more information about UNRCCA, see <http://unrcca.unmissions.org/>.

<sup>72</sup> See subsections (f)(xii) below on sanctions concerning Guinea Bissau.

<sup>73</sup> For more information on UNIOGBIS, see <http://uniogbis.unmissions.org/>. See also the special report of the Secretary-General on the situation in Guinea-Bissau (S/2012/280); the report of the Secretary-General on developments in Guinea-Bissau and on the activities of the United Nations Integrated Peacebuilding Office in that country (S/2012/554); and the report of the Secretary-General on the restoration of constitutional order in Guinea-Bissau (S/2012/704).

<sup>74</sup> See letter dated 3 March 2009 from the Secretary-General addressed to the President of the Security Council (S/2009/128) and statement by the President of the Security Council of 7 April 2009 (S/PRST/2009/5).

<sup>75</sup> For more information on BINUCA, see <http://binuca.unmissions.org/>. See also the reports of the Secretary-General on the situation in the Central African Republic and on the activities of the United Nations Integrated Peacebuilding Office in that country (S/2012/374 and S/2012/956).

<sup>76</sup> For more information on BNUB, see [http://bnub.unmissions.org](http://bnub.unmissions.org/).

tice on the Cameroon-Nigeria boundary dispute. The mandate of the Mixed Commission included supporting the demarcation of the land boundary and delineation of the maritime boundary, facilitating the withdrawal and transfer of authority along the boundary, addressing the situation of affected populations and making recommendations on confidence-building measures. The Mixed Commission continued its work in 2012.<sup>77</sup>

(ii) *Commission of Inquiry to the Syrian Arab Republic*

In its resolution S-17/1, adopted on 23 August 2011 during the seventeenth special session of the Human Rights Council, the Council created an independent international commission of inquiry to investigate all alleged violations of international human rights law since July 2011 in the Syrian Arab Republic, to establish the facts and circumstances that may amount to such violations and of the crimes perpetrated and, where possible, to identify those responsible with a view of ensuring that perpetrators of violations, including those that may constitute crimes against humanity, are held accountable.

By resolution 19/22 of 23 March 2012, the Council, *inter alia*, welcomed the reports of the commission of inquiry<sup>78</sup> and the recommendations made therein, and expressed profound concern about the commission's findings. The Council stressed the need to conduct an international, transparent, independent and prompt investigation into violations of international law with a view to hold to account those responsible for widespread, systematic and gross human rights violations, including those violations that may amount to crimes against humanity. The Council further decided to extend the mandate of the commission of inquiry and requested the commission to continue its work, to provide an oral update to the Council at an interactive dialogue at its twentieth session and to present also a written updated report at an interactive dialogue at its twenty-first session. The Council decided to transmit the updated reports of the commission of inquiry to all relevant United Nations bodies and the Secretary-General for appropriate action, and requested the Secretary-General to present a report on the implementation of resolution 19/22 to the Human Rights Council at its twentieth and twenty-first sessions.<sup>79</sup>

Through resolution S-19/1 of 1 June 2012 entitled "The deteriorating situation of human rights in the Syrian Arab Republic, and the recent killings in El-Houleh", adopted at the nineteenth special session of the Human Rights Council, the Council requested the commission to urgently conduct a comprehensive, independent and unfettered special inquiry, consistent with international standards, into the events in El-Houleh. The Council also requested the commission to provide a full report of the findings of its special inquiry to the Human Rights Council at its twentieth session, and to coordinate, as appropriate, with relevant United Nations mechanisms.

In its resolution 20/22 of 6 July 2012, the Council noted the oral update provided by the commission during the interactive dialogue held on 27 June 2012, including on its special inquiry into the events in El-Houleh and underscored the importance of the recommendation of the commission that the Syrian people, on the basis of broad, inclusive and

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<sup>77</sup> For more information on the Commission's work in 2012, see the exchange of letters between the Secretary-General and the President of the Security Council (S/2012/954 and S/2012/955).

<sup>78</sup> A/HRC/S-17/2/Add.1 and A/HRC/19/69.

<sup>79</sup> A/HRC/20/37 and A/HRC/21/32.



credible consultations, should determine, within the framework provided by international law, the process and mechanisms to achieve reconciliation, truth and accountability for gross violations, as well as reparations and effective remedies for the victims.

By resolution 21/26 of 28 September 2012, the Council, *inter alia*, welcomed the report of the commission of inquiry<sup>80</sup> submitted pursuant to Human Rights Council resolution 19/22 and the recommendations contained therein. It decided to extend the mandate of the commission and requested it to present a written report on the situation of human rights in the Syrian Arab Republic at an interactive dialogue during the Council's twenty-second session. In addition, the Council requested the commission of inquiry to conduct and continuously update a mapping exercise of gross violations of human rights since March 2011, including an assessment of casualty figures, and to publish it periodically. Further, the Council condemned in the strongest terms the increasing number of massacres taking place in the Syrian Arab Republic, and requested the commission of inquiry to investigate all massacres.

#### (d) Missions of the Security Council

##### (i) *Haiti*

In a letter dated 8 February 2012, the President of the Security Council informed the Secretary-General of the Council's decision to send a mission to Haiti from 13 to 16 February 2012.<sup>81</sup>

Pursuant to its terms of reference,<sup>82</sup> the mission to Haiti, *inter alia*, assessed the implementation of relevant Security Council resolutions, in particular resolution 2012 (2011) of 14 October 2011, and reviewed the progress the Government of Haiti had made in addressing the interconnected challenges in the areas of stability and security, including strengthening the rule of law and protecting civilians; economic and social development; institutional reform and governance, including elections; border management; and human rights.<sup>83</sup>

##### (ii) *Liberia*,<sup>84</sup> *Côte d'Ivoire*<sup>85</sup> and the Economic Community of West African States, and Sierra Leone

In a letter dated 18 May 2012, the President of the Security Council informed the Secretary-General of the Council's decision to send a mission to Liberia, Côte d'Ivoire and

<sup>80</sup> A/HRC/21/50.

<sup>81</sup> Letter dated 8 February 2012 from the President of the Security Council addressed to the Secretary-General (S/2012/82).

<sup>82</sup> *Ibid.*, (S/2012/82, annex).

<sup>83</sup> For more information on the Security Council mission to Haiti, see the report of the Security Council mission to Haiti, 12–16 February 2012 (S/2012/534).

<sup>84</sup> See subsection (a)(ii)(e) above on peacekeeping operations and subsection (f)(iii) below on sanctions concerning Liberia.

<sup>85</sup> See subsection (a)(ii)(f) above on peacekeeping operations and subsection (f)(v) below on sanctions concerning Côte d'Ivoire.



the Economic Community of West African States (ECOWAS), and Sierra Leone from 19 to 24 May 2012, outlining in an annex to the letter the mission's terms of reference.<sup>86</sup>

The mission to Liberia, *inter alia*, reaffirmed the continued support of the Security Council for the Government and people of Liberia as they rebuild their country and strengthen the foundations of sustainable peace, constitutional democracy and economic development.

The mission to Côte d'Ivoire and ECOWAS, *inter alia*, assessed the progress made by the Government of Côte d'Ivoire with the assistance of UNOCI in stabilizing the security situation in Abidjan and the rest of the country. In a meeting held on 21 May 2012, the Security Council and ECOWAS agreed to develop an effective partnership on issues of common interest in the region, within the overarching framework of the partnership between the African Union Peace and Security Council and the Security Council.

The mission to Sierra Leone, *inter alia*, assessed the progress achieved by the national authorities and people of Sierra Leone in peacebuilding in a number of areas, including national reconciliation, the promotion of gender equality and the preparations for national and local elections on 17 November 2012 and underscored the importance of the country's national authorities responding proportionately to threats to the security of all citizens and of maintaining a commitment to uphold human rights and applicable international law.

### (iii) *Timor-Leste*

In a letter dated 31 October 2012, the President of the Security Council informed the Secretary-General of the Council's decision to send a mission to Timor-Leste from 1 to 7 November 2012.<sup>87</sup>

In accordance with its terms of reference,<sup>88</sup> the mission to Timor-Leste, *inter alia*, encouraged the Government, the Parliament, the political parties and the people of Timor-Leste to continue to work together and to engage in an inclusive dialogue to promote the further consolidation of peace, democracy, the rule of law, security sector reform, sustainable social and economic development and national reconciliation in the country, including fostering the role of women in the process.<sup>89</sup>

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<sup>86</sup> Letter dated 18 May 2012 from the President of the Security Council addressed to the Secretary-General (S/2012/344).

<sup>87</sup> Letter dated 31 October 2012 from the President of the Security Council addressed to the Secretary-General (S/2012/793).

<sup>88</sup> *Ibid.*, S/2012/793, annex.

<sup>89</sup> For more information on the Security Council mission to Timor-Leste, see the report of the Security Council mission to Timor-Leste, 3 to 6 November 2012 (S/2012/889)

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

(i) *Authorization by the Security Council in 2012*

**Mali**<sup>90</sup>

By resolution 2056 (2012) of 5 July 2012, the Security Council condemned the forcible seizure of power from the democratically elected Government of Mali by some members of the Armed Forces of Mali on 22 March 2012. Acting under Chapter VII of the Charter of the United Nations, the Council, *inter alia*, expressed its full support to the efforts of the Economic Community of West African States (ECOWAS) and the African Union in Mali, with the support of the United Nations, and encouraged them to continue to coordinate closely with the transitional authorities of Mali for the restoration of constitutional order. The Council took note of the decisions of ECOWAS and the African Union to adopt targeted sanctions in Mali and reserved the right to consider appropriate measures as necessary.<sup>91</sup>

It further took note of the request of ECOWAS and the African Union for a United Nations Security Council mandate authorizing the deployment of an ECOWAS stabilization force in order to support the political process in Mali and assist in upholding the territorial integrity of Mali and in combating terrorism, and expressed its readiness to further examine the request of ECOWAS once additional information had been provided regarding the objectives, means and modalities of the envisaged deployment and other possible measures.<sup>92</sup>

By resolution 2071 (2012) of 12 October 2012,<sup>93</sup> the Security Council took note of the decisions and recommendation by ECOWAS to adopt targeted sanctions in Mali and expressed its readiness to consider appropriate measures as necessary.

In its resolution 2085 (2012) of 20 December 2012, the Security Council recalled the letters of the transitional authorities of Mali requesting the authorization of deployment through a Security Council resolution, under Chapter VII as provided by the United Nations Charter, of an international military force to assist the Armed Forces of Mali to recover the occupied regions in the north of Mali and stressing the need to support, including through such an international military force, the national and international efforts to bring to justice the perpetrators of war crimes and crimes against humanity committed in the north of Mali.<sup>94</sup>

The Council decided to authorize the deployment of an African-led International Support Mission in Mali (AFISMA) for an initial period of one year, which should take all necessary measures, in compliance with applicable international humanitarian law and

<sup>90</sup> See also the report of the Secretary-General on the situation in Mali (S/2012/894).

<sup>91</sup> See the communiqués of the 314th and 316th African Union Peace and Security Council meetings on the situation in Mali (S/2012/209, enclosures).

<sup>92</sup> See letter dated 1 June 2012 from the Chairperson of the African Union to the Secretary-General (S/2012/439, annex).

<sup>93</sup> See also, with regard to Security Council resolution 2071 (2012), subsection (g)(v)(a) below.

<sup>94</sup> See the letters dated 28 September 2012 and 23 October 2012 from the Secretary-General addressed to the President of the Security Council (S/2012/727 and S/2012/784, annexes). See also the presidential statements of 26 March 2012 (S/PRST/2012/7) and 4 April 2012 (S/PRST/2012/9).

human rights law and in full respect of the sovereignty, territorial integrity and unity of Mali to, *inter alia*: (a) contribute to the rebuilding of the capacity of the Malian Defence and Security Forces; (b) support the Malian authorities in recovering the areas in the north of its territory under the control of terrorist, extremist and armed groups and in reducing the threat posed by terrorist organizations and associated extremist groups, while taking appropriate measures to reduce the impact of military action upon the civilian population; (c) transition to stabilisation activities to support the Malian authorities in maintaining security and consolidate State authority, protect the population, and create a secure environment for the civilian-led delivery of humanitarian assistance and the voluntary return of internally displaced persons and refugees. The Council called upon Member States, including from the Sahel region, to contribute troops to AFISMA in order to enable AFISMA to fulfil its mandate. The Council further called upon AFISMA, consistent with its mandate, to support national and international efforts, including those of the International Criminal Court, to bring to justice perpetrators of serious human rights abuses and violations of international humanitarian law in Mali.

In the same resolution, the Council took note of the listing of Movement of Unity and Jihad in Western Africa (MUJWA) on the Al-Qaida sanctions list established and maintained by the Committee pursuant to resolutions 1267 (1999) and 1989 (2011) and further reiterated its readiness to continue to adopt further targeted sanctions, under the above-mentioned regime, against those rebel groups and individuals who do not cut off all ties to Al-Qaida and associated groups, including Al-Qaida in Islamic Maghreb and MUJWA.<sup>95</sup>

Furthermore, the Council requested the Secretary-General to establish, in consultation with the Malian authorities, a multidisciplinary United Nations presence in Mali in order to provide coordinated and coherent support to the on-going political process and the security process, including support to the planning, deployment and operations of AFISMA.

(ii) *Changes in authorization and/or extension of time limits in 2012*

a. **Afghanistan**

In its resolution 2069 (2012) of 9 October 2012, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided to extend the authorization of the International Security Assistance Force (ISAF),<sup>96</sup> as defined in resolution 1386 (2001) and 1510 (2003), for a period of twelve months until 13 October 2013. The Council further authorized Member States participating in ISAF to take all necessary measures to fulfil its mandate and welcomed the agreement between the Government of Afghanistan and countries contributing to ISAF to gradually transfer lead security responsibility in Afghanistan to the Afghan Government country-wide by the end of 2014 and the ongoing implementation of the transition process since July 2011.

<sup>95</sup> See also, with regard to the Al-Qaida and Taliban Sanctions Committee, subsection (g)(v)(a) below.

<sup>96</sup> For more information about ISAF, see quarterly reports to the Security Council on the operations of the International Security Assistance Force, contained in letters dated 12 March 2012 and 6 September 2012 from the Secretary-General addressed to the President of the Security Council (S/2012/150 and S/2012/692, annexes).

### b. Bosnia and Herzegovina

By its resolution 2074 (2012) of 14 November 2012, the Security Council, acting under Chapter VII of the Charter of the United Nations, authorized the Member States acting through or in cooperation with the European Union to establish for a further period of twelve months, starting from the date of the adoption of the resolution, a multinational stabilization force (EUFOR ALTHEA)<sup>97</sup> as a legal successor to the stabilization force (SFOR) under unified command and control, which would fulfil its missions in relation to the implementation of annex 1-A and annex 2 of the Peace Agreement<sup>98</sup> in cooperation with the North Atlantic Treaty Organization (NATO) Headquarters presence in accordance with the arrangements agreed between NATO and the European Union as communicated to the Security Council in their letters of 19 November 2004, which recognized that EUFOR ALTHEA would have the main peace stabilization role under the military aspects of the Peace Agreement.

### c. Somalia<sup>99</sup>

By resolution 2036 (2012) of 22 February 2012, the Security Council, acting under Chapter VII of the Charter, decided, *inter alia*, that in addition to the tasks set out in paragraph 9 of resolution 1772 (2007) the African Union Mission in Somalia (AMISOM)<sup>100</sup> should include establishing a presence in the four sectors set out in the AMISOM strategic concept of 5 January 2012,<sup>101</sup> and that AMISOM should be authorised to take all necessary measures as appropriate in those sectors in coordination with the Somali security forces to reduce the threat posed by Al Shabaab and other armed opposition groups in order to establish conditions for effective and legitimate governance across Somalia. The Council further decided that AMISOM should act in compliance with applicable international humanitarian and human rights law, in performance of this mandate and in full respect of the sovereignty, territorial integrity, political independence and unity of Somalia.

In its resolutions 2072 (2012) of 31 October and 2073 (2012) of 7 November 2012, the Security Council, acting under Chapter VII of the Charter, authorized the member States of the African Union to maintain the deployment of the AMISOM until 7 November 2012 and 7 March 2013, respectively. Through resolution 2073 (2012), the Council, also acting under Chapter VII of the Charter, authorized AMISOM to take all necessary measures, in compliance with applicable international humanitarian and human rights law, and in

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<sup>97</sup> For more information about the European Union military mission in Bosnia and Herzegovina (EUFOR), see quarterly reports on the activities of EUFOR (S/2012/138, annexes).

<sup>98</sup> General Framework Agreement for Peace in Bosnia and Herzegovina and the Annexes thereto, attachment to letter dated 29 November 1995 from the Permanent Representative of the United States of America to the United Nations addressed to the Secretary-General (S/1995/999).

<sup>99</sup> See also with regard to acts of piracy off the coast of Somalia, subsection (i) on piracy and section 9 on the law of the sea.

<sup>100</sup> For more information about AMISOM, see the letter dated 23 March 2012 from the Secretary-General addressed to the President of the Security Council (S/2012/176, annex) and the special report of the Secretary-General on Somalia (S/2012/74).

<sup>101</sup> See letter dated 9 January 2012 from the Secretary-General addressed to the President of the Security Council (S/2012/19, annex).

full respect of the sovereignty, territorial integrity, political independence and unity of Somalia, to carry out its tasks as set out in paragraph 1 of the resolution.

**d. Republic of the Sudan (Darfur)<sup>102</sup>**

The African Union/United Nations Hybrid Operation in Darfur (UNAMID) was established and authorized by Security Council resolution 1769 (2007) of 31 July 2007. By resolution 2063 (2012) of 31 July 2012, the Security Council decided to extend the mandate of UNAMID as set out in resolution 1769 (2007), until 31 July 2013.

**e. Libya<sup>103</sup>**

By resolution 2040 (2012) of 12 March 2012, the Security Council, acting under Chapter VII of the Charter of the United Nations, *inter alia*, decided to terminate the authorization granted in paragraph 13 of resolution 1973 (2011) of 17 March 2011 to Member States to use all measures commensurate to the specific circumstances to carry out inspection pursuant to that paragraph. It decided further to terminate paragraph 14 of that resolution, and underscored the importance of the full implementation of the arms embargo imposed in paragraphs 9 and 10 of resolution 1970 (2011), as modified by resolution 2009 (2011).

**(f) Sanctions imposed under Chapter VII of the Charter of the United Nations<sup>104</sup>**

**(i) Iraq**

The Security Council Committee established pursuant to resolution 1518 (2003) of 24 November 2003 as the successor body to the Security Council Committee established pursuant to resolution 661 (1990) concerning Iraq and Kuwait, to identify senior officials of the former Iraqi regime and their immediate family members, including entities owned or controlled by them or by persons acting on their behalf, who were subject to the measures imposed by resolution 1483 (2003), continued its operations in 2012.<sup>105</sup>

**(ii) Democratic Republic of the Congo**

The Security Council Committee established pursuant to resolution 1533 (2004) of 12 March 2004 to oversee the relevant sanctions measures and to undertake the tasks set out by the Security Council in paragraph 15 of resolution 1807 (2008), paragraph 6 of resolution 1857 (2008) and paragraph 4 of resolution 1896 (2009) continued its operations

<sup>102</sup> For more information about UNAMID, see subsection (a)(ii)(h) above.

<sup>103</sup> See also, with regard to Security Council resolution 2040 (2012), subsection (b)(ii)(e) above and subsection (f)(x) below.

<sup>104</sup> For more information on the sanction regimes established by the Security Council, see the Council's website relating to subsidiary organs at <http://www.un.org/en/sc/subsidiary/>.

<sup>105</sup> At the time of publication, the annual report of the Committee was forthcoming. For more information on the Committee, see <http://www.un.org/sc/committees/1518/index.shtml>.

in 2012 and submitted, on 31 December 2012, a final report on its work in 2012 to the Security Council.<sup>106</sup>

In resolution 2078 (2012) of 28 November 2012, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided, *inter alia*, to renew until 1 February 2014 the measures provided for in resolution 1807 (2008) relating to arms, transport, finance and travel. The Council also decided that the travel measures imposed by paragraph 9<sup>107</sup> of resolution 1807 (2008) would not apply in the following situations: (a) where the sanctions Committee established by resolution 1533 (2004) of 12 March 2004 determines in advance and on a case-by-case basis that such travel is justified on the grounds of humanitarian need, including religious obligation; (b) where the Committee concludes that an exemption would further the objectives of the Council's resolutions, that is peace and national reconciliation in the Democratic Republic of the Congo and stability in the region; (c) where the Committee authorises in advance, and on a case-by-case basis, the transit of individuals returning to the territory of the State of their nationality, or participating in efforts to bring to justice perpetrators of grave violations of human rights or international humanitarian law; or (d) where such entry or transit is necessary for the fulfilment of judicial process.

In the same resolution, the Council expressed its intention to consider additional targeted sanctions against the leadership of the 23 March Movement (M23) and those providing external support to the M23 and those acting in violation of the sanctions regime and the arms embargo, and called on all Member States to submit, as a matter of urgency, listing proposals to the Committee established pursuant to resolution 1533 (2004).<sup>108</sup>

Furthermore, the Security Council decided to extend, for a period expiring on 1 February 2014, the mandate of Group of Experts set up by resolution 1533 (2004)<sup>109</sup> and requested the Group of Experts to fulfil its mandate as set out in paragraph 18 of resolution 1807 (2008) and expanded by resolution 1857 (2008), and to present to the Council, through the Committee, a written mid-term report by 28 June 2013, and a written final report before 13 December 2013.

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<sup>106</sup> Report of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo (S/2012/979, annex).

<sup>107</sup> The travel measures relate to the entry into or transit through a State's territory of designated persons.

<sup>108</sup> See also presidential statement of 19 October 2012 (S/PRST/2012/22) and Security Council resolution 2076 (2012) of 20 November 2012.

<sup>109</sup> The Group of Experts for the Democratic Republic of the Congo was set up by resolution 1533 (2004) with the mandate, *inter alia*, to examine and analyze information gathered by MONUC in the context of its monitoring mandate, and to gather and analyse all relevant information in the Democratic Republic of the Congo, countries of the region and, as necessary, in other countries, in cooperation with the governments of those countries, flows of arms and related materiel, as well as networks operating in violation of the measures imposed by paragraph 20 of resolution 1493 (2003). For information on the appointment of members to the Group of Experts, see letters from the Secretary-General to the President of the Security Council of 10 February (S/2012/85), 8 March (S/2012/143) and 31 December 2012 (S/2012/967), respectively.

(iii) *Liberia*

The Security Council Committee established pursuant to resolution 1521 (2003) of 22 December 2003, to oversee the relevant sanctions measures and to undertake the tasks set out by the Security Council in the same resolution, as modified by resolutions 1532 (2004), 1683 (2006) and 1903 (2009), continued its operations in 2012. The Security Council Committee submitted, on 31 December 2012, a report on its work in 2012 to the Security Council.<sup>110</sup>

By resolution 2079 (2012) of 12 December 2012, the Security Council, acting under Chapter VII of the Charter of the United Nations, reaffirmed that the measures imposed by paragraph 1 of resolution 1532 (2004) concerning the freezing of assets remained in force, noted with serious concern the lack of progress with regards to the implementation of the financial measures imposed by paragraph 1 of resolution 1532 (2004), and demanded that the Government of Liberia make all necessary efforts to fulfil its obligations. The Council also decided to renew for a period of twelve months the measures on travel imposed by resolution 1521 (2003) and on arms imposed by resolutions 1521 (2003), 1683 (2006), 1731 (2006) and 1961 (2010). The Council decided to review any of the above measures at the request of the Government of Liberia, once the Government reports to the Council that the conditions set out in resolution 1521 (2003) for terminating the measures have been met, and provides the Council with information to justify its assessment.

In the same resolution, the Council further decided to extend the mandate of the Panel of Experts on Liberia appointed pursuant to paragraph 9 of resolution 1903 (2009) for a period of twelve months from the date of adoption of the resolution to, *inter alia*, conduct two follow-up assessment missions to Liberia and neighbouring States and to assess the impact, effectiveness, and continued need for the measures imposed by paragraph 1 of resolution 1532 (2004).<sup>111</sup>

(iv) *Somalia and Eritrea*

The Security Council Committee established pursuant to resolution 751 (1992) concerning Somalia was established on 24 April 1992 to oversee the general and complete arms embargo imposed by Security Council resolution 733 (1992) and to undertake the tasks set out by the Security Council in paragraph 11 of resolution 751 (1992) and, subsequently, in paragraph 4 of resolution 1356 (2001) and paragraph 11 of resolution 1844 (2008). Following the adoption of resolution 1907 (2009), which imposed a sanctions regime on Eritrea and expanded its mandate, the Committee decided on 26 February 2010 to change its name to "Security Council Committee pursuant to resolution 751 (1992) and 1907 (2009) concerning Somalia and Eritrea".<sup>112</sup>

<sup>110</sup> Report of the Security Council Committee established pursuant to resolution 1521 (2003) concerning Liberia (S/2012/980, annex).

<sup>111</sup> Reports of the United Nations Panel of Experts on Liberia (S/2012/448 and S/2012/901, enclosures).

<sup>112</sup> The expanded mandate of the Committee is delineated in paragraph 18 of resolution 1907 (2009), paragraph 13 of resolution 2023 (2011) and paragraph 23 of resolution 2036 (2012). For the report of the Committee covering its work during 2012, see letter dated 31 December 2012 from the Chair of the Committee addressed to the President of the Security Council (S/2012/976, annex).



In its resolution 2036 (2012) of 22 February 2012, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided, *inter alia*, that Somali authorities should take the necessary measures to prevent the export of charcoal from Somalia and that all Member States should take the necessary measures to prevent the direct or indirect import of charcoal from Somalia, whether or not such charcoal originated in Somalia. The Council further decided that all Member States should report to the Committee within 120 days of the adoption of the resolution on the steps they had taken towards effective implementation of such measures. It further requested the Monitoring Group re-established pursuant to resolution 2002 (2011)<sup>113</sup> to assess the impact of the charcoal ban in its final report.<sup>114</sup>

The Council also decided that the mandate of the Committee should also apply to the measures on charcoal and that the Monitoring Group's mandate should likewise be expanded. The Council considered that commerce in charcoal could pose a threat to the peace, security, or stability of Somalia, and therefore that the Committee could designate individuals and entities engaged in such commerce as subject to the targeted measures established by resolution 1844 (2008).<sup>115</sup>

By resolution 2060 (2012) of 25 July 2012, the Security Council, acting under Chapter VII of the Charter, decided, *inter alia*, that for a period of twelve months from the date of the resolution, and without prejudice to humanitarian assistance programmes conducted elsewhere, the obligations relating to the freezing of assets imposed on Member States in paragraph 3 of resolution 1844 (2008) should not apply to the payment of funds, other financial assets or economic resources necessary to ensure the timely delivery of urgently needed humanitarian assistance in Somalia, by the United Nations and other designated entities. Similarly, the Council decided that the arms embargo imposed by paragraph 5 of resolution 733 (1992) and further elaborated upon by paragraphs 1 and 2 of resolution 1425 (2002) should not apply to supplies of weapons and military equipment, or the provision of assistance, solely for the support of or use by the United Nations Political Office for Somalia,<sup>116</sup> as approved in advance by the Committee established pursuant to resolution 751 (1992) and 1907 (2009). In addition, the Council decided that the Eritrea arms embargo imposed by paragraph 5 of resolution 1907 (2009) should not apply to protective clothing temporarily exported to Eritrea by United Nations personnel, representatives of the media and humanitarian and development workers and associated personnel for their personal use only. It also decided that such embargo should not apply to supplies of non-lethal military equipment intended solely for humanitarian or protective use, as approved in advance by the Committee.

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<sup>113</sup> The Monitoring Group on Somalia was established pursuant to resolution 1519 (2003) to focus on ongoing arms embargo violations. Its mandate was extended and expanded by subsequent resolutions. After the adoption of resolution 1907 (2009) the Monitoring Group changed its name to Monitoring Group on Somalia and Eritrea.

<sup>114</sup> Somalia report of the Monitoring Group on Somalia and Eritrea pursuant to Security Council resolution 2002 (2011) (S/2012/544, annex).

<sup>115</sup> The targeted measures include arms embargo, travel ban and assets freeze.

<sup>116</sup> For more information on UNPOS see subsection (b)(iii)(a) above.



In the same resolution the Council decided to extend until 25 August 2013 the mandate of the Monitoring Group.<sup>117</sup>

(v) *Côte d'Ivoire*

The Security Council Committee established pursuant to resolution 1572 (2004) of 15 November 2004, to oversee the relevant sanctions measures and to undertake the tasks set out by the Security Council in paragraph 14 of the same resolution, as modified by resolutions 1584 (2005), 1643 (2005) and 1946 (2010), continued its operations in 2012 and submitted, on 31 December 2012, a report on its work in 2012 to the Security Council.<sup>118</sup>

By resolution 2045 (2012) of 26 April 2012, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided, *inter alia*, to impose, for a period ending on 30 April 2013, measures on arms and related materiel, which replaced those previously imposed by paragraphs 7 and 8 of resolution 1572 (2004). It decided that those measures should no longer apply to the provision of training, advice and expertise related to security and military activities, as well as to the supplies of civilian vehicles to the Ivorian security forces. Furthermore, the Council decided to renew until 30 April 2013: the financial and travel measures imposed by paragraphs 9 to 12 of resolution 1572 (2004) and paragraph 12 of resolution 1975 (2011) as well as the measures preventing the importation by any State of all rough diamonds from Côte d'Ivoire imposed by paragraph 6 of resolution 1643 (2005). The Council also decided to renew the exemptions set out by paragraphs 16 and 17 of resolution 1893 (2009) with regard to the securing of samples of rough diamonds for scientific research purposes coordinated by the Kimberley Process and to review the measures decided in paragraphs 2, 3, 4 of resolution 2045 (2012), in light of the progress achieved in the stabilization throughout the country, by the end of the period ending on 30 April 2013.

In the same resolution, the Security Council decided to extend the mandate of the Group of Experts, as set out in paragraph 7 of resolution 1727 (2006),<sup>119</sup> until 30 April 2013 and requested the Secretary-General to take the necessary measures to support its action.

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<sup>117</sup> The current mandate of the Monitoring Group is delineated in paragraph 16 of resolution 2023 (2011), paragraph 23 of resolution 2036 (2012) and paragraph 13 of resolution 2060 (2012). For its 2012 reports, see Somalia report of the Monitoring Group on Somalia and Eritrea pursuant to Security Council resolution 2002 (2011) (S/2012/544, annex); Eritrea report of the Monitoring Group on Somalia and Eritrea pursuant to Security Council resolution 2002 (2011) (S/2012/545). For information on the appointment of members to the Monitoring Group, see letter of 13 August 2012 from the Secretary-General to the President of the Security Council (S/2012/631).

<sup>118</sup> Annual report of the Security Council Committee established pursuant to resolutions 1572 (2004) concerning Côte d'Ivoire (S/2012/981, annex) and midterm report of the Group of Experts on Côte d'Ivoire (S/2012/766, annex).

<sup>119</sup> The Group of Experts for Côte d'Ivoire was originally established by resolution 1584 (2005) with the mandate to, *inter alia*, monitor the effectiveness of the sanctions regime, in cooperation with UNOCI. For information on the appointment of members to the Group of Experts, see letter from the Secretary-General to the President of the Security Council of 23 June 2012 (S/2012/479).

(vi) *Republic of the Sudan*

The Security Council Committee established pursuant to resolution 1591 (2005) of 29 March 2005, to oversee the relevant sanctions measures concerning the Sudan and to undertake the tasks set out by the Security Council in sub-paragraph 3 (a) of the same resolution, continued its operations in 2012 and submitted, on 31 December 2012, a report on its work in 2012 to the Security Council.<sup>120</sup>

By resolution 2035 (2012) of 17 February 2012, the Security Council, acting under Chapter VII of the Charter of the United Nations, extended until 17 February 2013 the mandate of the Panel of Experts, originally appointed pursuant to Security Council resolution 1591 (2005).<sup>121</sup> In the same resolution, the Council noted the creation on 11 January 2012 of two additional states in Darfur, and confirmed that all previous references to North, South and West Darfur should apply to all the territory of Darfur, including the new states of Eastern and Central Darfur. The Council decided that the listing criteria applicable to individuals set out in paragraph 3 (c) of resolution 1591 (2005) should also apply to entities and that the exemptions in support of the implementation of the Comprehensive Peace Agreement set forth in paragraph 7 of resolution 1591 (2005) and further clarified in paragraph 8 (b) of resolution 1945 (2010) should no longer apply. In addition, the Council expressed its intention to impose targeted sanctions against individuals and entities that met the listing criteria in paragraph 3 (c) of resolution 1591 (2005), and encouraged the Panel of Experts, in coordination with the Joint African Union/United Nations Mediation, to provide to the Committee when appropriate the names of any individuals, groups, or entities that meet the listing criteria.

(vii) *Lebanon*

The Security Council Committee established pursuant to resolution 1636 (2005) of 31 October 2005, to register as subject to the travel ban and assets freeze imposed by paragraph 3 (a) of the resolution individuals designated by the international independent investigation Commission or the Government of Lebanon as suspected of involvement in the 14 February 2005 terrorist bombing in Beirut, Lebanon, that killed former Lebanese Prime Minister Rafiq Hariri and 22 others, continued in existence in 2012.

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

The Security Council Committee established pursuant to resolution 1718 (2006) on 14 October 2006, to oversee the relevant sanctions measures concerning the Democratic People's Republic of Korea and to undertake the tasks set out in paragraph 12 of that same

<sup>120</sup> Report of the Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan (S/2012/978, annex).

<sup>121</sup> The Panel of Experts for the Sudan was originally appointed pursuant to Security Council resolution 1591 (2005) with the mandate, *inter alia*, to assist the Committee in monitoring the implementation of the measures concerning the arms embargo set out in paragraph 9 of resolution 1556 (2004), the consolidated travel ban and freezing of assets set out in sub-paragraphs 3(f) and (g) of resolution 1591 (2005), and to make recommendations to the Committee on actions the Council may want to consider.

resolution and in resolution 1874 (2009), continued its operations in 2012 and submitted, on 31 December 2012, a report on its work to the Security Council.<sup>122</sup>

By presidential statement of 16 April 2012, the Security Council condemned the 13 April 2012 launch by the Democratic People's Republic of Korea (DPRK) and underscored that the satellite launch, as well as any launch that uses ballistic missile technology, even if characterized as a satellite launch or space launch vehicle, is a serious violation of Security Council resolutions 1718 (2006) and 1874 (2009). The Security Council demanded the DPRK not to proceed with any further launches using ballistic missile technology and to comply with resolutions 1718 (2006) and 1874 (2009) by suspending all activities related to its ballistic missile programme and in this context re-establish its pre-existing commitments to a moratorium on missile launches. Furthermore, the Council agreed to adjust the measures imposed by paragraph 8 of resolution 1718 (2006), as modified by resolution 1874 (2009), relating to arms, weapons of mass destruction, luxury goods, transport, finance and travel and directed the Committee to: designate additional entities and items; update the information contained on the Committee's list of individuals, entities, and items,<sup>123</sup> and update the Committee's annual workplan. The Security Council expressed its determination to take action accordingly in the event of a further DPRK launch or nuclear test.<sup>124</sup>

By resolution 2050 (2012) of 12 June 2012, the Security Council, acting under Article 41 of Chapter VII of the Charter of the United Nations, decided to extend until 12 June 2013 the mandate of the Panel of Experts established pursuant to resolution 1874 (2009).<sup>125</sup> The Council expressed its intent to review the mandate and take appropriate action regarding further extension no later than 12 June 2013.

#### (ix) *Islamic Republic of Iran*

The Security Council Committee established pursuant to resolution 1737 (2006) of 23 December 2006, to undertake the tasks set out in paragraph 18 of that same resolution, as modified by resolutions 1747 (2007), 1803 (2008) and 1929 (2010), concerning the effective implementation of measures relating to, *inter alia*, proliferation-sensitive nuclear and ballistic missile programmes, arms, finance and travel, continued its operations in 2012 and submitted oral reports to the Security Council.<sup>126</sup>

<sup>122</sup> Report of the Security Council Committee established pursuant to resolution 1718 (2006) (S/2012/982, annex).

<sup>123</sup> S/2009/205 and INFCIRC/254/Rev.9/Part.1.

<sup>124</sup> S/PRST/2012/13. See also report of the Security Council Committee established pursuant to resolution 1718 (2006) (S/2012/287, annex).

<sup>125</sup> The Panel of Experts was appointed by the Secretary-General pursuant to paragraph 26 of resolution 1874 (2009) with the mandate, *inter alia*, to assist the Committee in the implementation of its mandate: to gather, examine and analyze information regarding the implementation of the measures imposed in resolution 1718 (2006), in particular incidents of non-compliance; and to make recommendations on actions the Council, or the Committee or Member States, may consider to improve implementation of the above-mentioned measures.

<sup>126</sup> Oral reports of the Chairman of the Security Council Committee established pursuant to resolution 1737 (2006) for the period 21 December 2011 to 20 March 2012 (S/PV.6737), 21 March to 11 June 2012 (S/PV.6786), 12 June to 12 September 2012 (S/PV.6839) and 13 September to 4 December 2012 (S/PV.6888).

By resolution 2049 (2012) of 7 June 2012, the Security Council, acting under Article 41 of Chapter VII of the Charter of the United Nations, extended the mandate of the Panel of Experts set up by resolution 1929 (2010) to 9 June 2013.<sup>127</sup> The Council expressed its intent to review the mandate and take appropriate action regarding further extension no later than 9 June 2013.

(x) *Libya*<sup>128</sup>

The Security Council Committee established pursuant to resolution 1970 (2011) concerning Libya was established on 26 February 2011 to oversee the relevant sanctions measures and to undertake the tasks set out by the Security Council in paragraph 24 of the same resolution. The mandate of the Committee was subsequently expanded by resolution 1973 (2011). On 23 March 2012, the Committee submitted to the Security Council a report pursuant to paragraph 5 of resolution 2017 (2011), concerning the proliferation of arms and related materiel of all types from Libya in the region.<sup>129</sup>

By resolution 2040 (2012) of 12 March 2012, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided, *inter alia*, to terminate the authorization granted in paragraph 13 of resolution 1973 (2011) to Member States to use all measures commensurate to the specific circumstances to carry out inspections to ensure the strict implementation of the imposed arms embargo. It further decided to terminate paragraph 14 of that resolution regarding such inspections on the high seas, and underscored the importance of the full implementation of the arms embargo imposed in paragraphs 9 and 10 of resolution 1970 (2011), as modified by resolution 2009 (2011).

The Council further directed the Committee, in consultation with the Libyan authorities, to review continuously the remaining measures concerning asset freeze imposed by resolutions 1970 (2011) and 1973 (2011), as modified by resolution 2009 (2011), with respect to the Libyan Investment Authority (LIA) and the Libyan Africa Investment Portfolio (LAIP). It decided that the Committee should, in consultation with the Libyan authorities, lift the designation of these entities as soon as practical to ensure the assets are made available to and for the benefit of the people of Libya.

In the same resolution, the Council also decided to extend and modify the mandate of the Panel of Experts established by resolution 1973 (2011) and to further adjust the mandate to create for a period of one year a Panel of up to 5 experts under the direction of the Committee to, *inter alia*: (a) assist the Committee in carrying out its mandate as specified in paragraph 24 of resolution 1970 (2011); (b) gather, examine and analyse information from States, relevant United Nations bodies, regional organizations and other interested

<sup>127</sup> The Panel of Experts was set up by resolution 1929 (2010) to, *inter alia*, assist the Committee in the implementation of its mandate: to gather, examine and analyze information regarding the implementation of the measures decided in resolutions 1737 (2006), 1747 (2007), 1803 (2008), in particular incidents of non-compliance; and to make recommendations on actions the Council, or the Committee or Member States, may consider to improve implementation of the relevant measures.

<sup>128</sup> See also, with regard to Security Council resolution 2040 (2012), subsections (b)(ii)(e) and (e)(ii)(e) above.

<sup>129</sup> Consolidated working document on the implementation of paragraph 5 of Security Council resolution 2017 (2011) 16 March 2012 (S/2012/178, annex).

parties regarding the implementation of the measures decided in resolutions 1970 (2011), 1973 (2011) and 2009 (2011) relating to arms, travel and finance, in particular incidents of non-compliance; (c) and make recommendations on actions that the Council, the Committee, the Libyan authorities or other States may consider to improve implementation of the relevant measures. The Council encouraged the Panel to continue its investigations regarding sanctions non-compliance, including illicit transfers of arms and related materiel to and from Libya and the assets of individuals subject to the asset freeze.

(xi) *Afghanistan*

The Security Council Committee established pursuant to resolution 1988 (2011) on 17 June 2011 to oversee the relevant sanctions measures and to undertake the tasks set out by the Security Council in paragraph 30 of the same resolution, continued its operations in 2012 and submitted, on 31 December 2012, a report on its work in 2012 to the Security Council.<sup>130</sup>

By resolution 2082 (2012) of 17 December 2012, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided, *inter alia*, that all States should take the following measures with respect to individuals and entities designated prior to the date of adoption of resolution 1988 (2011) as the Taliban, as well as other individuals, groups, undertakings and entities associated with the Taliban in constituting a threat to the peace, stability and security of Afghanistan as designated by the Committee established in paragraph 30 of resolution 1988 (2011): freeze without delay the funds and other financial assets or economic resources of designated individuals, undertakings and entities; prevent the entry into or transit through their territories by designated individuals; and prevent the direct or indirect supply, sale and transfer 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, spare parts, and technical advice, assistance, or training related to military activities, to designated individuals, groups, undertakings and entities. The Council also decided that all Member States could make use of the provisions set out in paragraphs 1 and 2 of resolution 1452 (2002), as amended by resolution 1735 (2006) regarding available exemptions with regard to asset freeze measures, and encouraged their use by Member States. The Council further directed the Committee to remove expeditiously individuals and entities on a case-by-case basis that no longer met the listing criteria outlined in paragraph 2 of the resolution. The Council also decided, *inter alia*, in order to assist the Committee in fulfilling its mandate, that the 1267 Monitoring Team, established pursuant to paragraph 7 of resolution 1526 (2004), would also support the Committee for a period of thirty months with the mandate set forth in the annex of resolution 2082 (2012), and requested the Secretary-General to make any necessary arrangements to that effect.

(xii) *Guinea-Bissau*

By resolution 2048 (2012) of 18 May 2012, the Security Council, acting under Article 41 of Chapter VII of the Charter of the United Nations, decided, *inter alia*, that all Member

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<sup>130</sup> Report of the Security Council Committee established pursuant to resolution 1988 (2011) (S/2012/970, annex).

States should take the necessary measures to prevent the entry into or transit through their territories of individuals listed in the annex of the resolution or designated by the Committee established pursuant to paragraph 9 of the same resolution. Exemptions on grounds of, *inter alia*, humanitarian need, judicial process, and furthering peace and stability were provided for.<sup>131</sup>

The Council also established a new Sanctions Committee consisting of all the members of the Council to, *inter alia*, monitor the implementation of the measures imposed by resolution 2048 (2012), designate the individuals subject to the measures and consider requests for exemptions. On 31 December 2012, the Committee transmitted a report to the Security Council containing an account of its activities undertaken from 18 May to 31 December 2012.<sup>132</sup>

### (g) Terrorism

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

The third biennial review of the United Nations Global Counter-Terrorism Strategy took place on 28 and 29 June 2012. On 29 June 2012, the General Assembly adopted, without a vote, resolution 66/282 entitled “The United Nations Global Counter-Terrorism Strategy Review”, in which it, *inter alia*, reaffirmed the United Nations Global Counter-Terrorism Strategy<sup>133</sup> and its four pillars, and called upon Member States, the United Nations and other appropriate international, regional and subregional organizations to step up their efforts to implement the Strategy in an integrated and balanced manner and in all its aspects. The Assembly also took note of the report of the Secretary-General on this item<sup>134</sup> as well as of measures that Member States and relevant international, regional and subregional organizations had adopted within the framework of the Strategy, as presented in the report of the Secretary-General and at the third biennial review of the Strategy, all of which strengthened cooperation to fight terrorism, including through the exchange of best practices.

The Assembly called upon States that had not done so to consider becoming parties in a timely manner to the existing international conventions and protocols against terrorism, and upon all States to make every effort to conclude a comprehensive convention on international terrorism and recalled the commitments of Member States with regard to the implementation of General Assembly and Security Council resolutions relating to international terrorism.

<sup>131</sup> For more information on the situation in Guinea-Bissau, see the special report of the Secretary-General on the situation in Guinea-Bissau (S/2012/280) and the report of the Secretary-General on the restoration of constitutional order in Guinea-Bissau (S/2012/704).

<sup>132</sup> Report of the Security Council Committee established pursuant to resolution 2048 (2012) concerning Guinea-Bissau (S/2012/975, annex).

<sup>133</sup> General Assembly resolution 60/288 of 8 September 2006.

<sup>134</sup> United Nations Global Counter-Terrorism Strategy: activities of the United Nations system in implementing the Strategy (A/66/762).

(ii) *United Nations High-Level Meeting on Countering Nuclear Terrorism, with a Specific Focus on Strengthening the Legal Framework*

The United Nations High-Level Meeting on Countering Nuclear Terrorism with a Specific Focus on Strengthening the Legal Framework was held on 28 September 2012 at the United Nations Headquarters in New York.<sup>135</sup> The High-Level Meeting had two objectives: to strengthen the legal framework to prevent nuclear terrorism; and to enhance capacity-building to assist States in ensuring the effective implementation of their international obligations. Participants emphasized, *inter alia*, the importance of increasing the number of States parties to the instruments that comprise the multilateral counter-terrorism legal framework, in particular the International Convention for the Suppression of Acts of Nuclear Terrorism, 2005<sup>136</sup> and the Convention on the Physical Protection of Nuclear Material, 1979.<sup>137</sup>

(iii) *Security Council*

By presidential statement of 19 April 2012,<sup>138</sup> the Security Council recognized the importance of the 2012 and 2010 Nuclear Security Summits, the respective Summit Communiqués and the 2010 Nuclear Security Summit Work Plan. It welcomed the commitments made by Summit participants to take national actions, as appropriate, to increase nuclear security domestically and to work through bilateral and multilateral mechanisms, in particular the International Atomic Energy Agency (IAEA), to improve nuclear security and encourages all States to take national actions to this end.<sup>139</sup> The Council called upon all States parties to the Convention on the Physical Protection of Nuclear Material to ratify the Amendment<sup>140</sup> to the Convention as soon as possible and encouraged them to act in accordance with the objectives and purposes of the Amendment until such time it entered into force. It also encouraged all States that had not yet done so to adhere to the Convention and adopt its Amendment as soon as possible. The Council further encouraged all States that had not yet done so to become party to the International Convention for the Suppression of Acts of Nuclear Terrorism and encouraged discussions among States parties to consider measures to effectively implement the Convention.

By presidential statement of 4 May 2012,<sup>141</sup> the Security Council, *inter alia*, reaffirmed that Member States must ensure that any measures taken to combat terrorism comply with all their obligations under international law, in particular international human rights, refugee and humanitarian law. It underscored that effective counter-terrorism measures and respect for human rights, fundamental freedoms and the rule of law are complementary

<sup>135</sup> For more information, see the webpage of the Counter-Terrorism Implementation Task Force at <http://www.un.org/en/terrorism/ctitf/hlm-nuclear.shtml>.

<sup>136</sup> United Nations, *Treaty Series*, vol. 2445, p. 89.

<sup>137</sup> *Ibid.*, vol. 1456, p. 101.

<sup>138</sup> S/PRST/2012/14.

<sup>139</sup> For more information, see Communiqué of the 2012 Seoul Nuclear Security Summit (S/2012/274, annex).

<sup>140</sup> For the text of the Amendment, see GOV/INF/2005/10-GC(49)/INF/6.

<sup>141</sup> S/PRST/2012/17.



and mutually reinforcing, and are an essential part of a successful counter-terrorism effort, and noted the importance of respect for the rule of law so as to effectively prevent and combat terrorism. The Council stressed the importance of the continued implementation of the United Nations Global Counter-Terrorism Strategy in an integrated manner and in all its aspects. It also emphasized that sanctions are an important tool under the Charter in the international fight against terrorism, and underlined the importance of prompt and effective implementation of relevant sanctions measures. In this context, the Council reiterated its continued commitment to fair and clear procedures and welcomed the recent improvements to the procedures of the Committee established pursuant to resolution 1267 (1999) and 1989 (2011), in particular regarding the effective and valuable work of the Office of the Ombudsperson established pursuant to resolution 1904 (2009).

(iv) *General Assembly*

On 3 December 2012, the General Assembly adopted resolution 67/44 entitled “Measures to prevent terrorists from acquiring weapons of mass destruction” without a vote, upon the recommendation of the First Committee. The Assembly called upon all Member States to support international efforts to prevent terrorists from acquiring weapons of mass destruction and their means of delivery. 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 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.

(v) *Security Council counter-terrorism and non-proliferation committees*

a. **Security Council Committee pursuant to resolutions 1267 (1999) and 1989 (2011) concerning Al-Qaida and associated individuals and entities**

The 1267 Committee was first established by Security Council resolution 1267 (1999) of 15 October 1999 and set forth a sanctions regime concerning the Taliban. The regime was modified and strengthened by subsequent resolutions, including resolutions 1333 (2000), 1390 (2002), 1455 (2003), 1526 (2004), 1617 (2005), 1735 (2006), 1822 (2008), 1904 (2009) and 1989 (2011) so that the sanctions measures would be applicable to designated individuals and entities associated with Al-Qaida, wherever located.<sup>142</sup>

In its resolution 2071 (2012) of 12 October 2012,<sup>143</sup> the Security Council, while acting under Chapter VII of the Charter of the United Nations, decided that the Committee should take decisions on requests of Member States to add to the Al-Qaida sanctions list names of individuals, groups, undertakings, and entities in Mali that were associated with Al-Qaida, in accordance with resolutions 1267 (1999) and 1989 (2011).

<sup>142</sup> Pursuant to resolution 1988 (2011), the Taliban, and other individuals, groups, undertakings and entities associated with them, as previously included in Section A and Section B of the Consolidated List established pursuant to resolutions 1267 (1999) and 1333 (2000) would no longer be part of the Consolidated List but be covered by a separate sanctions regime.

<sup>143</sup> See also, with regard to Security Council resolution 2071 (2012), subsection (e)(i) above.



By resolution 2083 (2012) of 17 December 2012, the Security Council, also acting under Chapter VII of the Charter, decided, *inter alia*, that all States should take the measures relating to the assets freeze, travel ban and arms embargo as previously imposed by paragraph 8 (c) of resolution 1333 (2000), paragraphs 1 and 2 of resolution 1390 (2002), and paragraphs 1 and 4 of resolution 1989 (2011), with respect to Al-Qaida and other individuals, groups, undertakings and entities associated with them. The Council also encouraged Member States to make use of the provisions regarding available exemptions to the assets freeze provided for in paragraph 1 (a), on grounds relating to necessary basic or extraordinary expenses as set out in paragraphs 1 and 2 of resolution 1452 (2002), as amended by resolution 1735 (2006). It further authorized the Focal Point mechanism established in resolution 1730 (2006) to receive exemption requests submitted by, or on behalf of, an individual, group, undertaking or entity on the Al-Qaida Sanctions List for the Committee's consideration.

In the same resolution, the Council decided to extend the mandate of the Office of the Ombudsperson, established by resolution 1904 (2009) for a period of thirty months from the date of adoption of the resolution. In order to assist the Committee in fulfilling its mandate, as well as to support the Ombudsperson, the Council also decided to extend the mandate of the current New York-based Monitoring Team and its members, established pursuant to paragraph 7 of resolution 1526 (2004), for a further period of thirty months.<sup>144</sup>

The Committee established pursuant to resolutions 1267 (1999) and 1989 (2011) transmitted a report to the Security Council containing an account of its activities from 1 January to 31 December 2012.<sup>145</sup>

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

The Counter-Terrorism Committee (CTC) was established pursuant to Security Council resolution 1373 (2001) of 28 September 2001, in the wake of the 11 September terrorist attacks in the United States of America, to bolster the ability of United Nations Member States to prevent terrorist acts both within their borders and across regions.<sup>146</sup>

The CTC Executive Directorate submitted a report on the activities and achievements of the CTC and the Executive Directorate from 2011 to 2012, including recommendations for future activities.<sup>147</sup>

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

On 28 April 2004, the Security Council adopted resolution 1540 (2004) by which it decided that all States would 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

<sup>144</sup> Security Council resolution 2083 (2012), annexes I and II.

<sup>145</sup> S/2012/930, annex.

<sup>146</sup> See also Security Council resolution 1624 (2005) of 14 September 2005.

<sup>147</sup> S/2012/465, annex.

Committee was subsequently extended by resolutions 1673 (2006), 1810 (2008) and 1977 (2011) of 20 April 2011 until 25 April 2021.

By resolution 2055 (2012) of 29 June 2012, the Council requested the Secretary-General to increase the size of the Group of Experts established by resolution 1977 (2011) to assist the 1540 Committee in carrying out its mandate from eight to nine experts.

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

### *(i) Children and armed conflict*

In resolution 2068 (2012) of 19 September 2012, 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 on schools and/or hospitals as well as denial of humanitarian access by parties to armed conflict and demanded that all relevant parties immediately put an end to such practices and take special measures to protect children. It expressed deep concern that certain perpetrators persisted in committing violations and abuses against children in situations of armed conflict in open disregard of its resolutions on the matter, and in that regard, called upon Member States concerned to bring to justice those responsible for such violations and reiterated its readiness to adopt targeted and graduated measures against persistent perpetrators, taking into account relevant provisions of its resolutions 1539 (2004), 1612 (2005), 1882 (2009) and 1998 (2011). The Council requested the Secretary-General to submit a report by June 2013 on the implementation of its resolutions and presidential statements on children and armed conflict, including the present resolution.<sup>148</sup>

The Security Council Working Group on Children and Armed Conflict was established pursuant to Security Council resolution 1612 (2005) of 26 July 2005. Consisting of the 15 Security Council members, the Working Group reviews reports on children in armed conflict in specific country-situations, progress made in the implementation of action plans to end violations against children, and other relevant information. In 2012, it issued four conclusions on Sudan,<sup>149</sup> South Sudan,<sup>150</sup> Sri Lanka<sup>151</sup> and Colombia<sup>152</sup> respectively.

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<sup>148</sup> For the 2012 report of the Secretary-General on this topic covering the period from January to December 2011, see A/66/782-S/2012/261. For the report of the Special Representative of the Secretary-General for Children and Armed Conflict to the General Assembly, see A/67/256.

<sup>149</sup> S/AC.51/2012/1.

<sup>150</sup> S/AC.51/2012/2.

<sup>151</sup> S/AC.51/2012/3.

<sup>152</sup> S/AC.51/2012/4.

(ii) *Women and peace and security*<sup>153</sup>

On 23 February 2012, the President of the Security Council issued a statement in connection with consideration of the item “Women and peace and security”.<sup>154</sup> The Security Council, *inter alia*, thanked the Secretary-General for his report entitled “Conflict-Related Sexual Violence”<sup>155</sup> and urged all parties to conflict to comply fully with their obligations under applicable international law, including the prohibition of all forms of sexual violence. The Council reiterated that the fight against impunity for the most serious crimes of international concern committed against women and girls had been strengthened through the work of the International Criminal Court, ad hoc and mixed tribunals, as well as specialized chambers in national tribunals. The Council further reiterated its intention to enhance its efforts to fight impunity and uphold accountability for serious crimes against women and girls with appropriate means.

Through a presidential statement of 31 October 2012,<sup>156</sup> the Council, *inter alia*, urged all parties to fully comply with their obligations under the Convention on the Elimination of All Forms of Discrimination Against Women, 1979,<sup>157</sup> and the Optional Protocol thereto, 1999,<sup>158</sup> and strongly encouraged States that had not ratified or acceded to the Convention and Optional Protocol thereto to consider doing so. The Council also took note of the report of the Secretary-General on Women and Peace and Security<sup>159</sup> for the purpose of implementation of resolution 1325 (2000). The Security Council reiterated its strong condemnation of all violations of applicable international law committed against women and girls in armed conflict and post-conflict situations and urged the complete cessation by all parties of such acts with immediate effect. It also urged Member States to bring to justice those responsible for crimes of this nature.

(i) *Piracy*

On 21 November 2012, the Security Council adopted resolution 2077 (2012) whereby it welcomed the report of the Secretary-General submitted pursuant to Security Council resolution 2020 (2011)<sup>160</sup> on the implementation of that resolution and on the situation with respect to piracy and armed robbery at sea off the coast of Somalia. It noted the several requests from Somali authorities for international assistance to counter piracy off its coast, including the letter of 5 November 2012, from the Permanent Representative of Somalia to the United Nations requesting that the provisions of resolution 1897 (2009) be renewed for an additional twelve months. Acting under Chapter VII of the Charter of the United Nations, the Council requested the Somali authorities, with assistance from the

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<sup>153</sup> For more information on the legal activities of the United Nations as it relates to women, see section 6 of the present chapter.

<sup>154</sup> S/PRST/2012/3.

<sup>155</sup> S/2012/33.

<sup>156</sup> S/PRST/2012/23.

<sup>157</sup> United Nations, *Treaty Series*, vol. 1249, p. 13.

<sup>158</sup> *Ibid.*, vol. 2131, p. 83.

<sup>159</sup> S/2012/732.

<sup>160</sup> S/2012/783.

Secretary-General and relevant United Nations entities, to pass a complete set of counter-piracy laws without further delay, and to declare an Exclusive Economic Zone in accordance with the United Nations Convention on the Law of the Sea, 1982.<sup>161</sup> In addition, the Council decided to renew for a further period of twelve months the authorizations granted<sup>162</sup> to States and regional organizations cooperating with Somali authorities in the fight against piracy and armed robbery at sea off the coast of Somalia, for which advance notification has been provided by Somali authorities to the Secretary-General, to:

(a) enter into the territorial waters of Somalia for the purpose of repressing acts of piracy and armed robbery at sea, in a manner consistent with such action permitted on the high seas with respect to piracy under relevant international law; and

(b) use, within the territorial waters of Somalia, in a manner consistent with such action permitted on the high seas with respect to piracy under relevant international law, all necessary means to repress acts of piracy and armed robbery at sea.

It further affirmed that the authorizations renewed in the resolution applied only with respect to the situation in Somalia and should not affect the rights or obligations or responsibilities of Member States under international law, including any rights or obligations, under the United Nations Convention on the Law of the Sea, with respect to any other situation, and underscored in particular that this resolution should not be considered as establishing customary international law.

The Council reiterated its decision to continue its consideration, as a matter of urgency, of the establishment of specialized anti-piracy courts in Somalia and other States in the region with substantial international participation and/or support, as set forth in resolution 2015 (2011), and the importance of such courts having jurisdiction over not only suspects captured at sea, but also anyone who incites or intentionally facilitates piracy operations, including key figures of criminal networks involved in piracy who illicitly plan, organize, facilitate, or finance and profit from such attacks. The Council further urged States parties to the United Nations Convention on the Law of the Sea and to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988,<sup>163</sup> to implement fully their relevant obligations under these Conventions and customary international law.<sup>164</sup>

### (j) Transnational organized crime

On 21 February 2012, the President of the Security Council issued a statement in connection with the item “Peace and Security in Africa”, with focus on the impact of transnational organized crime on peace, security and stability in West Africa and the Sahel Region.<sup>165</sup> The Security Council, *inter alia*, called on States that had not yet ratified

<sup>161</sup> United Nations, *Treaty Series*, vol. 1833, p. 3.

<sup>162</sup> As set out in Security Council resolutions 1846 (2008), 1851 (2008), and renewed in resolutions 1897 (2009), 1950 (2010) and 2020 (2011).

<sup>163</sup> United Nations, *Treaty Series*, vol. 1678, p. 221.

<sup>164</sup> See also with regard to piracy, statement by the President of the Security Council of 19 November 2012 (S/PRST/2012/24).

<sup>165</sup> S/PRST/2012/2.

or implemented the relevant international conventions to do so. The Council reaffirmed its commitment to international law and the Charter of the United Nations and to an international order based on the rule of law and international law. In this regard, the Security Council stressed the importance of implementing relevant international agreements, and of strengthening international, regional and transregional cooperation, including capacity building in justice and security institutions in order to investigate and prosecute, as appropriate, persons and entities responsible for these crimes.

On 25 April 2012, the President of the Security Council issued a statement in connection with the item entitled “Threats to international peace and security”,<sup>166</sup> in which the Council, *inter alia*, acknowledged that distinct strategies were required to address threats posed by illicit cross-border trafficking and movement. It nevertheless observed that illicit cross-border trafficking and movement are often facilitated by organized criminal groups and networks and further noted that such activities could be addressed by improving Member States’ abilities to secure their borders. The Council called on Member States to fully comply with relevant obligations under applicable international law, including human rights and international refugee and humanitarian law, relating to securing their borders against illicit cross-border trafficking and movement, including obligations stemming from relevant resolutions of the Security Council adopted under Chapter VII of the United Nations Charter.

### 3. Disarmament and related matters<sup>167</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.

The Commission held its organizational session for 2012 in New York on 19 January 2012.<sup>168</sup> The Commission then met in New York from 2 to 20 April 2012 and held 10 plenary meetings.<sup>169</sup> At its meeting on 5 April 2012, the Commission adopted the agenda which included the items “Recommendations for achieving the objective of nuclear disarmament and non-proliferation of nuclear weapons” and “Practical confidence-building measures in the field of conventional weapons”.

From 3 to 5 April, the Disarmament Commission held a general exchange of views on all agenda items.<sup>170</sup> Working Groups I and II held seven meetings, from 9 to 18 April

<sup>166</sup> S/PRST/2012/16.

<sup>167</sup> For more information about disarmament and related matters, see *The United Nations Disarmament Yearbook*, vol. 37, 2012 (United Nations publication, Sales No. E.13.IX.1). Also available at <http://www.un.org/disarmament>.

<sup>168</sup> See A/CN.10/PV.318.

<sup>169</sup> See A/CN.10/PV.319–328.

<sup>170</sup> See A/CN.10/PV.321–323 and 325.

2012, to discuss the agenda items entitled “Recommendations for achieving the objective of nuclear disarmament and non-proliferation of nuclear weapons” and “Practical confidence-building measures in the field of conventional weapons”, respectively.

The Commission had before it the annual report of the Conference on Disarmament for 2011,<sup>171</sup> together with all the official records of the sixty-sixth session of the General Assembly relating to disarmament matters, as well as working papers relating to the substantive questions on its agenda.<sup>172</sup>

On 20 April 2012, the Commission adopted, by consensus, the reports of its subsidiary bodies and the conclusions contained therein. There were no recommendations put forward by the Commission. On the same day, the Commission adopted, as a whole, its report to be submitted to the sixty-seventh session of the General Assembly.<sup>173</sup>

### (ii) *Conference on Disarmament*<sup>174</sup>

The Conference on Disarmament met from 23 January to 30 March, 14 May to 29 June and 30 July to 14 September 2012, during which it held thirty plenary meetings. On 24 January 2012, the Conference adopted its agenda for the 2012 session,<sup>175</sup> which included, *inter alia*, the items “Cessation of the nuclear arms race and nuclear disarmament”, “Prevention of nuclear war, including all related matters”, “Prevention of an arms race in outer space”, “Effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons”, “New types of weapons of mass destruction and new systems of such weapons; radiological weapons”, “Comprehensive programme of disarmament” and “Transparency in armaments”. Throughout the 2012 session successive presidents of the Conference conducted intensive consultations with a view to reaching consensus on a programme of work on the basis of relevant proposals but no consensus was reached on a programme of work for the 2012 session. On 22 May 2012, the President of the Conference, Ambassador Minelik Alemu Getahun (Ethiopia), presented a schedule of activities which foresaw discussions on all agenda items. This schedule was followed by the Conference for the remainder of the 2012 session.<sup>176</sup> On 13 September 2012, the Conference adopted its annual report and transmitted it to the General Assembly for its consideration.<sup>177</sup>

<sup>171</sup> *Official Records of the General Assembly, Sixty-sixth Session, Supplement No. 27 (A/66/27)*.

