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## FOREWORD

By its resolution 1814 (XVII) of 18 December 1962, the General Assembly requested the Secretary-General to publish a *Juridical Yearbook* which would include certain documentary materials of a legal character concerning the United Nations and related inter-governmental organizations.

Accordingly, chapters I and II of the present volume—the sixth of the series—contain legislative texts and treaty provisions relating to the legal status of the United Nations and related inter-governmental organizations. With a few exceptions, the legislative texts and treaty provisions which are included in these two chapters entered into force in 1968. Decisions given by international and national tribunals relating to the legal status of the various organizations are found in chapters VII and VIII.

Decisions, recommendations and reports of a legal character which, in the view of the organization concerned, merited reproduction in whole or in part are contained in chapter III. Other documents under this category are simply enumerated in bibliographical form in chapter IX.

Chapter IV is devoted to treaties concerning international law concluded under the auspices of the organizations concerned during the year in question, whether or not they entered into force in that year. This criterion has been used in order to reduce in some measure the difficulty created by the sometimes considerable time-lag between the conclusion of treaties and their publication in the United Nations *Treaty Series* following upon entry into force.

The index in chapter IX is designed to provide, together with the texts reproduced in chapter III, as complete a picture as possible of the legal documentation of the United Nations and related inter-governmental organizations. A part of the index has been set aside for each of the organizations, which were requested to present their own documentation in the manner they thought best suited to the material.

Finally, the bibliography in chapter X lists works and articles of a legal character published in 1968 regardless of the period to which they refer. Some works and articles which were not included in the bibliographies of the *Juridical Yearbook* for previous years have also been listed.

All documents published in the *Juridical Yearbook* were supplied by the organizations concerned, with the exception of the legislative texts and judicial decisions in chapters I and VIII which, unless otherwise indicated, were communicated by Governments at the request of the Secretary-General.

## ABBREVIATIONS

|                  |  |
|------------------|--|
| BANK }<br>IBRD } | International Bank for Reconstruction and Development                          |
| ECAFE            | Economic Commission for Asia and the Far East                                  |
| FUND             | International Monetary Fund  |
| IBE              | International Bureau of Education  |
| IDA              | International Development Association  |
| IFC              | International Finance Corporation  |
| FAO              | Food and Agriculture Organization of the United Nations                        |
| IAEA             | International Atomic Energy Agency   |
| ICAO             | International Civil Aviation Organization                                      |
| ILO              | International Labour Organisation  |
| IMCO             | Inter-Governmental Maritime Consultative Organization                          |
| ITU              | International Telecommunication Union  |
| TAB              | Technical Assistance Board   |
| UNCITRAL         | United Nations Commission on International Trade Law                           |
| UNCTAD           | United Nations Conference on Trade and Development                             |
| UNDP             | United Nations Development Programme   |
| UNESCO           | United Nations Educational, Scientific and Cultural Organization               |
| UNHCR            | United Nations High Commissioner for Refugees                                  |
| UNICEF           | United Nations Children's Fund   |
| UNIDO            | United Nations Industrial Development Organization                             |
| UNKRA            | United Nations Korean Reconstruction Agency                                    |
| UNRRA            | United Nations Relief and Rehabilitation Administration                        |
| UNRWA            | United Nations Relief and Works Agency for Palestine Refugees in the Near East |
| UPU              | Universal Postal Union   |
| WHO              | World Health Organization  |
| WMO              | World Meteorological Organization  |

**Part One**

**LEGAL STATUS OF THE UNITED NATIONS  
AND RELATED INTER-GOVERNMENTAL ORGANIZATIONS**



## Chapter I

### LEGISLATIVE TEXTS CONCERNING THE LEGAL STATUS OF THE UNITED NATIONS AND RELATED INTER-GOVERNMENTAL ORGANIZATIONS

#### 1. Australia

##### REGULATIONS UNDER THE INTERNATIONAL ORGANIZATIONS (PRIVILEGES AND IMMUNITIES) ACT, 1963-1966 <sup>1</sup>

WHEREAS it is provided by section 7 of the *International Organizations (Privileges and Immunities) Act, 1963-1966* <sup>2</sup> that where an international conference is, or is to be, held in Australia or in a Territory of the Commonwealth and it appears to the Governor-General that the provisions of that Act other than that section do not, or may not, apply in relation to that conference but it is desirable that diplomatic privileges and immunities should be applicable in relation to that conference, the regulations may declare the conference to be a conference to which that section applies:

AND WHEREAS it appears to me that the provisions of that Act, other than section 7 of that Act, may not apply in relation to the international conference referred to in the following Regulations but it is desirable that diplomatic privileges and immunities should be applicable in relation to that conference:

NOW THEREFORE I, THE GOVERNOR-GENERAL in and over the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Regulations under the *International Organizations (Privileges and Immunities) Act, 1963-1966*.

Dated this seventeenth day of April, 1968.

CASEY  
Governor-General

By His Excellency's Command,

P. HASLUCK  
*Minister of State for External Affairs.*

##### ECONOMIC COMMISSION FOR ASIA AND THE FAR EAST (PRIVILEGES AND IMMUNITIES) REGULATIONS

1. These Regulations may be cited as the Economic Commission for Asia and the Far East (Privileges and Immunities) Regulations.

2. The international conference that is to be held at Canberra in the Australian Capital Territory commencing on the seventeenth day of April, One thousand nine hundred and sixty-eight, being the conference known as the Twenty-fourth Session of the United Nations

<sup>1</sup> S.R. 1968 No. 54. Notified in the *Commonwealth Gazette* on 17 April 1968.

<sup>2</sup> See *Juridical Yearbook*, 1963, p. 6.

Economic Commission for Asia and the Far East, is declared to be a conference to which section 7 of the *International Organizations (Privileges and Immunities) Act, 1963-1966* applies.

## 2. Barbados

### DIPLOMATIC IMMUNITIES AND PRIVILEGES (AMENDMENT) ACT, 1967

An Act<sup>3</sup> to amend the Diplomatic Immunities and Privileges Act, 1967<sup>4</sup>  
(7th March, 1968)

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Assembly of Barbados, and by the authority of the same as follows:

1. This Act may be cited as the Diplomatic Immunities and Privileges (Amendment) Act, 1968.

2. The provisions of the Diplomatic Immunities and Privileges Act, 1967 specified in the first column of the Schedule to this Act shall have effect and shall be deemed always to have had effect as amended in the respects specified in the second column of that Schedule.

#### Schedule

| <i>Provision</i> | <i>(Section 2)<br/>Amendment</i>  |
|------------------|---|
| ...              | For subsection (1) substitute the following:  |
| Section 6        | “(1) This section shall apply to any organisation of which one or more sovereign powers or the government thereof are members,”;  |
|                  | ... substitute a comma for the full stop appearing at the end of subsection 2(b) (iii); and for subsection 2(c) substitute the following;   |
|                  | “(c) confer upon such other classes of officers and servants of the organisation as are specified in the order, to such extent as is so specified, the immunities and privileges specified in Part III of the Second Schedule.” |

## 3. Canada

### (a) INTERNATIONAL POPULAR COMMISSION (FAO) PRIVILEGES AND IMMUNITIES ORDER, 1968<sup>5</sup>

His Excellency the Governor General in Council, on the recommendation of the Secretary of State for External Affairs, with the concurrence of the Minister of Finance and

<sup>3</sup> No. 5 of 1968. Assented to on 29 February 1968.

<sup>4</sup> See *Juridical Yearbook*, 1967, p. 6.

<sup>5</sup> P.C. 1968-592. Dated 28 March 1968.

the Minister of Forestry and Rural Development, pursuant to section 3 of the Privileges and Immunities (International Organizations) Act, <sup>6</sup> is pleased hereby to make the annexed Order respecting privileges and immunities in Canada of the International Poplar Commission of the Food and Agriculture Organization of the United Nations.

Order respecting the privileges and immunities in Canada of the International Poplar Commission of the Food and Agriculture Organization of the United Nations

1. This Order may be cited as the *International Poplar Commission (FAO) Privileges and Immunities Order, 1968*.

2. In this Order,

(a) "Commission" means the International Poplar Commission of the United Nations Food and Agriculture Organization; and

(b) "Convention" means the Convention on the Privileges and Immunities of the United Nations. <sup>7</sup>

3. During the period September 1 to September 30, 1968,

(a) the Commission shall have in Canada the legal capacities of a body corporate and shall, to such extent as it may require, have the privileges and immunities set forth in Articles II and III of the Convention for the United Nations;

(b) representatives of states and governments that are members of the Commission shall, to such extent as may be required for the performance of their functions, have the privileges and immunities set forth in Article IV of the Convention for representatives of members;

(c) all officials of the Commission in Canada shall, to such extent as may be required for the performance of their functions, have the privileges and immunities set forth in Article V of the Convention for officials of the United Nations; and

(d) all experts, performing missions for the Commission in Canada shall, to such extent as may be required for the performance of their functions, have the privileges and immunities set forth in Article VI of the Convention for experts on missions for the United Nations.

4. Nothing in this Order exempts a Canadian citizen residing or ordinarily resident in Canada from liability for any taxes or duties imposed by any law in Canada.

(b) PROVINCE OF QUEBEC ORDER-IN-COUNCIL NO. 527 OF 13 MARCH 1968 CONCERNING CERTAIN TAX CONCESSIONS TO NON-CANADIAN REPRESENTATIVES TO THE INTERNATIONAL CIVIL AVIATION ORGANIZATION <sup>8</sup>

WHEREAS Order-in-Council No. 1174 of July 20, 1966 <sup>9</sup> stipulates that the regulation concerning certain tax concessions to non-Canadian representatives of the International Civil Aviation Organization appended to this Order-in-Council be enacted in its French and in its English version;

<sup>6</sup> See *Juridical Yearbook*, 1965, p. 3.

<sup>7</sup> United Nations, *Treaty Series*, vol. 1, p. 15.

<sup>8</sup> Text kindly furnished by the International Civil Aviation Organization.

<sup>9</sup> See *Juridical Yearbook*, 1966, p. 6.

WHEREAS the federal authorities grant also, subsequent to the agreement effected in 1951, a sales tax exemption to certain other officers of the International Civil Aviation Organization;

WHEREAS it is appropriate to grant tax exemptions to certain officers not mentioned in section 1 of the regulation appended to Order-in-Council No. 1174 of July 20, 1966;

WHEREFORE, IT IS ORDERED, upon the recommendation of the Minister of Revenue:

THAT paragraph (e) of section 1 of the regulation appended to Order-in-Council No. 1174 of July 20, 1966 be replaced by the following and take effect as of January 1st 1968:

“(e) exemption from the tax payable pursuant to the Retail Sales Tax Act, by way of a refund and in accordance with a procedure to be established by the Minister of Revenue; when, however, the purchase of automobile vehicles is involved, the exemption by way of a refund is also granted to certain non-Canadian officers of the International Civil Aviation Organization, namely “the professional category” class 1 (P-4) or principal (P-5) officers and the “directors” (P-0).”

#### 4. Ireland

##### DIPLOMATIC RELATIONS AND IMMUNITIES ACT (SECTION 18) ORDER, 1968

WHEREAS a revised annex (which is set out in the Schedule to this Order) incorporating amendments to Annex XII to the Convention on the Privileges and Immunities of the Specialised Agencies of the United Nations adopted by the General Assembly of the United Nations on the 21st day of November, 1947<sup>10</sup> (in this Order referred to as the Convention) was transmitted to the Secretary-General of the United Nations Organization pursuant to section 38 of that Convention on the 9th day of July, 1968;

Now, the Government, in exercise of the powers conferred on them by section 18 of the Diplomatic Relations and Immunities Act, 1967 (No. 8 of 1967),<sup>11</sup> hereby order as follows:

1. This Order may be cited as the Diplomatic Relations and Immunities Act (Section 18) Order, 1968.
2. Annex XII to the Convention shall have effect subject to the amendments thereto incorporated in the annex set out in the Schedule to this Order.

##### Schedule

1. The privileges and immunities, exemptions and facilities referred to in Article VI, Section 21 of the standard clauses shall be accorded to the Secretary-General of the Organization, to the Deputy Secretary-General and to the Secretary of the Maritime Safety Committee, provided that the provisions of this paragraph shall not require the Member in whose territory the Organization has its Headquarters to apply Article VI, Section 21 of the standard clauses to any person who is its national.

2. (a) Experts (other than officials coming within the scope of Article VI) serving on committees of, or performing missions for, the Organization shall be accorded the following privileges and immunities so far as is necessary for the effective exercise of their functions, including time spent on journeys in connexion with service on such committees or missions:

- (i) immunity from personal arrest or seizure of their personal baggage;

<sup>10</sup> United Nations, *Treaty Series*, vol. 33, p. 261.

<sup>11</sup> See *Juridical Yearbook*, 1967, p. 37.



- (ii) in respect of words spoken or written or acts done by them in the performance of their official functions, immunity from legal process of every kind, such immunity to continue notwithstanding that the persons concerned are no longer serving on committees of or employed on missions for the Organization;
- (iii) the same facilities in respect of currency and exchange restrictions and in respect of their personal baggage as are accorded to officials of foreign governments on temporary official missions;
- (iv) inviolability for alle papers and documents relating to the work on which they are engaged for the Organization;
- (v) the right to use codes and to receive documents and correspondence by courier or in sealed dispatch bags for their communications with the Inter-Governmental Maritime Consultative Organization.

In connexion with Section 2(a) (iv) and (v) above, the principle contained in the last sentence of Section 12 of the standard clauses shall be applicable.

(b) Privileges and immunities are granted to such experts in the interests of the Organization and not for the personal benefit of the individuals themselves. The Organization shall have the right and duty to waive the immunity of any expert in any case where, in its opinion, the immunity would impede the course of justice and it can be waived without prejudice to the interests of the Organization.

Given under the Official Seal of the Government this sixth day of December 1968.

Seán Ó LOINSIGH  
*Taoiseach*

## 5. New Zealand

### THE WORLD METEOROLOGICAL ORGANIZATION NAME AND EMBLEM NOTICE 1968 <sup>12</sup>

Arthur PORRITT, Governor-General

PURSUANT to the Police Offences Act 1927 and section 38 of the Statutes Amendment Act 1948, His Excellency the Governor-General hereby gives notice as follows.

#### NOTICE

1. (1) This notice may be cited as the World Meteorological Organization Name and Emblem Notice 1968.

(2) This notice shall come into force on the seventh day after the date of its notification in the *Gazette*.

2. No person shall use in connection with any trade or business—

(a) The name of the World Meteorological Organization (a specialized agency brought into relationship with the United Nations in pursuance of Article 57 of the Charter of the United Nations); or

(b) The official emblem of the World Meteorological Organization, the design whereof is reproduced in the Schedule to this notice; or

<sup>12</sup> Issued under the authority of the Regulations Act 1936. Date of notification in *Gazette*: 18 July 1968.

(c) Any other name, word, seal, emblem, or device having reference in any way to the World Meteorological Organization.

3. The World Meteorological Organization Name and Emblem Notice 1959<sup>13</sup> is hereby revoked.

Schedule  
Official Emblem  
[Not reproduced]

As witness the hand of His Excellency the Governor-General this 26th day of June 1968.

Keith HOLYOAKE  
*Minister of External Affairs*

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**6. Romania**

(a) PENAL CODE<sup>14</sup>

General

PART I

THE PENAL LAW AND THE LIMITS OF ITS APPLICABILITY

...

**Chapter II**

**THE LIMITS OF APPLICABILITY OF THE PENAL LAW**

Section I

*Territorial application of the penal law*

...

Article 8

The penal law shall not apply to offences committed by diplomatic representatives of foreign States or by other persons who, under the terms of international agreements, are not subject to the jurisdiction of the Romanian State.

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<sup>13</sup> S.R. 1959/153.

<sup>14</sup> Act No. 15 of 21 June 1968 (*Buletinul Oficial*, 1968, Part I, Nos. 79-79bis). Translation by the Secretariat of the United Nations.

- (b) REGULATIONS CONCERNING THE CUSTOMS TREATMENT APPLICABLE TO DIPLOMATIC MISSIONS AND CONSULAR OFFICES AND MEMBERS THEREOF AND TO OTHER PERSONS ON OFFICIAL MISSIONS ENTERING OR IN TRANSIT THROUGH THE SOCIALIST REPUBLIC OF ROMANIA <sup>15</sup>

## CHAPTER I

### *Customs inspection*

#### Article 1

The following shall be exempt from customs inspection both on entering and on leaving the Socialist Republic of Romania:

(a) Goods intended for the personal use of diplomatic agents and members of their families forming part of the same household, and household effects which they personally bring into or take out of the country;

(b) Goods intended for the official use of diplomatic missions accompanied by a diplomatic agent;

(c) Goods accompanied by foreign nationals, holders of diplomatic passports—including members of their families travelling with them—who enter the Socialist Republic of Romania on official missions, as tourists, on a visit or in transit.

#### Article 2

Unaccompanied goods intended for the official use of diplomatic missions and goods intended for the personal use of diplomatic agents, including household effects, shall likewise be exempt from customs inspection both on entering and on leaving the Socialist Republic of Romania.

#### Article 3

Goods intended for personal use and household effects belonging to the technical, administrative and service staff of diplomatic missions and to persons in the service of members of such missions shall be subject to customs inspection, unless exemption is authorized by the competent Romanian authorities.

#### Article 4

Goods and household effects which are exempt from customs inspection under articles 1-3 may nevertheless be required to undergo customs inspection in exceptional cases on the basis of a special order from the Ministry of Foreign Trade, if there is reason to presume that among them are:

(a) Goods or effects the import or export of which is prohibited by law;

(b) Goods or effects which are subject to quarantine regulations.

In such cases, customs inspection shall be carried out in the presence of the person to whom the goods belong or of his representative.

#### Article 5

Goods accompanied by or intended for the persons referred to in this chapter the export of which is prohibited by law shall be declared at the frontier customs point when they enter

<sup>15</sup> Approved by Decision of the Council of Ministers No. 1944 of 11 September 1968. (*Buletinul Oficial*, 1968, Part I, No. 123). Translation by the Secretariat of the United Nations.

the country or when they are withdrawn from the customs, so that their re-export may be authorized. The declaration shall be drawn up in duplicate; one copy shall be retained by the owner and the other shall be sent by the customs office concerned to the Ministry of Foreign Affairs.

## CHAPTER II

### *Customs duties*

#### Article 6

The following shall be exempt from customs duties both on entering and on leaving the Socialist Republic of Romania;

(a) Goods and household effects which are exempt from customs inspection under articles 1 and 3, no formality being required;

(b) Goods which are exempt from customs inspection under the terms of article 2, on the basis of a permit granted by the competent Romanian authorities pursuant to an application stating the nature of the goods.

#### Article 7

Goods or household effects other than those referred to in article 6, belonging to diplomatic missions or members thereof, may be exempted from customs duties on entering the Socialist Republic of Romania on the basis of an import permit granted by the competent Romanian authorities.

The application for an import permit, which shall be made out in triplicate and submitted to the Romanian customs authorities through the Ministry of Foreign Affairs, shall state the quantity and nature of the goods to be imported, in accordance with the forms made available to diplomatic missions, and the applicant shall specify whether the goods are for his personal use or for the use of the mission.

If the applicant does not know the contents of the parcel (bale, case, etc.) received, the customs authorities may proceed to open it with the consent and in the presence of the applicant or his representative in order to complete the form referred to in paragraph 2 of this article. In the absence of such consent, the parcel (bale, case, etc.) may be returned to the sender.

#### Article 8

Goods intended for personal use and household effects belonging to the technical, administrative and service staff of diplomatic missions and to persons in the service of members of such missions shall be exempt from customs duties when they are accompanied by the persons concerned or arrive within six months of their arrival at their duty station.

In the case of goods and effects belonging to the persons referred to in the first paragraph which arrive later, within the time-limit indicated in that paragraph, exemption from customs duties shall be granted on the basis of an import permit, which may be obtained in the manner laid down in article 7, paragraph 2.

#### Article 9

Diplomatic missions, diplomatic agents and members of their families may import, free of customs duties, food, beverages, cigarettes and other products—for personal needs and entertainment—throughout their tour of duty in the Socialist Republic of Romania.

Imports of vegetable produce must be accompanied by phytosanitary certificates and imports of animals by veterinary health certificates.

#### Article 10

Goods and household effects which have served for the personal use of diplomatic agents and members of their families, and also those belonging to the foreign nationals referred to in article 1 (c) which are not accompanied on leaving the country by the persons to whom they belong, shall be exempt from customs duties on the basis of an export permit, provided that they are exported within six months following the final departure of those persons from the Socialist Republic of Romania.

Goods belonging to diplomatic agents which are sent out of the Socialist Republic of Romania on occasions other than that of final departure, provided that they are within the limits of normal quantities of personal goods, and goods intended for the official use of diplomatic missions, shall be exempt from customs duties on the basis of an export permit from the competent Romanian authorities.

Exemption from customs duties shall be granted, on the basis of a permit from the competent authorities, for effects required for initial installation belonging to the technical, administrative and service staff of diplomatic missions and to persons in the service of members of such missions, if they are accompanied by those persons when leaving the country or if they are exported within six months following the final departure of those persons from the Socialist Republic of Romania.

The application for an export permit, accompanied by an inventory in quadruplicate of the goods to be exported, which shall be addressed to the Romanian authorities through the Ministry of Foreign Affairs, shall state the name of the applicant and the customs office through which the goods will be sent out.

#### Article 11

Works of art and cultural, artistic or scientific objects with antiquarian value, and rare books with scientific and artistic value, bought in the Socialist Republic of Romania, may be exported with the approval of the Romanian customs authorities granted on the advice of the Bucharest Boards of Experts set up by the State Committee for Culture and Art in accordance with the instructions given pursuant to Decision No. 403/1961 of the Council of Ministers concerning the regulation of goods brought into or taken out of the country by foreign travellers.

Members of diplomatic missions wishing to buy goods of the kind mentioned in the preceding paragraph with the intention of exporting them shall first request information, through the Ministry of Foreign Affairs, as to the possibility of exporting them.

If articles the export of which is prohibited are introduced into the country by their owners when they take up residence or by subsequent importation, they may be exported by means of an export permit, which shall be granted on the basis of a declaration made to the customs authorities when they were imported into the country or an application for an import permit conforming to the provisions of article 7, paragraph 2.

#### Article 12

Goods imported free of customs duties in accordance with these Regulations may be transferred to persons who do not enjoy exemption from customs duties only with the prior approval of the Romanian customs authorities, which must be requested through the Ministry of Foreign Affairs, and on payment of the appropriate customs duties.

### Article 13

It shall be prohibited to introduce into or remove from the country goods the import or export of which is forbidden by law, with the exception of weapons for personal use belonging to diplomatic agents, or by international agreements to which the Socialist Republic of Romania is a party. "Arms for personal use" shall be understood to include hunting and sporting weapons for personal use, and also a pistol or a revolver.

### Article 14

The import and export of means of payment, precious metals and precious stones shall be subject to the provisions of Decree No. 210 of 14 June 1960, concerning the control of foreign means of payment, precious metals and precious stones, and the subsequent amendments thereto.

## CHAPTER III

### *Motor vehicles of diplomatic missions*

### Article 15

Motor vehicles imported by diplomatic missions for their official use or by diplomatic agents and members of their families for their personal use shall be exempt from customs duties.

### Article 16

Customs duties in respect of motor vehicles imported by the technical, administrative and service staff of diplomatic missions shall be suspended for a limited time, subject to extension, on conditions that the vehicles shall be re-exported by their owners on their final departure from the Socialist Republic of Romania.

### Article 17

On the approval by the Romanian customs authorities of an application submitted through the Ministry of Foreign Affairs, motor vehicles may be imported free of customs duties or with customs duties suspended for a limited time by completion of the necessary formalities at one of the customs offices of the Socialist Republic of Romania.

Where vehicles are driven to a border-crossing point without a "customs entry permit", the customs officials of that point shall issue to their owners documents permitting them to travel to Bucharest, where they must complete the formalities laid down in the preceding paragraph.

### Article 18

Motor vehicles which are imported free of customs duties may be transferred for valuable consideration or given only to other diplomatic missions or their members without payment of the customs duties due and only after approval by the Romanian customs authorities of an application submitted by the owner of the vehicle in question to the Ministry of Foreign Affairs through the respective diplomatic mission.

### Article 19

Motor vehicles introduced free of customs duties or with customs duties suspended may be permanently imported into the country only by sale to the State enterprise designated

to purchase motor vehicles after approval by the Romanian customs authorities of an application by the owner of the vehicle in question submitted to the Ministry of Foreign Affairs through the respective diplomatic mission.

## CHAPTER IV

### *The diplomatic bag*

#### Article 20

The diplomatic bag (cases, pouches, envelopes, packages, etc.) used for communication between diplomatic missions and the Ministry of Foreign Affairs of the accrediting State shall be free of customs duties and inspection both on entering and on leaving the country.

The provisions of the foregoing paragraph shall apply also to the diplomatic missions of the same State.

#### Article 21

The diplomatic bag may be transported in the territory of the Socialist Republic of Romania :

(a) accompanied by diplomatic couriers designated for the purpose by the Ministry of Foreign Affairs of their respective State or by a diplomatic mission of the accrediting State; or

(b) unaccompanied.

#### Article 22

The diplomatic bag must bear the seals of the Ministry of Foreign Affairs or of the diplomatic mission by which it is sent; it must also bear the inscription "diplomatic correspondence" or "official dispatch", must be accompanied by a "courier's pass", and may contain only diplomatic documents or articles intended for official use.

If the diplomatic bag is accompanied by a diplomatic courier, the latter must be in possession of a "courier's pass" on which is entered the given name and surname and status of the person accompanying it and the number and destination of the packages contained therein.

If unaccompanied, the diplomatic bag must bear, in addition to the inscription "diplomatic correspondence" or "official dispatch" and the seals of the sender, as prescribed in the first paragraph, a label indicating the number of the "courier's pass".

If these requirements are not met, the diplomatic bag shall be sealed by the customs officials and forwarded in transit to one of the customs houses in Bucharest for determination of the manner in which it shall be delivered or returned to the sender.

Unaccompanied diplomatic bags shall be delivered by the customs authorities on presentation of a written authorization issued by the recipient diplomatic mission.

#### Article 23

A diplomatic bag may be carried by the captain of a commercial aircraft scheduled to land at an authorized port of entry. He shall have in his possession an official document indicating the number of packages constituting the bag but he shall not be considered to be a diplomatic courier. The mission may send one of its members to take possession of the diplomatic bag directly and freely from the captain of the aircraft.

Likewise, a diplomatic bag may be entrusted to the captain of a commercial aircraft scheduled to take off from an authorized port of departure. An official document like the document referred to in the preceding paragraph shall be required for the dispatch of a diplomatic bag.

#### Article 24

A diplomatic bag sent in transit through the Socialist Republic of Romania may be sealed by the customs authorities on its entry into Romanian territory.

### CHAPTER V

#### *Final provisions*

#### Article 25

The provisions of these Regulations shall apply also to the consular offices of the Socialist Republic of Romania and to their staff.

For the purpose of the application of the provisions of the preceding paragraph the members of consular offices shall be treated as follows:

Members of consulates who have consular rank shall be regarded as having the status of diplomatic agents;

The technical, administrative and service staff of consular offices shall be regarded as having the same status as the technical, administrative and service staff of diplomatic missions;

Persons in the service of consular offices shall be regarded as having the same status as persons in the service of members of diplomatic missions.

#### Article 26

The provisions of these Regulations shall apply, subject to reciprocity, to diplomatic missions and consular offices accredited to the Socialist Republic of Romania, to their members and to other persons holding diplomatic passports who enter the Socialist Republic of Romania on official missions, as tourists, on a visit or in transit.

The provisions of these Regulations shall not apply to employees of diplomatic missions and consular offices who are aliens permanently resident in the Socialist Republic of Romania or citizens of the Socialist Republic of Romania.

#### Article 27

The provisions of these Regulations shall apply also to officials of international organizations and their families who are in the Socialist Republic of Romania on an official mission and who have been granted privileges and immunities under international agreements to which the Socialist Republic of Romania is a party.



## 7. Singapore

### INTERNATIONAL FINANCE CORPORATION ACT, 1968

An Act<sup>16</sup> to implement the International Agreement for the establishment and operation of the International Finance Corporation and to enable Singapore to become a member thereof and for matters connected therewith.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

1. This Act may be cited as the International Finance Corporation Act, 1968, and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

2. In this Act, unless the context otherwise requires—

“Agreement” means the Articles of Agreement<sup>17</sup> opened for signature at Washington, on 25th May, 1955 (as may be subsequently amended) providing for the establishment and operation of the international body known as the International Finance Corporation;

“Corporation” means the International Finance Corporation established under the Agreement.

3. The President is hereby authorised by instrument under his hand to empower such person as may be named in such instrument, on behalf of the Government—

(a) to sign the Agreement; and

(b) to deposit with the International Bank for Reconstruction and Development an instrument of acceptance stating that the Government has accepted without reservation in accordance with the laws of Singapore the Agreement and the terms and conditions of the Resolution by the Board of Governors of the Corporation, dated 8th March, 1968, providing for admission of Singapore to membership, and has taken all steps necessary to enable the Government to carry out all its obligations under the Agreement and the said Resolution.

4. There shall be charged and paid out of the Consolidated Fund all sums required for the purpose of making payments on behalf of the Government—

(a) under section 3 of Article II of the Agreement (which provides for the subscription of shares of stock of the Corporation); and

(b) under section 4 of Article V of the Agreement (which relates to the cessation of membership of the Corporation).

5. For the purposes of providing any sums required for making any payments to the Corporation, the Minister may, on behalf of the Government, raise loans by the creation and the issue of securities bearing such rates of interests and subject to such conditions as to repayment, redemption or otherwise as he may think fit, and the principal and interest of such securities and any expenses incurred in connection with their issue shall be charged on and paid out of the Consolidated Fund.

6. All sums received by or on behalf of the Government from the Corporation shall be paid into the Consolidated Fund.

<sup>16</sup> No. 20 of 1968. Assented to on 6 August 1968.

<sup>17</sup> United Nations, *Treaty Series*, vol. 264, p. 117.

7. (1) Notwithstanding anything to the contrary contained in any other written law, the provisions of the Agreement set out in the Schedule to this Act shall have the force of law:

Provided that nothing in section 9 of Article VI of the Agreement shall be construed as—

(a) entitling the Corporation to import into Singapore goods free of any duty of customs without any restriction on their subsequent sale therein;

(b) conferring on the Corporation any exemption from taxes or duties which form part of the price of goods sold; or

(c) conferring on the Corporation any exemption from taxes or duties which are no more than charges for services rendered.

(2) The Minister may, by notification in the *Gazette*, amend the Schedule to this Act in conformity with any amendments to the provisions of the Agreement set out therein which may hereafter be duly made and adopted.

8. (1) The Minister may make rules for carrying out or giving effect to the provisions of this Act.

(2) Such rules shall be presented to Parliament as soon as may be after publication

The schedule  
(Section 7)

ARTICLE VI

STATUS, IMMUNITIES AND PRIVILEGES

*Section 2. Status of the Corporation.*

The Corporation shall possess full juridical personality and, in particular, the capacity—

(i) to contract;

(ii) to acquire and dispose of immovable and movable property;

(iii) to institute legal proceedings.

*Section 3. Position of the Corporation with Regard to Judicial Process.*

Actions may be brought against the Corporation only in a court of competent jurisdiction in the territories of a member in which the Corporation has an office, has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities. No actions shall however, be brought by members or persons acting for or deriving claims from members. The property and assets of the Corporation shall, wheresoever located and by whomsoever held, be immune from all forms of seizure, attachment or execution before the delivery of final judgment against the Corporation.

*Section 4. Immunity of Assets from Seizure.*

Property and assets of the Corporation, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of seizure by executive or legislative action.

*Section 5. Immunity of Archives.*

The archives of the Corporation shall be inviolable.

*Section 6. Freedom of Assets from Restrictions.*

To the extent necessary to carry out the operations provided for in this Agreement and subject to the provisions of Article III, section 5, and the other provisions of this Agreement, all property

and assets of the Corporation shall be free from restrictions, regulations, controls and moratoria of any nature.

*Section 7. Privilege for Communications.*

The official communications of the Corporation shall be accorded by each member the same treatment that it accords to the official communications of other members.

*Section 8. Immunities and Privileges of Officers and Employees.*

All Governors, Directors, Alternates, officers and employees of the Corporation—

- (i) shall be immune from legal process with respect to acts performed by them in their official capacity;
- (ii) not being local nationals, shall be accorded the same immunities from immigration restrictions, alien registration requirements and national service obligations and the same facilities as regards exchange restrictions as are accorded by members to the representatives, officials, and employees of comparable rank of other members;
- (iii) shall be granted the same treatment in respect of travelling facilities as is accorded by members to representatives, officials and employees of comparable rank of other members.

*Section 9. Immunities from Taxation.*

(a) The Corporation, its assets, property, income and its operations and transactions authorised by this Agreement, shall be immune from all taxation and from all customs duties. The Corporation shall also be immune from liability for the collection or payment of any tax or duty.

(b) No tax shall be levied on or in respect of salaries and emoluments paid by the Corporation to Directors, Alternates, officials or employees of the Corporation who are not local citizens, local subjects, or other local nationals.

(c) No taxation of any kind shall be levied on any obligation or security issued by the Corporation (including any dividend or interest thereon) by whomsoever held—

- (i) which discriminates against such obligation or security solely because it is issued by the Corporation; or
- (ii) if the sole jurisdictional basis for such taxation is the place or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Corporation.

(d) No taxation of any kind shall be levied on any obligation or security guaranteed by the Corporation (including any dividend or interest thereon) by whomsoever held—

- (i) which discriminates against such obligation or security solely because it is guaranteed by the Corporation; or
- (ii) if the sole jurisdictional basis for such taxation is the location of any office or place of business maintained by the Corporation.

*Section 11. Waiver.*

The Corporation in its discretion may waive any of the privileges and immunities conferred under this Article to such extent and upon such conditions as it may determine.

## 8. Sudan

NOTE DATED 29 JULY 1968 FROM THE PERMANENT REPRESENTATIVE OF THE  
REPUBLIC OF THE SUDAN TO THE UNITED NATIONS

... the following regulations concerning the diplomatic privileges and immunities were enacted in 1967:

*“Resale of Exempted Goods*

Motor-cars, motor-boats and motor-cycles imported under exemption, and all other goods imported under exemption, may not be resold in the Sudan before three years in the case of motor-cars, motor-boats and motor-cycles, and two years in the case of all other goods imported under exemption.

In case of the departure of foreign diplomats finally from the country, resale will be subject to conditions set out by the Minister of Foreign Affairs with the agreement of the Minister of Finance and Economics with reference to payment of customs duties at the time of reselling.”

The United Nations Resident Representative and the four most high ranking employees are treated in the same way as foreign diplomats for the purposes of these regulations. Other United Nations personnel will be accorded privileges as agreed between the Sudan Government and the respective representatives of the United Nations agencies.

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9. Sweden

- (a) PROCLAMATION <sup>18</sup> ISSUED IN ACCORDANCE WITH ARTICLE 4, FIRST PARAGRAPH, OF THE ACT OF 16 DECEMBER 1966 (No. 664) ON IMMUNITIES AND PRIVILEGES <sup>19</sup>

In connexion with the United Nations Conference on Housing, Building and Planning to be held in Stockholm in 1968, representatives of such inter-governmental or other international organizations as have been invited to the Conference by the Executive Secretary of the United Nations Economic Commission for Europe shall enjoy the same privileges and immunities as are accorded to officials of the United Nations of comparable rank, in accordance with the Convention on the Privileges and Immunities of the United Nations.

- (b) PROCLAMATION <sup>20</sup> ISSUED IN ACCORDANCE WITH ARTICLE 4, FIRST PARAGRAPH, OF THE ACT OF 16 DECEMBER 1966 (No. 664) ON IMMUNITIES AND PRIVILEGES

In connexion with the Symposium on methodology of cross-national studies in nation-building which is being organized in Gothenburg in 1968 by the United Nations Educational, Scientific and Cultural Organization (UNESCO), persons who have been nominated by the Director-General of UNESCO to take part in the Symposium shall enjoy the same privileges and immunities as are accorded to the representatives of members of the Specialized Agencies, in accordance with the Convention on the Privileges and Immunities of the Specialized Agencies.

In connexion with the Symposium, representatives of organizations other than the Specialized Agencies, who have been invited to the Symposium by the Director-General of UNESCO, shall enjoy the same privileges and immunities as are accorded to officials of the Specialized Agencies of comparable rank, in accordance with the above-mentioned Convention.

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<sup>18</sup> No. 6 of 12 January 1968. Translation kindly furnished by the Government of Sweden.

<sup>19</sup> See *Juridical Yearbook*, 1966, p. 23.

<sup>20</sup> No. 446 of 28 June 1968. Translation kindly furnished by the Government of Sweden.

## 10. Trinidad and Tobago

### INVESTMENT DISPUTES AWARDS (ENFORCEMENT) ACT, 1968

AN ACT <sup>21</sup> to make provisions in relation to the enforcement of awards in certain investment disputes

[Assented to 13th August, 1968]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Trinidad and Tobago, and by the authority of the same as follows:

1. This Act may be cited as the Investment Disputes Awards (Enforcement) Act, 1968, and shall come into operation on a day to be appointed by the Governor-General by Proclamation published in the *Gazette*.

2. In this Act—

“award” means an award made pursuant to the Convention and includes any decision interpreting, revising or annulling such an award pursuant to Article 50, 51 or 52 of the Convention;

“the Centre” means the International Centre for Settlement of Investment Disputes established by the Convention;

“the Convention” means the Convention set out in the Schedule.

3. (1) An award shall, subject to the provisions of this section, be enforceable in the High Court as if it were a final judgment of that Court.

(2) During any period in which, pursuant to Article 50, 51 or 52 of the Convention, enforcement of an award has been stayed, the award shall not be enforceable under this Act.

(3) An award which would be enforceable under this Act shall be treated as binding for all purposes on the parties as between whom it was made and may accordingly be relied on by any of those parties by way of defence, set off or otherwise in any legal proceedings in Trinidad and Tobago and any references in this Act to enforcing an award shall be construed as including references to relying on an award.

4. Subject to the provisions of the Convention, rules of court may prescribe the evidence to be furnished and the procedure to be adopted in relation to the enforcement of an award.

5. Section 6 of Chapter I of the Convention (which relates to the status, immunities and privileges of the Centre) shall have the force of law in Trinidad and Tobago, so, however, that nothing in Article 24 in that section shall be construed—

(a) as entitling the Centre to import goods free of customs duty without any restriction on their subsequent sale in Trinidad and Tobago;

(b) as conferring on the Centre any exemption from taxes or duties which form part of the price of goods sold;

(c) as conferring on the Centre any exemption from taxes or duties which are in fact no more than charges for services rendered.

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<sup>21</sup> No. 23 of 1968.

Schedule

CONVENTION ON THE SETTLEMENT OF INVESTMENT DISPUTES  
BETWEEN STATES AND NATIONALS OF OTHER STATES  
[Not reproduced]<sup>22</sup>

11. United Kingdom of Great Britain and Northern Ireland

(a) INTERNATIONAL ORGANISATIONS ACT 1968

An Act<sup>23</sup> to make new provision (in substitution for the International Organisations (Immunities and Privileges) Act 1950<sup>24</sup> and the European Coal and Steel Community Act 1955) as to privileges, immunities and facilities to be accorded in respect of certain international organisations and in respect of persons connected with such organisations and other persons; and for purposes connected with the matters aforesaid. [26th July 1968]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. (1) This section shall apply to any organisation declared by Order in Council to be an organisation of which—

(a) the United Kingdom, or Her Majesty's Government in the United Kingdom, and

(b) one or more foreign sovereign Powers, or the Government or Governments of one or more such Powers, are members.

(2) Subject to subsection (6) of this section, Her Majesty may by Order in Council made under this subsection specify an organisation to which this section applies and make any one or more of the following provisions in respect of the organisation so specified (in the following provisions of this section referred to as "the organisation"), that is to say—

(a) confer on the organisation the legal capacities of a body corporate;

(b) provide that the organisation shall, to such extent as may be specified in the Order, have the privileges and immunities set out in Part I of Schedule 1 to this Act;

(c) confer the privileges and immunities set out in Part II of Schedule 1 to this Act, to such extent as may be specified in the Order, on persons of any such class as is mentioned in the next following subsection;

(d) confer the privileges and immunities set out in Part III of Schedule 1 to this Act, to such extent as may be specified in the Order, on such classes of officers and servants of the organisation (not being classes mentioned in the next following subsection) as may be so specified.

(3) The classes of persons referred to in subsection (2) (c) of this section are—

(a) persons who (whether they represent Governments or not) are representatives to the organisation or representatives on, or members of, any organ, committee or

<sup>22</sup> See *Juridical Yearbook*, 1966, p. 196.

<sup>23</sup> 1968 c.48.

<sup>24</sup> United Nations Legislative Series, *legislative texts and treaty provisions concerning the legal status, privileges and immunities of international organizations* (ST/LEG/SER.B/10), p. 119.

other subordinate body of the organisation (including any sub-committee or other subordinate body of a subordinate body of the organisation);

(b) such number of officers of the organisation as may be specified in the Order, being the holders (whether permanent, temporary or acting) of such high offices in the organisation as may be so specified; and

(c) persons employed by or serving under the organisation as experts or as persons engaged on missions for the organisation.

(4) Where an Order in Council is made under subsection (2) of this section, the provisions of Part IV of Schedule 1 to this Act shall have effect by virtue of that Order (in those provisions, as they so have effect, referred to as “the relevant Order”), except in so far as that Order otherwise provides.

(5) Where an Order in Council is made under subsection (2) of this section, then for the purpose of giving effect to any agreement made in that behalf between the United Kingdom or Her Majesty’s Government in the United Kingdom and the organisation Her Majesty may by the same or any subsequent Order in Council make either or both of the following provisions, that is to say—

(a) confer the exemptions set out in paragraph 13 of Schedule 1 to this Act, to such extent as may be specified in the Order, in respect of officers and servants of the organisation of any class specified in the Order in accordance with subsection (2)(d) of this section and in respect of members of the family of any such officer or servant who form part of his household;

(b) confer the exemptions set out in Part V of that Schedule in respect of—

(i) members of the staff of the organisation recognised by Her Majesty’s Government in the United Kingdom as holding a rank equivalent to that of a diplomatic agent, and

(ii) members of the family of any such member of the staff of the organisation who form part of his household.

(6) Any Order in Council made under subsection (2) or subsection (5) of this section shall be so framed as to secure—

(a) that the privileges and immunities conferred by the Order are not greater in extent than those which, at the time when the Order takes effect, are required to be conferred in accordance with any agreement to which the United Kingdom or Her Majesty’s Government in the United Kingdom is then a party (whether made with one or more other foreign sovereign Powers or Governments or made with one or more organisations such as are mentioned in subsection (1) of this section), and

(b) that no privilege or immunity is conferred on any person as the representative of the United Kingdom, or of Her Majesty’s Government in the United Kingdom, or as a member of the staff of such a representative.

2. (1) Where an Order in Council under section 1(2) of this Act is made in respect of an organisation which is a specialised agency of the United Nations having its headquarters or principal office in the United Kingdom, then for the purpose of giving effect to any agreement between the United Kingdom or Her Majesty’s Government in the United Kingdom and that organisation Her Majesty may be the same or any other Order in Council confer the exemptions, privileges and reliefs specified in the next following subsection, to such extent as may be specified in the Order, on officers of the organisation who are recognised by Her Majesty’s Government in the United Kingdom as holding a rank equivalent to that of a diplomatic agent.

(2) The exemptions, privileges and reliefs referred to in the preceding subsection are—

(a) the like exemption or relief from income tax, capital gains tax and rates as, in accordance with Article 34 of the 1961 Convention Articles, is accorded to a diplomatic agent, and

(b) the exemptions, privileges and reliefs specified in paragraphs 10 to 12 of Schedule 1 to this Act.

(3) Where by virtue of subsection (1) of this section any of the exemptions, privileges and reliefs referred to in subsection (2)(b) of this section are conferred on persons as being officers of the organisation, Her Majesty may by the same or any other Order in Council confer the like exemptions, privileges and reliefs on persons who are members of the families of those persons and form part of their households.

(4) The powers conferred by the preceding provisions of this section shall be exercisable in addition to any power exercisable by virtue of subsection (2) or subsection (5) of section 1 of this Act; and any exercise of the powers conferred by those provisions shall have effect without prejudice to the operation of subsection (4) of that section.

(5) Subsection (6) of section 1 of this Act shall have effect in relation to the preceding provisions of this section as it has effect in relation to subsections (2) and (5) of that section.

(6) In this section “specialised agency” has the meaning assigned to it by Article 57 of the Charter of the United Nations.

...

4. Where an organisation other than the Commission of the European Communities, of which two or more foreign sovereign Powers, or the Governments of two or more such Powers, are members but of which neither the United Kingdom nor Her Majesty’s Government in the United Kingdom is a member, maintains or proposes to maintain an establishment in the United Kingdom, then for the purpose of giving effect to any agreement made in that behalf between the United Kingdom or Her Majesty’s Government in the United Kingdom and that organisation, Her Majesty may by Order in Council specifying the organisation make either or both of the following provisions in respect of the organisation, that is to say—

(a) confer on the organisation the legal capacities of a body corporate, and

(b) provide that the organisation shall, to such extent as may be specified in the Order, be entitled to the like exemption or relief from taxes on income and capital gains as is accorded to a foreign sovereign Power.

5. (1) Her Majesty may by Order in Council confer on any class of persons to whom this section applies such privileges, immunities and facilities as in the opinion of Her Majesty in Council are or will be required for giving effect—

(a) to any agreement to which, at the time when the Order takes effect, the United Kingdom or Her Majesty’s Government in the United Kingdom is or will be a party, or

(b) to any resolutions of the General Assembly of the United Nations.

(2) This section applies to any persons who are for the time being—

(a) judges or members of any international tribunal, or persons exercising or performing, or appointed (whether permanently or temporarily) to exercise or perform, any jurisdiction or functions of such a tribunal;

(b) registrars or other officers of any international tribunal;



- (c) parties to any proceedings before any international tribunal;
- (d) agents, advisers or advocates (by whatever name called) for any such parties;
- (e) witnesses in, or assessors for the purposes of, any proceedings before any international tribunal.

(3) For the purposes of this section any petition, complaint or other communication which, with a view to action to be taken by or before an international tribunal,—

(a) is made to the tribunal, or

(b) is made to a person through whom, in accordance with the constitution, rules or practice of the tribunal, such a communication can be received by the tribunal, shall be deemed to be proceedings before the tribunal, and the person making any such communication shall be deemed to be a party to such proceedings.

(4) Without prejudice to subsection (3) of this section, any reference in this section to a party to proceedings before an international tribunal shall be construed as including a reference to—

(a) any person who, for the purposes of any such proceedings, acts as next friend, guardian or other representative (by whatever name called) of a party to the proceedings, and

(b) any person who (not being a person to whom this section applies apart from this paragraph) is entitled or permitted, in accordance with the constitution, rules or practice of an international tribunal, to participate in proceedings before the tribunal by way of advising or assisting the tribunal in the proceedings.

(5) In this section “international tribunal” means any court (including the International Court of Justice), tribunal, commission or other body which, in pursuance of any such agreement or resolution as is mentioned in subsection (1) of this section,—

(a) exercises, or is appointed (whether permanently or temporarily) for the purpose of exercising, any jurisdiction, or

(b) performs, or is appointed (whether permanently or temporarily) for the purpose of performing, any functions of a judicial nature or by way of arbitration, conciliation or inquiry,

and includes any individual who, in pursuance of any such agreement or resolution, exercises or performs, or is appointed (whether permanently or temporarily) for the purpose of exercising or performing, any jurisdiction or any such functions.

6. (1) This section applies to any conference which is, or is to be, held in the United Kingdom and is, or is to be, attended by representatives—

(a) of the United Kingdom, or of Her Majesty’s Government in the United Kingdom, and

(b) of one or more foreign Powers, or the Government or Governments of one or more such Powers.

(2) Her Majesty may by Order in Council specify one or more classes of persons who are, or are to be, representatives of a foreign sovereign Power, or of the Government of such a Power, at a conference to which this section applies, and confer on persons of the class or classes in question, to such extent as may be specified in the Order, the privileges and immunities set out in Part II of Schedule 1 to this Act.

(3) Where an Order in Council is made under subsection (2) of this section in relation to a particular conference, then, except in so far as that Order otherwise provides, the provisions of paragraphs 19 to 22 of Schedule 1 to this Act shall have effect in relation

to members of the official staffs of persons of a class specified in the Order in accordance with that subsection as if in paragraph 19 of that Schedule “representative” were defined as a person of a class so specified in the Order.

7. So far as may be necessary for the purpose of giving effect to the International Telecommunication Convention done at Montreux on 12th November 1965<sup>25</sup> or any subsequent treaty or agreement whereby that Convention is amended or superseded, priority shall, wherever practicable, be given to messages from, and to replies to messages from, any of the following, that is to say—

- (a) the Secretary General of the United Nations;
- (b) the heads of principal organs of the United Nations; and
- (c) the International Court of Justice.

8. If in any proceedings a question arises whether a person is or is not entitled to any privilege or immunity by virtue of this Act or any Order in Council made thereunder, a certificate issued by or under the authority of the Secretary of State stating any fact relating to that question shall be conclusive evidence of that fact.

...

11. (1) In this Act “the 1961 Convention Articles” means the Articles (being certain Articles of the Vienna Convention on Diplomatic Relations signed in 1961) which are set out in Schedule 1 to the Diplomatic Privileges Act 1964, and “the International Court of Justice” means the court set up by that name under the Charter of the United Nations.

(2) Expressions used in this Act to which a meaning is assigned by Article 1 of the 1961 Convention Articles, and other expressions which are used both in this Act and in those Articles, shall, except in so far as the context otherwise requires, be construed as having the same meanings in this Act as in those Articles.

(3) For the purpose of giving effect to any arrangements made in that behalf between Her Majesty’s Government in the United Kingdom and any organisation, premises which are not premises of the organisation but are recognised by that Government as being temporarily occupied by the organisation for its official purposes shall, in respect of such period as may be determined in accordance with the arrangements, be treated for the organisation.

(4) Except in so far as the context otherwise requires, any reference in this Act to an enactment is a reference to that enactment as amended or extended by or under any other enactment.

12. ...

(3) References in any enactment to the powers conferred by the International Organisations (Immunities and Privileges) Act 1950 shall be construed as including references to the powers conferred by this Act.

(4) Subject to the following provisions of this section, the enactments specified in Schedule 2 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(5) Any Order in Council which has been made, or has effect as if made, under an enactment repealed by subsection (4) of this section and is in force immediately before the passing of this Act shall continue to have effect notwithstanding the repeal of that enactment, and, while any such Order in Council continues to have effect in relation to an organisation,—

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<sup>25</sup> See *Juridical Yearbook*, 1965, p. 178.

(a) the enactment in question shall continue to have effect in relation to that organisation as if that enactment had not been repealed, and

(b) section 8 of this Act shall have effect as if in that section any reference to this Act or an Order in Council made thereunder included a reference to that enactment or that Order in Council.

(6) Any such Order in Council as is mentioned in subsection (5) of this section—

(a) if made, or having effect as if made, under section 1 of the International Organisations (Immunities and Privileges) Act 1950, may be revoked or varied as if it had been made under section 1 of this Act;

(b) if made, or having effect as if made, under section 3 of that Act, may be revoked or varied as if it had been made under section 5 of this Act.

...

13. This Act may be cited as the International Organisations Act 1968.

## SCHEDULES

### Schedule 1

#### Sections 1, 2, 3, 6.

#### PRIVILEGES AND IMMUNITIES

##### PART I

##### *Privileges and immunities of the organisation*

1. Immunity from suit and legal process.
2. The like inviolability of official archives and premises of the organisation as, in accordance with the 1961 Convention Articles, is accorded in respect of the official archives and premises of a diplomatic mission.
3. (1) Exemption or relief from taxes, other than customs duties and taxes on the importation of goods.  
(2) The like relief from rates as in accordance with Article 23 of the 1961 Convention Articles is accorded in respect of the premises of a diplomatic mission.
4. Exemption from customs duties and taxes on the importation of goods imported by or on behalf of the organisation for its official use in the United Kingdom, or on the importation of any publications of the organisation imported by it or on its behalf, such exemption to be subject to compliance with such conditions as the Commissioners of Customs and Excise may prescribe for the protection of the Revenue.
5. Exemption from prohibitions and restrictions on importation or exportation in the case of goods imported or exported by the organisation for its official use and in the case of any publications of the organisation imported or exported by it.
6. Relief, under arrangements made either by the Secretary of State or by the Commissioners of Customs and Excise, by way of refund of customs duty paid on any hydrocarbon oils (within the meaning of the Customs and Excise Act 1952) which are bought in the United Kingdom and used for the official purposes of the organisation, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements.
7. Relief, under arrangements made by the Secretary of State, by way of refund of purchase tax paid on any goods which are used for the official purposes of the organisation, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements.

## PART II

### *Privileges and immunities of representatives, members of subordinate bodies, high officers, experts, and persons on missions*

8. For the purpose of conferring on any person any such exemption, privilege or relief as is mentioned in any of the following paragraphs of this Part of this Schedule, any reference in that paragraph to the representative or officer shall be construed as a reference to that person.

9. The like immunity from suit and legal process, the like inviolability of residence, and the like exemption or relief from taxes and rates, other than customs duties and taxes on the importation of goods, as are accorded to or in respect of the head of a diplomatic mission.

10. The like exemption from customs duties and taxes on the importation of articles imported for the personal use of the representative or officer or of members of his family forming part of his household, including articles intended for his establishment, as in accordance with paragraph 1 of Article 36 of the 1961 Convention Articles is accorded to a diplomatic agent.

11. The like exemption and privileges in respect of the personal baggage of the representative or officer as in accordance with paragraph 2 of Article 36 of those Articles are accorded to a diplomatic agent, as if in that paragraph the reference to paragraph 1 of that Article were a reference to paragraph 10 of this Schedule.

12. Relief, under arrangements made either by the Secretary of State or by the Commissioners of Customs and Excise, by way of refund of customs duty paid on any hydrocarbon oils (within the meaning of the Customs and Excise Act 1952) which are bought in the United Kingdom by or on behalf of the representative or officer, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements.

13. Exemptions whereby, for the purposes of the National Insurance Acts 1965 to 1967, the National Insurance (Industrial Injuries) Acts 1965 to 1967, any enactment for the time being in force amending any of those Acts, and any enactment of the Parliament of Northern Ireland corresponding to any of those Acts or to any enactment amending any of those Acts,—

(a) services rendered for the organisation by the representative or officer shall be deemed to be excepted from any class of employment which is insurable employment, or in respect of which contributions are required to be paid, but

(b) no person shall be rendered liable to pay any contribution which he would not be required to pay if those services were not deemed to be so excepted.

## PART III

### *Privileges and immunities of other officers and servants*

14. Immunity from suit and legal process in respect of things done or omitted to be done in the course of the performance of official duties.

15. Exemption from income tax in respect of emoluments received as an officer or servant of the organisation.

16. The like exemption from customs duties and taxes on the importation of articles which—

(a) at or about the time when an officer or servant of the organisation first enters the United Kingdom as such an officer or servant are imported for his personal use or that of members of his family forming part of his household, including articles intended for his establishment, and

(b) are articles which were in his ownership or possession or that of such a member of his family, or which he or such a member of his family was under contract to purchase, immediately before he so entered the United Kingdom,

as in accordance with paragraph 1 of Article 36 of the 1961 Convention Articles is accorded to a diplomatic agent.

17. Exemption from customs duties and taxes on the importation of any motor vehicle imported by way of replacement of a motor vehicle in respect of which the conditions specified in sub-paragraphs

(a) and (b) of paragraph 16 of this Schedule were fulfilled, such exemption to be subject to compliance with such conditions as the Commissioners of Customs and Excise may prescribe for the protection of the Revenue.

18. The like exemption and privileges in respect of the personal baggage of an officer or servant of the organisation as in accordance with paragraph 2 of Article 36 of the 1961 Convention Articles are accorded to a diplomatic agent, as if in that paragraph the reference to paragraph 1 of that Article were a reference to paragraph 16 of this Schedule.

#### PART IV

##### *Privileges and immunities of official staffs and of families of representatives, high officers and official staffs*

19. In this Part of this Schedule—

(a) “representative” means a person who is such a representative to the organisation specified in the relevant Order or such a representative on, or member of, an organ, committee or other subordinate body of that organisation as is mentioned in section 1(3)(a) of this Act;

(b) “member of the official staff” means a person who accompanies a representative as part of his official staff in his capacity as a representative.

20. A member of the official staff who is recognised by Her Majesty’s Government in the United Kingdom as holding a rank equivalent to that of a diplomatic agent shall be entitled to the privileges and immunities set out in Part II of this Schedule to the like extent as, by virtue of the relevant Order, the representative whom he accompanies is entitled to them.

21. (1) Subject to sub-paragraph (2) of this paragraph, a member of the official staff who is not so recognised, and who is employed in the administrative or technical service of the representative whom he accompanies, shall be entitled to the privileges and immunities set out in paragraphs 9 and 13 of this Schedule to the like extent as, by virtue of the relevant Order, that representative is entitled to them.

(2) Such a member of the official staff shall not by virtue of the preceding sub-paragraph be entitled to immunity from any civil proceedings in respect of any cause of action arising otherwise than in the course of his official duties.

(3) Such a member of the official staff shall also be entitled to the exemption set out in paragraph 16 of this Schedule as if he were an officer of the organisation specified in the relevant Order.

22. A member of the official staff who is employed in the domestic service of the representative whom he accompanies shall be entitled to the following privileges and immunities, that is to say—

(a) immunity from suit and legal process in respect of things done or omitted to be done in the course of the performance of official duties, and

(b) the exemptions set out in paragraph 13 of this Schedule, to the like extent as, by virtue of the relevant Order, that representative is entitled to them, and shall be entitled to exemption from taxes on his emoluments in respect of that employment to the like extent as, by virtue of the relevant Order, that representative is entitled to exemption from taxes on his emoluments as a representative.

23. (1) Persons who are members of the family of a representative and form part of his household shall be entitled to the privileges and immunities set out in Part II of this Schedule to the like extent as, by virtue of the relevant Order, that representative is entitled to them.

(2) Persons who are members of the family and form part of the household of an officer of the organisation specified in the relevant Order, where that officer is the holder (whether permanent, temporary or acting) of an office specified in that Order in accordance with section 1(3)(b) of this Act, shall be entitled to the privileges and immunities set out in Part II of this Schedule to the like extent as, by virtue of the relevant Order, that officer is entitled to them.

(3) Persons who are members of the family and form part of the household of such a member of the official staff as is mentioned in paragraph 20 of this Schedule shall be entitled to the privileges and immunities set out in Part II of this Schedule to the like extent as, by virtue of that paragraph, that member of the official staff is entitled to them.

(4) Persons who are members of the family and form part of the household of such a member of the official staff as is mentioned in paragraph 21 of this Schedule shall be entitled to the privileges and immunities set out in paragraphs 9 and 13 of this Schedule to the like extent as, by virtue of paragraph 21 of this Schedule, that member of the official staff is entitled to them.

PART V

*Estate duty and capital gains tax on death*

24. In the event of the death of the person in respect of whom the exemptions under this paragraph are conferred, exemptions from—

(a) estate duty leviable on his death under the law of any part of the United Kingdom in respect of movable property which is in the United Kingdom immediately before his death and whose presence in the United Kingdom at that time is due solely to his presence there in the capacity by reference to which the exemptions are conferred, and

(b) capital gains tax on chargeable gains which, by virtue of the operation of section 24 of the Finance Act 1965 in relation to any such movable property, are included in the gains accruing to that person in the year of assessment in which he died.

Schedule 2  
ENACTMENTS REPEALED  
Section 12

| <i>Chapter</i>    | <i>Short title</i>  | <i>Extent of repeal</i> |
|-------------------|---|-------------------------|
| 14 Geo. 6. c. 14. | The International Organisations (Immunities and Privileges) Act 1950. | The whole Act.          |

...

(b) THE INTER-GOVERNMENTAL MARITIME CONSULTATIVE ORGANIZATION  
(IMMUNITIES AND PRIVILEGES) ORDER 1968 <sup>26</sup>

*Laid before Parliament in draft*

*Made* - - - 22nd November 1968

*Coming into Operation* On a date to be notified in the London Gazette

At the Court at Buckingham Palace, the 22nd day of November 1968

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been laid before Parliament in accordance with section 10 of the International Organisations Act 1968 <sup>27</sup> (hereinafter referred to as the Act) and has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, by virtue and in exercise of the powers conferred on Her by sections 1, 2 and 12(6) of the Act or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

PART I

THE ORGANISATION

1. The Inter-Governmental Maritime Consultative Organisation (hereinafter referred to as the Organisation) is an Organisation of which the United Kingdom and foreign sovereign Powers are members.

<sup>26</sup> *Statutory Instruments*, No. 1862, 1968.

<sup>27</sup> See section (a) above.

2. The Organisation shall have the legal capacities of a body corporate and, except in so far as in any particular case it has expressly waived its immunity, immunity from suit and legal process. No waiver of immunity shall be deemed to extend to any measure of execution.

3. The Organisation shall have the like inviolability of official archives and premises as, in accordance with the 1961 Convention Articles, is accorded in respect of the official archives and premises of a diplomatic mission.

4. The Organisation shall have the like exemption or relief from taxes, other than customs duties and taxes on the importation of goods, as is accorded to a foreign sovereign Power.

5. The Organisation shall have the like relief from rates as in accordance with Article 23 of the 1961 Convention Articles is accorded in respect of the premises of a diplomatic mission.

6. The Organisation shall have exemption from customs duties and taxes on the importation of goods imported by the Organisation for its official use in the United Kingdom, or on the importation of any publications of the Organisation imported by it, such exemption to be subject to compliance with such conditions as the Commissioners of Customs and Excise may prescribe for the protection of the Revenue.

7. The Organisation shall have exemption from prohibitions and restrictions on importation or exportation in the case of goods imported or exported by the Organisation for its official use and in the case of any publications of the Organisation imported or exported by it.

8. The Organisation shall have relief, under arrangements made either by the Secretary of State or by the Commissioners of Customs and Excise, by way of refund of customs duty paid on any hydrocarbon oils (within the meaning of the Customs and Excise Act 1952) \* which are bought in the United Kingdom and used for the official purposes of the Organisation, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements.

9. The Organisation shall have relief, under arrangements made by the Secretary of State, by way of refund of purchase tax paid on any goods which are used for the official purposes of the Organisation, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements.

## PART II

### REPRESENTATIVES

10. (1) Except in so far as in any particular case any privilege or immunity is waived by the Government of the member whom they represent, representatives of members of the Organisation on any of its organs at meetings convened by it shall enjoy:

(a) in respect of words spoken or written and all acts done or omitted to be done by them in their official capacity, the like immunity from suit and legal process as is accorded to the head of a diplomatic mission;

(b) while exercising their functions and during their journeys to and from the place of meeting, the like immunity from personal arrest or detention and the like inviolability for all papers and documents as is accorded to the head of a diplomatic mission;

\* 1952 c. 44.

(c) while exercising their functions and during their journeys to and from the place of meeting, the like exemptions and privileges in respect of their personal baggage as in accordance with Article 36 of the 1961 Convention Articles are accorded to a diplomatic agent.

(2) Where the incidence of any form of taxation depends upon residence, any period during which representatives of members of the Organisation on any of its organs at meetings convened by it are present in the United Kingdom for the exercise of their functions shall, for the purpose of determining their liability to taxation, be treated as not being a period of residence in the United Kingdom.

(3) Part IV of Schedule 1 to the Act shall not operate so as to confer any privilege or immunity on the official staff of representatives of members of the Organisation other than alternates, advisers, technical experts and secretaries of delegations.

(4) Neither the provisions of the preceding paragraphs of this Article nor those of Part IV of Schedule 1 to the Act shall operate so as to confer any privilege or immunity on any person as the representative of Her Majesty's Government in the United Kingdom or as a member of the official staff of such a representative or on any person who is a citizen of the United Kingdom and Colonies.

(5) Part IV of Schedule 1 to the Act shall not operate so as to confer any privilege or immunity on families of representatives or on the families of members of their official staffs.

### PART III

#### OFFICERS

##### *High Officers*

11. Except in so far as in any particular case any privilege or immunity is waived by the Organisation, there shall be accorded to or in respect of the Secretary-General of the Organisation, the Deputy Secretary-General (or, in the absence of both, any other official specially designated to act on behalf of the Secretary-General) and the Secretary of the Maritime Safety Committee:

(a) the like immunity from suit and legal process, the like inviolability of residence and the like exemption or relief from taxes and rates, other than customs duties and taxes on the importation of goods, as are accorded to or in respect of the head of a diplomatic mission;

(b) the like exemption from customs duties and taxes on the importation of articles imported for their personal use or the use of members of their families forming part of their households, including articles intended for their establishment, as in accordance with paragraph 1 of Article 36 of the 1961 Convention Articles is accorded to a diplomatic agent;

(c) the like exemption and privileges in respect of their personal baggage as in accordance with paragraph 2 of Article 36 of those Articles are accorded to a diplomatic agent;

(d) relief, under arrangements made either by the Secretary of State or by the Commissioners of Customs and Excise, by way of refund of customs duty paid on any hydrocarbon oils (within the meaning of the Customs and Excise Act 1952) which are bought in the United Kingdom by them or on their behalf, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements;

provided that the provisions of this Article shall not apply to any person who is a citizen of the United Kingdom and Colonies or a permanent resident of the United Kingdom.



### *Senior Officers*

12. (1) Except in so far as in any particular case any privilege or immunity is waived by the Organisation, there shall be accorded to or in respect of any officer of the Organisation (other than the officers referred to in Article 11) who is recognised by Her Majesty's Government in the United Kingdom as holding a rank equivalent to that of a diplomatic agent:

(a) the like exemption or relief from income tax, capital gains tax and rates as, in accordance with Article 34 of the 1961 Convention Articles, is accorded to a diplomatic agent;

(b) the exemptions, privileges and reliefs specified in Article 11 (b), (c) and (d) of this Order;

(c) in the event of his death, exemptions from—

(i) estate duty leviable on his death under the law of any part of the United Kingdom in respect of movable property which is in the United Kingdom immediately before his death and whose presence in the United Kingdom at that time is due solely to his presence there in the capacity by reference to which the exemptions are conferred, and

(ii) capital gains tax on chargeable gains which, by virtue of the operation of section 24 of the Finance Act 1965 \* in relation to any such movable property, are included in the gains accruing to that officer in the year of assessment in which he died;

provided that the provisions of this paragraph shall not apply to any person who is a citizen of the United Kingdom and Colonies or a permanent resident of the United Kingdom.

(2) There shall be accorded in respect of a member of the family forming part of the household of such an officer as is mentioned above, unless the member is a citizen of the United Kingdom and Colonies or a permanent resident of the United Kingdom, the exemptions listed in paragraph (1)(c) of this Article.

### *All Officers*

13. Except in so far as in any particular case any privilege or immunity is waived by the Organisation, all officers of the Organisation with the exception of those who are recruited locally and assigned to hourly rates of pay shall enjoy:

(a) immunity from suit and legal process in respect of words spoken or written and all acts done or omitted to be done by them in the course of the performance of their official duties;

(b) exemption from income tax in respect of emoluments received by them as officers of the Organisation;

(c) the like exemption from customs duties and taxes on the importation of articles which—

(i) at or about the time when the officer first enters the United Kingdom as an officer of the Organisation are imported for his personal use or that of members of his family forming part of his household, including articles intended for his establishment, and

(ii) are articles which were in his ownership or possession or that of such a member of his family, or which he or such a member of his family was under contract to purchase, immediately before he so entered the United Kingdom,

\* 1965 c. 25.

as in accordance with paragraph 1 of Article 36 of the 1961 Convention Articles is accorded to a diplomatic agent;

(d) unless they are citizens of the United Kingdom and Colonies or permanently resident in the United Kingdom, exemption from customs duties and taxes on the importation of any motor vehicle imported by way of replacement of a motor vehicle in respect of which the conditions specified in sub-paragraph (c) of this Article were fulfilled, such exemption to be subject to compliance with such conditions as the Commissioners of Customs and Excise may prescribe for the protection of the Revenue;

(e) unless they are citizens of the United Kingdom and Colonies or permanently resident in the United Kingdom, exemptions whereby, for the purposes of the National Insurance Acts 1965 to 1967, \* the National Insurance (Industrial Injuries) Acts 1965 to 1967, \*\* any enactment for the time being in force amending any of those Acts, and any enactment of the Parliament of Northern Ireland corresponding to any of those Acts or to any enactment amending any of those Acts,—

- (i) services rendered by them for the Organisation shall be deemed to be excepted from any class of employment which is insurable employment, or in respect of which contributions are required to be paid, but
- (ii) no person shall be rendered liable to pay any contribution which he would not be required to pay if those services were not deemed to be so excepted.

#### PART IV

##### EXPERTS

14. (1) Except in so far as in any particular case any privilege or immunity is waived by the Organisation, experts (other than officers of the Organisation) serving on any committee of the Organisation or employed on missions on behalf of the Organisation shall, so far as is necessary for the effective exercise of their functions, enjoy:

(a) in respect of words spoken or written and all acts done or omitted to be done by them in the performance of their official functions, the like immunity from suit and legal process as is accorded to the head of a diplomatic mission;

(b) while exercising their functions and during their journeys in connection with service on such committees or missions, the like immunity from personal arrest or detention and the like inviolability for all papers and documents relating to the work on which they are engaged for the Organisation as is accorded to the head of a diplomatic mission;

(c) while exercising their functions and during their journeys in connection with service on such committees or missions, the like exemptions and privileges in respect of their personal baggage as in accordance with Article 36 of the 1961 Convention Articles are accorded to a diplomatic agent.

(2) Part IV of Schedule 1 to the Act shall not operate so as to confer any privilege or immunity on the official staff or on families of experts to whom the provisions of paragraph (1) of this Article apply.

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\* 1965 c. 51; 1966 c. 6; 1967 c. 73.

\*\* 1965 c. 52; 1967 c. 25.

## PART V

### GENERAL

#### *Interpretation*

15. (1) The Interpretation Act 1889 \* shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament, and as if this Order and the Order hereby revoked were Acts of Parliament.

(2) In this Order “the 1961 Convention Articles” means the Articles (being certain Articles of the Vienna Convention on Diplomatic Relations signed in 1961) which are set out in Schedule 1 to the Diplomatic Privileges Act 1964. \*\*

#### *Revocation*

16. The Inter-Governmental Maritime Consultative Organisation (Immunities and Privileges) Order 1959 <sup>28</sup> is hereby revoked.

#### *Citation and Entry into Force*

17. This Order may be cited as the Inter-Governmental Maritime Consultative Organisation (Immunities and Privileges) Order 1968. It shall come into operation on the date on which the Agreement between the Inter-Governmental Maritime Consultative Organisation and the Government of the United Kingdom of Great Britain and Northern Ireland regarding the Headquarters of the Organisation <sup>29</sup> enters into force. This date shall be notified in the London Gazette.

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\* 1889 c. 63.

\*\* 1964 c. 81.

<sup>28</sup> United Nations Legislative Series, *Legislative texts and treaty provisions concerning the legal status, privileges and immunities of international organizations*, Vol. II (ST/LEG/SER.B/11), p. 81.

<sup>29</sup> Reproduced in this *Yearbook*, p. 56.

## Chapter II

### TREATY PROVISIONS CONCERNING THE LEGAL STATUS OF THE UNITED NATIONS AND RELATED INTER-GOVERNMENTAL ORGANIZATIONS

#### A. Treaty provisions concerning the legal status of the United Nations

##### 1. CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS.<sup>1</sup> APPROVED BY THE GENERAL ASSEMBLY OF THE UNITED NATIONS ON 13 FEBRUARY 1946

The following States acceded to the Convention on the Privileges and Immunities of  
The United Nations in 1966:<sup>2</sup>

| <i>State</i>     | <i>Date of receipt<br/>of instrument<br/>of accession</i> |
|------------------|---|
| Guinea . . . . . | 10 January 1968   |
| Mali . . . . .   | 28 March 1968   |
| Malta . . . . .  | 27 June 1968( <i>d</i> ) <sup>3</sup>                     |

This brought up to 99 the number of States parties to the Convention.

##### 2. AGREEMENTS RELATING TO MEETINGS AND INSTALLATIONS

###### (a) Agreement between the United Nations and Iran regarding arrangements for the International Conference on Human Rights to be held in Teheran from 22 April to 13 May 1968.<sup>4</sup> Signed at Teheran on 15 February 1968

#### X. *Privileges and immunities*

(a) The Convention on the Privileges and Immunities of the United Nations, to which  
Iran is a party, shall be applicable with respect to the Conference. In particular, the Govern-

<sup>1</sup> United Nations, *Treaty Series*, vol. 1, p. 15.

<sup>2</sup> The Convention is in force with regard to each State which deposited an instrument of accession  
with the Secretary-General of the United Nations as from the date of its deposit.

<sup>3</sup> The symbol (*d*) immediately following the date appearing opposite the name of a State  
denotes a declaration by that State recognizing itself bound, as from the date of its independence,  
by the Convention, the application of which had been extended to its territory by a State then  
responsible for the conduct of its foreign relations. The date shown is the date of receipt by the  
Secretary-General of the notification to that effect.

<sup>4</sup> Came into force on the date of signature.

ment will accord representatives attending the Conference and all officials of the United Nations connected with the Conference the privileges and immunities set forth in articles IV and V of the said Convention.

(b) Representatives of States non-members of the United Nations attending the Conference shall enjoy the same privileges and immunities as are accorded to representatives of States Members of the Organizations.

(c) Representatives of the specialized agencies and of inter-governmental organizations invited to the Conference shall enjoy the same privileges and immunities as are accorded to officials of comparable rank of the United Nations.

(d) The area referred to under Sections I [on conference rooms], II [on auxiliary facilities and services in the meeting area], III [on offices], V [on documents area and equipment] and VI [on information service] above shall be deemed to constitute United Nations premises, access to which shall be under the authority and control of the United Nations.

(e) The Iranian Government and authorities shall impose no impediment to transit to and from the Conference of the following categories of persons attending the Conference: representatives of Governments and their immediate families; representatives of specialized agencies and intergovernmental organizations and their immediate families; officials of the United Nations and their immediate families; observers of non-governmental organizations who may be invited to attend the Conference; representatives of the press or of radio, television, film or other information agencies accredited by the United Nations at its discretion after consultation with the Government; and other persons officially invited to the Conference by the United Nations. Any visa required for such persons shall be granted promptly and without charge.

(f) The Government shall allow the importation, duty free, of all equipment and shall waive import duties and taxes with respect to supplies necessary for the Conference. It shall issue without delay to the United Nations any necessary import and export permits.

(g) The Government shall issue to the United Nations an import permit for the limited supplies needed by the United Nations for official requirements and entertainment schedule of the Conference.

...

### XIII. *Liability for claims*

The Government shall be responsible for dealing with any actions, claims or other demands arising out of (a) injury or damage to person or property in the premises or other areas made available in connexion with the Conference, (b) injury or damage to person or property caused by, or incurred in using, the transportation referred to in article VII [on transportation], (c) the employment for the Conference of the personnel referred to in article VIII [on local personnel], and the Government shall hold the United Nations and its personnel harmless in respect of any such actions, claims or other demands.

...

### XIV. *Settlement of disputes*

Any dispute between the United Nations and the Government concerning the interpretation or application of this Agreement which is not settled by negotiation or other agreed mode of settlement, shall be referred for final decision to a tribunal of three arbitrators, one to be named by the Secretary-General of the United Nations, one to be named by the Government, and the third to be chosen by the first two, or, if they should fail to agree upon a third, then by the President of the International Court of Justice. However,

any dispute which involves a question of principle concerning the Convention on the Privileges and Immunities of the United Nations shall be dealt with in accordance with the procedure prescribed in Section 30 of that Convention.

- (b) Agreement between the United Nations and the United Kingdom of Great Britain and Northern Ireland relating to the seminar on freedom of association to be held in London from 18 June to 1 July 1968.<sup>5</sup> Signed at New York on 8 and 12 March 1968

## Article V

### *Facilities, privileges and immunities*

1. The Convention on the Privileges and Immunities of the United Nations shall be applicable in respect of the seminar. Accordingly, officials of the United Nations performing functions in connexion with the seminar shall enjoy the privileges and immunities provided under articles V and VII of the said Convention.

2. Officials of the specialized agencies attending the seminar in pursuance of subparagraph (c) of article II of this Agreement [on participation in the seminar] shall be accorded the privileges and immunities provided under articles VI and VIII of the Convention on the Privileges and Immunities of the Specialized Agencies.

3. For the purposes of this seminar, and in order to ensure to all participants in the seminar, as listed in article II of this Agreement, the effective and independent exercise of their functions in the United Kingdom in connexion with the seminar, those persons invited by the Secretary-General to participate in the seminar under subparagraphs (a), (b) and (d) of article II of this Agreement shall be designated by him as experts on mission for the United Nations and shall be accorded the treatment provided in article VI of the Convention on the Privileges and Immunities of the United Nations.

4. All persons enumerated in article II of this Agreement and all persons performing functions in connexion with the seminar who are not nationals of the United Kingdom shall be immune from immigration restrictions and alien registration. They shall be granted facilities for speedy travel. No charge shall be made for the issue, where required, of visas, entry or exit permits.

## Article VI

### *Liability*

The Government shall be responsible for dealing with any actions, claims or other demands arising out of:

(a) injury or damage to person or property in the conference area referred to in subparagraphs 3 (a) and (b) of article IV [on co-operation of the Government in the seminar];

(b) injury or damage to person or property caused or incurred in using transportation referred to in subparagraph 3 (i) of article IV;

(c) the employment for the conference of the personnel referred to in subparagraphs 3 (c), (d), (e), (f) and (g) of article IV;

and the Government shall hold the United Nations and its personnel harmless in respect of any such actions, claims or other demands.

<sup>5</sup> Came into force on 12 March 1968.

- (c) Agreement between the United Nations and the Republic of the Congo regarding arrangements for the sub-regional meeting on energy in Central Africa. <sup>6</sup> Signed at Brazzaville on 13 March 1968

I. *Premises, equipment, utilities and stationery supplies*

...