<sup>172</sup> *Ibid*, Sixty-seventh Session, Supplement No. 42 (A/67/42), chapter III. B.

<sup>173</sup> *Ibid*.

<sup>174</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>175</sup> CD/1928.

<sup>176</sup> CD/WP.571/Rev.1.

<sup>177</sup> *Official Records of the General Assembly, Sixty-seventh Session, Supplement No. 27 (A/67/27)*.

(iii) *General Assembly*

On 3 December 2012, the General Assembly adopted, on the recommendation of the First Committee, three resolutions and two decisions<sup>178</sup> concerning institutional activities related to the disarmament machinery, one of which is highlighted below.

By resolution 67/72 entitled “Report of the Conference on Disarmament”, the General Assembly, *inter alia*, reaffirmed the role of the Conference on Disarmament as the sole multilateral disarmament negotiating forum of the international community. The Assembly called upon the Conference on Disarmament to further intensify consultations and explore possibilities for overcoming its ongoing deadlock by adopting and implementing a balanced and comprehensive programme of work at the earliest possible date during its 2013 session. In this regard, it welcomed the decision of the Conference on Disarmament to request the current President and the incoming President to conduct consultations during the intersessional period. It 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 its substantive work, including negotiations, in its 2013 session. The Assembly also recognized the importance of continuing consultations on the question of the expansion of the membership of the Conference on Disarmament.

(iv) *Security Council*<sup>179</sup>

By presidential statement of 19 April 2012, the Security Council reaffirmed that proliferation of weapons of mass destruction, and their means of delivery, constitutes a threat to international peace and security. It also reaffirmed its support for the multilateral treaties whose aim is to eliminate or prevent the proliferation of nuclear, chemical or biological weapons and the importance for all States parties to these treaties to implement them fully in order to promote international stability. The Council further endorsed the work carried out by the Committee established pursuant to resolution 1540 (2004), and, in that regard, recalled resolution 1977 (2011) which extended the mandate of the 1540 Committee for ten years.

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

On 27 April 2012, the First Preparatory Meeting for the Third Conference of States Parties and Signatories that establish Nuclear-Weapon-Free Zones and Mongolia was held in Vienna. The Preparatory Meeting established that the Third Conference would take place in Vienna in 2015.

<sup>178</sup> General Assembly resolutions 67/68 entitled “United Nations disarmament fellowship, training and advisory services”; 67/71 entitled “Report of the Disarmament Commission”; 67/72 entitled “Report of the Conference on Disarmament”; and decisions 67/518 entitled “Open-ended Working Group on the Fourth Special Session of the General Assembly Devoted to Disarmament” and 67/519 entitled “Revitalizing the work of the Conference on Disarmament and taking forward multilateral disarmament negotiations”.

<sup>179</sup> For further details on Security Council resolutions, see section 2 of the present chapter.



The Preparatory Committee for the 2015 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, 1968<sup>180</sup> (NPT), held its first session from 30 April to 11 May 2012 in Vienna, with the participation of 111 States parties to the NPT. This meeting was the first of three sessions that will be held prior to the 2015 Review Conference. The Preparatory Committee held 15 meetings at which it addressed substantive and procedural issues related to the NPT and the upcoming Review Conference in 2015.<sup>181</sup> In particular, the Committee considered the principles, objectives and ways to promote the full implementation of the NPT, as well as its universality, including specific matters of substance related to its implementation.

The International Atomic Energy Agency (IAEA) held its 56th General Conference of member States from 17 to 21 September 2012 in Vienna. The Conference adopted 16 resolutions and two decisions<sup>182</sup> relating to the work of IAEA in key areas, including on measures to strengthen the Agency's activities related to nuclear science, technology and applications; international cooperation in nuclear, radiation, transport and waste safety; nuclear security; and the application of IAEA safeguards in the Middle East.

On 27 September 2012, the Sixth Ministerial Meeting of the Comprehensive Nuclear-Test-Ban Treaty, 1996<sup>183</sup> (CTBT) took place. Foreign ministers and other high-level representatives met at the United Nations Headquarters in New York to issue a joint call for the entry into force of the CTBT. In their joint ministerial statement, the foreign ministers called upon all States that had not done so to sign and ratify the Treaty.<sup>184</sup>

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<sup>180</sup> United Nations, *Treaty Series*, vol. 729, p 161.

<sup>181</sup> Report of the Preparatory Committee for the 2015 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons on its first session (NPT/CONF.2015/PC.I/14).

<sup>182</sup> General Conference resolutions GC(56)/RES/1-16 and decisions GC(56)/DEC/9 and 10.

<sup>183</sup> A/50/1027.

<sup>184</sup> A/67/515, annex.

(i) *General Assembly*

On 3 December 2012, the General Assembly adopted, upon the recommendation of the First Committee, 20 resolutions and one decision concerning nuclear weapons and non-proliferation issues,<sup>185</sup> six of which are described below.

In resolution 67/39 entitled “High-level meeting of the General Assembly on nuclear disarmament, adopted by a recorded vote of 179 in favour to none against, with 4 abstentions, the General Assembly, *inter alia*, emphasized the importance of seeking a safer world for all and achieving peace and security in a world without nuclear weapons. In this context, it decided to convene a high-level meeting of the General Assembly on nuclear disarmament that would be held as a one-day plenary meeting on 26 September 2013, to contribute to achieving the goal of nuclear disarmament.

By resolution 67/42 entitled “The Hague Code of Conduct against Ballistic Missile Proliferation”, adopted, by a recorded vote of 162 in favour to 1 against, with 20 abstentions, the General Assembly recognized that 2012 marked a decade since the creation of the Code of Conduct<sup>186</sup> and welcomed the advancement of the universalization process of the Code of Conduct.

In resolution 67/53 entitled “Treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices”, adopted by a recorded vote of 166 in favour to 1, with 21 abstentions, the General Assembly, *inter alia*, urged the Conference on Disarmament to include in its programme of work the immediate commencement of negotiations on a treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices on the basis of document CD/1299 and the mandate contained therein. It requested the Secretary-General to seek the views of Member States on such a treaty and to submit a report on the subject to the Assembly at its sixty-eighth session. The Assembly also requested the Secretary-General to establish a group of governmental experts with a membership of twenty-five States chosen on the basis of equitable geographical representation, which, taking into account the report containing the views of

<sup>185</sup> General Assembly resolutions 67/26 entitled “African Nuclear-Weapon-Free Zone Treaty”; 67/28 entitled “Establishment of a nuclear-weapon-free zone in the region of the Middle East”; 67/29 entitled “Conclusion of effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons”; 67/31 entitled “Treaty on a Nuclear-Weapon-Free Zone in Central Asia”; 67/33 entitled “Follow-up to the advisory opinion of the International Court of Justice on the Legality of the Threat or Use of Nuclear Weapons”; 67/34 entitled “Towards a nuclear-weapon-free world: accelerating the implementation of nuclear disarmament commitments”; 67/39 entitled “High-level meeting of the General Assembly on nuclear disarmament”; 67/42 entitled “The Hague Code of Conduct against Ballistic Missile Proliferation”; 67/45 entitled “Reducing nuclear danger”; 67/46 entitled “Decreasing the operational readiness of nuclear weapons systems”; 67/51 entitled “Preventing the acquisition by terrorists of radioactive sources”; 67/52 entitled “Mongolia’s international security and nuclear-weapon-free status”; 67/53 entitled “Treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices”; 67/55 entitled “Nuclear-weapon-free southern hemisphere and adjacent areas”; 67/56 entitled “Taking forward multilateral nuclear disarmament negotiations”; 67/59 entitled “United action towards the total elimination of nuclear weapons”; 67/60 entitled “Nuclear disarmament”; 67/64 entitled “Convention on the prohibition of the Use of Nuclear Weapons”; 67/73 entitled “The risk of nuclear proliferation in the Middle East”; 67/76 entitled “Comprehensive Nuclear-Test-Ban Treaty”; and decision 67/516 entitled “Missiles”. See also General Assembly resolution 67/3 entitled “Report of the International Atomic Energy Agency”, adopted on 5 November 2012.

<sup>186</sup> A/57/724, enclosure.

Member States, would make recommendations on possible aspects that could contribute to but not negotiate a treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices, which would operate on the basis of consensus, without prejudice to national positions in future negotiations and which would meet in Geneva for two sessions of two weeks in 2014 and in 2015. The Assembly called upon the Secretary-General to transmit the report of the group of governmental experts to the General Assembly at its seventieth session and to the Conference on Disarmament.

In resolution 67/59 entitled “United action towards the total elimination of nuclear weapons”, adopted by 174 votes in favour to 1 against, with 13 abstentions, the General Assembly, *inter alia*, reaffirmed the importance of all States parties to the Treaty complying with their obligations under all the articles of the Treaty. It also reaffirmed the vital importance of the universality of the Treaty and called upon all States not parties to the Treaty to accede as non-nuclear-weapon States to the Treaty promptly and without any conditions and, pending their accession, to adhere to its terms and take practical steps in support of the Treaty.

In resolution 67/64 entitled “Convention on the prohibition of the Use of Nuclear Weapons”, adopted by a recorded vote of 129 in favour to 49 against, with 10 abstentions, the General Assembly, *inter alia*, reiterated its request to the Conference on Disarmament to commence negotiations in order to reach agreement on an international convention prohibiting the use or threat of use of nuclear weapons under any circumstances.

In resolution 67/76 entitled “Comprehensive Nuclear-Test-Ban Treaty”, adopted by a recorded vote of 184 in favour to 1 against, with 3 abstentions, the General Assembly, *inter alia*, welcomed the Joint Ministerial Statement on the Comprehensive Nuclear-Test-Ban Treaty of 27 September 2012.<sup>187</sup> It stressed the vital importance and urgency of signature and ratification, without delay and without conditions, in order to achieve the earliest entry into force of the Comprehensive Nuclear-Test-Ban Treaty, 1996. The Assembly further urged all States not to carry out nuclear-weapon test explosions or any other nuclear explosions, to maintain their moratoriums in this regard and to refrain from acts that would defeat the object and purpose of the Treaty, while stressing that these measures do not have the same permanent and legally binding effect as the entry into force of the Treaty.

#### (ii) *Security Council*<sup>188</sup>

By resolution 2049 (2012) of 7 June 2012, the Security Council, acting under Article 41 of Chapter VII of the Charter of the United Nations, decided, *inter alia*, to extend until 9 July 2013 the mandate of the Panel of Experts, which had been created by the Secretary-General pursuant to paragraph 29 resolution 1929 (2010), to assist in the monitoring of the relevant sanctions measures imposed on the Islamic Republic of Iran.

By resolution 2050 (2012) of 12 June 2012, the Security Council, also acting under Article 41 of Chapter VII of the Charter of the United Nations, decided, *inter alia*, to extend until 12 July 2013 the mandate of the Panel of Experts, which had been created by the Secretary-General pursuant to paragraph 26 of resolution 1874 (2009) to assist in

<sup>187</sup> A/67/515, annex.

<sup>188</sup> For further details on Security Council resolutions, see section 2 of the present chapter.

the monitoring of the relevant sanctions measures imposed on the Democratic People's Republic of Korea.

### (c) Biological and chemical weapons issues

In accordance with the final document of the Seventh 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>189</sup> (Biological Weapons Convention<sup>190</sup>), the Meeting of Experts and the Meeting of States Parties were held in Geneva from 16 to 20 July 2012 and from 10 to 14 December 2012, respectively. The Seventh Review Conference had decided that the following topics should be standing agenda items, which would be addressed by both the Meeting of Experts and the Meeting of States Parties every year from 2012 to 2015: (a) Cooperation and assistance, with a particular focus on strengthening cooperation and assistance under article X; (b) Review of developments in the field of science and technology related to the Convention; and (c) Strengthening national implementation. The Conference had also decided that the item "How to enable fuller participation in the confidence-building measures" would be considered in 2012 and 2013.<sup>191</sup>

Pursuant to the decision of the Seventh Review Conference, the Meeting of Experts held two sessions devoted to each of the standing agenda items and two sessions devoted to the biennial item on how to enable fuller participation in the confidence-building measures. At its closing meeting on 20 July 2012, the Meeting of Experts adopted its report by consensus.<sup>192</sup>

Also pursuant to the decision of the Seventh Review Conference, the Meeting of States Parties considered the work of the Meeting of Experts on the three standing agenda items, the biennial item of how to enable fuller participation in the confidence-building measures, the annual item on progress with universalization of the Convention,<sup>193</sup> and the annual report of the Implementation Support Unit.<sup>194</sup> At its closing meeting on 14 December 2012, the Meeting of States Parties considered arrangements for the Meeting of Experts and the Meeting of States Parties in 2013 and adopted its report by consensus.<sup>195</sup>

With regard to chemical weapons, the seventeenth 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, 1992 (Chemical Weapons Convention<sup>196</sup>) was held in The Hague, from 26 to 29 November 2012. The issues considered included, *inter alia*, the status of implementation of the Chemical Weapons Convention, fostering of international cooperation for peaceful purposes in the field of

<sup>189</sup> BWC/CONF.VII/7.

<sup>190</sup> United Nations, *Treaty Series*, vol. 1015, p. 163.

<sup>191</sup> BWC/CONF.VII/7, chapter III.

<sup>192</sup> BWC/MSP/2012/MX/3 and Corr.1.

<sup>193</sup> BWC/MSP/2012/3 and Add.1

<sup>194</sup> BWC/MSP/2012/2 and Add.1.

<sup>195</sup> BWC/MSP/2012/5.

<sup>196</sup> United Nations, *Treaty Series*, vol. 1974, p. 45.

chemical activities, and ensuring the universality of the Convention. On 29 November, the Conference considered and adopted the report of its seventeenth session.<sup>197</sup>

### *General Assembly*

On 3 December 2012, the General Assembly adopted, three resolutions relating to biological and chemical weapons, upon the recommendation of the First Committee, which are described below.

By resolution 67/35 entitled “Measures to uphold the authority of the 1925 Geneva Protocol”, adopted by a recorded vote of 181 in favour to none, with 4 abstentions, the General Assembly renewed its previous call<sup>198</sup> to all States to observe strictly the principles and objectives of the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, 1925,<sup>199</sup> (1925 Geneva Protocol) and called upon those States that continued to maintain reservations to the 1925 Geneva Protocol to withdraw them.

By resolution 67/54 entitled “Implementation of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction”, adopted without a vote, the General Assembly, *inter alia*, emphasized that the universality of the Chemical Weapons Convention was fundamental to the achievement of its objective and purpose, and called upon all States that had not yet done so to become parties to the Convention without delay. The Assembly 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. Furthermore, 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.

The General Assembly also adopted resolution 67/77 entitled “Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and Their Destruction”, without a vote, in which it noted with satisfaction the successful outcome of and the decisions on all provisions of the Convention reached at the Seventh Review Conference of the States Parties to the Convention, and called upon States parties to the Convention to participate and actively engage in their implementation. Furthermore, the Assembly noted with appreciation the work of the Implementation Support Unit and welcomed the decision of the Seventh Review Conference to renew its mandate and request the Unit to perform, in addition to the tasks mandated by the Sixth Review Conference, two tasks for the period from 2012 to 2016, in order to support, as appropriate, the implementation by the States parties of the decisions and recommendations of the Seventh Review Conference.

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<sup>197</sup> C-17/5.

<sup>198</sup> General Assembly resolution 65/51 of 8 December 2010.

<sup>199</sup> League of Nations, *Treaty Series*, vol. XCIV, p. 65.

### (d) Conventional weapons issues

In accordance with General Assembly resolution 64/48 of 23 December 2009 and Assembly decision 66/518, the Preparatory Committee of the United Nations Conference on the Arms Trade Treaty held its fourth session at the United Nations Headquarters in New York from 13 to 17 February 2012, to conclude its substantive work and consider all relevant procedural matters. On 17 February, the Preparatory Committee adopted its report, which included the Committee's decisions and recommendations concerning the Conference.<sup>200</sup>

The United Nations Conference on an Arms Trade Treaty was held from 2 to 27 July 2012 at the United Nations Headquarters in New York. On 9 July, the Conference approved its provisional programme of work for two weeks, from 9 to 20 July, by which it established two main committees to conduct negotiations on the elements of the treaty. The Conference also held informal meetings from 6 to 27 July 2012. At its 15th meeting, on 26 July, the President submitted, under his own responsibility and without prejudice to the position of any delegation, the text of a draft arms trade treaty.<sup>201</sup> On 27 July, the Conference adopted its report by consensus.<sup>202</sup>

In accordance with resolution 66/47 of 2 December 2011, the Preparatory Committee for the Second Conference to Review Progress Made in 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 (Programme of Action)<sup>203</sup> was convened from 19 to 23 March 2012. On 23 March, the Preparatory Committee adopted its report, which contained, *inter alia*, a number of decisions and recommendations concerning the Conference, including on background documentation, the provisional agenda and provisional rules of procedure.<sup>204</sup> Also pursuant to resolution 66/47, the Second Conference to Review Progress Made in the Implementation of the Programme of Action was held in New York from 27 August to 7 September 2012. On 7 September, the Conference adopted two outcome documents relating to the Programme of Action and the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons.<sup>205</sup>

Concerning cluster munitions, the Third Meeting of States Parties to the Convention on Cluster Munitions, 2008,<sup>206</sup> was held from 11 to 14 September 2012 in Oslo. The Meeting of States Parties considered, *inter alia*, issues relating to the clearance and destruction of cluster munitions remnants and risk reduction activities; stockpile reduction; victim assistance; international cooperation and assistance; transparency measures; national

<sup>200</sup> A/CONF.217/1.

<sup>201</sup> A/CONF.217/CRP.1.

<sup>202</sup> A/CONF.217/4.

<sup>203</sup> For more information about the Programme of Action, see the 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), chapter IV, para. 24.

<sup>204</sup> A/CONF.192/2012/RC/1, chapters V and VI.

<sup>205</sup> A/CONF.192/2012/RC/4, annexes I and II.

<sup>206</sup> United Nations, *Treaty Series*, registration No. 47713 (no volume number had been determined for this Convention at the time of this publication).

implementation measures and the universalization of the treaty. At the last plenary meeting, on 14 September 2012, the Meeting of States Parties decided to mandate its President to further negotiate, in consultation with the States parties, an agreement on the hosting of an implementation support unit, as well as its establishment and a funding model, and present these proposals to States parties for approval. In this context, it welcomed that the United Nations Development Programme Bureau for Crisis Prevention and Recovery would continue to provide the function as interim implementation support unit. The Meeting of States Parties further decided to convene an informal intersessional meeting in Geneva from 16 to 19 April 2013. At the same plenary meeting, the Meeting of States Parties adopted its final document.<sup>207</sup>

The Meeting of the High Contracting Parties to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, 1980<sup>208</sup> (Convention on Conventional Weapons) was held in Geneva on 15 and 16 November 2012. The Meeting considered, *inter alia*, the report of the open-ended meeting of experts that was convened in Geneva from 2 to 4 April 2012 to discuss further the implementation of international humanitarian law with regard to mines other than anti-personnel mines.<sup>209</sup> The Meeting also welcomed the report on promoting universality of the Convention and its Protocols,<sup>210</sup> the report of the Sponsorship Programme,<sup>211</sup> and reaffirmed its commitment to the Accelerated Plan of Action on Universalization.<sup>212</sup> The Meeting further emphasized the importance of achieving universal adherence to, and compliance with, the Convention, the amendment to its article 1, and its protocols. On 16 November, the Meeting adopted its final report.<sup>213</sup>

With regard to the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices, as amended on 3 May 1996 (Amended Protocol II)<sup>214</sup> annexed to the Convention on Conventional Weapons, the Fourteenth Annual Conference was held on 14 November 2012 in Geneva. The Conference held two plenary meetings<sup>215</sup> and considered the work of the Group of Experts of the High Contracting Parties to Amended Protocol II who met in Geneva on 23 and 24 April 2012 to, *inter alia*, review the operation and status of the Protocol, consider matters arising from reports by High Contracting Parties according to article 13, paragraph 4, of Amended Protocol II, as well as the development of technologies to protect civilians against indiscriminate effects of mines. The Conference, *inter alia*, took note of the reports on the operation and status of the Protocol and on improvised explosive devices. At its second plenary meeting, 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>216</sup>

<sup>207</sup> CCM/MSP/2012/5.

<sup>208</sup> United Nations, *Treaty Series*, vol. 1342, p. 137.

<sup>209</sup> CCW/MSP/2012/4.

<sup>210</sup> CCW/MSP/2012/6.

<sup>211</sup> CCW/MSP/2012/7 and Add.1.

<sup>212</sup> See document CCW/CONF.IV/4/Add.1.

<sup>213</sup> CCW/MSP/2012/9.

<sup>214</sup> United Nations, *Treaty Series*, vol. 2048, p. 93.

<sup>215</sup> For the report, see CCW/AP.II/CONF.14/6.

<sup>216</sup> *Ibid.*, annex I.



The 2012 Meeting of Experts relating to the Protocol on Explosive Remnants of War [“ERW”] (Protocol V)<sup>217</sup> was held from 25 to 27 April 2012, in Geneva. The main focus of the Meeting of Experts was on the following issues: national reporting, clearance, removal or destruction of ERW; victim assistance; cooperation and assistance; and generic preventive measures. The Sixth Conference of the High Contracting Parties of the Protocol was held in Geneva on 12 and 13 November 2012, to consider, *inter alia*, the work of the Meeting of Experts. At its fourth plenary meeting, the Conference adopted its final document.<sup>218</sup>

The Twelfth Meeting of the States Parties to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction, 1997 (Mine-Ban Convention)<sup>219</sup> was held in Geneva from 3 to 7 December 2012. The Meeting considered the Geneva Progress Report on achieving the aims of the Cartagena Action Plan<sup>220</sup> and the reports presented by the President of the Eleventh Meeting of the States Parties concerning issues pertaining to extensions to article 5 deadlines.<sup>221</sup> It also evaluated the activities of the implementation support unit<sup>222</sup> and considered the general status and operation of the Mine-Ban Convention. At its final plenary session, on 7 December 2012, the Meeting adopted its report.<sup>223</sup>

### *General Assembly*

On 3 December 2012, the General Assembly adopted, on the recommendation of the First Committee, five resolutions and one decision dealing with conventional arms issues,<sup>224</sup> two of which are highlighted below.

By resolution 67/58 entitled “The illicit trade in small arms and light weapons in all its aspects”, adopted without a vote, the General Assembly, *inter alia*, took note of the report of the Secretary-General<sup>225</sup> on this item and endorsed the outcome of the Second United Nations Conference to Review Progress Made in 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.<sup>226</sup> It decided to convene a one-week biennial meeting of

<sup>217</sup> United Nations, *Treaty Series*, vol. 2399, p. 100.

<sup>218</sup> CCW/PV/CONF/2012/10.

<sup>219</sup> United Nations, *Treaty Series*, vol. 2056, p. 211.

<sup>220</sup> APLC/MSP.12/2012/WP.3, 4, 8 and 10.

<sup>221</sup> APLC/MSP.12/2012/4 and APLC/MSP.12/2012/6.

<sup>222</sup> APLC/MSP.12.2012/8 and Corr.1.

<sup>223</sup> APLC/MSP.12/2012/10.

<sup>224</sup> General Assembly resolutions 67/32 entitled “Implementation of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction”; 67/41 entitled “Assistance to States for curbing the illicit traffic in small arms and light weapons and collecting them”; 67/49 entitled “Information on confidence-building measures in the field of conventional arms”; 67/58 entitled “The illicit trade in small arms and light weapons in all its aspects”; 67/74 entitled “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”; and decision 67/517 entitled “Transparency in armaments”.

<sup>225</sup> A/67/176.

<sup>226</sup> A/CONF.192/2012/RC/4, annexes I and II.

States, in New York in 2014 and 2016, and a one-week open-ended meeting of governmental experts in 2015, to consider the full and effective implementation of the Programme of Action. The Assembly also decided, in accordance with the decision of the Second Review Conference, to hold the Third United Nations Conference to Review Progress Made in the Implementation of the Programme of Action in 2018 for a period of two weeks, preceded by a one-week preparatory committee meeting early in 2018.

In resolution 67/74 entitled “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”, adopted without a vote, the Assembly called upon all States that had not yet done so to take all measures to become parties, as soon as possible, to the Convention, 1980,<sup>227</sup> and the Protocols thereto.<sup>228</sup> The Assembly further called upon all States parties to the Convention that had not yet done so to express their consent to be bound by the Protocols to the Convention and the Amendment<sup>229</sup> extending the scope of the Convention and the Protocols thereto to include armed conflicts of a non-international character. The Assembly noted that the implementation of international humanitarian law with regard to mines other than anti-personnel mines was discussed further at an open-ended Meeting of Experts in April 2012, on the basis of a decision by the Fourth Review Conference of the High Contracting Parties to the Convention. It welcomed the commitment by States parties to continue to contribute to the further development of international humanitarian law and in this context to keep under review both the development of new weapons and uses of weapons, which may have indiscriminate effects or cause unnecessary suffering.

On 24 December 2012, also on the recommendation of the First Committee, the Assembly adopted, with a recorded vote of 133 in favour to none, with 17 abstentions, resolution 67/ 234 entitled “The arms trade treaty”. By resolution 67/234, the Assembly expressed disappointment that the Conference was unable to conclude its work to elaborate a legally binding instrument on the highest possible common international standards for the international transfer of conventional arms. It noted the report of the United Nations Conference on the Arms Trade Treaty<sup>230</sup> and decided to convene in New York, from 18 to 28 March 2013, the Final United Nations Conference on the Arms Trade Treaty in order to finalize the elaboration of the arms trade treaty, in an open and transparent manner, utilizing the modalities, applied *mutatis mutandis*, under which the United Nations Conference on the Arms Trade Treaty operated. It also decided that the draft text of the arms trade treaty submitted by the President of the Conference on 26 July 2012<sup>231</sup> should be the basis for future work on the treaty, without prejudice to the right of delegations to put forward additional proposals on that text.

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<sup>227</sup> United Nations, *Treaty Series*, vol. 1342, p. 137.

<sup>228</sup> *Ibid.*, vol. 2024, p. 163, vol. 2048, p. 93, vol. 2399, p. 100.

<sup>229</sup> *Ibid.*, vol. 2260, p. 82.

<sup>230</sup> A/CONF.217/4.

<sup>231</sup> A/CONF.217/CRP.1.

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

### (i) Africa

In 2012, the United Nations Regional Centre for Peace and Disarmament in Africa (UNREC) continued to implement its mandate through various activities in support of disarmament initiatives in the African region. Its programmes included: regulating small arms brokering in East Africa; developing a regional legal instrument to curb the proliferation of small arms and light weapons in Central Africa; the harmonization of legislation on small arms; and the African Security Sector Reform Programme.

In partnership with the African Union and the International Action Network on Small Arms (IANSA), UNREC co-organized a two-day consultation in Addis Ababa, from 21 to 22 May 2012, for all African States to further discuss the Arms Trade Treaty in advance of the July negotiations in New York.<sup>232</sup>

The United Nations Regional Office for Central Africa (UNOCA), as a new secretariat of the United Nations Standing Advisory Committee for Security Questions in Central Africa (UNSAC), organized the thirty-fourth and thirty fifth ministerial meetings of UNSAC.<sup>233</sup> During the thirty-fourth ministerial meeting, which was held from 14 to 18 May 2012 in Bujumbura, the participants, *inter alia*, reviewed the implementation of General Assembly resolution 65/69 on women, disarmament, non-proliferation and arms control.<sup>234</sup> During the thirty-fifth ministerial meeting, held in Brazzaville from 3 to 7 December 2012, the participants discussed, *inter alia*, the status of ratification of the Central African Convention for the Control of Small Arms and Light Weapons (Kinshasa Convention)<sup>235</sup> and other issues relating to peace and security.<sup>236</sup>

### (ii) Asia and the Pacific

In 2012, the United Nations Regional Centre for Peace and Disarmament in Asia and the Pacific (UNRCPD) focused its activities on promoting the implementation of global disarmament and non-proliferation instruments; enhancing regional dialogue and confidence-building in the areas of disarmament, non-proliferation and regional security; and outreach and advocacy.<sup>237</sup>

The Regional Centre contributed substantively to a regional meeting of the United Nations Office for Disarmament Affairs on the implementation of the Programme of

<sup>232</sup> For more information see, report of the Secretary-General: United Nations Regional Centre for Peace and Disarmament in Africa (A/67/117).

<sup>233</sup> For more information see, report of the Secretary-General entitled "Regional confidence-building measures: activities of the United Nations Standing Advisory Committee on Security Questions in Central Africa" (A/67/359).

<sup>234</sup> See report of the United Nations Standing Advisory Committee on Security Questions in Central Africa, (A/67/309-S/2012/630, annex).

<sup>235</sup> See chapter XXVI.7 of *Multilateral Treaties Deposited with the Secretary-General*, available on the website <http://treaties.un.org/Pages/ParticipationStatus.aspx>.

<sup>236</sup> At the time of publication, the report from this meeting was forthcoming.

<sup>237</sup> For more information, see report of the Secretary-General on the United Nations Regional Centre for Peace and Disarmament in Asia and the Pacific (A/67/112).

Action in Asian countries, held in Bali, Indonesia, on 5 and 6 March 2012 and coordinated several workshops and other seminars across the continent.

On 3 and 4 December 2012, the Centre held the Eleventh Annual United Nations-Republic of Korea Joint Conference on Disarmament and Non-proliferation Issues, hosted by the Republic of Korea, to address the theme “Disarmament and Non-proliferation in Asia and Beyond: Conventional weapons and missiles”.<sup>238</sup>

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

In 2012, the United Nations Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean (UN-LiREC) focused its activities on supporting States in combating the illicit trafficking in small arms and light weapons, ammunition and explosives, which pose serious threats to public security in the region. UN-LiREC provided, upon request, capacity-building assistance, training, legal support, technical assistance and outreach and advocacy functions to ensure the national implementation of global and regional instruments in the areas of disarmament, arms control and non-proliferation.

In addition, the Centre contributed to strengthening transparency and confidence-building by promoting the participation of States of the region in relevant United Nations instruments, such as the United Nations Register on Conventional Arms and the United Nations Report on Military Expenditures. The Regional Centre also promoted the implementation of various disarmament and non-proliferation instruments related to weapons of mass destruction, including Security Council resolution 1540 (2004).<sup>239</sup>

### (iv) *General Assembly*

On 3 December 2012, the General Assembly adopted, on the recommendation of the First Committee, nine resolutions and one decision dealing with regional disarmament,<sup>240</sup> three of which are highlighted below.

In resolution 67/62 entitled “Conventional arms control at the regional and subregional levels”, adopted by a recorded vote of 185 votes in favour to 1 against, with 2 absten-

<sup>238</sup> For more information, see <http://www.unrcpd.org/np/activities/conferences/> (accessed on 31 December 2012).

<sup>239</sup> For more information, see report of the Secretary-General on the United Nations Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean (A/67/132).

<sup>240</sup> General Assembly resolutions 67/57 entitled “Regional disarmament”; 67/61 entitled “Confidence-building measures in the regional and subregional context”; 67/62 entitled “Conventional arms control at the regional and subregional levels”; 67/63 entitled “United Nations regional centres for peace and disarmament”; 67/65 entitled “United Nations Regional Centre for Peace and Disarmament in Asia and the Pacific”; 67/66 entitled “United Nations Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean”; 67/69 entitled “United Nations Regional Centre for Peace and Disarmament in Africa”; 67/70 entitled “Regional confidence-building measures: activities of the United Nations Standing Advisory Committee on Security Questions in Central Africa”; 67/75 entitled “Strengthening of security and cooperation in the Mediterranean region”; and decision 67/514 entitled “Maintenance of international security—good-neighbourliness, stability and development in South-Eastern Europe”.

tions, the General Assembly decided to give urgent consideration to the issues involved in conventional arms control at the regional and subregional levels, and 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 67/69 entitled “United Nations Regional Centre for Peace and Disarmament in Africa”, adopted without a vote, the Assembly, *inter alia*, welcomed the contribution of UNREC to continental disarmament, peace and security, in particular its assistance to the African Union Commission in the elaboration of the African Union Strategy on the Control of Illicit Proliferation, Circulation and Trafficking of Small Arms and Light Weapons and the ongoing process of seeking an African common position on the proposed arms trade treaty, and to the African Commission on Nuclear Energy in its implementation of the African Nuclear-Weapon-Free Zone Treaty (Treaty of Pelindaba).<sup>241</sup> The Assembly further noted with appreciation the tangible achievements of UNREC at the regional level, including its assistance to Central African States in their elaboration of the Kinshasa Convention, to Central and West African States in the elaboration of their respective common positions on an arms trade treaty, to West Africa on security sector reform initiatives, and to East Africa on programmes to control brokering of small arms and light weapons.

By resolution 67/75 entitled “Strengthening of security and cooperation in the Mediterranean region”, adopted without a vote, the General Assembly, *inter alia*, expressed concern at the persistent tension and continuing military activities in parts of the Mediterranean that hindered efforts to strengthen security and cooperation in the region and called upon all States of the Mediterranean region that had not yet done so to adhere to all the multilaterally negotiated legal instruments related to the field of disarmament and non-proliferation.

#### (f) Outer space (disarmament aspects)

The Group of Governmental Experts on Transparency and Confidence-building Measures in Outer Space Activities, established pursuant to General Assembly resolution 65/68, held its first session in New York from 23 to 27 July 2012. The Group of Governmental Experts reviewed the proposals submitted by Governments in recent years for possible transparency and confidence-building measures in outer space, broadly covering measures related to rules of conduct, measures aimed at expanding the transparency of outer space activities, measures aimed at expanding transparency of space programmes, and mechanisms aimed at resolving concerns.<sup>242</sup>

On 5 June and 31 July 2012, the Conference on Disarmament held two plenary meetings on the item entitled “Prevention of an arms race in outer space”.<sup>243</sup> The participants considered, *inter alia*, the work of the Group of Governmental Experts,<sup>244</sup> a working paper entitled “Syrian Arab Republic on behalf of member States of G-21. Working paper. Pre-

<sup>241</sup> See A/50/426, annex.

<sup>242</sup> Note on the first session of the Group of Governmental Experts on Transparency and Confidence-Building Measures in Outer Space Activities, document A/CONF.220/1.

<sup>243</sup> CD/PV.1260 and CD/PV.1265.

<sup>244</sup> A/CONF.220/1.

vention of an arms race in outer space”,<sup>245</sup> the 2008 draft treaty proposed by Russia and China on Prevention of the Placement of Weapons in Outer Space and the Threat or Use of Force against Outer Space Objects,<sup>246</sup> and the draft International Code of Conduct for Outer Space Activities introduced by the European Union.<sup>247</sup>

### *General Assembly*

On 3 December 2012, the General Assembly adopted resolution 67/30 entitled “Prevention of an arms race in outer space”, on the recommendation of the First Committee, by a recorded vote of 183 in favour to none, with 2 abstentions. In resolution 67/30, the Assembly reaffirmed, *inter alia*, the importance and urgency of preventing an arms race in outer space and the readiness of all States to contribute to that common objective, in conformity with the provisions of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, 1966.<sup>248</sup> The Assembly further reaffirmed its recognition, as stated in the report of the Ad Hoc Committee on the Prevention of an Arms Race in Outer Space, that the legal regime applicable to outer space by itself did not 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 was a need to consolidate and reinforce that regime and enhance its effectiveness and that it was important to comply strictly with existing agreements, both bilateral and multilateral. It invited the Conference on Disarmament to establish a working group under the agenda item “Prevention of an arms race in outer space” as early as possible during its 2013 session.

On 18 December 2012, the General Assembly adopted resolution 67/113 entitled “International cooperation in the peaceful uses of outer space”, without a vote, on the recommendation of the Fourth Committee, in which the Assembly, *inter alia*, urged all States, in particular those with major space capabilities, to contribute actively to the goal of preventing an arms race in outer space as an essential condition for the promotion of international cooperation in the exploration and use of outer space for peaceful purposes.

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<sup>245</sup> CD/1941 and Corr.1.

<sup>246</sup> CD/1839.

<sup>247</sup> European Union, revised draft International Code of conduct for Outer Space Activities, 5 June 2012. Available from: <http://www.consilium.europa.eu/media/> (accessed on 31 December 2012).

<sup>248</sup> United Nations, *Treaty Series*, vol. 610, p. 205.

(g) Other disarmament measures and international security

*General Assembly*

On 3 December 2012, the General Assembly adopted, upon the recommendation of the First Committee, 11 resolutions and one decision concerning other disarmament measures and international security,<sup>249</sup> three of which are described below.

By resolution 67/27 entitled “Developments in the field of information and telecommunications in the context of international security”, adopted without a vote, the General Assembly called upon Member States to promote further at multilateral levels the consideration of existing and potential threats in the field of information security, as well as possible strategies to address the threats emerging in this field, consistent with the need to preserve the free flow of information. The Assembly welcomed the effective work of the Group of Governmental Experts on Developments in the Field of Information and Telecommunications in the Context of International Security and the relevant report transmitted by the Secretary-General on the matter<sup>250</sup> and authorized the Group to continue its study.

In its resolution 67/37 entitled “Observance of environmental norms in the drafting and implementation of agreements on disarmament and arms control” adopted without a vote, 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. The Assembly also took note of the report of the Secretary-General on the subject.<sup>251</sup>

By resolution 67/38 entitled “Promotion of multilateralism in the area of disarmament and non-proliferation”, adopted by a recorded vote of 132 in favour to 5 against, with 50 abstentions, the Assembly reaffirmed, *inter alia*, that multilateralism was the core principle in negotiations in the area of disarmament and non-proliferation, as well as in resolving disarmament and non-proliferation concerns. It urged the participation of all interested

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<sup>249</sup> General Assembly resolutions 67/27 entitled “Developments in the field of information and telecommunications in the context of international security”; 67/36 entitled “Effects of the use of armaments and ammunitions containing depleted uranium”; 67/37 entitled “Observance of environmental norms in the drafting and implementation of agreements on disarmament and arms control”; 67/38 entitled “Promotion of multilateralism in the area of disarmament and non-proliferation”; 67/40 entitled “Relationship between disarmament and development”; 67/43 entitled “Preventing and combating illicit brokering activities”; 67/44 entitled “Measure to prevent terrorists from acquiring weapons of mass destruction”; 67/47 entitled “United Nations study on disarmament and non-proliferation education”; 67/48 entitled “Women, disarmament, non-proliferation and arms control”; 67/50 entitled “Consolidation of peace through practical disarmament measures”; 67/67 entitled “United Nations Disarmament Information Programme”; and decision 67/515 entitled “Role of science and technology in the context of international security and disarmament”

<sup>250</sup> A/65/201.

<sup>251</sup> A/67/130 and Add.1.



States in multilateral negotiations on arms regulation, non-proliferation and disarmament in a non-discriminatory and transparent manner.

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

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

The Legal Subcommittee on the Peaceful Uses of Outer Space held its fifty-first session at the United Nations Office in Vienna from 19 to 30 March 2012.<sup>252</sup>

Under the agenda item “Status and application of the five United Nations treaties on outer space”, the Subcommittee, *inter alia*, reconvened its Working Group on the Status and Application of the Five United Nations Treaties on Outer Space<sup>253</sup> and provided a revised status of the five United Nations treaties on outer space.<sup>254</sup> The Legal Subcommittee endorsed the recommendation that the mandate of the Working Group be extended for one additional year. It was agreed that the Subcommittee, at its fifty-second session, in 2013, would review the need to extend the mandate of the Working Group beyond that period.

Regarding matters related to the definition and delimitation of outer space and the character and utilization of 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>255</sup> which was endorsed by the Subcommittee. The Subcommittee agreed to reconvene the Working Group on Matters Relating to the Definition and Delimitation of Outer Space at its fifty-second session.

With regard to the agenda item entitled “Review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space”,<sup>256</sup> the Subcommittee, *inter alia*, noted with satisfaction that the adoption of the Safety Framework for Nuclear Power Source Applications in Outer Space<sup>257</sup> by the Scientific and Technical Subcommittee at its forty-sixth session and the endorsement of the Safety Framework by the Committee on the Peaceful Uses of Outer Space at its fifty-second session, in 2009, constituted an important step in the efforts of progressive development of international space law and significantly advanced international cooperation in ensuring the safe use of nuclear power sources in outer space.

<sup>252</sup> For the report of the Legal Subcommittee, see A/AC.105/1003.

<sup>253</sup> See report of the Chair of the Working Group on the Status and Application of the Five United Nations Treaties on Outer Space (A/AC.105/1003, annex I).

<sup>254</sup> Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, United Nations, *Treaty Series*, vol. 610, p. 205; Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space, *Ibid.*, vol. 672, p. 119; Convention on International Liability for Damage Caused by Space Objects, *Ibid.*, vol. 961, p. 187; Convention on Registration of Objects Launched into Outer Space *Ibid.*, vol. 1023, p. 15; and Agreement Governing the Activities of States on the Moon and Other Celestial Bodies, *Ibid.*, vol. 1363, p. 3.

<sup>255</sup> A/AC.105/1003, annex II.

<sup>256</sup> General Assembly resolution 47/68 of 14 December 1992.

<sup>257</sup> A/AC.105/934.

Concerning the agenda item entitled “Examination and review of the developments concerning the draft protocol on matters specific to space assets to the Convention on International Interests in Mobile Equipment”,<sup>258</sup> the Subcommittee was informed by the observer for the International Institute for the Unification of Private Law (UNIDROIT) that the diplomatic Conference for the adoption of the draft Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Space Assets, held in Berlin from 27 February to 9 March 2012, had adopted and opened for signature on 9 March the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Space Assets.

Under the agenda item entitled “Capacity-building in space law”, the Subcommittee agreed that capacity-building, training and education in space law were of paramount importance to national, regional and international efforts to further develop the practical aspects of space science and technology and to increase knowledge of the legal framework within which space activities were carried out. It was emphasized that the Subcommittee had an important role to play in that regard. The Subcommittee also noted with appreciation that a number of national, regional and international efforts to build capacity in space law were being undertaken by governmental and non-governmental entities.

Under the agenda item “General exchange of information on national mechanisms relating to space debris mitigation measures”, the Subcommittee, *inter alia*, noted with satisfaction that some States were implementing space debris mitigation measures consistent with the Space Debris Mitigation Guidelines of the Committee (2007) and/or with the Inter-Agency Space Debris Coordination Committee (IADC) Space Debris Mitigation Guidelines and that other States had developed their own space debris mitigation standards based on those guidelines. The Subcommittee also noted that some States were using the IADC Space Debris Mitigation Guidelines, the European Code of Conduct for Space Debris Mitigation and International Organization for Standardization (ISO) standard 24113 (Space systems: space debris mitigation requirements) as references in their regulatory frameworks established for national space activities. It also urged States and organizations to continue to implement the Space Debris Mitigation Guidelines of the Committee and to study the experience of States that had already established national mechanisms governing space debris mitigation.

Regarding the agenda item entitled “General exchange of information on national legislation relevant to the peaceful exploration and use of outer space”, the Subcommittee reconvened its Working Group on National Legislation Relevant to the Peaceful Exploration and Use of Outer Space. The Subcommittee endorsed the final report of the Working Group on the work conducted under its multi-year workplan, containing a set of conclusions relating to national regulatory frameworks for space activities,<sup>259</sup> as well as the report of the Chair of the Working Group, containing, in an appendix, a text prepared on the basis of those conclusions, entitled “Recommendations on national legislation relevant to the peaceful exploration and use of outer space.”<sup>260</sup> The Subcommittee further recommended that the Committee on the Peaceful Uses of Outer Space consider the said appen-

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<sup>258</sup> United Nations, *Treaty Series*, vol. 2307, p. 285.

<sup>259</sup> A/AC.105/C.2/101.

<sup>260</sup> A/AC.105/1003, annex III.

dix at its fifty-fifth session and that it decide in which form the text should be submitted to the General Assembly, as recommended by the Working Group.

Concerning future work, the Subcommittee agreed to include “National legislation relevant to the peaceful exploration and use of outer space” as a new regular item on its agenda and “Review of the international mechanisms for cooperation in the peaceful exploration and use of outer space” as an item under a five-year workplan. It was agreed that a working group should be established to consider the latter item from 2014 to 2017.

The Committee on the Peaceful Uses of Outer Space held its fifty-fifth session in Vienna from 6 to 15 June 2012. The Committee took note of the Legal Subcommittee’s report and endorsed its recommendations contained therein.<sup>261</sup>

### **(b) General Assembly**

On 18 December 2012, the General Assembly adopted, on the recommendation of the Fourth Committee, resolution 67/113 entitled “International cooperation in the peaceful uses of outer space”, without a vote, in which it endorsed the report of the Committee on the Peaceful Uses of Outer Space. It, *inter alia*, agreed that the Legal Subcommittee, at its fifty-second session, should consider the substantive items and reconvene the working groups recommended by the Committee, taking into account the concerns of all countries, in particular those of developing countries. Furthermore, the Assembly, urged States that had not yet become parties to the international treaties governing the uses of outer space to give consideration to ratifying or acceding to those treaties in accordance with their domestic law, as well as incorporating them in their national legislation. It also endorsed the decision of the Committee to grant permanent observer status to the Ibero-American Institute of Aeronautic and Space Law and Commercial Aviation and the Scientific Committee on Solar-Terrestrial Physics.

On the same date, the General Assembly also adopted, on the recommendation of the Fourth Committee, without a vote, decision 67/528 entitled “Increase in the membership of the Committee on the Peaceful Uses of Outer Space” in which it appointed Armenia, Costa Rica and Jordan as members of the Committee on the Peaceful Uses of Outer Space.

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<sup>261</sup> For the report of the Committee on the Peaceful use of Outer Space, see *Official records of the General Assembly, Sixty-seventh Session, Supplement No. 20 (A/67/20)*.

## 5. Human rights<sup>262</sup>

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

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

The Human Rights Council, established in 2006,<sup>263</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 Member States, including the members of the Council, over a cycle of four years through the universal periodic review.<sup>264</sup> The Council also assumed the thirty-eight country and thematic special procedures existing under its predecessor, the Commission on Human Rights, while reviewing the mandate and criteria for the establishment of these special procedures.<sup>265</sup> Moreover, based on the previous "1503 procedure", the 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>266</sup>

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<sup>262</sup> This section covers the resolutions adopted, if any, by the Security Council, the General Assembly and the Economic and Social Council. It 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, the Committee on the Elimination of Discrimination Against Women, the Committee Against Torture, the 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>.

<sup>263</sup> General Assembly resolution 60/251 of 15 March 2006. For further details on its establishment, see the *United Nations Juridical Yearbook 2006*, chapter III, section 5.

<sup>264</sup> The first universal periodic review cycle covered the period 2008–2011. The second universal periodic review cycle commenced in 2012 and will run through 2016. For a list of States included and calendar of review sessions, see the section Universal Periodic Review at the homepage of the Human Rights Council at <http://www.ohchr.org/>.

<sup>265</sup> Human Rights Council decision 1/102 of 30 June 2006.

<sup>266</sup> More detailed information on the mandate, work and methods of the Human Rights Council is available at the homepage of the Human Rights Council at <http://www.ohchr.org/>.

In 2012, the Human Rights Council held its nineteenth, twentieth and twenty-first regular sessions<sup>267</sup> and one special session on “The deteriorating situation of human rights in the Syrian Arab Republic, and the recent killings in El-Houleh”.<sup>268</sup>

(ii) *Human Rights Council Advisory Committee*

The Human Rights Council Advisory Committee was established pursuant to Human Rights Council resolution 5/1 of 18 June 2007.<sup>269</sup> 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 its eighth session from 20 to 24 February 2012 and its ninth session from 6 to 10 August 2012 in Geneva.<sup>270</sup>

(iii) *Human Rights Committee*

The Human Rights Committee was established under the International Covenant on Civil and Political Rights, 1966<sup>271</sup> to monitor the implementation of the Covenant and its Optional Protocols<sup>272</sup> in the territory of States parties. The Committee held its 104th session in New York from 12 to 30 March 2012, and its 105th and 106th sessions in Geneva from 9 to 27 July 2012 and from 15 October to 2 November 2012, respectively.<sup>273</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>274</sup> to monitor the implementation of the International Covenant on Economic, Social and Cultural Rights, 1966<sup>275</sup> by its State parties. The Committee held

<sup>267</sup> For the reports of the nineteenth and twentieth sessions, see *Official Records of the General Assembly, Sixty-seventh Session, Supplement No. 53 (A/67/53)*. For the report of the twenty-first session, see *ibid.*, Supplement No. 53A (A/67/53/Add.1).

<sup>268</sup> For the report of the nineteenth special session, see *Official Records of the General Assembly, Sixty-seventh Session, Supplement No. 53 (A/67/53)*.

<sup>269</sup> The Human Rights Council Advisory Committee replaced the Sub-Commission for the Promotion and Protection of Human Rights as the main subsidiary body of the Human Rights Council.

<sup>270</sup> For the reports of the Advisory Committee on its eighth and ninth sessions, see A/HRC/AC/8/8 and A/HRC/AC/9/6, respectively.

<sup>271</sup> United Nations, *Treaty Series*, vol. 999, p. 171.

<sup>272</sup> Optional Protocol to the International Covenant on Civil and Political Rights, *ibid.*; and Second Optional Protocol to the International Covenant on Civil and Political Rights, *ibid.*, vol. 1642, p. 414.

<sup>273</sup> For the report of the 104th session, see *Official Records of the General Assembly, Sixty-seventh Session, Supplement No. 40 (A/67/40)*, vols. I and II. At the time of publication, the reports of the 105th and 106th sessions were forthcoming.

<sup>274</sup> Economic and Social Council resolution 1985/17 of 28 May 1985.

<sup>275</sup> United Nations, *Treaty Series*, vol. 993, p. 3.

its forty-eighth and forty-ninth sessions in Geneva from 30 April to 18 May and from 12 to 30 November 2012, respectively.<sup>276</sup>

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

The Committee on the Elimination of Racial Discrimination was established under the International Convention on the Elimination of All Forms of Racial Discrimination, 1966<sup>277</sup> to monitor the implementation of this Convention by its States parties. The Committee held its eightieth and eighty-first sessions in Geneva from 13 February to 9 March and from 6 to 31 August 2012, respectively.<sup>278</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, 1979<sup>279</sup> to monitor the implementation of this Convention by its States parties. The Committee held its fifty-first session in Geneva from 13 February to 2 March 2012, its fifty-second session in New York from 9 to 27 July 2012, and its fifty-third session in Geneva from 1 to 19 October 2012.<sup>280</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, 1984<sup>281</sup> to monitor the implementation of the Convention by its States parties. In 2012, the Committee held its forty-eighth and forty-ninth sessions from 7 May to 1 June and from 29 October to 23 November, respectively, in Geneva.<sup>282</sup> In 2012, the Committee adopted general comment no. 3 on the implementation of article 14 (redress for victims of torture) by States parties.<sup>283</sup> The Subcommittee on Prevention of Torture, established in October 2006 under

<sup>276</sup> For the reports of the forty-eighth and forty-ninth sessions, see *Official Records of the Economic and Social Council, 2013, Supplement No. 2 (E/2013/22)*.

<sup>277</sup> United Nations, *Treaty Series*, vol. 660, p. 195.

<sup>278</sup> For the report of the eightieth session, see *Official Records of the General Assembly, Sixty-seventh Session, Supplement No. 18 (A/67/18)*. At the time of publication, the report of the eighty-first session was forthcoming.

<sup>279</sup> United Nations, *Treaty Series*, vol. 1249, p. 13.

<sup>280</sup> For the report of the fifty-first session, see *Official Records of the General Assembly, Sixty-seventh Session, Supplement No. 38 (A/67/38)*. At the time of publication, the reports of the fifty-second and fifty-third sessions were forthcoming. See also Results of the fifty-first, fifty-second and fifty-third sessions of the Committee on the Elimination of Discrimination against Women: Note by the Secretariat (E/Cn.6/2013/CRP.1).

<sup>281</sup> United Nations, *Treaty Series*, vol. 1465, p. 85.

<sup>282</sup> For the report of the forty-eighth session, see *Official Records of the General Assembly, Sixty-seventh Session, Supplement No. 44 (A/67/44)*. At the time of publication, the report of the forty-ninth session was forthcoming.

<sup>283</sup> CAT/C/GC/3.

the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,<sup>284</sup> held its sixteenth, seventeenth and eighteenth sessions from 20 to 24 February, from 18 to 22 June and from 12 to 16 November 2012, 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, 1989<sup>285</sup> to monitor the implementation of this Convention by its States parties. The Committee held its fifty-ninth, sixtieth and sixty-first sessions in Geneva, from 16 January to 3 February, from 29 May to 15 June, and from 17 September to 5 October 2012, respectively.<sup>286</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, 1990<sup>287</sup> to monitor the implementation of this Convention by its States parties in their territories. In 2012, the Committee held its sixteenth and seventeenth sessions in Geneva from 16 to 27 April and from 10 to 14 September, respectively.<sup>288</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, 2006<sup>289</sup> and its 2006 Optional Protocol<sup>290</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. The Committee held its seventh session from 16 to 20 April 2012, and its eighth session from 17 to 28 September 2012.<sup>291</sup>

<sup>284</sup> United Nations, *Treaty Series*, vol. 2375, p. 237.

<sup>285</sup> *Ibid.*, vol. 1577, p. 3.

<sup>286</sup> For the report of the fifty-ninth session, see *Official Records of the General Assembly, Sixty-seventh Session, Supplement No. 41 (A/67/41)*. The reports of the sixtieth and sixty-first sessions will be part of the next biennial report of the Committee to the General Assembly.

<sup>287</sup> United Nations, *Treaty Series*, vol. 2220, p. 3.

<sup>288</sup> For the report of the sixteenth session, see *Official Records of the General Assembly, Sixty-seventh Session, Supplement No. 48 (A/67/48)*. At the time of publication, the report of the seventeenth session was forthcoming.

<sup>289</sup> United Nations, *Treaty Series*, vol. 2515, p. 3.

<sup>290</sup> *Ibid.*, vol. 2518, p. 283.

<sup>291</sup> For the reports of the seventh and eighth sessions, see CRPD/C/7/2 and CRPD/C/8/2, respectively.



(xi) *Committee on Enforced Disappearances*

The Committee on Enforced Disappearances was established under the International Convention for the Protection of All Persons from Enforced Disappearance, 2006<sup>292</sup> to monitor the implementation of the Convention by its State parties. The Committee held its second and third sessions in Geneva from 26 to 30 March, and from 29 October to 9 November 2012, respectively.<sup>293</sup>

(b) **Racism, racial discrimination, xenophobia and all forms of discrimination**(i) *Human Rights Council*

The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mr. Mutuma Ruteere, submitted two reports to the Human Rights Council during 2012. The first report<sup>294</sup> focused on the prevention of racism, racial discrimination, xenophobia and related intolerance in line with the provisions of the Durban Declaration and Programme of Action. The second report was submitted<sup>295</sup> pursuant to General Assembly resolution 66/143 of 19 December 2011 entitled “Inadmissibility of certain practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance”, in which the Special Rapporteur was requested to report on the persistence and resurgence of neo-Nazism, neo-Fascism and violent nationalist ideologies based on racial and national prejudice, and in particular on the countering of extremist political parties, movements and groups.

On 23 March 2012, the Council adopted resolution 19/25, entitled “Combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against, persons based on religion or belief”, without a vote, in which the Council, *inter alia*, expressed deep concern at the continued serious instances of derogatory stereotyping, negative profiling and stigmatization of persons based on their religion or belief, as well as programmes and agendas pursued by extremist organizations and groups aimed at creating and perpetuating negative stereotypes about religious groups, in particular when condoned by Governments.

On 28 September 2012, the Council adopted resolution 21/33, entitled “From rhetoric to reality: a global call for concrete action against racism, racial discrimination, xenophobia and related intolerance”, by a vote of 37 in favour to 1 against, with 9 abstentions. In the resolution, the Council, *inter alia*, took note of the report of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action,<sup>296</sup> and decided that the Working Group should convene its eleventh session from 7 to 18 October 2013. The Council also took note of the report of the Working Group of

<sup>292</sup> General Assembly resolution 61/177 of 20 December 2006, annex.

<sup>293</sup> For the report of the second session, see *Official Records of the General Assembly, Sixty-seventh Session, Supplement No. 56 (A/67/56)*. At the time of publication, the report of the third session was forthcoming.

<sup>294</sup> A/HRC/20/33 and Add.2.

<sup>295</sup> A/HRC/20/38.

<sup>296</sup> A/HRC/19/77.

Experts on People of African Descent,<sup>297</sup> and welcomed the draft Programme of Action for the Decade for People of African Descent contained in an addendum thereto.<sup>298</sup>

(ii) *General Assembly*

The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mr. Mutuma Ruteere, submitted two reports to the General Assembly. In the first report,<sup>299</sup> the Special Rapporteur addressed the implementation of General Assembly resolution 66/143. The Special Rapporteur welcomed, *inter alia*, information provided regarding the ratification of a range of instruments, including the International Convention on the Elimination of All Forms of Racial Discrimination, 1966,<sup>300</sup> and its incorporation into the domestic order at the constitutional level. He also appreciated the recognition by some States of the competence of the Committee on the Elimination of Racial Discrimination to receive and consider individual communications. He urged those States that have not yet done so to ratify the Convention and to make the declaration under its article 14.

In his second report to the General Assembly,<sup>301</sup> submitted pursuant to General Assembly resolution 66/144 of 19 December 2011, 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,” the Special Rapporteur focused on key issues and challenges posed by the increasing use of the Internet to disseminate racist ideas and incite racial hatred and violence and on identifying possible measures that can be taken in line with the provisions of the Durban Declaration and Programme of Action.

The Secretary-General also submitted a report to the General Assembly pursuant to resolution 66/144, which summarized information and contributions received from various actors and Member States.<sup>302</sup> The Secretary-General concluded, *inter alia*, that ever-stronger political will and urgent measures were needed to reverse worrisome trends of increasingly hostile racist and xenophobic attitudes and violence and encouraged Member States that had not yet done so to develop and implement national action plans in order to combat racial discrimination and related intolerance. The report also encouraged international and regional organizations to intensify collaboration in fighting against racism, racial discrimination, xenophobia and related intolerance.

On 20 December 2012, the General Assembly adopted resolution 67/154 entitled “Glorification of Nazism: inadmissibility of certain practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance”, on the recommendation of the Third Committee, by a recorded vote of 129 in favour to 3 against, with 54 abstentions. The Assembly noted with concern the increase in the num-

<sup>297</sup> A/HRC/21/60.

<sup>298</sup> A/HRC/21/60/Add.2.

<sup>299</sup> A/67/328.

<sup>300</sup> United Nations, *Treaty Series*, vol. 660, p. 195.

<sup>301</sup> A/67/326.

<sup>302</sup> A/67/325.

ber of racist incidents worldwide, including the rise of skinhead groups, which have been responsible for many of these incidents, as well as the resurgence of racist and xenophobic violence targeting members of national, ethnic, religious or linguistic minorities. It reaffirmed that such acts may be qualified to fall within the scope of the International Convention on the Elimination of All Forms of Racial Discrimination, 1966, that they may not be justified as exercises of the rights to freedom of peaceful assembly and of association as well as the rights to freedom of opinion and expression, and that they may fall within the scope of article 20 of the International Covenant on Civil and Political Rights, 1966, and may legitimately be restricted as set out in articles 19, 21 and 22 of the Covenant.

On the same day, the General Assembly adopted resolution 67/155 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”, on the recommendation of the Third Committee, by a recorded vote of 138 in favour to 7 against, with 48 abstentions. The Assembly underlined, *inter alia*, the imperative need to address all the contemporary forms and manifestations of racial discrimination, taking into account the object and purpose of the provisions of article 20 of the International Covenant on Civil and Political Rights, 1966, article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination, 1966, and general recommendation XV (42) of the Committee on the Elimination of Racial Discrimination.<sup>303</sup>

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

#### (i) *Human Rights Council*<sup>304</sup>

The Special Rapporteur on extreme poverty and human rights, Ms. Magdalena Sepúlveda Carmona, submitted her report to the Human Rights Council.<sup>305</sup> The report set out the final draft of the guiding principles on extreme poverty and human rights and contains the foundational principles; implementation requirements; specific rights; obligations of international assistance and cooperation; the role of non-State actors, including business enterprises; implementation and monitoring; and interpretation of the principles.

On 23 March 2012, the Council adopted resolution 19/34 entitled “The right to development”, by a recorded vote of 46 in favour, with 1 abstention, in which it, *inter alia*, took note of the report of the Working Group on the Right to Development on its twelfth session.<sup>306</sup>

On 27 September 2012, the Council adopted resolution 21/11 entitled “Guiding principles on extreme poverty and human rights”, without a vote. The Council, *inter alia*, adopted the guiding principles on extreme poverty and human rights as a useful tool for

<sup>303</sup> *Official Records of the General Assembly, Forty-eighth Session, Supplement No. 18 (A/48/18)*, chap. VIII, sect. B.

<sup>304</sup> See also resolution 19/38 of 23 March 2012 entitled “The negative impact of the non-repatriation of funds of illicit origin to the countries of origin on the enjoyment of human rights, and the importance of improving international cooperation”.

<sup>305</sup> A/HRC/21/39.

<sup>306</sup> A/HRC/19/52 and Corr.1.

States in the formulation and implementation of poverty reduction and eradication policies, as appropriate.

(ii) *General Assembly*<sup>307</sup>

In accordance with Human Rights Council resolution 17/13 of 17 June 2011, the Secretary-General submitted the report of the Special Rapporteur on extreme poverty and human rights to the General Assembly.<sup>308</sup> The report analyzed the obstacles to access to justice for persons living in poverty and emphasized that improving such access required tackling a range of legal and extralegal obstacles present both within and outside of the formal justice system, including social, economic and structural obstacles.

The Secretary-General and the United Nations High Commissioner for Human Rights submitted a consolidated report to the General Assembly entitled “The right to development”,<sup>309</sup> summarising the activities undertaken by the Office of the United Nations High Commissioner for Human Rights (OHCHR) with regard to the promotion and realization of the right to development.

On 20 December 2012, the General Assembly adopted without a vote resolution 67/164 entitled “Human rights and extreme poverty”, on the recommendation of the Third Committee, in which it reaffirmed that the existence of widespread extreme poverty inhibits the full and effective enjoyment of human rights and renders democracy and popular participation fragile. It took note with appreciation of the guiding principles on extreme poverty and human rights, adopted by the Human Rights Council in its resolution 21/11 as a useful tool for States in the formulation and implementation of poverty reduction and eradication policies, as appropriate.