(5) The Government agrees to indemnify and hold harmless the United Nations and its personnel from any and all actions, causes of action, claims or other demands arising out of damage to the premises in the conference area or of injuries to persons using such premises or of damage to furniture or equipment provided by the Government.

...

III. *Transportation*

... The Government agrees to indemnify and hold harmless the United Nations and its personnel from any and all actions, causes of actions, claims or other demands arising out of any personal injury or damage to property sustained in the course of the travel referred to in this article...

...

V. *Local personnel*

...

(4) The Government agrees to indemnify and hold harmless the United Nations from any and all actions, causes of actions or demands arising out of the employment for the United Nations of the personnel referred to in this section.

...

VII. *Privileges and immunities*

(1) The Convention on the Privileges and Immunities of the United Nations shall be fully applicable with respect to the meeting. Accordingly, officials of the United Nations performing functions in connexion with the work of the meeting shall enjoy the privileges and immunities provided in articles V and VII of the said Convention.

(2) Officials of the specialized agencies performing functions in connexion with the work of the meeting shall enjoy the privileges and immunities provided under the Convention on the Privileges and Immunities of the Specialized Agencies.

(3) Without prejudice to the provisions of the preceding paragraphs, all participants and all persons performing functions in connexion with the meeting shall enjoy such privileges and immunities, facilities and hospitality as are necessary for the independent exercise of their functions in connexion with the meeting.

(4) Representatives of Member States and associate members of the United Nations Economic Commission for Africa, and representatives or observers of other States Members of the United Nations shall enjoy the privileges and immunities provided in article IV of the Convention on the Privileges and Immunities of the United Nations.

(5) All participants and all persons performing functions in connexion with the meeting who are not nationals of the Congo shall have the right of entry into and exit from the country. They shall be granted all facilities for speedy travel. Visas, where required, shall be granted promptly and free of charge.

(6) The area defined in article I [concerning premises, equipment, utilities and stationery supplies] shall be deemed to constitute United Nations premises. Access to the conference rooms and offices shall be under the control and authority of the United Nations.

<sup>6</sup> Came into force on the date of signature.

- (d) Agreement between the United Nations and Tunisia regarding arrangements for the Seminar on the management of public enterprises. <sup>7</sup> Signed in Tunis on 18 March 1968

This agreement contains articles similar to articles I (5), III, V (4) and VII in (c) above.

- (e) Agreement between the United Nations and Niger concerning arrangements for the Regional Meeting on Youth Employment and National Development to be held at Niamey from 21 to 30 May 1968. <sup>8</sup> Signed at Niamey on 7 May 1968

This agreement contains articles similar to articles I (5), III, V (4) and VII of the agreement mentioned under (c) above.

- (f) Agreement between the United Nations and India relating to the seminar on the question of elimination of all forms of racial discrimination, to take place at New Delhi from 27 August to 9 September 1968. <sup>9</sup> Signed at New York on 16 and 22 July 1968

#### Article IV

##### *Co-operation of the Government in the seminar*

1. The Government shall act as host to the seminar.
2. The Government shall nominate officials as liaison officer and assistant liaison officers between the United Nations and the Government, who shall be responsible for making the necessary arrangements concerning the contributions of the Government described in paragraph 3 below.
3. The Government shall provide and defray the costs of:
  - (a) Appropriate premises for the holding of the Seminar;
  - (b) Appropriate premises for the offices, and for the other working areas, of the bureau and secretariat of the seminar, the liaison officer, assistant liaison officers and the local personnel mentioned below;
  - ...
  - (f) An information officer to assist in liaison with local press, radio and film media;
  - (g) The local administrative personnel required for the proper conduct of the seminar, including reproduction and distribution of working papers and other seminar documents, the personnel to include a document officer, a conference officer, information-reception clerks, mimeograph operators, collators, messengers and security personnel, as appropriate; the services of the secretary-stenographers, copy-typists, mimeograph operators and collators shall be available one week in advance of the seminar;
  - (h) Simultaneous interpretation and amplification equipment as well as tape recorders and tapes, and technicians to operate them, for the conference room; languages used will be English, French, Russian and Spanish;
  - ...

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<sup>7</sup> Came into force on the date of signature.

<sup>8</sup> Came into force on the date of signature.

<sup>9</sup> Came into force on 22 July 1968.



(j) Customs clearance and transportation between port of entry and New Delhi, for documentation and supplies for the seminar;

(k) Local transportation for participants and staff provided by the United Nations between their hotels and the site of the seminar and for other seminar purposes.

## Article V

### *Facilities, privileges and immunities*

1. The Convention on the Privileges and Immunities of the United Nations shall be applicable in respect of the seminar. Accordingly, officials of the United Nations performing functions in connexion with the seminar shall enjoy the privileges and immunities provided under articles V and VII of the said Convention.

2. Officials of the specialized agencies attending the seminar in pursuance of paragraph (d) of article II [on participation in the seminar] of this Agreement shall be accorded the privileges and immunities provided under articles VI and VIII of the Convention on the Privileges and Immunities of the Specialized Agencies.

3. Without prejudice to the provisions of the Convention on the Privileges and Immunities of the United Nations, all participants and all persons performing functions in connexion with the seminar shall enjoy such privileges and immunities, facilities and courtesies as are necessary for the independent exercise of their functions in connexion with the seminar.

4. All persons enumerated in articles II and III 2 (c) (i), (ii) and (iii) [on language staff] of this Agreement and all persons performing functions in connexion with the seminar who are not nationals of India shall have the right of entry into and exit from India. They shall be granted facilities for speedy travel. Visas, entry and exit permits, where required, shall be granted free of charge.

## Article VI

### *Liability*

The Government shall be responsible for dealing with any actions, claims or other demands arising out of (a) injury or damage to person or property in the premises referred to in article IV 3 (a) and (b) above; (b) injury or damage to person or property caused or incurred in using transportation referred to in Article IV 3 (j) and (k); (c) the employment for the conference of the personnel referred to in Article IV 2 and 3 (f), (g), (h) and the Government shall hold the United Nations and its personnel harmless in respect of any such actions, claims or other demands except when it is agreed by the parties hereto that such damage or injury is caused by the gross negligence or wilful misconduct of United Nations personnel.

(g) Agreement between the United Nations and Ghana regarding the arrangements for the United Nations Seminar on the civil and political education of women to be held in Accra.<sup>10</sup> Signed at Accra on 10 September 1968 and at the United Nations Headquarters on 19 September 1968

This agreement contains articles similar to articles IV, V and VI in (f) above; with the omission of the words "except when it is agreed by the parties that such damage or injury

<sup>10</sup> Came into force on 19 September 1968.

is caused by the gross negligence or wilful misconduct of United Nations personnel", at the end of article VI.

- (h) Agreement between the United Nations and Austria regarding the arrangements for the United Nations Conference on the Exploration and Peaceful Uses of Outer Space.<sup>11</sup> Signed at Vienna on 25 May 1968

#### VI. *Liability*

The Government shall be responsible for dealing with any actions, claims or other demands arising out of (a) injury or damage to person or property in the premises referred to in section I above [on premises, equipment, utilities and stationery supplies]; (b) injury or damage to person or property caused by, or incurred in using, the transportation referred to in section II above [on transportation and accomodation]; (c) the employment for the Conference of the personnel referred to in section IV above [on local personnel], and the Government shall hold the United Nations and its personnel harmless in respect of any such actions, claims or other demands.

#### VII. *Privileges and immunities*

(1) The Convention on Privileges and Immunities of the United Nations, to which the Republic of Austria is a party, shall be applicable with respect to this Conference.

(2) Representatives of Member States attending the Conference and officials of the United Nations concerned with the Conference shall be accorded the same privileges and immunities provided for in sections 23, 27 and 28 respectively of the Agreement between the United Nations and the Republic of Austria regarding the Headquarters of UNIDO, dated 13 April 1967.

(3) Representatives of States non-members of the United Nations attending the Conference shall enjoy the same privileges and immunities as are accorded to representatives of States Members of the United Nations.

(4) Observers of the specialized agencies and other inter-governmental organizations invited to the Conference shall enjoy the same privileges and immunities as are accorded to officials of comparable rank of the United Nations.

(5) The Austrian authorities shall impose no impediment to transit to and from the Conference of the following categories of persons attending the Conference: representatives of Governments and their immediate families; observers of specialized agencies and inter-governmental organizations and their immediate families; officials and experts of the United Nations and their immediate families; observers of non-governmental organizations having consultative status with the Economic and Social Council of the United Nations; representatives of the press or of other information media accredited by the United Nations at its discretion after consultation with the Government; and other persons invited to the Conference by the United Nations on official business. Any visa required for such persons shall be granted promptly and without charge.

(6) The area designated under section I shall be deemed to constitute United Nations premises, and access to these premises shall be under the control and authority of the United Nations.

<sup>11</sup> Came into force on the date of signature.

- (i) Agreement between the United Nations and Austria regarding the arrangements for the sixth session of the Governing Council of the United Nations Development Programme. <sup>12</sup> Signed at Vienna on 25 May 1968

This agreement contains articles similar to articles VI and VII in (h) above.

- (j) Agreement between the United Nations and Austria regarding the arrangements for the United Nations Conference on Road Traffic. <sup>13</sup> Signed at Vienna on 24 September 1968

This agreement contains articles similar to articles VI and VII in (h) above.

- (k) Agreement between the United Nations and Austria regarding the arrangements for the United Nations Conference on the Law of Treaties. <sup>14</sup> Signed at Vienna on 12 March 1968

This agreement contains articles similar to articles VI and VII in (h) above except that article VII (1) reads as follows:

“(1) The provisions relating to privileges and immunities in the Agreement between the United Nations and the Republic of Austria regarding the Headquarters of the UNIDO shall be applicable with regard to the Conference. The Convention on the Privileges and Immunities of the United Nations is hereby not affected.”

- (l) Agreement between the United Nations and the United Arab Republic relating to the continuation and extension of the Regional Centre for Demographic Research and Training established at Cairo by the Agreement between the above parties signed in New York on 8 February 1963. <sup>15</sup> Signed at Cairo on 14 November 1968

#### Article VI

##### *Co-operation of the Government*

...

3. It shall be responsibility of the Government to deal with any claims which may be brought by third parties residing within its territory against the United Nations and its personnel, and [the Government] shall hold the United Nations or its personnel harmless in case of any such claims or liabilities resulting from operations under this Agreement, except where it is agreed by the parties that such claims or liabilities arise from gross negligence or the wilful misconduct of such personnel.

#### Article VII

##### *Facilities, privileges and immunities*

1. Scientific apparatus, equipment and educational materials, articles and provisions (such as calculating machines, books, films, etc.) procured for the Centre shall be

<sup>12</sup> Came into force on the date of signature.

<sup>13</sup> Came into force on the date of signature.

<sup>14</sup> Came into force on the date of signature.

<sup>15</sup> Provisionally came into force on 14 November 1968.

imported without restrictions or prohibitions and shall be exempt from Customs duties and other duties or taxes. It is understood, however, that such articles and goods shall not be sold, or traded in the United Arab Republic, except under conditions agreed to with the Government.

2. Officials of the United Nations performing functions in connexion with the Centre shall enjoy the privileges and immunities provided under articles V and VII of the Convention on Privileges and Immunities of the United Nations, and the members of the Governing Council and of the Advisory Committee designated by the Executive Secretary of the Economic Commission for Africa, who are not otherwise officials of the organizations, shall enjoy the privileges and immunities under article VI of the Convention.

3. Without prejudice to the foregoing provision, the Government undertakes to accord all members of the Governing Council and of the Advisory Committee such facilities and courtesies as are necessary for the exercise of their functions in connexion with the Centre

4. All holders of United Nations fellowships at the Centre, who are not nationals of the United Arab Republic, shall have right of entry into and exit from the United Arab Republic, and of sojourn there for the period necessary for their training. They shall be granted facilities for speedy travel; visas, where required, shall be granted promptly and free of charge.

(m) Exchange of notes constituting an agreement between the United Nations and Italy for the establishment of the United Nations Social Defence Research Institute in Rome.<sup>16</sup> Rome, 15 January 1968

I

15 January 1968

Sir,

I have the honour to refer to the consultations that have taken place during the past several months between the representatives of the Government of the Italian Republic and the representatives of the United Nations concerning the establishment at Rome of a United Nations Social Defence Research Institute...

It is understood that the Convention on the Privileges and Immunities of the United Nations, adopted by the General Assembly of the United Nations on 13 February 1946, to which the Italian Republic is a party, shall be applicable to the Institute...

P.P. SPINELLI  
*Under-Secretary-General*

Mr. Casto CARUSO  
*Secretary-General*  
*Ministry of Foreign Affairs*  
*Palazzo della Farnesina*  
*Rome*

II

15 January 1968

Sir,

In your letter of 15 January 1968 you stated the following:

[See letter I]

I have the honour to confirm that the Italian Government is in accord with the fore-

<sup>16</sup> Came into force on 6 May 1968.

going and agrees that your letter ... and this reply shall constitute an agreement between the Italian Government and the United Nations.

...

Casto CARUSO  
*Secretary-General*  
*Ministry of Foreign Affairs*

Mr. P.P. SPINELLI  
*Under-Secretary-General*  
*United Nations*  
*Geneva*

3. AGREEMENTS RELATING TO THE UNITED NATIONS CHILDREN'S  
FUND: REVISED MODEL AGREEMENT CONCERNING THE ACTIVITIES OF UNICEF <sup>17</sup>

Article VI

*Claims against UNICEF*

[See *Juridical Yearbook*, 1965, pp. 31 and 32]

Article VII

*Privileges and immunities*

[See *Juridical Yearbook*, 1965, p. 32]

- (a) Agreements between UNICEF and the Governments of Venezuela, Barbados and Syria concerning the activities of UNICEF. <sup>18</sup> Signed respectively at Caracas on 25 October 1967, at Bridgetown on 30 May 1968 and at Damascus on 22 April 1968

These agreements contain articles similar to articles VI and VII of the revised model agreement.

- (b) Basic agreement between UNICEF and Botswana concerning the activities of UNICEF. <sup>19</sup> Signed at Kampala on 24 May 1968 and at Gaborone on 25 June 1968

This agreement contains articles similar to articles VI and VII of the revised model agreement, except that article VI, paragraph 2, reads as follows:

"2. The Government shall accordingly be responsible for dealing with any claims, within the territory of Botswana, which may be brought by third parties against UNICEF or its experts, agents or employees and shall defend and hold harmless UNICEF and its experts, agents and employees in case of any claims or liabilities resulting from

<sup>17</sup> Revised January 1968.

<sup>18</sup> Came into force respectively on 8 November 1968, 30 May 1968 and 22 April 1968.

<sup>19</sup> Came into force on 25 June 1968.

the execution of Plans of Operations made pursuant to this Agreement, except where it is agreed by the Government and UNICEF that such claims or liabilities arise from the gross negligence or wilful misconduct of such experts, agents or employees.”

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4. AGREEMENTS RELATING TO TECHNICAL ASSISTANCE: REVISED STANDARD AGREEMENT CONCERNING TECHNICAL ASSISTANCE<sup>20</sup>

Article I

*Furnishing of technical assistance*

...

6. [See *Juridical Yearbook*, 1967, p. 73.]

Article V

*Facilities, privileges and immunities*

[See *Juridical Yearbook*, 1963, pp. 27 and 28]

Agreement between the United Nations, The ILO, FAO, UNESCO, ICAO, WHO, ITU, WMO, IAEA, UPU, IMCO, and UNIDO, and Australia for the provision of technical assistance to the Territory of Papua and the Trust Territory of New Guinea (with exchange of letters<sup>21</sup>). Signed at New York on 21 May 1968

Article I

*Furnishing of technical assistance*

...

6. The Government shall be responsible for dealing with any claims resulting from operations in the Territories under this Agreement which may be brought by third parties against the Organizations jointly or separately and their experts, agents and employees and shall hold harmless the Organizations and their experts, agents and employees in case of any claims or liabilities resulting from such operations, except where it is agreed by the Government and the Administrator of the United Nations Development Programme and the Organization concerned that such claims or liabilities arise from the gross negligence or wilful misconduct of such experts, agents or employees.

Article V

*Facilities, privileges and immunities*

1. The Government shall in the Territories apply:

(a) to the United Nations and its organs including the UNDP, its property, funds and assets, and to its officials, including technical assistance experts, the Convention on the Privileges and Immunities of the United Nations and

(b) to the Specialized Agencies, their property, funds and assets and to their officials, including technical assistance experts, the Convention on the Privileges and Immunities

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<sup>20</sup> Revised May 1966.

<sup>21</sup> Came into force on the date of signature.

of the Specialized Agencies, in regard to which the positions of the Government and of the Organizations have been placed on record in letters exchanged on the day of signature of this Agreement.

2. Until such time as the Government becomes a party to the Agreement on the Privileges and Immunities of the International Atomic Energy Agency, the Government shall give full and sympathetic consideration to any proposal for granting suitable privileges and immunities in the Territories to that Agency, its property, funds and assets, and to its officials and experts, either by amendment of this Agreement or otherwise.

3. The Government shall take all practicable measures to facilitate the activities of the Organizations under this Agreement and to assist experts and other officials of the Organizations in obtaining such services and facilities as may be required to carry on these activities. When carrying out their responsibilities under this Agreement the Organizations, their experts and other officials shall have the benefit of the most favourable legal rate of conversion of currency.

This agreement is accompanied by the following exchange of letters:

## I

### *Letter from the Permanent Representative of Australia to the United Nations*

21st May 1968

Sir,

I have the honour to refer to the Agreement signed today between the Government of Australia and the Organizations participating in the technical assistance sector of the United Nations Development Programme for the furnishing of technical assistance to the Territory of Papua and the Trust Territory of New Guinea. In this connection I should like to convey to you the following observations of the Government of Australia concerning this Agreement:

(c) It will not be possible for the Government to give full effect to article IV, section II, of the Convention on the Privileges and Immunities of the Specialized Agencies, which requires each State party to the Convention to grant specialised agencies in its territory, treatment not less favourable than that accorded by the Government of that State to any other Government in the matter of priorities, rates and taxes on telecommunications.

(d) With regard to paragraph 1 (b) of article V, the Government understands that if a Specialised Agency wishes to import into the Territories any goods the importation of which is ordinarily prohibited or restricted by the laws in force in the Territories, it shall consult with the Government and give full and sympathetic consideration to representations made by the Government. This understanding does not affect such obligations as have been assumed by the Government of Australia with respect to the Conventions on the Privileges and Immunities of the United Nations and of the Specialised Agencies.

...

If the foregoing observations are acceptable to the Organizations participating in the technical assistance sector of the United Nations Development Programme, I have the honour to suggest that the present letter, together with your reply in that sense, shall be regarded as placing on record the positions on this matter of the Government of Australia and of the

Organizations participating in the technical assistance sector of the United Nations Development Programme.

Accept, Sir, the assurances of my highest consideration.

Patrick SHAW  
*Permanent Representative*

Mr. Paul G. HOFFMAN,  
*Administrator,*  
*United Nations Development Programme*  
*New York, N.Y.*

II

*Letter from the Administrator of the United Nations  
Development Programme*

21 May 1968

Sir,

I have the honour to acknowledge receipt of your letter of today's date which reads as follows:

[See letter I]

The Organizations participating in the technical assistance sector of the United Nations Development Programme take note of the observations expressed by your Government as set out in the letter quoted above, and agree that your letter, together with this reply, shall be regarded as placing on record the positions on this matter of the Government of Australia and of the Organizations participating in the technical assistance sector of the United Nations Development Programme. With respect to Article V of the Agreement I confirm that technical assistance experts are officials of the United Nations or of the Specialized Agencies.

Accept, Sir, the assurance of my highest consideration.

Paul G. HOFFMAN  
*Administrator*  
*United Nations Development Programme*

5. AGREEMENTS RELATING TO OPERATIONAL ASSISTANCE: STANDARD AGREEMENT ON OPERATIONAL ASSISTANCE <sup>22</sup>

Article II

*Functions of the officers*

...

3. [See *Juridical Yearbook*, 1965, p. 37]

Article IV

*Obligations of the Government*

...

5. [See *Juridical Yearbook*, 1965, pp. 37 and 38]

6. The Government shall be responsible for dealing with any claims which may be brought by third parties against the Officers or against the organizations and their agents and employees, and shall hold the Officers, the organizations and their agents and employees harmless in any case of any claims or liabilities resulting from operations under this Agree-

<sup>22</sup> UNDP, *Field Manual*, Edition II (1 May 1966), section IX-C.



ment, except where it is agreed by the Government, the Administrator of the United Nations Development Programme when appropriate, and the Organization concerned that such claims or liabilities arise from gross negligence or wilful misconduct of officers or the agent or employees of the organization concerned.

...

- (a) Standard agreement on operational assistance between the United Nations, the ILO, FAO, UNESCO, ICAO, WHO, ITU, WMO, IAEA, UPU and IMCO, and Jordan. <sup>23</sup> Signed at Amman on 3 March 1968

This agreement contains articles similar to articles II and IV 5 and 6 of the model standard agreement.

- (b) Standard agreements on operational assistance between the United Nations, the ILO, FAO, UNESCO, ICAO, WHO, ITU, WMO, IAEA, UPU, IMCO and UNIDO, and the Governments of Malaysia and Sierra Leone. <sup>24</sup> Signed respectively at Kuala Lumpur on 10 May 1968 and at Freetown on 29 May 1968

These agreements contain articles similar to articles II and IV 5 and 6 of the model standard agreement.

- (c) Standard agreement on operational assistance between the United Nations, the ILO, FAO, UNESCO, ICAO, WHO, ITU, WMO, IAEA, UPU and IMCO, and Nigeria. <sup>25</sup> Signed at Lagos on 20 April 1968

This agreement contains articles similar to articles II 3 and IV 5 and 6 of the model standard agreement, with the addition, at the end of paragraph 5 of article IV, of the words "within the first three months after arrival, such period being extended to six months in exceptional cases having regard to the place of shipment".

6. EXCHANGE OF LETTERS CONSTITUTING A PROVISIONAL AGREEMENT BETWEEN THE UNITED NATIONS RELIEF AND WORKS AGENCY FOR PALESTINE REFUGEES IN THE NEAR EAST AND ISRAEL CONCERNING ASSISTANCE TO PALESTINE REFUGEES. <sup>26</sup> JERUSALEM, 14 JUNE 1967

I

MINISTRY FOR FOREIGN AFFAIRS  
JERUSALEM, ISRAEL

14 June 1967

Dear Commissioner-General,

I wish to refer to the conversations I have had with you and your colleagues within the last two days, and to confirm our agreement that, at the request of the Israel Government,

<sup>23</sup> Came into force on the date of signature.

<sup>24</sup> Came into force on the respective dates of signature.

<sup>25</sup> Came into force on the date of signature.

<sup>26</sup> Came into force on 14 June 1967.

UNRWA would continue its assistance to the Palestine refugees, with the full co-operation of the Israel authorities, in the West Bank and Gaza Strip areas.

For its part, the Israel Government will facilitate the task of UNRWA to the best of its ability, subject only to regulations or arrangements which may be necessitated by considerations of military security. On this understanding, we are prepared to agree in principle:

- (a) To ensure the protection and security of the personnel, installations and property of UNRWA;
- (b) To permit the free movement of UNRWA vehicles into, within and out of Israel and the areas in question;
- (c) To permit the international staff of the Agency to move in, out and within Israel and the areas in question; they will be provided with identity documents and any other passes which might be required;
- (d) To permit the local staff of the Agency to move within the areas in question under arrangements made or to be made with the military authorities;
- (e) To provide radio, telecommunications and landing facilities;
- (f) Pending a further supplementary agreement, to maintain the previously existing financial arrangements with the governmental authorities then responsible for the areas in question, concerning—
  - (i) exemptions from Customs duties, taxes and charges on importation of supplies, goods and equipment;
  - (ii) provision free of charge of warehousing, labour for offloading and handling, and transport by rail or road in the areas under our control;
  - (iii) such other costs to the Agency as were previously met by the governmental authorities concerned.
- (g) To recognize that the Convention on the Privileges and Immunities of the United Nations of 13 February 1946, to which Israel is a party, shall govern the relations between the Government and UNRWA in all that concerns UNRWA's functions.

The present letter and your acceptance in writing will be considered by the Government of Israel and by UNRWA as a provisional agreement which will remain in force until replaced or cancelled.

I have the honour to be,

Michael COMAY  
*Political Adviser to the Foreign Minister  
and Ambassador-at-Large*

Dr. Lawrence MICHELMORE  
*Commissioner-General  
United Nations Relief and Works Agency*

## II

UNITED NATIONS RELIEF AND WORKS AGENCY  
FOR PALESTINE REFUGEES IN THE NEAR EAST

14 June 1967

Your Excellency,

I refer to your letter of to-day's date, and wish to confirm that UNRWA is willing to continue its assistance to the Palestine refugees in the West Bank and Gaza Strip areas on

the basis proposed in your letter. This will be subject to such further supplementary agreements as may be required, and to detailed arrangements which UNRWA representatives will make with the authorities in the two areas concerned.

Naturally, this co-operation implies no commitment or position by UNRWA with regard to the status of any of the areas in question or of any instrument relating to them, but is concerned solely with the continuation of its humanitarian task.

As I explained in our conversation, the facilities enumerated in paras. (a) to (g) of your letter are essential if the Agency is to operate effectively. For this reason I expect that such restrictions as may for the time being be placed on the full use of those facilities will be removed as soon as considerations of military security permit this.

I agree that your letter and this reply constitute a provisional agreement between UNRWA and the Government of Israel, to remain in force until replaced or cancelled. UNRWA's agreement is subject to any relevant instructions or resolutions emanating from the United Nations.

I have the honour to be,

Yours faithfully,

Lawrence MICHELMORE  
*Commissioner-General*

His Excellency Michael COMAY  
*Political Adviser to the Foreign Minister  
of Israel and Ambassador-at-Large*

7. MEMORANDUM OF UNDERSTANDING BETWEEN THE UNITED NATIONS AND NIGERIA ON THE CARRYING OUT OF STUDIES FOR ECONOMIC CO-OPERATION IN WEST AFRICA.<sup>27</sup> SIGNED AT LAGOS ON 2 JULY 1968

I. *The main features of the project*

...

3. ... The UN team will be based in Nigeria in particular at the premises of the Nigerian Institute of Social and Economic Research, Ibadan. While in Nigeria the members of the team will be accorded all the rights, immunities and privileges which are usually accorded to UN officials and experts assigned to work with the Federal Government of Nigeria.

...

<sup>27</sup> Came into force on the date of signature.

**B. Treaty provisions concerning the Legal Status of inter-governmental organizations related to the United Nations**

**1. CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE SPECIALIZED AGENCIES.<sup>28</sup> APPROVED BY THE GENERAL ASSEMBLY OF THE UNITED NATIONS ON 21 NOVEMBER 1947**

In 1968, the following States acceded to the Convention, or, if already parties, undertook by a subsequent notification to apply the provisions of the Convention, in respect of the specialized agencies indicated below:<sup>29 30</sup>

| <i>State</i>           |              | <i>Date of receipt of instrument of accession or notification</i> | <i>Specialized Agencies</i>                                       |
|------------------------|--------------|---|---|
| Bulgaria <sup>31</sup> | Accession    | 13 June 1968  | WHO, ICAO, ILO, FAO, UNESCO, UPU, ITU, WMO, IMCO                  |
|                        | Notification | 2 December 1968   | IMCO—Revised text of Annex XII <sup>32</sup>                      |
| Guinea                 | Notification | 29 March 1968   | WHO, ICAO, ILO, FAO, UNESCO, Bank, Fund, UPU, ITU, IMCO, IFC, IDA |
| Ireland                | Notification | 10 May 1968   | IMCO—Revised text of Annex XII <sup>32</sup>                      |
| Madagascar             | Notification | 19 November 1968  | IMCO—Revised text of Annex XII <sup>32</sup>                      |
| Mali                   | Accession    | 24 June 1968  | WHO, ICAO, ILO, FAO, UNESCO, Bank, Fund, UPU, ITU, WMO            |

<sup>28</sup> United Nations, *Treaty Series*, vol. 33, p. 261.

<sup>29</sup> The Convention is in force with regard to each State which deposited an instrument of accession and in respect of specialized agencies indicated therein or in a subsequent notification as from the date of deposit of such instrument or receipt of such notification.

<sup>30</sup> The Government of the United Kingdom of Great Britain and Northern Ireland has notified the Secretary-General that it is unable to accept the reservations to this Convention formulated by the Byelorussian SSR, Czechoslovakia, the Ukrainian SSR and the USSR (see *Juridical Yearbook*, 1966, pp. 51-52), by Hungary (see *Juridical Yearbook*, 1967, p. 79) and by Bulgaria (see footnote 31 below), because in its view they are not of the kind which intending parties to the Convention have the right to make.

<sup>31</sup> With the following reservation:  
 "The People's Republic of Bulgaria will consider itself bound by the provisions of sections 24 and 32 of the Convention only if, before a dispute arising out of the interpretation or application of the Convention is referred to the International Court of Justice, the parties involved in the dispute have, for each individual case, given their consent thereto. This reservation applies only to section 32 which provides that the opinion of the International Court of Justice shall be considered as decisive."

<sup>32</sup> See p. 28 of this *Yearbook*.

|  |                            |                   |  |
|--|----------------------------|-------------------|--|
| Malta  | Notification of succession | 27 June 1968      | WHO, ICAO, ILO, FAO, UNESCO, UPU, ITU, WMO, IMCO   |
|  | Notification               | 27 June 1968      | Bank, IDA  |
|  | Notification               | 21 October 1968   | FAO—Second revised text of Annex II, <sup>33</sup> WHO—Third revised text of Annex VII, IMCO—Revised text of Annex XII <sup>32</sup> |
| Niger  | Accession                  | 15 May 1968       | WHO, ICAO, ILO, FAO, UNESCO, Bank, Fund, UPU, ITU, WMO, IDA  |
| Norway   | Notification               | 1 October 1968    | IMCO—Revised text of Annex XII <sup>32</sup>   |
| Sweden   | Notification               | 13 September 1968 | IMCO—Revised text of Annex XII <sup>32</sup>   |
| United Kingdom of Great Britain and Northern Ireland | Notification               | 28 November 1968  | IMCO—Revised text of Annex XII <sup>32</sup>   |

As of 31 December 1968, 67 States were parties to the Convention.

## 2. UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

(a) Agreement relating to a UNESCO mission—Exchange of letters between the Imperial Ethiopian Government and UNESCO on the subject of the privileges, immunities and facilities to be accorded to the UNESCO Chief of Mission. Signed at Paris on 3 May 1968 and at Addis Ababa on 1 July 1968

“1. The UNESCO Chief of Mission shall enjoy in respect of himself, his spouse, and minor children such privileges, immunities and facilities as are granted in accordance with international law and practice to diplomatic representatives of comparable rank, it being understood that these privileges, immunities and facilities are granted solely in the interests of UNESCO, and not for the personal benefit of the individuals themselves.

“2. It is understood that the privileges, immunities and facilities would in no way reduce any privileges, immunities or facilities enjoyed by the persons mentioned above in virtue of any other instrument to which the Imperial Ethiopian Government is or may become a party.

<sup>33</sup> See *Juridical Yearbook*, 1965, p. 43.

“3. Acting on behalf of the Organization, the UNESCO Chief of Mission shall have, in particular, the right to purchase or to import, free of duties and taxes and of any import prohibition or restriction, any articles for the official use of the mission and, under the same conditions, any articles for exhibitions organised by UNESCO in Ethiopia.

“4. Without prejudice to what is said in the previous paragraphs, the Imperial Ethiopian Government shall apply to UNESCO and to the international staff belonging to the office of the Chief of Mission the provisions of the Convention on the Privileges and Immunities of the Specialized Agencies, although Ethiopia has not adhered to that Convention.”

(b) Agreements relating to conferences, seminars and other meetings

- (i) Agreement between the Swiss Government and UNESCO concerning the meeting of experts on study programmes for engineers (Lausanne, May-June 1968). Signed at Paris on 31 January 1968 and at Berne on 15 February 1968

“Accordingly, I should be obliged if, as is customary, you would kindly confirm that, in pursuance of the decision of the Federal Council dated 11 July 1947, your Government will apply to UNESCO on the occasion of this meeting, by analogy, the Agreement on the privileges and immunities of the United Nations concluded between the Swiss Federal Council and the Secretary-General of the United Nations on 19 April 1946 and will grant all the necessary privileges, immunities and facilities, it being understood in particular that no restriction shall be imposed upon the rights of entry into, sojourn in and departure from the territory of the Swiss Confederation of any persons, without distinction as to nationality, invited to participate in the work of the meeting in an official capacity.”<sup>34</sup>

- (ii) Agreement between the Government of the Argentine Republic and the United Nations Educational, Scientific and Cultural Organization concerning the regional seminar for documentary film and television producers in Latin America (Buenos Aires, 23 September-11 October 1968). Signed at Paris on 21 February 1968 and 1 April 1968.

*Privileges and immunities*

The Government of the Argentine Republic shall apply, in all matters relating to the seminar, the provisions of the Convention on the Privileges and Immunities of the Specialized Agencies and of Annex IV thereof, relating to UNESCO, to which Argentina has been a party since 10 October 1963. In particular, it shall guarantee that no restriction shall be imposed upon the rights of entry into, sojourn in and departure from the territory of any persons, without distinction as to nationality, participating in the seminar in an official capacity.

The Government of Argentina shall facilitate the temporary importation duty-free of the films to be shown during the seminar, whether selected for this purpose by UNESCO or sent or brought in by participants in the seminar, and undertakes to simplify and expedite Customs formalities in respect of such films upon both entry and exit. Furthermore, when such films are shown for the purposes of the seminar, it shall exempt them from the administrative provisions governing film censorship.

<sup>34</sup> In accordance with the terms of the letter from the Director-General of UNESCO, the Swiss Government signified its agreement to the proposals quoted above by signing the said letter and returning it to UNESCO.

- (iii) Agreement between the Government of Canada and UNESCO concerning the Round Table on the Cultural Value of Film, Radio and Television in Contemporary Society and the Meeting of Experts on Educational Research in Relation to Curriculum and Teachers Training. Signed at Paris on 24 April 1968 and 26 April 1968

“The Canadian Government will apply in respect of these meetings that provision of the Privileges and Immunities (International Organizations) Act which incorporates the text of the Convention on the Privileges and Immunities of the United Nations, which in all essential points is similar to the Convention on the Privileges and Immunities of the Specialized Agencies. The Canadian Government takes note of the objections raised by the Director-General of UNESCO to the reservation made by Canada to the Convention on the Privileges and Immunities of the Specialized Agencies.

As to prospective participants in these meetings who, under Canadian legislation and regulations, require visas for entry into Canada, the Canadian Government undertakes to facilitate to the greatest extent possible the issuance of such visas in accordance with Canadian law, which does not exclude persons on the basis of nationality from entry into Canada. The Canadian Government also undertakes to accord to all prospective participants every facility necessary to the performance of their functions in connection with attendance at these meetings.

Should any person entitled to attend these meetings, under UNESCO regulations and rules, or by a decision of the appropriate authorities of UNESCO, be prevented from attending these meetings, by reason of the refusal or inability of the Government of Canada to issue any visa applied for within a reasonable period of time before these meetings, the Government of Canada recognizes that the Director-General reserves the right to cancel, adjourn or interrupt the holding of these meetings in Canada, and to hold such meetings at another location outside Canada.”

- (iv) Letter of arrangement between the Government of the United Kingdom of Great Britain and Northern Ireland and UNESCO concerning the Eighth Meeting of the Bureau and the Consultative Council of the Intergovernmental Oceanographic Commission (IOC) (London, 10-13 June 1968). Signed at Paris on 8 February 1968 and at London on 4 April 1968

*Privileges and immunities*

The Government of the United Kingdom shall apply in respect of this Meeting the provisions of the Convention on the Privileges and Immunities of the Specialized Agencies and Annex IV thereto relating to UNESCO, to which it has been a party since 16 August 1949, it being understood, in particular, that no restriction shall be placed upon the right of entry into, sojourn in and departure from its territory of any persons entitled to attend this meeting, without distinction of nationality.

- (v) Agreements containing a provision similar to that under paragraph (iv) above were also concluded between UNESCO and the Governments of Algeria, Bulgaria, Brazil, Ceylon, Costa Rica, Cuba, Ecuador, the Federal Republic of Germany, Guatemala, India, Italy, Japan, Kenya, Lebanon, Malaysia, Nigeria, Pakistan, Senegal, Singapore, Spain, Sweden, the United Arab Republic, Upper Volta, Uruguay, the USSR and Venezuela, in connexion with meetings on their respective territories.

(c) Agreements relating to technical assistance

- (i) Plan of Operation—Secondary boarding school for girls at Sfax, Tunisia—between UNESCO and the Government of Tunisia. Signed at Paris on 17 June 1968

Article VII

1. The Government shall apply to UNESCO, its property, funds, assets and its officials and experts, the provisions of the Convention on the Privileges and Immunities of the Specialized Agencies, and Annex IV thereof. Moreover, it is understood that no restriction shall be imposed on the rights of entry into, sojourn in, and departure from Tunisian territory of UNESCO officials, experts and other persons performing services on its behalf in connection with this project, without distinction of nationality.

2. The Government undertakes not to impose any taxes, fees or levies upon the equipment or materials or for the supplies and services necessary for the erection of the school's facilities.

3. Neither the Government nor its instrumentalities shall impose any commercial bank charges on transfer of funds by or to the account of UNESCO.

4. The Government shall take any measures which may be necessary to exempt UNESCO and its personnel and other persons performing services on its behalf from regulations or other legal provisions which may interfere with operations under this Plan of Operation and shall grant them such other facilities as may be necessary for the speedy and efficient execution of the project. It shall, in particular, grant them the following rights and facilities:

(a) the prompt issuance without cost, of necessary visas, licences or permits;

(b) the issuance of a vehicle for the proper inspection of the site, access to the sites of work and all necessary rights of way;

(c) free movement, whether within or to and from the country, to the extent necessary for proper execution of the project;

(d) the most favourable legal rate of exchange;

(e) any permits necessary for the importation of equipment, materials and supplies in connection with this Plan of Operation and for their subsequent exportation.

(f) the Government shall arrange the insurance of the equipment for the school from the port of entry to the project site.

5. The Government shall be responsible for dealing with any claims, which may be brought by third parties against UNESCO, its property and its personnel or other persons performing services on behalf of UNESCO and shall hold harmless UNESCO, its property, personnel and such persons in case of any claims or liabilities resulting from operations under this Plan of Operation, except where it is agreed by UNESCO and the Government that such claims or liabilities arise from the gross negligence or wilful misconduct of such personnel or persons.

- (ii) Agreement between UNESCO and the Government of the Republic of Chile concerning the Pilot Project for access of women to technical careers. Signed at Paris on 2 May 1968 and at Santiago on 5 August 1968

VII — *Other conditions*

7.1 The Government shall apply to the Organization, its property, funds and assets, officials and experts, the provisions of the Convention on the Privileges and Immunities of



the Specialized Agencies and Annex IV thereof. Moreover, it is understood that no restriction shall be placed on the right of entry into, sojourn upon, or departure from the territory of the Government of Chile of any person requested by UNESCO to perform services in connection with the activities of the project without distinction of nationality.