On the same day, the General Assembly adopted resolution 67/171 entitled “The right to development”, on the recommendation of the Third Committee, by a recorded vote of 154 in favour to 4 against, with 28 abstentions. The Assembly, *inter alia*, reaffirmed that the realization of the right to development is essential to the implementation of the Vienna Declaration and Programme of Action, which regards all human rights as universal, indivisible, interdependent and interrelated, places the human person at the centre of development and recognizes that, while development facilitates the enjoyment of all human rights, the lack of development may not be invoked to justify the abridgement of internationally recognized human rights. It further reaffirmed the primary responsibility of States to create national and international conditions favourable to the realization of the right to development, as well as their commitment to cooperate with each other to that end.

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<sup>307</sup> See also resolutions 67/40 entitled “Relationship between disarmament and development” and 67/141 entitled “Implementation of the outcome of the World Summit for Social Development and of the twenty-fourth special session of the General Assembly”.

<sup>308</sup> A/67/278.

<sup>309</sup> A/HRC/21/28.

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

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

##### General Assembly

On 18 December 2012, the General Assembly adopted resolution 67/134 entitled “Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples”, on the recommendation of the Fourth Committee, by a record vote of 175 in favour to 3 against, with 2 abstentions. The Assembly recalled, *inter alia*, its resolution 1514 (XV) of 14 December 1960, containing the Declaration on the Granting of Independence to Colonial Countries and Peoples, and all its subsequent resolutions concerning the implementation of the Declaration, as well as the relevant resolutions of the Security Council. The Assembly also bore in mind its resolution 65/119 of 10 December 2010, by which it declared the period 2011–2020 the Third International Decade for the Eradication of Colonialism. It further reaffirmed its determination to continue to take all steps necessary to bring about the complete and speedy eradication of colonialism and the faithful observance by all States of the relevant provisions of the Charter of the United Nations, the Declaration on the Granting of Independence to Colonial Countries and Peoples and the Universal Declaration of Human Rights.<sup>310</sup> The Assembly also requested the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples to formulate specific proposals to bring about an end to colonialism and to report thereon to the General Assembly at its sixty-eighth session.

On 20 December 2012, the General Assembly adopted without a vote resolution 67/157 entitled “Universal realization of the right of peoples to self-determination”, on the recommendation of the Third Committee. The General Assembly reaffirmed, *inter alia*, that the universal realization of the right of all peoples, including those under colonial, foreign and alien domination, to self-determination is a fundamental condition for the effective guarantee and observance of human rights and for the preservation and promotion of such rights. The Assembly also requested the Human Rights Council to continue to give special attention to violations of human rights, especially the right to self-determination, resulting from foreign military intervention, aggression or occupation.

#### (ii) *Mercenaries*

##### a. Human Right Council

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 submitted its report to the Human Rights Council,<sup>311</sup> in which it discussed the project to collect and analyse national legislation on private military and security companies. The Working Group also made recommendations for Member States, including encouraging them to continue to develop national legislation on private military and security companies, and noted that

<sup>310</sup> General Assembly resolution 217 A (III) of 10 December 1948.

<sup>311</sup> A/HRC/21/43.

national legislation should be complemented by a strong international regulatory framework. In this context, it recommended that Member States consider the possibility of developing a binding international instrument on this topic. The Working Group further recommended that Member States ensure accountability for human rights violations involving private military and security companies, and provide victims of human rights violations with an effective remedy.

On 27 September 2012, the Human Rights Council adopted resolution 21/8 entitled “The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination”, by a recorded vote of 34 in favour to 12 against, with 1 abstention. The Council reaffirmed, *inter alia*, that the use of mercenaries and their recruitment, financing, protection and training are causes for grave concern to all States and violate the purposes and principles enshrined in the Charter of the United Nations. The Council also urged all States to take the necessary steps and to exercise the utmost vigilance against the threat posed by the activities of mercenaries, and to take legislative measures to ensure that their territories and other territories under their control, as well as their nationals, are not used for the recruitment, assembly, financing, training, protection and transit of mercenaries for the planning of activities designed to impede the right to self-determination, to overthrow the Government of any State or to dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the right of peoples to self-determination. The Council further called upon all States that had not yet become parties to the International Convention against the Recruitment, Use, Financing and Training of Mercenaries, 1989,<sup>312</sup> to consider taking the necessary action to do so. The Council also called upon the international community and all States, in accordance with their obligations under international law, to cooperate with and assist the judicial prosecution of those accused of mercenary activities in transparent, open and fair trials.

#### b. General Assembly

On 20 December 2012, the General Assembly adopted resolution 67/159 entitled “Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination”, on the recommendation of the Third Committee, by a record vote of 128 in favour to 54 against, with 7 abstentions. The Assembly, *inter alia*, took note with appreciation of the latest report of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination.<sup>313</sup> It reaffirmed 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. The Assembly welcomed the holding of the second session of the open-ended intergovernmental working group to consider the possibility of elaborating an international regulatory framework on the regulation, monitoring and oversight of the activities of private military and security companies. It further requested the Working Group on the use of mercenaries to continue the work already done by previous Special Rapporteurs on the use of mercenaries on the strengthening of the international legal framework in this field, taking into account the

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<sup>312</sup> United Nations, *Treaty Series*, vol. 2163, p. 75.

<sup>313</sup> A/67/340.

proposal for a new legal definition of a mercenary drafted by the Special Rapporteur in his report to the Commission on Human Rights at its sixtieth session.<sup>314</sup>

### (e) Economic, social and cultural rights

#### Human Rights Council

On 22 March 2012, the Human Rights Council adopted resolution 19/5, entitled “Question of the realization in all countries of economic, social and cultural rights”, without a vote. The Council, *inter alia*, called upon all States to give full effect to economic, social and cultural rights, and to consider signing and ratifying, and States parties to implement, the International Covenant on Economic, Social and Cultural Rights, 1966,<sup>315</sup> as well as other international instruments relating to the realization of economic, social and cultural rights. The Council encouraged all States that had not yet signed and ratified the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, 2008,<sup>316</sup> to consider doing so with a view to its early entry into force. The Council also called upon the States parties to the Covenant to withdraw reservations incompatible with the object and purpose of the Covenant, and to consider reviewing other reservations with a view to withdrawing them.

#### (i) *Right to food*

##### a. Human Rights Council

The Special Rapporteur on the right to food, Mr. Olivier De Schutter, submitted his report to the Human Rights Council,<sup>317</sup> in which the links between health and malnutrition are addressed.

On 22 March 2012, the Human Rights Council adopted resolution 19/7 entitled “The right to food”, without a vote, in which the Council, *inter alia*, reaffirmed the right of everyone to have access to safe and nutritious food, consistent with the right to adequate food and the fundamental right of everyone to be free from hunger so as to be able to fully develop and maintain his or her physical and mental capacities. The Council called upon States parties to the International Covenant on Economic, Social and Cultural Rights to fulfil their obligations under article 2, paragraph 1, and article 11, paragraph 2 thereof, in particular with regard to the right to adequate food.

##### b. General Assembly

On 20 December 2012, the General Assembly adopted resolution 67/174 entitled “The right to food”, on the recommendation of the Third Committee, without a vote. The Assembly, *inter alia*, took note with appreciation of the interim report of the Special Rapporteur on

<sup>314</sup> E/CN.4/2004/15, para. 47.

<sup>315</sup> United Nations, *Treaty Series*, vol. 993, p. 3.

<sup>316</sup> General Assembly resolution 63/117, annex.

<sup>317</sup> A/HRC/19/59 and Corr.1.



the right to food.<sup>318</sup> It urged States that had not yet done so to favourably consider becoming parties to the Convention on Biological Diversity, 1992,<sup>319</sup> and to consider becoming parties to the International Treaty on Plant Genetic Resources for Food and Agriculture<sup>320</sup> as a matter of priority. The Assembly stressed that States parties to the World Trade Organization Agreement on Trade Related Aspects of Intellectual Property Rights<sup>321</sup> should consider implementing that Agreement in a manner that is supportive of food security, while being mindful of the obligation of Member States to promote and protect the right to food. The Assembly recalled General Comment No. 15 (2002) of the Committee on Economic, Social and Cultural Rights on the right to water (articles 11 and 12 of the International Covenant on Economic, Social and Cultural Rights, 1966), in which the Committee noted, *inter alia*, the importance of ensuring sustainable access to water resources for human consumption and agriculture in realization of the right to adequate food.

## (ii) *Right to education*

### a. Human Rights Council

The Special Rapporteur on the right to education, Dr. Kishore Singh, submitted his annual report to the Human Rights Council.<sup>322</sup> The report examined national and international norms and standards, as well as policies regarding quality in education. The Special Rapporteur underscored the need to promote the adoption of norms at the national level establishing the right to quality education, consistent with the international legal human rights framework and relevant initiatives at the national, regional and international levels. In conclusion, the Special Rapporteur provided recommendations aimed at promoting quality education.

On 5 July 2012, the Human Rights Council adopted resolution 20/7 entitled “The right to education: follow-up to Human Rights Council resolution 8/4”, without a vote, in which the Council, *inter alia*, reaffirmed the human right of everyone to education and urged States to give full effect to right to education by promoting quality education, among other things.

### b. General Assembly

The Secretary-General transmitted to the General Assembly the report of the Special Rapporteur on the right to education,<sup>323</sup> which focused on technical and vocational education and training from a right to education perspective. It highlighted international obligations as well as political commitments to promote technical and vocational education and training.

<sup>318</sup> A/67/268.

<sup>319</sup> United Nations, *Treaty Series*, vol. 1760, p. 79.

<sup>320</sup> *Ibid.*, vol. 2400, p. 303.

<sup>321</sup> See *Legal Instruments Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations, done at Marrakesh on 15 April 1994* (GATT secretariat publication, Sales No. GATT/1994-7).

<sup>322</sup> A/HRC/20/21.

<sup>323</sup> A/67/310.

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

a. **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, Ms. Raquel Rolnik, submitted her report to the Human Rights Council.<sup>324</sup> The report focused on the question of women and their right to adequate housing to ensure that women everywhere are able to enjoy this right in practice. Specifically, building on work previously done under the mandate, the report focused on recent legal and policy advancements in the area of women's right to adequate housing, including issues related to inheritance, land and property, as well as strategies for overcoming persistent gaps in implementation of those laws and policies.

On 22 March 2012, the Human Rights Council adopted resolution 19/4 entitled "Adequate housing as a component of the right to an adequate standard of living in the context of disaster settings", without a vote. The Council, *inter alia*, encouraged States and relevant actors to respect, protect and fulfil the right to adequate housing as a component of the right to an adequate standard of living in their broader disaster risk reduction, prevention and preparedness initiatives, as well as in all phases of disaster response and recovery.

b. **General Assembly**

The Secretary-General transmitted to the General Assembly the annual report of 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, in accordance with Human Rights Council resolution 15/8.<sup>325</sup> The report analysed the ruling paradigm of housing policies that focus on housing finance as the main means of promoting homeownership. The report assessed the impact of prevalent housing finance policies on the right to adequate housing of those living in poverty. The Special Rapporteur called for a paradigm shift from housing policies based on the financialization of housing to a human rights-based approach to housing policies.

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

a. **Human Rights Council**

The Special Rapporteur on the human right to safe drinking water and sanitation, Ms. Catarina de Albuquerque, submitted her report to the Human Rights Council,<sup>326</sup> which focused on the links between stigma and the human rights framework as it related to water and sanitation. The Special Rapporteur found that stigma, as a deeply entrenched social and cultural phenomenon, lay at the root of many human rights violations and resulted in entire population groups being disadvantaged and excluded. Based on this analysis, the

<sup>324</sup> A/HRC/19/53.

<sup>325</sup> A/67/286.

<sup>326</sup> A/HRC/21/42.

Special Rapporteur identified strategies for preventing and responding to stigma from a human rights perspective, before concluding with a set of recommendations.

On 27 September 2012, the Human Rights Council adopted resolution 21/2 entitled “The human right to safe drinking water and sanitation”, without a vote. The Council welcomed the fourth annual report of the Special Rapporteur to the Human Rights Council, and reaffirmed that States have the primary responsibility to ensure the full realization of all human rights, and must take steps, nationally and through international assistance and cooperation, especially economic and technical, to the maximum of its available resources, to achieve progressively the full realization of the right to safe drinking water and sanitation by all appropriate means, including particularly the adoption of legislative measures in the implementation of their human rights obligations. The Council expressed deep concern at the negative impact of discrimination, marginalization and stigmatization on the full enjoyment of the human right to safe drinking water and sanitation.

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

The Special Rapporteur on the human right to safe drinking water and sanitation submitted her report to the General Assembly,<sup>327</sup> in which she argued for a post-2015 development agenda that integrates equality and non-discrimination, paired with equity. The Special Rapporteur emphasized the importance of proposing goals, targets and indicators that effectively encompass these dimensions.

#### *(v) Right to health*

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

The Special Rapporteur on the human rights obligations related to environmentally sound management and disposal of hazardous substances and waste, Mr. Calin Georgescu, submitted his report to the Human Rights Council.<sup>328</sup> In the report, the Special Rapporteur focused on the adverse effects on the enjoyment of human rights of the unsound management of hazardous substances and waste used in and generated by extractive industries. Special Rapporteur proposed that States should develop a comprehensive, legally-binding regime to ensure chemical safety throughout the lifecycle of all chemicals, both synthetic and naturally-occurring, with particular attention to the needs of the most vulnerable. In this regard, the Special Rapporteur considered that a treaty on mercury is crucial, and he posited that the current array of narrowly focused legally-binding agreements for chemicals and wastes do not adequately address, let alone eliminate, exposure to the numerous hazardous substances and wastes generated by extractive industries that result in human rights impacts.

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.<sup>329</sup> The report outlined international human rights and other instruments related to occupational health, and addressed occupational health

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<sup>327</sup> A/67/270.

<sup>328</sup> A/HRC/21/48.

<sup>329</sup> A/HRC/20/15.

in the informal economy, focusing on the needs of vulnerable and marginalized groups. It also addressed the obligation of States to formulate, implement, monitor and evaluate occupational health laws and policies, as well as the requirement for the participation of workers at all stages of those activities.

On 27 September 2012, the Council adopted resolution 21/6 entitled “Preventable maternal mortality and morbidity and human rights”, without a vote. The Council, *inter alia*, encouraged States and other relevant stakeholders, including national human rights institutions and non-governmental organizations, to take action at all levels to address the interlinked root causes of maternal mortality and morbidity, such as poverty, malnutrition, harmful practices, lack of accessible and appropriate health-care services, information and education, and gender inequality, and to pay particular attention to eliminating all forms of violence against women and girls.

#### b. General Assembly

The Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health submitted his interim report to the General Assembly,<sup>330</sup> which focused on health financing in the context of the right to health.

#### (vi) *Cultural rights*

##### a. Human Rights Council

The Special Rapporteur in the field of cultural rights, Ms. Farida Shaheed, submitted a report to the Human Rights Council<sup>331</sup> entitled “The right to enjoy the benefits of scientific progress and its applications”, in which she stressed the strong link of this right with the right to participate in cultural life, as well as other human rights. The Special Rapporteur considered that the normative content included (a) access by everyone without discrimination to the benefits of science and its applications, including scientific knowledge; (b) opportunities for all to contribute to the scientific enterprise and freedom indispensable for scientific research; (c) participation of individuals and communities in decision-making and the related right to information; and (d) an enabling environment fostering the conservation, development and diffusion of science and technology.

On 5 July 2012, the Human Rights Council adopted resolution 20/11 entitled “Promotion of the enjoyment of the cultural rights of everyone and respect for cultural diversity”, without a vote. The resolution took note of General Comment No. 21 on the right of everyone to take part in cultural life, adopted by the Committee on Economic, Social and Cultural Rights on 13 November 2009. The Council reaffirmed that cultural rights are an integral part of human rights, which are universal, indivisible, interrelated and interdependent. It further recognized the right of everyone to take part in cultural life and to enjoy the benefits of scientific progress and its applications, and recalled that, as stated in

<sup>330</sup> A/67/302.

<sup>331</sup> A/HRC/20/26. The mandate of the Special Rapporteur was established by resolution 19/6 of the Human Rights Council entitled “Mandate of the Special Rapporteur in the field of cultural rights”.

the Universal Declaration on Cultural Diversity,<sup>332</sup> no one may invoke cultural diversity to infringe upon human rights guaranteed by international law, nor to limit their scope.

### b. General Assembly

The Special Rapporteur in the field of cultural rights submitted a report to the General Assembly,<sup>333</sup> which focused on the enjoyment of cultural rights by women on an equal basis with men. The report underlined the right of women to have access to, participate in and contribute to all aspects of cultural life, which encompassed their right to actively engage in identifying and interpreting cultural heritage and to decide which cultural traditions, values or practices are to be kept, reoriented, modified or discarded.

## (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. Juan Mendez, submitted his report to the Human Rights Council.<sup>334</sup> The thematic focus of the report, commissions of inquiry, was selected by the Special Rapporteur to help deepen the international community's understanding on when such commissions should be created by States in response to patterns or practices of torture and other forms of ill-treatment. The Special Rapporteur indicated that the purpose of the report was to generate further discussion of the standards that apply to the establishment and conduct of commissions of inquiry, and the relationship between such commissions and the fulfilment by States of their international legal obligations with regard to torture and other forms of ill-treatment.

#### b. General Assembly

The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment presented his interim report to the General Assembly,<sup>335</sup> which focused on the death penalty and the prohibition of torture and cruel, inhuman and degrading treatment. In this report, the Special Rapporteur recalled that actual practices of the death penalty must comply with the absolute prohibition of torture and cruel, inhuman and degrading treatment and explored whether States can guarantee that the method of execution or the conditions of persons sentenced to death do not inflict illegitimately severe pain and suffering.

On 20 December 2012, the General Assembly adopted resolution 67/161 entitled "Torture and other cruel, inhuman or degrading treatment or punishment", on the recommendation of its Third Committee, without a vote. The Assembly, *inter alia*, called upon States

<sup>332</sup> UNESCO, *Records of the General Conference, Thirty-first Session, Paris, 15 October–3 November 2001*, vol. 1 and corrigendum, *Resolutions*, chap. V, resolution 25.

<sup>333</sup> A/67/287.

<sup>334</sup> A/HRC/19/61.

<sup>335</sup> A/67/279.

to fully implement the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment, and to adopt a victim-oriented approach in the fight against such abuse. It emphasized that acts of torture in armed conflict were violations of international humanitarian law and constituted war crimes; that such acts could constitute crimes against humanity; and that perpetrators must be prosecuted. The Assembly further urged all States to become parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984,<sup>336</sup> and consider signing and ratifying its Optional Protocol, 2002.<sup>337</sup>

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

a. **Human Rights Council**

The Special Rapporteur on extrajudicial, summary or arbitrary executions, Mr. Christof Heyns, in his annual report to the Human Rights Council<sup>338</sup> focused on the mechanisms that are in place to provide greater protection to the right to life of journalists. The Special Rapporteur recommended that the approach should be to elevate the killing of journalists from the local level to the national and international levels and proposed measures aimed at ensuring greater accountability and identified underutilized entry points at all levels that could be used by journalists at risk.

b. **General Assembly**

The Special Rapporteur on extrajudicial, summary or arbitrary executions submitted his report to the General Assembly,<sup>339</sup> in which he considered the problem of error and the use of military tribunals in the context of fair trial requirements. The Special Rapporteur also examined the constraint that the death penalty may be imposed only for the most serious crimes: those involving intentional killing. Lastly, he considered the issues of collaboration and complicity, in addition to transparency in respect of the use of the death penalty.

On 20 December 2012, the General Assembly adopted resolution 67/168, on the recommendation of the Third Committee, entitled “Extrajudicial, summary or arbitrary executions”, by a recorded vote of 117 in favour to none, with 67 abstentions. The Assembly, *inter alia*, reiterated the obligation of all States under international law to conduct thorough, prompt and impartial investigations into all suspected cases of extrajudicial, summary or arbitrary executions, to identify and bring to justice those responsible, while ensuring the right of every person to a fair hearing by a competent, independent and impartial tribunal established by law, to grant adequate compensation within a reasonable time to the victims or their families and to adopt all necessary measures, including legal and judicial measures, to put an end to impunity and to prevent the further occurrence of

<sup>336</sup> United Nations, *Treaty Series*, vol. 1465, p. 85.

<sup>337</sup> *Ibid.*, vol. 2375, p. 237.

<sup>338</sup> A/HRC/20/22 and Corr.1.

<sup>339</sup> A/67/275.

such executions, as recommended in the Principles on the Effective Prevention and Investigation of Extralegal, Arbitrary and Summary Executions.<sup>340</sup>

(iii) *Enforced disappearances and missing persons*

a. **Human Rights Council**

The Working Group on Enforced or Involuntary Disappearances submitted its annual report to the Human Rights Council,<sup>341</sup> detailing communications and cases examined by the Working Group during its three sessions in 2012. The report also contains a thematic section on reparation for enforced disappearances and includes information on other activities carried out by the Working Group.

On 27 September 2012, the Human Rights Council adopted resolution 21/4, without a vote, entitled “Enforced or involuntary disappearances”. In the resolution, the Council, *inter alia*, called upon States that had not yet done so to consider signing, ratifying or acceding to the Convention for the Protection of All Persons from Enforced Disappearance, 2006,<sup>342</sup> and to consider the option provided for in articles 31 and 32 of the Convention.<sup>343</sup> The Council also recognized the importance of the Declaration on the Protection of All Persons from Enforced Disappearance, 1992,<sup>344</sup> as a body of principles for all States designed to punish enforced disappearances, to prevent their commission and to help victims of such acts and their families to seek fair, prompt and adequate reparation.

b. **General Assembly**

On 20 December 2012, the General Assembly adopted resolution 67/180 entitled “International Convention for the Protection of All Persons from Enforced Disappearance”, on the recommendation of the Third Committee, without a vote. The Assembly, *inter alia*, welcomed the report of the Secretary-General on this item<sup>345</sup> and took note with interest of all the general comments of the Working Group on this topic, including the most recent one on the right to recognition as a person before the law in the context of enforced disappearances.<sup>346</sup>

<sup>340</sup> Economic and Social Council resolution 1989/65, annex.

<sup>341</sup> A/HRC/22/45 and Corr.1.

<sup>342</sup> United Nations, *Treaty Series*, registration No. 48088 (no volume number had been determined for this Convention at the time of preparing this publication).

<sup>343</sup> Under these articles, States parties may declare that they recognize the competence of the Committee established by the Convention to receive and consider communications from or on behalf of individuals (article 31) or from another State party (article 32).

<sup>344</sup> General Assembly resolution 47/133.

<sup>345</sup> A/67/271.

<sup>346</sup> A/HRC/19/58/Rev.1, sect. II.H.



(iv) *Integration of human rights of women and a gender perspective*<sup>347</sup>

a. **Human Rights Council**

The Office of the United Nations High Commissioner for Human Rights submitted a report to the Human Rights Council, entitled “Thematic study on the issue of violence against women and girls and disability”.<sup>348</sup> The report analysed national legislation, policies and programmes for the protection and prevention of violence against women and girls with disabilities. The report highlighted the remaining challenges in addressing the root causes of violence against women and girls with disabilities and incorporating women and girls with disabilities into gender-based violence programmes. The study concluded with recommendations on legislative, administrative, policy and programmatic measures to address this issue, with emphasis on the need for a holistic approach aimed at eliminating discrimination against women and girls with disabilities, promoting their autonomy and addressing specific risk factors that expose them to violence.

The Special Rapporteur on violence against women, its causes and consequences, Ms. Rashida Manjoo, submitted a report to the Human Rights Council,<sup>349</sup> in which she focused on the topic of gender-related killings of women. The Special Rapporteur stressed that States’ responsibility to act with due diligence in the promotion and protection of women’s rights is largely lacking as regards the killing of women.

On 5 July 2012, the Council adopted resolution 20/6 entitled “Elimination of discrimination against women”, without a vote, in which the Council, *inter alia*, recognized the constructive approach of the Working Group on the issue of discrimination against women in law and in practice. It called upon the Working Group to maintain such an approach and dialogue with States to address this issue in all spheres from the perspective of States’ obligations under international human rights law, taking into account the good practices that have been transformative in different contexts and in the light of the different realities that women face.

On the same day, the Human Rights Council adopted resolution 20/12 entitled “Accelerating efforts to eliminate all forms of violence against women: remedies for women who have been subjected to violence”, without a vote. The Council, *inter alia*, urged States to place a high priority on removing gender bias from the administration of justice and enhancing the capacity of law enforcement officials to deal appropriately with violence against women, including by providing systematic gender-sensitivity and awareness training, as appropriate, for police and security forces, prosecutors, judges and lawyers, integrating gender into security sector reform initiatives, developing protocols and guidelines, and enhancing or putting in place appropriate accountability measures for adjudicators.

b. **General Assembly**

The Special Rapporteur on violence against women, its causes and consequences submitted her report to the General Assembly.<sup>350</sup> The report provides an overview of the Spe-

<sup>347</sup> For more information on the rights of women, see section 6 of this chapter.

<sup>348</sup> A/HRC/20/5.

<sup>349</sup> A/HRC/20/16.

<sup>350</sup> A/67/227.

cial Rapporteur's activities, discusses the issue of violence against women with disabilities and presents specific recommendations to address this issue.

On 20 December 2012, the General Assembly adopted resolution 67/144, on the recommendation of the Third Committee, entitled "Intensification of efforts to eliminate all forms of violence against women", without a vote. The Assembly, *inter alia*, welcomed the report of the Secretary-General on this item<sup>351</sup> as well as the report of the Special Rapporteur. It stressed that "violence against women" means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life. It also stressed the importance of States strongly condemning all forms of violence against women and refraining from invoking any custom, tradition or religious consideration to avoid their obligations with respect to its elimination as set out in the Declaration on the Elimination of Violence against Women.<sup>352</sup>

On the same day, the General Assembly adopted without a vote resolution 67/148 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", on the recommendation of the Third Committee. The Assembly, *inter alia*, invited States parties to the Convention on the Elimination of All Forms of Discrimination against Women, 1979 (CEDAW),<sup>353</sup> to review their reservations lodged to the Convention regularly with a view to withdrawing them, and to take into consideration the concluding observations as well as the general recommendations of the Committee on the Elimination of All Forms of Discrimination against Women.

### (v) *Trafficking*

#### a. Human Rights Council

The Special Rapporteur on trafficking in persons, especially women and children, Ms. Joy Ngozi Ezeilo, submitted her annual report to the Human Rights Council,<sup>354</sup> in which she provided an overview of the activities undertaken and a thematic analysis of a human rights-based approach to the administration of criminal justice in cases of trafficking in persons. The Special Rapporteur outlined the international legal framework and reviewed key components, including the criminalization of trafficking offences, the non-criminalization of trafficked persons, the provision of protection and support for victim witnesses, the exercise of due diligence in the investigation and prosecution of cases, respect for the rights of suspects, the imposition of proportionate sanctions and penalties, efforts to address corruption and to seize assets, and international cooperation. Drawing on State responses to her questionnaire, she provided an overview of trends in State practice, highlighting emerging good practices and common challenges.

On 5 July 2012, the Human Rights Council adopted resolution 20/1 entitled "Trafficking in persons, especially women and children: access to effective remedies for trafficked

<sup>351</sup> A/67/220.

<sup>352</sup> General Assembly resolution 48/104, annex.

<sup>353</sup> United Nations, *Treaty Series*, vol. 1249, p. 13.

<sup>354</sup> A/HRC/20/18.

persons and their right to an effective remedy for human rights violations” without a vote. The Council, *inter alia*, encouraged States to refer to the Recommended Principles and Guidelines on Human Rights and Human Trafficking<sup>355</sup> as a useful tool in integrating a human rights-based approach into their responses to provide a full range of effective remedies to trafficked persons and, in the case of trafficked children, to uphold, at a minimum, the general principles of the Convention on the Rights of the Child. It also encouraged States, guided by their human rights obligations and with a view to respect, protect and fulfil the human rights of trafficked persons, including their right to an effective remedy for human rights violations, to implement a number of measures outlined in the resolution.

### b. General Assembly

The Special Rapporteur on trafficking in persons, especially women and children submitted her annual report to the General Assembly.<sup>356</sup> The report included a thematic analysis of the issue of human trafficking in supply chains, in which the Special Rapporteur examined the existing international legal framework and standards applicable to States and businesses, in addition to non-binding codes of conduct and principles adopted by businesses, as part of efforts to prevent and combat human trafficking.

On 20 December 2012, the General Assembly adopted resolution 67/145, on the recommendation of the Third Committee, entitled “Trafficking in women and girls”, without a vote. The Assembly, *inter alia*, took note of the report of the Secretary-General on this item,<sup>357</sup> as well as the report of the Special Rapporteur. It urged Member States that have not yet done so to consider ratifying or acceding to, as a matter of priority, the United Nations Convention against Transnational Organized Crime, 2000,<sup>358</sup> and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, 2000,<sup>359</sup> supplementing this Convention, taking into consideration the central role of those instruments in the fight against trafficking in persons, and urged States parties to those instruments to implement them fully and effectively. The Assembly also called upon all Governments to criminalize all forms of trafficking in persons, and to bring to justice and punish the offenders and intermediaries involved, including public officials involved with trafficking in persons, whether local or foreign, through the competent national authorities, either in the country of origin of the offender or in the country in which the abuse occurs, in accordance with due process of law, as well as to penalize persons in authority found guilty of sexually assaulting victims of trafficking in their custody. It further urged Governments to take all appropriate measures to ensure that victims of trafficking are not penalized or prosecuted for acts committed as a direct result of being trafficked and that they do not suffer from revictimization as a result of actions taken by Government authorities, and encouraged Governments to prevent, within their legal framework and in accordance with national policies, victims of trafficking in persons from being prosecuted for their illegal entry or residence.

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<sup>355</sup> E/2002/68/Add.1.

<sup>356</sup> A/67/261.

<sup>357</sup> A/67/170.

<sup>358</sup> United Nations, *Treaty Series*, vol. 2225, p. 209.

<sup>359</sup> *Ibid.*, vol. 2237, p. 343.

(vi) *Freedom of religion, belief and expression*

a. **Human Rights Council**

The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr. Frank La Rue, submitted a report to the Human Rights Council which explored the issue of the protection of journalists and media freedom, and focused particularly on situations outside of armed conflict, and provided a set of conclusions and recommendations.<sup>360</sup>

On 22 March 2012, the Human Rights Council adopted resolution 19/8 entitled “Freedom of religion or belief”, without a vote. The Council, *inter alia*, stressed that everyone has the right to freedom of thought, conscience and religion or belief, which includes the freedom to have or to adopt a religion or belief of one’s choice, and the freedom, either alone or in community with others and in public or private, to manifest one’s religion or belief in teaching, practice, worship and observance, including the right to change one’s religion or belief. The Council emphasized that States should exercise due diligence to prevent, investigate and punish acts of violence against persons belonging to religious minorities, regardless of the perpetrator, and that failure to do so may constitute a human rights violation.

b. **General Assembly**

The Special Rapporteur on freedom of religion or belief, Mr. Heiner Bielefeldt, submitted his interim report entitled “Elimination of all forms of religious intolerance” to the General Assembly.<sup>361</sup> In his report, the Special Rapporteur focused on the right of conversion as part of freedom of religion or belief. The Special Rapporteur outlined the international human rights framework and specific violations for four identified subcategories of conversion, addressed some typical misunderstandings and presented a set of conclusions and recommendations.

The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression submitted his report to the General Assembly, in which he explored hate speech and incitement to hatred.<sup>362</sup> The Special Rapporteur presented an overview of the phenomenon, the relevant international norms and standards, including distinctions between types of hate speech, and examples of domestic legislation that contravene international norms and standards, and presented a set of recommendations.

The General Assembly adopted two resolutions addressing the issue of freedom of religion or belief on 20 December 2012, both adopted on the recommendation of the Third Committee, without a vote. In resolution 67/178 entitled “Combating intolerance, negative stereotyping, stigmatization, discrimination, incitement to violence and violence against persons, based on religion or belief”, the General Assembly, *inter alia*, took note of the report of the Secretary-General on steps taken by States to combat intolerance, negative stereotyping, stigmatization, discrimination, incitement to violence and violence against

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<sup>360</sup> A/HRC/20/17.

<sup>361</sup> A/67/303.

<sup>362</sup> A/67/357.

persons, based on religion or belief.<sup>363</sup> It also called upon all States to take a number of measures outlined in the resolution to, *inter alia*, foster religious freedom and tolerance.

In resolution 67/179 entitled “Freedom of religion or belief”, the General Assembly, *inter alia*, stressed that the right to freedom of thought, conscience and religion or belief applies equally to all persons, regardless of their religion or belief and without any discrimination as to their equal protection by the law. It emphasized that restrictions on the freedom to manifest one’s religion or belief are permitted only if limitations are prescribed by law, are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others, are non-discriminatory and are applied in a manner that does not vitiate the right to freedom of thought, conscience and religion or belief. The Assembly also emphasized that that freedom of religion or belief and freedom of expression are interdependent, interrelated and mutually reinforcing, and stressed further the role that these rights can play in the fight against all forms of intolerance and of discrimination based on religion or belief.

### (g) Rights of the child

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

The Special Representative of the Secretary-General for Children and Armed Conflict, Ms. Radhika Coomaraswamy, submitted her annual report to the Human Right Council.<sup>364</sup> In this report, the Special Representative urged States parties to the Convention on the Rights of the Child, 1989,<sup>365</sup> to strengthen national and international measures for the prevention of recruitment of children into the armed forces or armed groups and their use in hostilities, in particular by signing and ratifying the Optional Protocol to the Convention on the involvement of children in armed conflict, 2000,<sup>366</sup> and enacting legislation to explicitly prohibit and criminalize the recruitment of children into armed forces or groups and their use in hostilities. States parties to the Convention and to the Optional Protocol were further urged to implement the recommendations of the Committee on the Rights of the Child as a matter of priority and to submit timely reports to the Committee under the Optional Protocol. To this end, States parties were encouraged to establish effective interministerial coordination mechanisms with a view to ensuring comprehensive measures to prevent and protect children from offences under the Optional Protocol.

On 23 March 2012, the Human Rights Council adopted resolution 19/37 entitled “Rights of the child”. In this resolution, the Council, *inter alia*, emphasized that the Convention on the Rights of the Child, 1989, constitutes the standard in the promotion and protection of the rights of the child. The Council, concerned at the great number of reservations to the Convention, urged States parties to withdraw reservations incompatible

<sup>363</sup> A/67/296.

<sup>364</sup> A/HRC/21/38.

<sup>365</sup> United Nations, *Treaty Series*, vol. 1577, p. 3.

<sup>366</sup> *Ibid.*, vol. 2173, p. 222.

with the object and purpose of the Convention and the Optional Protocols thereto<sup>367</sup> and to consider reviewing regularly other reservations with a view to withdrawing them.

(ii) *General Assembly*

The Special Representative of the Secretary-General for Children and Armed Conflict submitted her annual report to the General Assembly,<sup>368</sup> which provided an overview of progress on the children and armed conflict agenda, followed by an account of new developments. The Special Representative urged Member States to enact appropriate national legislation to criminalize grave violations against children, including the recruitment and use of children in armed forces and armed groups, which had been defined in the Rome Statute of the International Criminal Court, 1998,<sup>369</sup> as a war crime, and also to bring adult recruiters to justice in national courts.

On 20 December 2012, the General Assembly adopted two resolutions, on the recommendation of the Third Committee.<sup>370</sup> One of these resolutions is highlighted below.

In resolution 67/152, adopted without a vote, the General Assembly urged, *inter alia*, States that had not yet done so to become parties to the Convention on the Rights of the Child, 1989 and the Optional Protocols thereto and to implement them. The Assembly further called upon States parties to withdraw reservations that are incompatible with the object and purpose of the Convention or the Optional Protocols thereto, and to consider reviewing regularly other reservations with a view to withdrawing them in accordance with the Vienna Declaration and Programme of Action, 1993.

(iii) *Security Council*

On 19 September 2012, the Security Council adopted resolution 2068 (2012) which focused on children and armed conflict. The Security Council noted, *inter alia*, relevant provisions of the Rome Statute of the International Criminal Court, 1998, and 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 on schools and/or hospitals as well as denial of humanitarian access by parties to armed conflict and demanded that all relevant parties immediately put an end to such practices and take special measures to protect children.

<sup>367</sup> Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (United Nations, *Treaty Series*, vol. 2171, p. 227); Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (*ibid.*, vol. 2173, p. 222); and Optional Protocol to the Convention on the Rights of the Child on a communications procedure (General Assembly resolution 66/138).

<sup>368</sup> A/67/256.

<sup>369</sup> United Nations, *Treaty Series*, vol. 2187, p. 3.

<sup>370</sup> General Assembly resolution 67/152 entitled "Rights of the child and resolution" and resolution 67/167 entitled "Committee on the Rights of the child".

## (h) Migrants

### (i) *Human Rights Council*

The Special Rapporteur on the human rights of migrants, Mr. François Crépeau, submitted his report to the Human Rights Council,<sup>371</sup> which provided a summary of activities undertaken since he took up his functions. The thematic part of the report focused on the detention of migrants in an irregular situation. The first part of the thematic report set out the international and regional human rights legal framework, including with regards to groups of migrants with special protection needs, and the second part focused on alternatives to detention.

On 5 July 2012, the Human Rights Council adopted resolution 20/3 entitled “Human rights of migrants”, without a vote. The Council, *inter alia*, reaffirmed the duty of States to effectively promote and protect the human rights and fundamental freedoms of all migrants, especially those of women and children, regardless of their immigration status, in conformity with the Universal Declaration of Human Rights and the international instruments to which they are party. The Council called upon all States to ensure that their immigration policies are consistent with their obligations under international human rights law.

### (ii) *General Assembly*

The Special Rapporteur on human rights of migrants submitted his first annual report to the General Assembly.<sup>372</sup> The thematic section of the report was dedicated to the impacts of climate change and some of its consequences for migration and considered how international law approached the matter of climate-induced migration.

On 20 December 2012, the General Assembly adopted resolution 67/172 entitled “Protection of migrants”, on the recommendation of the Third Committee, without a vote. The Assembly, *inter alia*, called upon States to promote and protect effectively the human rights and fundamental freedoms of all migrants, regardless of their migration status, especially those of women and children, and to address international migration through international, regional or bilateral cooperation and dialogue and through a comprehensive and balanced approach, recognizing the roles and responsibilities of countries of origin, transit and destination in promoting and protecting the human rights of all migrants, and avoiding approaches that might aggravate their vulnerability. The Assembly also urged States parties to the United Nations Convention against Transnational Organized Crime, 2000,<sup>373</sup> and the Protocols<sup>374</sup> thereto, to implement them fully, and called upon States that had not done so to consider ratifying or acceding to them as a matter of priority.

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<sup>371</sup> A/HRC/20/24.

<sup>372</sup> A/67/299.

<sup>373</sup> United Nations, *Treaty Series*, vol. 2225, p. 209.

<sup>374</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (United Nations, *Treaty Series*, vol. 2237, p. 319) and Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime (*ibid.*, vol. 2241, p. 507).



On the same day, the General Assembly adopted resolution 67/185 entitled “Promoting efforts to eliminate violence against migrants, migrant workers and their families”, on the recommendation of the Third Committee, without a vote. The Assembly, *inter alia*, encouraged Member States that had not already done so to enact national legislation and to take other appropriate measures to combat criminal acts of racism, discrimination, xenophobia and related intolerance, including steps to reduce the vulnerability of migrants to crime and to increase their engagement with host societies, consistent with national law.

### (i) Internally displaced persons

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

On 5 July 2012 the Council adopted resolution 20/9 entitled “Human rights of internally displaced persons”, without a vote. The Council, *inter alia*, recognized the Guiding Principles on Internal Displacement<sup>375</sup> as an important international framework for the protection of internally displaced persons. It also welcomed the adoption and on-going process of ratification of the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, 2009 (Kampala Convention).<sup>376</sup>

#### (ii) *General Assembly*

The Special Rapporteur on the human rights of internally displaced persons submitted his annual report to the General Assembly.<sup>377</sup> After outlining the major activities undertaken by the mandate holder during the period under review, the report presented a thematic review of the evolution of, and achievements and new challenges and trends relating to, internal displacement over the past two decades, a theme which marked the occasion of the twentieth anniversary of the mandate on the human rights of internally displaced persons.

On 20 December 2012, the General Assembly adopted resolution 67/150 entitled “Assistance to refugees, returnees and displaced persons in Africa” on the recommendation of the Third Committee, without a vote. The Assembly, *inter alia*, called upon African Member States that had not yet signed or ratified the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, 2009 (Kampala Convention), to consider doing so as early as possible in order to ensure its early entry into force and implementation.

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<sup>375</sup> General Assembly resolution 46/182, annex.

<sup>376</sup> Adopted at a Special Summit of the African Union, held in Kampala, Uganda, on 22 October 2009.

<sup>377</sup> A/67/289.

## (j) Minorities

### (i) *Human Rights Council*

The Independent Expert on minority issues, Ms. Rita Izsák, presented her report to the Human Rights Council.<sup>378</sup> The report provided a summary of activities undertaken by the Independent Expert since she took up her functions; a discussion of the Independent Expert's expected priorities for her first term; and a review of the activities of the former Independent Expert. The report also contained an update on the work of the Forum on Minority Issues following its fourth session in November 2011.

### (ii) *General Assembly*

The Independent Expert on minority issues presented her report to the General Assembly.<sup>379</sup> The report focused on the value of institutional attention to minority issues within governmental organs, national human rights institutions and other relevant national bodies as a means of promoting minority rights and mainstream attention to minority issues across all relevant bodies. A key recommendation made is that States consider institutional attention to minority rights as an essential component of their human rights, equality and non-discrimination obligations and as a means of implementing practically the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.<sup>380</sup>

## (k) Indigenous issues

### (i) *Human Rights Council*

The Special Rapporteur on the rights of indigenous peoples, Mr. James Anaya, presented his report to the Human Rights Council.<sup>381</sup> In the report, the Special Rapporteur provided a summary of his activities since his previous report to the Council, including his examination of the thematic issue of violence against indigenous women. He then reported on progress in his continuing study of issues relating to extractive industries operating on or near indigenous territories.

On 28 September 2012, the Human Rights Council adopted resolution 21/24 entitled "Human rights and indigenous peoples", without a vote. The Council, *inter alia*, encouraged those States that had not yet ratified or acceded to the Convention concerning Indigenous and Tribal Peoples in independent countries, 1989,<sup>382</sup> to consider doing so and to consider supporting the United Nations Declaration on the Rights of Indigenous Peoples, 2007.<sup>383</sup> The Council called upon States to consider, in consultation and cooperation with indigenous peo-

<sup>378</sup> A/HRC/19/56.

<sup>379</sup> A/67/293.

<sup>380</sup> General Assembly resolution 47/135 of 18 December 1992, annex.

<sup>381</sup> A/HRC/21/47.

<sup>382</sup> International Labour Organization convention No. 169. United Nations, *Treaty Series*, vol. 1650, p. 383.

<sup>383</sup> General Assembly resolution 61/295 of 13 September 2007, annex.

ples, initiating and strengthening, as appropriate, effective legislative and policy measures to protect, promote, respect and, where necessary, revitalize indigenous peoples' languages and culture, taking into account, as appropriate, the study on the role of languages and culture in the promotion and protection of the rights and identity of indigenous peoples.

(ii) *General Assembly*

The Special Rapporteur on the rights of indigenous peoples presented his report to the General Assembly,<sup>384</sup> in which he provided comments on the need to harmonize the myriad activities within the United Nations system which affect indigenous peoples.

On 20 December 2012, the General Assembly adopted resolution 67/153 entitled "Rights of indigenous peoples", on the recommendation of the Third Committee, without a vote. The Assembly, *inter alia*, stressed the importance of promoting and pursuing the objectives of the United Nations Declaration on the Rights of Indigenous Peoples, 2007, and encouraged those States that had not yet ratified or acceded to the Convention concerning Indigenous and Tribal Peoples in independent countries, 1989, to consider doing so.

**(1) Terrorism and human rights<sup>385</sup>**

(i) *Human Rights Council*

The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Mr. Ben Emmerson, submitted his report to the Human Rights Council.<sup>386</sup> The Special Rapporteur described the legally binding and internationally recognized human rights of victims of terrorism, and elaborated on the corresponding international obligations of States to secure those rights. He recommended that States move towards enshrining those rights and obligations in a specific international instrument.

On 23 March 2012, the Human Rights Council adopted resolution 19/19 entitled "Protection of human rights and fundamental freedoms while countering terrorism", without a vote. The Council, *inter alia*, called upon States to ensure that any measure taken to counter terrorism complies with international law, in particular international human rights, refugee and humanitarian law. It also called upon States, while countering terrorism, to ensure that any person whose human rights or fundamental freedoms have been violated has access to an effective remedy and that victims will receive adequate, effective and prompt reparations where appropriate, including by bringing justice those responsible for such violations.

(ii) *General Assembly*

The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism submitted his report to the General Assem-

<sup>384</sup> A/67/301.

<sup>385</sup> For further information on terrorism, see sections 2 (*h*) and 16 (*h*) of this chapter.

<sup>386</sup> A/HRC/20/14.

bly.<sup>387</sup> The Special Rapporteur evaluated the mandate of the Office of the Ombudsperson established by Security Council resolution 1904 (2009) (and amended by resolution 1989 (2011)) and its compatibility with international human rights norms, assessing in particular its impact on the due process deficits inherent in the Council's Al-Qaida sanctions regime. The Special Rapporteur made recommendations for amending the mandate to bring it into full conformity with international human rights norms.

On 14 December 2012, the General Assembly adopted resolution 67/99 entitled "Measures to eliminate international terrorism", on the recommendation of the Sixth Committee, without a vote. The Assembly, *inter alia*, affirmed that States must ensure that any measure taken to combat terrorism complies with all their obligations under international law and must adopt such measures in accordance with international law, in particular international human rights, refugee and humanitarian law.

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

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

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

On 23 March 2012, the Human Rights Council adopted resolution 19/33 entitled "Enhancement of international cooperation in the field of human rights", without a vote. The Council, *inter alia*, reaffirmed that it was one of the purposes of the United Nations and also the primary responsibility of Member States to promote, protect and encourage respect for human rights and fundamental freedoms through, among other things, international cooperation. The Council recognized that, in addition to their separate responsibilities to their individual societies, States had a collective responsibility to uphold the principles of human dignity, equality and equity at the global level. It affirmed that the enhancement of international cooperation in the field of human rights is essential for the full achievement of the purposes of the United Nations, including the effective promotion and protection of all human rights. The Council urged States to take necessary measures to enhance bilateral, regional and international cooperation aimed at addressing the adverse impact of consecutive and compounded global crises, such as financial and economic crises, food crises, climate change and natural disasters, on the full enjoyment of human rights.

On 27 September 2012, the Human Rights Council adopted resolution 21/10 entitled "Human rights and international solidarity", by a recorded vote of 35 in favour to 12 against. The Council, *inter alia*, took note with appreciation of the report of the Independent Expert on human rights and international solidarity<sup>388</sup> and reiterated its request to the Independent Expert to continue her work in the preparation of a draft declaration on the right of peoples and individuals to international solidarity and in further developing guidelines, standards, norms and principles with a view to promoting and protecting this right by addressing, *inter alia*, existing and emerging obstacles to its realization.

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<sup>387</sup> A/67/396.

<sup>388</sup> A/HRC/21/44.

### b. General Assembly

On 20 December 2012, the General Assembly adopted resolution 67/169 entitled “Enhancement of international cooperation in the field of human rights”, on the recommendation of the Third Committee, without a vote. The Assembly, *inter alia*, called on States, specialized agencies and intergovernmental organizations to continue carrying out consultations for the enhancement of understanding and promotion and protection of all human rights and fundamental freedoms. The Secretary-General, along with the United Nations High Commissioner for Human Rights, was requested to consult States and non-governmental organizations on ways to enhance cooperation and dialogue in the United Nations human rights machinery, including the Human Rights Council.

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

##### a. Human Rights Council

On 5 July 2012, the Human Rights Council adopted resolution 20/14 entitled “National institutions for the promotion and protection of human rights”, without a vote. The Council, *inter alia*, reaffirmed the importance of the establishment and strengthening of effective, independent and pluralistic national institutions for the promotion and protection of human rights, in accordance with the Paris Principles.<sup>389</sup> It recognized the important role played by national institutions for the promotion and protection of human rights in the Human Rights Council, including its universal periodic review mechanism, in both preparation and follow-up, and the special procedures, as well as in the human rights treaty bodies.

##### b. General Assembly

On 20 December 2012, the General Assembly adopted without a vote resolution 67/163 entitled “The role of the Ombudsman, mediator and other national human rights institutions in the promotion and protection of human rights”, on the recommendation of the Third Committee. The Assembly, *inter alia*, encouraged States to consider the creation of such institutions at the national and, where applicable, the local level, and encourage them, where they exist, to operate in accordance with the principles relating to the status of national institutions<sup>390</sup> for the promotion and protection of human rights and other relevant international instruments.

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<sup>389</sup> Principles relating to the status of national institutions, General Assembly resolution 48/134 of 20 December 1993.

<sup>390</sup> *Ibid.*

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

a. **Human Rights Council**

The Special Rapporteur on the situation of human rights defenders, Ms. Margaret Sekaggya, submitted her annual report to the Human Rights Council.<sup>391</sup> The Special Rapporteur focused on the specific risks and challenges faced by selected groups of defenders, including journalists and media workers, defenders working on land and environmental issues and youth and student defenders. The Special Rapporteur set out a series of recommendations to ensure the protection of these selected groups of defenders.

On 23 March 2012, the Council adopted resolution 19/20 entitled “The role of good governance in the promotion and protection of human rights,” without a vote. The Council, *inter alia*, welcomed the growing trend towards the universal ratification of the United Nations Convention against Corruption, 2003,<sup>392</sup> and encouraged States that have not yet done so to consider ratifying this important instrument.

b. **General Assembly**

The Special Rapporteur on the situation of human rights defenders submitted her report<sup>393</sup> to the General Assembly, which focused on the use of legislation to regulate the activities of human rights defenders.

On 20 December 2012, the General Assembly adopted resolution 67/166 entitled “Human rights in the administration of justice”, on the recommendation of the Third Committee, without a vote. The Assembly, *inter alia*, recalled the absolute prohibition of torture in international law, and called upon States to address and prevent the detention conditions, treatment and punishment of persons deprived of their liberty that amount to cruel, inhuman or degrading treatment or punishment. The Assembly recognized that every child and juvenile in conflict with the law must be treated in a manner consistent with his or her rights, dignity and needs, in accordance with international law, bearing in mind relevant international standards on human rights in the administration of justice, and called upon States parties to the Convention on the Rights of the Child, 1989,<sup>394</sup> to abide strictly by its principles and provisions.

**(n) Persons with disabilities**<sup>395</sup>

(i) *Human Rights Council*

On 22 April 2012, the Human Rights Council adopted resolution 19/11 entitled “Rights of persons with disabilities: participation in political and public life”, without a vote. The

<sup>391</sup> A/HRC/19/55.

<sup>392</sup> United Nations, *Treaty Series*, vol. 2349, p. 41.

<sup>393</sup> A/67/292.

<sup>394</sup> United Nations, *Treaty Series*, vol. 1577, p. 3.

<sup>395</sup> See also Economic and Council resolution 2012/11 of 26 July 2012 entitled “Mainstreaming disability in the development agenda”.

Council, *inter alia*, reaffirmed the right to participate in political and public life, as set out in article 21 of the Universal Declaration of Human Rights, 1948, as well as article 25 of the International Covenant on Civil and Political Rights, 1966, and article 29 of the Convention on the Rights of Persons with Disabilities, 2006.<sup>396</sup> In this context, the Council urged States parties to review any existing exclusion or restriction of political rights for persons with disabilities, including those persons with psychosocial, mental or intellectual disabilities, and to take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities. It also called upon States parties, in adopting and implementing measures to ensure that persons with disabilities have the opportunity to participate effectively and fully in political and public life, including the conduct of public affairs on an equal basis with others, to consult closely with and actively involve persons with disabilities.

(ii) *General Assembly*<sup>397</sup>

On 20 December 2012, the General Assembly adopted resolution 67/160 entitled “Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto”, on the recommendation of the Third Committee, without a vote. The Assembly, *inter alia*, called upon those States that have not yet done so to consider signing and ratifying the Convention on the Rights of Persons with Disabilities, 2006, and the Optional Protocol thereto,<sup>398</sup> as a matter of priority.

(o) **Contemporary forms of slavery**

*Human Rights Council*

The Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Ms. Gulnara Shahinian, presented her report to the Human Rights Council.<sup>399</sup> The Special Rapporteur focused her thematic report on the issue of servile marriage, in which a spouse is reduced to a commodity over whom any or all the powers of ownership are attached.

<sup>396</sup> United Nations, *Treaty Series*, vol. 2515, p. 3.

<sup>397</sup> See also General Assembly resolution 67/140 of 20 December 2012 entitled “Realizing the Millennium Development Goals and other internationally agreed development goals for persons with disabilities towards 2015 and beyond”.

<sup>398</sup> A/61/611.

<sup>399</sup> A/HRC/21/41 and Corr.1.



**(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*

**a. Human Rights Council**

On 5 July 2012, the Human Rights Council adopted resolution 20/10 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”, by a recorded vote of 31 in favour to 11 against, with 5 abstentions. The Council, *inter alia*, welcomed the work and contributions 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, and endorsed the guiding principles on foreign debt and human rights, as annexed to his report.<sup>400</sup> It encouraged all Governments, relevant United Nations agencies, funds and programmes, as well as the private sector, to take into consideration the guiding principles when designing policies and programmes.

**b. General Assembly**

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, Mr. Cephias Lumina, submitted his report to the General Assembly.<sup>401</sup> The report focused on adverse impacts of the provisions of loans by international financial institutions, involving tight macroeconomic and fiscal policies, cuts in Government expenditure, public sector reform, privatization of public services and trade liberalization. The Independent Experts argues that such policies undermine the obligation of States to protect, promote and fulfill human rights and that women are disproportionately affected. The Independent Expert recommended that States address the disproportionate impact of debt and related policy conditionalities on women by, *inter alia*, fully upholding their obligations relating to women’s rights through the adoption of gender-sensitive policies and strategies.

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

**General Assembly**

On 20 December 2012, the General Assembly adopted resolution 67/170 entitled “Human rights and unilateral coercive measures”, on the recommendation of the Third Committee, by a recorded vote of 128 in favour to 54 against, with 4 abstentions. The Assembly, *inter alia*, stressed that unilateral coercive measures and legislation were contrary to international law, international humanitarian law, the Charter of the United Nations and principles governing peaceful relations among States. The Assembly strongly urged

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<sup>400</sup> A/HR/20/23.

<sup>401</sup> A/67/304.

States to refrain from promulgating and applying any unilateral economic, financial or trade measures not in accordance with international law and the Charter.

(iii) *Human rights and environment*<sup>402</sup>

**Human Rights Council**

On 22 March 2012, the Human Rights Council adopted resolution 19/10 entitled “Human rights and the environment”, without a vote. The Council, *inter alia*, reaffirmed the Millennium Development Goals, in particular Goal 7 on ensuring environmental sustainability, as well as the commitments made by the international community, as contained in the outcome document of the High-level Plenary Meeting of the sixty-fifth session of the General Assembly,<sup>403</sup> to make every effort to achieve the Millennium Development Goals. The Council decided to appoint, for a period of three years, an independent expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment.

(iv) *Business and human rights*

**Human Rights Council**

The Secretary-General submitted his report entitled “Contribution of the United Nations system as a whole to the advancement of the business and human rights agenda and the dissemination and implementation of the Guiding Principles on Business and Human Rights” to the Human Rights Council.<sup>404</sup> The report provided an overview of ongoing activities by entities and mechanisms in the United Nations system relevant to business and human rights. It identified opportunities and provided recommendations for advancing the business and human rights agenda within the United Nations system by embedding the agenda.

On 27 September 2012, the Human Rights Council adopted resolution 21/5 entitled “Contribution of the United Nations system as a whole to the advancement of the business and human rights agenda and the dissemination and implementation of the Guiding Principles on Business and Human Rights”, without a vote. The Council, *inter alia*, stressed that the obligation and the primary responsibility to promote and protect human rights and fundamental freedoms lie with the State and emphasized that transnational corporations and other business enterprises have a responsibility to respect human rights, irrespective of where they conduct their business. It recognized the importance that guidance, initiatives and practices relevant to the area of business and human rights, at the international, regional and national levels, are guided by the Guiding Principles.<sup>405</sup> The Council therefore recommended that relevant United Nations entities apply the Guiding Principles when formulating and implementing internal policies and procedures, including in investment management, procurement and partnerships with the business sector, taking into account the recommendations made in the report of the Secretary-General.

<sup>402</sup> For more information on the environment, see section 8 of this chapter.

<sup>403</sup> General Assembly resolution 65/1 of 22 September 2010.

<sup>404</sup> A/HRC/21/21 and Corr. 1.

<sup>405</sup> For the text of the Guiding Principles on Business and Human Rights, see A/HRC/17/31.

## 6. Women<sup>406</sup>

### (a) United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women)

UN-Women was established by the General Assembly pursuant to resolution 64/289 of 2 July 2010 as a composite entity to function as a secretariat with the additional role of leading, coordinating and promoting the accountability of the United Nations system in its work on gender equality and the empowerment of women.<sup>407</sup>

The Executive Board of UN-Women held three meeting sessions in New York in 2012,<sup>408</sup> during which it adopted ten decisions.<sup>409</sup> One of these decisions is highlighted below.

By its decision 2012/2 of 4 June 2012, entitled “Progress report of the Under-Secretary-General/Executive Director of UN-Women on the implementation of the UN-Women strategic plan, 2011–2013”, the Executive Board, *inter alia*, commended UN-Women for leading the development of the United Nations System Wide Action Plan (UN-SWAP) on gender equality and women’s empowerment, welcomed its adoption by the United Nations Chief Executives Board as an accountability framework to be applied throughout the United Nations system, called upon UN-Women to continue its effective coordination work and recommended that the Economic and Social Council consider steps to encourage the full application of UN-SWAP.

<sup>406</sup> This section covers the sessions of the General Assembly, the Economic and Social Council and the Commission on the Status of Women. Selected resolutions and decisions are highlighted. Resolutions recommending the adoption of subsequent resolutions by another organ are not covered. For more detailed information and documents regarding this topic generally, see the website of the UN-Women at <http://www.unwomen.org/>. See also section 5 of this chapter on human rights.

<sup>407</sup> It consolidated the mandates and functions of the Office of the Special Adviser on Gender Issues and Advancement of Women, the Division for the Advancement of Women, the United Nations Development Fund for Women and the International Research and Training Institute for the Advancement of Women.

<sup>408</sup> See the reports of the Executive Board of UN-Women: Report of the first regular session, held from 23 to 24 January 2012 (UNW/2012/3); report of the annual session, held from 29 May to 1 June 2012 (UNW/2012/9); and report of the second regular session, held from 28 November to 30 November 2012 (UNW/2012/17).

<sup>409</sup> Decisions 2012/1 entitled “Report on operational activities”; 2012/2 entitled “Progress report of the Under-Secretary-General/Executive Director of UN-Women on the implementation of the UN-Women strategic plan, 2011–2013”; 2012/3 entitled “Proposed revision to the financial regulations and rules for the United Nations Entity for Gender Equality and the Empowerment of Women”; 2012/4 entitled “Report of the Under Secretary-General/Executive Director on the Regional Architecture”; 2012/5 entitled “Annual Report on the United Nations Entity for Gender Equality and the Empowerment of Women Evaluation Function 2011”; 2012/6 entitled “Regional Architecture: administrative, budgetary and financial implications and implementation plan”; 2012/7 entitled “Progress report toward a harmonized cost-recovery policy”; 2012/8 entitled “Proposed approach for calculating the operational reserve for the United Nations Entity for Gender Equality and the Empowerment of Women”; 2012/9 entitled “The Evaluation Policy for the United Nations Entity for Gender Equality and the Empowerment of Women”; and 2012/10 entitled “Report on internal audit and investigation activities for the period 1 July 2010 to 31 December 2011”.

### (b) 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) 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-sixth session in New York on 14 March 2011 and from 27 February to 9 March 2012 and on 15 March 2012.<sup>410</sup> In accordance with the multi-year programme of work adopted by the Economic and Social Council,<sup>411</sup> the priority theme of the Commission was “The empowerment of rural women and their role in poverty and hunger eradication, development and current challenges” and progress was evaluated in the implementation of the agreed conclusions from the fifty-second session on “Financing gender equality and the empowerment of women”.

During its fifty-sixth session, the Commission adopted five resolutions to be brought to the attention of the Economic and Social Council.<sup>412</sup> Two of these resolutions are highlighted herein.

In resolution 56/1 entitled “Release of women and children taken hostage, including those subsequently imprisoned, in armed conflicts”, the Commission, *inter alia*, urged States that are parties to an armed conflict to take all the necessary measures, in a timely manner, to determine the identify, fate and whereabouts of women and children taken hostage, including those subsequently imprisoned, in armed conflicts, and, to the greatest possible extent, to provide their family members, through appropriate channels, with all relevant information they have on their fate and whereabouts. The Commission also strongly urged all parties to armed conflicts to respect fully the norms of international humanitarian law and to take all necessary measures for the protection of the civilian population as such, including measures to prevent and combat acts of hostage-taking.

In resolution 56/3 entitled “Eliminating maternal mortality and morbidity through the empowerment of women”, the Commission, *inter alia*, called upon Member States to fully and effectively implement the Beijing Platform for Action,<sup>413</sup> the Programme of Action of the International Conference on Population and Development (“Cairo Programme of Action”)<sup>414</sup> and the outcomes of their review conferences, including the com-

<sup>410</sup> Commission on the Status of Women, Report on the fifty-sixth session (14 March 2011, 27 February-9 March and 15 March 2012), Official Records of the Economic and Social Council, 2012 Supplement No. 7 (E/2012/27 and E/CN.6/2012/16).

<sup>411</sup> Economic and Social Council resolution 2009/15 of 28 July 2009.

<sup>412</sup> Resolutions 56/1 entitled “Release of women and children taken hostage, including those subsequently imprisoned, in armed conflicts”; 56/2 entitled “Gender equality and empowerment of women in natural disasters”; 56/3 entitled “Eliminating maternal mortality and morbidity through the empowerment of women”; 56/4 entitled “Indigenous women: key actors in poverty and hunger eradication”; and 56/5 entitled “Women, the girl child and HIV and AIDS”.

<sup>413</sup> *Report of the Fourth World Conference on Women, Beijing, 4–15 September 1995* (United Nations publication, Sales No. E.96.IV.13), chapter I, resolution 1, annex II.

<sup>414</sup> *Report of the International Conference on Population and Development, Cairo, 5–13 September 1994* (United Nations publication, Sales No. E.95.XIII.18), chapter I, resolution 1, annex.

mitments relating to sexual and reproductive health and reproductive rights, and the promotion and protection of all human rights in this context. It also called upon Member States to ensure the right of women and girls to education of good quality and on an equal basis with men and boys, to ensure that they complete a full course of primary education, and to renew their efforts to improve and expand girls' and women's education at all levels, including at the secondary and higher levels, as well as vocational education and technical training, in order to, *inter alia*, achieve gender equality, the empowerment of women and poverty eradication.

### (c) Economic and Social Council

On 27 July 2012, the Economic and Social Council adopted two resolutions relating to gender equality, gender mainstreaming and empowerment of women.<sup>415</sup> One of these resolutions is highlighted herein.

In resolution 2012/24 entitled "Mainstreaming a gender perspective into all policies and programmes in the United Nations system", the Economic and Social Council, *inter alia*, took note with appreciation of the report of the Secretary-General<sup>416</sup> and the recommendations contained therein, and called for further and continued efforts to mainstream a gender perspective into all policies and programmes of the United Nations in accordance with all relevant resolutions of the Economic and Social Council. It further welcomed the development of the United Nations System-wide Action Plan on Gender Equality and the Empowerment of Women (UN-SWAP), under the leadership of UN-Women, and its adoption by the United Nations System Chief Executives Board for Coordination on 13 April 2012, as an accountability framework to be fully implemented by the United Nations system, and called upon the United Nations system to actively engage in its roll-out.

### (d) General Assembly

On 20 December 2012, the General Assembly adopted five resolutions relating to women and human rights, without a vote, on the recommendation of the Third Committee.<sup>417</sup> One of which is highlighted herein.

In resolution 67/148 entitled "Follow-up to the Fourth World Conference on Women and full implementation of the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly", the General Assembly,

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<sup>415</sup> Economic and Social Council resolutions 2012/24 entitled "Mainstreaming a gender perspective into all policies and programmes in the United Nations system" and 2012/25 entitled "Situation of and assistance to Palestinian women".

<sup>416</sup> E/2012/61.

<sup>417</sup> General Assembly resolutions 67/144 entitled "Intensification of efforts to eliminate all forms of violence against women"; 67/145 entitled "Trafficking in women and girls"; 67/146 entitled "Intensifying global efforts for the elimination of female genital mutilations"; 67/147 entitled "Support efforts to end obstetric fistula"; and 67/148 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".

*inter alia*, took note with appreciation of the report of the Secretary-General<sup>418</sup> under this agenda item. The Assembly called upon States parties to comply fully with their obligations under the Convention on the Elimination of All Forms of Discrimination against Women, 1979,<sup>419</sup> and the Optional Protocol, 1999,<sup>420</sup> thereto and to take into consideration the concluding observations as well as the general recommendations of the Committee on the Elimination of Discrimination against Women. It urged States parties to consider limiting the extent of any reservations that they lodge to the Convention, to formulate any reservations as precisely and narrowly as possible and to regularly review such reservations with a view to withdrawing them so as to ensure that no reservation is incompatible with the object and purpose of the Convention. The Assembly also urged all Member States that had not yet ratified or acceded to the Convention to consider doing so, and called upon those Member States that had not yet done so to consider signing and ratifying or acceding to the Optional Protocol. Moreover, the Assembly reiterated that the full, effective and accelerated implementation of the Beijing Declaration and Platform for Action<sup>421</sup> and the outcome of the twenty-third special session<sup>422</sup> was essential to achieving the internationally agreed development goals, including the Millennium Development Goals, and in this regard called for the goal of gender equality and the empowerment of women to feature prominently in discussions on the post-2015 development framework, bearing in mind the importance of mainstreaming a gender perspective.

## 7. Humanitarian matters

### (a) Economic and Social Council

On 20 July 2012, the Economic and Social Council adopted resolution 2012/3 entitled “Strengthening of the coordination of emergency humanitarian assistance of the United Nations”. The Council, *inter alia*, took note of the report of the Secretary-General submitted under the agenda item.<sup>423</sup> The Council urged Member States to assess their progress in strengthening preparedness levels for humanitarian response, with a view to increasing efforts to develop, update and strengthen disaster preparedness and risk reduction measures at all levels, in accordance with the Hyogo Framework for Action 2005–2015: Building the Resilience of Nations and Communities to Disasters.<sup>424</sup> It also urged all actors engaged in the provision of humanitarian assistance to fully commit to and duly respect the guiding principles contained in the annex to General Assembly resolution 46/182 of 19 December 1991, including the humanitarian principles of humanity, impartiality and neutrality as well as the principle of independence, as recognized by the Assembly in its resolution 58/114 of 17 December 2003. The Council called upon all States and parties to comply fully

<sup>418</sup> A/67/185.

<sup>419</sup> United Nations, *Treaty Series*, vol. 1249, p. 13.

<sup>420</sup> *Ibid.*, vol. 2131, p. 83.

<sup>421</sup> *Report of the Fourth World Conference on Women, Beijing, 4–15 September 1995* (United Nations publication, Sales No. E.96.IV.13), chapter I, resolution 1, annexes I and II.

<sup>422</sup> Resolution S-23/2, annex, and resolution S-23/3, annex. See also section 2 of this chapter on peace and security.

<sup>423</sup> A/67/89-E/2012/77.

<sup>424</sup> A/CONF.206/6 and Corr.1, chap. I, resolution 2.

with the provisions of international humanitarian law, including all the Geneva Conventions of 12 August 1949,<sup>425</sup> in particular the Geneva Convention relative to the Protection of Civilian Persons in Time of War,<sup>426</sup> in order to protect and assist civilians in occupied territories, and in that regard urged the international community and the relevant organizations of the United Nations system to strengthen humanitarian assistance to civilians in those situations. It further urged Member States to continue to prevent, investigate and prosecute acts of sexual and gender-based violence in humanitarian emergencies, called upon Member States and relevant organizations to strengthen support services for victims of such violence, and called for a more effective response in that regard.

### (b) General Assembly

On 13 December 2012, the General Assembly adopted, without a vote, resolution 67/84, 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". The Assembly, *inter alia*, took note of the report of the Secretary-General on the strengthening of the coordination of emergency humanitarian assistance of the United Nations,<sup>427</sup> in particular section VI.B concerning the White Helmets. The Assembly also took note of the agreement signed in 2012 between the United Nations Volunteers and the White Helmets Commission, which would allow the continuation of the joint work launched in 1995.

On the same day, the General Assembly adopted resolution 67/85, entitled "Safety and security of humanitarian personnel and protection of United Nations personnel" without a vote. The Assembly, *inter alia*, welcomed the report of the Secretary-General<sup>428</sup> and strongly urged all States to take the necessary measures to ensure the safety and security of humanitarian personnel and United Nations and associated personnel and to respect and ensure respect for the inviolability of United Nations premises. The Assembly also called upon all States to consider becoming parties to the Rome Statute of the International Criminal Court, 1998,<sup>429</sup> as well as to the Optional Protocol to the Convention on the Safety of United Nations and Associated Personnel, 2005,<sup>430</sup> and urged States parties to put in place appropriate national legislation, as necessary, to enable its effective implementation. Moreover, the Assembly called upon all States, all parties involved in armed conflict and all humanitarian actors to respect the principles of neutrality, humanity, impartiality and independence for the provision of humanitarian assistance. The Assembly also called upon all States to comply fully with their obligations under international humanitarian law, including as provided by the Geneva Convention relative to the Protection of Civilian Persons in Time of War, 1949,<sup>431</sup> in order to respect and protect civilians, including humanitarian personnel, in territories subject to their jurisdiction. The Assembly request-

<sup>425</sup> United Nations, *Treaty Series*, vol. 75, pp. 31, 85, 135 and 287.

<sup>426</sup> *Ibid.*, p. 287.

<sup>427</sup> A/67/89-E/2012/77.

<sup>428</sup> A/67/492.

<sup>429</sup> United Nations, *Treaty Series*, vol. 2187, p. 3.

<sup>430</sup> See General Assembly resolution 60/42 of 8 December 2005.

<sup>431</sup> United Nations, *Treaty Series*, vol. 75, p. 287.



ed the Secretary-General to take the necessary measures to promote full respect for the human rights, privileges and immunities of United Nations and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation, and also requested the Secretary-General to seek the inclusion, in negotiations of headquarters and other mission agreements concerning United Nations and associated personnel, of the applicable conditions contained in the Convention on the Privileges and Immunities of the United Nations,<sup>432</sup> the Convention on the Privileges and Immunities of the Specialized Agencies<sup>433</sup> and the Convention on the Safety of United Nations and Associated Personnel.<sup>434</sup> The Assembly also noted with appreciation the progress reported in implementing the recommendations of the Independent Panel on Safety and Security of United Nations Personnel and Premises Worldwide.<sup>435</sup>

On 13 December 2012, the General Assembly also adopted resolution 67/87, entitled “Strengthening of the coordination of emergency humanitarian assistance of the United Nations”, without a vote. The Assembly, *inter alia*, welcomed the outcome of the fifteenth humanitarian affairs segment of the Economic and Social Council at its substantive session of 2012.<sup>436</sup> The Assembly also welcomed the adoption and ongoing process of ratification of the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa which marked a significant step towards strengthening the national and regional normative framework for the protection of and assistance to internally displaced persons in Africa. Furthermore, the Assembly reaffirmed the importance of implementing the Hyogo Framework for Action 2005–2015: Building the Resilience of Nations and Communities to Disasters,<sup>437</sup> and reiterated the importance of strengthening the effectiveness of national and local preparedness in line with priority five of the Framework. The Assembly further welcomed the growing number of initiatives undertaken at the regional and national levels to promote the implementation of the Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance, adopted at the Thirtieth International Conference of the Red Cross and Red Crescent, held in Geneva from 26 to 30 November 2007, and encouraged Member States and, where applicable, regional organizations to take further steps to review and strengthen operational and legal frameworks for international disaster relief, taking into account the Guidelines, as appropriate. Moreover, the Assembly recognized the Guiding Principles on Internal Displacement<sup>438</sup> as an important international framework for the protection of internally displaced persons, encouraged Member States and humanitarian agencies to continue to work together, in collaboration with host communities, in endeavours to provide a more predictable response to the needs of internally displaced persons, and in this regard called for continued and enhanced international support, upon request, for the capacity-building efforts of States.

<sup>432</sup> *Ibid.*, vol. 1, p. 15, and vol. 90, p. 327 (corrigendum to vol. 1).

<sup>433</sup> *Ibid.*, vol. 33, p. 261.

<sup>434</sup> *Ibid.*, vol. 2051, p. 363.

<sup>435</sup> Available from <http://www.un.org/News/dh/infocus/terrorism/PanelOnSafetyReport.pdf>.

<sup>436</sup> See *Official Records of the General Assembly, Sixty-seventh Session, Supplement No. 3 (A/67/3/Rev.1)*, chap. VII.

<sup>437</sup> A/CONF.206/6 and Corr.1, chap. I, resolution 2.

<sup>438</sup> E/CN.4/1998/53/Add.2, annex.

On 21 December 2012, the General Assembly adopted resolution 67/231, entitled “International cooperation on humanitarian assistance in the field of natural disasters, from relief to development”, without a vote. The Assembly, *inter alia*, took note of the report of the Secretary-General submitted under the agenda item.<sup>439</sup> The Assembly further recognized that information and telecommunication technology can play an important role in disaster response and, in this regard, encouraged Member States that have not acceded to or ratified the Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations<sup>440</sup> to consider doing so.

## 8. Environment

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

The United Nations Climate Change Conference was held in Doha, Qatar, from 26 November to 8 December 2012. The eighteenth session of the Conference of States Parties to the United Nations Framework Convention on Climate Change, 1992,<sup>441</sup> and the eighth session of the Conference of the Parties serving as the meeting of Parties to the Kyoto Protocol, 1997,<sup>442</sup> were held during the Conference.

The Conference of the State Parties to the United Nations Framework Convention on Climate Change adopted 26 decisions and 1 resolution.<sup>443</sup> Decision 1/CP.18, constituted the agreed outcome pursuant to the Bali Action Plan.<sup>444</sup> By decision 2/CP.18, the Conference welcomed with high appreciation the successful start, as a matter of urgency, of the work of the Ad Hoc Working Group on the Durban Platform for Enhanced Action, including the workplan on enhancing mitigation ambition, and the progress that had been made in 2012. In this context, it also determined to adopt a protocol, another legal instrument or an agreed outcome with legal force under the Convention applicable to all Parties at its twenty-first session, due to be held from 2 to 13 December 2015, and for it to come into effect and be implemented from 2020.<sup>445</sup>

The Conference of the Parties serving as the meeting of Parties to the Kyoto Protocol adopted 13 decisions and 1 resolution.<sup>446</sup> By decision 1/CMP.8, the Conference adopted, in accordance with articles 20 and 21 of the Kyoto Protocol, an amendment to the Protocol (Doha Amendment to the Kyoto Protocol), the text of which is set out in annex I to the decision.<sup>447</sup>

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<sup>439</sup> A/67/363.

<sup>440</sup> United Nations, *Treaty Series*, vol. 2296, p. 5.

<sup>441</sup> *Ibid.*, vol. 1771, p. 107.

<sup>442</sup> *Ibid.*, vol. 2303, p. 148.

<sup>443</sup> For the report of the Conference of the Parties, see FCCC/CP/2012/8 and Add.1 to 3.

<sup>444</sup> *Ibid.*, Add.1, p. 3.

<sup>445</sup> *Ibid.*, p. 19.

<sup>446</sup> For the report of the Conference of the Parties, see FCCC/KP/CMP/2012/13 and Add.1 and 2.

<sup>447</sup> *Ibid.*, Add.1, p. 2.

### (b) United Nations Conference on Sustainable Development

The United Nations Conference on Sustainable Development was held in Rio de Janeiro, Brazil, from 20 to 22 June 2012, pursuant to General Assembly resolutions 64/236 of 24 December 2009 and 66/197 of 22 December 2011. During that period, the Conference held six plenary meetings and adopted three resolutions.<sup>448</sup>

At the 6th plenary meeting, on 22 June 2012, the Conference adopted its outcome document entitled “The future we want”, as an annex to resolution 1, and recommended to the General Assembly that it endorse the outcome document as adopted by the Conference.

### (c) General Assembly

On 27 July 2012, the General Assembly, without reference to a Main Committee, adopted resolution 66/288, entitled “The future we want” without a vote, in which it endorsed the outcome document of the United Nations Conference on Sustainable Development, entitled “The future we want”, annexed to the resolution.

On 21 December 2012, the General Assembly adopted, on the recommendation of the Second Committee, 17 resolutions related to the environment.<sup>449</sup> Four of these resolutions are highlighted below.

By resolution 67/203, entitled “Implementation of Agenda 21, the Programme for the Further Implementation of Agenda 21 and the outcomes of the World Summit on Sustainable Development and of the United Nations Conference on Sustainable Development”, adopted without a vote, the General Assembly reaffirmed, *inter alia*, the outcome document of the United Nations Conference on Sustainable Development, entitled “The future

<sup>448</sup> For the report of the United Nations Conference on Sustainable Development, see A/CONF.216/16.

<sup>449</sup> General Assembly resolutions: 67/200, entitled “International Day of Forests”; 67/201, entitled “Oil slick on Lebanese shores”; 67/203, entitled “Implementation of Agenda 21, the Programme for the Further Implementation of Agenda 21 and the outcomes of the World Summit on Sustainable Development and of the United Nations Conference on Sustainable Development”; 67/204, entitled “Implementation of the International Year of Water Cooperation, 2013”; 67/205, entitled “Towards the sustainable development of the Caribbean Sea for present and future generations”; 67/206, entitled “International Year of Small Island Developing States”; 67/207, 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”; 67/208, entitled “International cooperation to reduce the impact of the El Niño phenomenon”; 67/209, entitled “International Strategy for Disaster Reduction”; 67/210, entitled “Protection of global climate for present and future generations of humankind”; 67/211, entitled “Implementation of the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa”; 67/212, entitled “Implementation of the Convention on Biological Diversity and its contribution to sustainable development”; 67/213, entitled “Report of the Governing Council of the United Nations Environment Programme on its twelfth special session and on the implementation of section IV.C, entitled ‘Environmental pillar in the context of sustainable development’, of the outcome document of the United Nations Conference on Sustainable Development”; 67/214, entitled “Harmony with Nature”; 67/215, entitled “Promotion of new and renewable sources of energy”; 67/216, entitled “Implementation of the outcome of the United Nations Conference on Human Settlements (Habitat II) and strengthening of the United Nations Human Settlements Programme (UN-Habitat)”; and 67/223, entitled “Promotion of ecotourism for poverty eradication and environment protection”.

we want”,<sup>450</sup> and urged its speedy implementation. The Assembly also recalled the commitment made at the United Nations Conference on Sustainable Development to strengthen the Economic and Social Council within its mandate under the Charter of the United Nations as a principal organ in the integrated and coordinated follow-up of the outcomes of all major United Nations conferences and summits in the economic, social, environmental and related fields.

By resolution 67/210, entitled “Protection of global climate for present and future generations of humankind”, adopted without a vote, the General Assembly took note, *inter alia*, with appreciation of the outcome of the seventeenth session of the Conference of the Parties to the United Nations Framework Convention on Climate Change and of the seventh session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol, hosted in Durban, South Africa, from 28 November to 11 December 2011.<sup>451</sup> The Assembly also encouraged Member States to approach the United Nations Climate Change Conference in Doha with a view to achieving an ambitious, substantive and balanced outcome, building on the progress made through the Bali Action Plan<sup>452</sup> and the decisions adopted at Cancun, Mexico,<sup>453</sup> and Durban, South Africa, accelerating progress towards the full implementation of those decisions through the ongoing negotiations at the Conference of the Parties to the Convention and the Meeting of the Parties to the Kyoto Protocol, consistent with the mandates of and decisions on the three tracks of negotiations, and further developing and implementing the new processes and institutions agreed in the Cancun and Durban decisions.

By resolution 67/212, entitled “Implementation of the Convention on Biological Diversity and its contribution to sustainable development”, adopted without a vote, the General Assembly took note, *inter alia*, 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>454</sup> The Assembly also encouraged parties, in close collaboration with relevant stakeholders, to take concrete measures towards achieving the objectives of the Convention on Biological Diversity, 1992,<sup>455</sup> and the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from Their Utilization, 2010.<sup>456</sup> It requested parties, in close collaboration with relevant stakeholders, to coherently and efficiently implement their obligations and commitments under the Convention, and in this regard emphasized the need to comprehensively address at all levels the difficulties that impede the full implementation of the Convention. The Assembly further invited countries that have not yet done so to ratify or accede to the Convention on Biological Diversity, and invited parties to the Convention to ratify or accede to the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from Their Utilization, so as to ensure its early entry into force and its implementation.

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<sup>450</sup> General Assembly resolution 66/288, annex.

<sup>451</sup> FCCC/CP/2011/9/Add.1 and 2 and FCCC/KP/CMP/2011/10/Add.1 and 2.

<sup>452</sup> FCCC/CP/2007/6/Add.1, decision 1/CP.13.

<sup>453</sup> FCCC/CP/2010/7/Add.1 and 2.

<sup>454</sup> A/67/295, sect. III.

<sup>455</sup> United Nations, *Treaty Series*, vol. 1760, p. 79.

<sup>456</sup> UNEP/CBD/COP/10/27, annex, decision X/1.

By resolution 67/213, entitled “Report of the Governing Council of the United Nations Environment Programme on its twelfth special session and on the implementation of section IV.C, entitled ‘Environmental pillar in the context of sustainable development’, of the outcome document of the United Nations Conference on Sustainable Development”, adopted without a vote, the General Assembly decided, *inter alia*, to strengthen and upgrade the United Nations Environment Programme in the manner set out in subparagraphs (a) to (h) of paragraph 88 of the outcome document, entitled “The future we want”, of the United Nations Conference on Sustainable Development, as endorsed by the General Assembly in its resolution 66/288 of 27 July 2012.

## 9. Law of the Sea

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

Pursuant to paragraph 249 of General Assembly resolution 66/231 of 24 December 2011, the Secretary-General submitted a comprehensive report on oceans and the law of the sea<sup>457</sup> to the General Assembly at its sixty-seventh session under the agenda item entitled “Oceans and the law of the sea”. The report was also submitted to States parties to the United Nations Convention on the Law of the Sea, 1982 (the “Convention”)<sup>458</sup> in accordance with article 319 thereof. The report consisted of two parts.

The first part of the report<sup>459</sup> was prepared to facilitate discussions on the topic of focus of the thirteenth meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea, namely marine renewable energies. It contained information on the various marine sources of renewable energies and the policy framework and legal aspects of the activities relating to them. In addition, this part of the report attempted to identify developments at the global and regional levels, as well as the related opportunities and challenges within the context of sustainable development.

The second part of the report<sup>460</sup> provided an overview of developments relating to the implementation of 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. It outlined the work carried out in 2012 by the three bodies established by the Convention, namely the Commission on the Limits of the Continental Shelf (CLCS),<sup>461</sup> the International Seabed Authority (ISA),<sup>462</sup> and the International Tribunal for the Law of the Sea (ITLOS).<sup>463</sup>

<sup>457</sup> A/67/79 and Corr. 1, and Add.1 and 2. At the time of preparation of this chapter, the Secretary-General’s report to the sixty-eight session of the General Assembly was not published yet. It will contain further details on activities carried out in 2012. Therefore, for activities that have taken place in 2012 after the publication of A/67/79/Add.1 and 2 references have been made to United Nations documents other than the report of the Secretary-General, wherever possible.

<sup>458</sup> United Nations, *Treaty Series*, vol. 1833, p. 3.

<sup>459</sup> A/67/79 and Corr.1.

<sup>460</sup> A/67/79/Add.1 and 2.

<sup>461</sup> *Ibid.*, chapter III.A. For more information on the twenty-ninth (19 March-27 April 2012), and thirtieth (30 July-24 August 2012) sessions of the CLCS, see CLCS/74 and CLCS/76.

<sup>462</sup> *Ibid.*, chapter III.B.

<sup>463</sup> *Ibid.*, chapter IV.C. For the work of the Tribunal, see section B of chapter VII of this publication.

In that part of the report, the Secretary-General provided an overview of legal developments relating to piracy and armed robbery at sea worldwide as well as actions being taken by various actors to combat these crimes.<sup>464</sup> The report also referred to a number of other documents published in 2012 specifically addressing piracy and armed robbery at sea, including: a report of the United Nations assessment mission on piracy in the Gulf of Guinea issued by the Secretary-General in January 2012;<sup>465</sup> the report of the Secretary-General on specialized anti-piracy courts in Somalia and other States in the region issued in January 2012;<sup>466</sup> and a compilation of information received from 42 States on measures taken to criminalize piracy under their domestic law and to support the prosecution of individuals suspected of piracy off the coast of Somalia and the imprisonment of convicted pirates submitted to the Security Council in March 2012.<sup>467</sup>

It also noted that 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 held its fifth meeting from 7 to 11 May 2012. It was the first meeting of the Working Group within the process initiated by the General Assembly in resolution 66/231, with a view to ensuring that the legal framework for the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction effectively addresses those issues by identifying gaps and ways forward, including through the implementation of existing instruments and the possible development of a multilateral agreement under the Convention. The Working Group formulated recommendations for consideration by the General Assembly at its sixty-seventh session.<sup>468</sup>

The second part of the report<sup>469</sup> further observed that the thirteenth meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea was held in New York from 29 May to 1 June 2012, and focused its discussions on marine renewable energies.<sup>470</sup> It reported that the General Assembly was expected to further review the effectiveness and utility of the Open-ended Informal Consultative Process on Oceans and the Law of the Sea, at its sixty-seventh session, in accordance with paragraph 230 of resolution 66/231.<sup>471</sup>

In relation to the Regular Process for Global Reporting and Assessment of the State of the Marine Environment, including Socioeconomic Aspects (the “Regular Process”), the

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<sup>464</sup> A/67/79/Add.1, chapter VII.

<sup>465</sup> S/2012/45.

<sup>466</sup> S/2012/50, issued pursuant to Security Council resolution 2015 (2011) of 24 October 2011.

<sup>467</sup> S/2012/177, prepared in response to the request of the Security Council contained in resolution 2015 (2011). Following the publication of the Secretary-General’s report A/67/79/Add.1, pursuant to Security Council resolution 2020 (2011) of 22 November 2011 an overview of measures being taken to combat piracy off the coast of Somalia between October 2011 and 2012 was provided in the report of the Secretary-General issued in October 2012 (S/2012/783). See also, with regard to actions of the Security Council against piracy, section 2 (i) above.

<sup>468</sup> A/67/95.

<sup>469</sup> A/67/79/Add.1, chapter XVI.A.

<sup>470</sup> A/67/120. The Co-Chairs’ summary of discussions at the meeting was circulated as a document of the sixty-seventh session of the General Assembly under the agenda item “Oceans and the law of the sea”.

<sup>471</sup> A/67/79/Add.1, chapter XVI.A.

second part of the report of the Secretary-General noted the work of the Ad Hoc Working Group of the Whole of the General Assembly, which held its third meeting from 23 to 27 April 2012, and provided recommendations to the General Assembly.<sup>472</sup> This part of the report also commented on the progress in the work of the Bureau of the Ad Hoc Working Group of the Whole, the convening of workshops in support of the first cycle of the Regular Process and the appointment of individuals to the Pool of Experts of the Regular Process. In addition, it noted the support expressed for the Regular Process by the United Nations Conference on Sustainable Development.<sup>473</sup>

The Secretary-General also reported that on 12 August 2012, at the International Conference Commemorating the thirtieth anniversary of the Opening for Signature of the Convention, organized at the Yeosu World Expo, Republic of Korea, he launched the Oceans Compact, an initiative aimed at strengthening United Nations system-wide coherence and fostering synergies in oceans matters towards achieving the common goal of “healthy oceans for prosperity”.<sup>474</sup> The Compact has three inter-related objectives: protecting people and improving the health of the oceans; protecting, recovering and sustaining the environment and natural resources of the oceans and restoring their full food production and livelihood services; and strengthening ocean knowledge and the management of oceans. The Compact will, among other things, assist Member States to implement the Convention and other relevant global and regional conventions and instruments, and promote participation in those instruments.

The Secretary-General’s report also provided an overview with regard to a number of other oceans-related issues, including 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;<sup>475</sup> State practice, maritime claims and delimitation of maritime zones;<sup>476</sup> international shipping activities;<sup>477</sup> people at sea;<sup>478</sup> maritime security;<sup>479</sup> marine science and technology;<sup>480</sup> conservation and management of marine liv-

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<sup>472</sup> A/67/79/Add.1, chapter XVI.B. See also the report on the work of the Ad Hoc Working Group of the Whole on the Regular Process for Global Reporting and Assessment of the State of the Marine Environment, including Socioeconomic Aspects (A/67/87).

<sup>473</sup> A/67/79/Add.1, chapter XVI.B.

<sup>474</sup> The text of the Compact is available from [http://www.un.org/Depts/los/ocean\\_compact/oceans\\_compact.htm](http://www.un.org/Depts/los/ocean_compact/oceans_compact.htm).

<sup>475</sup> A/67/79/Add.1, chapter II, and A/67/79/Add.2.

<sup>476</sup> *Ibid.*, chapter IV.

<sup>477</sup> *Ibid.*, chapter V; see also: section 6 of chapter III.B of this publication regarding the work of the International Maritime Organization.

<sup>478</sup> *Ibid.*, chapter VI; see also: section 12 of this chapter regarding the activities of the United Nations High Commissioner for Refugees, section 1 of chapter III.B regarding the work of the International Labour Organization, and section 6 of chapter III.B regarding the work of the International Maritime Organization.

<sup>479</sup> *Ibid.*, chapter VII.

<sup>480</sup> *Ibid.*, chapter VIII.



ing resources;<sup>481</sup> marine biological diversity;<sup>482</sup> protection and preservation of the marine environment and sustainable development;<sup>483</sup> regional cooperation;<sup>484</sup> small island developing States;<sup>485</sup> climate change and oceans;<sup>486</sup> settlement of disputes;<sup>487</sup> international cooperation and coordination<sup>488</sup>; and capacity-building activities of the United Nations Division for Ocean Affairs and the Law of the Sea.<sup>489</sup>

The Secretary-General also submitted a report to the General Assembly at its sixty-seventh session 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>490</sup> This report contained information on actions taken by the international community to implement the provisions of General Assembly resolution 66/68 of 6 December 2011. In particular, it highlighted actions relating to achieving sustainable fisheries,<sup>491</sup> implementation of international instruments for the conservation and sustainable use of fishery resources,<sup>492</sup> promoting responsible fisheries in the marine ecosystem,<sup>493</sup> addressing unsustainable fishing practices,<sup>494</sup> and international cooperation to promote sustainable fisheries.<sup>495</sup>

### (b) Meeting of States Parties to the Convention

The twenty-second Meeting of States Parties to the United Nations Convention on the Law of the Sea<sup>496</sup> took note of a number of reports relating to the ITLOS as well as of the information reported on the ISA and on the CLCS. The Meeting also elected 20 members of the CLCS for a term of office commencing from 16 June 2012 and ending on 15 June 2017.<sup>497</sup> The remaining member was elected on 19 December 2012 during a Special Meeting of the States Parties to the Convention.<sup>498</sup>

<sup>481</sup> *Ibid.*, chapter IX.

<sup>482</sup> *Ibid.*, chapter X; see also: section 2 of chapter III.B regarding the work of the Food and Agriculture Organization of the United Nations, section 9 of chapter III.B regarding the work of the World Intellectual Property Organization, and section 8 of the present chapter regarding the Environment.

<sup>483</sup> *Ibid.*, chapter XI; see also: section 8 of the present chapter regarding the Environment.

<sup>484</sup> *Ibid.*, chapter XII.

<sup>485</sup> *Ibid.*, chapter XIII.

<sup>486</sup> *Ibid.*, chapter XIV; see also: section 8 of the present chapter regarding the Environment.

<sup>487</sup> *Ibid.*, chapter XV.

<sup>488</sup> *Ibid.*, chapter XVI.

<sup>489</sup> *Ibid.*, chapter XVII.

<sup>490</sup> A/67/315.

<sup>491</sup> *Ibid.*, chapter II.

<sup>492</sup> *Ibid.*, chapter III.

<sup>493</sup> *Ibid.*, chapter IV.

<sup>494</sup> *Ibid.*, chapter V.

<sup>495</sup> *Ibid.*, chapter VI.

<sup>496</sup> SPLOS/251.

<sup>497</sup> For more information on the election see *ibid.*, section VI.B.

<sup>498</sup> SPLOS/255.

### (c) Commemoration of thirtieth anniversary of the Convention

On 12 June 2012, the twenty-second Meeting of States Parties to the United Nations Convention on the Law of the Sea adopted the Declaration on the thirtieth anniversary of the opening for signature of the 1982 United Nations Convention on the Law of the Sea.<sup>499</sup>

On 14 November 2012, the General Assembly adopted, without a vote and without reference to a Main Committee, resolution 67/5 entitled “Plenary meetings of the General Assembly on 10 and 11 December 2012 devoted to the consideration of the item entitled ‘Oceans and the law of the sea’ and to the commemoration of the thirtieth anniversary of the opening for signature of the United Nations Convention on the Law of the Sea”. On 10 and 11 December 2012, meetings were held in the commemorative segment of the General Assembly plenary in accordance with the format set-up in the resolution.

### (d) Consideration by the General Assembly

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

The General Assembly considered the agenda item entitled “Oceans and the law of the sea” on 11 December 2012, having before it the following documents: the report of the Secretary-General,<sup>500</sup> the recommendations of the Ad Hoc Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction,<sup>501</sup> and the reports on the work of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea at its thirteenth meeting,<sup>502</sup> on the twenty-second Meeting of States Parties to the Convention,<sup>503</sup> and on the work of the Ad Hoc Working Group of the Whole on the Regular Process for Global Reporting and Assessment of the State of the Marine Environment, including Socio-economic Aspects.<sup>504</sup>

On the same date, the General Assembly, without reference to a Main Committee, adopted resolution 67/78 entitled “Oceans and the law of the sea”, with a recorded vote of 125 votes in favour, one against and four abstentions. The resolution covers 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; commemoration of the thirtieth anniversary of the opening for signature of the Convention; peaceful settlement of disputes; the area; effective functioning of the ISA and ITLOS; the continental shelf and the work as well the workload 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; regional cooperation; the open-ended informal consultative

<sup>499</sup> SPLOS/249.

<sup>500</sup> A/67/79 and Corr.1 and Add.1 and 2.

<sup>501</sup> A/67/95, annex, section I.

<sup>502</sup> A/67/120.

<sup>503</sup> SPLOS/251.

<sup>504</sup> A/67/87.

process on oceans and the law of the sea; coordination and cooperation; and the activities of the United Nations Division for Ocean Affairs and the Law of the Sea.

(ii) *Sustainable fisheries*

At its meeting on 11 December 2012, the General Assembly also considered the agenda item “Oceans and the law of the sea: sustainable fisheries, including through the 1995 Agreement for the Implementations 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”. It had before it the report of the Secretary-General 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>505</sup> On the same day, the General Assembly, without reference to a Main Committee, adopted resolution 67/79 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” without a vote.

The resolution is divided into 14 chapters and addresses a number of issues, including: achieving sustainable fisheries; implementation of the 1995 United Nations Fish Stocks Agreement and 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; cooperation within the United Nations system; and activities of the United Nations Division for Ocean Affairs and the Law of the Sea.

## 10. Crime prevention and criminal justice<sup>506</sup>

### (a) Conference of the Parties to the United Nations Convention against Transnational Organized Crime

The sixth session of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime was held in Vienna from 15 to 19 October 2012.<sup>507</sup> During this session, four resolutions and three decisions were adopted relating to the implementation of the Convention against Transnational Organized Crime, 2000,<sup>508</sup>

<sup>505</sup> A/67/315.

<sup>506</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 not covered. For more detailed information and documents regarding this topic generally, see the website of the United Nations Office on Drugs and Crimes at <http://www.unodc.org>.

<sup>507</sup> For the report of the Conference, see CTOC/COP/2012/15.

<sup>508</sup> United Nations, *Treaty Series*, vol. 2225, p. 209.

and the Protocols thereto,<sup>509</sup> the implementation of the provisions concerning technical assistance of the Convention, and organizational issues concerning the seventh session of the Conference of the Parties, as well as future sessions.

### (b) Commission on Crime Prevention and Criminal Justice

The Commission on Crime Prevention and Criminal Justice 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 twenty-first session of the Commission on Crime Prevention and Criminal Justice was held in Vienna from 23 to 27 April 2012 and from 6 to 7 December 2012, respectively. According to Economic and Social Council decision 2011/257 of 28 July 2011, the prominent theme for the twenty-first session of the Commission was “Violence against migrants, migrant workers and their families”.

In its annual report,<sup>510</sup> the Commission brought to the attention of the Economic and Social Council the following resolutions: resolution 21/1 entitled “Strengthening Government oversight of civilian private security services and the contribution of such services to crime prevention and community safety”; resolution 21/2 entitled “Countering maritime piracy, especially off the coast of Somalia and in the Gulf of Guinea”; and resolution 21/3 entitled “Strengthening international cooperation to address the links that in some cases may exist between transnational organized criminal activities and terrorist activities”.

In resolution 21/1, the Commission took note of the draft preliminary recommendations of the Expert Group on Civilian Private Security Services on oversight and regulation of civilian private security services and on the contribution of such security services to crime prevention and community safety (Abu Dhabi draft preliminary recommendations),<sup>511</sup> and requested that they be circulated to all Member States for their response.

<sup>509</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, 2000 (*ibid.*, vol. 2237, p. 319), Protocol against the Smuggling of Migrants by Land, Sea and Air, 2000 (*ibid.*, vol. 2241, p. 507) and Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, 2001 (*ibid.*, vol. 2326, p. 208).

<sup>510</sup> Official records of the Economic and Social Council 2012, Supplement No. 10 (E/2012/30—E/CN.15/2012/24) and *ibid.*, Supplement No. 10A (E/2012/30/Add.1—E/CN.15/2012/24/Add.1). The Commission on Crime Prevention and Criminal Justice also submitted in its report a number of draft resolutions that were to be recommended by the Economic and Social Council for adoption by the General Assembly, and several draft resolutions and decisions for adoption by the Economic and Social Council.

<sup>511</sup> E/CN.15/2012/20.

In resolution 21/2, the Commission noted, *inter alia*, the mandated role of the United Nations Office on Drugs and Crime (UNODC) to assist Member States in countering maritime piracy off the coast of Somalia.<sup>512</sup> The Commission requested the UNODC, in cooperation with the United Nations Development Programme and other international partners, as appropriate, to further their efforts to support the development of domestic legislation, agreements and mechanisms that would allow the effective prosecution of suspected pirates and the transfer and imprisonment of convicted pirates. The Commission also encouraged Member States to continue cooperating with each other, using relevant and applicable bilateral or multilateral instruments for law enforcement cooperation, mutual legal assistance and extradition, *inter alia*, the United Nations Convention against Transnational Organized Crime, and the Protocols thereto, and the United Nations Convention against Corruption, 2003.<sup>513</sup>

In resolution 21/3, the Commission, *inter alia*, called upon States to strengthen international cooperation in order to address the serious challenges presented by various forms and manifestations of transnational organized crime, including drug trafficking and the illicit production of narcotic drugs, money-laundering and terrorist activities, and the links that in some cases may exist between them. The Commission further encouraged States parties to the United Nations Convention against Transnational Organized Crime, 2000, the Single Convention on Narcotic Drugs, 1961,<sup>514</sup> as amended by the 1972 Protocol,<sup>515</sup> the Convention on Psychotropic Substances, 1971,<sup>516</sup> the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988,<sup>517</sup> and relevant international conventions and protocols related to terrorism, including the International Convention for the Suppression of the Financing of Terrorism, 1999,<sup>518</sup> to utilize the significant potential of those international legal instruments, with a view to strengthening international cooperation, including mutual legal assistance and extradition, where applicable, aimed at tackling transnational organized crime and in some cases its links with terrorist activities and drug trafficking.

### (c) Economic and Social Council

On 26 July 2012, the Economic and Social Council adopted resolution 2012/12 entitled “Strategy for the period 2012–2015 for the United Nations Office on Drugs and Crime”,<sup>519</sup> on the recommendation of the Commission on Narcotic and Drugs and the Commission on Crime Prevention and Criminal Justice. On the same day, the Council also adopted resolutions 2012/18 entitled “Improving the quality and availability of statistics on crime

<sup>512</sup> In pursuance of Security Council resolutions 1918 (2010), 1950 (2010), 1976 (2011), 2015 (2011), 2020 (2011) and 2036 (2012).

<sup>513</sup> United Nations, *Treaty Series*, vol. 2349, p. 41.

<sup>514</sup> *Ibid.*, vol. 520, p. 151.

<sup>515</sup> *Ibid.*, vol. 976, p. 3.

<sup>516</sup> *Ibid.*, vol. 1019, p. 175.

<sup>517</sup> *Ibid.*, vol. 1582, p. 95.

<sup>518</sup> *Ibid.*, vol. 2178, p. 197.

<sup>519</sup> See also, with regard to resolution 2012/12, section 11 of this chapter, on international drug control.

and criminal justice for policy development” and resolution 2012/19, entitled “Strengthening international cooperation in combating transnational organized crime in all its forms and manifestations”, on the recommendation of the Commission on Crime Prevention and Criminal Justice.

On the same day, also on the recommendation of the Commission on Crime Prevention and Criminal Justice, the Economic and Social Council adopted the following draft resolutions, recommending their adoption by the General Assembly: 2012/13 entitled “Standard Minimum Rules for the Treatment of Prisoners”; 2012/14 entitled “Strengthening the rule of law and the reform of criminal justice institutions, particularly in the areas related to the United Nations system-wide approach to fighting transnational organized crime and drug trafficking”; 2012/15 entitled “United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems”; 2012/16 entitled “Promoting efforts to eliminate violence against migrants, migrant workers and their families”; and 2012/17 entitled “Follow-up to the Twelfth United Nations Congress on Crime Prevention and Criminal Justice and preparations for the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice”.

#### (d) General Assembly

On 20 December 2012, the General Assembly adopted, on the recommendation of the Third Committee,<sup>520</sup> nine resolutions under the agenda item entitled “Crime prevention and criminal justice”, of which three are highlighted below.<sup>521</sup>

In resolution 67/185 entitled “Promoting efforts to eliminate violence against migrants, migrant workers and their families”, adopted without a vote, the General Assembly, *inter alia*, encouraged Member States that had not already done so to enact national legislation and take other appropriate measures to combat international smuggling of migrants, including legislative, judicial, regulatory and administrative measures, recognizing that crimes against migrants may endanger the lives of migrants or make them vulnerable to trafficking, kidnapping or other crimes and abuse by organized criminal groups, and to strengthen international cooperation to combat such crimes. The Assembly reiterated its call for those Member States that had not yet done so to consider acceding to the United Nations Convention against Transnational Organized Crime, 2000, and the Protocols thereto, and called upon States parties to fully implement them. It further called upon Member States to institute measures, as appropriate, to strengthen the entire crimi-

<sup>520</sup> For the report of the Third Committee, see A/67/458.

<sup>521</sup> The General Assembly also adopted resolutions: 67/184 entitled “Follow-up to the Twelfth United Nations Congress on Crime Prevention and Criminal Justice and preparations for the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice”; 67/186 entitled “Strengthening the rule of law and the reform of criminal justice institutions, particularly in the areas related to the United Nations system-wide approach to fighting transnational organized crime and drug trafficking”; 67/188 entitled “Standard Minimum Rules for the Treatment of Prisoners”; 67/190 entitled “Improving the coordination of efforts against trafficking in persons”; 67/191 entitled “United Nations African Institute for the Prevention of Crime and the Treatment of Offenders”; and 67/192 entitled “Preventing and combating corrupt practices and the transfer of proceeds of corruption, facilitating asset recovery and returning such assets to legitimate owners, in particular to countries of origin, in accordance with the United Nations Convention against Corruption”.

nal justice process and to vigorously investigate and prosecute crimes against migrants, including trafficking in persons and other serious offences, especially crimes constituting violations of the human rights of migrants, giving special attention to assisting and protecting victims, in particular women and children.

In resolution 67/187 entitled “United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems”, adopted without a vote, the General Assembly adopted the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, annexed to the resolution, as a useful framework to guide Member States on the principles on which a legal aid system in criminal justice should be based, taking into account the content of the resolution and the fact that all elements of the annex would be applied in accordance with national legislation.

In resolution 67/189 entitled “Strengthening the United Nations crime prevention and criminal justice programme, in particular its technical cooperation capacity”, adopted without a vote, the General Assembly, *inter alia*, took note with appreciation of the report of the Secretary-General prepared pursuant to resolution 66/181.<sup>522</sup> It reaffirmed that the United Nations Convention against Transnational Organized Crime and the Protocols thereto represent the most important tools of the international community to fight transnational organized crime and underlined the need for the urgent adoption of the mechanism to review the implementation of these instruments. The Assembly also noted with appreciation the work of the open-ended intergovernmental expert group to conduct a comprehensive study of the problem of cybercrime, and responses to it by Member States, the international community and the private sector, with a view to examining options to strengthen existing and to propose new national and international, legal or other responses to cybercrime. In this regard, it encouraged the expert group to enhance its efforts to complete its work and to present the outcome of the study to the Commission on Crime Prevention and Criminal Justice in due course. The Assembly further welcomed the report of the Working Group on the Smuggling of Migrants,<sup>523</sup> and encouraged States parties to implement the recommendations contained therein.

## 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 of 28 July 1999, 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.

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<sup>522</sup> A/67/156.

<sup>523</sup> CTOC/COP/WG.7/2012/6.



During its fifty-fifth regular and reconvened session,<sup>524</sup> held in Vienna from 12 to 16 March and from 6 to 7 December 2012, respectively, the Commission adopted twelve resolutions,<sup>525</sup> which were brought to the attention of the Economic and Social Council. Two of those resolutions are highlighted below.

In resolution 55/1 entitled “Promoting international cooperation in responding to the challenges posed by new psychoactive substances”, the Commission, *inter alia*, encouraged Member States to consider a wide variety of responses, such as temporary and emergency drug control measures in response to an imminent threat to public health, the use of consumer protection, medicines legislation and hazardous substances legislation, and, where appropriate, to consider criminal justice measures aimed at preventing the illicit manufacture of and trafficking in new psychoactive substances. It further urged Member States, based on the principle of common and shared responsibility, to further cooperate, in accordance with national law, in judicial and law enforcement activities to tackle the trade in and distribution and manufacture of those new psychoactive substances that have already been identified as posing risks to public health and that are subject to control within certain Member States.

In resolution 55/3 entitled “One hundredth anniversary of the International Opium Convention”, the Commission, *inter alia*, noted that as follow-up to the International Opium Commission, the first-ever multilateral drug control convention, the International Opium Convention signed at The Hague on 23 January 1912,<sup>526</sup> formed the basis for the development of the international drug control system. The Commission reaffirmed its unwavering commitment to ensure that all aspects of demand reduction, supply reduction and international cooperation are addressed in full conformity with the purposes and principles of the Charter of the United Nations, international law and the Universal Declaration of Human Rights<sup>527</sup> and, in particular, with full respect for the sovereignty and territorial integrity of States, the principle of non-intervention in the internal affairs of States, all human rights, fundamental freedoms, the inherent dignity of all individuals and the principles of equal rights and mutual respect among States. It also affirmed that the three international drug control conventions<sup>528</sup> seek to achieve a balance between ensuring the availability of narcotic drugs and psychotropic substances under international control for medical and scientific purposes and preventing their diversion and abuse.

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<sup>524</sup> For the report of the fifty-fifth session of the Commission on Narcotic Drugs, see *Official Records of the Economic and Social Council, 2012, Supplement No. 8 (E/2012/28—E/CN.7/2012/18)* and *ibid., Supplement No. 8A (E/2012/28/Add.1—E/CN.7/2012/18/Add.1)*.

<sup>525</sup> For a complete list of the resolutions, see the report of the fifty-fifth session of the Commission on Narcotic Drugs.

<sup>526</sup> League of Nations, *Treaty Series*, vol. VIII, p. 187.

<sup>527</sup> General Assembly resolution 217 A (III).

<sup>528</sup> Single Convention on Narcotic Drugs, 1953 (United Nations, *Treaty Series*, vol. 520, p. 151), as amended by the 1972 Protocol (*ibid.*, vol. 976, p. 3), Convention on Psychotropic Substances, 1971 (*ibid.*, vol. 1019, p. 175), and United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 (*ibid.*, vol. 1582, p. 95).

### (b) Economic and Social Council

On 26 July 2012, the Economic and Social Council, adopted resolution 2012/12, entitled “Strategy for the period 2012–2015 for the United Nations Office on Drugs and Crime”, on the recommendation of the Commission on Narcotic and Drugs and the Commission on Crime Prevention and Criminal Justice,<sup>529</sup> in which it approved the Strategy for the United Nations Office on Drugs and Crime.<sup>530</sup>

### (c) General Assembly

On 20 December 2012, the General Assembly adopted, without a vote, resolution 67/193 entitled “International cooperation against the world drug problem” on the recommendation of the Third Committee.<sup>531</sup> In the said resolution, the Assembly reaffirmed that countering the world drug problem is a common and shared responsibility that must be addressed in a multilateral setting, that it requires an integrated and balanced approach and that it must be carried out in full conformity with the purposes and principles of the Charter of the United Nations and other provisions of international law, the Universal Declaration of Human Rights and the Vienna Declaration and Programme of Action<sup>532</sup> on human rights and, in particular, with full respect for the sovereignty and territorial integrity of States, for the principle of non-intervention in the internal affairs of States and for all human rights and fundamental freedoms, and on the basis of the principles of equal rights and mutual respect. Furthermore, the Assembly recognized that crop control strategies should be in full conformity with article 14 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988,<sup>533</sup> and appropriately coordinated and phased in accordance with national policies in order to achieve the sustainable eradication of illicit crops. The Assembly also urged Member States to intensify their cooperation with and assistance to transit States affected by illicit drug trafficking, directly or through the competent regional and international organizations, in accordance with article 10 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988, and on the basis of the principle of shared responsibility and the need for all States to promote and implement measures to counter the drug problem in all its aspects with an integrated and balanced approach. The Assembly also urged States that had not done so to consider ratifying or acceding to, and States parties to implement, as a matter of priority, all the provisions of the Single Convention on Narcotic Drugs, 1961,<sup>534</sup> as amended by the 1972 Protocol,<sup>535</sup> the Convention on Psychotropic Substances, 1971,<sup>536</sup> the United Nations Convention against Illicit Traffic in Narcotic Drugs

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<sup>529</sup> See also, with regard to resolution 2012/12, section 10 on Crime prevention and criminal justice.

<sup>530</sup> E/CN.7/2011/9/Add.2—E/CN.15/2011/9/Add.2.

<sup>531</sup> On 20 December 2012, the General Assembly also adopted resolution 67/186 set out in section 10 on Crime prevention and criminal justice.

<sup>532</sup> *Report of the World Conference on Human Rights, Vienna, 14–25 June 1993* (A/CONF.157/23).

<sup>533</sup> United Nations, *Treaty Series*, vol. 1582, p. 95.

<sup>534</sup> *Ibid.*, vol. 520, p. 151.

<sup>535</sup> *Ibid.*, vol. 976, p. 3.

<sup>536</sup> *Ibid.*, vol. 1019, p. 175.

and Psychotropic Substances, 1988, the United Nations Convention against Transnational Organized Crime, 2000,<sup>537</sup> and the Protocols thereto,<sup>538</sup> and the United Nations Convention against Corruption, 2003.<sup>539</sup> The Assembly further decided to convene, early in 2016, a special session of the General Assembly on the world drug problem, following the high-level review of the progress made in the implementation by Member States of the Political Declaration and Plan of Action on International Cooperation towards an Integrated and Balanced Strategy to Counter the World Drug Problem,<sup>540</sup> which would be conducted by the Commission on Narcotic Drugs at its fifty-seventh session, in March 2014.

## 12. Refugees and displaced persons

### (a) Executive Committee of the Programme of the United Nations High Commissioner for Refugees<sup>541</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 sixty-third plenary session of the Executive Committee was held in Geneva from 1 to 5 October 2012.<sup>542</sup>

### (b) General Assembly

On 18 and 20 December 2012, the General Assembly adopted six resolutions relating to refugees and displaced persons, of which two are highlighted below.<sup>543</sup> On 20 December 2012, the General Assembly adopted resolution 67/149, entitled “Office of the United

<sup>537</sup> *Ibid.*, vol. 2225, p. 209.

<sup>538</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, 2000 (*ibid.*, vol. 2237, p. 319), Protocol against the Smuggling of Migrants by Land, Sea and Air, 2000 (*ibid.*, vol. 2241, p. 507) and Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, 2001 (*ibid.*, vol. 2326, p. 208).

<sup>539</sup> *Ibid.*, vol. 2349, p. 41.

<sup>540</sup> See *Official Records of the Economic and Social Council, 2009, Supplement No. 8 (E/2009/28)*, chapter. I, section C; see also A/64/92-E/2009/98, section II.A.

<sup>541</sup> For detailed information and documents regarding this topic generally, see the website of the UNHCR at <http://www.unhcr.org>.

<sup>542</sup> For the report of the sixty-third session of the Executive Committee of the High Commissioner’s Programme, see *Official Records of the General Assembly, Sixty-seventh Session, Supplement No.12A (A/67/12/Add.1)*. For the report of the United Nations High Commissioner for Refugees on the activities of his Office, see *ibid.*, *Supplement No. 12 (A/67/12)*.

<sup>543</sup> General Assembly resolutions: 67/114 entitled “Assistance to Palestine refugees”, 67/115 entitled “Persons displaced as a result of the June 1967 and subsequent hostilities”, 67/116 entitled “Operations of the United Nations Relief and Works Agency for Palestine Refugees in the Near East” and 67/117 entitled “Palestine refugees’ properties and their revenues”. See also resolution 66/283 entitled “Status of internally displaced persons and refugees from Abkhazia, Georgia, and the Tskhinvali region/South Ossetia, Georgia” adopted by the Assembly on 3 July 2012.

Nations High Commissioner for Refugees”, on the recommendation of the Third Committee, without a vote. The Assembly, *inter alia*, endorsed the report of the Executive Committee of the Programme of the UNHCR on the work of its sixty-third session. It reaffirmed the Convention relating to the Status of Refugees, 1951,<sup>544</sup> and the 1967 Protocol thereto<sup>545</sup> as the foundation of the international refugee protection regime; recognized the importance of their full and effective application by States parties and the values they embody; noted with satisfaction the number of States that are now parties to one or both instruments; and encouraged States not parties to consider acceding to those instruments. The Assembly also underlined, in particular, the importance of full respect for the principle of *non-refoulement*. It further strongly condemned attacks on refugees, asylum seekers and internally displaced persons as well as acts that pose a threat to their personal security and well-being, and called upon all States concerned and, where applicable, parties involved in an armed conflict, to take all measures necessary to ensure respect for human rights and international humanitarian law. The Assembly also expressed deep concern about the increasing number of attacks against humanitarian aid workers and convoys and emphasized the need for States to ensure that perpetrators of attacks committed on their territory against humanitarian personnel and United Nations and associated personnel do not operate with impunity and that the perpetrators of such acts are promptly brought to justice as provided for by national laws and obligations under international law.

On the same day, the General Assembly adopted resolution 67/150 entitled “Assistance to refugees, returnees and displaced persons in Africa”, on the recommendation of the Third Committee, without a vote. It reaffirmed that the Convention relating to the Status of Refugees, 1951, together with the 1967 Protocol thereto, as complemented by the Organization of African Unity Convention governing the specific aspects of refugee problems in Africa, 1969,<sup>546</sup> remained the foundation of the international refugee protection regime in Africa. It also called upon African Member States that had not yet signed or ratified the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa<sup>547</sup> to consider doing so as early as possible in order to ensure its early entry into force and implementation. The Assembly further reaffirmed the right of return and the principle of voluntary repatriation, appealed to countries of origin and countries of asylum to create conditions that are conducive to voluntary repatriation, and recognized that, while voluntary repatriation remained the pre-eminent solution, local integration and third-country resettlement, where appropriate and feasible, were also viable options for dealing with the situation of African refugees who, owing to prevailing circumstances in their respective countries of origin, are unable to return home.

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<sup>544</sup> United Nations, *Treaty Series*, vol. 189, p. 137.

<sup>545</sup> *Ibid.*, vol. 606, p. 267.

<sup>546</sup> *Ibid.*, vol. 1001, p. 45.

<sup>547</sup> Available from <http://www.au.int>. The Convention entered into force on 6 December 2012.

### 13. International Court of Justice<sup>548</sup>

#### (a) Organization of the Court

At the end of 2012, the composition of the Court was as follows:<sup>549</sup>

President: Peter Tomka (Slovakia);

Vice-President: Bernardo Sepúlveda-Amor (Mexico);

Judges: Hisashi Owada (Japan), Ronny Abraham (France), Kenneth Keith (New Zealand), Mohamed Bennouna (Morocco), Leonid Skotnikov (Russian Federation), Antônio Augusto Cançado Trindade (Brazil), Abdulqawi Ahmed Yusuf (Somalia), Christopher Greenwood (United Kingdom), Xue Hanqin (China), Joan E. Donoghue (United States of America), Giorgio Gaja (Italy), Julia Sebutinde (Uganda), Dalveer Bhandari (India).

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 of the International Court of Justice to ensure the speedy dispatch of business, was composed as follows:

*Members:*

President: Peter Tomka;

Vice-President: Bernardo Sepúlveda-Amor;

Judges: Abdulqawi Ahmed Yusuf, Xue Hanqin and Joan E. Donoghue.

*Substitute members:*

Judges: Leonid Skotnikov and Giorgio Gaja.

#### (b) Jurisdiction of the Court<sup>550</sup>

No declarations were made in 2012 recognizing the compulsory jurisdiction of the Court, as contemplated by Article 36, paragraph 2, of the Statute. Thus, as of 31 December 2012, 67 States had recognized such compulsory jurisdiction.

<sup>548</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-seventh session, Supplement No. 4 (A/67/4)* (for the period 1 August 2011 to 31 July 2012) and *ibid.*, *Sixty-eighth Session, Supplement No. 4 (A/68/4)* (for the period 1 August 2012 to 31 July 2013) (forthcoming at time of publication). See also the website of the Court at <http://www.icj-cij.org>.

<sup>549</sup> Following the resignation of Judge Awn Shawkat Al-Khasawneh (Jordan), former Vice-President of the Court, the General Assembly and the Security Council elected Mr. Dalveer Bhandari (India) on 27 April 2012, with immediate effect. Pursuant to Article 15 of the Statute of the Court, Judge Bhandari will hold office for the remainder of Judge Al-Khasawneh's term, which will expire on 5 February 2018.

<sup>550</sup> For further information regarding the acceptance of the compulsory jurisdiction of the International Court of Justice, see chapter I.4 of *Multilateral Treaties Deposited with the Secretary-General*, available on the website <http://treaties.un.org/>.

### (c) General Assembly

On 1 November 2012, the General Assembly adopted decision 67/510, in which it took note of the report of the International Court of Justice for the period from 1 August 2011 to 31 July 2012.<sup>551</sup>

## 14. International Law Commission<sup>552</sup>

### (a) Membership of the Commission

The membership of the International Law Commission at its sixty-fourth session consisted of Mr. Mohammed Bello Adoke (Nigeria), Mr. Ali Mohsen Fetais Al-Marri (Qatar), Mr. Lucius Caflisch (Switzerland), Mr. Enrique J. A. Candiotti (Argentina), Mr. Pedro Comissário Afonso (Mozambique), Mr. Abdelrazeg El-Murtadi Suleiman Gouider (Libya), Ms. Concepción Escobar Hernández (Spain), Mr. Mathias Forteau (France), Mr. Kirill Gevorgian (Russian Federation), Mr. Juan Manuel Gómez-Robledo (Mexico), Mr. Hussein A. Hassouna (Egypt), Mr. Mahmoud D. Hmoud (Jordan), Mr. Huikang Huang (China), Ms. Marie G. Jacobsson (Sweden), Mr. Maurice Kamto (Cameroon), Mr. Kriangsak Kitichaisaree (Thailand), Mr. Ahmed Laraba (Algeria), Mr. Donald M. McRae (Canada), Mr. Shinya Murase (Japan), Mr. Sean D. Murphy (United States of America), Mr. Bernd H. Niehaus (Costa Rica), Mr. Georg Nolte (Germany), Mr. Ki Gab Park (Republic of Korea), Mr. Chris Maina Peter (United Republic of Tanzania), Mr. Ernest Petrič (Slovenia), Mr. Gilberto Vergne Saboia (Brazil), Mr. Narinder Singh (India), Mr. Pavel Šturma (Czech Republic), Mr. Dire D. Tladi (South Africa), Mr. Eduardo Valencia-Ospina (Colombia), Mr. Stephen C. Vasciannie (Jamaica),<sup>553</sup> Mr. Amos S. Wako (Kenya), Mr. Nugroho Wisnumurti (Indonesia) and Mr. Michael Wood (United Kingdom).

### (b) Sixty-fourth session of the International Law Commission

The International Law Commission held the first part of its sixty-fourth session from 7 May to 1 June 2012, and the second part of the session from 2 July to 3 August 2012, at its seat at the United Nations Office at Geneva.<sup>554</sup> The Commission considered the topics entitled “Expulsion of aliens”, “The obligation to extradite or prosecute (*aut dedere aut judicare*)”, “Protection of persons in the event of disasters”, “Immunity of State officials from foreign criminal jurisdiction”, “Provisional application of treaties”, “Formation and evidence of customary international law”, “Treaties over time”, and “The Most-Favoured-Nation clause”. The consideration by the Commission of those topics is outlined below.

<sup>551</sup> See *Official Records of the General Assembly, Sixty-sixth Session, Supplement No. 4 (A/67/4)*.

<sup>552</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>553</sup> By a letter dated 22 July 2012, addressed to the Chairman of the Commission, Mr. S. C. Vasciannie resigned from the Commission with immediate effect. Following Mr. S. C. Vasciannie’s resignation, there was, at the time of publication, one casual vacancy in the membership of the Commission.

<sup>554</sup> For the report of the International Law Commission on the work at its sixty-fourth session, see *Official Records of the General Assembly, Sixty-seventh Session, Supplement No. 10 (A/67/10)*.

Concerning the topic “Expulsion of aliens”, the Commission had before it the eighth report<sup>555</sup> of the Special Rapporteur, Mr. Maurice Kamto, which provided an overview of comments made by States and by the European Union on the topic during the debate on the report of the International Law Commission that had taken place in the Sixth Committee at the sixty-sixth session of the General Assembly. The eighth report also contained a number of final observations by the Special Rapporteur, including on the form of the outcome of the Commission’s work on the topic. As a result of its consideration of the topic at the sixty-fourth session, the Commission adopted on first reading a set of 32 draft articles, together with commentaries thereto, on the expulsion of aliens.<sup>556</sup> The Commission decided, in accordance with articles 16 to 21 of its Statute, to transmit the draft articles, through the Secretary-General, to Governments for comments and observations, with the request that such comments and observations be submitted to the Secretary-General by 1 January 2014.<sup>557</sup>

In relation to the topic “Protection of persons in the event of disasters”, the Commission had before it the fifth report of the Special Rapporteur,<sup>558</sup> Mr. Eduardo Valencia-Ospina, providing an elaboration on the duty to cooperate, as well as a consideration of the conditions for the provision of assistance, and of the termination of assistance. Following a debate in plenary, the Commission decided to refer draft articles A, 13 and 14, as proposed by the Special Rapporteur, to the Drafting Committee. The Commission subsequently took note of five draft articles provisionally adopted by the Drafting Committee, relating to forms of cooperation, offers of assistance, conditions on the provision of external assistance, facilitation of external assistance and the termination of external assistance, respectively.<sup>559</sup> As to the question of the final form of the draft articles, the Special Rapporteur recalled in his concluding remarks that the approach of developing draft articles was simply the usual practice of the Commission, and was without prejudice to the final form in which they were going to be adopted. He remained open-minded on the matter and preferred to defer it until a later stage of consideration.<sup>560</sup>

Concerning the topic “Immunity of State officials from foreign criminal jurisdiction”, the Commission appointed Ms. Concepción Escobar Hernández as Special Rapporteur. The Commission considered the preliminary report of the Special Rapporteur,<sup>561</sup> which provided an overview of the work of the previous Special Rapporteur, as well as the debate on the topic in the Commission and in the Sixth Committee of the General Assembly; addressed the issues to be considered during the present quinquennium, focusing in particular on the distinction and the relationship between, and basis for, immunity *ratione materiae* and immunity *ratione personae*, the distinction and the relationship between the international responsibility of the State and the international responsibility of individuals

<sup>555</sup> A/CN.4/651.

<sup>556</sup> A/CN.4/L.797.

<sup>557</sup> *Official Records of the General Assembly, Sixty-seventh Session, Supplement No. 10 (A/67/10)*, chapter IV.

<sup>558</sup> A/CN.4/652.

<sup>559</sup> A/CN.4/L.812.

<sup>560</sup> *Official Records of the General Assembly, Sixty-seventh Session, Supplement No. 10 (A/67/10)*, chapter V.