7.2 The Government shall be responsible for dealing with any claims which may be brought by third parties against UNESCO, its property, funds or assets or against its personnel or other persons performing services on its behalf, and shall hold UNESCO harmless in case of any claims or liabilities resulting from activities under this Agreement, except where it is agreed by the Government and the Director-General of UNESCO that such claims or liabilities arise from the gross negligence or wilful misconduct of such personnel or persons.

(d) Agreement relating to operational assistance—Agreement between UNESCO and the Government of Iran concerning the provision of administrative officers to perform operational, executive or managerial functions. Signed at Paris on 16 December 1968

## Article II

### *Functions of the Officers*

...

3. The Parties hereto recognize that a special international status attaches to the Officers made available to the Government under this Agreement, and that the assistance provided hereunder is in furtherance of the purposes of UNESCO. Accordingly the Officers shall not be required to perform functions incompatible with such special international status, or with the purposes of UNESCO, and any contract entered into by the Government and the Officer shall embody a specific provision to this effect.

## Article IV

### *Obligations of the Government*

...

5. The Government recognizes that the Officers shall:

(a) be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity;

(b) be exempt from taxation on the stipends, emoluments and allowances paid to them by UNESCO;

(c) be immune from national service obligations;

(d) be immune, together with their spouses and relatives dependent upon them, from immigration restrictions and alien registration;

(e) be accorded the same privileges in respect of currency or exchange facilities as are accorded to the officials of comparable rank forming part of diplomatic missions to the Government;

(f) be given, together with their spouses and relatives dependent on them, the same repatriation facilities in time of international crises as diplomatic envoys;

(g) have the right to import free of duty their furniture and effects at the time of first taking up their posts in the country.

6. The Government shall be responsible for dealing with any claims which may be brought by third parties against the Officers or against UNESCO and its agents and employees, and shall hold the Officers, UNESCO and its agents and employees harmless in any

case of any claims or liabilities resulting from operations under this Agreement, except where it is agreed by the Government, the Administrator of the United Nations Development Programme where appropriate, and UNESCO that such claims or liabilities arise from gross negligence or wilful misconduct of Officers or the agents or employees of UNESCO.

...

### 3. WORLD HEALTH ORGANIZATION

Basic agreement between WHO and Guyana for the provision of technical advisory assistance.<sup>35</sup> Signed at Georgetown on 14 June and at Washington on 3 July 1968

#### Article I

##### *Furnishing of technical advisory assistance*

...

6. The Government shall be responsible for dealing with any claims which may be brought by third parties against the Organization and its advisers, agents and employees and shall hold harmless the Organization and its advisers, agents and employees in case of any claims or liabilities resulting from operations under this Agreement, except where it is agreed by the Government and the Organization that such claims or liabilities arise from the gross negligence or willful misconduct of such advisers, agents or employees.

...

#### Article V

##### *Facilities, privileges and immunities*

1. The Government, insofar as it is not already bound to do so, shall apply to the Organization, its staff, funds, properties and assets the appropriate provisions of the Convention on the Privileges and Immunities of the Specialized Agencies.

2. Staff of the Organization, including advisers engaged by it as members of the staff assigned to carry out the purposes of this Agreement, shall be deemed to be officials within the meaning of the above Convention. This Convention shall also apply to any WHO representative appointed to Guyana who shall be afforded the treatment provided for under Section 21 of the said Convention.

### 4. INTER-GOVERNMENTAL MARITIME CONSULTATIVE ORGANIZATION

(a) Agreement between the Inter-Governmental Maritime Consultative Organization and the Government of the United Kingdom of Great Britain and Northern Ireland regarding the Headquarters of the Organization.<sup>36</sup> Signed at London on 28 November 1968

The Government of the United Kingdom of Great Britain and Northern Ireland and the Inter-Governmental Maritime Consultative Organization:

<sup>35</sup> Entered into force on 3 July 1968.

<sup>36</sup> Came into force on the date of signature.

*Considering* that the United Kingdom undertook on 4 November, 1959 to apply to the Organization the provisions of the Convention on the Privileges and Immunities of the Specialized Agencies of the United Nations including its Annex XII;

*Considering* that the Assembly of the Organization by its Resolution A.56 (III), adopted on 23 October, 1963, has envisaged the conclusion of a supplemental agreement or agreements based on accepted principles established in similar agreements concerning the United Nations, the Specialized Agencies and the International Atomic Energy Agency, to ensure that the Organization's legal status in the United Kingdom should be defined and the content of certain privileges, concessions and courtesies as well as the measures for their implementation should be formulated in detail;

Have agreed as follows:

## PART I

### *Definitions and interpretation*

#### Article 1

In this Agreement:

(a) "the IMCO Convention" means the Convention on the Inter-Governmental Maritime Consultative Organization opened for signature at Geneva on 6 March, 1948<sup>37</sup>

(b) "the Convention" means the Convention on the Privileges and Immunities of the Specialized Agencies of the United Nations adopted by the General Assembly of the United Nations on 21 November, 1947, including its Annex XII; the text of which was received by the Secretary-General of the United Nations on 12 February, 1959, and any subsequent revision of that Annex approved by the Organization and acceded to by the United Kingdom;<sup>38</sup>

(c) "Organization" means the Inter-Governmental Maritime Consultative Organization;

(d) "Government" means the Government of the United Kingdom of Great Britain and Northern Ireland;

(e) "Secretary-General" means the Secretary-General of the Organization and, during his absence from duty, the Deputy Secretary-General and, in the absence of both, any other official specially designated to act on his behalf;

(f) "appropriate authorities" means the national, regional or local authorities of the United Kingdom, as the context may require, in accordance with the laws, regulations and customs of the United Kingdom;

(g) "law of the United Kingdom" includes Acts of Parliament, Orders in Council and all subordinate legislation;

(h) "emoluments" means all sums in respect of employment by the Organization paid to, vested in or accruing to an official's benefit in any form whatsoever;

(i) "Headquarters of the Organization" means the headquarters referred to in Article 44 (a) of the IMCO Convention;

(j) "premises of the Organization" means land, buildings and parts of buildings normally occupied by the Organization for the fulfilment of its official functions;

(k) "Member" means a Member of the Organization as defined in the IMCO Convention;

<sup>37</sup> United Nations, *Treaty Series*, vol. 289, p. 48.

<sup>38</sup> See p. 51 of this *Yearbook*.

(l) “representatives of Members” means heads of delegations of Members, participating in meetings convened by the Organization;

(m) “members of delegations” means representatives, alternates, advisers, technical experts and secretaries of delegations, participating in meetings convened by the Organization;

(n) “meetings convened by the Organization” means sessions of the Assembly, Council, and Maritime Safety Committee, and conferences or other gatherings convened by the Organization including those of any committee, sub-committee, group of experts or other subordinate body established by any of these bodies;

(o) “officials” means the Secretary-General, and persons in the categories specified under Article VI, Section 18, of the Convention, with the exception of those recruited locally and assigned to hourly rates;

(p) “senior officials” means all officials designated by the Secretary-General as possessing a rank equivalent to that of a diplomatic agent and recognised as such by the Government.

## Article 2

(1) This Agreement shall be interpreted in the light of its primary objective of enabling the Organization at its Headquarters in the United Kingdom fully and efficiently to discharge its responsibilities and fulfil its purposes and functions.

(2) To the extent that they deal with the same subject matter, this Agreement and the Convention or any treaty conferring immunities and privileges upon the Organization shall be complementary, but in cases of adjustment of the provisions of the Convention or the grant of privileges and immunities not previously accorded, the present Agreement shall be interpreted in the light of the Parties’ intention to supplement the Convention in accordance with its Article X, Section 39.

## PART II

### *Premises of the Organisation*

## Article 3

(1) For the purpose of Article III of the Convention, but not as a condition of its application, the location of the premises and the archives of the Organization shall be made known to the appropriate authorities by the Secretary-General who shall also inform the appropriate authorities of any change in the location or extent of such premises or archives and of any temporary occupation of premises for the fulfilment of its official functions. Where premises are temporarily used or occupied by the Organization for the fulfilment of its official functions, these premises shall, with the agreement of the appropriate authorities, be accorded the status of premises of the Organization.

(2) The Government undertake to assist the Organization in the acquisition of premises by gift, purchase or lease or the hire of premises at such time as they may be needed.

(3) The inviolability conferred by Article III, Section 6, of the Convention extends to all archives, correspondence, documents, manuscripts, photographs, films and recordings belonging to or held by the Organization and to all information contained therein.

(4) The immunity conferred by Article III, Section 5, of the Convention extends to the means of transport of the Organization. Means of transport which the Organization hires or borrows shall be immune from search, requisition, confiscation or expropriation. The Organization shall identify as such means of transport being used for official purposes.

(5) The Government shall do their utmost to ensure that the premises shall be supplied with necessary public services, including electricity, water, sewerage, gas, post, telephone, telegraph, drainage, collection of refuse and fire protection and that such public services shall be supplied on reasonable terms. In case of any interruption or threatened interruption to any such services, the Government shall consider the needs of the Organization as being of equal importance with those of diplomatic missions and shall accordingly take all reasonable steps to ensure that the Organization is not prejudiced.

(6) Any preferential rates or tariffs which may be granted to diplomatic missions in the United Kingdom for supplies of the services mentioned in paragraph (5) of this Article shall, subject to paragraph (2) of Article 8 of this Agreement, also be accorded to the Organization.

#### Article 4

The Organization shall be entitled to display its flag and emblem, or the flag and emblem of the United Nations, on the premises and means of transport of the Organization and of the Secretary-General.

#### Article 5

The Government are under a special duty to take all appropriate steps to protect the premises of the Organization against any intrusion or damage and to prevent any disturbance of the peace of the Organization or impairment of its dignity.

#### Article 6

(1) The premises of the Organization shall be under the control and authority of the Organization which may establish any regulations necessary for the execution of its functions therein.

(2) Except as otherwise provided in this Agreement, or in the Convention, the law of the United Kingdom shall apply within the premises of the Organization, provided that the Organization may establish any regulations necessary for the execution of its functions including rules of international administrative law and the terms of contracts of employment governed by that law. These regulations shall be operative within the premises of the Organization, and no law of the United Kingdom which is inconsistent shall be enforceable within those premises. Any dispute between the Organization and the Government as to whether a regulation of the former is authorised by this paragraph or as to whether a law of the United Kingdom is inconsistent with any regulation authorised by this paragraph shall be promptly settled as provided in Article 17 of this Agreement.

(3) No official of the Government or person exercising any public authority, whether administrative, judicial, military or police, shall enter the premises of the Organization except with the express consent of and under conditions approved by the Secretary-General. No service or execution of any legal process whatsoever, irrespective of whether the Organization is named as defendant, or any ancillary act such as the seizure of private property, shall take place within the premises of the Organization except with the express consent of and under conditions approved by the Secretary-General.

(4) Without prejudice to the terms of this Agreement, the Organization shall not permit the premises of the Organization to become a refuge from justice for persons who are avoiding arrest or service of legal process under the law of the United Kingdom or against whom an order of extradition or deportation has been issued by the appropriate authorities.

(5) Nothing in this Agreement shall prevent the reasonable application by the appropriate authorities of measures for the protection of the premises of the Organization against fire.

### PART III

#### *Access and communications*

##### Article 7

(1) The appropriate authorities shall impose no impediment to the transit to and from the premises of the Organization of persons having official business at those premises.

(2) The Government undertake to authorise the entry into the United Kingdom without delay and without charge for visas of the following persons for the term of their business with the Organization:

- (a) representatives of Members;
- (b) members of delegations;
- (c) officials designated by Members to represent them in accordance with Article 36 of the IMCO Convention;
- (d) officials as defined in Article 1 (o) of this Agreement;
- (e) officials of the United Nations and its organs, the Specialized Agencies and the International Atomic Energy Agency;
- (f) experts referred to in Annex XII to the Convention;
- (g) members of the families of the above-mentioned persons forming part of their respective households; and
- (h) persons invited to the Headquarters of the Organization at the direction of the Assembly or the Council.

(3) The provisions of the preceding paragraphs shall be applicable irrespective of the relations existing between the Governments of the persons referred to and the Government of the United Kingdom and are without prejudice to any special immunities to which such persons may be entitled. They shall not prevent the requirement of reasonable evidence to establish that persons claiming the aforementioned rights come within the classes described, nor the reasonable application of international quarantine and public health regulations.

(4) The Secretary-General shall as far as possible inform the Government in advance of their arrival in the United Kingdom of the names of persons within the categories set out in paragraph (2) of this Article to assist the Government to implement the provisions of this Article and of Article 14 as well as of Article V of the Convention.

##### Article 8

(1) The Government shall permit and protect unrestricted communication on the part of the Organization for all official purposes. The Organization may employ all appropriate means of communication, including couriers and messages in code or cypher. However, the Organization may install and use a wireless transmitter only with the consent of the appropriate authorities. Subject to these qualifications the Organization may employ the United Nations telecommunications network in accordance with limitations prescribed by the International Telecommunication Convention.

(2) The Organization is recognised to enjoy the treatment provided in Article IV, Section 11, of the Convention in respect of its official communications to the extent that such

treatment is compatible with any other international conventions, regulations and arrangements to which the Government are a party.

(3) Sealed bags containing documents or articles intended for official use and bearing external marks of their character shall in particular be accorded the immunity of Article III of the Convention and shall not be detained.

(4) A courier shall be provided with an official document indicating his status and the number of packages constituting the sealed bag. The appropriate authorities shall assist him in the performance of his functions, in which he shall enjoy personal inviolability and shall not be liable to any form of arrest and detention.

(5) A sealed bag may be entrusted to the captain of a commercial aircraft scheduled to land at an authorised port of entry. He shall be provided with an official document indicating the number of packages constituting the bag, but he shall not be considered to be a courier. The Organization may send an official who shall be considered to be a courier to take possession of the bag directly from the captain of the aircraft.

## PART IV

### *Financial*

#### Article 9

(1) Without prejudice to the exemptions accorded by Article III, Sections 9 and 10, of the Convention and without any limitation of these exemptions, the Organization shall be exempt from:

(a) income tax and surtax;

(b) capital gains tax;

(c) corporation tax;

(d) selective employment tax;

(e) purchase tax on articles for the official use of the Organization;

(f) municipal rates levied on the premises of the Organization except the proportion which, as in the case of diplomatic missions, represents payment for specific services rendered;

(g) Customs duty on hydrocarbon oils for the official use of the Organization; and

(h) excise duty on spirits of United Kingdom origin purchased in the United Kingdom for the purpose of official entertainment.

(2) The exemption conferred by Article III, Section 9 (b), of the Convention extends to customs duties and any taxes or charges imposed upon or by reason of importation and the procedures in connexion therewith excepting charges for storage, cartage and similar services; the certification by the Organization that any import or export is for its official use shall be accepted as conclusive.

(3) The exemptions provided for in paragraph (1) (e) of this Article and in Article III, Section 10, of the Convention shall be accorded by way of a refund of the tax element in the price paid by the Organization for purchases for its official use. In this connexion, the purchases envisaged are those made on a recurring basis or involving considerable quantities of goods, commodities or materials, or those involving considerable expenditure such as the furnishing of the premises of the Organization or the principal residences of the Secretary-General or the Deputy Secretary-General or the Secretary of the Maritime Safety Committee. The municipal rates referred to in paragraph (1) (f) of this Article shall in the first instance

be paid by the appropriate authorities and the proportion which represents payment for specific services rendered shall be recovered by them from the Organization.

(4) The exemption provided for in paragraph (1) (*h*) of this Article shall be accorded to the extent that such exemption is accorded to diplomatic missions and by way of a refund of the duty element included in the price of the spirits. A certificate by the Secretary-General that any purchase is for the purpose of official entertainment shall be accepted as conclusive.

(5) In the event of the introduction of taxes other than those referred to in this Article, the Government and the Organization shall determine the applicability of the Convention to such taxes.

#### Article 10

(1) The Secretary-General, the Deputy Secretary-General and the Secretary of the Maritime Safety Committee shall be exempt from income tax and surtax on their emoluments as defined in Article 1 (*h*) of this Agreement. The Secretary-General, the Deputy Secretary-General and the Secretary of the Maritime Safety Committee and members of their families forming part of their respective households, provided that, without prejudice to Annex XII of the Convention as accepted by the United Kingdom, they are not citizens of the United Kingdom and Colonies nor permanently resident in the United Kingdom, shall be exempt from:

(*a*) tax on income arising outside the United Kingdom;

(*b*) capital gains tax other than that imposed on immovable property (not occupied by them as a principal residence) in the United Kingdom or investments in commercial undertakings in the United Kingdom;

(*c*) that proportion of municipal rates levied on property occupied by them as a principal residence which does not represent payment for specific services rendered;

(*d*) purchase tax on motor cars of United Kingdom manufacture;

(*e*) any tax, fee or duty in respect of dogs and game;

(*f*) customs duty in respect of hydrocarbon oils.

The Secretary-General, provided that he is not a citizen of the United Kingdom and Colonies, nor permanently resident in the United Kingdom, shall be exempt from purchase tax to the extent that such exemption is accorded to the head of a diplomatic mission on fine quality goods of United Kingdom manufacture purchased on a substantial scale for the furnishing of his principal residence.

(2) All senior officials shall be exempt from income tax and surtax on their emoluments. Provided that they are not citizens of the United Kingdom and Colonies and are not permanently resident in the United Kingdom, senior officials shall be exempt from the taxes listed in sub-paragraphs (*a*) to (*f*) of paragraph (1) of this Article.

(3) All officials shall be exempt from income tax and surtax on their emoluments. Provided that they are not citizens of the United Kingdom and Colonies and are not permanently resident in the United Kingdom, officials shall be exempt from the taxes listed in sub-paragraphs (*d*) (provided the car is ordered within a reasonable period of first entry of the official) and (*e*) of paragraph (1) of this Article.

(4) The municipal rates referred to in paragraph (1) (*c*) of this Article shall in the first instance be paid by the appropriate authorities and the proportion which represents payment for specific services rendered shall be recovered by them through the channels of the Organization. The exemption provided for in paragraph (1) (*d*) of this Article shall be accorded to the extent and by procedures applicable to diplomatic agents.



## Article 11

(1) Officials shall, with respect to services rendered for the Organization, if they are not citizens of the United Kingdom and Colonies or permanently resident in the United Kingdom, be exempt from the provisions of any social security scheme established by the law of the United Kingdom.

(2) The exemptions provided for in this Article shall not preclude voluntary participation in any social security scheme in the United Kingdom, provided that such participation is permitted by the law.

## Article 12

(1) Provided that they are not citizens of the United Kingdom and Colonies nor permanently resident in the United Kingdom, the Secretary-General, the Deputy Secretary-General and the Secretary of the Maritime Safety Committee shall be exempt from all Customs duties, purchase tax and similar charges or levies (excepting charges for storage, cartage and similar services) imposed upon or by reason of the importation of articles (including motor cars) for their personal use or the use of members of their families forming part of their households or for their establishment.

(2) Provided that they are neither citizens of the United Kingdom and Colonies nor permanently resident in the United Kingdom, senior officials shall be accorded the exemption described in paragraph (1) of this Article.

(3) Officials and members of their families forming part of their respective households shall be exempt from all Customs duties, purchase tax and similar charges or levies (excepting charges for storage, cartage and similar services) imposed upon or by reason of the importation of articles (including one motor car each) in their ownership or possession or already ordered by them and intended for their personal use or for their establishment at the time of first taking up their post in the United Kingdom. Such articles shall normally be imported within a reasonable period of first entry of such persons into the United Kingdom. Officials (other than citizens of the United Kingdom and Colonies or permanent residents of the United Kingdom) who are entitled to import a motor car under this concession but do not do so shall be given relief from purchase tax on a motor car of United Kingdom manufacture (to the extent that such relief is given to members of the administrative and technical staff of diplomatic missions) provided the car is ordered within a reasonable period of first entry of the official. Relief from purchase tax and Customs duties on the purchase or import of a replacement car will be allowed in cases where the appropriate authorities are satisfied that this is justified by the condition of the car being replaced.

## Article 13

(1) In implementation of the financial provisions of Article III, Section 7, of the Convention, the Organization shall be treated as non-resident for the purposes of the Exchange Control Act 1947, and may accordingly hold its funds in the form of gold or in any currency and in any country. Any of the gold or currency or bank balances held in the United Kingdom may be freely transferred within the United Kingdom or to any other country. The Organization shall not require exchange control consent to use its funds for the purposes of investments either in the United Kingdom or elsewhere, and may also borrow funds freely from countries outside the Scheduled Territories (Sterling Area).

(2) In accordance with Article V, Section 13 (e), of the Convention a representative of a Member of the Organization shall be entitled to the treatment in matters of exchange control which is accorded to a diplomatic agent in the United Kingdom of the State which

he represents. Where diplomatic relations with such a State do not exist or have been broken off, the treatment shall be no less than that accorded to a diplomatic agent of any third State inside or outside the Scheduled Territories, as appropriate.

(3) In accordance with Article VI, Section 19 (*d*), of the Convention, an official of the Organization shall be permitted by the appropriate authorities to receive and hold his official emoluments in an account denominated in any currency and shall in addition be accorded the treatment in matters of exchange control which is accorded to a diplomatic agent in the United Kingdom of the State in which he was resident for exchange control purposes when appointed an official. Where diplomatic relations with such a State do not exist or have been broken off, the treatment shall be no less than that accorded to a diplomatic agent of any third State inside or outside the Scheduled Territories, as appropriate.

(4) The Government shall not levy estate duty, or capital gains tax (on a deemed disposal of property by the deceased on the occasion of death), on or in respect of movable property of senior officials and members of their families forming part of their households, provided that in either case they were not citizens of the United Kingdom and Colonies or permanent residents of the United Kingdom at the time of death and provided that the presence of the property in the United Kingdom was due solely to the presence of the deceased as a senior official of the Organization or as a member of the family of a senior official. The Government shall impose no impediment to the repatriation of the movable property of a deceased senior official or member of his family with the exceptions of property whose export was prohibited at the time of death.

## PART V

### *Identification*

#### Article 14

(1) Any official of the Organization who presents a valid United Nations laissez-passer issued in accordance with Article VIII, Section 26, of the Convention and identifying him as an official of the Organization shall, subject to paragraph (3) of Article 7 of this Agreement, be immune from United Kingdom immigration restrictions and requirements and from alien registration. Members of the family forming part of the official's household who travel with him and present satisfactory evidence of identity shall be similarly treated. No such official shall require a visa for entry into the United Kingdom.

(2) Officials who do not present a United Nations laissez-passer shall not be exempt from the laws and regulations of the Government regarding passports and visas. They shall however, subject to paragraph (3) of Article 7 of this Agreement, be immune from immigration restrictions and requirements and from alien registration provided that:

(a) they produce a valid travel document, or

(b) they produce evidence of their official capacity issued either by their government or by the Organization, or the appropriate authorities are notified of their arrival.

(3) The persons described in paragraph (2) of Article 7 of this Agreement shall, subject to paragraph (3) of that Article, be immune from immigration restrictions and requirements and from alien registration provided that:

(a) they produce a valid travel document, and

(b) they produce evidence of their official capacity issued either by their government or by the Organization, or the appropriate authorities are notified of their arrival.

## Article 15

(1) The Secretary-General shall from time to time send to the Government a list of all officials, indicating in each case the appropriate staff category as defined in Article 1 of this Agreement and whether the individual is a citizen of the United Kingdom and Colonies or permanently resident in the United Kingdom. The Secretary-General may inform the Government of the appointment of officials individually for addition to the list.

(2) The Government shall issue to all officials on notification of their appointment, a card bearing the photograph of the holder and identifying him as an official. This card shall be accepted by the appropriate authorities as evidence of identity and appointment.

## PART VI

### *General provisions*

## Article 16

At the request either of the Government or of the Organization consultations shall take place respecting the implementation, modification or extension of this Agreement. Any understanding, modification or extension may be given effect by an Exchange of Notes between a duly authorised representative of the Government and the Secretary-General.

## Article 17

Any dispute between the Government and the Organization concerning the interpretation or application of this Agreement or any question affecting the relations between the Government and the Organization which is not settled by negotiation or by some other agreed method shall be referred for final decision to a panel of three arbitrators. One of these arbitrators shall be chosen by Her Majesty's Secretary of State, one shall be chosen by the Secretary-General and the third, who shall be the Chairman of the Tribunal, shall be chosen by the first two arbitrators. Should the first two arbitrators fail to agree upon the third within one year of their own appointment, the third arbitrator, at the request of the Government or of the Organization shall be chosen by the President of the International Court of Justice.

## Article 18

(1) This Agreement shall enter into force on signature.

(2) This Agreement may be terminated by agreement between the Government and the Organization. In the event of the Headquarters of the Organization being moved from the territory of the United Kingdom by a decision of the Assembly in accordance with Article 44 (b) of the IMCO Convention, this Agreement shall, after the period reasonably required for such transfer and for the disposal of the property of the Organization in the United Kingdom, cease to be in force.

In witness whereof the respective representatives have signed this Agreement.

Done in duplicate at London this 28th day of November, 1968.

For the Government of the United Kingdom of Great Britain and Northern Ireland:

FRED MULLEY

For the Inter-Governmental Maritime Consultative Organization:

COLIN GOAD

- (b) Resolution C.37 (XX) adopted by the Council on 16 May 1968: Revised text of Annex XII to the Convention on the Privileges and Immunities of the Specialized Agencies

THE COUNCIL,

ACTING in accordance with Article 27 of the Convention on the Inter-Governmental Maritime Consultative Organization,

APPROVES the amendment of paragraph 1 of Annex XII to the Convention on the Privileges and Immunities of the Specialized Agencies of the United Nations by the addition, after the words "of the Organization" of a comma and the words "to the Deputy Secretary-General",

ACCEPTS the standard clauses of the Convention on the Privileges and Immunities of the Specialized Agencies adopted by the General Assembly of the United Nations on 21 November 1947 as modified by the following revised Annex XII applicable to the Inter-Governmental Maritime Consultative Organization:

CONVENTION ON PRIVILEGES AND IMMUNITIES

ANNEX XII

1. The privileges and immunities, exemptions and facilities referred to in Article VI, Section 21 of the standard clauses shall be accorded to the Secretary-General of the Organization, to the Deputy Secretary-General and to the Secretary of the Maritime Safety Committee, provided that the provisions of this paragraph shall not require the Member in whose territory the Organization has its Headquarters to apply Article VI, Section 21 of the standard clauses to any person who is its national.

2. (a) Experts (other than officials coming within the scope of Article VI) serving on committees of, or performing missions for, the Organization shall be accorded the following privileges and immunities so far as is necessary for the effective exercise of their functions, including time spent on journeys in connexion with service on such committees or missions;

(i) immunity from personal arrest or seizure of their personal baggage;

(ii) in respect of words spoken or written or acts done by them in the performance of their official functions, immunity from legal process of every kind, such immunity to continue notwithstanding that the persons concerned are no longer serving on committees of or employed on missions for the Organization;

(iii) the same facilities in respect of currency and exchange restrictions and in respect of their personal baggage as are accorded to officials of foreign governments on temporary official missions;

(iv) inviolability for all papers and documents relating to the work on which they are engaged for the Organization;

(v) the right to use codes and to receive documents and correspondence by courier or in sealed dispatch bags for their communications with the Inter-Governmental Maritime Consultative Organization.

In connexion with Section 2 (a) (iv) and (v) above, the principle contained in the last sentence of Section 12 of the standard clauses shall be applicable.

(b) Privileges and immunities are granted to such experts in the interests of the Organization and not for the personal benefit of the individuals themselves. The Organization shall have the right and duty to waive the immunity of any expert in any case where, in its

opinion, the immunity would impede the course of justice and it can be waived without prejudice to the interests of the Organization.

INVITES the Secretary-General to transmit the above text of revised Annex XII to the Secretary-General of the United Nations in conformity with Section 38 of the aforementioned Convention.<sup>39</sup>

## 5. INTERNATIONAL ATOMIC ENERGY AGENCY

Agreement on the Privileges and Immunities of the IAEA.<sup>40</sup> Approved by the Board of Governors of the Agency on 1 July 1959

### (a) *Deposit of instruments of acceptance*

The following States accepted the Agreement on the Privileges and Immunities of the IAEA in 1968:<sup>41</sup>

| <i>State</i>                 | <i>Date of Deposit of Instrument of Acceptance</i> |
|------------------------------|--|
| Czechoslovakia <sup>42</sup> | 7 February 1968                                    |
| Bolivia                      | 10 April 1968                                      |
| Bulgaria <sup>43</sup>       | 17 June 1968                                       |

This brought up to 31 the number of States parties to this Agreement.

### (b) *Incorporation of the Agreement by reference in other agreement*

- (i) Part V, Section 25 of the Agreement between the International Atomic Energy Agency, the Government of the Republic of Korea and the Government of the United States of America for the Application of Safeguards (INFCIRC/111); entered into force on 5 January 1968.

<sup>39</sup> The text of the revised Annex XII was transmitted to the Secretary-General of the United Nations on 9 July 1968.

<sup>40</sup> United Nations, *Treaty Series*, vol. 374, p. 147.

<sup>41</sup> The agreement comes into force as between the Agency and the accepting States on the date of deposit of instruments of acceptance.

<sup>42</sup> With the following reservation:

"... the Czechoslovak Socialist Republic does not consider itself bound by the provisions of Sections 26 and 34 of the Agreement which call for the obligatory jurisdiction of the International Court of Justice for differences arising out of the interpretation or application of the Agreement; as to the jurisdiction of the International Court of Justice for such differences the Czechoslovak Socialist Republic holds the view that in order to be able to refer a certain difference for decision to the International Court of Justice an approval of all parties concerned in the difference is necessary in each individual case. This reservation also relates to the provisions of Section 34 according to which the parties should accept the opinion of the International Court of Justice as decisive."

<sup>43</sup> With the following reservation:

"The People's Republic of Bulgaria does not consider itself bound by the provisions of sections 26 and 34 of the Agreement. The People's Republic of Bulgaria considers that a dispute on the interpretation and application of the Agreement may be referred to the International Court of Justice only after the parties to the dispute have given their consent in respect of each individual case. This reservation applies equally to section 34, which states that the opinion of the Court shall be accepted as decisive by the parties."

- (ii) Article VIII, Section 20 of the Agreement between the International Atomic Energy Agency and the Government of Italy concerning the establishment of an International Centre for Theoretical Physics at Trieste (INFCIRC/51); entered into force on 5 February 1968.
- (iii) Part V, Section 25 of the Agreement between the International Atomic Energy Agency, the Government of the Kingdom of Denmark and the Government of the United States of America for the Application of Safeguards (INFCIRC/112); entered into force on 29 February 1968.
- (iv) Part V, Section 25 of the Agreement between the International Atomic Energy Agency, the Government of the Republic of Venezuela and the Government of the United States of America for the Application of Safeguards (INFCIRC/122); entered into force on 27 March 1968.
- (v) Article VI, Section 9 of the Agreement between the International Atomic Energy Agency and the Government of Pakistan for Assistance by the Agency to Pakistan in connection with the Establishment of a Nuclear Power Reactor Project (INFCIRC/116, II); entered into force on 17 June 1968.
- (vi) Part VI, Section 25 of the Agreement between the International Atomic Energy Agency, the Government of Japan and the Government of the United States of America for the Application of Safeguards by the Agency to the Bilateral Agreement between these Governments concerning Civil Uses of Atomic Energy (INFCIRC/119); entered into force on 10 July 1968.
- (vii) Part V, Section 25 of the Agreement between the International Atomic Energy Agency, the Government of the Republic of the Philippines and the Government of The United States of America for the Application of Safeguards (INFCIRC/120); entered into force on 19 July 1968.
- (viii) Part VII, Section 22 of the Agreement between the International Atomic Energy Agency and Mexico for the Application of Safeguards under the Treaty for the Prohibition of Nuclear Weapons in Latin America (INFCIRC/118); entered into force on 6 September 1968.
- (ix) Section 26 of the Agreement between the International Atomic Energy Agency, The Government of Japan and the Government of the United Kingdom of Great Britain and Northern Ireland for the Application of Agency Safeguards in Respect of the Agreement between those Governments for Co-operation in the Peaceful Uses of Atomic Energy (INFCIRC/125); entered into force on 15 October 1968.
- (x) Part V, Section 23 of the Agreement between the International Atomic Energy Agency, the Government of the United States of America and the Government of the United States of Brazil for the Application of Safeguards (INFCIRC/110); entered into force on 31 October 1968.

**Part Two**

**LEGAL ACTIVITIES OF THE UNITED NATIONS  
AND RELATED INTER-GOVERNMENTAL ORGANIZATIONS**





### Chapter III

#### SELECTED DECISIONS, RECOMMENDATIONS AND REPORTS OF A LEGAL CHARACTER BY THE UNITED NATIONS AND RELATED INTER-GOVERNMENTAL ORGANIZATIONS

##### A. Decisions, recommendations and reports of a legal character by the United Nations

1. United Nations General Assembly—twenty-second session  
(24 April-12 June and 23 September 1968)

##### NON-PROLIFERATION OF NUCLEAR WEAPONS (a) REPORT OF THE CONFERENCE OF THE EIGHTEEN-NATION COMMITTEE ON DIS- ARMAMENT (AGENDA ITEM 28)

Resolution [2373 (XXII)] adopted by the General Assembly

##### 2373 (XXII). Treaty on the Non-Proliferation of Nuclear Weapons

*The General Assembly,*

*Recalling* its resolutions 2346 A (XXII) of 19 December 1967, 2153 A (XXI) of 17 November 1966, 2149 (XXI) of 4 November 1966, 2028 (XX) of 19 November 1965 and 1665 (XVI) of 4 December 1961,

*Convinced* of the urgency and great importance of preventing the spread of nuclear weapons and of intensifying international co-operation in the development of peaceful applications of atomic energy,

*Having considered* the report of the Conference of the Eighteen-Nation Committee on Disarmament, dated 14 March 1968,<sup>1</sup> and appreciative of the work of the Committee on the elaboration of the draft non-proliferation treaty, which is attached to that report,<sup>2</sup>

*Convinced* that, pursuant to the provisions of the treaty, all signatories have the right to engage in research, production and use of nuclear energy for peaceful purposes and will be able to acquire source and special fissionable materials, as well as equipment for the processing, use and production of nuclear material for peaceful purposes,

*Convinced further* that an agreement to prevent the further proliferation of nuclear weapons must be followed as soon as possible by effective measures on the cessation of the nuclear arms race and on nuclear disarmament, and that the non-proliferation treaty will contribute to this aim,

*Affirming* that in the interest of international peace and security both nuclear-weapon and non-nuclear-weapon States carry the responsibility of acting in accordance with the

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<sup>1</sup> *Official Records of the General Assembly, Twenty-second Session, Annexes*, agenda item 28, document A/7072-DC/230.

<sup>2</sup> *Ibid.*, annex I.

principles of the Charter of the United Nations that the sovereign equality of all States shall be respected, that the threat or use of force in international relations shall be refrained from and that international disputes shall be settled by peaceful means,

1. *Commends* the Treaty on the Non-Proliferation of Nuclear Weapons, the text of which is annexed to the present resolution;

2. *Requests* the Depositary Governments to open the Treaty for signature and ratification at the earliest possible date;

3. *Expresses the hope* for the widest possible adherence to the Treaty by both nuclear-weapon and non-nuclear-weapon States;

4. *Requests* the Conference of the Eighteen-Nation Committee on Disarmament and the nuclear-weapon States urgently to pursue negotiations on effective measures relating to the cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control;

5. *Requests* the Conference of the Eighteen-Nation Committee on Disarmament to report on the progress of its work to the General Assembly at its twenty-third session.

*1672nd plenary meeting  
12 June 1968*

#### ANNEX

[Text of the Treaty, reproduced in this *Yearbook*, p. 156]

#### 2. United Nations General Assembly—twenty-third session

#### (1) INTERNATIONAL CO-OPERATION IN THE PEACEFUL USES OF OUTER SPACE: REPORT OF THE COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE (AGENDA ITEM 24)

Resolution [2453 B (XXIII)] adopted by the General Assembly

#### 2453 (XXIII). International co-operation in the peaceful uses of outer space

#### B

#### *The General Assembly*

*Recalling* its resolutions 2260 (XXII) of 3 November 1967 and 2345 (XXII) of 19 December 1967,

*Having considered* the report of the Committee on the Peaceful Uses of Outer Space,<sup>3</sup>

*Welcoming* the entry into force on 3 December 1968 of the Agreement on the Rescue of the Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space,<sup>4</sup>

<sup>3</sup> See *Official Records of the General Assembly, Twenty-third Session*, agenda item 24, document A/7285.

<sup>4</sup> General Assembly resolution 2345 (XXII), annex.

*Reaffirming* the common interest of mankind in furthering the exploration and use of outer space for peaceful purposes,

*Believing* that the benefits of space exploration can be extended to States at all stages of economic and scientific development if Member States conduct their space programmes in a manner designed to promote the maximum international co-operation and widest possible exchange of information in this field,

*Recognizing* the importance of international co-operation in developing the rule of law in this new area of human endeavour,

1. *Endorses* the recommendations and decisions<sup>5</sup> contained in the report of the Committee on the Peaceful Uses of Outer Space;

2. *Requests* the Committee on the Peaceful Uses of Outer Space:

(a) To complete urgently the preparation of a draft agreement on liability for damage caused by the launching of objects into outer space and to submit it to the General Assembly at its twenty-fourth session;

(b) To continue to study questions relative to the definition of outer space and the utilization of outer space and celestial bodies, including various implications of space communications, as well as those comments which may be brought to the attention of the Committee by specialized agencies and the International Atomic Energy Agency as a result of their examination of problems that have arisen or that may arise from the use of outer space in the fields within their competence;

3. *Urges* those countries which have not yet become parties to the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies,<sup>6</sup> and the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space, to give early consideration to ratifying or acceding to those agreements so that they may have the broadest possible effect;

4. *Reaffirms its belief*, as expressed in resolution 1721 D (XVI) of 20 December 1961, that communication by means of satellites should be available to the nations of the world as soon as practicable on a global and non-discriminatory basis, and recommends that States parties to negotiations regarding international arrangements in the field of satellite communication should constantly bear this principle in mind so that its ultimate realization may not be impaired;

5. *Approves* the establishment by the Committee on the Peaceful Uses of Outer Space of a working group to study and report on the technical feasibility of communication by direct broadcast from satellites and the current and foreseeable developments in this field, including comparative user costs and other economic considerations, as well as the implications of such developments in the social, cultural, legal and other areas, and expresses the hope that interested States Members of the United Nations and members of the specialized agencies will contribute comments and working papers to the working group for its information and guidance in the performance of its task;

6. *Welcomes* the decision of the Committee on the Peaceful Uses of Outer Space to take up at its next session serious consideration of suggestions and views regarding education and training in the field of exploration and peaceful uses of outer space that were expressed in the General Assembly and in the Committee, as requested by the Assembly in paragraph 11 of resolution 2260 (XXII);

<sup>5</sup> See *Official Records of the General Assembly, Twenty-third Session*, agenda item 24, document A/7285, paras. 11-38.

<sup>6</sup> See *Juridical Yearbook*, 1966, p. 166.