<sup>561</sup> A/CN.4/654.



and their implications for immunity, the scope of immunity *ratione personae* and immunity *ratione materiae*, and the procedural issues related to immunity; and gave an outline of the work plan. The debate revolved around, *inter alia*, the methodological and substantive issues highlighted by the Special Rapporteur in the preliminary report.<sup>562</sup>

As regards the topic “Provisional application of treaties”, the Commission decided to include it in its programme of work and appointed Mr. Juan Manuel Gómez-Robledo as Special Rapporteur. The Special Rapporteur presented to the Commission an oral report on the informal consultations that he had chaired with a view to initiating an informal dialogue with members of the Commission on a number of issues that could be relevant for the consideration of this topic. Aspects addressed in the informal consultations included, *inter alia*, the scope of the topic, the methodology, the possible outcome of the Commission’s work as well as a number of substantive issues relating to the topic.<sup>563</sup>

Concerning the topic “Formation and evidence of customary international law”, the Commission decided to include it in its programme of work and appointed Mr. Michael Wood as Special Rapporteur. During the second part of the session, the Commission had before it a note by the Special Rapporteur,<sup>564</sup> which aimed at stimulating an initial debate and which addressed the possible scope of the topic, terminological issues, questions of methodology as well as a number of specific points that could be dealt with in considering the topic. The debate revolved around, *inter alia*, the scope of the topic as well as the methodological and substantive issues highlighted by the Special Rapporteur in his note.<sup>565</sup>

As regards the topic “The obligation to extradite or prosecute (*aut dedere aut judicare*)”, the Commission established a Working Group to make a general assessment of the topic as a whole, focusing on questions concerning its viability and steps to be taken in moving forward, against the background of the debate on the topic in the Sixth Committee of the General Assembly. The Working Group requested its Chairman, Mr. Kriangsak Kittichaisaree, to prepare a working paper, to be considered at the sixty-fifth session of the Commission, reviewing the various perspectives in relation to the topic in light of the judgment of the International Court of Justice of 20 July 2012,<sup>566</sup> any further developments, as well as comments made in the Working Group and the debate in the Sixth Committee.<sup>567</sup>

As regards the topic “Treaties over time”, the Commission reconstituted the Study Group on Treaties over time, which continued its work on the aspects of the topic relating to subsequent agreements and subsequent practice. The Study Group completed its consideration of the second report by its Chairman, Mr. Georg Nolte, on the jurisprudence under special regimes relating to subsequent agreements and subsequent practice, by examining some remaining preliminary conclusions contained in that report. In the

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<sup>562</sup> *Official Records of the General Assembly, Sixty-seventh Session, Supplement No. 10 (A/67/10)*, chapter VI.

<sup>563</sup> *Ibid.*, chapter VII.

<sup>564</sup> A/CN.4/653.

<sup>565</sup> *Official Records of the General Assembly, Sixty-seventh Session, Supplement No. 10 (A/67/10)*, chapter VIII.

<sup>566</sup> See, *Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal)*, International Court of Justice, Judgment of 20 July 2012.

<sup>567</sup> *Official Records of the General Assembly, Sixty-seventh Session, Supplement No. 10 (A/67/10)*, chapter IX.

light of the discussions in the Study Group, the Chairman reformulated the text of six additional preliminary conclusions<sup>568</sup> by the Chairman of the Study Group on the following issues: subsequent practice as reflecting a position regarding the interpretation of a treaty; specificity of subsequent practice; the degree of active participation in a practice and silence; effects of contradictory subsequent practice; subsequent agreement or practice and formal amendment or interpretation procedures; and subsequent practice and possible modification of a treaty. The Study Group also considered the third report by its Chairman on subsequent agreements and subsequent practice of States outside judicial and quasi-judicial proceedings. Furthermore, the Study Group discussed the modalities of the Commission's work on the topic, and recommended that the Commission change the format of that work and appoint a Special Rapporteur. At its sixty-fourth session, the Commission decided (a) to change, with effect from its sixty-fifth session (2013), the format of the work on this topic as suggested by the Study Group; and (b) to appoint Mr. Georg Nolte as Special Rapporteur for the topic "Subsequent agreements and subsequent practice in relation to the interpretation of treaties".<sup>569</sup>

Regarding the topic "The Most-Favoured-Nation clause", the Commission reconstituted the Study Group on the Most-Favoured-Nation (MFN) clause, under the chairmanship of Mr. Donald M. McRae. The Study Group continued to have a discussion concerning factors which appeared to influence investment tribunals in interpreting MFN clauses, on the basis, *inter alia*, of working papers concerning Interpretation and Application of MFN Clauses in Investment Agreements and the Effect of the Mixed Nature of Investment Tribunals on the Application of MFN Clauses to Procedural Provisions. The Study Group also considered elements of the outline of its future report.<sup>570</sup>

Finally, the Commission established a Planning Group to consider its programme, procedures and working methods.<sup>571</sup> At its 1st meeting, on 22 May 2012, the Planning Group decided to establish a Working Group on the Long-term Programme of Work for the present quinquennium, chaired by Mr. Donald M. McRae. The Chairman of the Working Group submitted an oral progress report to the Planning Group on 24 July 2012, noting, *inter alia*, that the Working Group had held four meetings during which it considered some possible topics.<sup>572</sup> The Commission recalled that it was customary at the beginning of each quinquennium to prepare the Commission's work programme for the remainder of the quinquennium setting out in general terms the anticipated goals in respect of each topic on the basis of indications by the Special Rapporteurs. In that context, the Commission decided upon a tentative programme of work for the period from 2013 to 2016.<sup>573</sup>

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<sup>568</sup> These preliminary conclusions supplement those reproduced in the report of the Commission on the work of its sixty-third session (2011); see *Official Records of the General Assembly, Sixty-sixth Session, Supplement No. 10 (A/66/10)*, para. 344.

<sup>569</sup> *Ibid.*, *Sixty-seventh Session, Supplement No. 10 (A/67/10)*, chapter X.

<sup>570</sup> *Ibid.*, chapter XI.

<sup>571</sup> *Ibid.*, chapter XII, section E.

<sup>572</sup> *Ibid.*, section E.1.

<sup>573</sup> For the programme of work, see *ibid.*, section E.2.

### (c) Sixth Committee

The Sixth Committee considered the agenda item entitled “Report of the International Law Commission on the work of its sixty-third and sixty-fourth sessions” at its 18th to 25th meetings on 1, 2, 5, 6, 7, 9 and 16 November 2012.<sup>574</sup> The Chairman of the International Law Commission at its sixty-fourth session introduced the report of the Commission on the work of that session: chapters I to V and XII at the 18th meeting, on 1 November 2012, and chapters VI to XI at the 20th meeting, on 2 November 2012. At the 18th meeting, on 1 November 2012, the Sixth Committee decided that, due to unforeseen disruptions in its programme of work, the consideration of chapter IV of the report of the International Law Commission on the work of its sixty-third session, dealing with “Reservations to treaties”, would be postponed to the sixty-eighth session of the General Assembly.

At the 24th meeting of the Committee, on 9 November 2012, the representative of Peru, on behalf of the Bureau, introduced a draft resolution entitled “Report of the International Law Commission on the work of its sixty-third and sixty-fourth sessions”. At the 25th meeting, on 16 November 2012, the Committee adopted the draft resolution without a vote.<sup>575</sup>

### (d) General Assembly

On 14 December 2012, the General Assembly adopted, without a vote, resolution 67/92 entitled “Report of the International Law Commission on the work of its sixty-third and sixty-fourth sessions”, on the recommendation of the Sixth Committee, by which it took note of the report of the International Law Commission on the work of its sixty-fourth session.<sup>576</sup> The Assembly, *inter alia*, expressed its appreciation to the Commission for the work accomplished at its sixty-fourth session, in particular for the completion of the first reading of the draft articles on the expulsion of aliens. The Assembly drew the attention of Governments to the importance for the work of the Commission of having, their views on the various aspects of the topics on the agenda of the Commission, and in particular on the topics “Immunity of State officials from foreign criminal jurisdiction” and “Formation and evidence of customary international law”. The Assembly further drew the attention of Governments to the importance for the Commission of having their comments and observations on the draft articles and commentaries on the topic “Expulsion of Aliens” by 1 January 2014. The Assembly noted with appreciation the decision of the Commission to include the topics “Provisional application of treaties” and “Formation and evidence of customary international law” in its programme of work;<sup>577</sup> encouraged the Commission to continue the examination of the topics that are in its long-term programme of work;<sup>578</sup> and invited the Commission to continue to give priority to the topics “Immunity of State

<sup>574</sup> For the report of the Sixth Committee, see A/67/467. For the summary records, see A/C.6/67/SR.18 to 25.

<sup>575</sup> A/C.6/67/L.13.

<sup>576</sup> *Official Records of the General Assembly, Sixty-seventh Session, Supplement No. 10 (A/67/10)*.

<sup>577</sup> *Ibid.*, paras. 267 and 268.

<sup>578</sup> *Official Records of the General Assembly, Sixty-sixth Session, Supplement No. 10 (A/66/10)*, paras. 365–369.

officials from foreign criminal jurisdiction” and “The obligation to extradite or prosecute (*aut dedere aut judicare*)”.

In the same resolution, the Assembly decided that the consideration of chapter IV of the report of the Commission on the work of its sixty-third session,<sup>579</sup> dealing with the topic “Reservations to treaties”, should be continued at the sixty-eighth session of the General Assembly, during the consideration of the report of the Commission on the work of its sixty-fifth session. Furthermore, the Assembly took note of the tentative work programme of the Commission for the remainder of the quinquennium,<sup>580</sup> of the oral report by the Secretariat on assistance to special rapporteurs of the Commission and of paragraph 280 of the report of the Commission, and requested the Secretary-General to continue his efforts to identify concrete options for support for the work of special rapporteurs, additional to those provided under General Assembly resolution 56/272 of 27 March 2002. In addition, the Assembly stressed the desirability of further enhancing the dialogue between the Commission and the Sixth Committee at the sixty-eighth session of the General Assembly, 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-eighth session of the Assembly.

## 15. United Nations Commission on International Trade Law<sup>581</sup>

### (a) Forty-fifth session of the Commission

The United Nations Commission on International Trade Law (UNCITRAL) held its forty-fifth session in New York from 25 June to 6 July 2012 and adopted its report on 27 and 28 June and 6 July 2012.<sup>582</sup>

At the session, the Commission, recalling the adoption of its Model Law on Public Procurement at its forty-fourth session in 2011,<sup>583</sup> finalized and adopted the Guide to Enactment of the UNCITRAL Model Law on Public Procurement.<sup>584</sup> It noted in this respect that it could be expected that the Guide would greatly facilitate the understanding, enactment, interpretation and application of the Model Law and thus contribute significantly to the establishment of a harmonized and modern legal framework for public procurement.<sup>585</sup>

The Commission also finalized and adopted the Recommendations to assist arbitral institutions and other interested bodies with regard to arbitration under the UNCITRAL Arbitration Rules as revised in 2010.<sup>586</sup> The Commission believed that the Recommenda-

<sup>579</sup> *Ibid.*, and addendum (A/66/10/Add.1).

<sup>580</sup> *Ibid.*, *Sixty-seventh Session, Supplement No. 10* (A/67/10), para. 273.

<sup>581</sup> For the membership of the United Nations Commission on International Trade Law, see *Official Records of the General Assembly, Sixty-seventh Session, Supplement No. 17* (A/67/17), para. 4.

<sup>582</sup> *Ibid.*, paras.1 and 12.

<sup>583</sup> *Ibid.*, *Sixty-sixth Session, Supplement No. 17* (A/66/17), para. 192 and annex I. The text of the Model Law is also available at <http://www.uncitral.org>.

<sup>584</sup> *Ibid.*, *Sixty-seventh Session, Supplement No. 17* (A/67/17), paras. 13–46.

<sup>585</sup> *Ibid.*, para. 46.

<sup>586</sup> *Ibid.*, paras. 47–64 and annex I.

tions would significantly enhance the efficiency of arbitration under the 2010 UNCITRAL Arbitration Rules.<sup>587</sup>

The Commission further considered the reports of the fifty-fifth and fifty-sixth sessions of its Working Group II (Arbitration and Conciliation).<sup>588</sup> In this regard, it reaffirmed the importance of ensuring transparency in treaty-based investor-State arbitration, and urged the Working Group to complete its work on the rules on transparency for consideration by the Commission, preferably at its next session.<sup>589</sup> As regards future work in the field of settlement of commercial disputes, the Commission recalled its agreement at its forty-fourth session, in 2011, that the 1996 UNCITRAL Notes on Organizing Arbitral Proceedings<sup>590</sup> needed to be updated pursuant to the adoption of the 2010 UNCITRAL Arbitration Rules,<sup>591</sup> and mandated the Secretariat to undertake the revision of the Notes as its next task in the field of dispute settlement.<sup>592</sup>

The Commission considered the reports of the twenty-fourth and twenty-fifth sessions of its Working Group III (Online Dispute Resolution)<sup>593</sup> and noted the progress that had been made in respect of the Working Group's continued deliberations on the draft procedural rules on dispute resolution for cross-border electronic transactions.<sup>594</sup> The Commission took note of the Working Group's mindfulness of consumer protection issues throughout its deliberations, as well as the perceived benefits of online dispute resolution in promoting interaction and economic growth within and between regions, including in post-conflict situations and in developing countries,<sup>595</sup> and urged the Working Group to continue to include such considerations in its future work.<sup>596</sup> The Commission reaffirmed the mandate of Working Group III and requested the Working Group, among other things, to continue to explore a range of means of ensuring that online dispute resolution outcomes were effectively implemented, including arbitration and possible alternatives to arbitration.<sup>597</sup>

In the area of electronic commerce, the Commission considered the report of the forty-fifth session of its Working Group IV (Electronic Commerce) and reaffirmed the mandate of the Working Group relating to electronic transferable records.<sup>598</sup>

Regarding insolvency law, the Commission considered the reports of the fortieth and forty-first sessions of its Working Group V (Insolvency Law).<sup>599</sup> In this context, it noted

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<sup>587</sup> *Ibid.*, para. 64. For the text of the 2010 UNCITRAL Arbitration Rules, see *ibid.*, *Sixty-fifth Session, Supplement No. 17 (A/65/17)*, annex I.

<sup>588</sup> *Ibid.*, *Sixty-seventh Session, Supplement No. 17 (A/67/17)*, para. 66.

<sup>589</sup> *Ibid.*, para. 69.

<sup>590</sup> *Ibid.*, *Fifty-first Session, Supplement No. 17 (A/51/17)*, chapter II.

<sup>591</sup> *Ibid.*, *Sixty-sixth Session, Supplement No. 17 (A/66/17)*, para. 207.

<sup>592</sup> *Ibid.*, *Sixty-seventh Session, Supplement No. 17 (A/67/17)*, para. 70.

<sup>593</sup> *Ibid.*, para. 71.

<sup>594</sup> *Ibid.*, para. 73.

<sup>595</sup> *Ibid.*, para. 74.

<sup>596</sup> *Ibid.*, para. 79.

<sup>597</sup> *Ibid.*

<sup>598</sup> *Ibid.*, paras. 81–82 and 90.

<sup>599</sup> *Ibid.*, para. 92.

the progress that had been made on two topics of current importance and where a greater degree of harmonization of national approaches would be beneficial in delivering certainty and predictability, namely: (a) guidance on the interpretation and application of selected concepts of the UNCITRAL Model Law on Cross-Border Insolvency<sup>600</sup> relating to centre of main interests and possible development of a model law or provisions on insolvency law addressing selected international issues, such as jurisdictions, access and recognition, in a manner that would not preclude the development of a convention; and (b) responsibility of directors of an enterprise in the period approaching insolvency.<sup>601</sup> The Commission agreed that the UNCITRAL Model Law on Cross-Border Insolvency: the Judicial Perspective<sup>602</sup> adopted by the Commission at its forty-fourth session, in 2011,<sup>603</sup> should be revised in parallel with the current work of the Working Group to ensure consistency, and the revised text, if possible, should be submitted to the Commission for adoption at the same time as the new text on topic (a) above.<sup>604</sup>

The Commission also considered the reports of the twentieth and twenty-first sessions of its Working Group VI (Security Interests)<sup>605</sup> and expressed its appreciation to the Working Group for the considerable progress achieved in its work on the preparation of a guide on the registration of security rights in movable assets. It requested the Working Group to complete its work so that the draft guide would be submitted to the Commission for final approval and adoption at its forty-sixth session, in 2013.<sup>606</sup> The Commission agreed that, upon completion of that work, the Working Group should undertake preparation of a simple, short and concise model law on secured transactions based on the general recommendations of the UNCITRAL Legislative Guide on Secured Transactions<sup>607</sup> and consistent with all texts prepared by UNCITRAL on secured transactions.<sup>608</sup> The Commission also agreed to retain the topic of security rights in non-intermediated securities, in the sense of securities other than those credited in a securities account, on its future work programme.<sup>609</sup>

As regards its possible future work in the area of public procurement and related areas, the Commission instructed the Secretariat to undertake a study of existing resources and publications of other bodies that might be made available to support the implementation, interpretation and use of the UNCITRAL Model Law on Public Procurement; how to arrange ongoing collaboration with such other bodies; topics that were not yet adequately covered in the Model Law and its Guide to Enactment and that might warrant guidance papers; and options for publishing and publicizing the various resources and papers them-

<sup>600</sup> *Ibid.*, Fifty-second Session, Supplement No. 17 (A/52/17), annex I.

<sup>601</sup> *Ibid.*, Sixty-seventh Session, Supplement No. 17 (A/67/17), paras. 91 and 93.

<sup>602</sup> Available at <http://www.uncitral.org>.

<sup>603</sup> *Official Records of the General Assembly, Sixty-sixth Session, Supplement No. 17 (A/66/17)*, para. 198.

<sup>604</sup> *Ibid.*, Sixty-seventh Session, Supplement No. 17 (A/67/17), para. 96.

<sup>605</sup> *Ibid.*, para. 97.

<sup>606</sup> *Ibid.*, para. 100.

<sup>607</sup> United Nations publication, Sales No. E.09.V.12.

<sup>608</sup> *Official Records of the General Assembly, Sixty-seventh Session, Supplement No. 17 (A/67/17)*, para. 105.

<sup>609</sup> *Ibid.*

selves.<sup>610</sup> Concerning public-private partnerships, the Commission agreed that consideration of oversight mechanisms, the promotion of domestic dispute prevention and resolution mechanisms and the possible expansion of the scope of the UNCITRAL instruments on privately financed infrastructure projects<sup>611</sup> might be warranted.<sup>612</sup> The Commission also agreed to hold a colloquium to identify the scope of possible work and primary issues to be addressed.<sup>613</sup>

In relation to its possible future work in the area of microfinance, the Commission agreed to hold one or more colloquiums on microfinance and related matters with a focus on facilitation of simplified business incorporation and registration; access to credit for micro-businesses and small and medium-sized enterprises; dispute resolution applicable to microfinance transactions; and other topics related to creating an enabling legal environment for micro-businesses and small and medium-sized enterprises.<sup>614</sup>

As regards possible future work by UNCITRAL in the area of international contract law, there was a prevailing view in support of requesting the Secretariat to organize symposiums and other meetings, including at the regional level and within available resources, maintaining close cooperation with the International Institute for the Unification of Private Law (UNIDROIT), with a view to compiling further information to assist the Commission in the assessment of the desirability and feasibility of future work in the field of general contract law at a future session.<sup>615</sup>

Concerning texts of other organizations, the Commission commended the use of the 2010 edition of the UNIDROIT Principles of International Commercial Contracts<sup>616</sup> and Incoterms 2010,<sup>617</sup> taking note of their usefulness in facilitating international trade.

The Commission recalled its approval at its forty-fourth session, in 2011, of the establishment of the UNCITRAL Regional Centre for Asia and the Pacific,<sup>618</sup> which was officially opened on 10 January 2012, in Incheon, Republic of Korea.<sup>619</sup> At its forty-fifth session, the Commission heard a report on the work of the Regional Centre, in particular that the activities of the Regional Centre since its establishment had focused on assessing needs and mapping existing projects relating to trade law reform, with a view to increasing coordination among them.<sup>620</sup>

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<sup>610</sup> *Ibid.*, para. 114.

<sup>611</sup> UNCITRAL Model Legislative Provisions on Privately Financed Infrastructure Projects (*Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 17 (A/58/17)*, annex I); and UNCITRAL Legislative Guide on Privately Financed Infrastructure Projects (United Nations publication, Sales No. E.01.V.4).

<sup>612</sup> *Official Records of the General Assembly, Sixty-seventh Session, Supplement No. 17 (A/67/17)*, para. 117.

<sup>613</sup> *Ibid.*, para. 120.

<sup>614</sup> *Ibid.*, para. 126.

<sup>615</sup> *Ibid.*, para. 132.

<sup>616</sup> *Ibid.*, para. 140.

<sup>617</sup> *Ibid.*, para. 144.

<sup>618</sup> *Ibid.*, para. 182.

<sup>619</sup> *Ibid.*, para. 183.

<sup>620</sup> *Ibid.*, para. 184.



The Commission continued consideration of its technical assistance to law reform activities and stressed their importance.<sup>621</sup> It also continued consideration of other subjects, including the preparation of a guide on the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958,<sup>622</sup> promotion of ways and means of ensuring a uniform interpretation and application of UNCITRAL legal texts,<sup>623</sup> status and promotion of UNCITRAL texts,<sup>624</sup> measures aimed at coordination and cooperation with other organizations active in the field of international trade law,<sup>625</sup> the role of UNCITRAL in promoting the rule of law at the national and international levels,<sup>626</sup> international commercial arbitration moot competitions<sup>627</sup> and the Commission's entitlement to summary records.<sup>628</sup> It also commenced consideration of the strategic direction for UNCITRAL.<sup>629</sup> Finally, the Commission took note of relevant General Assembly resolutions.<sup>630</sup>

### (b) Sixth Committee

The Sixth Committee considered the item "Report of the United Nations Commission on International Trade Law on the work of its forty-fifth session" at its 9th, 23rd and 24th meetings, on 15 October and on 6 and 9 November 2012.<sup>631</sup> For its consideration of the item, the Committee had before it the report of UNICTRAL on the work of its forty fifth sessions.

At the 9th meeting, on 15 October, the Chair of UNCITRAL at its forty-fifth session introduced the report of the Commission.

At the 23rd meeting, on 6 November, the representative of Austria, on behalf of several States, introduced a draft resolution entitled "Report of the United Nations Commission on International Trade Law on the work of its forty-fifth session".<sup>632</sup> At the same meeting, the representative of Austria, on behalf of the Bureau, introduced a draft resolution entitled "Recommendations to assist arbitral institutions and other interested bodies with regard to arbitration under UNCITRAL Arbitration Rules as revised in 2010".<sup>633</sup> At its 24th meeting, on 9 November, the Committee adopted the draft resolutions without a vote.

<sup>621</sup> *Ibid.*, paras. 145–148.

<sup>622</sup> *Ibid.*, paras. 133–136.

<sup>623</sup> *Ibid.*, paras. 149–158.

<sup>624</sup> *Ibid.*, paras. 159–161.

<sup>625</sup> *Ibid.*, paras. 162–181.

<sup>626</sup> *Ibid.*, paras. 195–227.

<sup>627</sup> *Ibid.*, paras. 233–235.

<sup>628</sup> *Ibid.*, paras. 241–249.

<sup>629</sup> *Ibid.*, paras. 228–232.

<sup>630</sup> *Ibid.*, paras. 236–238.

<sup>631</sup> For the report of the Sixth Committee. See A/67/465. For the summary records, see A/C.6/67/SR.9, 23 and 24.

<sup>632</sup> A/C.6/67/L.8.

<sup>633</sup> A/C.6/67/L.7.

### (c) General Assembly

On 14 December 2012, the General Assembly adopted resolution 67/89 entitled “Report of the Commission on the work of its forty-fifth session” and resolution 67/90 entitled “Recommendations to assist arbitral institutions and other interested bodies with regard to arbitration under the Arbitration Rules of the United Nations Commission on International Trade Law as revised in 2010”, without a vote, on the recommendation of the Sixth Committee.

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

During the sixty-seventh session of the General Assembly, the Sixth Committee (Legal), 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 in 2012.<sup>634</sup> The resolutions and decisions of the General Assembly described in this section were all adopted, without a vote, during the sixty-seventh session, on 14 December 2012, on the recommendation of the Sixth Committee.<sup>635</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>636</sup>

At its sixty-first session, in 2006, the General Assembly decided that the agenda item entitled “Comprehensive review of the whole question of peacekeeping operations in all their aspects”, which had been allocated to the Special Political and Decolonization Committee (Fourth Committee), should also be referred to the Sixth Committee for discussion of the report of the Group of Legal Experts on ensuring the accountability of United Nations staff and experts on mission with respect to criminal acts committed in peace-

<sup>634</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/en/ga/sixth/67/67\\_session.shtml](http://www.un.org/en/ga/sixth/67/67_session.shtml).

<sup>635</sup> The Sixth Committee adopts drafts resolutions, which it recommends for adoption by the General Assembly. These resolutions are contained in the reports of the Sixth Committee to the General Assembly on the various agenda items. The Sixth Committee reports also contain information concerning the relevant documentation on the consideration of the items by the Sixth Committee.

<sup>636</sup> General Assembly resolution 2006 (XIX) of 18 February 1965.

keeping operations,<sup>637</sup> submitted pursuant to General Assembly resolution 59/300.<sup>638</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 and to report on its work to General Assembly under the agenda item entitled “Criminal Accountability of United Nations officials and experts on mission”.<sup>639</sup> The General Assembly considered this item at its sixty-second to sixty-sixth sessions.

### (i) *Sixth Committee*

During the sixty-seventh session of the General Assembly, the Sixth Committee considered the item at its 8th, 9th, 24th and 25th meetings, on 12 and 15 October and on 9 and 16 November 2012.<sup>640</sup> For its consideration of the item, the Committee had before it the report of the Secretary-General on criminal accountability of United Nations officials and experts on mission.<sup>641</sup>

At its 1st meeting, on 8 October, the Sixth Committee established a working group pursuant to General Assembly resolution 66/93 in order to fulfil the mandate conferred by the General Assembly on the Committee, namely to continue to consider the report of the Group of Legal Experts,<sup>642</sup> in particular its legal aspects, taking into account the views of Member States and the information contained in the note by the Secretariat.<sup>643</sup> The Working Group held two meetings, on 23 and 25 October 2012.<sup>644</sup>

In their general comments, delegations, *inter alia*, underlined the imperative to guard against impunity and the need to ensure that all United Nations personnel perform their functions in a manner that is consistent with the Charter of the United Nations and preserves the image, credibility, impartiality and integrity of the Organization. In this regard, they reiterated their support for the zero tolerance policy of the United Nations, particularly against sexual exploitation and abuse, and expressed concern that, despite the attention drawn to the subject in recent years, there were continuing allegations that undermined the work, image and credibility of the United Nations. Some delegations underlined the need for the observance of the rule of law in the implementation of the Organization’s zero tolerance policy. Other delegations urged States to redouble their efforts to develop practical ways to address the need for accountability and called for the full implementation of the General Assembly resolutions adopted under this agenda item.

<sup>637</sup> A/60/980.

<sup>638</sup> General Assembly decision 61/503A of 13 September 2006.

<sup>639</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. The Ad Hoc Committee held two sessions at United Nations Headquarters in New York, from 9 to 13 April 2007 and from 7 to 9 and on 11 April 2008. For more information, see <http://www.un.org/law/criminalaccountability/>.

<sup>640</sup> For the report of the Sixth Committee, see A/67/464. For the summary records, see A/C.6/67/SR.8, 9, 24 and 25.

<sup>641</sup> A/67/213.

<sup>642</sup> A/60/980.

<sup>643</sup> A/62/239.

<sup>644</sup> At its 24th meeting, on 9 November, the Sixth Committee heard the oral report of the Chair of the Working Group (see A/C.6/67/SR.24).

Concerning the establishment of criminal jurisdiction over serious crimes committed by United Nations officials and experts on mission, some delegations noted that, although there had been progress on the matter, more needed to be done to ensure criminal accountability. In this regard, States were encouraged to take the necessary steps to prosecute their nationals for any offence committed while on mission, if necessary by adapting their national legislation to include the active personality principle. It was also suggested that the Secretary-General establish a list of States that currently include this principle in their national legislation. Other delegations were of the view that one of the possible ways of ensuring the successful prosecution of such crimes was the adoption of a more flexible test in assessing the dual criminality requirement. It was noted that measures taken by any State against United Nations personnel must be consistent with the provisions of the Convention on the Privileges and Immunities of the United Nations, 1946.<sup>645</sup>

Delegations generally welcomed the recent referrals by the Organization of cases of alleged criminal conduct to the State of nationality of the official or expert on mission concerned, for investigation and possible prosecution, and urged States to report back to the United Nations. States were also called upon to report on efforts taken to investigate and, where appropriate, prosecute their nationals for committing crimes of a serious nature while serving as United Nations officials or experts on mission. It was regretted that few responses had been received from the States concerned on how credible allegations had been handled by their domestic authorities.

Several delegations emphasized the importance of strengthening cooperation among States, as well between States and the United Nations, particularly with respect to extradition and mutual assistance in matters and in relation to investigations, exchange of information and the collection and securing the integrity of evidence.

Highlighting the significance of preventive approaches, delegations commended the Organization's efforts in the pre-deployment and in-mission training of peacekeeping personnel. Some delegations noted that it was also the responsibility of Member States to provide preventive training of their peacekeeping personnel, in particular through pre-deployment and in-mission training. In this regard, delegations also recalled the adoption of the United Nations Comprehensive Strategy on Assistance and Support to Victims of Sexual Exploitation and Abuse by the United Nations Staff and Related Personnel.<sup>646</sup> The need to address the concerns of victims was generally stressed by delegations.

On the reporting obligations of the Secretary-General under the relevant General Assembly resolutions, some delegations welcomed the latest report of the Secretary-General,<sup>647</sup> which included, *inter alia*, relevant information provided by Governments on jurisdictional issues as well as information on cases that had been referred by the Organization to the State of nationality of the alleged perpetrators. Some delegations noted that they were not convinced that the registered number of allegations reflected the true extent of the problem.

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<sup>645</sup> United Nations, *Treaty Series*, vol. 1, p. 15, and vol. 90, p. 327 (corrigendum to vol. 1).

<sup>646</sup> General Assembly resolution 62/214 of 21 December 2007.

<sup>647</sup> A/67/213.

Regarding future follow-up action, most delegations looked forward to further discussion of the report of the Group of Legal Experts<sup>648</sup> at the current session. Some delegations called for the full implementation of the resolutions adopted so far by the General Assembly on this item. Different views were expressed concerning the possible elaboration of a convention to ensure the criminal accountability of United Nations officials and experts on mission. Some delegations expressed support for such a convention, suggesting that the convention should also cover military personnel. It was also observed that, without undermining the jurisdiction of the territorial State, such a convention could envisage the subsidiary jurisdiction of international tribunals, particularly in respect of sexual crimes. Some delegations also stated that they were ready to discuss a comprehensive legal framework. Some other delegations considered that it was still premature to discuss a draft convention, believing that such a step would only be necessary if jurisdictional gaps were shown to exist. It was noted by some delegations that a convention was not needed, since the problem could be effectively addressed through the adoption of appropriate domestic legislation. Some other delegations also took the position that it was doubtful whether such a convention would be the most efficient and practical way of addressing the issues at stake, and that it was preferable, at this stage, to address the substantive matters, while leaving the question of form for a later stage. Other delegations called for the implementation of the amended draft model Memorandum of Understanding.<sup>649</sup>

At the 24th meeting, on 9 November, the representative of Ukraine, on behalf of the Bureau, introduced a draft resolution entitled "Criminal accountability of United Nations officials and experts on mission".<sup>650</sup> At its 25th meeting, on 16 November, the Committee adopted the draft resolution without a vote.

### (ii) *General Assembly*

In resolution 67/88, the General Assembly, *inter alia*, took note of the report of the Secretary-General<sup>651</sup> and strongly urged States to take all appropriate measures to ensure that crimes committed by United Nations officials and experts on mission do not go unpunished and that perpetrators of such crimes be brought to justice. The Assembly also strongly urged all States to consider establishing, to the extent that they had not yet done so, jurisdiction over crimes, particularly those of a serious nature, as known in their existing national 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, and, further urged States and appropriate international organizations to provide technical and other appropriate assistance in developing such legal measures to States requesting such support.

It encouraged all States to cooperate with each other and with the United Nations in the exchange of information and in facilitating the conduct of investigations and, as appropriate, the prosecution of United Nations officials and experts on mission who were alleged to have committed crimes of a serious nature, in accordance with their national law

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<sup>648</sup> A/ 60/980.

<sup>649</sup> General Assembly resolution 61/291 of 24 July 2007.

<sup>650</sup> A/C.6/67/L.17.

<sup>651</sup> A/67/213.

and applicable United Nations rules and regulations, fully respecting due process rights, as well as to consider strengthening the capacities of their national authorities to investigate and prosecute such crimes. Furthermore, the General Assembly encouraged all States: (a) to afford each other assistance in connection with criminal investigations or criminal or extradition proceedings in respect of crimes of a serious nature committed by United Nations officials and experts on mission, including assistance in obtaining evidence at their disposal, in accordance with their domestic law or any treaties or other arrangements on extradition and mutual legal assistance that may exist between them; (b) in accordance with their domestic law, to explore ways and means of facilitating the possible use of information and material obtained from the United Nations for purposes of criminal proceedings initiated in their territory for the prosecution of crimes of a serious nature committed by United Nations officials and experts on mission, bearing in mind due process considerations; (c) in accordance with their national law, to provide effective protection for victims of, witnesses to and others who provide information in relation to crimes of a serious nature alleged to have been committed by United Nations officials and experts on mission and to facilitate access of victims to victim assistance programmes, without prejudice to the rights of the alleged offender, including those relating to due process; and (d) in accordance with their national law, to explore ways and means of responding adequately to requests by host States for support and assistance in order to enhance their capacity to conduct effective investigations in respect of crimes of a serious nature alleged to have been committed by United Nations officials and experts on mission.

The Assembly decided that, bearing in mind its resolutions 62/63 and 63/119, the consideration of the report of the Group of Legal Experts, in particular its legal aspects, taking into account the views of Member States and also noting the inputs by the Secretariat, should continue during its seventieth session in the framework of a working group of the Sixth Committee; and decided to include the item in the provisional agenda of its sixty-eighth session.

**(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>652</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 of Assistance annually until its twenty-sixth session, biennially until its sixty-fourth session and annually thereafter.

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.

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<sup>652</sup> General Assembly resolution 2099 (XX) of 20 December 1965. For further information on the Programme of Assistance, see <http://www.un.org/law/programmeofassistance>.

(i) *Sixth Committee*

The Sixth Committee considered the item at its 16th, 17th, 24th and 25th meetings, on 24 October and on 9 and 16 November 2012.<sup>653</sup> For its consideration of the item, the Committee had before it the report of the Secretary-General.<sup>654</sup>

Delegations, *inter alia*, welcomed the report of the Secretary-General and expressed their strong support for the Programme of Assistance. Some delegations underlined that the Programme is a core activity of the United Nations and expressed concern about the financial situation of the Programme, notably the sustainability of the Programme under voluntary contributions. In this regards, several delegations favoured providing adequate resources for the Programme in the programme budget for the 2014–2015 biennium. It was noted that it was important to ensure that the Programme had adequate resources, within overall existing resources.

At the 24th meeting, on 9 November 2012, 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”.<sup>655</sup> At the 25th meeting, on 16 November, the Committee adopted the draft resolution, without a vote.

(ii) *General Assembly*

In resolution 67/91 of 14 December 2012, the General Assembly reaffirmed that the Programme constituted a core activity of the United Nations and that there was an increase in the demand for international law training, which created new challenges for the Programme. The Assembly, *inter alia*, authorized the Secretary-General to carry out the activities specified in his reports<sup>656</sup> on the Programme in 2013. It reiterated its request to the Secretary-General to provide to the programme budget for 2014–2015 the resources necessary for the Programme to ensure its continued effectiveness and further development, in particular the organization of the Regional Courses in International Law on a regular basis and the viability of the Audiovisual Library of International Law. The Assembly decided to consider the viability of voluntary contributions as a sustainable method for funding the Regional Courses in International Law and the Audiovisual Library of International Law and the need to provide a more reliable funding method, taking into account the recommendation of the Advisory Committee at its forty-eighth session. In addition, the Assembly decided to include the item in the provisional agenda of its sixty-eighth session.

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<sup>653</sup> For the report of the Sixth Committee, see A/67/ 466. For the summary records, see A/C.6/67/SR.16, 17, 24 and 25.

<sup>654</sup> A/67/518.

<sup>655</sup> A/C.6/67/L.15.

<sup>656</sup> A/66/505 and A/67/518.



**(c) Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts**

This item was included in the agenda of the thirty-seventh session of the General Assembly, in 1982, at the request of Denmark, Finland, Norway and Sweden.<sup>657</sup> The General Assembly considered the question biennially at its thirty-seventh to sixty-fifth sessions.

*(i) Sixth Committee*

The Sixth Committee considered the item at its 15th, 24th and 25th meetings, on 22 October and on 9 and 16 November 2012.<sup>658</sup> For its consideration of the item, the Committee had before it the report of the Secretary-General.<sup>659</sup>

During the debate on this item, delegations, *inter alia*, recalled the importance of the Geneva Conventions of 1949<sup>660</sup> and the Protocols Additional thereto,<sup>661</sup> stressed the need for those States that had not already done so to ratify the Protocols as well as accede to other relevant instruments and to comply with their norms. A reference was made to the joint initiative launched by Switzerland and the International Committee of the Red Cross (ICRC) to identify concrete ways to strengthen the application of international humanitarian law and all States were encouraged to implement the Action plan adopted by the 31st International Conference of the Red Cross and Red Crescent in 2011. The need to ensure that the law of armed conflict is capable of meeting the challenges of asymmetric warfare was stressed. A view was also expressed cautioning against double standards in the implementation of international humanitarian law.

Some delegations encouraged States to accept the competence of the International Humanitarian Fact-Finding Commission, pursuant to article 90 of the First Additional Protocol. Some delegations stressed the important role played by the International Criminal Court and international criminal tribunals in promoting respect for international humanitarian law. In this regard, some delegations welcomed the extension of the Court's jurisdiction over certain war crimes achieved at the Rome Statute Review Conference in Kampala in 2010 and stressed the need to ratify the corresponding amendments to the Statute. Some delegations welcomed the entry into force in 2010 of the Convention on Cluster Munitions<sup>662</sup> and encouraged States to accede to it. Concern was expressed over the increasing numbers of civilians being targeted in armed conflicts and the need to apply international humanitarian law was stressed.

Some delegations spoke in favour of further efforts to clarify legal obligations and to define good practices relevant to private military and security companies operating in an

<sup>657</sup> A/37/142.

<sup>658</sup> For the report of the Sixth Committee, see A/67/468. For the summary records, see A/C.6/67/SR.15, 24 and 25.

<sup>659</sup> A/67/182 and Add.1.

<sup>660</sup> United Nations, *Treaty Series*, vol. 75, pp. 31, 85, 135 and 287.

<sup>661</sup> *Ibid.*, vol. 1125, p. 3 and p. 609.

<sup>662</sup> *Ibid.*, treaty registration No. 47713.

armed conflict and, in this context, plans of Switzerland to organize, in cooperation with the ICRC, a conference on this issue in 2013 were announced.

At the 24th meeting, on 9 November 2012, the representative of Sweden, on behalf of several States, introduced a draft resolution entitled “Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts”.<sup>663</sup> At the 25th meeting, the Committee adopted the draft resolution without a vote.

#### (ii) *General Assembly*

In resolution 67/93, the General Assembly, *inter alia*, welcomed the universal acceptance of the Geneva Conventions of 1949 and noted the trend towards a similarly wide acceptance of the two Additional Protocols of 1977. It called upon all States that are already parties to Protocol I, or those States not parties, on becoming parties to Protocol I, to make the declaration provided for under article 90 of that Protocol and to consider making use, where appropriate, of the services of the International Humanitarian Fact-Finding Commission in accordance with the provisions of article 90 of Protocol I. The Assembly noted with appreciation the adoption at the Thirty-first International Conference of the Red Cross and Red Crescent of resolution 1 entitled “Strengthening legal protection for victims of armed conflicts” in which the Conference, *inter alia*, stressed that greater compliance with international humanitarian law is an indispensable prerequisite for improving the situation of victims of armed conflict and reaffirmed the obligation of all States and all parties to armed conflict to respect and ensure respect for international humanitarian law in all circumstances.

The Assembly requested that the Secretary-General submit to it at its sixty-ninth session a report on the status of the Additional Protocols relating to the protection of victims of armed conflicts, as well as on measures taken to strengthen the existing body of international humanitarian law, *inter alia*, with respect to its dissemination and full implementation at the national level, based on information received from Member States and the ICRC. The Assembly decided to include the item in the provisional agenda of its sixty-ninth session.

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

This item was included in the agenda of the thirty-fifth session of the General Assembly, in 1980, at the request of Denmark, Finland, Iceland, Norway and Sweden.<sup>664</sup> The General Assembly considered the item annually at its thirty-sixth to forty-third sessions, and biennially thereafter.

<sup>663</sup> A/C.6/67/L.14.

<sup>664</sup> A/35/142.

(i) *Sixth Committee*

The Sixth Committee considered the item at its 15th, 16th, 24th and 25th meetings, on 22, 24 October and on 9 and 16 November 2012.<sup>665</sup> For its consideration of the item, the Committee had before it the report of the Secretary-General.<sup>666</sup>

During the debate on this item, delegations, *inter alia*, welcomed the Secretary-General's report on the topic. They strongly condemned the continuing acts of violence against the security and safety of diplomatic and consular missions and their representatives, urged States to respect their obligations under international law and to take all the necessary measures in order to protect the diplomatic and consular missions and the representatives within their territories. A reference was also made to the need to protect missions and representatives of international organizations. Some delegations stressed that the breaches by the States of the obligations in this field entailed an obligation to take remedial actions. Some delegations emphasized the need and responsibility to take preventive measures. The importance of respecting the laws of the receiving States was also stressed.

At the 24th meeting, on 9 November, the representative of Finland, on behalf of several States, introduced a draft resolution entitled "Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives".<sup>667</sup> At its 25th meeting, on 16 November, the Committee adopted the draft resolution without a vote.

(ii) *General Assembly*

In resolution 67/94, the General Assembly, *inter alia*, urged States to strictly observe, implement and enforce the applicable principles and rules of international law governing diplomatic and consular relations, including during a period of armed conflict, and, in particular, to ensure, in conformity with their international obligations, the protection, security and safety of the diplomatic and consular missions and representatives, as well as missions and representatives to and officials of international intergovernmental organizations, officially present in territories under their jurisdiction, including practical measures to prevent and prohibit in their territories illegal activities of persons, groups and organizations that encourage, instigate, organize or engage in the perpetration of acts against the security and safety of such missions, representatives and officials. It also urged States to take all appropriate measures at the national and international levels to prevent any acts of violence against such missions, representatives and officials, including during a period of armed conflict, and to ensure, with the participation of the United Nations where appropriate, that such acts are fully investigated with a view to bringing offenders to justice.

The Assembly further called upon States, in cases where a dispute arises in connection with a violation of their international obligations concerning the protection of the missions or the security of such representatives and officials, to make use of the means available for

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<sup>665</sup> For the report of the Sixth Committee, see A/67/469. For the summary records, see A/C.6/67/SR.15, 16, 24 and 25.

<sup>666</sup> A/67/126 and Add.1.

<sup>667</sup> A/C.6/67/L.10.

peaceful settlement of disputes, including the good offices of the Secretary-General, and requested the Secretary-General, when he deemed it appropriate, to offer his good offices to the States directly concerned.

The Assembly urged: (a) all States to report to the Secretary-General serious violations of the protection, security and safety of diplomatic and consular missions and representatives as well as missions and representatives with diplomatic status to international intergovernmental organizations; and (b) the State in which the violation took place—and, to the extent possible, the State where the alleged offender is present—to report to the Secretary-General on measures taken to bring the offender to justice and eventually to communicate the final outcome of the proceedings against the offender, and to report on measures adopted with a view to preventing a repetition of such violations.

It requested that the Secretary-General submit to the Assembly at its sixty-ninth session a report containing information on the state of ratification of and accessions to the instruments relevant to the protection, security and safety of diplomatic and consular missions and representatives; and a summary of the reports received from States on serious violations of the protection, security and safety of diplomatic and consular missions and representatives as well as missions and representatives with diplomatic status to international intergovernmental organizations and actions taken against offenders, as well as of the views of States with respect to any measures needed to enhance the protection, security and safety of diplomatic and consular missions and representatives as well as missions and representatives with diplomatic status to international intergovernmental organizations. The Assembly further decided to include this item in the provisional agenda of its sixty-ninth session.

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

**(i) *Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization***<sup>668</sup>

The item entitled “Need to consider suggestions regarding the review of the Charter of the United Nations” was included in the agenda of the twenty-fourth session of the General Assembly, in 1969, at the request of Colombia.<sup>669</sup>

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>670</sup>

Meanwhile, another item, entitled “Strengthening of the role of the United Nations with regard to the maintenance and consolidation of international peace and security, the

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<sup>668</sup> For more information, see the website of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, available from <http://www.un.org/law/chartercomm/>.

<sup>669</sup> A/7659.

<sup>670</sup> General Assembly resolution 3349 (XXIX) of 17 December 1974.

development of cooperation among all nations and the promotion of the rules of international law in relations between States”, was included in the agenda of the twenty-seventh session of the General Assembly, at the request of Romania.<sup>671</sup>

At its thirtieth session, the General Assembly decided to reconvene the Ad Hoc Committee as the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, to examine suggestions and proposals regarding the Charter and the strengthening of the role of the United Nations with regard to the maintenance and consolidation of international peace and security, the development of cooperation among all nations and the promotion of the rules of international law.<sup>672</sup> Since its thirtieth session, the General Assembly has reconvened the Special Committee every year.

The Special Committee met at United Nations Headquarters from 21 to 28 February and on 1 March 2012.<sup>673</sup> The issues considered by the Special Committee during its 2012 session in relation to the item “Maintenance of international peace and security” were: (i) report by the Secretary-General entitled “Implementation of the provisions of the Charter relating to assistance to third States affected by the application of sanctions”,<sup>674</sup> (ii) a revised working paper submitted by Libya at the 2002 session on the strengthening of certain principles concerning the impact and the application of sanctions;<sup>675</sup> (iii) a revised proposal submitted by Libya at the 1998 session with a view to strengthening the role of the United Nations in the maintenance of international peace and security;<sup>676</sup> (iv) a further revised working paper submitted by the Bolivarian Republic of Venezuela at the 2011 session entitled “Open-ended working group to study the proper implementation of the Charter of the United Nations with respect to the functional relationship of its organs”,<sup>677</sup> (v) a revised working paper submitted by Belarus and the Russian Federation at the 2005 session, in which it was recommended, *inter alia*, that an advisory opinion be requested from the International Court of Justice as to the legal consequences of the resort to the use of force by States without prior authorization by the Security Council, except in the exercise of the right to self-defence;<sup>678</sup> and (vi) a working paper introduced by Cuba at the 2012 session entitled “Strengthening of the role of the Organization and enhancing its effectiveness: adoption of recommendations”.<sup>679</sup>

In connection with the item entitled “Peaceful settlement of disputes”, the Special Committee considered a proposal introduced by the Philippines for a recommendation on the thirtieth anniversary of the Manila Declaration on the Peaceful Settlement of International Disputes.<sup>680</sup> The Special Committee also considered the items “*Repertory of Practice*

<sup>671</sup> A/8792.

<sup>672</sup> General Assembly resolution 3499 (XXX) of 15 December 1975.

<sup>673</sup> For the report of the Special Committee, see *Official Records of the General Assembly, Sixty-seventh Session, Supplement No. 33 (A/67/33)*.

<sup>674</sup> A/66/213.

<sup>675</sup> *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 33 (A/57/33)*, para. 89.

<sup>676</sup> *Ibid.*, *Fifty-third Session, Supplement No. 33 (A/53/33)*, para. 98.

<sup>677</sup> *Ibid.*, *Sixty-sixth Session, Supplement No. 33 (A/66/33)*, annex.

<sup>678</sup> *Ibid.*, *Sixtieth Session, Supplement No. 33 (A/60/33)*, para. 56.

<sup>679</sup> *Ibid.*, *Sixty-seventh Session, Supplement No. 33 (A/67/33)*, annex.

<sup>680</sup> A/AC.182/L.132.

of *United Nations Organs and Repertoire of the Practice of the Security Council*” and “Working methods of the Special Committee and identification of new subjects”.

(ii) *Sixth Committee*

The Sixth Committee considered the item at its 7th, 8th, 16th, 23rd, 24th and 25th meetings, on 11, 12 and 24 October and on 6, 9 and 16 November 2012.<sup>681</sup> For its consideration of the item, the Committee had before it the following documents: report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization;<sup>682</sup> report of the Secretary-General on the *Repertory of Practice of United Nations Organs and the Repertoire of the Practice of the Security Council*;<sup>683</sup> and report of the Secretary-General on the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions.<sup>684</sup>

In the context of the maintenance of international peace and security, several delegations expressed the view that sanctions should be considered as a last resort, and that they should be implemented in accordance with international law and the Charter of the United Nations. It was also noted that the objectives of sanctions regimes should be clearly defined, based on tenable legal grounds, imposed for a specified time-frame, with the conditions on which the sanctions are imposed clearly defined and subject to periodic review. Some delegations stressed the importance of considering the legal consequences of arbitrarily imposed sanctions, including the question of compensation. A focus on minimizing the humanitarian effects of sanctions was suggested by several delegations.

With regard to the implementation of the provisions of the Charter of the United Nations relating to assistance to third States affected by the application of sanctions under Chapter VII, several delegations urged the Special Committee to continue to analyze the topic, and stressed the need for concrete recommendations on ways to assist third States and for greater transparency in the work of sanctions committees. The establishment of a mechanism for assisting affected States was proposed. Other delegations pointed to the substantive and procedural safeguards adopted by the Security Council to mitigate the adverse effects of sanctions on third States, and called for the topic to be removed from the agenda of the Special Committee.

Several delegations expressed interest in the proposal submitted by the Bolivarian Republic of Venezuela to establish an open-ended working group to study the proper implementation of the Charter of the United Nations with respect to the functional relationship of its organs. A continuing interest was also expressed by several delegations in the revised proposal submitted by Libya with a view to strengthening the role of the United Nations in the maintenance of international peace and security, as well as in the working paper submitted by Cuba at the 2012 session on the strengthening of the role of

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<sup>681</sup> For the report of the Sixth Committee, see A/67/470. For the summary records, see A/C.6/67/SR.7, 8, 16, 23, 24 and 25.

<sup>682</sup> *Official Records of the General Assembly, Sixty-seventh Session, Supplement No. 33 (A/67/33)*.

<sup>683</sup> A/67/189.

<sup>684</sup> A/67/190.

the Organization and enhancing its effectiveness. Other delegations spoke in opposition to the consideration of either paper by Libya and Cuba.

While several delegations were of the view that the proposal submitted by Belarus and the Russian Federation to request an advisory opinion from the International Court of Justice on the legal consequences of the resort to the use of force by States without prior authorization by the Security Council except in the exercise of the right of self-defense should remain on the agenda of the Special Committee, other delegations spoke in opposition to that proposal.

Concerning the peaceful settlement of disputes, several delegations emphasized the importance of this topic and encouraged the Special Committee to keep the item on its agenda. A number of delegations referred to the significance of the Manila Declaration on the Peaceful Settlement of International Disputes and welcomed the commemoration of its thirtieth anniversary.

The progress made by the Secretariat in the preparation of the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* was welcomed by several delegations, in particular the efforts undertaken to reduce the backlog of those publications and to make them available on the Internet. The Secretariat was again requested to intensify its efforts aimed at the preparation of volume III of the *Repertory*. Several delegations spoke in favour of issuing the publications in all official languages of the United Nations.

On the issue of the identification of new subjects, while some delegations emphasized the right of all States to present new proposals, others pointed to the fact that many of the proposals before the Special Committee were duplicative of efforts undertaken elsewhere in the Organization. Support was expressed for a proposal by Ghana for the inclusion of a new item on principles and practical measures/mechanisms for strengthening and ensuring more effective cooperation between the United Nations and regional organizations on matters relating to international peace and security in areas of conflict prevention and resolution and post-conflict peacebuilding and peacekeeping.

Several delegations called for the improvement of the working methods of the Special Committee. Suggestions included holding biennial meetings and/or shortened sessions; and holding thematic debates. A reduction in the duration of the session of the Special Committee was opposed.

At the 16th meeting, on 24 October, the representative of the Philippines, on behalf of the Bureau, introduced a draft resolution entitled "Thirtieth anniversary of the Manila Declaration on the Peaceful Settlement of International Disputes".<sup>685</sup> At the 23rd meeting, on 6 November, the Committee adopted the draft resolution without a vote.

At the 24th meeting, on 9 November, the representative of Egypt, on behalf of the Bureau, introduced a draft resolution entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization".<sup>686</sup> At the 25th meeting, on 16 November, the Committee adopted the draft resolution without a vote.

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<sup>685</sup> A/C.6/67/L.3.

<sup>686</sup> A/C.6/67/L.11.



(iii) *General Assembly*

In resolution 67/95, the General Assembly encouraged all Member States to commemorate the thirtieth anniversary of the adoption of the Manila Declaration on the Peaceful Settlement of International Disputes.

In resolution 67/96, the General Assembly, *inter alia*, requested the Special Committee to continue its consideration of all proposals concerning the question of the maintenance of international peace and security and of the question of the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions, and to continue to consider, on a priority basis, ways and means of improving the Committee's working methods and enhancing its efficiency.

(f) **The rule of law at the national and international levels**

This item was included in the provisional agenda of the sixty-first session of the General Assembly, in 2006, at the request of Liechtenstein and Mexico.<sup>687</sup> The Assembly considered the item from its sixty-first to its sixty-sixth sessions.

(i) *Sixth Committee*

The Sixth Committee considered the item at its 4th to 7th, 24th and 25th meetings, on 10 and 11 October and on 9 and 16 November 2012.<sup>688</sup> For its consideration of the item, the Committee had before it the report of the Secretary-General entitled "Delivering justice: programme of action to strengthen the rule of law at the national and international levels"<sup>689</sup> and the report of the Secretary-General on strengthening and coordinating United Nations rule of law activities.<sup>690</sup>

During the debate on this item, several delegations welcomed the convening of the high level meeting of the General Assembly on the rule of law at the national and international levels on 24 September 2012 and the adoption of the Declaration on the Rule of Law at the National and International Levels.<sup>691</sup> Some delegations regretted that the contribution of civil society organizations was not acknowledged in the Declaration and a view was expressed that the Declaration should have adopted a more action-oriented approach and established a follow-up mechanism. Some delegations expressed reservations regarding certain provisions of the Declaration; some other delegations emphasized the need for a concrete implementation of the principles recognized in the Declaration.

In their general observations, many delegations affirmed their commitment to uphold and develop an international order based on the rule of law and international law. In this respect, they stressed that the purposes and principles of the Charter of the United Nations and the principles of international law are paramount to international peace and security,

<sup>687</sup> A/61/142.

<sup>688</sup> For the report of the Sixth Committee, see A/67/471. For the summary records, see A/C.6/67/SR.4 to 7, 24 and 25.

<sup>689</sup> A/66/749.

<sup>690</sup> A/67/290.

<sup>691</sup> General Assembly resolution 67/1 of 24 September 2012.

the advancement of socioeconomic development and human rights. Several delegations reaffirmed the duty of States to settle their disputes by peaceful means and acknowledged the important role played in this regard by international courts and tribunals, hybrid courts, treaty bodies and truth and reconciliation commissions, as well as the necessity to fight impunity for serious international crimes, such as genocide, war crimes and crimes against humanity. Some delegations called on all States that had not done so to accept the compulsory jurisdiction of the International Court of Justice and to ratify the Rome Statute of the International Criminal Court and its amendments. Some delegations emphasized the importance of rule of law in building sustainable peace in countries in conflict and post-conflict situations. Concerns about the application of unilateral measures in international relations were also expressed.

Some delegations stressed the need of strengthening support to States in the domestic implementation of their respective international obligations through enhanced technical assistance and capacity-building. The critical importance of national ownership in rule of law activities was also emphasized. The need to ensure respect for the rule of law within the United Nations was also underlined. Some delegations called for a revitalization of the General Assembly, as well as a reform of the Security Council and of the Bretton Woods institutions.

Regarding the future work on the topic, support was expressed by several delegations for further General Assembly discussion on the rule of law, particularly in the Sixth Committee. In this regard, some delegations suggested that the General Assembly should reflect on the linkages between the rule of law and the three pillars of the United Nations, especially the inter-relationship between the rule of law and sustainable development in the post-2015 international development agenda. Support was expressed for the further consideration of subtopics, namely on the principles of the rule of law, the rule of law and the independence of the judiciary, the relationship between the rule of law and democracy, the rule of law and security as well as legitimacy and balance of powers in the context of the rule of law. It was suggested that the question on the reinforcement of national judicial mechanisms could also be considered. It was observed that the subtopics proposed by the Secretary-General<sup>692</sup> were not suitable for the Sixth Committee and it was therefore suggested that the following subtopics be considered: the rule of law and the peaceful settlement of international disputes; the rule of law and the use of force in international relations; the rule of law and combating terrorism and transnational organized crime; the rule of law and economic development; and the rule of law and the reform of the international financial system. It was also suggested that topics such as reform of the Security Council, sanctions and extraterritorial application of domestic laws should be considered.

At the 24th meeting, on 9 November, the representative of Liechtenstein, on behalf of the Bureau, introduced a draft resolution entitled "The rule of law at the national and international levels".<sup>693</sup> At the 25th meeting, on 16 November, the Committee adopted the draft resolution without a vote.

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<sup>692</sup> A/67/290, chapter V.

<sup>693</sup> A/C.6/67/L.9.

(ii) *General Assembly*

In resolution 67/97, the General Assembly, *inter alia*: recalled the high-level meeting of the Assembly on the rule of law at the national and international levels, held during the high-level segment of its sixty-seventh session and the Declaration adopted at that meeting;<sup>694</sup> reiterated the request to the Secretary-General to ensure greater coordination and coherence among United Nations entities and with donors and recipients; and called upon the Secretary-General and the United Nations system to systematically address, as appropriate, aspects of the rule of law in relevant activities, including the participation of women in rule of law-related activities, recognizing the importance of the rule of law to virtually all areas of United Nations engagement. The General Assembly further decided to include the item in the provisional agenda of its sixty-eighth session and invited Member States to focus their comments in the upcoming Sixth Committee debates on the subtopics “The rule of law and the peaceful settlement of international disputes” (sixty-eighth session) and “Sharing States’ national practices in strengthening the rule of law through access to justice” (sixty-ninth session).

(g) **The scope and application of the principle of universal jurisdiction**

This item was included in the provisional agenda of the sixty-fourth session of the General Assembly, at the request of the United Republic of Tanzania.<sup>695</sup> The Assembly considered the item at its sixty-fourth to sixty-sixth sessions.

(i) *Sixth Committee*

The Sixth Committee considered the item at its 12th, 13th, 24th and 25th meetings, on 17 and 18 October and on 9 and 16 November 2012.<sup>696</sup> For the consideration of the item, the Committee had before it the reports of the Secretary-General, submitted to the General Assembly at its sixty-fifth, sixty-sixth and sixty-seventh sessions.<sup>697</sup>

At its 1st meeting, on 8 October, the Committee established a working group pursuant to General Assembly resolution 66/103 to undertake a thorough discussion of the scope and application of the principle of universal jurisdiction. The Working Group held four meetings, on 18, 19 and 25 October. At its 24th meeting, on 9 November, the Committee heard the oral report of the Chair of the Working Group.<sup>698</sup>

In their general comments, delegations took note of and welcomed the annual report of the Secretary General<sup>699</sup> and observed that they continued to follow the agenda item with keen interest. Several delegations noted that universal jurisdiction provided a tool to prosecute the perpetrators of certain serious crimes under international law. Some other

<sup>694</sup> General Assembly resolution 67/1 of 24 September 2012.

<sup>695</sup> A/63/237/Rev.1.

<sup>696</sup> For the report of the Sixth Committee, see A/67/472. For the summary records, see A/C.6/67/SR.12, 13, 24 and 25.

<sup>697</sup> A/65/181, A/66/93 and Add.1 and A/67/116.

<sup>698</sup> A/C.6/67/SR.24.

<sup>699</sup> A/67/116.

delegations stated that it was an institution or principle of international law pursuant to which criminal jurisdiction is exercised exceptionally for the purpose of fighting impunity and strengthening justice. While it was reiterated that all States should ensure that they have a proper national legal framework in place, particularly to close the impunity gap for war crimes, including grave breaches under the Geneva Conventions, some delegations indicated that they did not welcome the creation of uniform standards regarding the principle at the international level. The view was expressed that international regulation of the exercise universal jurisdiction would unduly curb State sovereignty.

With regard to the scope of the principle, delegations highlighted the importance of agreeing on a definition of universal jurisdiction and the need to distinguish it from other related concepts, such as international criminal jurisdiction, the obligation to extradite or prosecute, as well as other related principles and rules of international law. In this context, several delegations acknowledged the existing controversy regarding the definition of the principle. In addition, the link between universal jurisdiction and the question of immunity of State officials, in particular Heads of State and Government was highlighted. Several delegations expressed the view that there was a delicate balance to be struck between the prevention of impunity and the free exercise of sovereignty by agents of the State, whereby immunity of State officials must be upheld. Several delegations also stated that the exercise of criminal jurisdiction over high-ranking officials who enjoy immunity under international law violated the sovereignty of States, and that a moratorium on all pending arrest warrants filed against certain leaders was needed. It was also noted, however, that discussions on universal jurisdiction should not be taken over by discussions on immunity, given in particular that the latter, which was also implicated with respect to other bases of jurisdiction, may prejudice the Committee's consideration of the topic.

Concerning the related question of crimes covered by the principle, several delegations noted that the principle covered the most serious or heinous crimes of concern to the international community. Certain delegations also noted, however, the divergence of views on the question of crimes, as reflected in the report of the Secretary-General, except for piracy, and urged the Working Group to focus on this aspect. Some delegations made specific reference to certain crimes in this context, including genocide, crimes against humanity, war crimes, torture and slavery. The view was also expressed that only core crimes should be identified and enumerated; there should be no effort to seek consensus on a comprehensive list of crimes as the typology of crimes is subject to evolution. Some other delegations cautioned against an unwarranted expansion of the list of crimes subject to universal jurisdiction.

As regards the application of the principle, several delegations condemned the selective and arbitrary application of the principle and its possible politicization. Certain delegations expressed the view that the disorderly application of universal jurisdiction has had and continued to risk detrimental implications for international relations. The importance of respecting principles of international law enshrined in the Charter of the United Nations, including the sovereign equality of States, as well as the political independence and non-interference in the internal affairs of other States, was also stressed. It was suggested that it was necessary to address the incongruity that currently existed amongst the various national approaches to universal jurisdiction, and some delegations underlined the importance of establishing conditions for the principle's application. Certain delegations also indicated that the primary responsibility for investigating and prosecuting serious

international crimes should always rest with the State in which the conduct occurred, and stressed that universal jurisdiction provided a complementary mechanism to ensure that accused persons were held accountable where the territorial State was unable or unwilling to exercise jurisdiction.

On the future consideration of the agenda item, some delegations acknowledged the beneficial aspects of the establishment of the Working Group of the Sixth Committee on the topic. Some delegations indicated that the Committee was at the stage where more dialogue within the Working Group was required, and issues on which there was common understanding should be identified. Certain delegations reaffirmed the need for the Working Group to adopt a cautious step-by-step approach. In addition, some delegations encouraged flexibility during the consideration by the Working Group of the issue of immunities, in particular on the question of whether the nature of a crime affected immunity. The view was also expressed that the item, given its legal complexity, should appropriately be handled by the International Law Commission. In terms of timing, some delegations indicated that the item should be referred to the Commission presently, while some other delegations suggested that such a referral should depend on the progress of the Working Group. Several delegations also welcomed the fact the Commission had at its most recent session given priority to related topics, namely, the immunity of State officials from foreign criminal jurisdiction and the obligation to extradite or prosecute.

At the 24th meeting, on 9 November 2012, the representative of the Democratic Republic of the Congo, on behalf of the Bureau, introduced a draft resolution entitled “The scope and application of the principle of universal jurisdiction”.<sup>700</sup> At the 25th meeting, on 16 November 2012, the Committee adopted the draft resolution without a vote.

#### (ii) *General Assembly*

In resolution 67/98, the General Assembly invited Member States and relevant observers, as appropriate, to submit, before 30 April 2013, information and observations on the scope and application of universal jurisdiction, including, where appropriate, information on the relevant applicable international treaties, their domestic legal rules and judicial practice. The Assembly further requested the Secretary-General to prepare and submit to it, at its sixty-eighth session, a report based on such information and observations. Moreover the Assembly decided that the Sixth Committee should continue its consideration of the item, without prejudice to the consideration of the topic and related issues in other forums of the United Nations, and that a working group of the Sixth Committee be established at the sixty-eighth session to continue to undertake a thorough discussion of the topic.

#### (h) **Measures to eliminate international terrorism**

This item 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>701</sup> At that session, the

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<sup>700</sup> A/C.6/67/L.16.

<sup>701</sup> A/8791 and Add.1 and Add.1/Corr.1

Assembly decided to establish the Ad Hoc Committee on International Terrorism, consisting of 35 members.<sup>702</sup>

At its fifty-first session, the General Assembly established 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.<sup>703</sup> Through the work of the Committee, the Assembly has thus far adopted three counter-terrorism instruments. The Committee is currently engaged in discussions on the elaboration of a draft comprehensive convention on international terrorism. Pursuant to General Assembly resolution 66/105 of 9 December 2011, the Ad Hoc Committee did not convene in 2012.

#### (i) *Sixth Committee*

The Sixth Committee considered the item at its 1st to 3rd and 23rd to 25th meetings, on 8 and 9 October and 6, 9 and 16 November 2012.<sup>704</sup> For the consideration of the item, the Committee had before it the reports of the Secretary-General on measures to eliminate international terrorism<sup>705</sup> and on technical assistance for implementing international conventions and protocols related to terrorism.<sup>706</sup>

At its 1st meeting, on 8 October 2012, 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 66/105. The Working Group held three meetings, on 22 and 24 October and on 6 November 2012, and informal consultations on 22 and 24 October and on 6 November 2012. At the 23rd meeting, on 6 November 2012, the Committee received an oral report of the Chair on the work of the Working Group and on the results of the informal consultations which were held during the current session.<sup>707</sup>

In the general debate on this item, delegations reaffirmed that terrorism represented one of the most serious threats to peace and security, with some highlighting further that it undermined democracy, peace, freedom and human rights. Delegations reiterated their firm condemnation of terrorism in all its forms and manifestations, as well as their commitment to contribute to the international fight against terrorism. It was underlined that no cause could justify terrorism, and several delegations stressed that it should not be associated with any religion, culture, ethnicity, race, nationality or civilization. Some delegations deplored selectivity and the use of double standards in countering terrorism. Views were also expressed that counter-terrorism policies must strike a balance between security considerations and respect for human rights. Thus, delegations underscored the need for

<sup>702</sup> General Assembly resolution 3034 (XXVII) of 18 December 1972.

<sup>703</sup> General Assembly resolution 51/210 of 16 January 1997.

<sup>704</sup> For the report of the Sixth Committee, see A/67/473. For the summary records, see A/C.6/67/SR.1-3 and 23-25.

<sup>705</sup> A/67/162 and Add.1.

<sup>706</sup> A/67/158.

<sup>707</sup> A/C.6/67/SR.23.

strict observance of the Charter of the United Nations and international law, including human rights, humanitarian and refugee law, as well as the rule of law in countering terrorism. Some delegations pointed to the need for a clear definition of terrorism and echoed the need to distinguish it from the exercise of the right to self-determination of peoples under colonial, alien domination or foreign occupation.

The debate also built upon the deliberations that took place during the third biennial review<sup>708</sup> of the United Nations Global Counter Terrorism Strategy,<sup>709</sup> held in June 2012, as well as the high-level meeting on countering nuclear terrorism, with a focus on strengthening the legal framework, which was convened by the Secretary-General on 28 September 2012. Referring to these meetings, delegations acknowledged the achievements of the international community in coming together to counter terrorism, but also recognized that more work needed to be done given the persistence of the problem.

With specific reference to the high-level meeting on countering nuclear terrorism, with a focus on strengthening the legal framework, several delegations commented that it represented an important opportunity for States to discuss the grave threat to international peace and security posed by nuclear terrorism. To build on the meeting, delegations highlighted the need for increased ratification of the various universal counter-terrorism instruments. The importance of implementing those instruments at the national level was also emphasized. Some delegations also stressed the importance of instituting an extradite or prosecution regime to facilitate prosecutions of terrorist acts and put an end to impunity. Some other delegations underscored the importance of commitments made under the Treaty on the Non-Proliferation of Nuclear Weapons<sup>710</sup> and the action plans agreed upon during the review processes of that instrument.

Some delegations stated that countering terrorism should not come solely through war or military means; it was asserted that such an approach did not achieve lasting security, peace or prosperity. It was also noted that terrorism should not be perpetrated by States against people within their own territory. The issue of State-sponsored terrorism was also highlighted. It was stated further that many terrorism threats emanated from States that provide sanctuaries to terrorist groups for operational planning, recruiting, training and financing. The need to eliminate such safe havens was emphasized.

Delegations underscored the multilateral approaches and central role of the United Nations in counter-terrorism efforts and reiterated their support for the United Nations Global Counter-Terrorism Strategy, calling for its full implementation in a transparent and comprehensive manner. The Counter-Terrorism Implementation Task Force (CTITF) was called upon to strengthen its role in capacity-building and coordination. It was also encouraged to enhance its activities aimed at a balanced implementation of the four pillars of the Strategy—affording each pillar equal attention—and to do so in complete cooperation and with the full participation of States. While welcoming the coordinating role of the United Nations, some delegations also reaffirmed the primary responsibility of States in the implementation of the Strategy. The important role of regional and subregional organizations was also highlighted.

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<sup>708</sup> General Assembly resolution 66/282 of 29 June 2012.

<sup>709</sup> General Assembly resolution 60/288 of 8 September 2006.

<sup>710</sup> United Nations, *Treaty Series*, vol. 729, p. 161.



Some delegations welcomed the creation of the United Nations Centre for Counter-Terrorism within the CTITF to foster international cooperation, to strengthen the Organization's capacity-building efforts and to help build a database of best counter-terrorism practices. Delegations emphasized the importance of supporting the Centre so that it could realize its full potential.

Some delegations also expressed support for the proposed creation of a United Nations Coordinator for Counter-Terrorism. It was stated that the position would enhance United Nations counter-terrorism efforts both internally and externally and delegations looked forward to further development on the issue. Caution was urged to avoid duplication and to ensure that the effectiveness of counter-terrorism measures was maintained. It was also pointed out that any creation of such a post should be within existing resources.

The continuing focused work of the Security Council in countering terrorism, as well as the improvements made by the Council in the implementation of sanctions regimes, were generally welcomed. References were made to Security Council resolutions 1888 (2011) and 1889 (2011), which split the sanctions regime against Al Qaeda and the Taliban imposed under Security Council resolution 1267 (1999), greater involvement in listing and delisting procedures, clearer timeframes, and the strengthened role of the Ombudsperson. It was again acknowledged that there had been important developments particularly relating to due process standards in the 1267/1989 regime. The strengthened role of the Ombudsperson during the renewal process of the relevant mandate was supported by some delegations. The Council was also encouraged to continue to improve its working methods with regard to sanctions, to ensure that its sanctions regimes were independent and impartial, and that its decisions were in accordance with due process standards and the rule of law.

The work of the Security Council in this context was also subject to some criticism. It was suggested that Security Council resolutions had been abused, and the use of counter-terrorism as a pretext for politically motivated acts was condemned. It was also noted by some delegations that the listing and delisting process was still based primarily on political considerations rather than a judicial process.

Delegations also welcomed the work of the Counter Terrorism Committee and the Counter-Terrorism Executive Directorate (CTED). In this connection, delegations stressed the importance of Security Council resolution 1373 (2001) in the international efforts to counter terrorism. Some delegations also highlighted the efforts of the Committee established pursuant to Security Council resolution 1540 (2004) in countering the threat of terrorists and other non-State actors gaining access to nuclear, radiological, and biological weapons, as well as their means of delivery.

Some delegations extolled the role played by the United Nations Office on Drugs and Crime (UNODC), and in particular the Terrorism Prevention Branch, in capacity building and the delivery of technical assistance in the area of counter-terrorism. The work of the UNODC in drafting model laws and supporting the ratification and implementation by States of universal counter-terrorism instruments was specifically welcomed. The work of the United Nations Interregional Crime and Justice Research Institute (UNICRI) in promoting national capacity was similarly welcomed.

Several delegations highlighted the importance of developing partnerships to promote coordination and the exchange of information among States, civil society and the private sector, as well as with regional organizations and research centres.

Furthermore, several delegations stressed that the fight against terrorism included the need to give proper support to and protection for victims of terrorist attacks. In this regard, the important work of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism was recalled.

Several delegations underscored the importance of dialogue and interaction among various religions and cultures. Such approaches would broaden mutual understanding and foster a culture of tolerance. Attention was drawn to the need for the United Nations to work further on countering radicalization and extremism, including through educational initiatives and forums for interreligious and intercultural dialogue. The importance of enhancing the inclusion of moderate voices was also stressed.

A number of delegations alluded to the need to address the root causes of terrorism and to prevent and eliminate the conditions conducive to its emergence and spread, particularly polarization and social injustice. It was suggested that the symptoms and root causes of terrorism should be addressed simultaneously, and that mutual respect, tolerance and education should be promoted as methods to counter terrorism.

The threat of homegrown terrorism, self-radicalization and the spread of extremist ideologies among young people were also identified as vital issues for consideration by the international community. In this regard, some delegations emphasized the importance of rehabilitation and development programmes as means to address the terrorism at its source, in particular by enabling reintegration and preventing recidivism. More generally, the development of economic, social, and educational sectors was also heralded as a method to combat extremism and terrorism.

Some delegations drew attention to the possible acquisition by terrorists of weapons of mass destruction. Terrorists' use of information and communication technologies to raise funds and facilitate recruitment was also highlighted. Delegations shared their concern about the close links between terrorism and transnational organized crime, including money-laundering, arms-smuggling, trafficking in illicit drugs, piracy and activities of armed separatist groups. Cyber-terrorism was also highlighted as a matter of international concern requiring concerted action. Delegations emphasized the importance of dialogue on these important issues. It was also noted that a lack of adequate means had plagued the capacity of certain States to address terrorist activity when such sophisticated methods were employed.

On the financing of terrorism, some delegations identified the increase in incidents of kidnapping and hostage-taking with the aim of raising funds for terrorist purposes as a specific area of concern, and urged United Nations action, including on the legal aspects of the issue. Some delegations highlighted the importance of cooperating with international partners, including the Financial Action Task Force, in order to leverage expertise and technical assistance to prevent money laundering and the transmission of funds to terrorist actors.

Some delegations condemned acts against religious beliefs, as well as violence in the name of religion and the use of religion to incite violence. In this regard, some delegations condemned all forms of incitement that were intended to provoke violent responses.

Several delegations also commented on the draft comprehensive convention on international terrorism and on the proposal of convening a high-level conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations.

At the 24th meeting, on 9 November 2012, the representative of Canada, on behalf of the Bureau, introduced a draft resolution entitled “Measures to eliminate international terrorism”.<sup>711</sup> At the 25th meeting, the Committee adopted the draft resolution without a vote.

#### (ii) *General Assembly*

In resolution 67/99, the General Assembly, *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>712</sup> as well as the resolutions relating to the first, second and third biennial reviews<sup>713</sup> of the Strategy, in all its aspects at the international, regional, subregional and national levels without delay, including by mobilizing resources and expertise. It noted that the United Nations Counter-Terrorism Centre had commenced its activities within the Counter-Terrorism Implementation Task Force in New York and that the Centre was performing its duties in supporting the implementation of the Strategy, and encouraged all Member States to collaborate with the Centre and to contribute to the implementation of its activities within the Task Force.

The Assembly decided that the Ad Hoc Committee established by General Assembly resolution 51/210 should meet from 8 to 12 April 2013 in order to, on an expedited basis, continue to elaborate the draft comprehensive convention on international terrorism and to discuss the item included in its agenda by Assembly resolution 54/110 concerning the question of convening a high-level conference under the auspices of the United Nations. It also decided that future meetings of the Ad Hoc Committee would be decided upon subject to substantive progress in its work. The Assembly further decided to include the in the provisional agenda of its sixty-eighth session.

#### (i) **Revitalization of the work of the General Assembly**

This item, which was included in the agenda of the forty-sixth session of the General Assembly in 1991, had originally been proposed for inclusion in the draft agenda of that session by the President of the Assembly at its forty-fifth session.<sup>714</sup>

The General Assembly considered the question at its forty-sixth to forty-eighth, fifty-second to fifty-third and fifty-fifth<sup>715</sup> to sixty-sixth sessions.

At its 2nd plenary meeting, on 21 September 2012, the General Assembly, on the recommendation of the General Committee of the General Assembly decided to allocate the

<sup>711</sup> A/C.6/67/L.12.

<sup>712</sup> General Assembly resolution 60/288 of 8 September 2006.

<sup>713</sup> General Assembly resolutions 62/272 of 5 September 2008, 64/297 of 8 September 2010 and 66/282 of 29 June 2012.

<sup>714</sup> See General Assembly decision 45/461 of 16 December 1991.

<sup>715</sup> At its fifty-fourth session, the General Assembly decided to defer consideration of them item (General Assembly decision 54/491).

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-eighth session of the General Assembly.

(i) *Sixth Committee*

The Sixth Committee considered the item at its 25th meeting, on 16 November 2012.<sup>716</sup>

At the 25th meeting, on 16 November, the Chair introduced a draft decision containing the provisional programme of work of the Committee for the sixty-eighth session of the General Assembly, as proposed by the Bureau.<sup>717</sup> At the same meeting, the Committee adopted draft decision A/C.6/67/L.18.

(ii) *General Assembly*

In its decision 67/523, the General Assembly noted the decision of the Sixth Committee to adopt the provisional programme of work for the sixty-eighth session of the General Assembly, as proposed by the Bureau.

(j) **Administration of justice at the United Nations**

The General Assembly considered the item at its fifty-fifth to fifty-seventh sessions, at its fifty-ninth session and at its sixty-first to sixty-sixth sessions, in the framework of both the Fifth and Sixth Committee, with the aim of introducing a new system for handling internal disputes and disciplinary matters in the United Nations. At its sixty-third session, the General Assembly adopted the statutes of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal. Outstanding legal matters have been considered by the Sixth Committee in the ensuing years. These matters included, *inter alia*, the rules of procedure of the two tribunals, the scope *ratione personae* of the administration of justice system and the scope and functioning of the Office of Staff Legal Assistance (OSLA).

(i) *Sixth Committee*

The Sixth Committee considered the item at its 10th and 14th meetings, on 15 and 19 October 2012, respectively.<sup>718</sup> Most delegations welcomed the report of the Secretary-General on the Activities of the Office of the United Nations Ombudsman and Mediation Services,<sup>719</sup> the report of the Secretary-General on the Administration of justice at the United Nations,<sup>720</sup> the report of the Secretary-General on Amendments to the rules of procedure of the United Nations Dispute Tribunal and the United Nations Appeals

<sup>716</sup> For the report of the Sixth Committee, see A/67/474. For the summary records, see A/C.6/67/SR.25.

<sup>717</sup> A/C.6/67/L.18.

<sup>718</sup> For the summary records, see A/C.6/67/SR.10 and 14.

<sup>719</sup> A/67/172.

<sup>720</sup> A/67/265 and Corr.1.

Tribunal,<sup>721</sup> as well as the report of the Internal Justice Council on the Administration of justice at the United Nations.<sup>722</sup> They reiterated that they attached great importance to the establishment and functioning of the system of administration of justice, and stressed that the evolution of the new system should continue to be consistent with a number of fundamental principles of law, including due process, the right to an effective remedy and equal access to justice.

Some delegations stressed the importance of continued coordination and cooperation with the Fifth Committee to ensure an appropriate division of labour and avoid overlaps or encroachment of mandates. The professionalism and productivity of the new system were commended.

With respect to the outstanding issues regarding the scope of the system, some delegations indicated their willingness to analyze and discuss the proposal contained in annex IV of the report of the Secretary-General<sup>723</sup> to develop expedited arbitration procedures for consultants and individual contractors, as well as the measures proposed for other non-staff personnel not covered under the existing dispute resolutions mechanisms. It was noted that such a procedure for consultants and individual contractors could be a pragmatic and potentially fair solution for such personnel. Some other delegations indicated their preference for a differentiated system that would provide an adequate, effective and appropriate remedy. The view was also expressed that this subject required further study.

Some delegations indicated their willingness to discuss a code of conduct for legal representatives before the two tribunals. While support was expressed for the creation of such a code, it was also stated that this issue deserved to be further discussed.

The view was expressed that all persons working for the United Nations, irrespective of status, should have access to an independent body that can address complaints in an effective and efficient manner. In this regard, however, it was observed that any solution to the issue of non-staff personnel must comply with existing obligations of the United Nations, including the Convention on the Privileges and Immunities of the United Nations, 1946<sup>724</sup> and agreements that the Organization has concluded with host States.

Several delegations addressed the code of conduct of judges that had been recently approved by the General Assembly and had become binding.<sup>725</sup> In that regard, some delegations welcomed the proposal of the Internal Justice Council for a procedure for enforcing the code of conduct, and indicated that they would be prepared to discuss the proposals contained in the report of the Secretary-General for addressing possible misconduct of judges.

Most delegations expressed their support for OSLA. Some delegations praised the Office for the vital task it performed, but also expressed their belief that further proposals for a staff-funded scheme should continue to be explored. In that regard, some delegations took note of the proposals contained in the report of the Secretary General (annex II).<sup>726</sup> A

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<sup>721</sup> A/67/349.

<sup>722</sup> A/67/98.

<sup>723</sup> A/67/265.

<sup>724</sup> United Nations, *Treaty Series*, vol. 1, p. 15, and vol. 90, p. 327 (corrigendum to vol. 1).

<sup>725</sup> General Assembly resolution 66/106 of 9 December 2011.

<sup>726</sup> A/67/265.

reference was made to the advantages of a staff-funded OSLA scheme, as described in the report of the Secretary-General.

Some delegations indicated that they were looking forward to holding an exchange of views on the proposed amendments to the rules of procedure of the Dispute Tribunal and of the Appeals Tribunal.

Several delegations also stressed the important role that the Internal Justice Council had played in the system to help ensure its independence, professionalism and accountability. Some delegations encouraged the Council to continue to provide its views and contributions on the implementation of the system within the purview of its mandate. It was stated that the Council was an important component of the system as it promoted judicial independence. With respect to the selection of judges, the view was expressed that experienced judges would impact positively on the system generally, and a call was made for transparency in the selection of judges.

Noting the backlog that remained from the prior system, the point was made that the expedited resolution of conflict was critical regardless of the system of justice. It was suggested that the amount of pending cases could have a negative impact on the work of the tribunals. Some delegations indicated that they would prefer greater recourse to the informal system, and encouraged the implementation of incentives intended to encourage more recourse to informal resolution. In that regard, attention was drawn to the importance of the Management Evaluation Unit, a mechanism which presented an opportunity to prevent unnecessary litigation before the Dispute Tribunal; the percentage of cases received and closed by the Unit in 2011 was welcomed.

Some delegations requested that the Secretary-General ensure that the structure of the Office of the Ombudsman and Mediation Services reflects the responsibility of the Ombudsman for the oversight of the entire integrated office. Similarly, some other delegations welcomed the important work of the Office of the Ombudsman and Mediation Services, and expressed support for its efforts in advancing and encouraging the use of informal conflict resolution. It was suggested that the mandate of the Ombudsman be expanded to give a broader category of personnel access to the informal system.

With respect to the sharing of information related to judicial cases, a call was made for consistency of communication in order to inform staff and management regarding the various dispute resolution mechanisms and avenues for redress; such communication would increase awareness and thereby strengthen the administration of justice.

On the subject of punitive damage awards, it was suggested that, in light of the relatively low number of responses received by the Secretary-General on the practice of national legal systems, additional information would be useful.

At its 14th meeting, on 19 October 2012, the Sixth Committee decided that its Chairman would address a letter to the President of the General Assembly, drawing his attention to certain specific issues relating to the legal aspects of the reports submitted under the item as discussed in the Sixth Committee. The letter would contain a request that it be brought to the attention of the Chair of the Fifth Committee and circulated as a document of the General Assembly.<sup>727</sup>

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<sup>727</sup> The letter was circulated under document A/C.5/67/9 of 23 October 2012.

(ii) *General Assembly*

On 24 December 2012, the General Assembly adopted resolution 67/241 entitled “Administration of justice at the United Nations”, without a vote, on the recommendation of the Fifth Committee. In the said resolution, the Assembly, *inter alia*, noted with appreciation the achievements produced since the inception of the new system of administration of justice, regarding both the disposal of the backlog and the addressing of new cases; acknowledged the evolving nature of the new system of administration of justice and the need to carefully monitor its implementation to ensure that it remained within the parameters set out by the General Assembly; and emphasized the importance of the principle of judicial independence in the system of administration of justice. In this context, the Assembly stressed the importance of ensuring access for all staff members to the new system of administration of justice, regardless of their duty station. It requested the Secretary-General to submit to the General Assembly, for consideration at its sixty-eighth session, a proposal for conducting an interim independent assessment of the formal system of administration of justice.

The Assembly recognized the informal system of administration of justice to be an efficient and effective option for staff who seek redress of grievance and for managers to participate in. It further stressed the importance of developing a culture of dialogue and amicable resolution of disputes through the informal system, and requested the Secretary-General to propose, at the main part of the sixty-eighth session of the General Assembly, measures to encourage informal dispute resolution.

With regard to the formal system of administration of justice, the General Assembly approved the amendments to article 9 of the rules of procedure of the Appeals Tribunal contained in annex II to the report of the Secretary-General on amendments to the rules of procedure of the Dispute Tribunal and the Appeals Tribunal.<sup>728</sup> It stressed the need to ensure that all individuals acting as legal representatives, whether staff members or external counsel, were subject to the same standards of professional conduct applicable in the United Nations system, and requested the Secretary-General, in consultation with the Internal Justice Council and other relevant bodies, to prepare a code of conduct for legal representatives who are external individuals and not staff members, and to report thereon to the General Assembly at the main part of its sixty-eighth session. In addition, the Assembly noted the importance of ensuring that all categories of personnel have access to recourse mechanisms to resolve disputes and took note of the proposed expedited arbitration procedures for consultants and individual contractors developed by the Secretary-General contained in annex IV to his report on administration of justice at the United Nations<sup>729</sup> and decided to remain seized of the matter.

The Assembly requested the Secretary-General to provide the various reports requested in the resolution in a single comprehensive report on administration of justice to be submitted to the General Assembly at the main part of its sixty-eighth session. The General Assembly invited the Sixth Committee to consider the legal aspects of the comprehensive report to be submitted by the Secretary-General, without prejudice to the role of the Fifth

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<sup>728</sup> A/67/349.

<sup>729</sup> A/67/265.



Committee as the Main Committee entrusted with responsibility for administrative and budgetary matters.

### (k) 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.<sup>730</sup> The Committee is currently composed of the following 19 Member States: Bulgaria, Canada, China, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, France, Honduras, Hungary, Iraq, Libya, Malaysia, Mali, Russian Federation, Senegal, Spain, United Kingdom and United States.

In 2012, the Committee held the following meetings: the 255th meeting, on 12 January 2012; the 256th meeting, on 30 April 2012; the 257th meeting, on 30 July 2012; the 258th meeting, on 11 October 2012; and the 259th meeting, on 5 November 2012. During its meetings, the Committee considered three main topics, namely (i) entry visas issued by the host country, (ii) question of the security of missions and the safety of their personnel, and (iii) host country activities: activities to assist members of the United Nations community. At its 259th meeting, the Committee approved a number of recommendations and conclusions, which are contained in chapter IV of its report.<sup>731</sup>

#### (ii) *Sixth Committee*

The Sixth Committee considered this item at its 25th meeting, on 16 November 2012.<sup>732</sup> The Chair of the Committee on Relations with the Host Country introduced the report of that Committee.<sup>733</sup>

At the 25th meeting, the representative of Cyprus, on behalf of a number of Member States, introduced a draft resolution entitled "Report of the Committee on Relations with the Host Country".<sup>734</sup> At the same meeting, the Committee adopted the draft resolution without a vote.

#### (iii) *General Assembly*

In resolution 67/100, the General Assembly, *inter alia*, endorsed the recommendations and conclusions of the Committee on Relations with the Host Country. It requested the host country to continue to solve, through negotiations, problems that might arise and to take all measures necessary to prevent any interference with the functioning of missions, and urged the host country to continue to take appropriate action with a view to maintaining respect for diplomatic privileges and immunities and if violations occur to ensure

<sup>730</sup> General Assembly resolution 2819 (XXVI) of 15 December 1971.

<sup>731</sup> *Official records of the General Assembly, Sixty-seventh session, Supplement No. 26 (A/67/26)*.

<sup>732</sup> For the report of the Sixth Committee, see A/67/477. For the summary records, see A/C.6/67/SR.25.

<sup>733</sup> *Official records of the General Assembly, Sixty-seventh session, Supplement No. 26 (A/67/26)*.

<sup>734</sup> A/C.6/67/L.19.

that such cases are properly investigated and remedied, in accordance with applicable law. It also requested the host country to consider removing the remaining travel restrictions imposed by it on staff of certain missions and staff members of the Secretariat of certain nationalities. The Assembly noted the concerns expressed by some delegations concerning the denial and delay of entry visas to representatives of Member States and noted with concern the difficulties that continued to be experienced by some Permanent Missions in obtaining suitable banking services. In this regard, it welcomed the continued efforts of the host country to facilitate the opening of bank accounts for those Permanent Missions. The Assembly requested the Secretary-General to remain actively engaged in all aspects of the relations of the United Nations with the host country, and requested that the Committee on Relations with the Host Country continue its work in conformity with General Assembly resolution 2819 (XXVI).

### (I) Observer Status in the General Assembly

#### (i) *Sixth Committee*

The Committee considered requests for observer status in the General Assembly for the Cooperation Council of Turkic-speaking States, the International Conference of Asian Political Parties, Andean Development Corporation, the International Chamber of Commerce and the European Organization for Nuclear Research, at its 11th, 24th and 25th meetings, on 16 October and on 9 and 16 November 2012.<sup>735</sup>

#### (ii) *General Assembly*

In its resolutions 67/101 and 67/102, the General Assembly granted observer status to the Andean Development Corporation and the European Organization for Nuclear Research, respectively. In its decisions 67/525, 67/526 and 67/527, the General Assembly decided to defer decision on the request for observer status for the Cooperation Council of Turkic-speaking States, the International Conference of Asian Political Parties and the International Chamber of Commerce to its sixty-eighth session, respectively.

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<sup>735</sup> For the reports of the Sixth Committee, see A/67/478, A/67/479, A/67/480, A/67/481 and A/67/556, respectively. For the summary records, see A/C.6/67/SR.11, 24 and 25.

## 17. *Ad hoc* international criminal tribunals<sup>736</sup>

### (a) Organization of the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda

#### (i) *Organization of the International Criminal Tribunal for the former Yugoslavia*<sup>737</sup>

Judge Theodor Meron (United States) and Judge Carmel Agius (Malta) continued to act as President and Vice-President of the Tribunal, respectively, throughout 2012.

By Security Council resolution 2081 (2012) of 17 December 2012, adopted while acting under Chapter VII of the Charter of the United Nations, and by General Assembly decision 67/417 of 24 December 2012, the term of office of the following permanent judges at the Tribunal, who were members of the Appeals Chamber, was extended until 31 December 2013 or until the completion of the cases to which they were assigned, if sooner: Carmel Agius (Malta), Liu Daqun (China), Theodor Meron (United States), Fausto Pocar (Italy) and Patrick Robinson (Jamaica). The term of office of the following permanent judges at the Tribunal, who were members of the Trial Chambers, was also extended until 31 December 2013 or until the completion of the cases to which they were assigned, if sooner: Jean-Claude Antonetti (France), Guy Delvoie (Belgium), Burton Hall (Bahamas), Christoph Flügge (Germany), O-Gon Kwon (South Korea), Bakone Justice Moloto (South Africa), Howard Morrison (United Kingdom) and Alphons Orié (Netherlands). Furthermore, the term of office of the following *ad litem* judges at the Tribunal, who were members of the Trial Chambers was extended: Elizabeth Gwaunza (Zimbabwe), Michèle Picard (France), Árpád Prandler (Hungary) and Stefan Trechsel (Switzerland), until 1 June 2013 or until the completion of the cases to which they were assigned, if sooner; and Frederik Harhoff (Denmark), Melville Baird (Trinidad and Tobago), Flavia Lattanzi (Italy) and Antoine Kesia-Mbe Mindua (Democratic Republic of the Congo), until 31 December 2013 or until the completion of the cases to which they were assigned.

At the end of 2012, the Chambers were composed of 18 permanent judges, including five permanent judges from the International Criminal Tribunal for Rwanda serving in the Tribunal's Appeals Chamber, and nine *ad litem* judges.

The 18 permanent judges of the Tribunal were as follows: Theodor Meron (President, United States), Carmel Agius (Vice-President, Malta), Jean-Claude Antonetti (France), Guy Delvoie (Belgium), Christoph Flügge (Germany), Mehmet Güney (Turkey), Burton Hall (Bahamas), Khalida Rachid Khan (Pakistan), O-Gon Kwon (Republic of Korea), Liu

<sup>736</sup> This section covers the International Criminal Tribunal for the former Yugoslavia, the International Criminal Tribunal for Rwanda and the International Residual Mechanism for Criminal Tribunals, established by Security Council resolutions 827 (1993) of 25 May 1993, 955 (1994) of 8 November 1994, and 1966 (2010) of 22 December 2010, respectively. Further information regarding the judgments of the International Criminal Tribunal for Yugoslavia and International Criminal Tribunal for Rwanda is contained in chapter VII of this publication.

<sup>737</sup> For more information, see, for the period 1 August 2011 to 31 July 2012, Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (A/67/214-S/2012/592). At the time of publication, the report covering the period 1 August 2012 to 31 July 2013 was forthcoming.

Daqun (China), Bakone Justice Moloto (South Africa), Howard Morrison (United Kingdom), Alphons Orié (Netherlands), Fausto Pocar (Italy), Arlette Ramaroson (Madagascar), Patrick Robinson (Jamaica), Bakhtiyar Tuzmukhamedov (Russian Federation) and Andrézia Vaz (Senegal).

At the end of 2012, the *ad litem* judges of the Tribunal were as follows: Melville Baird (Trinidad and Tobago), Elizabeth Gwaunza (Zimbabwe), Frederik Harhoff (Denmark), Flavia Lattanzi (Italy), Antoine Kesia-Mbe Mindua (Democratic Republic of the Congo), Prisca Matimba Nyambe (Zambia),<sup>738</sup> Michèle Picard (France), Árpád Prandler (Hungary) and Stefan Trechsel (Switzerland).

(ii) *Organization of the International Criminal Tribunal for Rwanda*<sup>739</sup>

Judge Khalida Rachid Khan (Pakistan) and Judge Vagn Joensen (Denmark) continued to act as President and Vice-President of the Tribunal, respectively, until February 2012. Judge Vagn Joensen (Denmark) and Judge Florence Rita Arrey (Cameroon) were elected President and Vice-President of the Tribunal, respectively, on 14 February 2012.

In resolution 2054 (2012) of 29 June 2012, acting under Chapter VII of the Charter of the United Nations, the Security Council decided that, notwithstanding the expiry of their term of office on 30 June 2012, Judge William H. Sekule (United Republic of Tanzania), Judge Solomy Balungi Bossa (Uganda) and Judge Mparany Mamy Richard Rajohnson (Madagascar) could continue, on an exceptional basis, to serve at the Tribunal until 31 December 2012 or until the completion of the *Ngirabatware* case which they began before the expiry of their term of office, while taking note of the intention of the Tribunal to complete the *Ngirabatware* case by 31 December 2012. The Council also took note of the intention of the Tribunal to complete all remaining judicial work by 31 December 2014 and decided, bearing in mind the expiry of his term of office on 30 June 2012, to extend the term of office of Judge Vagn Joensen (Denmark), on an exceptional basis, until 31 December 2014 so that he could continue to perform the functions required of him as trial judge and President of the Tribunal, to complete the work of the Tribunal and expressed its intention to review this decision in June 2013.

By Security Council resolution 2080 (2012) of 12 December 2012, adopted while acting under Chapter VII of the Charter of the United Nations, and by General Assembly decision 67/416 of 24 December 2012, the term of office of the following permanent judges at the Tribunal, who were members of the Appeals Chamber, was extended until 31 December 2014 or until the completion of the cases to which they were assigned, if sooner: Mehmet Güney (Turkey), Khalida Rachid Khan (Pakistan), Arlette Ramaroson (Madagascar), Bakhtiyar Tuzmukhamedov (Russian Federation) and Andrézia Vaz (Senegal).

<sup>738</sup> Judge Prisca Matimba Nyambe (Zambia) ended her term of office on 18 December 2012.

<sup>739</sup> For more information about the Tribunal's activities, see, for the period 1 July 2011 to 30 June 2012, Seventeenth annual report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 (A/67/253-S/2012/594). At the time of publication, the report covering the period 1 July 2012 to 30 June 2013 was forthcoming.

At the end of 2012, the permanent judges were as follows: Vagn Joensen (President, Denmark), Florence Rita Arrey (Vice-President, Cameroon), Carmel Agius (Malta), Mehmet Güney (Turkey), Khalida Rachid Khan (Pakistan), Liu Daqun (China), Theodor Meron (United States), Fausto Pocar (Italy), Arlette Ramaroson (Madagascar), Patrick Robinson (Jamaica), William H. Sekule (United Republic of Tanzania), Bakhtiyar Tuzmukhamedov (Russian Federation) and Andréia Vaz (Senegal).

At the end of 2012, the *ad litem* judges were as follows: Solomy Balungi Bossa (Uganda) and Mparany Mamy Richard Rajohnson (Madagascar).

### (iii) *Composition of the Appeals Chamber*<sup>740</sup>

At the end of 2012, the composition of the Appeals Chamber was as follows: Theodor Meron (presiding, United States), Carmel Agius (Malta), Mehmet Güney (Turkey), Khalida Rachid Khan (Pakistan), Liu Daqun (China), Fausto Pocar (Italy), Arlette Ramaroson (Madagascar), Patrick Robinson (Jamaica), Bakhtiyar Tuzmukhamedov (Russian Federation) and Andréia Vaz (Senegal).

### (iv) *Organization of the International Residual Mechanism for Criminal Tribunals*

By resolution 1966 (2010) of 22 December 2010, the Security Council, acting under Chapter VII of the Charter of the United Nations, decided to establish the International Residual Mechanism for Criminal Tribunals (“the Mechanism”) with two branches, the branch for the ICTR which commenced functioning on 1 July 2012 and the branch for the ICTY which should commence functioning on 1 July 2013, to carry out a number of essential functions of the Tribunals after their closure. By the same resolution, the Security Council also decided to adopt that Statute of the Mechanism, contained in the annex.

On 20 December 2011, the General Assembly elected the first 25 judges to serve on the roster of the Mechanism. Pursuant to article 8 of the Statute of the Mechanism, the judges serve both branches of the Mechanism and would travel to Arusha or to The Hague only when necessary. As of 18 May 2012, all 25 judges on the roster of the Mechanism had been sworn in. At the end of 2012, the roster of judges of the Mechanism was as follows: Theodor Meron (President, United States); Carmel Agius (Malta); Aydin Sefa Akay (Turkey); Jean-Claude Antonetti (France); Florence Rita Arrey (Cameroon); Solomy Balungi Bossa (Uganda); Ivo Nelson de Caires Batista Rosa (Portugal); José Ricardo de Prada Solaesa (Spain); Ben Emmerson (United Kingdom); Christoph Flügge (Germany); Susana Gatti Santana (Uruguay); Burton Hall (Bahamas); Vagn Joensen (Denmark); Gberdao Gustave Kam (Burkina Faso); Liu Daqun (China); Joseph E. Chiondo Masanche (United Republic of Tanzania); Bakone Justice Moloto (South Africa); Lee G. Muthoga (Kenya); Aminatta Lois Runeni N’gum (Gambia); Prisca Matimba Nyambe (Zambia); Alphons Orié (Netherlands); Seon Ki Park (Republic of Korea); Mparany Mamy Richard Rajohnson (Madagascar); Patrick Robinson (Jamaica); and William H. Sekule (United Republic of Tanzania).

<sup>740</sup> The Appeals Chamber consists of seven permanent Judges, five of whom are permanent judges of the ICTY and two of whom are permanent judges of the International Criminal Tribunal for Rwanda (ICTR). These seven judges constitute the Appeals Chamber of the ICTR and the ICTY.

In a letter dated 23 February 2012 from the Secretary-General addressed to the President of the Security Council,<sup>741</sup> the Secretary-General informed the Council of his intention to appoint Judge Theodor Meron (United States) as the President of the Mechanism and to nominate Mr. Hassan Bubacar Jallow (Gambia) for appointment as Prosecutor of the Mechanism. By resolution 2038 (2012) of 29 February 2012, the Security Council decided to appoint Mr. Bubacar Jallow as Prosecutor of the Mechanism with effect from 1 March 2012 for a term of four years.

### (b) General Assembly

On 24 December 2012, the General Assembly adopted, on the recommendation of the Fifth Committee, three resolutions concerning the financing of the international tribunals and the Mechanism, namely: (i) resolution 67/242 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”;<sup>742</sup> (ii) resolution 67/243 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”;<sup>743</sup> and resolution 67/244 entitled “Financing of the International Residual Mechanism for Criminal Tribunals”.<sup>744</sup> In resolution 67/243, the Assembly, *inter alia*, requested the Secretary-General to ensure that the ICTY prepares and presents, as appropriate, by 15 April 2013, a consolidated action plan to manage the completion of its work and the transition to the Mechanism by the end of 2014.

On 15 October 2012, the General Assembly adopted the following two decisions taking note of the annual reports of the ICTR<sup>745</sup> and the ICTY<sup>746</sup>, respectively: (i) decision 67/507 entitled “Report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994”; and (ii) decision 67/508 entitled “Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991”.

### (c) Security Council

In resolutions 2054 (2012), 2080 (2012) and 2081 (2012), the Security Council, *inter alia*, recalled again its resolution 1966 (2010) by which it requested the ICTY and the

<sup>741</sup> S/2012/112; see also S/2012/113.

<sup>742</sup> Adopted without a vote.

<sup>743</sup> Adopted with a recorded vote of 139 in favour to none, with 12 abstentions.

<sup>744</sup> Adopted without a vote.

<sup>745</sup> A/67/253-S/2012/594.

<sup>746</sup> A/67/214-S/2012/592.

ICTR to take all possible measures to expeditiously complete all their remaining work no later than 31 December 2014, prepare their closure and ensure a smooth transition to the Mechanism. In the same resolutions, the Council took note of the assessments by the Tribunals in their completion strategy reports.<sup>747</sup>

In resolutions 2054 (2012) and 2080 (2012), the Security Council, acting under Chapter VII of the Charter of the United Nations, *inter alia*, urged all States, especially States where fugitives were suspected to be at large, to intensify further their cooperation with and render all necessary assistance to the international tribunals, in particular to achieve the arrest and surrender of all remaining fugitives as soon as possible. The Council commended States that had accepted the relocation of acquitted persons or convicted persons who had completed serving their sentences to their territories, and reiterated its call upon all States in a position to do so to cooperate with and render all necessary assistance to the Tribunals for their increased efforts towards the relocation of acquitted persons and convicted persons who had completed serving their sentences. In addition, by resolution 2054 (2012), the Council noted that one permanent judge would be redeployed from the Trial Chamber of the ICTR to the Appeals Chamber and five *ad litem* judges would leave the ICTR before 30 June 2012, on the completion of the cases to which they were assigned. Furthermore, in resolution 2080 (2012), the Security Council welcomed the successful commencement of the functioning of the branch of the Mechanism for the ICTR on 1 July 2012 and took note of the assessment of the Mechanism.<sup>748</sup> In the same resolution, the Council further noted that the sole remaining trial at the ICTR would be completed by 31 December 2012, and that the remaining appeal of the ICTR would be completed by 31 December 2014, commending the ICTR in this regard.

In resolution 2081 (2012), the Security Council, acting under Chapter VII of the Charter of the United Nations, *inter alia*, requested the ICTY to take all possible measures to complete its work as expeditiously as possible with the aim to facilitate the closure of the Tribunal, and recognized that concerns had been expressed that its current trial and appeal schedules go beyond 31 December 2014. The Council further requested the ICTY to present by 15 April 2013 a consolidated comprehensive plan on the completion strategy, closure and transition to the Mechanism and decided to examine the plan before 30 June 2013 with a view to considering what further recommendations should be made to facilitate the transition.

## 18. Rule of Law

### High-level Meeting of the General Assembly on the Rule of Law at the National and International Levels

By resolution 66/102 of 9 December 2011, entitled “The rule of law at the national and international levels”, the General Assembly decided to convene a high level meeting of the topic during the high-level segment of its sixty-seventh session. On 24 September 2012, Heads of State and Government, and heads of delegation gathered at the United Nations Headquarters in New York to reaffirm their commitment to the rule of law and its

<sup>747</sup> See documents S/2012/349, S/2012/836, S/2012/847, respectively.

<sup>748</sup> S/2012/849.



fundamental importance for political dialogue and cooperation among all States and for the further development of the three main pillars upon which the United Nations is built: international peace and security, human rights and development.

As a result of the meeting, on the same date, the General Assembly adopted the Declaration of the high-level meeting of the General Assembly on the rule of law at the national and international levels, without a vote.<sup>749</sup> In the Declaration, the Heads of State and Government and heads of delegation, *inter alia*, reaffirmed their commitment to the purposes and principles of the Charter of the United Nations, international law and justice, and to an international order based on the rule of law. They recognized that the rule of law applied to all States equally, and to international organizations, including the United Nations and its principal organs, and that respect for and promotion of the rule of law and justice should guide all of their activities and accord predictability and legitimacy to their actions. Moreover, they recognized that all persons, institutions and entities, public and private, including the State itself, are accountable to just, fair and equitable laws and are entitled without any discrimination to equal protection of the law.

The Heads of State and Government and heads of delegation expressed their determination to establish a just and lasting peace all over the world, in accordance with the purposes and principles of the Charter of the United Nations. They further rededicated themselves to support all efforts to uphold the sovereign equality of all States, to respect their territorial integrity and political independence, to refrain from the threat or use of force in any manner inconsistent with the purposes and principles of the United Nations, and to uphold the resolution of disputes by peaceful means and in conformity with the principles of justice and international law, the right to self-determination of peoples which remained under colonial domination and foreign occupation, non-interference in the internal affairs of States, respect for human rights and fundamental freedoms, respect for the equal rights of all without distinction as to race, sex, language or religion, international cooperation in solving international problems of an economic, social, cultural or humanitarian character, and the fulfilment in good faith of the obligations assumed in accordance with the Charter.

They reaffirmed the duty of all States to settle their international disputes by peaceful means, *inter alia* through negotiation, enquiry, good offices, mediation, conciliation, arbitration and judicial settlement, or other peaceful means of their own choice. They also reaffirmed that human rights, the rule of law and democracy are interlinked and mutually reinforcing and that they belong to the universal and indivisible core values and principles of the United Nations.

They expressed their conviction that the rule of law and development are strongly interrelated and mutually reinforcing, that the advancement of the rule of law at the national and international levels is essential for sustained and inclusive economic growth, sustainable development, the eradication of poverty and hunger and the full realization of all human rights and fundamental freedoms, including the right to development, all of which in turn reinforce the rule of law. For this reason, they were convinced that this interrelationship should be considered in the post-2015 international development agenda.

The Heads of State and Government and heads of delegation further reaffirmed the obligation of all States to comply with the decisions of the International Court of Justice

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<sup>749</sup> General Assembly resolution 67/1.

in cases to which they are parties; and called upon States that had not yet done so to consider accepting the jurisdiction of the International Court of Justice in accordance with its Statute.

They reaffirmed that States should abide by all their obligations under international law, and stressed the need to strengthen support to States, upon their request, in the national implementation of their respective international obligations through enhanced technical assistance and capacity-building.

The Heads of State and Government and heads of delegation took note of the report of the Secretary-General entitled “Delivering justice: programme of action to strengthen the rule of law at the national and international levels”.<sup>750</sup> They emphasized the importance of continuing their consideration and promotion of the rule of law in all its aspects, and to that end, decided to pursue their work in the General Assembly to develop further the linkages between the rule of law and the three main pillars of the United Nations: peace and security, human rights and development. To that end, the Secretary-General was requested to propose ways and means of developing, with wide stakeholder participation, further the linkages between the rule of law and the three main pillars of the United Nations, and to include this in his report to the Assembly at its sixty-eighth session.

## **B. GENERAL REVIEW OF THE LEGAL ACTIVITIES OF INTERGOVERNMENTAL ORGANIZATIONS RELATED TO THE UNITED NATIONS**

### **1. International Labour Organization<sup>751</sup>**

#### **(a) Treaty provisions concerning the legal status of the International Labour Organization (ILO)**

On 23 January 2012, an agreement for extension to the “Supplementary Understanding and its Minutes of the Meeting dated 28th February, 2007”<sup>752</sup> was concluded and entered into force with the Government of Myanmar. This agreement extends the Supplementary Understanding relating to the role of the Liaison Officer with respect to forced labour complaints channelled through him/her.<sup>753</sup>

On 30 November 2012, the Government of São Tomé and Príncipe signed an agreement for the application of the provisions of the Convention on the Privileges and Immunities of the Specialized Agencies, 1947,<sup>754</sup> and its annex I concerning the ILO in relation to cooperation activities with the ILO.

<sup>750</sup> A/66/749.

<sup>751</sup> For official documents and more information on the International Labour Organization, see <http://ilo.org>.

<sup>752</sup> ILO, document GB.298/5/1, appendix.

<sup>753</sup> *Ibid.*, document GB.313/INS/6(Add.), appendix I.

<sup>754</sup> United Nations, *Treaty Series*, vol. 33, p. 261.

**(b) Recommendation and resolutions adopted by the International Labour Conference during its 101st session (Geneva, June 2012)<sup>755</sup>**

At the 101st session of the International Labour Conference, the Conference adopted the following recommendation and seven resolutions,<sup>756</sup> of which three are highlighted below:

*(i) Recommendation concerning national floors of social protection, 2012 (No. 202)*

On 14 June 2012, the International Labour Conference (ILC) adopted the recommendation concerning national floors of social protection, 2012 (No. 202)<sup>757</sup> which provides guidance to members in building comprehensive social security systems and extending social security coverage by prioritizing the establishment of national floors of social protection, accessible to all in need. In order to ensure effective access to essential health care and basic income security throughout the life cycle, national social protection floors should comprise at least four social security guarantees, as defined at the national level: access to essential health care, including maternity care; basic income security for children, providing access to nutrition, education, care and other necessary goods and services; basic income security for persons in active age who are unable to earn sufficient income, in particular in cases of sickness, unemployment, maternity and disability; and basic income security for older persons. Such guarantees should be provided to all residents and all children, and established by law. The Recommendation also provides guidance to members on the definition of basic social security guarantees and the establishment of their levels, the approaches and measures that can be taken for the provision of such guarantees, and their financing.

Pursuant to the Recommendation, social protection floors should be implemented within strategies for the extension of social security that progressively ensure higher levels of social security to as many people as possible, guided by ILO social security standards, and notably the Social Security (Minimum Standards) Convention, 1952 (No. 102).<sup>758</sup> The Recommendation provides further guidance to members on the formulation of such strategies and on other policy aspects that should be taken into account at the time of formulation and implementation. It also contains provisions for the monitoring of progress at national level that should help members in implementing social protection floors and achieving other objectives of national social security extension strategies.

Recognizing the overall and primary responsibility of the State in giving effect to the Recommendation, the Recommendation comprises a set of principles, including a rights-based approach based on entitlements prescribed by national law; diversity of methods and

<sup>755</sup> *Resolutions adopted by the International Labour Conference at its 101st Session (Geneva, June 2012).*

<sup>756</sup> The following resolutions were also adopted at the 101st session: “Resolution concerning the measures on the subject of Myanmar adopted under article 33 of the ILO Constitution”; “Resolution concerning the scale of assessments of contributions to the budget for 2013”; “Resolution concerning the composition of the Administrative Tribunal of the ILO”; and “Resolution concerning the financial report and audited consolidated financial statements for the year ended 31 December 2011”.

<sup>757</sup> ILO, *Provisional Record No. 14A of the 101st Session of the International Labour Conference.*

<sup>758</sup> United Nations, *Treaty Series*, vol. 210, p. 131.

approaches; progressive realization; universality of protection based on social solidarity; adequacy and predictability of benefits; protection of rights and dignity of beneficiaries; non-discrimination, gender equality and responsiveness to special needs; financial, fiscal and economic sustainability with due regard to social justice and equity; transparent, accountable and sound financial management and administration; tripartite participation with representative organizations of employers and workers, as well as consultation with other relevant and representative organizations of persons concerned.

The Recommendation complements existing conventions and recommendations, notably by assisting member States in covering the unprotected, the poor and the most vulnerable, including workers in the informal economy and their families. It thereby aims at ensuring that all members of society enjoy at least a basic level of social security throughout their lives, though comprehensive and adequate social security systems coherent with national policy objectives. It completes the two-dimensional strategy for the extension of social security coverage adopted by the ILC at its 100th session in June 2011.

(ii) *Resolution concerning efforts to make social protection floors a national reality worldwide*

On 13 June 2012, the ILC adopted the resolution concerning efforts to make social protection floors a national reality worldwide, in which it invited Governments, employers and workers jointly to give full effect to Recommendation No. 202 as soon as national circumstances permit. Through the resolution, the ILC also invited the Governing Body to request the Director-General of ILO to implement, subject to the availability of resources, cost-effective measures aimed at promoting, through appropriate awareness-raising initiatives, the widespread implementation of the Recommendation.

(iii) *Resolution concerning the youth employment crisis: A call for action*

On 14 June 2012, the ILC adopted the resolution and conclusions concerning the youth employment crisis: A call to action, affirming that generating sufficient decent jobs for youth is of highest global priority. The conclusions underscore a renewed commitment for stepping up the implementation of the 2005 resolution concerning youth employment,<sup>759</sup> call for urgent action in view of the new crisis situation, and provide guidance on the way forward. The conclusions set out a portfolio of tried and tested measures in five areas: employment and economic policies for youth employment, employability, labour market policies, youth entrepreneurship and self-employment and rights for young people and underscore the need for balance, coherence and complementarity across the policy measures.

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<sup>759</sup> Resolutions adopted by the International Labour Conference at its 93rd Session (Geneva, June 2005).

(iv) *Resolution concerning the recurrent discussion on fundamental principles and rights at work*

In the context of the ILO Declaration on Social Justice for a Fair Globalization, 2008<sup>760</sup> and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998,<sup>761</sup> the third recurrent discussion held by the ILC in June 2012 was devoted to the fundamental principles and rights at work. In accordance with the above Declarations, and complementing the more legal approach taken by the General Survey of the Committee of Experts concerning the eight fundamental Conventions, the Conference examined trends relating to fundamental principles and rights at work, so that the action of the Organization could take the fullest possible account of the needs of its members. On 13 June 2012, the ILC adopted the resolution and conclusions concerning the recurrent discussion on fundamental principles and rights at work. The conclusions, which set forth the Organization's priorities with respect to fundamental principles and rights at work for the next four years, contain guiding principles and a framework for action. At its 316th session in November 2012, the Governing Body discussed a proposed plan of action in follow-up to the Conclusions.<sup>762</sup>

After affirming that, in the context of the current economic crisis, the realization of fundamental principles and rights at work constituted for the ILO and its member States "a necessary, urgent and achievable goal to advance development and social justice", the Conference reaffirmed the universal and immutable nature of these principles and rights, their particular significance both as human rights and enabling conditions for the achievement of the other ILO strategic objectives, and for the creation of decent jobs and their inseparable, interrelated and mutually reinforcing character. This was the first time that the Conference explicitly recognized fundamental principles and rights at work as human rights.

The ILC emphasized the need for efforts to ensure the accessibility of fundamental principles and rights at work to all, especially certain population groups (such as migrant workers, minorities and indigenous peoples) and categories of workers (such as domestic workers, rural workers and workers in export processing sectors), who were more exposed to violations than others, as well as workers in non-standard forms of employment, affecting particularly women and young workers. The conclusions underlined the need to strengthen enforcement of fundamental principles and rights at national level, including by ensuring effective functioning of the labour inspectorate, and fair and unbiased mechanisms to resolve disputes.

With respect to standards-related action, the ILC gave priority to the need to give new impetus to the campaign for the universal ratification of the eight fundamental Conventions, taking into account the low rates of ratification of the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87)<sup>763</sup> and the Right to Organize

<sup>760</sup> Adopted by the ILC at its Ninety-seventh Session, Geneva, 10 June 2008.

<sup>761</sup> Adopted by the ILC at its Eighty-sixth Session, Geneva, 18 June 1998 (annex revised 15 June 2010).

<sup>762</sup> ILO, document GB.316/INS/5/3.

<sup>763</sup> United Nations, *Treaty Series*, vol. 68, p. 17.

and Collective Bargaining Convention, 1949 (No. 98).<sup>764</sup> It emphasized that ILO should promote the ratification and application of other relevant ILO instruments, including the ILO governance Conventions. It further instructed the ILO to conduct a detailed analysis to identify gaps in the coverage of existing standards relating to forced labour. This is with a view to determine the possible need for standard-setting to complement the ILO forced labour Conventions in order to address prevention and victim protection, including compensation, and address human trafficking for labour exploitation. To this end, a meeting of experts would be held from 11 to 15 February 2013 to consider an analysis of forced labour law and practice prepared by the Office. The conclusions further indicated that the ILO should complete an in-depth evaluation of its action for all fundamental principles and rights at work by the end of 2015.

**(c) Guidance document submitted to the Governing Body of the International Labour Office**

*Joint Food and Agriculture Organization (FAO)/ (ILO)/ International Maritime Organization (IMO) Voluntary Guidelines for the Design, Construction and Equipment of Small Fishing Vessels; Safety recommendations for decked fishing vessels of less than 12 metres in length and undecked fishing vessels*

In November 2012, the Governing Body took note of the joint FAO/ILO/IMO Voluntary Guidelines for the Design, Construction and Equipment of Small Fishing Vessels and approved the publication by the IMO of the Safety recommendations for decked fishing vessels of less than 12 metres in length and undecked fishing vessels (implementation guidelines),<sup>765</sup> which were elaborated during the 53rd session of the IMO Subcommittee on Stability and Load Lines and on Fishing Vessels' Safety (SLF) in which an ILO tripartite delegation took part.

**(d) Legislative advisory services**

In 2012, with respect to international labour standards, the ILO provided technical assistance in reporting and other international labour standards related obligations, including capacity building, assistance with implementation and reform of national legislation, to nearly 50 countries. Assistance included training on the content of selected international labour standards; research to generate information on the status of implementation of international labour standards, including legislative gap analyses; advice on elements that will enable tripartite constituents to take the relevant decisions aiming at full implementation; legal advice on the revision or drafting of legislation and regulations in the light of the supervisory bodies' comments; and strengthening the data collection and reporting capacity of tripartite constituents.<sup>766</sup>

<sup>764</sup> *Ibid.*, vol. 96, p. 257.

<sup>765</sup> ILO, document GB.316/POL/4(&Corr.) and decision dec-GB.316/POL/4.

<sup>766</sup> ILC, *Report of the Committee of Experts on the Application of Conventions and Recommendations: Report III, 2012 – 102nd Session (Part 2) - Information document on ratifications and standards-related activities.*

Apart from assistance with implementation and reforms of national legislation, the ILO also organised approximately 38 legal training courses at the interregional, regional, subregional and national levels in collaboration with its Training Centre in Turin. Furthermore, the ILO developed and updated the Employment Protection database (EPLex).<sup>767</sup>

### **(e) Committee on Freedom of Association**

In 2012, the Committee on Freedom of Association had before it more than 231 cases concerning 64 countries. More than 87 new cases were been submitted to it since the last meeting of the Committee of Experts. The Committee on Freedom of Association drew the attention of the Committee of Experts to the legislative aspects of Cases Nos. 2611 (Romania), 2698 (Australia), 2723 (Fiji), 2737 and 2754 (Indonesia), 2727 (Bolivarian Republic of Venezuela), 2888 (Poland) and 2789 and 2892 (Turkey).<sup>768</sup>

### **(f) Representations submitted under article 24 of the ILO Constitution and complaints made under article 26 of the ILO Constitution**

The Governing Body considered the developments with respect to 11 representations submitted under article 24 of the Constitution by industrial associations of employers or workers, alleging that a member State that had ratified a Convention had failed to secure within its jurisdiction the effective observance of that Convention. The Governing Body also considered the developments in relation to several complaints made under article 26 of the Constitution alleging that a member State that had ratified a Convention was not securing its effective observance.<sup>769</sup>

### **(g) Joint ILO/UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel**

The Joint ILO/UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel (CEART) examined the application of the ILO/UNESCO Recommendation concerning the Status of Teachers (1966) and the UNESCO Recommendation concerning the Status of Higher-Education Personnel (1997). It also considered allegations made by teachers organizations concerning the non-application of principles of the Recommendations. In November 2012, the ILO Governing Body took note of the allegations examined at the Committee's 11th session, held from 8 to 12 October 2012 at the ILO, and authorized the communication of the CEART report as well as the record of the Governing Body's discussions to the concerned Governments and teachers organizations.<sup>770</sup>

<sup>767</sup> Available from <http://www.ilo.org/dyn/eplex/termmain.home> (accessed on 31 December 2012).

<sup>768</sup> See footnote 766 above.

<sup>769</sup> *Ibid.*

<sup>770</sup> ILC, documents GB.316/LILS/3 and GB.316/LILS/PV/Draft, para. 26.



## 2. Food and Agriculture Organization of the United Nations<sup>771</sup>

### (a) Membership of the Food and Agriculture Organization (FAO)

As of 31 December 2012, the membership of FAO consisted of 191 member nations, one member organization (the European Union) and two associate members (the Faroe Islands and Tokelau).

### (b) Constitutional and general legal matters

#### (i) *Work undertaken by the Committee on Constitutional and Legal Matters*

During 2012, the FAO Legal Office serviced the 94th and 95th sessions (Rome, 19 to 21 March and 8 to 11 October 2012) of the Committee on Constitutional and Legal Matters (CCLM) established pursuant to paragraph 6 of article V of the FAO Constitution.<sup>772</sup>

The CCLM examined a number of issues concerning the governance of the Organization and other legal matters and reported on them to the FAO Council (the Council). In particular, the CCLM reviewed the standard arbitration clause included in FAO commercial contracts and endorsed a proposal, which was approved by the Council, to include a provision for the administration of arbitration proceedings by the Permanent Court of Arbitration (PCA).<sup>773</sup>

The CCLM also endorsed two draft Council resolutions concerning the statutes of two bodies established pursuant to article VI of the FAO Constitution, for adoption by the Council. At its hundred and forty-fifth session, (Rome, 3 to 7 December 2012), the Council adopted resolution 1/145 entitled “Revised Statutes of the Agriculture and Land and Water Commission for the Near East”<sup>774</sup> and resolution 2/145, entitled “Revised Statutes of the Advisory Committee on Paper and Wood Products (ACPWP)”<sup>775</sup>

In addition, the CCLM reviewed a draft conference resolution entitled “Amendments to Rules XXIX.2, XXX.2, XXXI.2 and XXXII.2 of the General Rules of the Organization” to the effect that notifications of membership in FAO technical committees should be made not later than ten days before the opening date of a session.<sup>776</sup> The Council endorsed the draft conference resolution and requested that it be forwarded to the June 2013 Conference session for adoption.<sup>777</sup>

<sup>771</sup> For official documents and more information on the Food and Agriculture Organization of the United Nations, see <http://www.fao.org>.

<sup>772</sup> *Basic Texts of the Food and Agriculture Organization of the United Nations* (FAO Basic Texts), 2011, vol. I, p. 3. See also, rule XXXIV of the General Rules of the Organization, *ibid.*, p. 61.

<sup>773</sup> FAO, Report of the 95th Session of the CCLM (Rome, 8-11 October 2012), document CL 145/2 and Report of the Council of FAO 145th Session (Rome, 3-7 December 2012), document CL 145/REP, para. 39.

<sup>774</sup> *Ibid.*, Report of the 95th Session of the CCLM, paras. 34-35 and Report of the 145th Session of the Council, appendix H.

<sup>775</sup> *Ibid.*, Report of the 95th Session of the CCLM, paras. 42-44; and Report of the 145th Session of the Council, appendix J.

<sup>776</sup> See *ibid.*, Report of the 95th Session of the CCLM, paras. 39-40.

<sup>777</sup> See *ibid.*, Report of the 145th Session of the Council, appendix I.

(ii) *Amendments to the Rules of Procedure of three committees*

During 2012, the FAO Legal Office serviced the 69th session of the Committee on Commodity Problems (Rome, 28 to 30 May 2012), the 30th session of the Committee on Fisheries (Rome, 9 to 13 July 2012) and the 39th session of the Committee on World Food Security (Rome, 15 to 20 October 2012) as they reviewed proposed amendments to their Rules of Procedures. The amendments approved were reflected in the reports of these committees<sup>778</sup> and are in the process of being incorporated in the FAO Basic Texts.

(c) **Activities in respect of multilateral treaties**

*Entry into force of treaties previously adopted*

The Southern Indian Ocean Fisheries Agreement (SIOFA), adopted by a Conference of Plenipotentiaries on 7 July 2006 at FAO headquarters in Rome and deposited with the Director-General of FAO, entered into force on 21 June 2012.<sup>779</sup>

(d) **Legislative matters**

(i) *Legislative assistance and advice*

During 2012, the FAO Legal Office provided legislative assistance and advice to more than 80 countries by reviewing and providing advice in drafting national legislation and regulations on the topics of animal health and production, agriculture finance, agrarian, land, agribusiness, trade and cooperatives, biodiversity and genetic resources legislation, climate change, fisheries and aquaculture, food safety, food security and sovereignty, forestry, land and plant protection legislation, including pesticide control and seeds, and water.

The FAO Legal Office also provided legislative assistance and advice during a number of international meetings. In particular, it participated in the World Bank/the World Wildlife Foundation's Consultative Meeting on Proposed Mechanisms for Partnership Coordination and Policy Coherence in African Fisheries (Nairobi, February 2012).

The FAO Legal Office supported the Technical Consultation on Flag State Performance (Rome, March 2012), a follow-up to a previous session held in May 2011. During these consultations, FAO members and interested organizations discussed criteria for assessing flag State performance, with the aim of agreeing on a set of guidelines to help combat illegal, unreported and unregulated (IUU) fishing.