7. *Approves* the continuing sponsorship by the United Nations of the Thumba Equatorial Rocket Launching Station and recommends that Member States should give consideration to the use of these facilities for appropriate space research activities;

8. *Endorses* the recommendation of the Committee on the Peaceful Uses of Outer Space that, upon notification of the United Nations by the Government of Argentina that the Mar Chiquita station near Mar del Plata is operative, the Secretary-General, in consultation with the Chairman of the Committee, should appoint a small group of scientists, drawn from States which are members of the Committee and are familiar with space research and facilities, to visit the station in Argentina and report to the Committee on its eligibility for United Nations sponsorship, in accordance with the basic principles endorsed by the General Assembly in its resolution 1802 (XVII) of 14 December 1962;

9. *Welcomes* the efforts of a number of Member States to keep the Committee on the Peaceful Uses of Outer Space fully informed of their activities and invites other Member States to do so;

10. *Notes with appreciation* that, in accordance with General Assembly resolution 1721 B (XVI) of 20 December 1961, the Secretary-General continues to maintain a public registry of objects launched into orbit or beyond on the basis of information furnished by Member States;

11. *Requests* the specialized agencies and the International Atomic Energy Agency to examine the particular problems which arise or which may arise from the use of outer space in the fields within their competence and which should in their opinion be brought to the attention of the Committee on the Peaceful Uses of Outer Space, and to report thereon to the Committee for its consideration, as indicated in paragraph 2 (b) of the present resolution;

12. *Invites* the specialized agencies concerned and the International Atomic Energy Agency to furnish the Committee on the Peaceful Uses of Outer Space with progress reports on their work in the field of the peaceful uses of outer space;

13. *Requests* the Committee on the Peaceful Uses of Outer Space to continue its work as set out in the present resolution and in previous General Assembly resolutions, and to report to the Assembly at its twenty-fourth session.

*1750th plenary meeting,  
20 December 1968*

(2) EXAMINATION OF THE QUESTION OF THE RESERVATION EXCLUSIVELY FOR PEACEFUL PURPOSES OF THE SEA-BED AND THE OCEAN FLOOR, AND THE SUBSOIL THEREOF, UNDERLYING THE HIGH SEAS BEYOND THE LIMITS OF PRESENT NATIONAL JURISDICTION, AND THE USE OF THEIR RESOURCES IN THE INTERESTS OF MANKIND: REPORT OF THE *AD HOC* COMMITTEE TO STUDY THE PEACEFUL USES OF THE SEA-BED AND THE OCEAN FLOOR BEYOND THE LIMITS OF NATIONAL JURISDICTION (AGENDA ITEM 26)

Resolutions [2467 A and B (XXIII)] adopted by the General Assembly

**2467 (XXIII).** Examination of the question of the reservation exclusively for peaceful purposes of the sea-bed and the ocean floor, and the subsoil thereof, underlying the high seas beyond the limits of present national jurisdiction, and the use of their resources in the interests of mankind

A

*The General Assembly,*

*Recalling* the item entitled “Examination of the question of the reservation exclusively for peaceful purposes of the sea-bed and the ocean floor, and the subsoil thereof, underlying the high seas beyond the limits of present national jurisdiction, and the use of their resources in the interests of mankind”,

*Having in mind* its resolution 2340 (XXII) of 18 December 1967 concerned with the problems arising in the area to which the title of the item refers,

*Reaffirming* the objectives set forth in that resolution,

*Taking note with appreciation* of the report prepared by the *Ad Hoc* Committee to Study the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction,<sup>7</sup> keeping in mind the views expressed in the course of its work and drawing upon its experience,

*Recognizing* that it is in the interest of mankind as a whole to favour the exploration and use of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, for peaceful purposes,

*Considering* that it is important to promote international co-operation for the exploration and exploitation of the resources of this area,

*Convinced* that such exploitation should be carried out for the benefit of mankind as a whole, irrespective of the geographical location of States, taking into account the special interests and needs of the developing countries,

*Considering* that it is essential to provide, within the United Nations system, a focal point for the elaboration of desirable measures of international co-operation, taking into account alternative actual and potential uses of this area, and for the co-ordination of the activities of international organizations in this regard,

1. *Establishes* a Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, composed of forty-two States;

2. *Instructs* the Committee:

<sup>7</sup> *Official Records of the General Assembly, Twenty-third Session, agenda item 26, document A/7230.*

(a) To study the elaboration of the legal principles and norms which would promote international co-operation in the exploration and use of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction and ensure the exploitation of their resources for the benefit of mankind, and the economic and other requirements which such a régime should satisfy in order to meet the interests of humanity as a whole;

(b) To study the ways and means of promoting the exploitation and use of the resources of this area, and of international co-operation to that end, taking into account the foreseeable development of technology and the economic implications of such exploitation and bearing in mind the fact that such exploitation should benefit mankind as a whole;

(c) To review the studies carried out in the field of exploration and research in this area and aimed at intensifying international co-operation and stimulating the exchange and the widest possible dissemination of scientific knowledge on the subject;

(d) To examine proposed measures of co-operation to be adopted by the international community in order to prevent the marine pollution which may result from the exploration and exploitation of the resources of this area;

3. *Also calls upon* the Committee to study further, within the context of the title of the item, and taking into account the studies and international negotiations being undertaken in the field of disarmament, the reservation exclusively for peaceful purposes of the sea-bed and the ocean floor without prejudice to the limits which may be agreed upon in this respect;

4. *Requests* the Committee:

(a) To work in close co-operation with the specialized agencies, the International Atomic Energy Agency and the intergovernmental bodies dealing with the problems referred to in the present resolution, so as to avoid any duplication or overlapping of activities;

(b) To make recommendations to the General Assembly on the questions mentioned in paragraphs 2 and 3 above;

(c) In co-operation with the Secretary-General, to submit to the General Assembly reports on its activities at each subsequent session;

5. *Invites* the specialized agencies, the International Atomic Energy Agency and other intergovernmental bodies including the Intergovernmental Oceanographic Commission of the United Nations Educational, Scientific and Cultural Organization to co-operate fully with the Committee in the implementation of the present resolution.

*1752nd plenary meeting,  
21 December 1968.*

## B

*The General Assembly,*

*Recognizing* that it is in the common interest of all nations that the exploration and exploitation of the resources of the sea-bed and the ocean floor, and the subsoil thereof, should be conducted in such a manner as to avoid infringement of the other interests and established rights of nations with respect to the uses of the sea,

*Mindful* of the threat to the marine environment presented by pollution and other hazardous and harmful effects, which might result from exploration and exploitation of the areas under consideration,

*Desiring* to promote effective measures of prevention and control of such pollution and to allay the serious damage which might be caused to the marine environment and, in par-

tical, to the living marine resources which constitute one of mankind's most valuable food resources,

*Recognizing* the complex problem of ensuring effective co-ordination in the wide field of environmental pollution and in the more specific area of prevention and control of marine pollution,

*Noting with satisfaction* the measures being undertaken by the Inter-Governmental Maritime Consultative Organization to prevent and control pollution of the sea by preparing new draft conventions and other instruments for that purpose,

*Recalling*, in this regard, the progress achieved towards such concerted action by inter-governmental bodies and the establishment, by the Food and Agriculture Organization of the United Nations, the United Nations Educational, Scientific and Cultural Organization and its Intergovernmental Oceanographic Commission, the Inter-Governmental Maritime Consultative Organization and the World Meteorological Organization, of a joint group of experts on the scientific aspects of marine pollution,

*Recalling further* the competence and continuing valuable contributions of the other intergovernmental organizations concerned,

1. *Welcomes* the adoption by States of appropriate safeguards against the dangers of pollution and other hazardous and harmful effects that might arise from the exploration and exploitation of the resources of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, notably in the form of concrete measures of international co-operation for the purpose of realizing this aim;

2. *Considers* that, in connexion with the elaboration of principles underlying possible future international agreements for the area concerned, a study should be made with a view to clarifying all aspects of protection of the living and other resources of the sea-bed and the ocean floor, the superjacent waters and the adjacent coasts against the consequences of pollution and other hazardous and harmful effects arising from various modalities of such exploration and exploitation;

3. *Considers further* that such a study should take into consideration the importance of minimizing interference between the many means by which the wealth of the ocean space may be harvested, and that it should extend to the examination of the circumstances in which measures may be undertaken by States for the protection of the living and other resources of those areas in which pollution detrimental to those resources has occurred or is imminent;

4. *Requests* the Secretary-General, in co-operation with the appropriate and competent body or bodies presently undertaking co-ordinated work in the field of marine pollution control, to undertake the study referred to in paragraphs 2 and 3 above and to submit a report thereon to the General Assembly and the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction.

*1752nd plenary meeting,  
21 December 1968.*

(3) URGENT NEED FOR SUSPENSION OF NUCLEAR AND THERMONUCLEAR TESTS: REPORT OF THE CONFERENCE OF THE EIGHTEEN-NATION COMMITTEE ON DISARMAMENT (AGENDA ITEM 28)

Resolution [2455 (XXIII)] adopted by the General Assembly

**2455 (XXIII). Urgent need for suspension of nuclear and thermonuclear tests**

*The General Assembly,*

*Having considered* the question of the urgent need for suspension of nuclear and thermonuclear tests and the report of the Conference of the Eighteen-Nation Committee on Disarmament,<sup>8</sup>

*Recalling* its resolutions 1762 (XVII) of 6 November 1962, 1910 (XVIII) of 27 November 1963, 2032 (XX) of 3 December 1965, 2163 (XXI) of 5 December 1966 and 2343 (XXII) of 19 December 1967,

*Recalling further* the joint memorandum on a comprehensive test ban treaty submitted on 26 August 1968 by Brazil, Burma, Ethiopia, India, Mexico, Nigeria, Sweden and the United Arab Republic and annexed to the report of the Conference of the Eighteen-Nation Committee on Disarmament,<sup>9</sup>

*Noting with regret* the fact that all States have not yet adhered to the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water, signed in Moscow on 5 August 1963,<sup>10</sup>

*Noting with increasing concern* that nuclear weapon tests in the atmosphere and underground are continuing,

*Taking into account* the existing possibilities of establishing, through international co-operation, a voluntary exchange of seismic data so as to create a better scientific basis for a national evaluation of seismic events,

*Recognizing* the importance of seismology in the verification of the observance of a treaty banning underground nuclear weapon tests,

*Noting* in this connexion that experts from various countries, including four nuclear-weapon States, have recently met unofficially to exchange views and hold discussions in regard to the adequacy of seismic methods for monitoring underground explosions, and the hope expressed that such discussions would be continued,

1. *Urges* all States which have not done so to adhere without further delay to the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water;

2. *Calls upon* all nuclear-weapon States to suspend nuclear weapon tests in all environments;

3. *Expresses the hope* that States will contribute to an effective international exchange of seismic data;

4. *Requests* the Conference of the Eighteen-Nation Committee on Disarmament to take up as a matter of urgency the elaboration of a treaty banning underground nuclear weapon tests and to report to the General Assembly on this matter at its twenty-fourth session.

*1750th plenary meeting,  
20 December 1968.*

<sup>8</sup> *Official Records of the Disarmament Commission, Supplement for 1967 and 1968*, document DC/231.

<sup>9</sup> *Ibid.*, annex I, section 10.

<sup>10</sup> United Nations, *Treaty Series*, vol. 480 (1963), No. 6964.



(4) THE POLICIES OF *APARTHEID* OF THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA: REPORT OF THE SPECIAL COMMITTEE ON THE POLICIES OF *APARTHEID* OF THE GOVERNMENT OF SOUTH AFRICA (AGENDA ITEM 31)

Resolution [2396 (XXIII)] adopted by the General Assembly

2396 (XXIII). The policies of *apartheid* of the Government of South Africa

*The General Assembly,*

*Recalling* its resolutions on this question and Security Council resolutions 181 (1963) of 7 August 1963, 182 (1963) of 4 December 1963, 190 (1964) of 9 June 1964 and 191 (1964) of 18 June 1964,

*Having considered* the report of the Special Committee on the Policies of *Apartheid* of the Government of the Republic of South Africa<sup>11</sup> and the report of the Sub-Committee on Information on *Apartheid* annexed thereto,<sup>12</sup>

*Taking into account* the decisions and recommendations contained in the Proclamation of Teheran<sup>13</sup> adopted by the International Conference on Human Rights, held at Teheran from 22 April to 13 May 1968,

*Noting with concern* that the Government of South Africa continues to intensify and extend beyond the borders of South Africa its inhuman and aggressive policies of *apartheid* and that these policies have led to a violent conflict, creating a situation in the whole of southern Africa which constitutes a grave threat to international peace and security,

*Recognizing* that the policies and actions of the Government of South Africa constitute a serious obstacle to the exercise of the right of self-determination by the oppressed people of southern Africa,

*Convinced* that the international campaign against *apartheid* must be intensified urgently in order to assist in securing the elimination of these inhuman policies,

*Considering* that effective action for a solution of the situation in South Africa is imperative in order to eliminate the grave threat to the peace in southern Africa as a whole,

*Noting* that the Security Council has not considered the problem of *apartheid* since 1964,

1. *Reiterates* its condemnation of the policies of *apartheid* practised by the Government of South Africa as a crime against humanity;

2. *Condemns* the Government of South Africa for its illegal occupation of Namibia and its military intervention and for its assistance to the racist minority régime in Southern Rhodesia in violation of United Nations resolutions;

3. *Reaffirms* the urgent necessity of eliminating the policies of *apartheid* so that the people of South Africa as a whole can exercise their right to self-determination and attain majority rule based on universal suffrage;

4. *Draws the attention* of the Security Council to the grave situation in South Africa and in southern Africa as a whole and requests the Council to resume urgently the consider-

<sup>11</sup> *Official Records of the General Assembly, Twenty-third Session*, agenda item 31, document A/7254.

<sup>12</sup> *Ibid.*, annex I.

<sup>13</sup> See *Final Act of the International Conference on Human Rights* (United Nations publication, Sales No.: E.68.XIV.2), p. 3.

ation of the question of *apartheid* with a view to adopting, under Chapter VII of the Charter of the United Nations, effective measures to ensure the full implementation of comprehensive mandatory sanctions against South Africa;

5. *Condemns* the actions of those States, particularly the main trading partners of South Africa, and the activities of those foreign financial and other interests, all of which, through their political, economic and military collaboration with the Government of South Africa and contrary to the relevant General Assembly and Security Council resolutions, are encouraging that Government to persist in its racial policies;

6. *Reaffirms* its recognition of the legitimacy of the struggle of the people of South Africa for all human rights, and in particular political rights and fundamental freedoms for all the people of South Africa irrespective of race, colour or creed;

7. *Calls upon* all States and organizations to provide greater moral, political and material assistance to the South African liberation movement in its legitimate struggle;

8. *Expresses its grave concern* over the ruthless persecution of opponents of *apartheid* under arbitrary laws and the treatment of freedom fighters who were taken prisoner during the legitimate struggle for liberation, and:

(a) *Condemns* the Government of South Africa for its cruel, inhuman and degrading treatment of political prisoners;

(b) *Calls* once again for the release of all persons imprisoned or restricted for their opposition to *apartheid* and appeals to all Governments, organizations and individuals to intensify their efforts in order to induce the Government of South Africa to release all such persons and to stop the persecution and ill-treatment of opponents of *apartheid*;

(c) *Declares* that such freedom fighters should be treated as prisoners of war under international law, particularly the Geneva Convention relative to the Treatment of Prisoners of War of 12 August 1949;<sup>14</sup>

(d) *Requests* the Secretary-General to establish and publicize as widely as possible:

(i) A register of persons who have been executed, imprisoned, placed under house arrest or banning orders or deported for their opposition to *apartheid*;

(ii) A register of all available information on acts of brutality committed by the Government of South Africa and its officials against opponents of *apartheid* in prisons;

9. *Commends* the activities of anti-*apartheid* movements and other organizations engaged in providing assistance to the victims of *apartheid* and in promoting their cause, and invites all States, organizations and individuals to make generous contributions in support of their endeavours;

10. *Urges* the Governments of all States to discourage in their territories, by legislative or other acts, all activities and organizations which support the policies of *apartheid* as well as any propaganda in favour of the policies of *apartheid* and racial discrimination;

11. *Requests* all States to discourage the flow of immigrants, particularly skilled and technical personnel, to South Africa;

12. *Requests* all States and organizations to suspend cultural, educational, sporting and other exchanges with the racist régime and with organizations or institutions in South Africa which practise *apartheid*;

13. *Invites* all States and organizations to commemorate as widely as possible the International Day for the Elimination of Racial Discrimination in 1969 in order to express their solidarity with the oppressed people of South Africa;

<sup>14</sup> United Nations, *Treaty Series*, vol. 75 (1950), No. 972.

14. *Requests* the Special Committee on the Policies of *Apartheid* of the Government of the Republic of South Africa, as a matter of priority, to study and report on the implementation of the United Nations resolutions on the question of *apartheid*, the effects of the measures taken and the means of securing more effective international action;

15. *Requests* the Special Committee to intensify its efforts to promote the international campaign against *apartheid* and, to this end, authorizes it:

(a) To hold sessions away from Headquarters or to send a sub-committee on a mission to consult specialized agencies, regional organizations, States and non-governmental organizations;

(b) To hold consultations with experts and to arrange for special studies on various aspects of *apartheid*, in consultation with the Secretary-General and within the budgetary provision to be made for this purpose;

16. *Requests* all States, specialized agencies and other organizations to intensify the dissemination of information on the evils of *apartheid* in the light of the report of the Special Committee and, in this respect, reiterates its request to those States which have not yet done so to encourage urgently the establishment of national committees as provided in paragraph 9 of General Assembly resolution 2307 (XXII) of 13 December 1967;

17. *Requests* the Secretary-General, in the light of the proposals of the Special Committee for the widest dissemination of information on *apartheid*:

(a) To ensure that the Unit on *Apartheid*, established in pursuance of General Assembly resolution 2144 A (XXI) of 26 October 1966, discharges its increased functions in the light of the proposals outlined in paragraph 146 of the report of the Special Committee;

(b) To take other appropriate steps to assist all States, specialized agencies and other organizations to intensify the dissemination of information;

18. *Requests* the Secretary-General to continue to provide the Special Committee with all the necessary means, including appropriate financial means, for the effective accomplishment of its task;

19. *Invites* States, specialized agencies, regional organizations and non-governmental organizations to co-operate with the Secretary-General and the Special Committee in the accomplishment of their tasks under the present resolution.

*1731st plenary meeting,  
2 December 1968.*

(5) QUESTION OF THE PUNISHMENT OF WAR CRIMINALS AND OF PERSONS WHO HAVE COMMITTED CRIMES AGAINST HUMANITY: REPORT OF THE SECRETARY-GENERAL (AGENDA ITEM 55)

Resolution [2391 (XXIII)] adopted by the General Assembly

**2391 (XXIII). Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity**

*The General Assembly,*

*Having considered* the draft Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity,

*Adopts* and opens for signature, ratification and accession the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, the text of which is annexed to the present resolution.

*1727th plenary meeting  
26 November 1968*

ANNEX

[Text of the Convention, reproduced in this *Yearbook*, p. 160]

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- (6) ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION (a) IMPLEMENTATION OF THE UNITED NATIONS DECLARATION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION (b) STATUS OF THE INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION: REPORT OF THE SECRETARY-GENERAL (b) MEASURES TO BE TAKEN AGAINST NAZISM AND RACIAL INTOLERANCE: REPORT OF THE SECRETARY-GENERAL (AGENDA ITEM 57)

Resolution [2438 (XXIII)] adopted by the General Assembly

**2438 (XXIII). Measures to be taken against nazism and racial intolerance**

*The General Assembly,*

*Recalling* its resolution 2331 (XXII) of 18 December 1967 on measures to be taken against nazism and racial intolerance,

*Reaffirming* that racism, nazism and the ideology and policy of *apartheid* are incompatible with the objectives of the Charter of the United Nations and the Universal Declaration of Human Rights, the Convention on the Prevention and Punishment of the Crime of Genocide, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, the International Convention on the Elimination of All Forms of Racial Discrimination and other international instruments,

*Expressing its deep concern* at the fact that, in spite of General Assembly resolution 2331 (XXII), the activities of groups and organizations propagating racism, nazism and similar ideologies based on terrorism and racial intolerance still continue,

*Bearing in mind* that such ideologies have in the past led to barbarous acts which outraged the conscience of mankind, to other heinous violations of human rights and eventually to a war which brought indescribable suffering to mankind,

*Recalling* that the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights stipulate that nothing in those instruments may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act such as racist or nazi practices and similar ideologies aimed at the destruction of any of the rights set forth therein,

*Taking note* of resolution II on measures to be taken against nazism and racial intolerance, adopted on 11 May 1968 by the International Conference on Human Rights,<sup>15</sup>

1. *Once again resolutely condemns* racism, nazism, *apartheid* and all similar ideologies and practices which are based on racial intolerance and terror as a gross violation of human rights and fundamental freedoms and of the principles of the Charter of the United Nations, and which may jeopardize world peace and the security of peoples;

2. *Urgently calls upon* all States to take without delay, with due regard to the principles contained in the Universal Declaration of Human Rights, legislative and other positive measures to outlaw groups and organizations which are disseminating propaganda for racism, nazism, the policy of *apartheid* and other forms of racial intolerance, and to prosecute them in the courts;

3. *Calls upon* all States and peoples, as well as national and international organizations, to strive for the eradication, as soon as possible and once and for all, of racism, nazism and similar ideologies and practices, including *apartheid*, which are based on racial intolerance and terror;

4. *Requests* the Secretary-General to submit to the General Assembly a survey of information which may be available to him on international instruments, legislation and other measures taken or envisaged, both at the national and international levels, with a view to halting racist, nazi and similar activities, such as *apartheid*;

5. *Invites* States Members of the United Nations and members of the specialized agencies to co-operate with the Secretary-General by providing him with information of this kind;

6. *Decides* to consider at its twenty-fourth session the question of measures to be taken against nazism and racial intolerance.

*1748th plenary meeting  
19 December 1968*

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## (7) CAPITAL PUNISHMENT (AGENDA ITEM 59)

Resolution [2393 (XXIII)] adopted by the General Assembly

### 2393 (XXIII). Capital punishment

*The General Assembly,*

*Recalling* that article 3 of the Universal Declaration of Human Rights provides that everyone has the right to life, liberty and security of person,

*Recalling further* that article 5 of the Universal Declaration of Human Rights provides that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment,

*Having considered* the report entitled *Capital Punishment*<sup>16</sup> in the light of the comments<sup>17</sup> thereon of the *Ad Hoc* Advisory Committee of Experts on the Prevention of Crime

<sup>15</sup> See *Final Act of the International Conference on Human Rights* (United Nations publication, Sales No.: E.68.XIV.2), p. 5.

<sup>16</sup> United Nations publication, Sales No.: E.67.IV.15, part I.

<sup>17</sup> *Official Records of the Economic and Social Council, Thirty-fifth Session, Annexes*, agenda item 11, document E/3724, section III.

and the Treatment of Offenders,<sup>18</sup> and the report entitled *Capital Punishment—Developments 1961 to 1965*,<sup>19</sup>

*Taking note* of the conclusion drawn by the Advisory Committee from the report entitled *Capital Punishment* that, if one looked at the whole problem of capital punishment in a historical perspective, it became clear that there was a world-wide tendency towards a considerable reduction in the number and categories of offences for which capital punishment might be imposed,

*Taking note also* of the view expressed in the report entitled *Capital Punishment—Developments 1961 to 1965* that there is an over-all tendency in the world towards fewer executions,

*Taking note* of the report of the meeting of the Consultative Group on the Prevention of Crime and the Treatment of Offenders held in August 1968, in so far as it relates to the question of capital punishment,<sup>20</sup> and of the view of the Group that there is a strong trend in most countries towards the abolition of capital punishment or at least towards fewer executions,

*Desiring* to promote further the dignity of man and thus to contribute to the International Year for Human Rights,

1. *Invites* Governments of Member States:

(a) To ensure the most careful legal procedures and the greatest possible safeguards for the accused in capital cases in countries where the death penalty obtains, *inter alia*, by providing that:

- (i) A person condemned to death shall not be deprived of the right to appeal to a higher judicial authority or, as the case may be, to petition for pardon or reprieve;
- (ii) A death sentence shall not be carried out until the procedures of appeal or, as the case may be, of petition for pardon or reprieve have been terminated;
- (iii) Special attention be given in the case, of indigent persons by the provision of adequate legal assistance at all stages of the proceedings;

(b) To consider whether the careful legal procedures and safeguards referred to in sub-paragraph (a) above may not be further strengthened by the fixing of a time-limit or time-limits before the expiry of which no death sentence shall be carried out, as has already been recognized in certain international conventions dealing with specific situations;

(c) To inform the Secretary-General not later than 10 December 1970 of actions which may have been taken in accordance with sub-paragraph (a) above and of the results to which their consideration in accordance with sub-paragraph (b) above may have led;

2. *Requests* the Secretary-General to invite Governments of Member States to inform him of their present attitude to possible further restriction of the use of the death penalty or to its total abolition, and to state whether they are contemplating restriction or abolition and also to indicate whether changes in this respect have taken place since 1965;

<sup>18</sup> In accordance with Economic and Social Council resolution 1086 B (XXXIX) of 30 July 1965, the *Ad Hoc* Committee was established on a permanent basis as the Advisory Committee of Experts on the Prevention of Crime and the Treatment of Offenders.

<sup>19</sup> United Nations publication, Sales No.: E.67.IV.15, part II.

<sup>20</sup> See *Official Records of the General Assembly, Twenty-third Session, Annexes*, agenda item 59, document A/7243, annex.

3. *Further requests* the Secretary-General to submit a report on the matter dealt with in paragraphs 1 (c) and 2 above to the Economic and Social Council at one of its sessions to be held in 1971.

1727th plenary meeting  
26 November 1968

(8) INTERNATIONAL YEAR FOR HUMAN RIGHTS (a) MEASURES AND ACTIVITIES UNDERTAKEN IN CONNEXION WITH THE INTERNATIONAL YEAR FOR HUMAN RIGHTS: REPORT OF THE SECRETARY-GENERAL (b) INTERNATIONAL CONFERENCE ON HUMAN RIGHTS (AGENDA ITEM 62)

Resolutions [2444 (XXIII) and 2449 (XXIII)] adopted by the General Assembly

2444 (XXIII). Respect for human rights in armed conflicts

*The General Assembly,*

*Recognizing* the necessity of applying basic humanitarian principles in all armed conflicts,

*Taking note* of resolution XXIII on human rights in armed conflicts, adopted on 12 May 1968 by the International Conference on Human Rights,<sup>21</sup>

*Affirming* that the provisions of that resolution need to be implemented effectively as soon as possible,

1. *Affirms* resolution XXVIII of the XXth International Conference of the Red Cross held at Vienna in 1965, which laid down, *inter alia*, the following principles for observance by all governmental and other authorities responsible for action in armed conflicts:

(a) That the right of the parties to a conflict to adopt means of injuring the enemy is not unlimited;

(b) That it is prohibited to launch attacks against the civilian populations as such;

(c) That distinction must be made at all times between persons taking part in the hostilities and members of the civilian population to the effect that the latter be spared as much as possible;

2. *Invites* the Secretary-General, in consultation with the International Committee of the Red Cross and other appropriate international organizations, to study:

(a) Steps which could be taken to secure the better application of existing humanitarian international conventions and rules in all armed conflicts;

(b) The need for additional humanitarian international conventions or for other appropriate legal instruments to ensure the better protection of civilians, prisoners and combatants in all armed conflicts and the prohibition and limitation of the use of certain methods and means of warfare;

3. *Requests* the Secretary-General to take all other necessary steps to give effect to the provisions of the present resolution and to report to the General Assembly at its twenty-fourth session on the steps he has taken;

<sup>21</sup> See *Final Act of the International Conference on Human Rights* (United Nations publication, Sales No.: E.68.XIV.2), p. 18.

4. *Further requests* Member States to extend all possible assistance to the Secretary-General in the preparation of the study requested in paragraph 2 above;

5. *Calls upon* all States which have not yet done so to become parties to the Hague Conventions of 1899 and 1907,<sup>22</sup> the Geneva Protocol of 1925<sup>23</sup> and the Geneva Conventions of 1949.<sup>24</sup>

*1748th plenary meeting  
19 December 1968*

#### 2449 (XXIII). Legal aid

*The General Assembly,*

*Noting with appreciation* resolution XIX on legal aid adopted on 12 May 1968 by the International Conference on Human Rights<sup>25</sup> held at Teheran from 22 April to 13 May 1968,

*Recalling* that the Universal Declaration of Human Rights proclaims that everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law,

*Recalling further* that article 14 of the International Covenant on Civil and Political Rights provides in part that everyone charged with a criminal offence shall be entitled to defend himself in person or through legal assistance of his own choosing and to be informed, if he does not have legal assistance, of this right and to have legal assistance assigned to him in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it.

*Believing* that there are cases where the individual's recourse to competent tribunals to which he has a right of access is denied or hindered because of the lack of financial resources to bear the expenses involved,

*Convinced* that the provision of legal aid to those who need it would strengthen the observance and protection of human rights and fundamental freedoms,

1. *Recommends* Member States:

(a) To guarantee the progressive development of comprehensive systems of legal aid to those who need it in order to protect their human rights and fundamental freedoms ;

(b) To devise standards for granting, in appropriate cases, legal or professional assistance;

(c) To consider ways and means of defraying the expenses involved in providing such comprehensive legal aid systems;

(d) To consider taking all possible steps to simplify legal procedures so as to reduce the burdens on the financial and other resources of individuals who seek legal redress:

(e) To encourage co-operation among appropriate bodies making available competent legal assistance to those who need it;

2. *Requests* the Secretary-General, in consultation with the appropriate United Nations organs, specialized agencies and other intergovernmental organs concerned, to

<sup>22</sup> Carnegie Endowment for International Peace, *The Hague Conventions and Declarations 1899-1907* (New York, Oxford University Press, 1918).

<sup>23</sup> League of Nations, *Treaty Series*, vol. XCIV (1929), No. 2138.

<sup>24</sup> United Nations, *Treaty Series*, vol. 75 (1950), Nos. 970-973.

<sup>25</sup> See *Final Act of the International Conference on Human Rights* (United Nations publication, Sales No.: E.68.XIV.2), p. 15.



provide the necessary resources, within the limits of the programme of advisory services in the field of human rights, to facilitate expert and other technical assistance to Member States seeking to extend the availability of competent legal aid.

*1748th plenary meeting  
19 December 1968*

(9) REPORT OF THE INTERNATIONAL LAW COMMISSION ON THE  
WORK OF ITS TWENTIETH SESSION (AGENDA ITEM 84)

(a) Report of the Sixth Committee <sup>26</sup>

[Original text: English and French]  
[3 December 1968]

I. Introduction

1. At its 1676th plenary meeting, on 27 September 1968, the General Assembly included the item entitled "Report of the International Law Commission on the work of its twentieth session" in the agenda of its twenty-third session and allocated it to the Sixth Committee.

2. The Sixth Committee considered the item at its 1029th to 1039th meetings, held from 3 to 15 October 1968. In addition, at its 1060th and 1061st meetings, on 4 November 1968, the Committee commemorated the twentieth anniversary of the first election of members of the International Law Commission. <sup>27</sup>

3. At the 1029th meeting, on 3 October 1968, Mr. Ruda, Chairman of the International Law Commission at its twentieth session, introduced the Commission's report on the work of that session (A/7209/Rev.1). At the 1037th and 1038th meetings, on 14 and 15 October 1968, he commented on the observations which had been made during the debate on the report. At the 1060th meeting, on 4 November 1968, he reviewed the work accomplished by the Commission during its first nineteen sessions.

4. At the 1039th meeting, on 15 October 1968, the Rapporteur of the Sixth Committee raised the question whether the Committee wished to include in its report to the General Assembly a summary of the views expressed during the debate. Referring to paragraph (f) of the annex to General Assembly resolution 2292 (XXII), the Rapporteur informed the Committee of the financial implications of the question. At the same meeting, the Committee decided that, in view of the nature of the subject matter, the report should include a summary of the representative trends of opinion and not of the individual views of all delegations.

5. The report of the International Law Commission on the work of its twentieth session, which was before the Sixth Committee, is divided into five chapters, entitled: I. Organization of the session; II. Relations between States and international organizations; III. Succession of States and Governments; IV. The most-favoured-nation clause; V. Other decisions and conclusions of the Commission. The report includes an annex containing

<sup>26</sup> Document A/7370 reproduced from *Official Records of the General Assembly, Twenty-third Session, Annexes*, agenda item 84.

<sup>27</sup> The text of the speech delivered on this occasion by the Chairman of the International Law Commission, is reproduced in this *Yearbook*, p. 107.

a working paper prepared by the Secretariat and entitled "Review of the International Law Commission's programme and methods of work".

## II. Proposals and amendments

6. At the 1037th meeting, on 14 October 1968, the representative of Ghana introduced a draft resolution sponsored by Australia, Austria, Ceylon, Chile, Colombia, the Dominican Republic, Ecuador, El Salvador, Ghana, Guatemala, Haiti, Hungary, India, Mexico, Mongolia, Nigeria, Peru, Romania, the United Kingdom of Great Britain and Northern Ireland, Uruguay and Yugoslavia (A/C.6/L.649 and Add.1). The draft resolution read as follows:

*"The General Assembly,*

*"Having considered the report of the International Law Commission on the work of its twentieth session (A/7209/Rev.1),*

*"Recalling its resolutions 1686 (XVI) of 18 December 1961, 1765 (XVII) of 20 November 1962, 1902 (XVIII) of 18 November 1963, 2045 (XX) of 8 December 1965, 2167 (XXI) of 5 December 1966 and 2272 (XXII) of 1 December 1967, by which it recommended that the International Law Commission should continue its work of codification and progressive development of the law of succession of States and Governments and relations between States and intergovernmental organizations, expedite the study of State responsibility, study the most-favoured-nation clause and carry out a review of its programme and methods of work,*

*"Emphasizing the need for the further codification and progressive development of international law in order to make it a more effective means of implementing the purposes and principles set forth in Articles 1 and 2 of the Charter of the United Nations and to give increased importance to its role in relations among nations,*

*"Noting with appreciation that the United Nations Office at Geneva organized in July 1968, during the twentieth session of the International Law Commission, a fourth session of the Seminar on International Law and that more scholarships in the Seminar were made available for participants from developing countries,*

*"1. Takes note of the report of the International Law Commission on the work of its twentieth session;*

*"2. Expresses its appreciation to the International Law Commission for the work it has accomplished;*

*"3. Notes with approval the programme and organization of work planned by the International Law Commission, but, with respect to the Commission's wish to reserve the possibility of a winter session in 1970, decides to defer a final decision until its twenty-fourth session;*

*"4. Recommends that the International Law Commission should:*

*"(a) Continue its work on succession of States and Governments and relations between States and international organizations, taking into account the views and considerations referred to in General Assembly resolutions 1765 (XVII) and 1902 (XVIII);*

*"(b) Make every effort to begin substantive work on State responsibility as from its next session, taking into account the views and considerations referred to in General Assembly resolutions 1765 (XVII) and 1902 (XVIII);*

*"(c) Continue its study on the most-favoured-nation clause;*

“5. *Recommends further* that the International Law Commission should examine, when it deems it advisable and without affecting its scheduled programme of work, the questions involved in the final stage of the codification of international law referred to in paragraph 102 of the Commission’s report;

“6. *Expresses the wish* that, in conjunction with future sessions of the International Law Commission, other seminars be organized, which should continue to ensure the participation of a reasonable number of nationals of developing countries;

“7. *Requests* the Secretary-General to undertake the preparation of the new survey of the whole field of international law referred to in paragraph 99 of the Commission’s report;

“8. *Further requests* the Secretary-General to forward to the International Law Commission the records of the discussions at the twenty-third session of the General Assembly on the report of the Commission.”

7. At the same meeting, Belgium submitted an amendment (A/C.6/L.650) to the draft resolution proposing the insertion between operative paragraphs 4 and 5 of the following new paragraph:

“*Invites* Member States to submit in writing to the Secretary-General, for the attention of the International Law Commission, not later than 15 May 1969, their comments and observations on the draft articles prepared by the International Law Commission on representatives of States to international organizations.”

8. At the 1038th meeting, on 15 October 1968, the Chairman informed the Committee that Belgium had withdrawn its amendment and that the sponsors of the draft resolution, with the exception of the Dominican Republic and Uruguay, had submitted a new draft resolution (A/C.6/L.651). The preamble of the new text was the same as that of draft resolution A/C.6/L.649 and Add.1. The operative part read as follows:

“1. *Takes note* of the report of the International Law Commission on the work of its twentieth session;

“2. *Expresses its profound appreciation* to the International Law Commission for the valuable work it has accomplished during the past twenty years in the progressive development and codification of international law;

“3. *Notes with approval* the programme and organization of work planned by the International Law Commission, but, with respect to the Commission’s wish to reserve the possibility of a winter session in 1970, decides to defer a final decision until its twenty-fourth session;

“4. *Recommends* that the International Law Commission should:

“(a) Continue its work on succession of States and Governments and relations between States and international organizations, taking into account the views and considerations referred to in General Assembly resolutions 1765 (XVII) and 1902 (XVIII);

“(b) Continue its study of the most-favoured-nation clause;

“(c) Make every effort to begin substantive work on State responsibility as from its next session, taking into account the views and considerations referred to in General Assembly resolutions 1765 (XVII) and 1902 (XVIII);

“5. *Takes note* that the International Law Commission has under consideration the questions involved in the final stage of the codification of international law, referred to in paragraph 102 of the Commission’s report;

“6. *Expresses the wish* that, in conjunction with future sessions of the International Law Commission, other seminars be organized, which should continue to ensure the participation of an increasing number of nationals of developing countries;

“7. *Notes* that the Secretary-General has under study the questions raised in paragraphs 98 (b) and 98 (c) of the report of the International Law Commission;

“8. *Requests* the Secretary-General to undertake the preparation of the new survey of the whole field of international law referred to in paragraph 99 of the Commission’s report;

“9. *Further requests* the Secretary-General to forward to the International Law Commission the records of the discussions at the twenty-third session of the General Assembly on the report of the Commission.”

9. At the 1039th meeting, also held on 15 October 1968, the representative of Ghana introduced a revised draft resolution (A/C.6/L.651/Rev.1) submitted by the Dominican Republic, Morocco, the United Republic of Tanzania and the sponsors of draft resolution A/C.6/L.651, namely Australia, Austria, Ceylon, Chile, Colombia, Ecuador, El Salvador, Ghana, Guatemala, Haiti, Hungary, India, Mexico, Mongolia, Nigeria, Peru, Romania, the United Kingdom of Great Britain and Northern Ireland and Yugoslavia.