Also in March 2012, the FAO Legal Office participated in the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), 1973<sup>780</sup> working

<sup>778</sup> See *ibid.*, Report of the 69th Session of the Committee on Commodity Problems (Rome, 28-30 May 2012), document C 2013/23; Report of the 30th Session of the Committee on Fisheries (Rome, 9-13 July 2012), document FIFI/R1012 (En); and Report of the 39th Session of the Committee on World Food Security (Rome, 15-20 October 2012), document CFS 2012/39.

<sup>779</sup> The text of the Agreement and a record of the States and regional economic integration organizations that signed, ratified, accepted, approved or acceded to it are available from <http://www.fao.org>.

<sup>780</sup> United Nations, *Treaty Series*, vol. 993, p. 243.

group meeting to discuss the interpretation and implementation of CITES provisions relating to “introduction from the sea” (Shepherdstown, USA).

The FAO Legal Office and the FAO Fisheries Department co-organized a workshop with the Asia-Pacific Fishery Commission (APFIC) on the 2009 FAO Port State Measures Agreement to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing<sup>781</sup> (Bangkok, April 2012).

The FAO Legal Office supported the preparation and negotiation process of the Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, which were endorsed by the 38th special session of the Committee on World Food Security (Rome, 11 May 2012).<sup>782</sup> These Guidelines are intended to contribute to global and national efforts towards the eradication of hunger and poverty by promoting secure tenure rights and equitable access to land, fisheries and forests. In support of the use of these Guidelines, FAO has prepared technical guides on governance of tenure.

During the 30th session of the Committee on Fisheries (Rome, 9-13 July 2012), the FAO Legal Office provided legal advice on the aforementioned FAO Port State Measures Agreement and on national legislation on the management and conservation of sharks. It also provided legal assistance during side events that addressed global shark management, marine protected areas and areas beyond national jurisdiction (ABNJ). The FAO Legal Office also assisted the secretariat of the fourth meeting of the Regional Fisheries Bodies Secretariat Network (RSN), convened on the occasion of the 30th session of the Committee on Fisheries, where legal issues related to port State measures, IUU fishing and marine protected areas were addressed.

FAO also organized the Discussion Forum on Governance Frameworks for REDD+<sup>783</sup> at the eighteenth session of the Conference of the Parties of the United Nations Framework Convention on Climate Change (Qatar, 26 November to 7 December 2012). On the occasion of the twenty-first session of the Committee on Forestry (Rome, 24-28 September 2012), the FAO Legal Office organized a side event on “Legal Preparedness for REDD+: Exploring needs and sources of expert support”. The event served as a forum to share country experiences and expert views on major legal considerations related to REDD+ and to discuss country needs in relation to the type of legal support required, including the expectations in receiving legislative support to implement REDD+.

Also in 2012, the FAO Legal Office contributed to papers and background documents for international meetings, including the United Nations Conference on Sustainable Development, RIO+20 (Rio de Janeiro, June 2012).<sup>784</sup>

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<sup>781</sup> Available from <http://www.fao.org>.

<sup>782</sup> The text of the guidelines is available from <http://www.fao.org/docrep/> (accessed on 31 December 2012).

<sup>783</sup> REDD stands for “Reducing Emissions from Deforestation and Forest Degradation”, and is an effort to create a financial value for the carbon stored in forests. REDD+ goes further and includes the role of conservation, sustainable management of forests and enhancement of forest carbon stocks.

<sup>784</sup> See, for example: *A Blueprint for Ocean and Coastal Sustainability*; *Global Partnership for Oceans*; and *Abandoned, Lost or otherwise Discarded Fishing Gear*.

(ii) *Legislative research and publications*

In 2012, the FAO Legal Office published the following Legislative Studies:

- “*Manual para la formulación de reglamentos nacionales para la gestión de recursos hídricos*”;
- “*Organic agriculture and the law*”; and
- “*Pro-poor legal and institutional frameworks for urban and peri-urban agriculture*”.

The FAO Legal Office also published the following Legal Paper Online in 2012:

“*Forest Carbon Tenure in Asia-Pacific: A comparative analysis of legal trends to define carbon rights in Asia-Pacific*”.

(iii) *Collection, translation and dissemination of legislative information*

During 2012, FAO continued to collect, translate and disseminate legislative information on food and agriculture legislation worldwide through its online databases which are freely accessible from the Legal Office’s website, namely FAOLEX,<sup>785</sup> FISHLEX,<sup>786</sup> WATERLEX,<sup>787</sup> WATER TREATIES<sup>788</sup> and ECOLEX.<sup>789</sup>

(e) **Agreements concluded under FAO auspices**

FAO concluded various agreements which came into force in 2012 that contained provisions relating to the legal status, privileges and immunities of FAO.

In particular, agreements based on the standard “Memorandum of Responsibilities” concerning specific sessions held outside FAO headquarters, containing provisions on privileges and immunities of FAO and participants similar to the standard text,<sup>790</sup> were concluded in 2012 with the Governments of the following countries acting as hosts to such sessions: Brazil, Canada, China, Costa Rica, Croatia, Egypt, Fiji, Finland, France, Greece, India, Indonesia, Japan, Lebanon, Morocco, Norway, Russia, Saudi Arabia, Spain, Thailand, Tunisia and Viet Nam.

<sup>785</sup> See <http://faolex.fao.org/faolex/index.htm> (accessed on 31 December 2012).

<sup>786</sup> See <http://faolex.fao.org/fishery/index.htm> (accessed on 31 December 2012).

<sup>787</sup> See <http://faolex.fao.org/waterlex/index.htm> (accessed on 31 December 2012).

<sup>788</sup> See <http://faolex.fao.org/watertreaties/index.htm> (accessed on 31 December 2012).

<sup>789</sup> See <http://www.ecolex.org/start.php> (accessed on 31 December 2012).

<sup>790</sup> See *United Nations Juridical Yearbook 1972* (United Nations Publication, Sales No. E.74.V.1), p. 32.

### 3. United Nations Educational, Scientific and Cultural Organization<sup>791</sup>

#### (a) International regulations

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

No multilateral conventions or agreements adopted under the auspices of the United Nations Educational, Scientific and Cultural Organization (UNESCO), entered into force in 2012.

##### (ii) *Proposals concerning the preparation of new instruments*

#### a. Independent preliminary study of the desirability, the technical and legal aspects, and the scope, rationale, added value, and administrative and financial implications of a standard-setting instrument on the protection and promotion of museums and collections

In October 2012, at its 190th session, the Executive Board invited the Director-General to submit an independent preliminary study of the desirability, the technical and legal aspects, and the scope, rationale, added value, and administrative and financial implications of a standard-setting instrument on the protection and promotion of museums and collections, for examination by the Board at its 191st session in April 2013, with a view to inscribing this item on the agenda of the 37th session of the General Conference in November 2013.<sup>792</sup>

#### b. Preliminary study of the technical, financial and legal aspects on the desirability of a standard-setting instrument on preservation and access to documentary heritage

At the 190th session, the Executive Board invited also the Director-General to undertake a preliminary study of the technical, financial and legal aspects on the desirability of a standard-setting instrument on preservation and access to documentary heritage for examination by the Board at its 191st session.<sup>793</sup>

##### (iii) *Proposals concerning the preparation of revised instruments*

#### a. Preliminary study of the technical and legal aspects relating to the desirability of revising the 1976 Recommendation on the Development of Adult Education

At its 189th session, the Executive Board requested the Director-General to submit a preliminary study of the technical and legal aspects relating to the desirability of revising the 1976 Recommendation on the Development of Adult Education to it at its 191st session, with a view to submitting the preliminary study to the General Conference at its 37th session.<sup>794</sup>

<sup>791</sup> For official documents and more information on the United Nations Educational, Scientific and Cultural Organization, see <http://www.unesco.org>.

<sup>792</sup> UNESCO, document 190 EX/Decision 11.

<sup>793</sup> *Ibid.*, document 190 EX/Decision 16.

<sup>794</sup> *Ibid.*, document 189 EX/Decision 13 (II).

**b. Preliminary study on the technical and legal aspects relating to the desirability of making further revisions to the 2001 Revised Recommendation concerning Technical and Vocational Education**

In October 2012, at its 190th session, the Executive Board invited the Director-General to submit to it at its 191st session a preliminary study on the technical and legal aspects relating to the desirability of making further revisions to the 2001 Revised Recommendation concerning Technical and Vocational Education, with a view to submitting this study to the 37th session of the General Conference.<sup>795</sup>

**c. Preliminary study on the technical and legal aspects relating to the desirability of revising the 1974 Recommendation on the Status of Scientific Researchers**

At its 190th session, the Executive Board invited also the Director-General to submit a preliminary study on the technical and legal aspects relating to the desirability of revising the 1974 Recommendation on the Status of Scientific Researchers to it at its 191st session, possibly with a view to inscribing the question of a revision of the 1974 Recommendation on the agenda of the 37th session of the General Conference.<sup>796</sup>

**(b) Human rights**

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

The Committee on Conventions and Recommendations of the Executive Board met in private sessions at UNESCO headquarters from 27 to 29 February 2012 and from 3 to 5 October 2012 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 February 2012 session, the Committee examined 26 communications, of which 6 were examined with a view to determining its admissibility, 19 were examined as to their substance and 1 was examined for the first time. Three communications were struck from the list because they were considered as having been settled and the examination of the other 23 was deferred. The Committee presented its report to the Executive Board at its 189th session.

At its October 2012 session, the Committee examined 29 communications, of which 5 were examined with a view to determining their admissibility, 18 were examined as to their substance and 6 were examined for the first time. Four communications were struck from the list because they were considered as having been settled and 1 communication was also struck from the list because it was considered as inadmissible. The examination of the other 24 was deferred. The Committee presented its report to the Executive Board at its 190th session.

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<sup>795</sup> *Ibid.*, document 190 EX/Decision 24 (III).

<sup>796</sup> *Ibid.*, document 190 EX/Decision 24 (IV).

## 4. World Health Organization<sup>797</sup>

### (a) Constitutional developments<sup>798</sup>

No new amendments to the World Health Organization (WHO) Constitution were proposed or adopted, and neither of the two current amendments entered into force.<sup>799</sup>

### (b) Other normative developments and activities

#### (i) *International Health Regulations (2005)* (“IHR (2005)” or the “Regulations”)

In accordance with article 22 of the WHO Constitution and articles 59 and 64 of the IHR (2005), the Regulations entered into force for Liechtenstein on 28 March 2012. With the inclusion of Liechtenstein, there were 195 States parties to the IHR (2005) as of the end of 2012.

The IHR (2005) specifies a timeline for the establishment of specified national public health core capacities based on the date of entry into force of the IHR for a State party; such capacities should be in place as soon as possible but no later than five years from the entry into force (articles 5 and 13), subject to potential limited extensions. For the vast majority of States parties, by 15 June 2012 they were to have established all such core capacities as provided in annex 1 of the IHR (2005); if not yet established, States parties could avail themselves of an extension of the period for a further two years upon submitting a report of a justified need to WHO accompanied by an implementation plan. As at 3 December 2012, a total of 107 States parties had obtained extensions to the deadline and a further 12 States parties had submitted requests but had not yet provided the necessary implementation plan.

On 26 May 2012, by its resolution WHA65.23 entitled “Implementation of the IHR (2005)”, the Health Assembly affirmed its renewed commitment to full implementation of the IHR (2005).

In the area of implementation of the Regulations in national legislation, in 2012 Secretariat activities included conducting three multi-country interactive workshops for legal and technical national personnel in: Almaty, Kazakhstan (in collaboration with the WHO European Regional Office), and in Marrakesh, Morocco and Cairo, Egypt (in collaboration with the Eastern Mediterranean Regional Office). The workshops were designed to provide countries with the necessary tools and guidance to assess and, where necessary, revise existing national legislation in order to further facilitate the full and efficient implementation of the Regulations. Support in this area was provided through a wide range of other communications, advice and information directly to States parties or through regional offices.

<sup>797</sup> For official documents and more information on the World Health Organization, see <http://www.who.int>.

<sup>798</sup> For the text of the WHO Constitution, see United Nations, *Treaty Series*, vol. 14, p. 185.

<sup>799</sup> Amendment to article 7 (adopted by the eighteenth World Health Assembly, resolution WHA18.48 of 20 May 1965) and amendment to article 74 (adopted by the thirty-first World Health Assembly, resolution WHA31.18 of 18 May 1978).



Legally-oriented support to States parties on a range of IHR (2005) implementation and application issues was also provided through advice directly to countries, or through WHO Regional and Country Offices, and during meetings involving States parties. Additionally, key WHO guidance materials on IHR (2005) implementation in national legislation were translated into additional languages of the World Health Assembly.

(ii) *Agreement with the Solomon Islands*

WHO entered into technical advisory cooperation agreements with the Solomon Islands. The cooperation consisted of WHO providing technical advice to the State which, in turn, would facilitate the effective development of technical advisory cooperation in the country. Specific provisions addressed the establishment of an office in the country and governed its functioning, including the granting of privileges and immunities to the Organization and to the staff.

(iii) *Agreements with intergovernmental organizations*

On 26 May 2012, by resolution WHA65.16, the World Health Assembly approved the Agreement between the Commission of the African Union and the WHO which was submitted to it under the terms of article 70 of the WHO Constitution. As indicated in its article II.2, the Agreement aims at strengthening cooperation in areas of common interest, including promoting and improving health, reducing avoidable mortality and disability, preventing disease, countering potential threats to health, making contributions towards ensuring a high-level of health protection and placing health at the core of the international development agenda in the fight against poverty, the protection of the environment, the promotion of social development, and the raising of living and working conditions.

(iv) *Supporting national law reform efforts on WHO mandated topics*

During 2012, the WHO headquarters and regional offices provided technical cooperation to a number of member States in connection with the development, assessment or review of various areas of health legislation and WHO mandated topics, including tobacco related issues, marketing of food to children and food legislation in general. Specific support was provided to countries for developing and/or revising national law and legislations on public health, road safety, health insurance coverage, safe abortion, labour laws regarding maternity leave, infant and young child feeding, including a milk code legislation.

The WHO Department of Reproductive and Research published the second edition of the document “Safe abortion: technical and policy guidelines for health systems”.<sup>800</sup> The publication contains an amount of new data on epidemiological, clinical, service delivery, legal and human rights aspects of providing safe abortion care and provides the latest evidence-based guidance on clinical care. The publication further outlines a human-rights-based approach to laws and policies on safe abortion care.

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<sup>800</sup> WHO, *Safe abortion: technical and policy guidelines for health systems*, 2nd ed., 2012.

### (c) Adoption of new instruments

The Intergovernmental Negotiating Body (INB) on a Protocol on Illicit Trade in Tobacco Products that had been established by the Conference of the Parties (COP) in 2007 held its fifth and final session from 29 March to 4 April 2012 in Geneva. After four years of negotiations, the INB agreed on a draft text of a protocol to eliminate illicit trade in tobacco products and submitted it to the fifth session of the COP for consideration and adoption.

The fifth session of the COP took place in Seoul, Republic of Korea, from 12 to 17 November 2012, at which the Protocol to Eliminate Illicit Trade in Tobacco Products was adopted.<sup>801</sup> In accordance with its article 43, the Protocol is open for signature by all parties to the WHO Framework Convention on Tobacco Control, 2005<sup>802</sup> (WHO FCTC) from 10 January 2013 until 9 January 2014.

The Conference also adopted a set of guiding principles and recommendations to support the implementation of article 6 of the WHO FCTC on tax and price policies and established an open-ended intersessional drafting group to finalize the guidelines for consideration.<sup>803</sup> Furthermore, the Conference amended the partial guidelines on articles 9 and 10<sup>804</sup> in the area of product regulation, requesting the working group to continue its work, and established a process for further developing policy options and recommendations on articles 17 and 18 concerning economically sustainable alternatives to tobacco growing.<sup>805</sup>

Additionally, the Conference established a working group on sustainable implementation of the Convention and an expert group on article 19 (Liability),<sup>806</sup> and requested WHO to carry out further technical work in relation to smokeless tobacco and electronic nicotine delivery systems. Decisions were also taken to strengthen the reporting system of the Convention and the cooperation with international organizations.

With regard to the role of the COP Bureau, the COP extended its intersessional mandate. The COP Bureau was also requested to finalize the process for appointment and renewal of term of office of the head of the Secretariat on a provisional basis.

The Parties also made a collective commitment, in the Seoul Declaration,<sup>807</sup> to accelerate implementation of the Convention and to protect it from interference by the tobacco industry; and to cooperate with each other, with the Convention Secretariat and other international bodies to strengthen their capacity to implement the Convention.

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<sup>801</sup> Decision FCTC/COP5(1). For the complete text of the Protocol to Eliminate Illicit Trade in Tobacco Products, see section 1. of chapter IV.B, below.

<sup>802</sup> United Nations, *Treaty Series*, vol. 2302, p. 166.

<sup>803</sup> Decision FCTC/COP5(7).

<sup>804</sup> Decision FCTC/COP5(6).

<sup>805</sup> Decision FCTC/COP5(8).

<sup>806</sup> Decision FCTC/COP5(9).

<sup>807</sup> Decision FCTC/COP5(5).

## 5. International Monetary Fund<sup>808</sup>

### (a) Membership

#### (i) *Accession to membership*

Following its application for membership in April 2011, on 18 April 2012, the Republic of South Sudan signed the Articles of Agreement of the International Monetary Fund (IMF), 1944<sup>809</sup> and became a member of the IMF. As of 31 December 2012, the membership of the IMF consisted of 188 member countries.

#### (ii) *Status and obligations under article VIII or article XIV of the IMF Articles of Agreement:*

Under article VIII, sections 2, 3, and 4 of the IMF Articles of Agreement, members of the IMF cannot, without the IMF approval: (i) impose restrictions on the making of payments and transfers for current international transactions; or (ii) engage in any discriminatory currency arrangements or multiple currency practices. Notwithstanding these provisions, pursuant to article XIV, section 2, of the IMF Articles of Agreement, when a member joins the IMF, it can notify the IMF that it intends to avail itself of the transitional arrangements under article XIV that allow the member to maintain and adapt to changing circumstances the restrictions on payments and transfers for current international transactions that were in effect on the date on which it became a member. Article XIV does not, however, permit a member, after it joins the IMF, to introduce new restrictions on the making of payments and transfers for current international transactions without IMF approval.

Members that maintain restrictions under article XIV, section 2, are required to consult with the IMF annually on the further retention of such restrictions. Members can notify the IMF at any time that they accept the obligations of article VIII, sections 2, 3, and 4, of the IMF Articles of Agreement and no longer avail themselves of the transitional provisions of article XIV. The IMF has stated that, before members notify the IMF that they are accepting the obligations of article VIII, sections 2, 3 and 4, it would be desirable that, as far as possible, members eliminate measures that would require IMF approval and satisfy themselves that they are not likely to need recourse to such measures in the foreseeable future. Where necessary, and if requested by a member, the IMF also provide technical assistance to help the member remove its exchange restrictions and multiple currency practices.

The total number of countries that have accepted the obligations of article VIII, sections 2, 3 and 4, as of 31 December 2012, was 169.

#### (iii) *Overdue financial obligations to the IMF*

As of 31 December 2012, members with protracted arrears (i.e., financial obligations that were overdue by six months or more) involving the general resources of the IMF were

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<sup>808</sup> For documents and more information on the International Monetary Fund, see <http://www.imf.org>.

<sup>809</sup> United Nations, *Treaty Series*, vol. 2, p. 39.

Somalia and Sudan. Zimbabwe had arrears to the Poverty Reduction and Growth Trust (PRGT) administered by the IMF as Trustee. In addition, Somalia and Sudan had protracted overdue Trust Fund and/or Structural Adjustment Facility obligations not involving the general resources of the IMF.

Article XXVI, section 2(a), of the IMF Articles of Agreement provides that if “a member fails to fulfill any of its obligations under this Agreement, the [IMF] may declare the member ineligible to use the general resources of the [IMF].” Such declarations of ineligibility were in place at the end of December 2012 with respect to Somalia and Sudan, whose arrears were subject to sanctions under article XXVI. In the case of Zimbabwe, its arrears to the PRGT were handled under a separate framework since such arrears did not involve the IMF general resources and were therefore not subject to article XXVI.

### **(b) Issues pertaining to representation at the IMF**

#### *(i) Somalia*

In October 1992, the IMF found that there was no effective Government for Somalia with which the IMF could carry on its activities. Since then, the positions of the Governor and Alternate-Governor for Somalia in the IMF has remained vacant.

#### *(ii) Madagascar*

In September 2009, the IMF found that there was no internationally recognized Government for Madagascar with which the IMF could carry on its activities. Since then, the positions of the Governor and Alternate-Governor for Madagascar in the IMF have remained vacant.

### **(c) Key policy decisions of the IMF**

In 2012, the IMF took steps to move ahead with a number of major policy reforms that would allow it to meet the evolving needs of its members and to adjust to changes in the global economy.

#### *(i) IMF surveillance*

The activity known as IMF surveillance is a core mandate of the IMF. Article IV of the IMF Articles of Agreement requires the IMF to exercise oversight over members’ compliance with their obligations under article IV, section 1, and also directs the IMF to give scrutiny (“firm surveillance”) to members’ exchange rate policies. As a means of enabling the IMF to discharge these responsibilities, members are required to provide the necessary information to the IMF and, when requested by the IMF, to consult with the IMF regarding their policies. In addition, article IV, section 3(a), gives the IMF a specific mandate to “oversee the international monetary system in order to ensure its effective operation.” This function provides the basis for so-called multilateral surveillance, including regional and global surveillance. While surveillance is continuous in nature, policy discussions between the IMF and its members are conducted primarily in the context of “article IV consulta-

tions”, which are typically held on an annual basis. Staff reports providing economic analysis and policy advice at a bilateral and multilateral level are prepared for discussion by the Executive Board. Discussion at the Executive Board is a culmination of the surveillance cycle and serves as a mechanism for peer review of the policies of IMF members and of the issues impacting global stability.

#### a. Integrated Surveillance Decision

On 18 July 2012, the Executive Board adopted a new decision on bilateral and multilateral surveillance, the Integrated Surveillance Decision (ISD).<sup>810</sup> The ISD would become effective on 18 January 2013. The ISD responds to the findings of the October 2011 comprehensive review of the legal framework and the effectiveness of Fund surveillance in the context of the 2011 Triennial Surveillance Review, including the need to better integrate bilateral and multilateral surveillance, better cover spillovers from member countries’ economic and financial policies to the global economy, and clarify the framework for multilateral surveillance. The ISD defines the scope of both bilateral and multilateral surveillance, and it establishes the modalities of multilateral surveillance, including a framework for potential multilateral consultations.

While the previous surveillance decision adopted in 2007<sup>811</sup> focused on bilateral surveillance, the ISD laid out a conceptual link between bilateral and multilateral surveillance. The ISD made article IV consultations a vehicle not only for bilateral surveillance but also for multilateral surveillance. In particular, it allows the Fund to discuss with a member country the full range of spillovers from its policies that affect global stability.

The ISD continues the focus on the stability of member countries’ exchange rate policies and external accounts but recognizes that, as demonstrated by the 2008 financial crisis, the policies of members that are in a domestic state of instability can create spillovers that undermine systemic stability even if they are transmitted through channels other than a member’s balance of payments. The ISD encourages members to be mindful of the impact of their policies on global stability and domestic policies with spillover effects. These domestic policies are relevant for bilateral surveillance only if they also give rise to domestic instability of that member. In this regard, the ISD clarifies that, to the extent a member is promoting its own stability, it cannot be required to change its policies to better support the effective operation of the international monetary system.

#### b. Institutional view on capital flows

On 16 November 2012, the Executive Board concluded discussions and adopted an institutional view on capital flows.<sup>812</sup> As capital flows had increased significantly in recent years and were a key aspect of the global monetary system, the IMF needed to be in a position to provide clear and consistent advice with respect to capital flows and policies related to them. The proposed view is intended to guide Fund advice to members and, where

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<sup>810</sup> Available from: <http://www.imf.org/>.

<sup>811</sup> IMF, decision 13919-(07/51).

<sup>812</sup> IMF, “The liberalization and management of capital flows: an institutional view”, Washington, DC. Available from: <http://www.imf.org>.

relevant under the ISD, Fund assessments on issues of liberalization and management of capital flows in the context of bilateral and multilateral surveillance.

(ii) *IMF financing and financial resources*

a. **Review of conditionality**

On 5 September 2012, the Executive Board completed a review of the conditionality, design, and effect of IMF-supported programs during the period 2002 – September 2011. The review of conditionality was part of a process of ongoing, periodic assessments of IMF-supported programs, which were packages of policy measures, which combined with approved financing, were intended to accomplish specific objectives. Conditionality aims to ensure that members resolve their balance of payments problems, that Fund resources are safeguarded, and that, ultimately, the member is thereby in a position to repay the Fund.

The Executive Board found that the Guidelines on Conditionality remained generally appropriate, although their implementation could be improved in certain areas. The Board also found that conditionality had become more focused, more closely aligned with program goals, and generally well-tailored to country characteristics. Key recommendations included: (i) strengthening risk diagnostics; (ii) enhancing analysis of the social impact of policies and inclusion of policy measures to mitigate adverse short-term impacts on the most vulnerable; and (iii) improving outreach and transparency, including broader discussions of policies at the design stage.

b. **Review of eligibility for using concessional financing resources**

On 17 February 2012, the Executive Board reviewed the framework that determines which member countries are eligible to use the IMF concessional resources under the Poverty Reduction and Growth Trust (“PRGT”). The framework was established in 2010, and it is intended to preserve access to the IMF concessional financing for members with a low level of income and related economic and financial vulnerabilities. The framework includes special eligibility criteria for small countries that are less stringent with respect to per-capita income, to account for these countries’ higher vulnerabilities. The Executive Board agreed to increase the population threshold used to define small States to 1.5 million from 1 million, aligning it with the definition used by the World Bank.

## 6. **International Civil Aviation Organization**<sup>813</sup>

(a) **Depositary actions in relation to multilateral air law instruments**

A total of 41 depositary activities by States were recorded during 2012.<sup>814</sup>

<sup>813</sup> For official documents and more information on the International Civil Aviation Organization, see <http://www.icao.int>.

<sup>814</sup> A chronological record of States that signed, ratified, acceded, accepted or adhered to multilateral air law instruments during 2012 can be found on ICAO website as part of the Legal Affairs and External Relations Bureau’s Treaty Collection.

**(b) Activities of ICAO in the legal field**

*(i) Legal issues relating to unruly passengers*

Pursuant to a decision of the Council in November 2011 at its 194th session to establish a special Sub-Committee of the Legal Committee to review the Convention on Offences and Certain Other Acts Committed on Board Aircraft, 1963 (the Tokyo Convention),<sup>815</sup> with particular reference to the issue of unruly passengers, the Sub-Committee held in Montreal its first meeting in May and its second in December 2012. The Sub-Committee prepared a draft protocol to the Tokyo Convention containing a number of options to be considered by the Legal Committee.<sup>816</sup>

*(ii) Promotion of Beijing instruments*

The ICAO Council and the Secretariat continued to promote the ratification of the Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation, 2010 (the Beijing Convention)<sup>817</sup> and the Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft, 2010 (the Beijing Protocol)<sup>818</sup> through the ICAO High-level Aviation Security Conference, meetings of the United Nations, and other fora. Two regional legal seminars also included the subject of the ratification of the Beijing instruments. One was the ICAO Legal Seminar in the Asia-Pacific Region, hosted by the Republic of Korea in April 2012. The other was the ICAO/CERG Warsaw Air Law Conference in Warsaw, hosted by Poland in September 2012 under the joint auspices of ICAO and the Central European Rotation Group (Bulgaria, Czech Republic, Hungary, Poland, Romania, Slovakia and Slovenia). As of 31 December 2012, the Beijing Convention was ratified by Saint Lucia, Mali and the Dominican Republic, and the Beijing Protocol by Saint Lucia, Mali and Cuba.

*(iii) Cooperation within the framework of the United Nations Counter-Terrorism Implementation Task Force (CTITF)*

As a member of the United Nations CTITF, ICAO continued to cooperate with the Task Force and its other members. ICAO supported and participated in the International Meeting on Chemical Safety and Security, held under the auspices of the Organization for the Prohibition of Chemical Weapons in Tarnów, Poland, in November 2012.

*(iv) International interests in mobile equipment (aircraft equipment)*

On behalf of the Council in its capacity as the Supervisory Authority of the International Registry, the Secretariat continued to monitor the operation of the Registry to ensure that it functions efficiently in accordance with article 17 of the Convention on Inter-

<sup>815</sup> United Nations, *Treaty Series*, vol. 704, p. 219.

<sup>816</sup> ICAO, document LC/35-WP/2-1, appendix.

<sup>817</sup> *Ibid.*, document 9960.

<sup>818</sup> *Ibid.*, document 9959.



national Interests in Mobile Equipment, 2001 (Cape Town Convention).<sup>819</sup> As the second three-year term of appointment of the Commission of Experts of the Supervisory Authority of the International Registry (CESAIR) came to an end in July 2012, the Council reappointed 15 members to the Commission effective 2 July 2012. The fifth meeting of CESAIR took place in December 2012 at ICAO headquarters. The purpose of the meeting was to brief CESAIR members and to have preliminary discussions on numerous and significant changes to the Regulations and Procedures for the International Registry<sup>820</sup> with a view to convening a sixth meeting during the second quarter of 2013 to finalize consideration of these changes and make recommendations to the Council. Pursuant to article 62 (2) (c) of the Cape Town Convention and article XXXVII (2) (c) of the Cape Town Protocol, the Council regularly received information from the Depositary on ratifications, declarations, denunciations and designations of entry points. At the end of 2012, there were 48 ratifications and accessions to the Cape Town Convention and Protocol.

(v) *Tripartite Consultative Committee to discuss issues related to privileges and immunities*

The third meeting of the ICAO Tripartite Consultative Committee was held in May 2012. In addition to officials from Protocol Ottawa and Protocol Quebec, as well as representatives on the Council of ICAO, the City of Montreal was also represented. The meeting reviewed the issues on its agenda regarding the residence in Canada of permanent representatives and other members of national delegations and their families in such areas as: entry visas, acceptances, education, health, taxation, traffic regulations, and related privileges, immunities and courtesies granted by the Host State at both the federal and provincial levels. The participants in the Committee noted that substantive progress had been made in several domains since the previous meeting in November 2011 and agreed that the next meeting scheduled for February 2013 would take stock of achievements to date and further focus on unresolved matters.

(vi) *Collaboration with the World Tourism Organization (UNWTO)*

ICAO continued its participation in the UNWTO Working Group on the protection of tourists/consumers and travel organizers. In 2012, the Working Group was in the process of considering a proposed draft Convention on the protection of tourists and tourism service providers.<sup>821</sup> Subjects covered include assistance obligations of States in situations of force majeure, the protection of the tourist in the event of insolvency of the travel organizer, as well as package travel related aspects. ICAO provided technical comments and drafting proposals regarding the draft instrument under development, primarily with a view to avoiding any potential overlap with existing air law instruments adopted under the auspices of ICAO.

<sup>819</sup> *Ibid.*, document 9793.

<sup>820</sup> *Ibid.*, document 9864.

<sup>821</sup> UNWTO, report of the Secretary-General (CAF/54/3.4, annex).

## 7. International Maritime Organization<sup>822</sup>

### (a) Membership of the organisation

As at 31 December 2012, the membership of the International Maritime Organization (IMO) stood at 170.

### (b) Review of the legal activities work undertaken by the IMO Legal Committee

The Legal Committee (“the Committee”) held its ninety-ninth session from 16 to 20 April 2012.<sup>823</sup>

#### (i) *Monitoring the implementation of the Protocol to the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 2010 (2010 HNS Protocol)*<sup>824</sup>

The Committee noted the Secretariat’s report on the status of the 2010 HNS Protocol, as well as information containing the key conclusions of the Special Consultative Meeting held in June 2003 in Ottawa, on the implementation of the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996<sup>825</sup> (1996 HNS Convention), noting in particular that in order to avoid confusion, Governments should ratify the 2010 HNS Protocol rather than the 1996 HNS Convention; and that a number of related documents assisting with the ratification had been available on the IMO website. The Committee also noted the information on the outcome of the Special Consultative Meeting, which was held in Rotterdam in June 2011 to discuss the implementation and ratification strategies regarding the 2010 HNS Protocol and which had reconfirmed the conclusions on the definition of receiver, on transshipment and on reporting requirements prior to ratification. The participants agreed to finalize implementing legislation by 2013.

The Legal Committee was requested to take a decision on the location of the 2010 Hazardous and Noxious Substances Fund (HNS Fund) and on whether there should be a joint secretariat of the HNS Fund and the International Oil Pollution Compensation Funds (IOPC Funds). This would remove an element of uncertainty with regard to the future of the HNS Fund and would assist the 1992 Fund Secretariat in its work, particularly with regard to discussions with the Host Government on the question of the privileges, immunities and facilities to be accorded to the future HNS Fund.

The Secretariat of IOPC Funds provided an update on the work carried out by the 1992 Fund Secretariat regarding the administrative preparations required for setting up

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<sup>822</sup> For official documents and more information on the International Maritime Organization, see <http://www.imo.org>.

<sup>823</sup> The report of the Legal Committee is contained in document LEG 99/14.

<sup>824</sup> IMO, document LEG/98/4/1.

<sup>825</sup> *Ibid.*, document LEG/CONF.10/8/2.

the HNS Fund, as well as practical measures to assist States in the implementation of the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 2010<sup>826</sup> (2010 HNS Convention), such as the development of a searchable list of hazardous and noxious substances covered by the 2010 HNS Convention and a revised Contributing Cargo Calculator, which was in preparation. The Committee noted that this had been requested in resolution 1 of the International Conference on the Revision of the HNS Convention.<sup>827</sup>

With regard to the status of the 2010 HNS Protocol, some concerns were expressed that, although it had been adopted for the purpose of removing the obstacles to ratification of the 1996 HNS Convention and in order to address practical problems pertaining to its implementation, IMO member States had yet to report to the Committee on their intention to become parties to the Protocol, and to provide a timeline in that respect.

(ii) *Consideration of a proposal to amend the limits of liability of the Protocol of 1996 to the Convention on Limitation of Liability for Maritime Claims 1976 (LLMC 76)<sup>828</sup> in accordance with article 8 of LLMC 1996*

On 19 April 2012, the Committee adopted a resolution entitled “Adoption of amendments of limitation amounts in the Protocol of 1996 to the Convention on Limitation of Liability for Maritime Claims, 1976”, with the new limits of liability set out by article 8 of LLMC 1996.<sup>829</sup>

(iii) *Provision of financial security in cases of abandonment, personal injury to, or death of, seafarers in the light of the progress towards the entry into force of International Labour Organization (ILO) Maritime Labour Convention, 2006,<sup>830</sup> and of the amendments relating thereto*

The Committee was informed that the ILO Maritime Labour Convention, 2006 (MLC or “the Convention”) had been ratified by 25 member States, representing over 56 per cent of the world’s gross tonnage of ships. As of April 2012, only five further ratifications were therefore needed to permit its entry into force, the tonnage requirement having already been met. It was expected that the five additional ratifications would be received in 2012, and the MLC would enter into force in mid-2013.

(iv) *Fair treatment of seafarers in the event of a maritime accident*

The Committee was informed by the observer delegation of ILO that, in keeping with decisions taken by the Governing Body of ILO at its 313th session in November 2011, the Director-General of ILO had communicated IMO Assembly resolution A.1056(27)/Rev.1

<sup>826</sup> *Ibid.*, document LEG/CONF.17/10.

<sup>827</sup> *Ibid.*, document LEG/CONF.17/DC/2.

<sup>828</sup> *United Nations Juridical Yearbook 1996* (United Nations Publication, Sales No. 01.V.10), p. 357.

<sup>829</sup> IMO, document LEG 99/14.

<sup>830</sup> *United Nations Juridical Yearbook 2006* (United Nations Publication, Sales No. E.09.V.1), p. 325.

to all ILO member States. Member Governments were requested to arrange for the text of resolution A.1065(27)Rev.1 to be examined by their competent services and to transmit it to relevant employers' and workers' organizations. ILO, in collaboration with IMO, continued to keep the problem of fair treatment of seafarers in the event of a maritime accident under review and, as appropriate, periodically assessed the scale of the problem. The Committee also noted that, in accordance with the decision taken at its last session, a document providing information and observations concerning unfair treatment of seafarers due to nationality or religion had been referred to the Facilitation (FAL) Committee at its thirty-seventh session. The Committee noted the information provided by the observer delegation of the International Transport Workers' Federation (ITF), on behalf of Seafarers' Rights International (SRI) about a survey it had conducted concerning the experiences of seafarers facing criminal charges. These findings were brought to the attention of the Committee because of their relevance to the Guidelines on fair treatment of seafarers in the event of a maritime accident, to the IMO resolution promoting the Guidelines, as well as to the submission of ILO.

(v) *Piracy*

The Committee noted the information provided by the IMO Secretariat reporting on the ninth and tenth sessions of Working Group 2 of the Contract Group on Piracy off the Coast of Somalia, held in the Seychelles in October 2011 and in Copenhagen in March 2012, respectively, and that a special meeting of the Working Group would take place on 24 April 2012 at IMO headquarters to discuss legal questions with regard to guidelines to Private Maritime Security Companies (PMSCs) providing armed guards (PCASP).

The Committee also noted the information provided by the IMO Secretariat about a possible study by the Secretariat on the preparation of a database of court decisions related to piracy off the coast of Somalia, and that the United Nations Interregional Crime and Justice Research Institute (UNICRI) already maintained such a database. Member Governments were therefore invited to submit relevant information either directly to UNICRI or to IMO, for forwarding to UNICRI. The Committee expressed general support for the database. The Committee requested the IMO Secretariat to contact UNICRI regarding some suggestions made by the Committee and report back to the Committee at its 100th session.

(vi) *Technical co-operation activities related to maritime legislation*

The Committee was informed that the Technical Co-operation Division (TCD) was in the process of implementing the Integrated Technical Cooperation Programme (ITCP) for 2012-2013. More activities had been planned to assist member States in drafting, updating and bringing into force primary and secondary maritime legislation in matters related to implementation of IMO instruments. Regional and national training courses on drafting of maritime legislation in selected countries, including Least Developed Countries (LDCs) and Small Island Developing States (SIDS), were also planned to be carried out during the 2012-2013 biennium. The Committee noted that in accordance with resolution 2 entitled "Promotion of technical co-operation and assistance", adopted by the 2010 International Conference on the Revision of the HNS Convention, ITCP for 2012-2013, included, as an

immediate objective, support to national authorities in the development of appropriate legislation for the ratification of the 2010 HNS Protocol.

(vii) *Review of the status of conventions and other treaty instruments emanating from the Legal Committee*

In order to facilitate the entry into force of the 2002 Athens Protocol, as well as to ensure uniform application of the rules for liabilities and insurance between States parties, the Committee encouraged administrations, to give serious consideration, at the time of ratification, to making a reservation or a declaration concerning limitation of liability for carriers and limitation for compulsory insurance for terrorist risks, taking into account the current state of the insurance market, as recommended in the Guidelines on the implementation of the 2002 Athens Protocol, adopted at the ninety-second session of the Legal Committee.<sup>831</sup>

**Collation and preservation of evidence following an allegation of a serious crime having taken place on board a ship or following a report of a missing person from a ship, and pastoral and medical care of victims**

The Committee considered a proposal to be included in its agenda on collation and preservation of evidence following an allegation of a serious crime having taken place on board a ship or following a report of a missing person from a ship, and pastoral and medical care of victims.

The Committee recalled that the IMO Assembly, at its twenty-seventh session, had adopted resolution A.1058(27) entitled “Collation and preservation of evidence following an allegation of a serious crime having taken place on board a ship or following a report of a missing person from a ship, and pastoral and medical care of victims”. The resolution invited member States and other parties concerned to submit proposals to the Legal Committee to enable consideration of the issues raised in the resolution, bearing in mind that issues of criminal jurisdiction should be consistent with international law.

The Committee agreed to include this item on its agenda, with a target completion date of 2014, noting that work could continue beyond that date, if necessary.

(viii) *Other matters*

**Analysis of liability and compensation issues connected with transboundary pollution damage from offshore exploration and exploitation activities, including a re-examination of the proposed revision of Strategic Direction 7.2**

At the IMO Council’s request, the Committee revisited the issue of liability and compensation connected with transboundary pollution damage from offshore oil exploration and exploitation activities. It recognized that bilateral and regional arrangements are the most appropriate way to address the matter and agreed that there was no compelling need to develop an international regime on the subject.

<sup>831</sup> IMO, circular letter No.2758 of 20 November 2006, annex.

The Committee agreed, accordingly, to inform the Council that it wished to further analyse the liability and compensation issues, with the aim of developing guidance to assist States interested in pursuing bilateral or regional arrangements, without, however, revising the Organization's strategic plan.

**(c) Adoption of new instruments and of amendments  
to conventions and protocols**

*(i) Conventions and protocols*

**Cape Town Agreement of 2012 on the Implementation of the Provisions of the  
1993 Protocol relating to the Torremolinos International Convention for  
the Safety of Fishing Vessels, 1977<sup>832</sup>**

The International Conference on the Safety of Fishing Vessels, held in Cape Town, South Africa, from 9 to 11 October 2012, adopted the Cape Town Agreement of 2012 on the Implementation of the Provisions of the 1993 Protocol relating to the Torremolinos International Convention for the Safety of Fishing Vessels, 1977. The Agreement would be open for signature at IMO headquarters from 11 February 2013 to 10 February 2014 and would thereafter remain open for accession; it would enter into force 12 months after the date on which not less than 22 States, the aggregate number of whose fishing vessels of 24 meters in length and over operating on the high seas is not less than 3,600, had expressed their consent to be bound by it.

*(ii) Amendments to conventions and protocols*

**a. 2012 amendments to the International Code for the Construction and Equipment  
of Ships Carrying Dangerous Chemicals in Bulk (IBC Code)<sup>833</sup>**

These amendments were adopted by the Marine Environment Protection Committee on 5 October 2012, by resolution MEPC.225(64). At the time of their adoption, the Committee determined that the amendments would be deemed to have been accepted on 1 December 2013, and would enter into force on 1 June 2014 unless, prior to the former date, more than one third of the Contracting Governments to the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL) and the MARPOL Protocol, 1978, or Contracting Governments, the combined merchant fleets of which constituted not less than 50 per cent of the gross tonnage of the world's merchant fleet, had notified their objections to the amendments. As at 31 December 2012, no such notification of objection had been received.

<sup>832</sup> *Ibid.*, document SFV-P.CIBF,1/16.

<sup>833</sup> Available from <http://www.imo.org>.

**b. 2012 amendments (Regional arrangements for port reception facilities under MARPOL annexes I, II, IV and V) to the annex of the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973<sup>834</sup>**

These amendments were adopted by the Marine Environment Protection Committee on 2 March 2012, by resolution MEPC.216(63). At the time of their adoption, the Committee determined that the amendments would be deemed to have been accepted on 1 February 2013 and would enter into force on 1 August 2013 unless, prior to the former date, not less than one third of the Parties to MARPOL, 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, had notified their objections to the amendments. As at 31 December 2012, no such notification of objection had been received.

**c. 2012 amendments (Regional arrangements for port reception facilities under MARPOL annex VI and Certification of marine diesel engines fitted with Selective Catalytic Reduction systems under the NOx Technical Code 2008) to the annex of the Protocol of 1997 to amend the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto<sup>835</sup>**

These amendments were adopted by the Marine Environment Protection Committee on 2 March 2012, by resolution MEPC.217(63). At the time of their adoption, the Committee determined that the amendments would be deemed to have been accepted on 1 February 2013 and would enter into force on 1 August 2013 unless, prior to the former date, not less than one third of the Parties to MARPOL, 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, had notified their objections to the amendments. As at 31 December 2012, no such notification of objection had been received.

**d. 2012 amendments to the Protocol of 1996 to amend the Convention on Limitation of Liability for Maritime Claims, 1976<sup>836</sup> (amendments to the limitation amounts set out in article 3 of the LLMC Protocol)**

These amendments were adopted by the Legal Committee on 19 April 2012, by resolution LEG.5(99) and a note verbale of notification was issued on 8 June 2012. At the time of their adoption, the Committee determined that the amendments would be deemed to have been accepted at the end of a period of 18 months after the date of notification (i.e., 8 December 2013) unless, within that period, not less than one fourth of the States that were Contracting States on the date of the adoption of the amendments, had communicated to the Secretary-General that they did not accept them. As at 31 December 2012, no such notification of objection had been received. The Legal Committee further determined, in accordance with article 8(8) of the 1996 LLMC Protocol, that these amendments, deemed so to have been accepted, would enter into force 18 months after their acceptance (i.e. 8 June 2015).

<sup>834</sup> United Nations, *Treaty Series*, vol. 1340, p. 61.

<sup>835</sup> *Ibid.*, vol. 1340, p. 62.

<sup>836</sup> *United Nations Juridical Yearbook 1996* (United Nations Publication, Sales No. 01.V.10), p. 357.



**e. 2012 (chapter II-1) amendments to the International Convention for the Safety of Life at Sea (SOLAS), 1974, as amended<sup>837</sup>**

These amendments were adopted by the Maritime Safety Committee on 25 May 2012, by resolution MSC.325(90). At the time of their adoption, the Committee determined that the amendments would be deemed to have been accepted on 1 July 2013, and would enter into force on 1 January 2014 unless, prior to the former date, more than one third of the Contracting Governments to SOLAS 1974, or Contracting Governments, the combined merchant fleets of which constitute not less than 50 per cent of the gross tonnage of the world's merchant fleet, had notified their objections to the amendments. As at 31 December 2012, no such notification of objection had been received.

**f. 2012 amendments to the International Code of Safety for High-Speed Craft, 2000 (2000 HSC Code)**

These amendments were adopted by the Maritime Safety Committee on 25 May 2012, by resolution MSC.326(90). At the time of their adoption, the Committee determined that the amendments would be deemed to have been accepted on 1 July 2013, and would enter into force on 1 January 2014 unless, prior to the former date, more than one third of the Contracting Governments to SOLAS 1974, or Contracting Governments, the combined merchant fleets of which constituted not less than 50 per cent of the gross tonnage of the world's merchant fleet, had notified their objections to the amendments. As at 31 December 2012, no such notification of objection had been received.

**g. 2012 amendments to the International Code for Fire Safety Systems (FSS Code)**

These amendments were adopted by the Maritime Safety Committee on 25 May 2012, by resolution MSC.327(90). At the time of their adoption, the Committee determined that the amendments would be deemed to have been accepted on 1 July 2013, and would enter into force on 1 January 2014 unless, prior to the former date, more than one third of the Contracting Governments to SOLAS 1974, or Contracting Governments, the combined merchant fleets of which constituted not less than 50 per cent of the gross tonnage of the world's merchant fleet, had notified their objections to the amendments. As at 31 December 2012, no such notification of objection had been received.

**h. 2012 amendments to the International Maritime Dangerous Goods (IMDG) Code**

These amendments were adopted by the Maritime Safety Committee on 25 May 2012, by resolution MSC.328(90). At the time of their adoption, the Committee determined that the amendments would be deemed to have been accepted on 1 July 2013, and would enter into force on 1 January 2014 unless, prior to the former date, more than one third of the Contracting Governments to SOLAS 1974, or Contracting Governments, the combined merchant fleets of which constituted not less than 50 per cent of the gross tonnage of the world's merchant fleet, had notified their objections to the amendments. As at 31 December 2012, no such notification of objection had been received.

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<sup>837</sup> United Nations, *Treaty Series*, vol. 1184, p. 2.

**i. 2012 amendments to the Protocol of 1988 relating to the International Convention on Load Lines, 1966, as amended<sup>838</sup>**

These amendments were adopted by the Maritime Safety Committee on 25 May 2012, by resolution MSC.329(90). At the time of their adoption, the Committee determined that the amendments would be deemed to have been accepted on 1 July 2013, and would enter into force on 1 January 2014 unless, prior to the former date, more than one third of the Parties to the 1988 Load Lines Protocol, or Parties, the combined merchant fleets of which constituted not less than 50 per cent of the gross tonnage of the world's merchant fleet, had notified their objections to the amendments. As at 31 December 2012, no such notification of objection had been received.

## **8. Universal Postal Union<sup>839</sup>**

The Universal Postal Union (UPU) and the International Telecommunication Union (ITU) concluded a service contract in February 2012 under which ITU made available the services of its ethics office.

In February 2012, the UPU signed a cooperation agreement with the Common Market for Eastern and Southern Africa (COMESA) aimed at developing the postal sector in those regions of Africa.

In June 2012, the UPU became a party to a revised version of the Inter-organization Agreement concerning the Transfer, Secondment or Loan of Staff among United Nations Common System Organizations.

In October 2012, the UPU concluded a memorandum of understanding with Union Network International aimed at promoting social dialogue and ensuring sustainable development of postal services.

The 25th UPU Congress held in Doha, Qatar, from 24 September to 15 October 2012, adopted the next world postal strategy, with the following four main objectives: improving the interoperability of the international postal networks; providing technical knowledge and expertise related to the postal sector; promoting innovative products and services, and fostering the sustainable development of the postal sector.<sup>840</sup>

UPU member countries meeting in Doha also decided to apply to the General Assembly of the United Nations for the authority to request advisory opinions from the International Court of Justice.

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<sup>838</sup> Maritime Safety Committee, MSC.77/26/Add.1.

<sup>839</sup> For official documents and more information on the Universal Postal Union, see <http://www.upu.int>.

<sup>840</sup> UPU, document 16 of the 25th UPU Congress.

### Treaties concluded under the auspices of the UPU

At the 25th Universal Postal Congress, certain changes were made to the UPU Acts (General Regulations,<sup>841</sup> Universal Postal Convention, 1964<sup>842</sup> and Postal Payment Services Agreement<sup>843</sup>). The new Acts will come into force on 1 January 2014.

#### (i) *UPU General Regulations*

The UPU General Regulations underwent a recast designed to improve the quality of the texts:

- A new article was added to the General Regulations concerning observer status in the UPU bodies.
- A new legal framework for subsidiary bodies was established, with new provisions defining the manner of their creation, the elements constituting their reference framework, and their organization.
- The obligation for the UPU International Bureau to ensure the confidentiality and security of commercial data provided by member countries and/or their designated operators was also added to the General Regulations.
- The article of the General Regulations concerning the procedure for arbitration between UPU member countries was amended to enable any member country to delegate to its designated operator the power to initiate an arbitration procedure. This arbitration procedure applies only if these disputes relate to interpretation of the Acts and concern questions of an operational or technical nature.

#### (ii) *UPU Convention*

There were also a few changes to the Convention:

- A definition of the term “postal data” was added, as was a new article on handling of personal data by member countries and designated operators.
- The provisions relating to mail items for the blind were strengthened.
- The provisions of the Convention relating to postal security were supplemented in order to respond to security issues in the postal logistics chain. Security measures applied in the international postal transport chain should be commensurate with the risks or threats that they sought to address, and should be implemented without hampering worldwide mail flows or trade by taking into consideration the specificities of the mail network. In addition, security measures that had a potential global impact on postal operations should be implemented in an internationally coordinated and balanced way, with the involvement of the relevant stakeholders.
- A classification of letter-post items based on their formats was added.
- The merchandise return service was added to the list of supplementary services.

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<sup>841</sup> Adopted on 5 October 2004 in Bucharest.

<sup>842</sup> United Nations, *Treaty Series*, vol. 611, p. 105.

<sup>843</sup> Adopted on 12 August 2008 in Geneva.

- A new article on electronic postal services was created.
- The provisions relating to terminal dues were amended.

(iii) *Postal Payment Services Agreement*

The Postal Payment Services Agreement was also amended:

- Two new postal payment services were added: the cash-on-delivery money order and the urgent money order.
- The provisions of the Postal Payment Services Agreement relating to confidentiality and use of personal data protection were supplemented, in line with the new Convention article on the same subject.

## 9. World Meteorological Organization<sup>844</sup>

### (a) Membership

On 31 December 2012, the World Meteorological Organization (WMO) had a membership of 185 member States and six Territories. South Sudan and Tuvalu became members of WMO in 2012.

### (b) Agreements and other arrangements concluded in 2012

#### (i) *Agreements with States*

##### Canada

Contribution arrangement between the Department of the Environment of Canada and the WMO for the Haiti Weather Systems Program – Climate Services to Reduce Vulnerability in Haiti, signed on 16 October and 2 November 2012.

##### Kenya

Agreement between the Government of Kenya and the WMO concerning the reconfirmation of the training facilities of the Institute for Meteorological Training and Research (IMTR) and the University of Nairobi as a WMO Regional Training Centre, signed on 22 October and 14 November 2012.

##### Switzerland

Agreement between the Swiss Agency for Development and Cooperation and the WMO on the co-operation in the implementation of a project CLIMANDES, signed on 16 August and 21 October 2012.

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<sup>844</sup> For official documents and more information on the World Meteorological Organization, see <http://www.wmo.int>.

### United Kingdom

Memorandum of Understanding between WMO and the United Kingdom Meteorological Office regarding the Establishment of Fellowships for Training of Experts from Selected WMO Members Studying Masters degree in Meteorology, signed on 13 and 23 March 2012.

#### (ii) *Agreements with the United Nations*

##### **United Nations Office for Disaster Risk Reduction (UNISDR)**

Memorandum of Understanding between UNISDR and WMO concerning the project entitled “Building Resilience to Disasters in Western Balkans and Turkey”, signed on 17 and 23 February 2012.

#### (iii) *Agreements with other intergovernmental organizations*

##### **Volta Basin Authority (VBA)**

Memorandum of Understanding concluded between the VBA and the WMO with the purpose to provide a general framework of cooperation and understanding between WMO and the VBA, signed on 27 September and 1 October 2012. The Memorandum of Understanding aims to facilitate collaboration between WMO and VBA to further assist the riparian countries of the Volta basin in their efforts to achieve sustainable water resources development and management.

Agreement between the VBA and WMO which sets forth the terms and conditions under which WMO and VBA cooperate in order to enable each of them to fulfil their respective roles and responsibilities of Executing and Supervising Agency with respect to the Volta-Hycos project.

##### **Cooperation Council for the Arab States of the Gulf**

Memorandum of Understanding between the WMO and the Secretariat of the Cooperation Council for the Arab States of the Gulf, signed on 26 March 2012. The parties to this Memorandum of Understanding agreed within the framework of their respective mandates and activities, to agree to design and implement joint cooperation projects; to exchange information on matters of joint interest; each Party may invite the other to attend any conferences, seminars and meetings which it may hold on matters of joint interest.

#### (iv) *Agreements with non-governmental organizations*

##### **World Farmers' Organisation (WFO)**

Memorandum of Understanding between the WMO and the WFO regarding the exchange of information, representation and consultation, cooperation and the exchange of publications, signed on 19 and 20 December 2012.

### **World Federation of Engineering Organizations (WFEO)**

Memorandum of understanding between the WMO and the WFEO in the area of technical collaboration to define and meet the needs of engineers and engineering for civil infrastructure for present and future climate information, signed on 18 October and 20 November 2012.

### **Association of Private Meteorological Services (PRIMET)**

Memorandum of Understanding between the WMO and the PRIMET providing PRIMET with a consultative status at WMO in accordance with the terms included in the MoU, signed on 23 September and 1 October 2012.

### **L'Assemblée des Fonctionnaires Francophones des Organisations Internationales**

Accord de Coopération entre L'Assemblée des Fonctionnaires Francophones des Organisations Internationales et l'OMM, signed on 8 August 2012.

### **EWHA Womans University**

Memorandum of Understanding between EWHA Womans University, Republic of Korea, and the WMO regarding the EWU-WMO Fellowships Education Programme, signed on 24 May 2012.

### **Leibniz Universität Hannover, Faculty of Civil Engineering and Geodetic Science (LUH)**

Memorandum of understanding between WMO and LUH, Germany regarding the establishment of Fellowships for Training of Experts from selected WMO Members studying International Masters Programme in Water Resources and Environmental Management, signed on 20 March and 5 April 2012.

### **Nanjing University of Information Science and Technology (NUIST)**

Memorandum of Understanding between WMO and NUIST, China regarding NUIST-WMO Fellowships Education Programme, signed on 22 December 2011 and 15 January 2012.

## **10. World Intellectual Property Organization<sup>845</sup>**

The World Intellectual Property Organization (WIPO) has nine strategic goals, which provide the framework for its current strategic plan: (1) maintaining a balanced evolution of the international normative framework for intellectual property (IP); (2) providing premier global IP services; (3) facilitating the use of IP for development; (4) coordinating and developing the global IP infrastructure; (5) becoming a world reference source for IP information and analysis; (6) fostering international cooperation on building respect for

<sup>845</sup> For official documents and more information on the World Intellectual Property Organization, see <http://www.wipo.int>.

IP; (7) addressing IP in relation to global policy issues; (8) creating a responsive communications interface between WIPO, its member States and all stakeholders; and (9) making an efficient administrative and financial support structure to enable WIPO to deliver its programs.<sup>846</sup>

Acting within those goals, in 2012 WIPO took legal actions that fell into the following four areas of focus: (a) service, by administering systems to facilitate obtaining protection internationally for patents, trademarks, designs and appellations of origin as well as systems of dispute resolution; (b) law, by helping develop the international legal IP framework in line with society's evolving needs; (c) infrastructure, by building collaborative networks, platforms and tools to share knowledge and simplify IP transactions; and (d) development, by building capacity in the use of IP to support economic, social and cultural development. The summary below will discuss what actions WIPO took to help advance international IP law and policy in these areas.

### **(a) Service: Facilitating international IP protection**

WIPO continued to provide services, based on international agreements, which enabled users in member States to enjoy international protection of their IP within centralized frameworks for patents, trademarks, industrial designs, and appellations of origin.

#### **(i) *Patent Cooperation Treaty (PCT)***<sup>847</sup>

According to 2012 annualized provisional data, 191,850 PCT applications were filed. This represented a continued growth in applications since the last yearly decline in filings in 2009.<sup>848</sup> On 9 October, at the close of its forty-third session, the PCT Union amended its regulations regarding necessary elements of PCT patent applications.<sup>849</sup>

#### **(ii) *Madrid System for Trademarks***

During 2012, there were 41,954 trademarks registered under the Madrid System. The International Bureau of WIPO received 44,018 international applications, which was a record in the history of WIPO. Similar to the PCT, this showed the continued growth since 2009.

#### **(iii) *Hague System for Industrial Designs***

During 2012, there were 11,971 industrial designs registered. Unlike patents and trademarks, growth in the number of industrial designs registrations has continued since 2005.<sup>850</sup>

<sup>846</sup> WIPO, Midterm Strategic Plan for WIPO, 2010-2015, document A/48/3.

<sup>847</sup> United Nations, *Treaty Series*, vol. 1160, p. 231.

<sup>848</sup> WIPO, *The International Patent System: Monthly Statistics Report* (February 2013).

<sup>849</sup> For the text of the amendments, see PCT Notification No. 202.

<sup>850</sup> WIPO, *The International Patent System: Monthly Statistics Report* (February 2013).



(iv) *Lisbon System for Appellations of Origin*

Fewer appellations of origin were recorded compared to the other international forms of IP. In 2012, there were six new appellations of origin registered.

(v) *WIPO Arbitration and Mediation Center*

Continued growth was seen in the use of the Uniform Domain Name Dispute Resolution Policy (UDRP), the basis for most alternative dispute resolution (ADR) regarding trademark infringement in domain names. In 2012, 2,884 cases were filed with the WIPO Arbitration and Mediation Center (“Center”) under procedures based on the UDRP compared to 2,764 in 2011.

The Center also served as focal point for dispute resolution for new generic top level domains (gTLDs) as the Internet Corporation for Assigned Names and Numbers (ICANN) began the application process for new gTLDs in 2012. The new gTLD applications included the first-ever applications from the African and Latin American and the Caribbean regions. In addition, the Center became the exclusive provider for “pre-delegation” legal rights objections to new gTLDs where the objection to the applied-for character string is based on a trademark.

The Center actively monitored the development by ICANN of further rights protection mechanisms for new gTLDs. Notably, WIPO continued to provide input for the deliberations of ICANN on preventive protection for domains and domain names corresponding to the names and acronyms of international intergovernmental organizations (IGOs) in new gTLDs.

The Center was instrumental in promoting the use of ADR for other IP disputes. In 2012, the Center held its annual arbitration workshop in Singapore, which marked the first time this event took place outside the Swiss headquarters of WIPO. The Center expanded cooperation with national IP offices in the application of ADR to IP disputes before such offices.

**(b) Law: Developing the international IP framework**

As the central organization for international IP law, WIPO continued to administer several treaties. In 2012, 33 new instruments of ratification, accession, or extension were received.

(i) *New treaties to be administered by WIPO*

WIPO convened a diplomatic conference in Beijing, China, from 20 to 26 June 2012, which resulted in the adoption of the Beijing Treaty on Audiovisual Performances, 2012.<sup>851</sup> Forty-eight States signed the Treaty at the conclusion of the diplomatic conference.<sup>852</sup> Before the end of the year, seven more states signed. The Beijing Treaty endeavors to pro-

<sup>851</sup> For the text of the treaty, see chapter IV.B of this publication. .

<sup>852</sup> Memorandum by the Secretariat: Signature of the Beijing Treaty on Audiovisual Performances, document AVP/DC/22.

tect the rights of performers to the exploitation of their work when fixed in audiovisual form.

(ii) *Treaty denunciations and termination notices*

a. **Morocco and Spain**

Both Morocco and Spain notified their acceptance of the termination of the London Act of the Hague Agreement Concerning the International Registration of Industrial Designs, 1934.<sup>853</sup> The London Act was recommended for termination to promote uniformity in international law concerning industrial designs.<sup>854</sup> The London Act would continue in force until all parties had denounced or notified their acceptance of termination of the Act. The London Act had been, however, declared frozen in application.<sup>855</sup> At the time of this publication, active treaties for industrial designs were the Geneva Act, 1999, and the Hague Act, 1960, of the Hague Agreement.

b. **Syrian Arab Republic**

The Syrian Arab Republic notified its denunciation of the Madrid Agreement Concerning the International Registration of Marks, which would take effect on 29 June 2013. The Syrian Arab Republic remained a party to the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, 1989.<sup>856</sup>

(iii) *Standing Committee on the Law of Patents (SCP)*

The eighteenth session of the SCP was held from 21 to 25 May 2012. The SCP discussed the current legal and global developments in exceptions and limitations to patent rights, the quality of patents (including opposition systems), confidentiality of communications between clients and their patent advisors, patents and health, the transfer of technology, and the contribution of the SCP to the Development Agenda.<sup>857</sup>

(iv) *Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT)*

The twenty-seventh session of the SCT was held from 18 to 21 September 2012. In the context of industrial designs, the SCT made progress on an international instrument on design law. In the context of trademarks, the SCT discussed trademarks and the Internet,

<sup>853</sup> League of Nations, *Treaty Series*, vol. 205, p. 179.

<sup>854</sup> See document entitled "Proposal to freeze the application of the 1934 Act", adopted by the Extraordinary Meeting of Contracting States to the London (1934) Act of the Hague Agreement Concerning the International Registration of Industrial Designs, H/EXTR/09/1.

<sup>855</sup> See document entitled "Freezing of the application of the London (1934) Act of the Hague Agreement", adopted by the Contracting States to the London Act on 25 September 2009, H/A/28/3.

<sup>856</sup> United Nations, *Treaty Series*, vol. 828, p. 389.

<sup>857</sup> WIPO, summary of the Chair of the eighteenth session of the Standing Committee on the Law of Patents (21 to 25 May 2012), document SCP/18/11.

particularly as it relates to ICANN and the expansion of the domain name system, as well as International Nonproprietary Names for Pharmaceutical Substances. The SCT also requested a study on national laws regarding the use of the names of States as trademarks or as elements thereof.<sup>858</sup>

The twenty-eighth session of the SCT was held from 10 to 14 December 2012. This session was devoted exclusively to industrial designs. The SCT progressed further towards a “Design Law Treaty”. The progress included a request to the Secretariat of WIPO for a description of the relationship between the Hague System for the International Registration of Industrial Designs and the draft design law treaty.<sup>859</sup>

(v) *Standing Committee on the Law of Copyright and Related Rights (SCCR)*

The twenty-fourth session of the SCCR was held from 16 to 25 July 2012. The SCCR worked on draft international legal instruments on copyright limitations and exceptions for educational and research institutions and persons with other disabilities, libraries and archives, and visually impaired persons and other individuals with print disabilities and/or other disabilities. The SCCR also adopted a working document for a treaty for the protection of broadcasting organizations.<sup>860</sup>

The twenty-fifth session of the SCCR was held from 19 to 23 November 2012. Further discussion occurred in the SCCR on limitations and exceptions for visually impaired persons and other individuals with print disabilities, educational and research institutions as well as libraries and archives. Due to continued progress on the working document for a treaty for the protection of broadcasting organizations, the SCCR agreed to hold an intersessional meeting in 2013 to decide on whether to convene a diplomatic conference in 2014. The SCCR recommended that the General Assembly of WIPO convene a diplomatic conference on an international instrument/treaty on limitations and exceptions for visually impaired persons/persons with print disabilities as adopted by the SCCR.<sup>861</sup> The General Assembly of WIPO, meeting in extraordinary session in December 2012, agreed to convene the Diplomatic Conference to conclude a Treaty to facilitate Access to Published Works by Visually Impaired Persons and Persons with Print Disabilities, in Morocco from 17 to 28 June 2013.

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<sup>858</sup> *Ibid.*, report of the twenty-seventh session of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (18 to 21 September 2012), document SCT/27/11.

<sup>859</sup> *Ibid.*, report of the twenty-eighth session of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (10 to 14 December 2012), document SCT/28/7.

<sup>860</sup> *Ibid.*, draft report of the twenty-fourth session of the Standing Committee on the Law of Copyright and Related Rights (16 to 25 July 2012), document SCCR/24/12 Prov.

<sup>861</sup> *Ibid.*, conclusions of twenty-fifth session of the Standing Committee on Copyright and Related Rights. See also, “Draft text of an international instrument/treaty on limitations and exceptions for visually impaired persons/persons with print disabilities”, document SCCR/25/2.

(vi) *Intergovernmental Committee on Intellectual Property and Genetic Resources (GRs), Traditional Knowledge (TK) and Folklore (TCEs) (the IGC)*

In 2011, the WIPO General Assembly renewed the mandate of the IGC for two years and requested that it expedite its text-based negotiations with the objective of reaching agreement on a text(s) of an international legal instrument(s) that would ensure the effective protection of GRs, TK and TCEs. Three meetings of the IGC were held in 2012, each devoted to one subject of its mandate. At its twentieth session, from 14 to 22 February 2012, the IGC addressed GRs and developed a work-in-progress consolidated document on intellectual property and GRs.<sup>862</sup> At its twenty-first and twenty-second sessions, from 16 to 20 April and from 9 to 13 July 2012, the IGC met regarding TK and TCEs, respectively, and transmitted two sets of draft articles on each subject matter for consideration by the General Assembly of WIPO.<sup>863</sup>

(vii) *Working Group on the Development of the Lisbon System*

During its fifth and sixth sessions, held in 2012, the Working Group continued its discussion of the further development of the Lisbon System and the contemplated the establishment of an international registration system for geographical indications and appellations of origin. Under its two-fold mandate, the Working Group worked towards: (1) a revision of the Lisbon Agreement that would involve the refinement of its current legal framework and the inclusion of the possibility of accession by intergovernmental organizations, while preserving the principles and objectives of the agreement; and (2) the establishment of an international registration system for geographical indications.

(c) **Infrastructure: Sharing knowledge and simplifying IP transactions**

(i) *Cooperation between WIPO and other IP organizations*

In 2012, WIPO and the European Patent Office (EPO) signed the first technical assistance agreement between the organizations. The goal of the agreement was to facilitate use of the PCT system and increase its use by patent applicants. The agreement also aimed at enhancing the quality and efficiency of the patent granting process, including patent classification and searching, and improving access to patent information. This agreement was of significance to WIPO since the EPO currently is the largest International Searching Authority, performing the function for about 40 per cent of PCT patent applications.

(ii) *Medicines Patent Pool*

On 27 June 2012, WIPO hosted a Global Challenges Seminar on Licensing and Prices: New Approaches in the Pharmaceutical Sector. The Seminar was devoted to the use of the Medicines Patent Pool to expand access to HIV anti-retroviral medications to developing and least developed countries (LDCs). Members of the international community as well

<sup>862</sup> *Ibid.*, Decisions of the twentieth session of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore.

<sup>863</sup> *Ibid.*, see document WO/GA/41/15.

as stakeholders on both the innovation and generic side of the pharmaceutical industry attended and presented at this Seminar.

(iii) *Use of the Re:Search medical database*

In October 2011, WIPO launched WIPO Re:Search, a new public database of IP that gave researchers royalty-free access to proprietary information for researching treatments for neglected tropical diseases, malaria, and tuberculosis, and royalty-free sales to LDCs of any medicines made from this research for neglected tropical diseases. The first ever agreements made using the Re:Search database were announced in August 2012 and included research on treatments for Chagas disease, sleeping sickness, schistosomiasis (snail fever) and tuberculosis.

(iv) *Copyright tools and services*

WIPO continued to be actively involved in developing tools and services within the copyright field. For example, WIPO developed copyright data management systems, which allow rights holders and Governments to keep track of copyrighted works which are created and/or exploited. Two such software systems were the WIPO Collective Management System (WIPOCOS) and Gestión de Derecho de Autor (GDA).<sup>864</sup> WIPO also played a key role in the Trusted Intermediary Global Accessible Resources (TIGAR) Project which was designed to ensure greater practical access to copyrighted material for visually impaired persons. The transition from pilot project to long term viability was discussed in Singapore on 6 and 7 November 2012.

**(d) Development: Using IP to support economic development**

*Committee on Development and Intellectual Property (CDIP)*

At the ninth session of the CDIP from 7 to 11 May 2012, the CDIP discussed, *inter alia*, access to specialized databases, “start-up” of national IP academies, flexibilities in IP law, and the relation of IP law to competition law and policy.<sup>865</sup> It also adopted a proposal to use IP to Strengthen and Develop the Audiovisual Sector in Burkina Faso and Certain African Countries.<sup>866</sup>

At the tenth session of the CDIP from 12 to 16 November 2012, the CDIP discussed, *inter alia*, the contribution of WIPO to the United Nations Millennium Development Goals, an external review of technical assistance provided by WIPO, and continued dis-

<sup>864</sup> *Ibid.*, Progress reports of the tenth session of the Committee on Development and Intellectual Property (12 to 16 November 2012), documents CDIP/10/2.

<sup>865</sup> *Ibid.*, Summary by the Chair of the ninth session of the Committee on Development and Intellectual Property (7 to 11 May 2012).

<sup>866</sup> *Ibid.*, Draft report of the ninth session of the Committee on Development and Intellectual Property (7 to 11 May 2012), document CDIP/9/17 Prov.

cussions on flexibilities in the IP system. The CDIP also approved phase II of a project to Develop Tools for Access to Patent Information.<sup>867</sup>

## 11. International Fund for Agricultural Development<sup>868</sup>

### (a) Membership

At its 35th session (22-23 February 2012), the Governing Council approved the non-original membership in the International Fund for Agricultural Development (IFAD) of Estonia and South Sudan.<sup>869</sup>

### (b) Partnership agreements and memoranda of understanding

#### *Partnership agreement between IFAD and Agence Française de Développement*

Further to a cooperation agreement signed on 17 November 2006, IFAD and Agence Française de Développement entered, on 3 October 2012, into a new partnership agreement in order to develop an enhanced partnership between the parties, with the principal objective of carrying out joint operations, and to set forth an overall framework as well as procedures for implementation and monitoring. The Executive Board of IFAD was informed about this agreement at its 107th session (12-13 December 2012).<sup>870</sup>

### (c) Legal developments and other

#### (i) *Revisions to the Financial Regulations of IFAD*

At its 35th session, the Governing Council considered document GC 35/L.7 and adopted, on 22 February 2012, resolution 168/XXXV approving the revision of the Financial Regulations of IFAD.

#### (ii) *IFAD Policy on Gender Equality and Women's Empowerment*

At its 105th session, the Executive Board approved the IFAD Policy on Gender Equality and Women's Empowerment.<sup>871</sup> The goal of the policy was to deepen the impact and strengthen the sustainability of IFAD supported initiatives, with a purpose of increasing IFAD impact on gender equality and strengthening women's empowerment in poor rural areas.

<sup>867</sup> *Ibid.*, summary by the Chair of the tenth session of the Committee on Development and Intellectual Property (12 to 16 November 2012).

<sup>868</sup> For official documents and more information on the International Fund for Agricultural Development, see <http://www.ifad.org>.

<sup>869</sup> IFAD, resolutions 164/XXXV and 165/XXXB, respectively.

<sup>870</sup> *Ibid.*, document EB 2012/107/INF.6.

<sup>871</sup> *Ibid.*, document EB 2012/105/R.2/Rev.1.

(iii) *Establishment of a Trust Fund for the Adaptation for Smallholder Agricultural Programme*

The Executive Board approved, at its 105th session, the resolution on the establishment of a Trust Fund for the IFAD Adaptation for Smallholder Agriculture Programme.<sup>872</sup> The resources of the Trust Fund would be administered by IFAD and would be used exclusively for the purpose of financing, in the form of grants, components of the IFAD-financed core portfolio of projects and programmes to increase the resilience of small farmers to climate change.

(iv) *Revision of the lapse-of-time procedure for approval of IFAD-funded projects and programmes*

The application of the lapse-of-time procedure was approved by the Executive Board at its 98th session (December 2009) to streamline the approval process of projects and programmes and enable the Board to devote more time to strategic policies and oversight responsibilities during its sessions.<sup>873</sup> The procedure was governed by rule 24 of the Rules of Procedure of the Executive Board. Under this procedure, eligible proposals were not placed on the agenda of the Executive Board session but rather posted on IFAD website and communicated to Board members for approval on a lapse-of-time basis. Proposals were deemed to be approved by the Executive Board if no request for consideration at a Board session was received by a specified deadline.

During the same 98th session, it was determined that, unless otherwise decided by the Board, rule 24 would not be applied when the amount of project or programme financing exceeded SDR 10 million (approximately US\$15 million), and that IFAD Management would have the right, irrespective of the amount of financing proposed, to decide to present a project to the Board for formal discussion.

During its 106th session, the Executive Board approved the following increase in the lapse-of-time procedure ceiling:

“Unless otherwise decided by the Executive Board, it is understood that rule 24 of the Rules of Procedure of the Executive Board shall be applied for projects and programmes financing not exceeding SDR 17 million (approximately US\$25 million). However, IFAD Management reserves the right, as it deems necessary, to present a project or programme to the Board for discussion irrespective of the amount of its financing.”<sup>874</sup>

(v) *Establishment of the Reimbursable Technical Assistance (RTA) Programme*

At its 106th session, the Executive Board approved the instrument establishing the Reimbursable Technical Assistance (RTA) Programme.<sup>875</sup> Technical assistance under the RTA consisted of technical and policy advice to be provided by the Fund to developing

<sup>872</sup> *Ibid.*, EB 2012/105/R.45, annex.

<sup>873</sup> *Ibid.*, EB 2009/98/R.15/Rev.1.

<sup>874</sup> *Ibid.*, EB 2012/106/R.9.

<sup>875</sup> *Ibid.*, EB 2012/106/R.28/Rev.1.



member States on a reimbursable basis, upon demand by Governments, and according to IFAD capacity to deliver the services requested.

(vi) *Debt settlement agreement with Cuba*

The Executive Board, at its 106th session, approved the terms and conditions of the debt settlement agreement negotiated with Cuba and authorized the President of IFAD to sign the debt settlement agreement.<sup>876</sup>

(vii) *Rescheduling the debt of Sudan*

At its 106th session, the Executive Board approved a proposal for the rescheduling of the debt of Sudan.<sup>877</sup>

(viii) *Revision of IFAD Investment Policy Statement*

The Fund's Investment Policy Statement<sup>878</sup> was adopted by the Executive Board during its 103rd session (14-15 September 2011) in order to address the need to establish the basic directives for the investments of IFAD resources and with the aim of abiding, as far as possible and within the objective and functions set forth in the Agreement Establishing IFAD,<sup>879</sup> by the Principles of the United Nations Global Compact. At its 107th session, the Executive Board approved a series of changes to this policy.<sup>880</sup>

## 12. United Nations Industrial Development Organization<sup>881</sup>

### (a) Constitutional matters

On 13 December 2012, the Government of New Zealand deposited with the Secretary-General of the United Nations an instrument of denunciation of the Constitution of the United Nations Industrial Development Organization (UNIDO). In accordance with article 6(2) of the Constitution, the denunciation would take effect on the last day of the fiscal year following that during which such instrument was deposited, i.e., on 31 December 2013.

<sup>876</sup> *Ibid.*, EB 2012/106/R.36/Rev.1.

<sup>877</sup> *Ibid.*, EB 2012/106/R.37.

<sup>878</sup> *Ibid.*, EB 2011/104/R.43.

<sup>879</sup> United Nations, *Treaty Series*, vol. 1059, p. 191.

<sup>880</sup> IFAD., EB 2012/107/R.32.

<sup>881</sup> For official documents and more information on the United Nations Industrial Development Organization, see <http://www.unido.org>.

**(b) Agreements and other arrangements concluded in 2012<sup>882</sup>****(i) *Agreements with States*<sup>883</sup>****Armenia**

Trust fund agreement between UNIDO and the Innovation and Industrial Development Fund, Republic of Armenia, regarding the implementation of a project in Armenia entitled “Establishment of a Centre for International Industrial Cooperation (CIIC) in Armenia”, signed on 23 October and 5 November 2012.

**Bolivia and the United Nations**

Framework cooperation agreement between the United Nations system in Bolivia and the Plurinational State of Bolivia, signed on 16 January 2012.

**Cameroon and the European Union**

Amendment No.2 to the contribution agreement between UNIDO, the Government of the Republic of Cameroon and the European Union concluded on 16 and 23 April and 6 May 2008 regarding the implementation of a project in Cameroon entitled “Pilot programme in support for upgrading, standardization and quality in Cameroon”, signed on 18, 27 and 30 April 2012.

**Chad**

Trust fund agreement between UNIDO and the Republic of Chad regarding the implementation of a project in Chad entitled “Promoting renewable energy based mini-grid for rural electrification and productive uses”, signed on 19 July and 15 August 2012.

**China**

Letter of intent between UNIDO and the Foreign Economic Cooperation Office, Ministry of Environmental Protection, the People’s Republic of China (FECO/MEP), signed on 19 April 2012.

Exchange of letters between UNIDO and the China International Center for Economic and Technical Exchanges, Ministry of Commerce, the People’s Republic of China, amending the memorandum of understanding concluded on 28 November 2011, signed on 16 and 25 October 2012.

**Côte d’Ivoire and the United Nations Environment Programme (UNEP)**

Implementation agreement between UNIDO, UNEP and the Ministry of Environment and Sustainable Development of Côte d’Ivoire regarding the implementation of a project in Côte d’Ivoire entitled “Reducing mercury risks from artisanal and small scale gold mining (ASGM) in Côte d’Ivoire”, signed on 3, 19 and 26 October 2012.

<sup>882</sup> The list contains signed agreements or arrangements deposited with the Office of Legal Affairs of UNIDO for safekeeping. In 2012, UNIDO also concluded numerous agreements with other entities.

<sup>883</sup> Including Governments and regional governments or provinces.

### **Ecuador**

Letter of agreement between UNIDO and the Ministry of Electricity and Renewable Energy (MEER) regarding the implementation of a project in Ecuador entitled “Industrial energy efficiency in Ecuador”, signed on 15 and 29 October 2012.

### **Finland**

Exchange of letters constituting an agreement between UNIDO and the Ministry for Foreign Affairs of Finland on the utilization of the Finnish contribution to UNIDO in the year 2012, signed on 25 June and 3 July 2012.

### **France**

Trust fund agreement between UNIDO and the French Development Agency (AFD) regarding the implementation of a project in Mexico entitled “Demonstration project for disposal of unwanted ozone depleting substances (ODS) in Mexico”, signed on 18 June 2012.

Trust fund agreement between UNIDO and the French Development Agency (AFD) regarding the implementation of a project entitled “Filiere or equitable et reduction de l'utilisation du mercure dans l'orpaillage en Afrique de l'Ouest”, signed on 18 June 2012.

Agreement between UNIDO and the City of Marseille regarding the UNIDO Investment and Technology Promotion Office (ITPO) in Marseille, signed on 25 June and 23 July 2012.

Trust fund agreement between UNIDO and the French Development Agency (AFD) regarding the implementation of a project entitled “Green industry initiative”, signed on 30 November and 18 December 2012.

### **Germany**

Arrangement between UNIDO and the Government of the Federal Republic of Germany regarding the project entitled “Strengthening the local production of essential medicines in developing countries through advisory and capacity-building support (phase IV)”, signed on 21 November 2012.

### **Guinea**

Trust fund agreement between UNIDO and the Government of the Republic of Guinea regarding the implementation of a project entitled “Promouvoir le developpement de systemes de mini centrales hydro-électriques à usages multiples”, signed on 2 April 2012.

### **Israel**

Memorandum of understanding between UNIDO and Israel's Agency for International Development Cooperation, Ministry of Foreign Affairs (MASHAV), signed on 14 May 2012.

### Italy

Joint declaration between UNIDO Investment and Technology Promotion Office in Italy and the Ministry of Economic Development of the Republic of Italy regarding the action plan to foster the promotion of suitable technologies for sustainable development, signed on 31 October 2012.

### Mexico and the United Nations

Cooperation agreement between the United Nations system in Mexico and the Government of the State of Hidalgo of the United Mexican States regarding cooperation on human development and the millennium development goals, signed on 15 February 2012.

### Mozambique and the European Union

Contribution agreement between UNIDO, the Republic of Mozambique and the European Union regarding the implementation of a project in Mozambique entitled “COMPETIR com Qualidade – private sector and quality promotion programme for Mozambique”, signed on 15 and 26 June 2012.

### Nigeria

Memorandum of understanding between the United Nations Industrial Development Organization and the Lagos State Government (LASG), signed on 14 June 2012.

Aide memoire between UNIDO and the Nigerian Educational Research Development Council to support entrepreneurship curriculum development in senior secondary schools in Nigeria, signed on 18 and 24 July 2012.

Consultancy cooperation agreement between UNIDO and the Federal Ministry of Agriculture and Rural Development regarding the implementation of a project in Nigeria entitled “Master plan and feasibility assessment for staple crop processing zones in Nigeria”, signed on 18 December 2012.

### Norway

Administrative agreement for project funding between UNIDO and the Norwegian Agency for Development Cooperation (Norad) regarding the implementation of a project entitled “Strengthening the national quality infrastructure (NQI) for trade – phase I – preparatory assistance including national quality policy” signed on 2 and 9 November 2012.

Administrative agreement for project funding between UNIDO and the Norwegian Agency for Development Cooperation (Norad) regarding the implementation of a project in Namibia entitled “Trade capacity-building (TCB) for exports in Namibia” signed on 5 and 9 November 2012.

Administrative agreement for project funding between UNIDO and the Norwegian Agency for Development Cooperation (Norad) regarding the implementation of a project in Swaziland entitled “Market access and trade facilitation support for Swaziland, through conformity assessment infrastructure development” signed on 19 and 29 November 2012.

### Republic of Korea

Arrangement between UNIDO and the Ministry of Foreign Affairs and Trade of the Republic of Korea on a special-purpose contribution to the Industrial Development Fund, signed on 10 May 2012.

Trust fund agreement between UNIDO and the Korea International Cooperation Agency (KOICA) regarding the implementation of a project in the Kingdom of Cambodia entitled “Creating employment opportunities and ensuring effective e-waste management in Cambodia”, signed on 29 June 2012.

### Sweden

Agreement between UNIDO and Sweden regarding the implementation of a project entitled “A private public partnership project – training academy in heavy duty equipment and commercial vehicles in Ethiopia”, signed on 28 June and 10 July 2012.

Agreement between UNIDO and Sweden regarding the implementation of a project entitled “Learning and knowledge development facility: a SIDA-UNIDO industrial skills development resource”, signed on 26 June and 27 July 2012.

Amendment to the agreement between UNIDO and Sweden concluded on 10 and 14 December 2010 regarding the project entitled “Support the implementation of the regional Arab standardization strategy with focus on the regional coordination on accreditation”, signed on 5 and 7 December 2012.

### Switzerland

Letter of agreement between UNIDO and the State Secretariat for Economic Affairs (SECO) regarding the implementation of a project in Indonesia entitled “National resource efficient and cleaner production (RECP) programme Indonesia”, signed on 21 May 2012.

Letter of agreement between UNIDO and the State Secretariat for Economic Affairs (SECO) regarding the implementation of a project in Tunisia entitled “Reforcement du programme de production propre en Tunisie”, signed on 22 November and 3 December 2012.

Letter of agreement between UNIDO and the Swiss Confederation, represented by the Federal Department of Foreign Affairs, acting through the Swiss Agency for Development and Cooperation (SDC) regarding the implementation of a project entitled “Human security through inclusive social-economic development in Upper Egypt”, signed on 29 November and 3 December 2012.

Letter of agreement between UNIDO and the State Secretariat for Economic Affairs (SECO) regarding the implementation of a project in Ghana entitled “Improving sustainable value chains for exports from Ghana”, signed on 3 and 11 December 2012.

### United States

Program contribution agreement between UNIDO and the United States of America, acting through the United States Agency for International Development (USAID) regarding the implementation of a project in Tunisia entitled “Tackling youth employment in Tunisia”, signed on 28 September 2012.

Cooperative agreement between UNIDO and the Wadsworth Center, New York State Department of Health, signed on 13 and 28 March 2012.

#### **Uruguay and the United Nations Environment Programme (UNEP)**

Amendment to the implementation agreement between UNIDO, the Government of Uruguay and UNEP regarding the implementation of a project entitled “Sound management for mercury products”, signed on 24 January, 28 March and 16 April 2012.

#### **Viet Nam**

Joint declaration between UNIDO Investment and Technology Promotion Office in Italy and the Agency for Industrial Promotion, Ministry of Industry and Trade of the Socialist Republic of Viet Nam regarding the action plan to increase competitiveness and to foster industrial collaboration between Italian and Vietnamese stakeholders, signed on 18 September 2012.

- (ii) *Agreements concluded with the United Nations, its funds, programmes, specialized and related agencies*

#### **Multilateral agreements and arrangements**

Memorandum of understanding between the participating United Nations organizations, United Nations Resident Coordinator, and the United Nations Development Programme (UNDP) regarding the operational aspects of the Viet Nam One Plan Fund II, signed on 8, 12, 13 and 23 March 2012.

Memorandum of understanding between the organizations and entities of the United Nations system and UNDP regarding arrangements for the renovation of premises for the creation of the Green One UN House in Hanoi, Viet Nam, signed on 14, 18, 20, 25, 26, and 27 June 2012.

Partnership agreement between UNIDO, the participating United Nations organizations and 17 partners regarding Souk-At-Tanmia initiative, signed on 12 July and 3 October 2012.

#### **United Nations Office on Drugs and Crime (UNODC)**

Memorandum of understanding between UNIDO and UNODC, signed on 19 March 2012.

#### **United Nations Development Programme (UNDP)**

Contribution agreement between UNIDO and UNDP regarding the implementation of a project entitled “Development of export consortia in the Brunca region of Costa Rica in the agro-industry and tourism sectors”, signed on 23 and 30 July 2012.

Contribution agreement between UNIDO and UNDP regarding the recruitment of the “Delivering as One (DaO) Green Economy” Focal Point for Mauritius and Seychelles, signed on 6 December 2012.

### **United Nations Office for Project Services (UNOPS)**

Agreement between UNIDO and UNOPS regarding the implementation of a project in Burundi entitled “Renforcement des capacités commerciales du Burundi”, signed on 11 and 20 July 2012.

### **Food and Agriculture Organization of the United Nations (FAO)**

Amendment No.1 to the inter-agency agreement between UNIDO and FAO concluded on 5 and 22 July 2011 regarding the implementation of a project in Sudan entitled “Integrated food security project (IFSP) in Kassala, Sudan”, signed on 25 September and 4 October 2012.

### **World Intellectual Property Organization (WIPO)**

Relationship agreement between UNIDO and WIPO, signed on 12 April 2012.

### **United Nations World Tourism Organization (UNWTO)**

Exchange of letters between UNIDO and UNWTO constituting a supplementary letter of agreement regarding the implementation of a project entitled “Demonstrating and capturing best practices and technologies for the reduction of land-sourced impacts resulting from coastal tourism”, signed on 12 and 23 July 2012.

### **International Atomic Energy Agency (IAEA)**

Practical arrangements between UNIDO and IAEA, signed on 18 September 2012.

### **World Trade Organization (WTO)**

Implementation assignment between UNIDO and WTO regarding the implementation of a project entitled “Enhancing the compliance and productive capacities and competitiveness of the cinnamon value chain in Sri Lanka”, signed on 8 and 20 June 2012.

### *(iii) Agreements concluded with other intergovernmental organizations*

#### **Asian Development Bank (ADB)**

Joint declaration between UNIDO and the Asian Development Bank, signed on 12 September 2012.

#### **East African Community (EAC) and IPACK-IMA S.p.A**

Letter of agreement between UNIDO, the EAC and IPACK-IMA S.p.A. concerning the processing and packaging exhibition 2014 in the EAC region, signed on 4 July 2012.



### European Union (EU)

Contribution agreement between UNIDO and EU regarding the implementation of a project entitled “Projet d’appui à la mise à niveau de la Formation Professionnelle en Côte d’Ivoire”, signed on 16 and 30 March 2012.

Contribution agreement between UNIDO and EU regarding the implementation of a project in Haiti entitled “Programme d’appui au Ministère du Commerce et de l’Industrie (MCI): soutien aux infrastructures de qualité/Renforcement du Bureau Haïtien de Normalisation (BHN)”, signed on 30 October and 5 November 2012.

### European Union (EU) and the West African Economic and Monetary Union (UEMOA)

Addendum No. 5 to the contribution agreement between UNIDO, EU and UEMOA concluded on 6 June 2007 regarding the implementation of a project entitled “Support for competitiveness and harmonization of technical barriers to trade (TBT) measures and sanitary and phyto-sanitary (SPS) measures”, signed on 30 July and 30 August 2012.

### Global Environment Facility (GEF)

Grant agreement between UNIDO and GEF signed on 18 and 19 June 2012.

### International Organization for Migration (IOM)

Memorandum of understanding between UNIDO and IOM regarding occupancy and use of common premises at Freetown, Sierra Leone, signed on 27 August 2012.

### Latin American Development Bank (CAF)

Joint declaration between UNIDO and CAF, signed on 22 November 2012.

## 13. Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization<sup>884</sup>

### (a) Membership

The Preparatory Commission is composed of States signatories to the 1996 Comprehensive Nuclear-Test-Ban Treaty, 1996 (CTBT).<sup>885</sup> By the end of 2012, the CTBT had 183 States signatories.

During 2012, two States (Indonesia and Guatemala) deposited instruments of ratification of the CTBT with the United Nations Secretary-General as Depositary. In order for the Treaty to enter into force, ratification by the following eight States is needed: China,

<sup>884</sup> For official documents and more information on the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization, see <http://www.ctbto.org>.

<sup>885</sup> Doc. A/50/1027. See also *United Nations Juridical Yearbook 1996* (United Nations Publications, Sales No. 01.V.10), p. 311.

Democratic People's Republic of Korea, Egypt, India, Israel, Islamic Republic of Iran, Pakistan and the United States.

### **(b) Legal status, privileges and immunities and international agreements**

In addition to the Headquarters Agreement, legal status, privileges and immunities are granted to the Preparatory Commission through "Facility Agreements" concluded with each of the 89 States which are hosting one or more of the 337 monitoring facilities comprising the International Monitoring System (IMS) foreseen to be established under the CTBT. In 2012, the facility agreement with Uganda was concluded. The status at the end of 2012 was 43 concluded facility agreements out of which 35 have entered into force.

Pursuant to the decision of the Commission in 2006 to exceptionally allow IMS data to be shared with tsunami warning centres approved as such by the Intergovernmental Oceanographic Commission of UNESCO,<sup>886</sup> in 2012 the Preparatory Commission concluded with the Republic of Korea an Agreement concerning the Use of Primary Seismic, Auxiliary Seismic and Hydroacoustic Data for Tsunami Warning Purposes based on the model approved by the Commission. This brings the total number of such agreements to eleven, concluded with: Australia, France, Indonesia, Japan, Malaysia, Philippines, Republic of Korea, Thailand, Turkey and two with the United States.

In 2012, the Preparatory Commission approved the final draft of the Social Security Agreement with Austria. A Memorandum of Understanding was also concluded with the World Food Programme for collaboration in the implementation of the Commission's Enterprise Resource Planning system.

To provide for the necessary privileges and immunities and arrangements for the conduct of workshops or training courses outside of Austria, 11 exchanges of letters were concluded with host States.

### **(c) Legislative assistance activities**

Pursuant to paragraph 18 of the annex to the 1996 Resolution Establishing the Preparatory Commission, the Provisional Technical Secretariat of the Preparatory Commission continued to provide advice and assistance upon request to States in three areas: (a) legal and technical information about the CTBT in order to facilitate signature or ratification of the Treaty; (b) legal and administrative measures necessary for the implementation of the Treaty; and (c) national measures necessary to enable activities of the Preparatory Commission during the preparatory phase, in particular those related to the provisional operation of the IMS.

In 2012, the Secretariat continued promoting the exchange of information between States signatories on the subject of national implementation measures. As part of its Programme of Legal Assistance, the Secretariat organized workshops on national implementation Measures in order to provide a venue for States signatories interested in addressing the subject of national implementation measures for the CTBT and in participating in an exchange of information with other States. The aims of the workshops were the following:

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<sup>886</sup> *Ibid.*, 2006 (United Nations Publications Sales No. 09.V.1), p. 256.

(i) promoting understanding and raising awareness of the measures needed to implement the CTBT; (ii) providing legal assistance to participating States in drafting CTBT implementing legislation; (iii) facilitating the exchange of information among participating States; and (iv) contributing to comparative analysis of existing national provisions and approaches for CTBT implementation.

The Secretariat provided comments and assistance in 2012 on 60 legal assistance requests from States parties or from within the Secretariat. It also maintained a Legislation Database on its website to facilitate the exchange of information on national implementing legislation as well as other documentary assistance tools, including the Legislation Questionnaire.

#### **14. International Atomic Energy Agency<sup>887</sup>**

##### **(a) Member States of the International Atomic Energy Agency (IAEA)**

In 2012, Dominica, Fiji, Papua New Guinea, Rwanda, Togo and Trinidad and Tobago became member States of the IAEA. By the end of the year, there were 158 member States.

##### **(b) Privileges and immunities**

In 2012, the status of the Agreement on the Privileges and Immunities of the International Atomic Energy Agency<sup>888</sup> remained unchanged with 83 parties.

##### **(c) Treaties under IAEA auspices**

###### **(i) *Convention on the Physical Protection of Nuclear Material*<sup>889</sup>**

In 2012, Côte d'Ivoire, Saint Lucia and Viet Nam became party to the Convention. By the end of the year, there were 148 parties.

###### **(ii) *Amendment to the Convention on the Physical Protection of Nuclear Material*<sup>890</sup>**

In 2012, Georgia, Ghana, Israel, Lesotho, Luxembourg, Mexico, Saint Lucia, Sweden and Viet Nam adhered to the Amendment. By the end of the year, there were 61 contracting States.

<sup>887</sup> For official documents and more information on the International Atomic Energy Agency, see <http://www.iaea.org>.

<sup>888</sup> United Nations, *Treaty Series*, vol. 374, p. 147.

<sup>889</sup> *Ibid.*, vol. 1456, p. 101.

<sup>890</sup> IAEA, "Amendment to the Convention on the Physical Protection of Nuclear Material", *IAEA International Law Series*, No. 2, 2006.

(iii) *Convention on Early Notification of a Nuclear Accident*<sup>891</sup>

In 2012, Cambodia became party to the Convention. By the end of the year, there were 114 parties.

(iv) *Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency*<sup>892</sup>

In 2012, the status of the Convention remained unchanged with 108 parties.

(v) *Convention on Nuclear Safety*<sup>893</sup>

In 2012, Cambodia became party to the Convention. By the end of the year, there were 75 parties.

(vi) *Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management*<sup>894</sup>

In 2012, Bosnia and Herzegovina became party to the Joint Convention. By the end of the year, there were 64 parties.

(vii) *Vienna Convention on Civil Liability for Nuclear Damage*<sup>895</sup>

In 2012, the status of the Convention remained unchanged with 38 parties.

(viii) *Protocol to Amend the Vienna Convention on Civil Liability for Nuclear Damage*<sup>896</sup>

In 2012, the United Arab Emirates became party to the Protocol. By the end of the year, there were 10 parties.

(ix) *Joint Protocol Relating to the Application of the Vienna Convention and the Paris Convention*<sup>897</sup>

In 2012, the United Arab Emirates became party to the Joint Protocol. By the end of the year, there were 27 parties.

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<sup>891</sup> United Nations, *Treaty Series*, vol. 1439, p. 275.

<sup>892</sup> *Ibid.*, vol. 1457, p. 133.

<sup>893</sup> *Ibid.*, vol. 1963, p. 293.

<sup>894</sup> *Ibid.*, vol. 2153, p. 303.

<sup>895</sup> *Ibid.*, vol. 1063, p. 265.

<sup>896</sup> *Ibid.*, vol. 2241, p. 270.

<sup>897</sup> *Ibid.*, vol. 1672, p. 293.

(x) *Convention on Supplementary Compensation for Nuclear Damage*<sup>898</sup>

In 2012, the status of the Convention remained unchanged with 15 signatories and four contracting States.

(xi) *Optional Protocol Concerning the Compulsory Settlement of Disputes*<sup>899</sup>

In 2012, the status of the Protocol remained unchanged with two parties.

(xii) *Revised Supplementary Agreement Concerning the Provision of Technical Assistance by the IAEA (RSA)*<sup>900</sup>

In 2012, Bahrain, Burundi, Nepal and Palau concluded an RSA Agreement. By the end of the year, there were 121 member States which had concluded the RSA Agreement with the Agency.

(xiii) *Fifth Agreement to Extend the 1987 Regional Co-operative Agreement for Research, Development and Training Related to Nuclear Science and Technology (RCA)*<sup>901</sup>

The Fifth Agreement to extend the 1987 RCA for a further period of five years, which was done in Bali on 15 April 2011, entered into force on 31 August 2011 and became effective as of 12 June 2012, upon expiration of the Fourth Agreement. In 2012, Australia, China, Japan, Malaysia, Nepal, Pakistan, Republic of Korea, Thailand and Viet Nam became party to the Agreement. By the end of the year, there were 12 parties to the Agreement.

(xiv) *African Regional Co-operative Agreement for Research, Development and Training Related to Nuclear Science and Technology (AFRA) — (Fourth Extension)*<sup>902</sup>

In 2012, Botswana, Burundi and Chad became party to the Agreement. By the end of the year, there were 34 parties.

(xv) *Co-operation Agreement for the Promotion of Nuclear Science and Technology in Latin America and the Caribbean (ARCAL)*<sup>903</sup>

In 2012, the status of the Agreement remained unchanged with 21 parties.

<sup>898</sup> IAEA, document INFCIRC/567.

<sup>899</sup> United Nations, *Treaty Series*, vol. 2086, p. 94.

<sup>900</sup> Model text available from <http://ola.iaea.org> (accessed on 31 December 2012).

<sup>901</sup> IAEA, document INFCIRC/167/Add.23.

<sup>902</sup> *Ibid.*, document INFCIRC/377 and INFCIRC/377/Add.19 (Fourth extension).

<sup>903</sup> United Nations, *Treaty Series*, vol. 2338, p. 337.

(xvi) *Co-operative Agreement for Arab States in Asia for Research, Development and Training Related to Nuclear Science and Technology (ARASIA)*<sup>904</sup>

In 2012, the status of the Agreement remained unchanged with nine parties.

(xvii) *Agreement on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project*<sup>905</sup>

In 2012, the status of the Agreement remained unchanged with seven parties.

(xviii) *Agreement on the Privileges and Immunities of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project*<sup>906</sup>

In 2012, the status of the Agreement remained unchanged with six parties.

#### (d) IAEA legislative assistance activities

In 2012, the Agency continued to provide legislative assistance to its member States within its technical cooperation programme. Country specific bilateral legislative assistance was provided to 18 member States through written comments and advice on drafting national nuclear legislation. The Agency also organized short-term scientific visits to headquarters for a number of individuals, allowing fellows to gain further practical experience in nuclear law.

The Agency organized the second session of the Nuclear Law Institute in Baden, Austria, from 23 September to 5 October 2012. The comprehensive two-week course, which used modern teaching methods based on interaction and practice, was established to meet the increasing demand by member States for legislative assistance and to enable participants to acquire a solid understanding of all aspects of nuclear law, as well as to draft, amend or review their national nuclear legislation. A total of 60 representatives from 51 member States participated. The Agency also continued to contribute to the activities organized at the World Nuclear University and the International School of Nuclear Law by providing lectures and funding participants through appropriate technical cooperation projects.

A Workshop for Diplomats on Nuclear Law was organized in July 2012 in order to provide diplomats from member States with a broad understanding of all aspects of nuclear law. The workshop was attended by 87 participants from 51 member States.

The Agency also enhanced its outreach activities through the development of new online training material and the third volume of the *Handbook on Nuclear Law*<sup>907</sup> which will cover various areas of nuclear law going beyond regulatory matters covered in the first two volumes.

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<sup>904</sup> *Ibid.*, vol. 2203, p. 355.

<sup>905</sup> IAEA, document INFCIRC/703.

<sup>906</sup> *Ibid.*

<sup>907</sup> Reference information was still forthcoming at the time of this publication.

The second IAEA Treaty Event organized by the Secretariat took place during the 56th regular session of the General Conference, and provided Member States with a further opportunity to deposit their instruments of ratification, acceptance or approval of, or accession to, the treaties deposited with the Director General, notably those related to nuclear safety, nuclear security and liability for nuclear damage.

The Agency also organized “awareness missions” to member States in order to raise the awareness of national policy-makers about the importance of adhering to relevant international legal instruments adopted under the Agency’s auspices.

### (e) Conventions

In August 2012, the Contracting Parties to the Convention on Nuclear Safety (CNS) met in Vienna for their Second Extraordinary Meeting.<sup>908</sup> The Meeting discussed, *inter alia*, the lessons learned from, and the actions taken in response to, the Fukushima Dai-ichi nuclear accident, reviewed the effectiveness of the CNS, and considered a set of future actions for strengthening nuclear safety. The Organizational Meeting for the Sixth Review Meeting to be held in 2014 was also convened at the same time.

The Fourth Review Meeting of the Joint Convention on the Safety of Spent Fuel Management and the Safety of Radioactive Waste Management was held in May 2012.<sup>909</sup> The meeting discussed proposals to increase the effectiveness of the Convention, including several amendments to the Guidelines regarding the Review Process, and agreed to continue discussions at intersessional meetings.

Representatives of the competent authorities identified under the Convention on Early Notification of a Nuclear Accident and the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency met in Vienna in April 2012 for their Sixth Meeting. The meeting, *inter alia*, provided an opportunity to discuss the effectiveness of the Conventions, and agreed to explore proposals to enhance the implementation of notification and information-sharing arrangements.

### (f) Civil liability for nuclear damage

The International Expert Group on Nuclear Liability (INLEX) continued to serve as the Agency’s main forum for questions related to nuclear liability. At its 12th regular meeting held in May 2012, INLEX discussed and finalized recommendations on how to facilitate achievement of a global nuclear liability regime as had been requested by the IAEA Action Plan on Nuclear Safety.<sup>910</sup>

Five IAEA/INLEX missions aimed at informing national policy-makers about the relevant international legal instruments for achieving a global nuclear liability regime were

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<sup>908</sup> For the Second Extraordinary Meeting’s final summary report, see document CNS/ExM/2012/04/Rev.2.

<sup>909</sup> For the Fourth Review Meeting’s final summary report, see document JC/RM4/04/Rev.2.

<sup>910</sup> See recommendation on how to facilitate achievement of a global nuclear liability regime, as requested by the IAEA Action Plan on Nuclear Safety, approved by the Board of Governors on 13 September 2011, and endorsed by the General Conference during its 55th regular session on 22 September 2011.



dispatched to the following member States in 2012: Viet Nam (March 2012), Republic of Korea (April 2012), Jordan (May 2012), South Africa (July 2012) and Ukraine (July 2012). Informal discussions continue to be held with other member States interested to host an IAEA/INLEX mission.

A Workshop on Civil Liability for Nuclear Damage was held in May 2012 at the IAEA headquarters and provided participants with an introduction to the subject.

### **(g) Non-binding instrument on the transboundary movement of scrap metal**

Progress was made in the development of a Code of Conduct on the Transboundary Movement of Radioactive Material Inadvertently Incorporated into Scrap Metal and Semi-Finished Products of the Metal Recycling Industries. In January 2012, at the second open-ended meeting of technical and legal experts, the draft Code of Conduct which was prepared at the first meeting held in July 2011 was further developed. The draft document was formally sent to all member States in April 2012.<sup>911</sup>

This Code of Conduct aims at harmonizing the approach to be adopted by States if they discover the presence of radioactive material that may inadvertently be present in a consignment, and how such radioactive material should be managed and handled safely, so that it could be brought under regulatory control. A dedicated website was created to increase awareness of this issue and of the work currently being carried out. The Code of Conduct would supplement Control of Orphan Sources and Other Radioactive Material in the Metal Recycling and Production Industries,<sup>912</sup> which provided recommendations, principally within a national context, on the protection of workers, members of the public and the environment in relation to the control of radioactive material inadvertently present in scrap metal.

### **(h) Safeguards agreements**

During 2012, a Safeguards Agreement pursuant to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) with Togo<sup>913</sup> entered into force. A Safeguards Agreement pursuant to the NPT was signed by Bosnia and Herzegovina but had not entered into force as of 31 December 2012. A Safeguards Agreement with Guinea-Bissau pursuant to the NPT was approved by the IAEA Board of Governors in 2012.

In 2012, Protocols Additional to the Safeguards Agreements between the IAEA and Iraq,<sup>914</sup> Namibia,<sup>915</sup> Republic of Moldova,<sup>916</sup> Togo<sup>917</sup> and Viet Nam<sup>918</sup> entered into force. An Additional Protocol was signed by Bosnia and Herzegovina but had not entered into force

<sup>911</sup> Available from <http://www-ns.iaea.org>.

<sup>912</sup> Safety Standards Series No. SSG-17.

<sup>913</sup> IAEA, document INFCIRC/840.

<sup>914</sup> *Ibid.*, document INFCIRC/172/Add.3.

<sup>915</sup> *Ibid.*, document INFCIRC/551/Add.1.

<sup>916</sup> *Ibid.*, document INFCIRC/690/Add.1.

<sup>917</sup> *Ibid.*, document INFCIRC/840/Add.1.

<sup>918</sup> *Ibid.*, document INFCIRC/376/Add.1.

as of 31 December 2012. An Additional Protocol with Guinea-Bissau was approved by the IAEA Board of Governors in 2012.

## 15. ORGANISATION FOR THE PROHIBITION OF CHEMICAL WEAPONS (OPCW)<sup>919</sup>

### (a) Membership

During 2012, the membership to the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (“the Convention” or “CWC”)<sup>920</sup> remained unchanged. As at the end of 2012, there were 188 States parties to the CWC.

### (b) Legal status, privileges and immunities and international agreements

During 2012, the OPCW continued to negotiate bilateral privileges and immunities agreements with States parties pursuant to paragraph 50 of article VIII of the Convention. As a result, the Executive Council of the OPCW was able to conclude privileges and immunities agreements with four States parties, namely Lao People’s Democratic Republic, Mozambique, Paraguay and Thailand. Moreover, the Executive Council approved one amendment to the existing agreement with Bulgaria. These five agreements were yet to enter into force. In addition, five other such agreements with States parties, namely, the Albania, Czech Republic, Estonia, Mauritius and Uruguay entered into force in 2012.

During 2012, the OPCW also concluded a number of international agreements, including, *inter alia*, agreements concerning the procurement of assistance, contribution agreements, exchange of letters, technical arrangements, facility agreements, and memoranda of understanding, that entail substantial undertakings at the policy level or that are intended to facilitate the day-to-day work of the Technical Secretariat in support of the objectives of the Convention. The Technical Secretariat registered 42 such international agreements in 2012 and three amendments to an international agreement already in force.

### (c) OPCW legislative assistance activities

Throughout 2012, 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 as well as to States parties wishing to update their legal framework. 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 national implementation measures of article VII obligations adopted by the Conference of States Parties at its fourteenth session.<sup>921</sup>

<sup>919</sup> For official documents and more information on the Organisation for the Prohibition of Chemical Weapons, see <http://www.opcw.org>.

<sup>920</sup> United Nations, *Treaty Series*, vol. 1974, p. 45.

<sup>921</sup> OPCW, document C-14/DEC.12, dated 4 December 2009.

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>922</sup> as well as other decisions regarding the implementation of article VII obligations.<sup>923</sup> These decisions focused on, *inter alia*, 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 2012, the Technical Secretariat provided, upon request, six sets of comments on draft implementing legislation and one set of comments or guidance on measures at the regulatory level.

In the course of 2012, the number of National Authorities remained stable at 186. There remained only two States parties that had not yet fulfilled the requirement of article VII (4) of the CWC to designate or establish a national authority. Additionally, with regard to the adoption of the necessary legislative and/or administrative measures, 127 States parties (68 per cent) had submitted the full text of their implementing legislation. Furthermore, regarding legislation covering all key areas of the Action Plan, 91 States parties (48 per cent) had informed the Technical Secretariat of having adopted such legislative or administrative measures.

In addition to the 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. Those events dealt, *inter alia*, with matters such as legislative and regulatory drafting.<sup>924</sup>

#### (d) Decisions adopted by the OPCW policy-making organs

##### (i) *Chemical weapons issues*

According to the provisions of the CWC, possessor States parties were required to destroy their chemical weapons within ten years after the Convention entered into force, i.e., by 29 April 2007, with the possibility of requesting an extension of this deadline by up to five years, i.e., up to 29 April 2012. As the final extended deadline of 29 April 2012 approached, the possessor States indicated that they might not meet this deadline. In order to address this situation prior to the expiration of the deadline, the Conference of the

<sup>922</sup> *Ibid.*, document C-8/DEC.16, dated 24 October 2003.

<sup>923</sup> *Ibid.*, documents C-10/DEC.16 dated 11 November 2005; C-11/DEC.4 dated 6 December 2006; C-12/DEC.9 dated 9 November 2007 and C-13/DEC.7 dated 5 December 2008.

<sup>924</sup> For example: the Tenth Regional Meeting of National Authorities of States Parties in Africa to the CWC, Addis Ababa, Ethiopia, May 2012; the Thirteenth Regional Meeting of National Authorities in Latin America and the Caribbean of the CWC, San José, Costa Rica, June 2012; and the Tenth Regional Meeting of National Authority in Asia to the CWC, Colombo, Sri Lanka, June 2012.

States Parties, at its sixteenth session, adopted a decision on the final extended deadline of 29 April 2012<sup>925</sup> underlining that the destruction of chemical weapons should continue in accordance with the provisions of the Convention and its Verification Annex, and prescribing additional obligations, in particular, strengthening reporting obligations, on the possessor States in the event that they would not meet the final extended deadline. This decision became operational in 2012, after the Director-General notified the Executive Council on 1 May 2012 that the deadline of 29 April 2012 had not been met.

(ii) *Chemical weapons production facilities issues*

Paragraph 85 of part V of the Verification Annex to the Convention specifies that, upon completion of the ten year period after the Director-General certify that conversion of chemical weapons production facilities was complete, the Executive Council, taking into account recommendations of the Technical Secretariat, should decide on the nature of continued verification measures. The Executive Council, at its Sixty-Seventh Session, adopted a decision on the “Nature of Continued Verification Measures at the Converted Facilities Ten Years After the Director-General’s Certification of Their Conversion”.<sup>926</sup> This decision established the verification regime that would be applicable to chemical weapons production facilities that had been granted authorization by the Conference of the States Parties to be used for purposes not prohibited under the Convention, and for which the Director General had certified completion of conversion.

## 16. World Trade Organization<sup>927</sup>

### (a) Membership

#### (i) General

Four new members formally joined the World Trade Organization (WTO) in 2012: Montenegro (29 April 2012); Samoa (10 May 2012); the Russian Federation (22 August 2012); and Vanuatu (24 August 2012). The WTO membership counted 157 members. Two Accession Working Parties concluded their mandate in 2012 (Lao People’s Democratic Republic (Lao PDR) and Tajikistan).

Applications for WTO membership were examined in individual Accession Working Parties, established by the Ministerial Conference/General Council. The legal framework of WTO accessions is set out in article XII of the Marrakesh Agreement Establishing the World Trade Organization, 1994.<sup>928</sup> As a result of bilateral and multilateral negotiations with WTO members, acceding countries/separate customs territories undertook trade liberalizing commitments on market access; specific commitments on WTO rules; and agreed to comply with the WTO Agreement.

<sup>925</sup> *Ibid.*, document C-16/DEC.11, dated 1 December 2011.

<sup>926</sup> *Ibid.*, document EC-67/DEC.7, dated 16 February 2012.

<sup>927</sup> For official documents and more information on the World Trade Organization, see <http://www.wto.org>.

<sup>928</sup> United Nations, *Treaty Series*, vol. 1867, p. 3.

Special Guidelines for Least-developed Countries' accessions were provided for by the General Council Decision of 10 December 2002.<sup>929</sup> Work on these 2002 Guidelines continued pursuant to the decision at the eighth WTO Ministerial Conference of 17 December 2011.<sup>930</sup> As a follow-up, the General Council adopted the decision of 25 July 2012 to strengthen, streamline and operationalize the 2002 Guidelines.<sup>931</sup> The 2012 General Council decision included provisions under the following pillars: (i) benchmarks on goods; (ii) benchmarks on services; (iii) transparency in accession negotiations; (iv) special and differential treatment and transition periods; and (v) technical assistance.

(ii) *Ongoing accessions in 2012*

In 2012, the following countries/separate customs territories were in the process of acceding to the WTO (in alphabetical order):

- |                               |  |
|-------------------------------|--|
| 1. Afghanistan*               | 14. Kazakhstan                         |
| 2. Algeria                    | 15. Lao People's Democratic Republic** |
| 3. Andorra                    | 16. Lebanon                            |
| 4. Azerbaijan                 | 17. Liberia*                           |
| 5. The Bahamas                | 18. Libya                              |
| 6. Belarus                    | 19. Sao Tomé and Príncipe*             |
| 7. Bhutan*                    | 20. Serbia                             |
| 8. Bosnia and Herzegovina     | 21. Seychelles                         |
| 9. Comoros*                   | 22. Sudan*                             |
| 10. Equatorial Guinea*        | 23. Syrian Arab Republic               |
| 11. Ethiopia*                 | 24. Tajikistan**                       |
| 12. Iran, Islamic Republic of | 25. Uzbekistan                         |
| 13. Iraq                      | 26. Yemen*                             |

\* LDCs (10)

\*\* The Accession Working Party had completed its mandate and the Accession Package had been approved by the General Council. The Acceding Government would become a member of the WTO thirty days after notifying the Secretariat of the domestic ratification of its Accession Package.

Of these 26 acceding countries or separate customs territories:

- Nineteen acceding countries had submitted a Memorandum on the Foreign Trade Regime—a key document containing the factual information needed for activating the work of the Working Party and establishing the specific (multilateral) commitments of the acceding countries or separate customs territories;

<sup>929</sup> WTO, document WT/L/508.

<sup>930</sup> *Ibid.*, WT/L/846.

<sup>931</sup> *Ibid.*, WT/L/508/Add.1.

- Eighteen Accession Working Parties had held their first meeting;
- Sixteen acceding countries had tabled their offers on goods and 15 had tabled their offer on services to initiate bilateral market access negotiations with interested members;
- Four Accession Working Parties were advancing on the basis of a Factual Summary of Points Raised;
- One Accession Working Party was advancing on the basis of an Elements of a Draft Working Party Report;
- Eight Accession Working Parties were advancing on the basis of a Draft Working Party Report; and
- Two Accession Working Parties had completed their mandates and the respective Accession Packages had been approved by the General Council (Lao PDR<sup>932</sup> and Tajikistan<sup>933</sup>). Those two acceding countries would become members of the WTO thirty days after notifying the Secretariat of the domestic ratification of their Accession Packages.

### **(b) Dispute settlement**

The General Council convened as the Dispute Settlement Body (DSB) to deal with disputes arising under any agreement annexed to the Final Act of the Uruguay Round, namely, the Marrakesh Agreement Establishing the World Trade Organization; the multilateral trade agreements covering trade in goods, trade in services, and trade-related aspects of intellectual property rights; and the two plurilateral trade agreements covering trade in civil aircraft and Government procurement. The DSB has the sole authority to establish dispute settlement panels, adopt panel and Appellate Body reports, maintain surveillance over the implementation of recommendations and rulings contained in such reports, and authorize suspension of concessions in the event of non-compliance with those recommendations and rulings.

During 2012, 27 requests for consultations (the first formal step in dispute settlement proceedings) were received pursuant to article 4 of the Dispute Settlement Understanding (DSU).<sup>934</sup> The DSB established 11 new panels to adjudicate 13 new cases (where more than one complaint is filed dealing with the same matter, such complaints are normally adjudicated by a single panel). The DSB established panels in the following cases:

- United States—Anti-Dumping Measures on Corrosion-Resistant Carbon Steel Flat Products from Korea (WT/DS420);
- China—Definitive Anti-Dumping Duties on X-Ray Security Inspection Equipment from the European Union (WT/DS425);
- Canada—Measures Relating to the Feed-In Tariff Program (WT/DS426);
- China—Anti-Dumping and Countervailing Duty Measures on Broiler Products from the United States (WT/DS427);

<sup>932</sup> *Ibid.*, WT/L/823.

<sup>933</sup> *Ibid.*, WT/L/865.

<sup>934</sup> United Nations, *Treaty Series*, vol. 1869, p. 401.

- India—Measures Concerning the Importation of Certain Agricultural Products (WT/DS430);
- China—Measures related to the Exportation of Rare Earths, Tungsten and Molybdenum (WT/DS431, WT/DS432, WT/DS433);
- Australia—Certain Measures Concerning Trademarks and Other Plain Packaging Requirements Applicable to Tobacco Products and Packaging (WT/DS434);
- United States—Countervailing Measures on Certain Hot-Rolled Carbon Steel Flat Products from India (WT/DS436);
- United States—Countervailing Duty Measures on Certain Products from China (WT/DS437);
- China—Anti-Dumping and Countervailing Duties on Certain Automobiles from the United States (WT/DS440); and
- United States—Countervailing and Anti-Dumping Measures on Certain Products from China (WT/DS449).

*Appellate Body and Panel reports adopted by the DSB*

The DSB adopted the following 11 Panel reports covering 18 disputes and seven Appellate Body reports covering 11 disputes during 2012:

- United States—Measures Affecting Trade in Large Civil Aircraft (Second Complaint) (WT/DS353) (Appellate Body and Panel Reports);
- United States—Measures Concerning the Importation, Marketing and Sale of Tuna and Tuna Products (WT/DS381) (Appellate Body and Panel Reports);
- United States—Certain Country of Origin Labelling (COOL) Requirement (WT/DS384, WT/DS386) (Appellate Body and Panel reports);
- China—Measures Related to the Exportation of Various Raw Materials (WT/DS394, WT/DS395, WT/DS398) (Appellate Body and Panel reports);
- Philippines—Taxes on Distilled Spirits (WT/DS396, WT/DS403) (Appellate Body and Panel Reports);
- European Union—Anti-Dumping Measures on Certain Footwear from China (WT/DS405) (Panel Report);
- United States—Measures Affecting the Production and Sale of Clove Cigarettes (WT/DS406) (Appellate Body and Panel Reports);
- China—Measures Affecting Electronic Payment Services (WT/DS413) (Panel Report);
- China—Countervailing and Anti-Dumping Duties on Grain Oriented Flat-Rolled Electrical Steel from the United States (WT/DS414) (Appellate Body and Panel Reports);
- Dominican Republic—Safeguard Measures on Imports of Polypropylene Bags and Tubular Fabric (WT/DS415, WT/DS416, WT/DS417, WT/DS418) (Panel Report); and
- United States—Anti-Dumping Measures on Certain Shrimp and Diamond Sawblades from China (WT/DS422) (Panel Report).



## (c) Waivers under article IX of the WTO Agreement

The General Council granted the following waivers from obligations under the WTO Agreements.

Waiver	Decision	Date of adoption of Decision	Granted until	Report in 2012 <sup>935</sup>
<b>Granted in 2012</b>				
Introduction of Harmonized System 2002 Changes into WTO Schedules of Tariff Concessions <sup>936</sup>	WT/L/873	11 December 2012	31 December 2013	–
Introduction of Harmonized System 2007 Changes into WTO Schedules of Tariff Concessions <sup>937</sup>	WT/L/874	11 December 2012	31 December 2013	–
Introduction of Harmonized System 2012 Changes into WTO Schedules of Tariff Concessions <sup>938</sup>	WT/L/875	11 December 2012	31 December 2013	–
Kimberly Process Certification Scheme for Rough Diamonds—Extension of Waiver <sup>939</sup>	WT/L/876	11 December 2012	31 December 2018	–
Cuba—Article XV:6 – Extension of waiver	WT/L/850	14 February 2012	31 December 2016	WT/L/867
European Union—Preferences for Pakistan	WT/L/851	14 February 2012	31 December 2013	–
<b>Previously granted – in force in 2012</b>				
Preferential Treatment to Services and Service Suppliers of Least-Developed Countries	WT/L/847	17 December 2011	17 December 2026	–
Introduction of Harmonized System 2002 Changes into WTO Schedules of Tariff Concessions <sup>940</sup>	WT/L/832	30 November 2011	31 December 2012	–
Introduction of Harmonized System 2007 Changes into WTO Schedules of Tariff Concessions <sup>941</sup>	WT/L/833	30 November 2011	31 December 2012	–
Introduction of Harmonized System 2012 Changes into WTO Schedules of Tariff Concessions <sup>942</sup>	WT/L/834	30 November 2011	31 December 2012	–
CARIBCAN	WT/L/835	30 November 2011	31 December 2013	WT/L/868

Waiver	Decision	Date of adoption of Decision	Granted until	Report in 2012 <sup>935</sup>
European Union—Application of Autonomous Preferential Treatment to the Western Balkans	WT/L/836	30 November 2011	31 December 2016	WT/L/870 and Corr. 1
Cape Verde—Implementation of Article VII of GATT 1994 and of the Agreement on Customs Valuation	WT/L/812	3 May 2011	1 January 2012	–
Preferential Tariff Treatment for Least-Developed Countries—Decision on Extension of waiver	WT/L/759	27 May 2009	30 June 2019	–
United States—Andean Trade Preference Act – Renewal of waiver	WT/L/755	27 May 2009	31 December 2014	WT/L/860
United States—African Growth and Opportunity Act	WT/L/754	27 May 2009	30 September 2015	WT/L/859
United States—Caribbean Basin Economic Recovery Act – Renewal of waiver	WT/L/753	27 May 2009	31 December 2014	WT/L/858
European Communities—Application of Autonomous Preferential Treatment to Moldova	WT/L/722	7 May 2008	31 December 2013	WT/L/861
Mongolia—Export duties on raw cashmere	WT/L/695	27 July 2007	29 January 2012	–
United States—Former Trust Territory of the Pacific Islands	WT/L/694	27 July 2007	31 December 2016	WT/L/857
Kimberley Process Certification Scheme for rough diamonds <sup>943</sup>	WT/L/676	15 December 2006	31 December 2012	–
Implementation of Para. 6 of the Doha Declaration on the TRIPS Agreement and Public Health	WT/L/540 and Corr.1	30 August 2003	See WT/L/540 and Corr.1	IP/C/63
Least-Developed Country Members—Obligations under Article 70.9 of the TRIPS Agreement with respect to Pharmaceutical Products	WT/L/478	8 July 2002	1 January 2016	–

<sup>935</sup> Applicable if so stipulated in the corresponding waiver Decision.

<sup>936</sup> The members which had requested to be covered under this waiver are: Argentina; Australia; Brazil; China; Croatia; European Union; Iceland; India; Malaysia; and Uruguay.

<sup>937</sup> The members which had requested to be covered under this waiver are: Argentina; Australia; Brazil; Canada; China; Costa Rica; Croatia; Dominican Republic; El Salvador; European Union; Guatemala; Honduras; Hong Kong, China; India; Israel; Macao, China; Malaysia; Mexico; New Zealand; Nicaragua; Norway; Pakistan; Philippines; Republic of Korea; Singapore; Switzerland; Thailand; United States; and Uruguay.

<sup>938</sup> The members which had requested to be covered under this waiver are: Australia; Brazil; Canada; China; Costa Rica; Dominican Republic; El Salvador; European Union; Guatemala; Honduras; Hong Kong, China; India; Israel; Macao, China; Malaysia; Mexico; New Zealand; Norway; Pakistan; Republic of Korea; Russian Federation; Singapore; Switzerland; Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu; Thailand; and United States.

<sup>939</sup> Annex: Australia, Botswana, Brazil, Canada, Croatia, European Union, India, Israel, Japan, Mexico, New Zealand, Norway, Philippines, Republic of Korea, Russian Federation, Singapore, Chinese Taipei, Thailand, Turkey, United States, and Venezuela (Bolivarian Republic of).

<sup>940</sup> The members which had requested to be covered under this waiver are: Argentina; Australia; Brazil; China; Croatia; European Union; Iceland; India; Malaysia; Mexico; Thailand; and Uruguay.

<sup>941</sup> The members which had requested to be covered under this waiver are: Argentina; Australia; Brazil; Canada; China; Costa Rica; Croatia; Dominican Republic; El Salvador; European Union; Guatemala; Honduras; Hong Kong, China; India; Israel; Macao, China; Malaysia; Mexico; New Zealand; Nicaragua; Norway; Pakistan; Philippines; Republic of Korea; Singapore; Switzerland; Thailand; United States; and Uruguay.

<sup>942</sup> The members which had requested to be covered under this waiver are: Australia; Brazil; Canada; China; Costa Rica; Dominican Republic; El Salvador; European Union; Guatemala; Honduras; Hong Kong, China; India; Israel; Macao, China; Malaysia; Mexico; New Zealand; Norway; Pakistan; Republic of Korea; Singapore; Switzerland; Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu; Thailand; and United States.

<sup>943</sup> Annex: Australia; Botswana; Brazil; Canada; Croatia; India; Israel; Japan; Korea; Mauritius; Mexico; Norway; Philippines; Sierra Leone; Chinese Taipei; Thailand; United Arab Emirates; United States; and Venezuela.