10. The preamble of draft resolution (A/C.6/L.651/Rev.1) was identical with those of draft resolutions A/C.6/L.649 and Add.1 and A/C.6/L.651. The operative part read as follows:

“1. *Takes note* of the report of the International Law Commission on the work of its twentieth session;

“2. *Expresses its profound appreciation* to the International Law Commission of the valuable work it has accomplished during the past twenty years in the progressive development and codification of international law;

“3. *Notes with approval* the programme and organization of work planned by the International Law Commission, including the preparation, in accordance with article 18 of its Statute, of the new survey of the whole field of international law referred to in paragraph 99 of the Commission’s report, but, with respect to the Commission’s wish to reserve the possibility of a winter session in 1970, decides to defer a final decision in this respect until its twenty-fourth session;

“4. *Recommends* that the International Law Commission should:

“(a) Continue its work on succession of States and Governments and relations between States and international organizations, taking into account the views and considerations referred to in General Assembly resolutions 1765 (XVII) and 1902 (XVIII);

“(b) Continue its study of the most-favoured-nation clause;

“(c) Make every effort to begin substantive work on State responsibility as from its next session, taking into account the views and considerations referred to in General Assembly resolutions 1765 (XVII) and 1902 (XVIII);

“5. *Expresses the wish* that, in conjunction with future sessions of the International Law Commission, other seminars might be organized, which should continue to ensure the participation of an increasing number of nationals of developing countries;

“6. *Notes* that the Secretary-General has under study the questions raised in paragraphs 98 (b) and (c) of the report of the International Law Commission;

“7. *Requests* the Secretary-General to forward to the International Law Commission the records of the discussions at the twenty-third session of the General Assembly on the report of the Commission.”

11. With regard to the financial implications of the draft resolutions before the Committee, the representative of the Secretary-General noted at the 1037th meeting that, under paragraph 7 of draft resolution A/C.6/L.649 and Add.1, the Secretary-General would be requested to undertake the preparation of the new survey of the whole field of international law referred to in paragraph 99 of the report of the International Law Commission. That paragraph had mentioned a decision whereby the International Law Commission requested the Secretary-General to prepare a new survey on the lines of the memorandum entitled *Survey of International Law in Relation to the Work of Codification of the International Law Commission*,<sup>28</sup> which had been submitted at its first session in 1949. The representative of the Secretary-General said that that memorandum had been prepared by a highly qualified expert and that the Secretariat proposed to secure an equally qualified special consultant to undertake the new survey which was requested. The estimated cost of the special consultant's services was \$6,000. The representative of the Secretary-General subsequently explained that his observations also applied to paragraph 3 of draft resolution A/C.6/L.651/Rev.1. He added that, if the Secretariat could dispense with the services of a special consultant for the preparation of the new survey, the sum of \$6,000 would naturally be saved.

### III. Debate

12. The main trends of the Sixth Committee's debate on agenda item 84 are summarized in the following five sections. The first—section A—concerns the observations which were made on the role and the work of the International Law Commission in general. In the other four—sections B to E—the observations relating more particularly to the report of the International Law Commission on the work of its twentieth session are analysed. These four sections correspond to chapters II to V of the Commission's report, and each one bears the title of the chapter to which it relates.

#### A. THE ROLE AND THE WORK OF THE INTERNATIONAL LAW COMMISSION IN GENERAL

13. Many representatives paid a tribute to the Commission for the contribution it had made during the first twenty years of its existence to the codification and progressive development of international law. It was pointed out that, on the basis of drafts prepared by the Commission, multilateral conventions had been or were about to be concluded on the law of the sea, the reduction of statelessness, diplomatic and consular relations, special missions and the law of treaties.

14. In the view of some representatives, the creation of the Commission had inaugurated a period of rapid and far-reaching “legislative” activity in the development of international law which was without precedent. The substantive achievements of the Commission were ample justification of its establishment and augured well for future advances in the fulfilment of the task of codifying and progressively developing international law, entrusted to the General Assembly under article 13, paragraph 1 (*a*), of the Charter of the United Nations.

15. The significant role played by the Commission was attributed by a number of representatives to the high standard of its work, which had been carried out not only *de lege lata* but *de lege ferenda* in order to meet the demands of contemporary international life,

<sup>28</sup> United Nations publication, Sales No.: 48.V.1 (1).

characterized by political developments such as the emergence of new States and the establishment of international organizations, and by scientific and technological changes. Certain representatives stressed that the Commission had been conscious of the practical importance of its task and had sought to serve the interests of the international community as a whole. It had formulated general principles in a clear and concise fashion, relying on international custom and practice, ascertained by means of repeated consultations with Member States.

16. Certain representatives considered that the presentation of the Commission's report in the Sixth Committee by the Chairman of the Commission was an important means of strengthening the relationship existing between the two bodies. Some representatives emphasized the role which the Sixth Committee played in preparing the General Assembly's recommendations to the Commission and in bringing about the action that Governments considered appropriate in the light of the Commission's final drafts. It was, however, believed that the Commission should have a substantial degree of autonomy and not be subject to detailed directives from the General Assembly.

17. Some representatives pointed out the *de facto* interdependence between international law and international relations. Stress was placed on the importance of the codification and progressive development of international law as a means of building a world order based on the rule of law, of ensuring international peace and security in accordance with the principles of the Charter, in particular those of the sovereign equality of States, non-intervention and self-determination, and of promoting peaceful coexistence and cooperation among all States, irrespective of their political, economic or social systems. In the opinion of some representatives, the importance of establishing harmonious legal norms that would help regulate the international political situation had become more evident in view of the serious decline in the standards of international ethics and morality and the reappearance of the policy of promoting spheres of influence. Certain representatives also emphasized that, with a view to strengthening the role of international law in international affairs, the United Nations should concern itself with the way in which international law was respected in practice. The hope was expressed that it would be possible for the General Assembly to turn again in the near future to the question of a declaration on rights and duties of States. A similar view was expressed regarding the question of international criminal jurisdiction and that of the draft Code of Offences against the Peace and Security of Mankind.

#### B. RELATIONS BETWEEN STATES AND INTERNATIONAL ORGANIZATIONS

18. Most of the observations on chapter II of the International Law Commission's report related to the draft articles on representatives of States to international organizations which are contained in that chapter and which constitute the first unit of the set of draft articles which the Commission intends to submit on relations between States and international organizations. Some representatives raised two further questions not covered in the twenty-one draft articles. The first was the question of delegations to sessions of organs of international organizations and to conferences convened by international organizations. The second was the question of permanent observers from non-member States to international organizations. There were also representatives who stated that they did not intend to comment on the specific content of the draft articles, since they were at a preliminary stage of the consideration of the matter.

##### 1. *General observations on the draft articles on representatives of States to international organizations*

19. A number of representatives congratulated the International Law Commission and its Special Rapporteur, Mr. El-Erian, on the quality of the draft articles on represen-

tatives of States to international organizations. It was pointed out, in that connexion, that the twenty-one draft articles demonstrated the Commission's desire to establish an equilibrium between the interests of the sending States, those of the host States and those of the international organizations. Although they were only the first unit in the work of codification and progressive development which the Commission intended to undertake on the entire subject, the draft articles were a valuable contribution to knowledge of a new domain, which differed in several respects from the traditional domain of relations between States and was governed by rules which were still vague and practices which often varied from organization to organization.

2. *Observations on specific provisions of the draft articles on representatives of States to international organizations*

20. The provisions most frequently mentioned during the debate in the Sixth Committee were those of draft articles 1 to 5, 7, 8, 10, 13, 14 and 16.

*Article 1 (Use of terms)*

21. The observations on article 1 referred mainly to sub-paragraphs (a) and (b), which concern the definition of the terms "international organization" and "international organization of universal character", respectively.

22. With regard to sub-paragraph (a), some representatives stressed that international organizations were not subjects of international law in the same way as States and that the scope of their legal personality depended on the will of their component States. In that connexion, regret was expressed that the International Law Commission had not retained the definition of the term "international organization" which had been proposed by the Special Rapporteur in his third report.<sup>29</sup>

23. Two observations were made concerning sub-paragraph (b). First, it was said that the sub-paragraph did not indicate clearly enough that the universal character of an international organization should derive from its object and its purposes. Secondly, it was stated that the sub-paragraph should specify that an international organization of universal character was open to all States which accepted the rights and obligations established in its constitutive document.

*Article 2 (Scope of the present articles)*

24. Several representatives supported article 2 and endorsed the rule in paragraph 1 thereof limiting the application of the draft articles to international organizations of universal character. It was pointed out, in particular, that regional organizations had a special unity of purpose and that any attempt to standardize the practices which they followed might upset delicate balances and create numerous difficulties. Paragraph 2, moreover, stated a useful reservation to that rule and offered a sound solution for a problem which had long been a matter of concern to the International Law Commission.

25. Some representatives, however, criticized the rule laid down in paragraph 1. Among them were representatives who found the rule too broad and thought that the application of the draft articles should be restricted solely to genuinely important universal organizations. Others considered it too restrictive and expressed regret that regional organizations had been excluded from the scope of the draft articles. It was proposed in that connexion that the presumption embodied in article 2 should be reserved and that it should be specified that the draft articles applied to all important international organizations but that States members of regional organizations could adopt other rules for the latter organizations by mutual agreement.

<sup>29</sup> A/CN.4/203, chapter II, article 1, sub-paragraph (a), reproduced in *Yearbook of the International Law Commission, 1968*, vol. II, pp. 119-162.

*Article 3 (Relationship between the present articles and the relevant rules of international organizations), Article 4 (Relationship between the present articles and other existing international agreements) and Article 5 (Derogation from the present articles)*

26. Many representatives endorsed the provisions of articles 3, 4 and 5. Several of them emphasized that those provisions gave the draft articles the necessary flexibility and made allowance for the diverse character of international organizations and the need for the formulations of particular rule. Referring to paragraph (3) of the commentary on article 5 some representatives stated that they were unable to subscribe to the opinion that the United Nations could be considered in a sense to be a party to the Convention on the Privileges and Immunities of the United Nations.

*Article 7 (Functions of a permanent mission)*

27. Several representatives expressed support for the text of article 7 as adopted by the International Law Commission. Others, on the contrary, thought that it should be re-drafted. It was suggested, for example, that in sub-paragraph (c) negotiations in the organization should be mentioned first instead of second, so as to make it clear that permanent missions performed their functions in the context of multilateral diplomacy.

28. Two observations were made on sub-paragraph (e). Some representatives said that it added nothing new and that either the sub-paragraph should be deleted or the words "in the organization" should be added before the word "co-operation". Others proposed that the text should follow the corresponding provisions of the Vienna Convention on Diplomatic Relations and the Vienna Convention on Consular Relations and that sub-paragraph (e) should specify that one of the functions of a permanent mission was to promote friendly relations and co-operation between the member States of the organization.

29. It was also felt that a rule should be drawn up concerning the commencement of the functions of the permanent representative and staff of a mission, in order to determine when their privileges and immunities began.

*Article 8 (Accreditation to two or more international organizations or assignment to two or more permanent missions) and Article 13 (Accreditation to organs of the organization)*

30. The use of the term "accreditation" in the titles of articles 8 and 13 was criticized. It was pointed out that the word had been borrowed from the terminology of bilateral diplomacy and that, in order to avoid any confusion with the rules governing that subject, it would be desirable to replace it by another term, such as "appointment". A similar observation was made about the use of the term "accredit" in the body of article 8.

31. As regards the text of article 13, attention was drawn to an apparent contradiction between the two paragraphs of that article. It was pointed out that paragraph 2 established the presumption that a permanent representative had general competence to represent the sending State in all the organs of the organization to which he had been accredited. Under paragraph 1, however, the sending State could specify in the credentials given to its permanent representative that he represented it in one or more organs of the organization. The question was whether in such a case the presumption embodied in paragraph 2 was still valid or whether the fact that a State enumerated certain organs in the credentials given to its permanent representative prevented him from representing it in other organs.

*Article 10 (Appointment of the members of the permanent mission)*

32. Several representatives emphasized the importance of article 10, which, subject only to the reservations mentioned in it, set forth the rule of freedom of choice by the sending



State of the members of the permanent mission. This article was regarded as establishing a fundamental difference between permanent missions to international organizations and traditional diplomatic missions, for in the latter the freedom of choice of the members of the mission by the accrediting State was restricted by the rules concerning the *agrément* of the head of the mission and the declaring of a member of the mission to be *persona non grata* or unacceptable. Those rules did not, however, apply to permanent missions to international organizations.

*Article 14 (Full powers to represent the State in the conclusion of treaties)*

33. Some representatives pointed out that paragraph 1 of article 14 referred only to the adopting of the text of a treaty between the sending State and the international organization concerned, whereas the corresponding provisions of the draft Convention on the Law of Treaties<sup>30</sup> (article 6, paragraph 2 (c)) applied to any treaty adopted by an international organization. They questioned the desirability of thus limiting the powers which in the draft Convention on the Law of Treaties were accorded to permanent representatives in regard to adopting the text of a treaty. On the other hand, several members of the Sixth Committee considered that the rule formulated in article 14 was not open to dispute. Some, however, felt that that rule was perhaps more properly a part of the law of treaties, and they wondered whether it belonged in a draft concerned with the relations between States and international organizations.

*Article 16 (Size of the permanent mission)*

34. Referring to paragraph (8) of the commentary on article 16, several States noted with satisfaction that the International Law Commission was contemplating the inclusion in the draft articles of a provision of general scope concerning remedies available to the host State in the event of claims of abuses by a permanent mission.

3. *Suggestions that the draft articles should be communicated to international organizations*

35. Noting that the International Law Commission had decided to communicate the twenty-one draft articles to Governments for their comments, several representatives expressed the wish that the draft articles should also be communicated to international organizations.

4. *The question of delegations to organs of international organizations and to conferences convened by international organizations*

36. Several representatives noted that the International Law Commission had expressed the intention of considering at a future session whether rules concerning delegations to organs of international organizations and to conferences convened by international organizations should be included in its draft articles. Some of those representatives expressed the opinion that that should be done, because the absence of such rules in the draft articles would leave an unfortunate gap.

5. *The question of permanent observers from non-member States to international organizations*

37. Some representatives expressed the view that the International Law Commission should take up the question of permanent observers from non-member States to international

<sup>30</sup> This draft Convention was adopted at Vienna in 1968 by the Committee of the Whole of the United Nations Conference on the Law of Treaties. For the provisions referred to, see document A/CONF.39/C.1/L.370/Add.4.

organizations. They maintained that this question was particularly urgent, inasmuch as it had often been dealt with on a partisan and discriminatory basis.

### C. SUCCESSION OF STATES AND GOVERNMENTS

38. Several representatives expressed gratification that, following the recommendations of the General Assembly, the International Law Commission had begun to consider in depth the topic of succession of States and Governments, which had been included in its programme of work since 1949. They noted with satisfaction the progress achieved at the Commission's twentieth session and paid a tribute to the two Special Rapporteurs, Mr. Mohammed Bedjaoui and Sir Humphrey Waldock, for their contribution to the performance of the Commission's task.

39. A number of representatives considered that the problems involved in this field were of such diversity and complexity, particularly in view of the emergence of many new States on the international scene since the end of the Second World War, that it was essential to carry out very thorough studies before a final text could be prepared.

40. Several representatives endorsed the Commission's decision to divide the topic into three headings, namely, succession in respect of matters other than treaties, succession in respect of treaties and succession in respect of membership of international organizations. They also endorsed the decision to give priority to the second of these headings, and to leave aside for the time being the third heading, for which no Special Rapporteur had been appointed. In that respect the hope was expressed that work on the third heading would be started soon after a convention on relations between States and international organizations had been adopted. The view was also expressed that, once the work on succession of States had been completed, the question of succession of Governments should be considered in order to cover the subject of succession in its entirety.

41. Some representatives, noting the relationship existing between the first two headings of the topic, considered that the Special Rapporteurs concerned should consult one another at a later stage of the work to ensure the harmonization of the separate drafts to be submitted to the Commission.

42. Certain representatives expressed their general agreement with the conclusions reached by the Commission on the reports submitted to it on the first two headings of the topic. Other representatives made detailed comments on specific aspects of each of those headings. A summary of those comments is given below.

#### 1. *Succession in respect of matters other than treaties*

##### (a) *General definition of State succession*

43. Several representatives noted that the Commission had not attempted so far to define the term "succession". They referred to the difference of opinion which had arisen in the Commission on whether the term meant a transfer of sovereignty or a change in the possession of the competence to conclude treaties with respect to a given territory. The view was expressed that the adoption of either meaning to the exclusion of the other would create problems for new States. Thus, if the term were taken to mean a change in the possession of competence, it might prejudice the sovereign right of newly independent States to repudiate treaties concluded by former minority Governments. Whatever definition was finally arrived at, it should cover both meanings. On the other hand, it was considered that emphasis should be laid on sovereignty and on the expression of the free will of the peoples which might benefit from or have obligations under treaties concluded while they

were subjected to the colonial régime. There were also representatives who thought that any theoretical examination of the definition of succession should be avoided at the present time; what was needed from the Commission was the formulation of rules on the concrete problems raised by the topic.

(b) *Method of work*

44. Several representatives endorsed in general terms the Commission's decision that the study of the topic should combine the technique of codification with that of progressive development in the light of comments to be submitted by Governments. According to some representatives, the recent process of decolonization, giving birth to a large number of independent sovereign States, called for the progressive development of the law of State succession; it was impossible to rely solely on the codification of norms that had been established without the participation of those new States. It was stressed that, since the work of the Commission should seek to adapt the existing norms to current needs and should aim at universality, due account should be taken not only of traditional practices and old rules but also of contemporary conditions and the experience of the newly independent States. The belief was expressed that work on the topic entailed consideration of present trends of international laws, the principles of the Charter, and particularly the right of self-determination and sovereign equality, and permanent sovereignty over natural resources.

(c) *Form of the work*

45. The representatives who referred to this aspect of the question expressed agreement with the Commission's request to the Special Rapporteurs to prepare a draft of articles or rules, in the light of which a decision could be taken on the final form of the work. Some of those representatives expressed the hope that that draft would serve as the basis of a future convention. Others, however, believed that the draft might prove to be more suitable for another type of instrument, such as an expository code.

(d) *Origins and types of State succession*

46. Certain representatives expressed agreement with the conclusion reached by the Commission that it was not advisable to deal separately with the origins and types of State succession and that, for the purposes of codifying the rules relating to succession, it was sufficient to bear in mind the various situations arising in practice, with a view to formulating, when necessary, special rules for a given situation. It was argued that it would be both difficult and dangerous to attempt to codify this branch of law on the basis of a rigid classification into "dismemberment", "decolonization" and "merger", since those categories were neither mutually exclusive nor exhaustive. The view was expressed that from the juridical point of view decolonization was not an aspect of succession different from the traditional type; it was merely one of the ways of transferring sovereignty from one State to another. It was pointed out that problems of succession might arise even after decolonization, if an independent State merged with another or split voluntarily into two or more independent States. The belief was expressed, therefore, that it was better to take as a basis the matters in respect of which the question of succession could arise. The opinion was also voiced that, by avoiding the establishment of different régimes for different types of succession, the Commission would help ensure a major objective of the work being undertaken, namely, the enhancement of uniformity.

47. Other representatives, however, considered that there was a vital difference between decolonization on the one hand and dismemberment and merger on the other. The view was expressed that, while succession by decolonization was usually accompanied by devolution treaties which tended to have the effect of curtailing the freedom of the new State in its relationship with the former colonial Power and with other States, succession

by dismemberment or merger, when it was not the result of imperialist and colonialist activities, was in itself evidence of the free exercise of the sovereign right of an independent State. It was also stated that dismemberment and merger occurred so seldom as to make them relatively insignificant. The belief was therefore expressed that decolonization deserved to be treated separately from other origins and types of State succession but without thereby disregarding the latter.

(e) *Specific problems of new States*

48. Several representatives welcomed the Commission's conclusion that the problems of new States should be given particular attention. In addition, some representatives expressed the belief that State succession resulting from decolonization deserved a special study. A number of representatives emphasized that the importance recently acquired by the topic of State succession was a result of the phenomenon of decolonization. It was stated that the large number of recent emancipations of peoples had blurred the bilateral nature which that process might have had in the past; the process now operated under the surveillance of the international community, which should prevent provisional *de facto* arrangements from taking the place of a final solution to the problems of State succession. It was considered that the problems arising for States emerging as a result of decolonization had specific features which distinguished them from those arising in other cases of succession. Some representatives drew attention to the fact that, although the decolonization process was well under way, many peoples were still struggling for their independence. Emphasis was also placed on the urgent problems which all new States emerging from national liberation movements would have to face. It was pointed out that many newly independent States were still engaged in assessing the legal relationships inherited from past associations with the colonial Powers. The view was also expressed that some former colonial Powers were attempting to perpetuate colonialism in a new form, through economic and social means which placed as great a limitation on self-determination as the old, overt form. It was believed, therefore, that the formulation of rules on succession problems connected with decolonization would help to strengthen the sovereignty and the political and economic independence of the new States. A number of representatives, recognizing the particular importance that the study of the topic had for newly independent States, stressed the need for the Commission to take special account of the views of States which had achieved independence since the Second World War. In that connexion, some representatives made concrete references to difficulties encountered by the countries of which they were nationals during and following the period of their emancipation. The opinion was further expressed that it should be possible to formulate general rules on State succession which would be based on the experience gained from the decolonization process.

49. On the other hand, several representatives were of the opinion that the Commission should not limit its work to the problems arising from decolonization. While recognizing that special attention should be given to the problems of new States, they nevertheless expressed the hope that such an emphasis should not prevent the Commission from establishing general rules suited to all categories of State succession. It was stated that problems had always arisen in connexion with the emergence of new States, and that those problems had been taken into account in the past two decades in the development of rules relating to State succession. It was considered that traditional problems had not lost their significance, whereas the process of decolonization was almost complete; hence, if long-term solutions were to be found, the work of the Commission should be directed towards the problems of the future, in particular those involved in the various forms of economic integration, such as currency unions, common markets and free trade associations. It was also pointed out that the problems of State succession affected not only the newly independent State and the former administering Power but also the whole international community. Stress was

therefore placed on the need to protect and reconcile the legitimate interests of all concerned, rather than on simply viewing the question in the context of relations between the newly independent States and the former administering Powers. It was considered that the practice of all States should be given careful attention in the Commission's study. It was stated that, although there was no doubt that certain characteristics were peculiar to the succession of States arising from decolonization, the question to what extent particular rules should apply to new States could be answered only on the basis of the content of relevant general rules.

(f) *Devolution treaties*

50. Some representatives considered that the so-called devolution treaties had been imposed on subject territories and could not be regarded as agreements concluded between equals. They thought that the Commission should formulate, under the two headings of the topic being considered at present, rules which would provide legal means for putting an end to such treaties. The view was also expressed that it was essential to solve the specific problem of newly independent States with due regard to the general principles of contemporary international law, such as that of self-determination, rather than on the basis of devolution treaties. On the other hand, it was argued that in many situations connected with newly independent States arrangements had been agreed upon which had proved beneficial in promoting a smooth transition. Such arrangements should not be disregarded.

(g) *Judicial settlement of disputes*

51. A number of representatives expressed their agreement with the conclusion reached by the Commission that it was premature to take a decision on the question of the judicial settlement of disputes relating to State succession. Nevertheless, some representatives emphasized the importance of providing adequate machinery for solving the disputes concerning the application of the complex and modern system of codified rules that would emerge from the Commission's work. The opinion was expressed that, although judicial settlement might be regarded as a general problem in international law, the slow progress in solving that problem made it important to move forward in limited areas, such as State succession. For other representatives, however, the question of judicial settlement could not be treated in a piecemeal fashion.

(h) *Acquired rights*

52. Some representatives considered that the question of acquired rights should be examined closely by the Commission. Some expressed the view that the Commission should endeavour to strengthen the sovereignty of new States in that area. States had no obligation, on the international plane, to distinguish between acquired rights and other property rights, which could be modified by their legislation when the general interest so required. It was stated that the application of the so-called principle of acquired rights should not result in undue advantage to aliens. In that respect, the opinion was expressed that compensation for the termination or modification by a newly independent State of a concession granted by the former colonial Power could be claimed only on the basis of unjust enrichment.

(i) *Order of priority*

53. Several representatives supported the Commission's decision to grant priority to the study of economic and financial matters within the framework of the first heading. It was pointed out that such matters included public property and public debts as well as natural resources.

## 2. Succession in respect of treaties

54. Many comments summarized above under the first heading (Succession in respect of matters other than treaties) also have relevance in the context of the second heading (Succession in respect of treaties). To avoid repetition, a summary is given below only of those comments which were specifically concerned with the second heading. Some of those comments were of a general nature, others related to draft articles 2 and 4 submitted by the Special Rapporteur on succession in respect of treaties.<sup>31</sup>

### (a) General comments

55. A number of representatives expressed the belief that succession in respect of treaties should be studied within the framework both of the law of succession and of the law of treaties. Some representatives, while agreeing that both branches of law tended to merge in this context, nevertheless considered that the law of treaties offered the best starting point for an attempt to produce concrete results. Other representatives, however, expressed the opinion that the Commission should base its work on the significant changes that had taken place in international society as a result of decolonization, taking full account of the condemnation of the colonial system by the international community and of the inherent right of peoples to self-determination.

### (b) Draft article 2 submitted by the Special Rapporteur

56. Paragraph (a) of draft article 2 as submitted by the Special Rapporteur<sup>32</sup> was criticized. That paragraph provided that the draft articles did not relate “to international agreements concluded between States and other subjects of international law or between such other subjects of international law”. It was argued that the paragraph could lead to confusion in situations resulting from decolonization. The question could arise, for instance, whether the draft articles were applicable to agreements between two parts of a colonial empire which subsequently became independent and what the effect of such agreements would be. The hope was expressed that such situations would be dealt with by the International Law Commission and that draft article 2 did not foreshadow their exclusion.

### (c) Draft article 4 submitted by the Special Rapporteur

57. Opposing views were expressed concerning draft article 4 submitted by the Special Rapporteur and paragraph (2) of the commentary thereon.<sup>32</sup> Draft article 4 read as follows: “Nothing in the present articles shall be understood as affecting the continuance in force of a boundary established by or in conformity with a treaty prior to the occurrence of a succession.” The article and paragraph (2) of the commentary were supported on the grounds that disregard for boundaries established by a treaty would be a negation of the rule *pacta sunt servanda* and that the resulting reshaping of national boundaries would create a situation which could threaten world peace and international order.

58. On the other hand, it was argued that boundary treaties imposed by colonial Powers against the wishes of the people of subject territories should be regarded as contrary to the rule *pacta sunt servanda*, to the fundamental principle of self-determination, which was resolutions 1514 (XV) and 1654 (XVI). It was also said that draft article 4 and the views expressed in its commentary were contrary to the doctrine of revindication, under which a country might reclaim something which it once held as a right, particularly if such a claim was backed by the right of peoples to self-determination. It was believed that since boundary questions were highly political issues, the Commission should refrain from making

<sup>31</sup> See the first report on succession of States and Governments in respect of treaties, by Sir Humphrey Waldock, Special Rapporteur (A/CN.4/202), reproduced in *Yearbook of the International Law Commission, 1968*, vol. II pp. 87-93.

<sup>32</sup> *Ibid.*, section II.

legal pronouncements when the particular situations involved fell within the competence of other organs of the United Nations.

#### D. THE MOST-FAVoured-NATION CLAUSE

59. Many representatives noted with satisfaction that the International Law Commission had begun the consideration of the most-favoured-nation clause and paid a tribute to Mr. Ustor for the preparatory work he had done on the topic in his capacity as Special Rapporteur.

60. A number of representatives emphasized the important role of the clause in the field of international trade and the interest which their delegations took in the study of the question by the Commission. In the opinion of some representatives, the work of codification and progressive development in this area would help to eliminate discrimination in international trade and promote international co-operation.

61. Several representatives endorsed in general terms the decisions of the Commission on the topic and the instructions it had given to the Special Rapporteur. A number of representatives shared the Commission's view that the clause should be studied as a legal institution in the context of all aspects of its practical application. It was suggested that an attempt should be made to ascertain how far that institution could be used for the ends which the international community sought to achieve, in particular by examining how the clause could be applied multilaterally and how it could work for the benefit of certain categories of States, especially the developing countries. Many representatives supported the Commission's recommendation to the Special Rapporteur to consult all interested organizations and agencies. In this respect, mention was made in particular of the United Nations Commission on International Trade Law.

#### E. OTHER DECISIONS AND CONCLUSIONS OF THE INTERNATIONAL LAW COMMISSION

62. Most of the observations relating to chapter V of the report of the International Law Commission dealt with the following questions: review of the Commission's programme and methods of work, organization of future work, relations with the International Court of Justice, co-operation with other bodies and the Seminar on International Law.

##### 1. *Review of the Commission's programme and methods of work*

63. Many representatives expressed gratification that the Commission had carried out, during its twentieth session, a review of its programme and methods of work.

##### (a) *Programme of work*

64. The Commission's decision to give attention to its long-term programme of work before the term of office of the present membership expired was noted with approval. Support was also expressed for the Commission's view that the initial list of subjects which it had drawn up in 1949 should be revised, taking into account the current needs of the international community.

65. In this connexion, a number of representatives welcomed the Commission's decision to ask the Secretary-General to prepare a new survey of the whole field of international law on the lines of the survey in the memorandum submitted to the Commission at its first session in 1949 and referred to in paragraph 11 above. Some representatives, however, believed that the question of how and by whom the new survey would be carried out should not be prejudged, since this was a matter which should be decided at an appropriate time by the Commission in accordance with article 18 of its Statute. While agreeing with

the provisions relating to the survey contained in operative paragraph 3 of draft resolution A/C.6/L.651/Rev.1 (see paras. 9 and 10 above), they could not have supported paragraph 8 of the original text (A/C.6/L.651)<sup>33</sup> since, in their view, that paragraph was contrary to article 18 of the Commission's Statute. Surveying the whole field of international law with a view to selecting topics for codification was a statutory responsibility of the Commission and not of the Secretary-General. Other representatives observed that the Commission was free to request the Secretary-General to do the preparatory work required for the new survey and that it had recorded in paragraph 99 of its report the decision it had taken to that effect.

66. It was noted with satisfaction that the Commission contemplates dealing with the question of treaties concluded between States and international organizations or between two or more international organizations if the General Assembly adopts a resolution to that effect on the recommendation of the United Nations Conference on the Law of Treaties. The hope was expressed by some representatives that the Commission would also undertake the study of topics such as the utilization of international rivers, the recognition of States and Governments, the pacific settlement of international disputes, the juridical régime of historic waters, including historic bays, the right of asylum, the jurisdictional immunities of States and their property and jurisdiction with regard to crimes committed outside national territory.

67. The representatives who referred to the initiative taken in the Commission by one of its members, Mr. Ago, regarding the final stage of the codification of international law (see para. 102 of the Commission's report), observed that the question was one which deserved attention. Some representatives deemed it regrettable that a sufficient number of States had not yet become parties to several codifying conventions. It was also pointed out that it would be in the interests of the international community as a whole to recognize that all States had the right to become parties to multilateral international agreements of a general nature. A number of representatives thought that the Commission could be asked to consider the question more thoroughly and to submit its conclusions to the Sixth Committee, so that the General Assembly could make appropriate recommendations to Member States. They agreed that the work would have to be limited to the question of the ratification of general codifying conventions and that the measures which would be proposed should not derogate from the sovereign right of States freely to decide on the matter. Those measures should be designed, not to force a political decision on individual States, but rather to overcome the difficulties arising from the complexity of the political and administrative machinery of the modern State. In this connexion, certain representatives made reference to the study being undertaken by the United Nations Institute for Training and Research and the subject.<sup>34</sup>

*(b) Methods of work*

68. Several representatives expressed general approval of the Commission's methods of work. It was pointed out that the codification and progressive development of international law was inevitably a slow and painstaking process and that the success of the Commission's work in the past was proof of the wisdom of the approach it had adopted. The observation was also made that, although slow, the pace at which the Commission carried out its work seemed at times to outstrip the ability of Governments to give the detailed consideration called for by most of the items studied by the Commission. Stress was laid on the need to ensure the best possible conditions for the work of the Commission and the elimination of obstacles to the efficient performance of its task. It was argued that

<sup>33</sup> See paragraph 8 above. Paragraph 8 of draft resolution A/C.6/L.651 was identical with paragraph 7 of draft resolution A/C.6/L.649 and Add. 1 (see paragraph 6 above).

<sup>34</sup> For details of this project of the Institute, see *Official Records of the General Assembly, Twenty-second Session, Annexes*, agenda item 45, document A/6875, annex I, paras. 59-69.



the importance of the role played by the legal bodies of the United Nations was sometimes underestimated and that those bodies had not always been given the resources they required to perform the work entrusted to them by Member States.

69. Other representatives, while recognizing that the methods of work of the Commission had improved, expressed the view that further efforts were required to make them more efficient. It was suggested that the Commission's work should be organized in greater detail and that an agreed priority for the treatment of items should be established and respected, so that the Commission could make the best possible use of its resources and avoid dissipation of effort.

70. A number of representatives spoke in favour of the Commission's proposal that the term of office of its members should be extended from five to six or seven years. Reference was made in this connexion to the time-consuming nature of the codification process and to the desirability of ensuring greater continuity by enabling the Commission to complete the work undertaken on major topics without a change in membership. In this regard, attention was drawn to the fact that the term of office of the judges of the International Court of Justice is nine years.

71. Other representatives found that the Commission had not made it clear whether that proposal was intended to apply to its present or future membership. Some representatives wondered whether the reasons put forward in support of the proposal were the only factors to be taken into account. It was pointed out that a certain degree of continuity in the Commission's work was already ensured by the possibility of re-election of its members, and, in particular, of the Special Rapporteurs. It was also indicated that the adoption of measures such as the increase in the number of daily meetings, the extension of the annual session or the holdings of sessions twice a year would help to expedite the Commission's work within the term of office of its members. Some representatives considered that it was important to safeguard in the Commission's membership the flexibility of the present system and the application of the principle of rotation.

72. Although certain representatives opposed the Commission's proposal, the majority of those who expressed their views on the matter considered that the question required further study and that a decision on the proposal should be deferred to a future session of the General Assembly.

73. A number of representatives noted with sympathy the concern expressed by the Commission at the present situation regarding honoraria and subsistence allowances and supported its recommendation that an additional special allowance should be made available to Special Rapporteurs to help them defray travel and incidental expenses in connexion with their work. It was considered essential that these expenses should be borne by the Organization. The need was also stressed that the United Nations should take the necessary measures to obtain the services of highly qualified international jurists. It was further pointed out that the work of the Commission was one of the most important contributions to the cause of world peace and that the sums involved were but an infinitesimal fraction of what was spent on the arms race. Other representatives, however, were of the opinion that the matter should be considered within the framework of the general review being currently carried out by the Secretary-General and the Advisory Committee on Administrative and Budgetary Questions. Some representatives considered that any increase in honoraria and allowances would be unwise, in view of the financial implications of the matter and the limited capacity of many States to contribute to the expenses of the United Nations.

74. Several representatives paid a tribute to the Codification Division of the Office of Legal Affairs for its valuable contribution to the work of the Commission and, particularly, for the paper on the review of the Commission's programme and methods of work, annexed to the Commission's report. They endorsed the Commission's view regarding

the need to increase the staff of the Codification Division as a measure aimed at facilitating the Commission's work. In this connexion, some representatives stressed their understanding that the financial implications of that recommendation would be taken into account when consideration was given to the various ways of implementing it.

## 2. *Organization of future work*

75. The representatives who spoke on this matter noted with satisfaction the Commission's decisions regarding the organization of its future work. Gratification was also expressed that the Commission had planned the work for the remainder of its term of office in so orderly a manner.

76. Certain representatives, emphasizing the importance of the topic of State responsibility, thought that its codification and progressive development, even if the conclusions reached were of a general nature, would be an important factor in strengthening the international legal order and would help to throw light on a number of theoretical and practical problems which arose in almost every field of international law. A number of representatives regretted that the Commission had made little progress and expressed the opinion that work on the subject should be accelerated. They observed that the Commission intended to make a special effort in that field in 1969. The hope was also expressed that the Special Rapporteur on the subject would prepare a practical report covering all aspects of the matter. It was pointed out that the Commission's work would be helped by the study being undertaken on principles of international law concerning friendly relations and co-operation among States.

77. Besides favouring the early consideration of State responsibility, certain representatives expressed the wish that work on that topic, as well as on succession of States and Governments and relations between States and international organizations should be completed during the Commission's present term of office. Some representatives also urged that the Commission continue its work on the most-favoured-nation clause.

78. A number of representatives supported the Commission's recommendation that a winter session be held in 1970 in order to complete its work on major topics before the expiry of the term of office of its present membership. It was also suggested that a winter session of the Commission should become a regular practice. Other representatives, however, doubted that a winter session would be advisable, particularly in the light of budgetary considerations. In the opinion of some representatives, it would be preferable to extend the duration of the Commission's regular session.

## 3. *Relations with the International Court of Justice*

79. A number of representatives welcomed the visit paid to the Commission by the Vice-President of the International Court of Justice, which strengthened the natural links existing between two organs whose roles were complementary.

## 4. *Co-operation with other bodies*

80. Several representatives expressed gratification at the relations maintained between the Commission and three regional juridical bodies, namely, the Asian-African Legal Consultative Committee, the European Committee on Legal Co-operation and the Inter-American Juridical Committee. It was emphasized that the co-ordination of the various efforts made towards the codification and progressive development of international law helped to ensure that the formulation of legal norms would reflect the trends existing in different parts of the world.

## 5. Seminar on International Law

81. Many representatives noted with satisfaction the success of the fourth session of the Seminar on International Law, held concurrently with the Commission's session, and supported the latter's recommendation that future sessions be similarly arranged. They expressed their gratitude to those members of the Commission who had contributed to the discussions and to the United Nations Office at Geneva for the manner in which the Seminar was organized. Emphasis was placed on the role of the Seminar as a means of contributing to a better understanding and a wider dissemination of international law and of bringing in contact two generations of jurists representing the various legal systems of the world. The importance of the Seminar was stressed as regards participants from developing countries. A number of representatives thanked all those States which had granted scholarships facilitating the attendance of participants from developing countries and expressed the hope that States would offer similar aid for future seminars.

### IV. Voting

82. At its 1039th meeting, on 15 October 1968, the Sixth Committee unanimously adopted draft resolution A/C.6/L.651/Rev.1 (see para. 85 below).

83. Explanations of vote were given by the representatives of the Union of Soviet Socialist Republics, Afghanistan, the United Kingdom, Pakistan, France, the United States and Hungary.

84. The representative of Malawi explained that his delegation had not taken part in the voting because his Government had not yet completed its examination of the International Law Commission's report.

### Recommendation of the Sixth Committee

85. The Sixth Committee therefore recommends to the General Assembly the adoption of the following draft resolution:

#### REPORT OF THE INTERNATIONAL LAW COMMISSION

[Text adopted by the General Assembly without change. See "Resolution adopted by the General Assembly" below.]

#### (b) Resolution adopted by the General Assembly

At its 1738th plenary meeting, on 11 December 1968, the General Assembly adopted the draft resolution submitted by the Sixth Committee (para. 85 above). For the final text, see resolution 2400 (XXIII) below.

#### 2400 (XXIII). Report of the International Law Commission

*The General Assembly,*

*Having considered* the report of the International Law Commission on the work of its twentieth session,<sup>35</sup>

<sup>35</sup> *Official Records of the General Assembly, Twenty-third Session, Supplement No. 9 (A/7209/Rev. 1).*

Recalling its resolutions 1686 (XVI) of 18 December 1961, 1765 (XVII) of 20 November 1962, 1902 (XVIII) of 18 November 1963, 2045 (XX) of 8 December 1965, 2167 (XXI) of 5 December 1966 and 2272 (XXII) of 1 December 1967, by which it recommended that the International Law Commission should continue its work of codification and progressive development of the law of succession of States and Governments and relations between States and inter-governmental organizations, expedite the study of State responsibility, study the most-favoured-nation clause and carry out a review of its programme and methods of work,

*Emphasizing* the need for the further codification and progressive development of international law in order to make it a more effective means of implementing the purposes and principles set forth in Articles 1 and 2 of the Charter of the United Nations and to give increased importance to its role in relations among nations,

*Noting with appreciation* that the United Nations Office at Geneva organized in July 1968, during the twentieth session of the International Law Commission, a fourth session of the Seminar on International Law and that more scholarships in the Seminar were made available for participants from developing countries,

1. *Takes note* of the report of the International Law Commission on the work of its twentieth session;

2. *Expresses its profound appreciation* to the International Law Commission of the valuable work it has accomplished during the past twenty years in the progressive development and codification of international law;

3. *Notes with approval* the programme and organization of work planned by the International Law Commission, including the preparation, in accordance with article 18 of its Statute, of the new survey of the whole field of international law referred to in paragraph 99 of the Commission's report, but, with respect to the Commission's wish to reserve the possibility of a winter session in 1970, decides to defer a final decision until its twenty-fourth session;

4. *Recommends* that the International Law Commission should:

(a) Continue its work on succession of States and Governments and relations between States and international organizations, taking into account the views and considerations referred to in General Assembly resolutions 1765 (XVII) and 1902 (XVIII);

(b) Continue its study of the most-favoured-nation clause;

(c) Make every effort to begin substantive work on State responsibility as from its next session, taking into account the views and considerations referred to in General Assembly resolutions 1765 (XVII) and 1902 (XVIII);

5. *Expresses the wish* that, in conjunction with future sessions of the International Law Commission, other seminars might be organized, which should continue to ensure the participation of an increasing number of nationals of developing countries;

6. *Notes* that the Secretary-General has under study the questions raised in paragraphs 98 (b) and 98 (c) of the report of the International Law Commission;

7. *Requests* the Secretary-General to forward to the International Law Commission the records of the discussions on the Commission's report at the twenty-third session of the General Assembly.

*1738th plenary meeting  
11 December 1968*

- (c) Text of the speech delivered by the Chairman of the International Law Commission, on the occasion of the twentieth anniversary of the first election of members of the Commission

#### TWENTY YEARS OF WORK OF THE INTERNATIONAL LAW COMMISSION

The twentieth anniversary of the first election of members of the International Law Commission is an excellent occasion to review the work it has accomplished in its first twenty years of activity.

It is not possible to make a valid appraisal of the work of the International Law Commission without viewing it primarily within the larger context of the development of international law over the last several decades.

At the end of the nineteenth century, the prospects for the development of international law were very dim, and, from a legal point of view, international relations were regulated in much the same way as a primitive society. The basic premise of the doctrines of international law which prevailed at that time was that there was no will superior to that of the State, and that consequently the international community was too decentralized to permit the formation of international political organizations.

However, by the end of the nineteenth century, there were a series of technological, social and political developments which gave substance and life to international law and profoundly changed the doctrinal concepts on which it was based. Both the basis and content changed. Those developments, which gathered momentum as the twentieth century progressed, are reflected in the greater interdependence between States. Communication is being accelerated at an incredible rate; nations are more and more dependent on other nations to satisfy their needs; ideas and propaganda are being disseminated throughout the world at great speed by means of constantly improved techniques. In the social field, the world has witnessed what Ortega called "the revolt of the masses", a direct product of industrialization; in the political field, the concept of democracy is respected, if only in a formal sense, and the decisions of Governments are affected by world public opinion. The world is witnessing the increasingly rapid disintegration of the colonial system, and the developing countries, in view of the widening gap between them and the industrialized nations, are seeking financial and technical assistance from their wealthier neighbours, in order to attain a decent standard of living. Lastly, weapons methods of warfare have become so destructive that we live in constant terror that the human race may disappear from the face of the earth.

As was to be expected, nineteenth century international law was not able to respond to those new situations and new needs. It is therefore necessary, in the light of these complexities, to draw up a balance-sheet for the purpose of determining the areas in which international law has developed, clarifying the areas in which international law has developed, clarifying or establishing doctrinal concepts or regulating new areas.

To begin with, international law no longer serves exclusively to regulate the conduct of States. As Jenks points out, it is coming to include in its purview relations between individuals, international organizations and States.

In the field of human rights, international law has invaded areas from which it was barred a century ago. A first step has been taken which will ultimately make it possible to ensure complete international protection of the economic, social and political rights of the individual.

In addition to making these changes in basic concepts, international law has begun to regulate new developments resulting from technological progress. For example, rules have

been formulated to govern international air traffic, the exploration of outer space, atomic energy, radio broadcasting and the exploitation of the petroleum resources of the continental shelf. Studies are being started concerning the legal problems arising from the exploitation of the sea-bed and the ocean floor beyond the limits of national jurisdiction.

The emergence of a great many international organizations, particularly the League of Nations and the United Nations, has also served to accelerate the formulation of a set of rules governing certain highly important aspects of international political relations.

Perhaps the most significant progress has been made in the matter of working out a legal definition of war. The Covenant of the League of Nations and the Kellogg-Briand Pact were the first instruments to brand war as an unlawful act, but there were basic defects in the security system they advocated. With the adoption and ratification of the United Nations Charter, an effort was made to eliminate those defects and, for the first time, the right to use force was vested in an international organization, under Article 2 (4) of the Charter.

What conclusions can be drawn from the foregoing review of present-day international law and its recent development?

We believe that international law has not remained static or different to changes in contemporary realities or to developments in various areas of international life during the past fifty years. On the contrary, its rules apply to new areas with each passing day as international relations become more ramified.

Not only is the scope of international law becoming broader, but its institutions are being improved drastically and it is acquiring the characteristics of a highly developed body of law comparably to such older branches of private law as civil law, or of public law as criminal law.

It is against the background of this dynamic and recent trend of international law that the achievements of the International Law Commission must be viewed.

The League of Nations did everything in its power to promote the codification of international law, despite the fact that codification had not been envisaged as one of its tasks. Six long years of painstaking preparation preceded the Conference for the Codification of International Law which was attended by forty-eight States in March and April 1930. Despite this careful preparatory work, which is noteworthy for its high quality, the Conference was not very successful. It drew up a convention on certain questions relating to the conflict of laws on nationality and three protocols on the same topic. No real progress was made in two other areas: the territorial sea and State responsibility for injury to the person or property of aliens in its territory.

Sir James Brierly summed up the prevailing situation very well in a paper published in the *British Yearbook of International Law* in 1931: "Disappointment at the results of the Codification Conference of 1930, though it may vary in degree in different persons, is very general among all who are interested in the subject, and is certainly justified."

In 1946, when new efforts were about to be made to advance the cause of codification, Sir Cecil Hurst, in a memorable address before the Grotius Society entitled "A plea for codification of international law on new lines", stated that: "A second failure would not only prevent any further efforts in the same direction but it would render it almost impossible to persuade what we call the man in the street that international law is a legal system capable of constituting the foundation of the law and order on which the new world is to be based."

It was under these conditions, and at a time when the political climate was unfavourable—and it grew even less favourable during the 1950s—that the International Law Commission began its work twenty years ago, in implementation of the functions assigned to the General Assembly in Article 13 (1 a) of the Charter.

The results of its efforts over this long period of time may, I believe, be analysed in two stages. The first consists of a purely objective appraisal, i.e. a review of what has been achieved in order to see how far some of those achievements have been translated into positive law. In the second stage, we might draw the conclusions necessary to understand the principal characteristics of the codification process, in its broad sense, as it has evolved within the Commission itself.

To fail to appreciate the magnitude of the International Law Commission's accomplishments is to refuse to recognize the facts. Although everyone is familiar with them, it would be useful briefly to enumerate each topic with which the Commission has dealt.

The Commission has submitted final reports on fifteen topics:

1. In 1949 at its first session, it submitted to the General Assembly a draft Declaration on Rights and Duties of States. By resolution 375 (IV) of 6 December 1949, the General Assembly commended the draft Declaration to the continuing attention of Member States and of jurists and decided to request the comments of Member States on the draft Declaration.

2. In 1950, at its second session, the International Law Commission drafted a report on ways and means for making the evidence of customary international law more readily available, which has served as the basis for many efforts in the field by the Secretary-General and Governments.

3. In 1950, in conformity with General Assembly resolution 177 (II) of 21 November 1947, the International Law Commission formulated seven "principles of international law recognized in the Charter of the Nuremberg Tribunal and in the Judgement of the Tribunal". By resolution 488 (V) of 12 December 1950, the General Assembly transmitted the principles to Governments for comments.

4. In 1950, pursuant to General Assembly resolution 260 B (III) of 9 December 1948, the International Law Commission at its second session prepared a report on the question of international criminal jurisdiction. The report was the basic working document of a committee of States set up to prepare the statute of an international criminal court. The General Assembly considered this question to be related to the question of defining aggression and the draft code of offences against the peace and security of mankind, and deferred discussion of the topic in 1954 and again in 1957.

5. In 1951, pursuant to General Assembly resolution 478 (V) of 16 December 1950, the Commission submitted a report on the problems arising from certain reservations to the Convention on the Prevention and Punishment of the Crime of Genocide. The question was taken up again during the general discussion of the law of treaties.

6. In 1951, at its third session, the Commission studied the question of defining aggression which had been referred to it under resolution 378 (V) of 17 November 1950. However, its efforts were not successful.

7. The General Assembly resolution of 1947, which requested the International Law Commission to formulate the Nuremberg Principles, also instructed it to prepare a code of offences against the peace and security of mankind. The Commission considered the matter and in 1951 prepared a first draft code, followed in 1953 and 1954 by a second draft code. After discussing various alternatives, the Assembly finally decided in 1957 to defer consideration of the draft until the question of defining aggression was taken up again.

8. In 1954, at its fifth session, the Commission prepared two conventions relating to nationality, including statelessness: one on the elimination of statelessness, and the other on the reduction of future statelessness. At the Conferences of Plenipotentiaries held in 1959 and 1961 and attended by representatives of thirty-five and thirty States respectively, the Convention on the Reduction of Statelessness was adopted. In 1954, the Commission

adopted seven articles with commentaries relating to existing cases of statelessness as part of its final report on nationality and statelessness. Although drafted as articles, they were meant to be considered solely as suggestions.

9. The law of the sea is a topic which has in a special way engaged the attention of the International Law Commission since its establishment, particularly the régime of the high seas and the régime of the territorial sea and the continental shelf. The final report on this topic was submitted in 1956 and was used as the basis for the 1958 Geneva Conference of Plenipotentiaries in which eighty-six States took part. The Conference adopted the Convention of the Territorial Sea and the Contiguous Zone, the Convention on the High Seas, the Convention on Fishing and Conservation of the Living Resources of the High Seas and the Convention on the Continental Shelf.

10. At its fifth session in 1953, the International Law Commission adopted the final draft on arbitral procedure and requested the Assembly to commend it Member States with a view to the conclusion of a Convention. The Assembly considered the draft in 1953 and 1955 and criticized it, particularly the references to the conclusion of a Convention. In 1957, at the request of the Assembly, the International Law Commission decided to consider the draft again and came to the conclusion that it was more suitable as a model for bilateral or multilateral arbitration agreements or for *ad hoc* arbitration in disputes than for a general arbitration treaty. Accordingly, at its tenth session (1958), the International Law Commission drew up a set of "Model Rules on Arbitral Procedure". After considering the report of the International Law Commission, the Assembly decided by resolution 1262 (XIII) of 14 November 1958 to bring the draft articles to the attention of Member States for their use in drawing up treaties of arbitration or *compromis*.

11. The final report on diplomatic intercourse and immunities was completed in 1958. The draft articles dealt only with permanent diplomatic missions. The item was discussed in the Assembly during the thirteenth and fourteenth sessions (1958 and 1959). Finally it was decided to convene a Conference of Plenipotentiaries, which met in Vienna in 1961, with eighty-one countries taking part. The Conference adopted the Vienna Convention on Diplomatic Relations.

12. In 1955 the International Law Commission began its consideration of the item "Consular Intercourse and Immunities". In 1961, the final draft articles were submitted to the Assembly which convened another Conference of Plenipotentiaries in Vienna in 1963, in which ninety-five States took part. On the basis of the Commission's work, the Conference adopted the Vienna Convention on Consular Relations.

13. In its report for 1962 and in connexion with its study of the law of treaties, the Commission drew the Assembly's attention to the question of the participation of new States in general multilateral treaties concluded under the auspices of the League of Nations, which by their terms authorized the Council of the League of Nations to invite additional States to become parties, but which excluded States which had not been invited to become parties by the Council before the dissolution of the League of Nations. In accordance with General Assembly resolution 1766 (XVII), the International Law Commission considered the problem and, on the basis of its recommendations, the Assembly satisfactorily solved the problem by the adoption of resolution 1903 (XVIII) of 18 November 1963.

14. The topic which has probably been the subject of more studies, reports and debates in the International Law Commission than any other is the law of treaties. All this work culminated in the Commission's final report, the basic draft considered at the Conference of Vienna convened by resolution 2166 (XXI) of 5 November 1966. The Conference has just successfully completed its first session, which proved to be promising, and will continue in the spring of 1969.



15. Lastly, in 1967 the International Law Commission completed its work on special missions, and the draft articles on that topic are now being discussed by this Sixth Committee with a view to the conclusion of a convention.

This is the list of the fifteen topics on which the Commission has completed work. Work has also proceeded on "State responsibility", "Succession of States and Governments", "Relations between States and intergovernmental organizations" and the "most-favoured-nation clause".

As the result of the Commission's work, the following Conventions are now in force: Convention on the Territorial Sea and the Contiguous Zone, with 36 ratifications, Convention on the High Seas (43 ratifications), Convention on Fishing and Conservation of the Living Resources of the High Seas (27 ratifications) and Convention on the Continental Shelf (39 ratifications). The Convention on Diplomatic Relations has been ratified by eighty-two States and the Convention on Consular Relations by thirty-three States. As it has been signed by five States and ratified by only one, the Convention on the Reduction of Statelessness has not yet come into force.

The Commission has completed its consideration of seven of the fourteen topics it selected at its first session—all of which are important and warrant extensive study—and has begun work on three of them. Some of the remaining topics have become less relevant or, in my opinion, should be considered under another heading. This is one of the reasons why it was suggested in the Commission's report on its last session that the Commission, in 1970 or 1971, could draw up a list of topics that were ripe for codification, taking into account General Assembly recommendations and the international community's current needs, and discarding those topics on the 1949 list which were no longer suitable for treatment.

In addition to working on the topics which it had originally selected, the International Law Commission has dedicated a good part of its time to the topics recommended by the General Assembly and, occasionally, by the Economic and Social Council.

When we consider that the International Law Commission meets only for a relatively short period each year, we must recognize that its work has unquestionably been far-reaching, important and influential. Clearly, an evaluation should not be made mathematically on the basis of the scope or number of the topics studied. We should also draw conclusions from the codification process in its broad sense, and, as I said earlier, try to establish which have been the main reasons for the success of the International Law Commission's work.

In the first place, the Commission has never consented to sacrifice quality to speed. Some criticism has been made concerning its rate of progress, but this has petered out over the years. In the process of progressive development and codification, no criteria should take precedence over the quality of the reports. The Commission has never taken a hasty decision; its decisions have always been the product of exhaustive debate and extensive study. One may agree or disagree with the decisions, they may even be wrong, but no one could seriously accuse the Commission of having taken its decisions lightly. The overriding consideration in our deliberations has been quality and maturity.

The Commission has had the advantage, given the nature of its work, of being made up of experts acting in a purely personal capacity. This has enabled its members to act freely without concerning themselves with immediate political aims. Although their training has been acquired in different legal systems, they are all very well aware that the paramount consideration to be borne in mind is the common interest, the interest of the international community as a whole. With this aim in view, it should be pointed out that the work of the International Law Commission has in no way been hampered by bringing together expert from different legal systems in the same forum; on the contrary, it has provided a stimulus for a profound and fruitful meeting of minds.

With regard to its methods of work, the Commission has always given evidence of a high degree of flexibility within the framework of its terms of reference and of the United Nations Charter.

The distinction established by legal doctrine between codification and progressive development—which was so controversial at the outset—has never been an obstacle in the Commission's work. The Commission has interpreted this distinction liberally, so that it has been able to study in greater depth the specific content of each principle of law without being diverted by sterile procedural considerations.

The nature of the topics with which the Commission has dealt has also considerably influenced its work. For example, with respect to such questions as diplomatic intercourse and immunities, which are regulated by deep-rooted practices or established rules of customary law, States have accepted more readily the rules prepared by the Commission, which were subsequently embodied in conventions. This indicates that the topics for consideration should be selected with care, so that the work of codification can proceed on the soundest possible basis.

With regard to the selection of topics, I think that the practice followed in the early years of the United Nations, which has now fortunately been abandoned, clearly showed that problems which in appearance are juridical but which have a high political content should not be referred to the International Law Commission. The Commission has done good work, for the benefit of all concerned, from the moment it could devote all its energies to topics of great importance, but which are not matters of current political controversy.

The great merit of the Commission's slow but sure work over the last twenty years has been the creation of a climate favourable to codification. As has been its practice during the last few years, the Commission should continue to produce from time to time instruments which are acceptable to the community. Nor should any favourable opportunity be lost. Today codification is necessary for the maintenance of stable, lasting and firmly based international relations. This can be seen from the large number of States which attended recent conferences of plenipotentiaries.

The experience of the past twenty years has also shown that the most effective means of obtaining definite and acceptable results is to prepare conventions which, without entering into elaborate arguments as to whether they represent the progressive development or the codification of international law, embody clear and precise principles consistent with those contained in other instruments, which strengthen the law. This does not mean that customary law is to be completely disregarded; on the contrary, it should be reaffirmed in order to provide a sound basis for the conventions.

With regard to the content and substance of the Commission's achievements, it has been amply demonstrated that the acceptability of the rules drawn up depends in large measure on the extent to which they take into account the characteristics of the contemporary era. Law which fails to take into account such processes as decolonization and its corollary, the creation of new States, or technological and social development and the need for greater interdependence between countries, will collapse. These factors have been very carefully weighed by the Commission during its work.

Lastly, the most important factor is the co-operation by the States themselves in the process of codification, for it is their conduct that we are basically attempting to regulate. Without this co-operation, no codification will be possible. It is undeniable that the work of preparing and concluding general conventions codifying international law has made great headway. But the same cannot be said of the ratification of those conventions or the accession thereto by States.

In conclusion, I should like to quote the words spoken recently by the Secretary-General, U Thant, at a meeting of the International Bar Association at Dublin in July 1968. He said:

“In the end, it is the confidence of peoples and of nations in the rule of law that can bring to international law its greatest strength.”

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(10) CONSIDERATION OF PRINCIPLES OF INTERNATIONAL LAW CONCERNING FRIENDLY RELATIONS AND CO-OPERATION AMONG STATES IN ACCORDANCE WITH THE CHARTER OF THE UNITED NATIONS: REPORT OF THE SPECIAL COMMITTEE ON PRINCIPLES OF INTERNATIONAL LAW CONCERNING FRIENDLY RELATIONS AND CO-OPERATION AMONG STATES (AGENDA ITEM 87)

(a) Report of the Sixth Committee <sup>36</sup>

[Original text: English and Spanish]  
[18 December 1968]

I. Introduction

1. At its 1676th plenary meeting, on 27 September 1968, the General Assembly decided to include item 87, entitled “Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations: report of the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States”, in the agenda of its twenty-third session and to allocate it to the Sixth Committee. In accordance with General Assembly resolution 2327 (XXII) of 18 December 1967, the item had previously been included in the provisional agenda of the session.

2. The item was considered by the Sixth Committee at its 1086th, 1090th to 1096th and 1099th meetings, held on 4, 9 to 13 and 17 December 1968, respectively.

3. The Committee had before it, as a basis for its consideration of the item, the report on the 1968 session of the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States (A/7326). <sup>37</sup> The report was introduced in the Committee at its 1086th meeting by the Rapporteur of the Special Committee.

4. The report on the 1968 session of the Special Committee was divided into the following three chapters: I. Introduction; II. Consideration of the two principles mentioned in operative paragraph 4 of General Assembly resolution 2327 (XXII), with a view to completing their formulation (the principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations; and the principle of equal rights and self-determination of peoples); and III. Consideration of proposals compatible with General Assembly resolution 2131 (XX) on the principle concerning the duty not to intervene in matters within the domestic jurisdiction

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<sup>36</sup> Document A/7429 reproduced from *Official Records of the General Assembly, Twenty-third session, Annexes*, agenda item 87.

<sup>37</sup> For an account of the historical background of the item, see also *Official Records of the General Assembly, Twenty-second Session, Annexes*, agenda item 87, document A/6955.

of any State, in accordance with the Charter of the United Nations, with the aim of widening the area of agreement already expressed in that resolution.

5. At the 1099th meeting, on 17 December 1968, the Rapporteur of the Sixth Committee, pursuant to paragraph (f) of the annex to General Assembly resolution 2292 (XXII), raised the question whether the Committee wished to include in its report to the General Assembly a summary of the views expressed during the debate on the item, and brought to the attention of the Committee the financial implications of that question. At the same meeting, the Committee decided that, in view of the nature of the subject matter of the item, the report should contain a summary of the legal trends which had emerged during the debate.

## II. Proposal

6. Afghanistan, Algeria, Austria, Burma, Cameroon, Canada, Ceylon, Chile, the Democratic Republic of the Congo, Czechoslovakia, Dahomey, Ecuador, El Salvador, Ethiopia, Ghana, Greece, Guatemala, Haiti, India, Indonesia, Jamaica, Japan, Kenya, Kuwait, Lebanon, Libya, Madagascar, Mexico, Mongolia, the Netherlands, Nigeria, Pakistan, Panama, Peru, the Philippines, Poland, Romania, Saudi Arabia, Somalia, Sudan, Syria, Uganda, the United Arab Republic, the United Kingdom of Great Britain and Northern Ireland, the United Republic of Tanzania, the United States of America, Uruguay, Venezuela, Yugoslavia and Zambia submitted a draft resolution (A/C.6/L.740). Liberia and Tunisia subsequently became co-sponsors of the draft resolution (A/C.6/L.740/Add.1). The fifty-two-Power draft resolution reads as follows:

*“The General Assembly,*

*“Recalling its resolutions 1815 (XVII) of 18 December 1962, 1966 (XVIII) of 16 December 1963, 2103 (XX) of 20 December 1965, 2181 (XXI) of 12 December 1966 and 2327 (XXII) of 18 December 1967, which affirm the importance of the progressive development and codification of the principles of international law concerning friendly relations and co-operation among States,*

*“Recalling further that among the fundamental purposes of the United Nations are the maintenance of international peace and security and the development of friendly relations and co-operation among States,*

*“Considering that the faithful observance of the principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations is of paramount importance for the maintenance of international peace and security and improvement of the international situation,*

*“Considering further that the progressive development and codification of the principles of international law concerning friendly relations and co-operation among States, so as to secure their more effective application, would promote the realization of the purposes of the United Nations,*

*“Bearing in mind its resolution 2131 (XX) of 21 December 1965,*

*“Convinced of the significance of continuing the effort to achieve general agreement in the process of elaboration of the seven principles of international law set forth in General Assembly resolution 1815 (XVII), but without prejudice to the applicability of the rules of procedure of the Assembly, with a view to the adoption of a declaration which would constitute a landmark in the progressive development and codification of those principles,*

*“Having considered the report of the Special Committee on Principles of International Law Concerning Friendly Relations and Co-operation among States (A/7326), which met at New York from 9 to 30 September 1968,*

*“1. Takes note of the report of the Special Committee on Principles of International Law Concerning Friendly Relations and Co-operation among States;*

*“2. Expresses its appreciation to the Special Committee for the valuable work it has performed;*

*“3. Decides to ask the Special Committee, as reconstituted by General Assembly resolution 2103 (XX), to meet in 1969 in New York, Geneva or any other suitable place for which the Secretary-General receives an invitation, in order to continue and complete its work;*

*“4. Requests the Special Committee, in the light of the debate which took place in the Sixth Committee during the previous and present sessions of the General Assembly and in the 1964, 1966, 1967, and 1968 sessions of the Special Committee, to endeavour to resolve, in the light of General Assembly resolution 2327 (XXII), all relevant questions relating to the formulation of the seven principles, in order to complete its work as far as possible, and to submit a comprehensive report to the General Assembly at its twenty-fourth session;*

*“5. Calls upon the members of the Special Committee to devote their utmost efforts to ensuring the success of the Special Committee’s session, in particular by undertaking, in the period preceding the session, such consultations and other preparatory measures as they may deem necessary;*

*“6. Requests the Secretary-General to co-operate with the Special Committee in its task and to provide all the services, documentation and other facilities necessary for its work;*

*“7. Decides to include in the provisional agenda of its twenty-fourth session an item entitled “Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations.”*

7. At the 1099th meeting, on 17 December 1968, the Secretary of the Committee made a statement regarding the financial implications of the above draft resolution.

### III. Debate

#### A. GENERAL COMMENTS ON THE WORK DONE BY THE SPECIAL COMMITTEE IN 1968 AND ON THE AIMS OF THE WORK

8. A number of representatives were of the opinion that the 1968 session of the Special Committee had represented a further significant step towards the codification and progressive development of the principles entrusted to it for study, but considered that the results achieved, although laudable, were incomplete. Of the three principles referred to it by General Assembly resolution 2327 (XXII), namely, the principle prohibiting the threat or use of force, the principle of equal rights and self-determination of peoples, and the principle of non-intervention in matters within the domestic jurisdiction of any State, the Special Committee had only had time to study the first two, and its Drafting Committee had only been able to make a thorough study of the principle prohibiting the threat or use of force. The Special Committee had in fact concentrated its efforts at its 1968 session on this latter principle, on which considerable progress had been made, although it had

still not been possible to complete its formulation. Some representatives pointed out that the work of the Special Committee in 1968 had made possible a considerable rapprochement of basic positions on various important questions and the achievement of broad agreement on objectives and methods of work.

9. In general, the representatives who spoke in the debate expressed the view that the over-all results achieved so far did not justify a pessimistic attitude and reaffirmed that their respective countries would continue to lend their support to the codification and progressive development of the principles, whether in the Special Committee or in the Sixth Committee of the General Assembly. The work done had served to reaffirm the universal validity and peremptory character of the seven principles listed by the Assembly in resolution 1815 (XVII) of 18 December 1962 and had contributed towards their more precise definition. The points of agreement which had been established represented an important contribution to the development of international law and the maintenance of international peace and security. Moreover, the exchange of views had been beneficial, as could be seen from a comparison of the successive reports of the Special Committee. Some representatives considered that the partial nature of the results achieved so far was due to methodological or technical factors, such as the procedure of consensus followed by the Special Committee or the relatively short duration of its sessions. The majority, however, attributed it either to the actual nature of the task undertaken or to reasons of a political nature.

10. Those representatives who referred to the difficulties inherent in the nature of the work emphasized that an attempt was being made to formulate rules of international law, i.e., legal obligations, relating to Charter principles which constituted the nucleus of the international legal order. These representatives felt that the slowness of the process should not lead to the abandonment of the search for legal formulations or to their replacement by texts which constituted expressions of political will or mere statements of particular philosophies, because the result of the work would then have less relevance for the regulation of the conduct of States. It was also added that, in view of the quasi-legislative nature of the process, undue pressures might have a negative effect on the quality of the formulation and hence on its applicability. One of these representatives said that the difference between the verbal acceptance of obligations and real life had recently been made evident and that the ultimate goal of the work undertaken should be to bring home to Governments the importance of respect for international legality and morality.

11. Others considered that the present state of the Special Committee's work was the fault of those who refused to accept the changes which had occurred in international society since the adoption of the Charter in 1945 and maintained that proposals reflecting those changes lacked legal validity, despite the fact that, in international relations, legal considerations could not be dissociated from political, economic or social factors. The delay was therefore the result of a deliberate policy of obstruction being followed by circles which were pursuing imperialist and colonialist policies and supporting racist régimes practising *apartheid*.

12. Several representatives reaffirmed the great importance of the codification and progressive development of the principles for the promotion of the rule of law in international relations, the maintenance of international peace and security, and the development of peaceful co-operation and coexistence among nations. Although those principles were stated in the Charter, further work on them was justified by the need to affirm them, further define them and adapt them to current needs. A General Assembly declaration on the principles would make a powerful contribution to the attainment of the purposes of the United Nations and would thereby strengthen the Organization. It was stated in that connexion that the efforts of the Sixth Committee and the Special Committee were proof

that the principles were deeply rooted in the conscience of nations and that the international community was determined to affirm them and ensure their observance. All States, large and small, should therefore co-operate in the work in hand.

13. Some representatives stated that discussion of the principles did not involve an attempt to amend the Charter, the procedure for which was laid down in Article 108 of the Charter itself, but merely to re-examine it in the light of two decades of interpretative action by the United Nations and to draft, on that basis, rules which might reasonably be regarded as deriving from certain principles of the Charter and their application. Even if it was not always easy to draw the line between elaboration of the Charter and amendments to it, the distinction had to be respected, since it was a distinction which protected every Member State.

14. Other representatives expressed the view that the codification and progressive development of the principles, by introducing an element of precision into rules of law, represented a guarantee for all countries, particularly small and developing countries. It was essential, however, that States should genuinely intend to base their international conduct on the principles and comply in good faith with the obligations they had assumed. The principles were universally applicable principles of the Charter which no State might violate on any pretext whatsoever. In that connexion, some representatives pointed out that precision in rules of law was all the more necessary when circumstances were unfavourable to their observance, inasmuch as they might exert greater influence on decision-makers and put public opinion in a better position to judge those who flouted them.

15. It was also stated that the solution to the problems of co-operation among States having different political, economic and social systems and at different levels of economic development required a climate of peace based on respect for national sovereignty and independence, equality of States' rights, non-interference and mutual advantage. Some representatives, noting that the codification and progressive development of the principles was one of the objectives of the countries of the Third World, as proclaimed in the Programme for Peace and International Co-operation adopted by the Second Conference of Heads of State or Government of Non-Aligned Countries, held at Cairo in 1964,<sup>38</sup> stressed that the process of codification and development should reflect the experience and requirements of the developing countries.

16. It was also pointed out by certain representatives that the work of the Special Committee would enable new States which had not taken part in the San Francisco Conference of 1945 and had been unable to contribute to the application of the Charter by organs of the Organization during its early years to participate in a review of the basic principles of the Charter and the development of international law. One of those representatives stated that the fact of having been unable to participate in the establishment of the rules of law encountered on gaining independence was, in fact, one of the reasons for the new States' lack of confidence in the compulsory jurisdiction of the International Court of Justice.

17. Finally, several representatives emphasized that the principles were closely inter-related, both conceptually and from the standpoint of their application in international life. In the formulation of each individual principle, it was essential not to lose sight of the whole of which it was a part; to do otherwise would be to run the risk that the declaration ultimately adopted would give a distorted or unbalanced picture of the principles. One of those representatives stressed that the preamble or general provisions of the future declaration should contain an explicit statement that the principles were interrelated and that each of them was to be interpreted in the context of the others.

<sup>38</sup> See A/5763 (mimeographed).

B. COMMENTS ON THE PRINCIPLES ENTRUSTED TO THE SPECIAL COMMITTEE  
FOR STUDY IN 1968 UNDER GENERAL ASSEMBLY RESOLUTION 2327 (XXII)

18. In the course of the debate, some representatives refrained from repeating the comments made on previous occasions on behalf of their respective countries concerning the principles entrusted to the Special Committee in 1968. Others, however, commented once again on general aspects of those principles and on their scope, content and formulation. These comments are summarized below.

1. *Principles mentioned in operative paragraph 4  
of General Assembly resolution 2327 (XXII)*

(a) *The principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations*

19. A large number of representatives considered that at its 1968 session the Special Committee had made real progress, described by some as considerable or important, with regard to the formulation of this principle. Although several representatives regretted the fact that a complete text of the principle had not yet been adopted, it was generally recognized that the progress made by the Special Committee in 1968 had prepared the ground for a formulation of the principle in the near future. The points on which agreement had been reached in 1968 widened the area of agreement achieved in 1967 in the Working Group established by the Drafting Committee and had been approved by the Special Committee itself. In addition, existing areas of disagreement had been reduced and new bases of discussion had been found for future negotiations. Nevertheless, as some representatives emphasized, there were a number of difficult points still to be solved on essential issues, which would require new and serious efforts on the part of the members of the Special Committee, including, *inter alia*, those relating to the definition of the term "force", territorial disputes, the inviolability of State territory and non-recognition of situations brought about by the use of force, as well as those relating to the duty not to intervene in matters within the domestic jurisdiction of any State and to the exercise of the right of self-determination of peoples.

20. Stressing the paramount importance of this principle, the corner-stone of international law, several representatives emphasized the need to complete its formulation as soon as possible, since, despite the fact that it was clearly stated in Article 2, paragraph 4, of the Charter, the history of international relations was filled with frequent violations of the principle. Some added that the formulation to be adopted should be a progressive development of the content of the principle in the light of the events which had occurred since the adoption of the Charter and should strengthen the economic, social and political sovereignty of peoples. It was also said that, at its next session, the Special Committee should give priority to the consideration of the principles of equal rights and self-determination and non-intervention, so as to be in a position to arrive at a formulation of the principle prohibiting the threat or use of force.

21. Certain representatives emphasized the relationship between this principle and the principle of the peaceful settlement of disputes. For those representatives, as the development of international law reduced the possibility of the legitimate use of force by States, the urgency of the need for international machinery capable of centralizing the application of the law increased. From that standpoint, some of these representatives thought the agreed text on the duty of States to settle their international disputes by peaceful means was not very satisfactory. It was pointed out, in that connexion, that States Members



and organs of the United Nations should make fuller use of the possibilities offered by Chapter VI of the Charter.

22. There follows below a summary of the different views and comments put forward on the scope, content and formulation of the different aspects of the principle. These views and comments have been grouped in accordance with the headings of the report of the Drafting Committee (see A/7326, para. 111), which was adopted by the Special Committee at its 96th meeting, on 30 September 1968 (*ibid.*, para. 134).

(i) General prohibition of force

23. Many representatives expressed satisfaction with the agreement reached on the statement concerning the general prohibition of force and, in particular, with the fact that the second paragraph stated that such a threat or use of force “constitutes a violation of international law and the Charter of the United Nations and shall never be employed as a means of settling international issues”.

(ii) Consequences and corollaries of the prohibition  
of the threat or use of force

24. Several representatives welcomed the statements of agreement on wars of aggression and propaganda for such wars. With reference to the statement on wars of aggression, mention was made of the provisions of the Charter of the Nürnberg Tribunal<sup>39</sup> and of the principles of international law recognized in the Charter of the Nürnberg Tribunal and in the judgment of the Tribunal,<sup>40</sup> and the draft Code of Offences against the Peace and Security of Mankind,<sup>41</sup> prepared by the International Law Commission.

25. Some representatives expressed the view that the statement of agreement on wars of aggression could be amplified to the effect that the planning and preparation of a war of aggression were also crimes against peace, that the threat of a war of aggression involved liability under international law and that individuals who committed such crimes against peace were criminally liable. The idea of the criminal liability of individuals guilty of a crime against peace should not be interpreted, in the view of one representative, in such a way as to justify the collective punishment of soldiers and civilians who had participated in the war effort. It was also stated that the statement of agreement should be understood to mean that not only declared wars of aggression but also aggressive hostilities in general constituted a crime against peace. Finally, other representatives observed that the results achieved in the Special Committee on the Question of Defining Aggression would be important for a correct interpretation of the statement of agreement on wars of aggression.

26. With regard to war propaganda, certain representatives argued that the domestic law of each State should prohibit such propaganda, punish those who engaged in it and abolish any constitutional limitations there might be in that connexion. Others supported the statement of agreement because they considered that it did not restrict the right of opposition to the established authorities, a fundamental freedom of citizens which was constitutionally guaranteed. It was also said that study of the question should continue with a view to arriving at a statement which would relate that corollary to the duty to encourage the free exchange of information and ideas.

<sup>39</sup> See *The Charter and Judgment of the Nürnberg Tribunal* (United Nations publication, Sales No.: 49.V.7).

<sup>40</sup> See *Official Records of the General Assembly, Fifth Session, Supplement No. 12*, part III.

<sup>41</sup> *Ibid.*, Ninth Session, Supplement No. 9, chapter III.

(iii) Use of force in territorial disputes and boundary problems

27. The agreement in principle on the duty of every State to refrain from the threat or use of force to violate the existing frontiers of a State or as a means of settling territorial disputes and boundary problems was expressly supported by several representatives.

28. Several representatives, stressing the importance and complexity that "international lines of demarcation" had acquired, said that it was necessary to include a reference to them in the formulation. It was not a question of perpetuating such lines, but of stating the duty of States to refrain from using force in order to violate them by virtue of the principle prohibiting the threat or use of force and the principles of fulfilment of obligations in good faith and the peaceful settlement of disputes. In their view, the difficulties that the inclusion of such a reference created might be avoided by indicating that the international lines in question were ones which were agreed or which had been established by an international agreement or a decision of the Security Council or in accordance with such an agreement or decision and by wording the reference in such a way that the claims or positions of interested parties were safeguarded. It was also said that the risk of perpetuating any illegal situations might be avoided if the formulation of the principle included a statement concerning the non-recognition of situations brought about by the illegal threat or use of force. Finally, some representatives referred to the need to bear in mind the particular features of the various actual cases in formulating any statement on "international lines of demarcation".

(iv) Acts of reprisal

29. The statement of agreement on the duty of States to refrain from acts of reprisal involving the use of force was supported by the representatives who referred to the question, who considered it consistent with the relevant provisions of the Charter. Certain representatives said that reprisals were an act of vengeance contrary to the Charter, as the Security Council itself had recognized in one of its resolutions, and that accordingly they could not be equated with self-defence. Others said that it would have been preferable if the statement had been more clearly worded, in order to remove any doubts about the prohibition of reprisals not involving the use of armed force. In this connexion, others expressed the view that the word "force" in the statement should be interpreted to mean "armed" or "physical" force and that an act of non-armed reprisal could be a legitimate means of redress against an illegal act by another State. It was also said that abuses would be avoided if non-armed reprisals were recognized as a legal institution and if the conditions governing them were strictly regulated. Finally, others added that the statement on acts of reprisal had to be considered in relation to those on the duty to refrain from violating existing frontiers, organizing or encouraging armed bands and instigating civil strife and terrorist acts.

(v) Organization of armed bands *and*

(vi) Instigation of civil strife and terrorist acts

30. Several representatives expressed satisfaction at the statement of agreement concerning the prohibition of the organization of armed bands and the agreement in principle concerning the prohibition of instigation of civil strife and terrorist acts. Others, however, had reservations, in that they felt that due account had not been taken of the relationship between those questions and the exercise by the peoples of dependent territories of their right to self-determination. They felt that a distinction must be made between the types of activities covered by those questions and assistance to colonial peoples in their legitimate struggle against the repression to which they were being subjected. One of them added that he could not agree to provisions concerning such activities unless recognition was given to the colonial peoples' rights of self-defence against the use of force by the Powers which

were denying them the right of self-determination. It was also said that the victims of subversive and terrorist activities should be permitted to take measures of individual or collective self-defence. It was, however, emphasized that, whatever the reasons, there should not be any departure from the text of Article 51 of the Charter, which spoke of "armed attack". Finally, it was observed that the currently accepted view was that third States should not interfere in civil strife, at least by military means, even if the legitimate Government requested them to do so.

31. With regard to the inclusion of the provisions relating to these two questions under the principle prohibiting the threat or use of force and under the principle of non-intervention, those representatives who supported the provisions were for the most part in favour of including them under both principles, although some felt that the best procedure would have been to include them only under the principle of non-intervention.

(vii) Military occupation and non-recognition of situations  
brought about by the illegal threat or use of force

32. A number of representatives expressed regret that there had been no agreement on the inclusion of a provision affirming that the territory of a State could not be subjected to military occupation or other measures of force for any reason whatsoever and proclaiming the non-recognition of situations brought about by the illegal threat or use of force. Some stated that a provision of that nature would be a barrier to territorial ambitions and would accordingly protect the inviolability of the territory and the territorial integrity of States. Certain representatives felt that the formula proposed as a basis for discussion was useful and could serve as a point of departure in reaching agreement on the question under consideration. Others, however, regarded the formula as excessively rigid, while still others rejected it on the ground that it was insufficiently comprehensive and specific. It was also suggested that, in order to facilitate agreement, the wording finally adopted could make an exception in the case of situations resulting from decisions taken at the end of the Second World War.

33. Some representatives were of the opinion that, since it was already provided in the Charter that the use of force in international relations was unlawful, what was now needed was a formulation of the legal consequences and corollaries of that fact. They held that non-recognition was the penalty that was imposed, since the unlawful use of force could not confer rights. Accordingly, the statement of the principle should clearly affirm the non-recognition of the situations in question. It was pointed out that the principle of non-recognition had been formulated for the first time at the First International Conference of American States, held at Washington in 1889 and 1890, and had been embodied in the Charter of the Organization of American States. Some representatives, on the other hand, felt that, while the non-recognition of situations brought about by the illegal use of force was morally desirable, it was difficult from a strictly legal point of view to deny the existence of certain specific situations which had their origin in the unlawful use of force. One of those representatives added that he would, however, have no difficulty in agreeing to the basic principle that any enlargement of the territory of a State through the use of force was completely inadmissible under the Charter.

(viii) Armed force or repressive measures against colonial peoples, the position  
of territories under colonial rule, and the Charter obligations with respect  
to dependent territories

34. Some representatives expressed regret that there had been no agreement on the inclusion of a provision relating to the duty of States to refrain from the use of force against dependent peoples. It was pointed out, in that connexion, that the use of force to perpetuate colonial situations was a violation of General Assembly resolution 1514 (XV). The thesis

that the territory of colonies formed part of the metropolitan territory of the colonial Power was also rejected. Some representatives contended that the principle could not be invoked in the case of territories or frontiers which were the result of colonial rule or of political agreements concluded between colonial Powers. One representative was of the opinion that there was nothing to prevent third States from offering their good offices with a view to facilitating the exercise of the right of self-determination by dependent peoples. It was added that an agreement on those questions would facilitate the formulation of the principle of equal rights and self-determination of peoples. Other representatives stated that colonial situations did not properly belong within the debate on a principle which related to the prohibition of the use of force in international relations, but rather concerned Chapters XI to XIII of the Charter.

(ix) Economic, political and other forms of pressure

35. Several representatives stated that the duty to refrain from the threat or use of "force" implied a duty to refrain from economic, political and other forms of pressure against the political independence or territorial integrity of a State, and urged that the Special Committee should continue making efforts to reach agreement on a broad definition of the term "force". Some referred in this connexion to the draft declaration adopted by the Committee of the Whole of the United Nations Conference on the Law of Treaties at the first session of the Conference at Vienna in 1968.<sup>42</sup>

36. Other representatives argued that it was impossible to accept proposals that the term "force" in Article 2, paragraph 4, of the Charter, should be given a broad sense. They condemned the use of coercive measures, whether political or economic, in order to impose one State's will on another, but considered that in Article 2, paragraph 4, the term "force" meant solely "armed force". Some said that it might perhaps be better to try to solve the difficulties involved in the question by considering it in relation to the principle of non-intervention instead of the principle prohibiting the threat or use of force. Others considered that efforts might be made to thwart economic, political and other forms of pressure by adopting special rules of an appropriate kind. Finally, some representatives, without taking a final position on the matter, stated that, in the consideration of the question, the necessity of continuing to interpret Article 51 of the Charter restrictively should nevertheless be borne in mind.

(x) Agreement for general and complete disarmament  
under effective international control

37. The representatives who mentioned this point supported the agreement to include the concept of general and complete disarmament under effective international control as a corollary of the principle prohibiting the threat or use of force. The desirability of formulating this corollary on the basis of article VI of the Treaty on the Non-Proliferation of Nuclear Weapons<sup>43</sup> was stressed by some representatives.

(xi) Making the United Nations security system more effective

38. Some representatives expressed satisfaction with the statement of agreement concerning this question, considering that its inclusion in the formulation of the principle prohibiting the threat or use of force would help to strengthen the application of the principle. They stressed the need for all States to comply in good faith with the obligations they had undertaken with respect to the maintenance of international peace and security and to endeavour to make the United Nations security system more effective.

<sup>42</sup> See A/CONF.39/C.1/L.370/Add.7.

<sup>43</sup> Reproduced in this *Yearbook*, p. 156.

(xii) Legal use of force

39. Representatives who referred to this question were agreed that nothing in the provisions of the principle prohibiting the threat or use of force would affect the provisions of the Charter concerning the lawful use of force. Some took the view that a flexible approach should be adopted in formulating the statement relating to this question. Others argued that the lawful uses of force should be clearly spelt out, because they were exceptions to the principle. With regard to the right of individual or collective self-defence provided for in Article 51 of the Charter, some said that the right existed solely in the event of "armed attack" and that the defensive reaction should be immediate and proportionate to the unlawful act giving rise to it. Pointing out that the Charter centralized the use of force in the United Nations, other representatives emphasized that regional organizations could not lawfully use force without the express authorization of the Security Council, in accordance with Article 53 of the Charter.

40. Several representatives maintained that the use of force by the peoples of dependent territories in self-defence against colonial domination and in exercise of their right of self-determination constituted a lawful use of force under the Charter and that that should be indicated in the formulation of the principle. It was stated, in that connexion, that colonialism was a permanent act of aggression and that oppressed peoples therefore had an inalienable right of self-defence against that form of aggression. Referring to the illegality of colonialism and the obligation of all States to help colonial peoples in their struggle to exercise their right of self-determination, some representatives asserted that national liberation movements were lawful and were in conformity with General Assembly resolution 1514 (XV). Finally, it was added that the perpetuation of specific colonial situations was not only unlawful and immoral but could also lead to breaches of the peace such as the Charter sought to avoid.

41. In the opinion of other representatives, it would be undesirable to sanction, as an exception to the principle, the right to use force in colonial matters, because that might result in serious threats to international peace and security. They pointed out that Article 2, paragraph 4, of the Charter prohibited the use of force in "international relations" and that the right of rebellion was not provided for in Article 51 of the Charter. In their view, questions relating to dependent territories were covered by Chapters XI to XIII of the Charter and not by Article 2, paragraph 4, or Chapter VII.

*(b) The principle of equal rights and self-determination of peoples*

42. Several representatives expressed regret that at its 1968 session the Special Committee had made no progress towards the formulation of the principle of equal rights and self-determination of peoples, having adopted a report of its Drafting Committee stating that, owing to the lack of time, it had not been able to carry out a study in depth of the proposals concerning the principle. In the opinion of some representatives, it was discouraging to see that after three sessions of the Special Committee the attempts to formulate the principle had not met with the same degree of success as the attempts to formulate other principles. In the view of certain representatives, much more work had to be done before anything like a comparable stage was reached and a satisfactory text emerged. It was said that that situation was perhaps due to the fact that a common basis had yet to be found for the consideration of the principle, as well as to the consensus procedure followed by the Special Committee. Other representatives considered that it might result from the difficulties inherent in one of the areas of international relations in which law and politics were more closely interrelated. However, some other representatives were of the opinion that the

successive drafts submitted to the Special Committee in the course of the years indicated that a rapprochement had taken place, which augured well for the future.

43. A number of representatives emphasized the need for the Special Committee to continue its efforts with a view to the formulation of the principle. In this connexion, some representatives made an appeal to those who had so far demonstrated a hesitant attitude to reconsider their position, so that a formulation could be arrived at which reflected the experience and the present-day needs of the world. Various representatives expressed support for the recommendation of the Drafting Committee, adopted by the Special Committee, that due priority should continue to be given to the consideration of the proposals concerning the principle (see A/7326, para. 193).

44. A number of representatives referred to the historical, philosophical and political origins of the principle. It was recalled that it had been the corner-stone of the Declaration of Independence of the United States of America in 1776, of the French Revolution of 1789 and the October Socialist Revolution of 1917 in Russia. It was also stated that it had played a fundamental role in the constitution of the Latin American States and that it now formed the basis of the activities of various national liberation movements in Asia and Africa. Reference was also made to the important contribution of the Spanish jurists and theologians of the sixteenth and seventeenth centuries.

45. Several representatives recalled that the principle was embodied in the Charter, explicitly in Article 1, paragraph 2, and Article 55, and implicitly in Chapters XI, XII and XIII, and that it had been reaffirmed in resolutions of the General Assembly, in particular resolution 1514 (XV) containing the Declaration on the Granting of Independence to Colonial Countries and Peoples, and in the International Covenants on Human Rights. In the opinion of certain representatives, the reference to the principle in Articles 1 and 55 of the Charter was only indirect. It was also said that the principle had been applied in international life, as was proved by the recent process of decolonization, which had enabled a large number of countries to achieve independence and sovereignty and to become Members of the United Nations; this constituted one of the greatest accomplishments of the world Organization. Some representatives declared that the principle continued to be of the greatest value to the peoples still under colonial domination.

46. Various representatives stressed that the principle could not be regarded merely as a moral or political postulate but as a natural and inalienable right which constituted one of the foundations of the United Nations and an established rule of international law. Some representatives considered that it was at the basis of the maintenance of international peace and security and the development of friendly relations and co-operation among States.

47. A number of representatives held the view that the principle should be formulated in its widest sense. They reaffirmed the right of peoples to choose freely, without any form of foreign interference, their own political, social and economic system. Reference was also made to the exercise of sovereignty in external affairs and the right of any State to dispose freely of its natural wealth and resources. In the opinion of some representatives, the two elements which constituted the principle were closely linked; the meaning and scope of the right to self-determination should be defined in the light of the principle of equal rights. That meant that international relations should be based on the idea of co-operation and not of subordination. Stress was also laid on the close relationship between the principle of equal and self-determination of peoples and the principles of sovereign equality of States and non-intervention.

48. It was said that, since the struggle waged by oppressed peoples for their national liberation, in the legitimate exercise of the right of self-determination, had the backing of the Charter, the problem was of universal interest and the aims of those peoples were endorsed by the international community, even if they were pursued by revolutionary means.

Other representatives, however, considered that the so-called right of rebellion had of necessity to be extra-legal.

49. In the opinion of various representatives, the formulation of the principle should be based on the proposals submitted so far and those which might be submitted in the future. In this connexion, some representatives expressed general support for certain of the proposals before the Special Committee. Reference was also made to the relevant resolutions of the General Assembly and in particular to resolution 1514 (XV), whose second preambular paragraph and operative paragraph 2 contained, in the view of one representative, the most appropriate statement of law on the principle. Other representatives emphasized in this regard article 1 of the International Covenants on Human Rights. In the opinion of some representatives, the formulation would be incomplete unless it included an affirmative statement of the existence of an inherent right of peoples to equal rights and self-determination, a clear imposition of a general duty on all States to respect that right, and a statement of particular duties of States to facilitate its attainment and perform specific acts or refrain from performing specific acts which in any way might hinder its exercise. It was also emphasized that the right of self-determination was not only an individual but also a collective right.

50. A number of representatives referred to the difference of views concerning the applicability of the principle; while some considered that it should be applied to all peoples, others maintained that it could only apply to peoples under colonial rule. In the opinion of some representatives, however, the principle applied equally to peoples occupying an independent State and to peoples occupying a geographical area which, but for foreign domination, could have formed an independent and sovereign State. Nevertheless, certain representatives deemed it necessary to specify that the principle applied to peoples in territories under military occupation. While recognizing that the application of the principle was most important in the field of colonialism, universal applicability was supported by certain representatives on the grounds that it was not in the field of colonialism alone that the lack of observance of the principle threatened peace and security and friendly relations and that the Charter used the word "people" in a broad sense. It was also said that paragraph 6 of General Assembly resolution 1514 (XV) reassured those who feared that the universal application of the principle would encourage secessionist movements in sovereign, independent States.

51. The opinion was expressed that, without questioning the sovereignty of States, the applicability of the principle to peoples which were denied the enjoyment of equal rights by being excluded from participation in the life of their own States should be recognized. One representative considered that the terms "colonial" and "dependent" needed to be legally defined. In his view, a possible definition might state that a people was dependent when its territory was occupied by another State in contravention of international agreements or the resolutions of the Security Council and when its right to determine its own future status was expressly recognized either in General Assembly resolution 1514 (XV) or in the resolutions of the Security Council. Other representatives affirmed that the term "peoples" implied their relationship to a territory, even though they might have been unjustly expelled from it and replaced by an artificial population. It was also said that, in the case of entities which did not meet the requirements for becoming subjects of international law, it would be doubtful whether the concept of self-determination comprised a right to constitute themselves as sovereign and independent States.

52. Some representatives considered that there was a large measure of agreement as regards the prohibition of actions aimed at the partial or total disruption of the national unity or territorial integrity of States.

53. In the view of some representatives, colonialism, which had been deplored by all freedom-loving nations, and which was without basis in international law, remained the most serious violation of the principle of equal rights and self-determination of peoples, as exemplified by a number of cases in Africa. In their view, the liquidation of colonialism was an obligation of States under the Charter. All States should therefore render assistance to the United Nations in carrying out its responsibilities to put an end to colonialism, to set up the necessary machinery for the structural change where none existed and to return all powers to subject peoples. It was also considered that colonial territories or other Non-Self-Governing Territories could not constitute an integral part of the territory of the States exercising colonial rule over them or of the administering States. The view was further expressed that armed action or repressive measures against colonial peoples should be prohibited.

54. A number of representatives considered that the right of dependent peoples to struggle, by whatever means they chose, for their freedom and independence from the colonial yoke, was a legitimate exercise of the right of self-defence and could not be interpreted as violating the provisions of the Charter. In their opinion, those peoples might receive assistance from other States in virtue of that right. Other representatives, however, were unable to accept the so-called right of self-defence against colonial domination. In the view of certain representatives, the use of force in self-defence against colonial domination should be considered in the context of Chapter XI and not of Article 2, paragraph 4, of the Charter. Other representatives considered that the exercise of such a right invited the intervention of big Powers in the internal affairs of smaller States, thus endangering peace and security.

*2. The principle set forth in operative paragraph 5 of General Assembly resolution 2327 (XXII): the duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter*

55. Several representatives expressed regret that, owing to the lack of time at its 1968 session, the Special Committee had been unable to comply with the terms of reference given to it by the General Assembly in paragraph 5 of resolution 2327 (XXII), namely, to consider proposals compatible with General Assembly resolution 2131 (XX) of 21 December 1965 containing the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty, with the aim of widening the area of agreement already expressed in that resolution.

56. In the view of several representatives, General Assembly resolution 2131 (XX) was the expression of a universal juridical conviction and a valid and complete formulation of international law on the principle of non-intervention. They stressed that the resolution embodied a principle which had been recognized in many international instruments for over a century and that it had been adopted without opposition. They also recalled that at its 1966 session, the Special Committee had itself decided to "abide by General Assembly resolution 2131 (XX)". Other representatives considered the resolution as a significant political statement rather than a declaration of the legal principle involved. They recalled that it was not the only resolution relevant to the work of the Special Committee; many others, including Assembly resolutions 1514 (XV) and 2160 (XXI) had a similar relevance for the Special Committee's work. It was also significant that resolution 2131 (XX) had been adopted by the General Assembly at the same session at which the Assembly, by resolution 2103A (XX), had decided to include the principle of non-intervention among the seven principles to be formulated by the Special Committee.



57. In the opinion of some representatives, to argue that resolution 2131 (XX) was a mere political statement and therefore had no legal validity was fallacious, since it implied that the terms "political" and "legal" were mutually exclusive, an assertion which could only be interpreted as an attempt to make law the handmaid of politics. Even though the text of the resolution might be improved, as was also the case with any other legal instrument, including the Charter, it had to be admitted that documents resulting from negotiation and compromise were bound to show drafting imperfections. Furthermore, the difficulties of interpretation to which resolution 2131 (XX) might give rise could not be regarded as unique or greater than those confronting daily the national or international organs entrusted with the application of juridical norms.

58. Some representatives expressed the hope that members of the Special Committee would make serious efforts to reconcile the conflicting views existing on General Assembly resolution 2131 (XX), in order to reach a satisfactory statement on the principle of non-intervention. This was thought possible by some representatives, in view of the large measure of agreement evidenced in resolution 2131 (XX) and because this resolution contained most of the necessary elements to be included in a formulation of the principle.

59. In the opinion of several representatives, the Special Committee's task as regards the principle of non-intervention should be the consideration of proposals compatible with resolution 2131 (XX), with a view to widening the area of agreement expressed in that resolution. Proposals such as those submitted to the Special Committee in 1967 were deemed unacceptable, in that they had tended to restrict or ignore that area of agreement. Any new terms of reference to be given to the Special Committee should not detract from the relevant decisions taken by the Special Committee at its 1966 session and by the General Assembly at its twenty-second session. In the view of one representative, the re-examination by the Special Committee of the content or form of resolution 2131 (XX), or the consideration of any proposals on the principle, did not seem to be the method best suited for narrowing the existing divergences of opinion.

60. Several representatives stressed the importance of the principle of non-intervention as the corner-stone of respect for the sovereignty and independence of States, particularly in view of the long and painful experience of intervention in all forms, not only in the States which some of them represented but also in the continent of which those States formed part. It was considered that the principle was a major foundation for the development of friendly relations and co-operation among States, as well as an essential element for peaceful coexistence. It was further recognized that the principle was closely related to the maintenance and strengthening of international peace and security and was one of the foundations of contemporary international law.

61. The view was also expressed that the principle had been proclaimed by the Charter of the United Nations. Article 2, paragraph 1, embodying the fundamental principle of sovereign equality of States, implied respect for the personality of the State and its political independence, with which intervention was incompatible; intervention was likewise contrary to the purpose enunciated in Article 1, paragraph 2; the principle was also a consequence of the prohibition of the threat or use of force set forth in Article 2, paragraph 4, since those were the more characteristic and serious forms of intervention; finally, the provisions of Article 2, paragraph 7, applied *a fortiori* to States, since the Charter could not permit States to do what it prevented the Organization from doing.

62. Some representatives considered that the principle was an inseparable part of the system of principles of international law concerning friendly relations and co-operation among States. In the view of certain representatives, the principle did not prohibit assistance to colonial peoples struggling for their independence in exercise of their right of self-determination. It was said that intervention in the internal affairs of a State affected the

principle of equal rights and self-determination of peoples. It was also stated that questions which had given rise to doubts in the work undertaken on the principle prohibiting the threat or use of force might be clarified in the context of the principle of non-intervention.

63. Several representatives emphasized the contribution of Latin America to the development and strengthening of the principle since the early nineteenth century, as a defence of their independence and sovereignty against the policies of the Holy Alliance and the abuses resulting from doctrines which arbitrarily distinguished between “legal” and “illegal” acts of intervention. It was recalled that, as had been pointed out at the Special Committee’s 1967 session, the principle—which reflected the profound convictions of Latin America—had been proclaimed in the 1933 Montevideo Convention on Rights and Duties of States, the Additional Protocol relative to Non-intervention adopted by the 1936 Inter-American Conference for the Maintenance of Peace, the 1938 Declaration of the Principles of the Solidarity of America, the Charter of the Organization of American States signed at Bogotá in 1948 and at the Third Special Inter-American Conference held at Buenos Aires in 1967.<sup>44</sup> It was also said that, as a result of the long process of development and consolidation of the principle of non-intervention, fruitful co-operation among States with different interests had been made possible.

### C. OBSERVATIONS CONCERNING FUTURE WORK AND METHODS OF WORK

#### 1. *Convening and terms of reference of the Special Committee in 1969*

64. It was agreed that consideration of the principles should be continued with a view to their formulation and that the best means by which the General Assembly could complete its work on the item as soon as possible was once again to invite the Special Committee, as reconstituted by General Assembly resolution 2103 A (XX) of 20 December 1965, to continue its work in 1969. The general agreement in that regard was embodied in operative paragraph 3 of the draft resolution introduced in the Sixth Committee (see para. 6 above).

65. During the general debate, various views were expressed concerning the Special Committee’s terms of reference for its 1969 session, including the priority to be given to the consideration of each principle, with a view to completing the Special Committee’s work at an early date in the light of the objective of General Assembly resolution 1815 (XVII) of 18 December 1962, i.e., the preparation of a Draft declaration on the seven principles of international law concerning friendly relations and co-operation among States. The general agreement reached on that point was embodied in operative paragraph 4 of the draft resolution and in the statement made by the Chairman of the Sixth Committee (see para. 71 below) before the draft resolution was adopted.

#### 2. *The Special Committee’s method of work and the organization of its future work*

66. Certain representatives stated that, while the Special Committee should try to arrive at a consensus, that procedure must not have the effect of causing its work to be obstructed by intransigent minorities. The effort to reach a consensus, although desirable, should not become a dogma which would enable certain minorities to paralyse the Special Committee’s work or bring about the adoption of excessively vague formulations which did not meet the requirements of the existing situation or which served to perpetuate the *status quo*. In such cases, the vote was the only democratic method of arriving at solutions which

<sup>44</sup> See *Official Records of the General Assembly, Twenty-second Session, Annexes*, agenda item 87, document A/6799, para. 319.

were satisfactory to the international community as a whole. When a given proposal was supported by a large majority, it would be intolerable for a minority to prevent a decision from being taken. In such cases, the course which should be adopted was that provided for in the rules of procedure of the General Assembly, i.e., the taking of a vote.

67. Other representatives emphasized that it was desirable for the Special Committee to continue to work on the basis of consensus, which was the best guarantee that it would be successful in carrying out its task. It was essential that the work of the Special Committee should reflect the general practice of States and that, once completed, it should win the approval of a large majority in the General Assembly. Although the representatives in question acknowledged that the consensus method could give rise to abuses or lead to the adoption of excessively vague or broad formulations, they felt that it was the only appropriate method of carrying out the Special Committee's task. The formulation of legal norms and their incorporation into a General Assembly declaration required a broad base of agreement, since majority votes in the Assembly did not, in themselves, create legal norms nor did they facilitate the rapid establishment of such norms.

68. Some representatives felt that at its next session the Special Committee should concentrate its efforts and initiate discussions as soon as possible on the questions which had not yet been settled. General debate on questions concerning which a certain measure of agreement had already been reached should be avoided. Some representatives felt that the time had come to consolidate the results of the Special Committee's work and undertake a general review of the progress that had been made on each principle. In that connexion, some expressed the view that the texts embodying the agreements which had been reached should be submitted to the General Assembly in a comprehensive rather than a fragmentary form. Finally, other representatives, after drawing attention to the interrelationship among all the principles, cautioned the Special Committee regarding the disadvantages of the method of considering each principle separately.

### *3. Preparatory consultations*

69. A number of representatives thought it advisable to hold preparatory consultations among the States concerned before the Special Committee's 1969 session and were in favour of including in the draft resolution to be recommended to the General Assembly a provision similar to that contained in operative paragraph 6 of resolution 2327 (XXII). Such consultations had proved useful and indeed valuable during the period between the Special Committee's 1967 and 1968 sessions. In the course of the consultations, it was observed by some representatives, it might even be possible to prepare working papers on controversial questions or draft texts accompanied by commentaries. Operative paragraph 5 of the draft resolution embodied the views expressed on this matter.

### *4. Completion of work on the item and observance of the twenty-fifth anniversary of the United Nations*

70. A number of representatives expressed the hope that, if all delegations continued to adopt a constructive attitude, the Special Committee would be able to complete its work on the item within a reasonable period of time; they further stated that the adoption in 1970 of a declaration embodying the codification and progressive development of the principles of international law concerning friendly relations and co-operation among States would be an important contribution to the observance of the twenty-fifth anniversary of the United Nations.

#### IV. Voting and statement by the Chairman of the Sixth Committee

71. At the 1099th meeting, on 17 December 1968, the Sixth Committee adopted unanimously the fifty-two-Power draft resolution (A/C.6/L.740 and Add.1) (see para. 6 above). Before the adoption of the draft resolution, the Chairman of the Sixth Committee made the following statement:

“If the Sixth Committee approves this draft resolution, it is on the understanding that there is consensus in the Committee on the following:

“First, the Special Committee should devote itself to completing the work on the formulations of the principle prohibiting the threat or use of force and the principle of equal rights and self-determination of peoples;

“Secondly, if any time is left, it should address itself to other work relating to other principles;

“Thirdly, the above understanding is wholly without prejudice to the positions of any delegations that have been taken with regard to any particular principle concerning friendly relations.”

72. At the same meeting, the representatives of Israel, France, Italy and the Union of Soviet Socialist Republics gave explanations of their votes.

#### Recommendation of the Sixth Committee

73. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

CONSIDERATION OF PRINCIPLES OF INTERNATIONAL LAW CONCERNING FRIENDLY RELATIONS  
AND CO-OPERATION AMONG STATES IN ACCORDANCE WITH THE CHARTER OF THE UNITED  
NATIONS

[*Text adopted by the General Assembly without change. See “Resolution adopted by the General Assembly” below.*]

#### (b) Resolution adopted by the General Assembly

At its 1751st plenary meeting, on 20 December 1968, the General Assembly adopted the draft resolution submitted by the Sixth Committee (para. 73 above). For the final text, see resolution 2463 (XXIII) below.

**2463 (XXIII). Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations**

*The General Assembly,*

*Recalling* its resolutions 1815 (XVII) of 18 December 1962, 1966 (XVIII) of 16 December 1963, 2103 (XX) of 20 December 1965, 2181 (XXI) of 12 December 1966 and 2327 (XXII) of 18 December 1967, which affirm the importance of the progressive development and codification of the principles of international law concerning friendly relations and co-operation among States,

*Recalling further* that among the fundamental purposes of the United Nations are the maintenance of international peace and security and the development of friendly relations and co-operation among States,

*Considering* that the faithful observance of the principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations is of paramount importance for the maintenance of international peace and security and the improvement of the international situation,

*Considering further* that the progressive development and codification of the principles of international law concerning friendly relations and co-operation among States, so as to secure their more effective application, would promote the realization of the purposes of the United Nations,

*Bearing in mind* its resolution 2131 (XX) of 21 December 1965,

*Convinced* of the significance of continuing the effort to achieve general agreement in the process of elaboration of the seven principles of international law set forth in General Assembly resolution 1815 (XVII), but without prejudice to the applicability of the rules of procedure of the Assembly, with a view to the adoption of a declaration which would constitute a landmark in the progressive development and codification of those principles,

*Having considered* the report of the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States,<sup>45</sup> which met in New York from 9 to 30 September 1968,

1. *Takes note* of the report of the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States;
2. *Expresses its appreciation* to the Special Committee for the valuable work it has performed;
3. *Decides* to ask the Special Committee, as reconstituted by General Assembly resolution 2103 (XX), to meet in 1969 in New York, Geneva or any other suitable place for which the Secretary-General receives an invitation, in order to continue and complete its work;
4. *Requests* the Special Committee, in the light of the debate which took place in the Sixth Committee during the previous and present sessions of the General Assembly and in the 1964, 1966, 1967 and 1968 sessions of the Special Committee, to endeavour to resolve, in the light of General Assembly resolution 2327 (XXII), all relevant questions relating to the formulation of the seven principles, in order to complete its work as far as possible, and to submit a comprehensive report to the General Assembly at its twenty-fourth session;
5. *Calls upon* the members of the Special Committee to devote their utmost efforts to ensuring the success of the Special Committee's session, in particular by undertaking, in the period preceding the session, such consultations and other preparatory measures as they may deem necessary;
6. *Requests* the Secretary-General to co-operate with the Special Committee in its task and to provide all the services, documentation and other facilities necessary for its work;
7. *Decides* to include in the provisional agenda of its twenty-fourth session an item entitled "Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations".

*1751st plenary meeting  
20 December 1968*

<sup>45</sup> *Official Records of the General Assembly, Twenty-third Session, agenda item 87, document A/7326.*

(11) REPORT OF THE UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW ON THE WORK OF ITS FIRST SESSION (AGENDA ITEM 88)

(a) Report of the Sixth Committee <sup>46</sup>

[Original text English and French]

[13 December 1968]

I. INTRODUCTION

1. At its 1676th plenary meeting, on 27 September 1968, the General Assembly included as item 88 in the agenda of its twenty-third session, and allocated to the Sixth Committee for consideration and report, the item entitled "Report of the United Nations Commission on International Trade Law on the work of its first session".

2. The Sixth Committee considered this item at its 1082nd to 1085th meetings, held from 27 November to 3 December 1968 and at its 1096th and 1097th meetings, held on 13 and 14 December 1968.

3. At the 1082nd meeting, on 27 November 1968, Mr. Dadzie (Ghana), Chairman of the United Nations Commission on International Trade Law at its first session, at the invitation of the Chairman, introduced the Commission's report on the work of that session (A/7216). At the 1096th meeting, on 13 December 1968, after hearing a statement by the representative of the Secretary-General on financial implications, the Committee decided that in the future the Commission's annual report should be introduced to the General Assembly by the Chairman of the Commission, or by another officer to be designated by him.

4. At the 1097th meeting, on 14 December 1968, the Rapporteur of the Sixth Committee raised the question whether the Committee wished to include in its report to the General Assembly a summary of the views expressed during the debate on agenda item 88. After referring to paragraph (f) of the annex to General Assembly resolution 2292 (XXII), the Rapporteur informed the Committee of the financial implications of the question. At the same meeting, the Committee decided that, in view of the nature of the subject-matter, the report on agenda item 88 should include a summary of the representative trends of opinion and not of the individual views of all delegations.

5. The report of the United Nations Commission on International Trade Law on the work of its first session, which was before the Sixth Committee, is divided into seven chapters as follows:

- I. Establishment and terms of reference of the Commission;
- II. Organization of the first session;
- III. General debate;
- IV. Programme of work of the Commission;
- V. Establishment within the Secretariat of a register of organizations and a register of texts;
- VI. Training and assistance in the field of international trade law;
- VII. Other decisions and conclusions of the Commission.

<sup>46</sup> Document A/7408, reproduced from *Official Records of the General Assembly, Twenty-third Session, Annexes*, agenda item 88.

## II. PROPOSALS

6. At the 1096th meeting, on 13 December 1968, the representative of Ghana introduced a draft resolution sponsored by Argentina, Cameroon, Chile, Congo (Democratic Republic of), El Salvador, Ghana, Hungary, India, Japan, Netherlands, Nigeria, Pakistan, Romania, Spain, Syria, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania and Zambia (A/C.6/L.738/Rev.1 and Add, 1-3), which read as follows:

*“The General Assembly,*

*“Having considered* the report of the United Nations Commission on International Trade Law on the work of its first session (A/7216),

*“Recalling its resolution 2205 (XXI) of 17 December 1966, by which it established* the United Nations Commission on International Trade Law and defined its object and terms of reference,

*“Noting* the chapter of the report of the Trade and Development Board on its seventh session (A/7214, part two, chapter VII) concerning the report of the United Nations Commission on International Trade Law on the work of its first session, and noting further that the Board expressed its appreciation of the Commission’s report and commended the Commission for its programme of work,

*“Endorsing* the statement of the Trade and Development Board (*ibid.*, para. 165) emphasizing that the needs of developing countries should receive adequate attention in the programme of work of the United Nations Commission on International Trade Law and stressing the importance of co-operation between the United Nations Conference on Trade and Development and the Commission at the intergovernmental and secretariat levels,

*“Bearing in mind* the wish expressed by many members of the Trade and Development Board at its seventh session that the United Nations Commission on International Trade Law should add international shipping legislation to its list of priority topics (A/7214, para. 74), and bearing also in mind the activities of other agencies active in this field,

*“Noting with satisfaction* that the United Nations Commission on International Trade Law intends to carry out its work in co-operation with organs and organizations concerned with the progressive harmonization and unification of international trade law, and that such co-operation has already been initiated,

*“Convinced* that the harmonization and unification of international trade law, in reducing or removing legal obstacles to the flow of international trade, would significantly contribute to economic co-operation between countries and, thereby, to their well-being,

*“Having considered* the report of the Secretary-General concerning the financial and administrative implications of the establishment of a register of organizations and a register of texts in the field of international trade law (A/C.6/L.648 and Add.1),

*“1. Takes note with appreciation* of the report of the United Nations Commission on International Trade Law on the work of its first session;

*“2. Notes with approval* the programme of work established by the United Nations Commission on International Trade Law;

*“3. Authorizes* the Secretary-General to establish a register of organizations in accordance with directives laid down by the United Nations Commission on International Trade Law;

“4. *Approves in principle* the proposal to establish a register of the international instruments and other documents referred to in chapter V of the report of the United Nations Commission on International Trade Law, and requests that the Commission should consider further at its second session the precise nature and scope of such a register in the light of the report of the Secretary-General (*ibid.*) and the discussions at the twenty-third session of the General Assembly;

“5. *Authorizes* the Secretary-General to establish the register referred to in paragraph 4 above in accordance with the further directives to be given by the United Nations Commission on International Trade Law at its second session;

“6. *Recommends* that the United Nations Commission on International Trade Law should:

“(a) Continue its work on the topics to which it decided to give priority, that is, the international sale of goods, international payments and international commercial arbitration;

“(b) Consider the inclusion of international shipping legislation among the priority topics in its work programme;

“(c) Consider opportunities for training and assistance in the field of international trade law in the light of relevant reports of the Secretary-General;

“(d) Keep its programme of work under constant review, bearing in mind the interests of all peoples, and particularly those of the developing countries, in the extensive development of international trade;

“(e) Consider at its second session ways and means of promoting co-ordination of the work of organizations active in the progressive harmonization and unification of international trade law and of encouraging co-operation among them;

“(f) Consider, when appropriate, the possibility of issuing a yearbook which would make its work more widely known and more readily available;

“7. *Requests* the Secretary-General to forward to the United Nations Commission on International Trade Law the records of the discussion on the Commission’s report at the twenty-third session of the General Assembly.”

### III. DEBATE

7. The main trends of the Sixth Committee’s debate on agenda item 88 are summarized in the following seven sections. The first section concerns the observations which were made on the role and the work of the Commission in general. The other six sections contain a summary of the observations relating more particularly to the report of the Commission on the work of its first session and are set out under the following headings: programme of work of the Commission, international shipping legislation, establishment within the Secretariat of a register of organizations and a register of texts, training and assistance in the field of international trade law, collaboration with other organizations, and publication of a yearbook.

#### A. *The role and the work of the Commission in general*

8. Several representatives characterized the Commission as the principal organ responsible for the progressive development of international trade law and for the co-ordination of the unification activities of other governmental and non-governmental organizations. Some of those representatives expressed the opinion that the task of the Commission should not be merely to encourage and co-ordinate work carried out elsewhere, but also to undertake



work of its own in order to reduce and remove legal obstacles to the flow of international trade. In doing so, the Commission should ensure the full participation of developing countries which, until now, had not taken an active part in the development and formulation of international trade law.

9. Many representatives commended the Commission for having obtained tangible results during its first session. It was noted with approval that it had decided to take its decisions as far as possible by consensus. This would permit the Commission, whose members were States with different social-economic systems, different levels of development, and different legal systems and historical traditions, to base its work on careful regard for proposals submitted and respect for mutual interests. Some representatives, while agreeing with the principle of consensus, nevertheless observed that consensus should not be ensured at all costs as if this were the essential objective of the Commission's discussions, nor should its purpose be merely to satisfy a dissident minority. In appropriate circumstances, decisions should be made by vote.

10. A number of representatives stressed the importance of Governments doing their utmost to support the Commission in its work, *inter alia*, by responding promptly to requests for information and comments on topics on its agenda and by seeing to it that it remained foremost a body of experts. The view was expressed that the Commission should also have invited States other than its own members to submit studies on certain subjects, so as to enable it to work on a sufficiently broad basis. According to another view, owing to the universal character of the Commission's work, documents and inquiries emanating from the Commission should be transmitted to all States, whether or not they were Members of the United Nations or members of its specialized agencies.

11. One representative observed that, in electing the members of the Commission, the General Assembly had regrettably neglected to ensure representation of the Chinese legal system.

12. A number of representatives expressed approval that the Commission had not felt it necessary, at this stage of its work, to formulate a definition of international trade law and were of the opinion that it had acted wisely in taking practical considerations into account when drawing up its programme. It was observed by others, however, that it was unfortunate that the Commission had been unable to agree on a definition of international trade law: the Commission should not limit its work to the consideration only of questions of private law, since a significant number of the questions of international trade law which were of cardinal importance to all countries would then lie outside its field of activity.

13. Some representatives stressed the particular importance of the Commission's work for the developing countries. That work should fully reflect the principles governing international trade relations and trade policies conducive to development, adopted at the first session of the United Nations Conference on Trade and Development.<sup>47</sup> Other representatives, however, emphasized the community of interest which both developed and developing countries had in the work of the Commission and cautioned against introducing into that work notions of a dichotomy of interest drawn from related but different contexts.

#### B. Programme of work of the Commission

14. Most representatives commended the Commission for its selection of priority topics, which covered three important fields of international trade law, i.e., the international sale of goods, international payments and international commercial arbitration. Some

<sup>47</sup> See *Proceedings of the United Nations Conference on Trade and Development*, vol. I, *Final Act and Report* (United Nations publication, Sales No.: 64.II.B.11), annex A.I.1, p. 18.

representatives expressed the wish that the Commission maintain a certain degree of flexibility in its programme of work, which should be revised from time to time to meet the requirements of the international community.

15. One representative questioned the choice of international commercial arbitration as a priority topic and deemed it preferable first to make a census of existing international instruments on the subject. It was also observed that the Commission could derive great advantage from the establishment of a collection of important arbitral awards handed down in the field of international trade.

16. The suggestion was made that other items, such as the question of the most-favoured-nation clause, the promotion of participation in the Convention on Transit Trade of Land-locked States and, as a matter of priority, the elimination of discrimination in laws affecting international trade, should also be considered by the Commission. However, some representatives, referring to the political implications which the consideration of the question of discrimination in laws affecting international trade might possibly involve, questioned the expediency of suggesting to the Commission that it should take up that item.

### *C. International shipping legislation*

17. With regard to international shipping legislation, reference was made to the recommendation made by many members of the Trade and Development Board at its seventh session to the effect that the United Nations Commission on International Trade Law should take the necessary measures to deal, as a matter of priority, with international shipping legislation (see A/7214, part two, para. 74). Most of the representatives who spoke on this subject favoured an active involvement on the part of the Commission and said that they would welcome the inclusion of shipping legislation among the priority items. Some representatives, while agreeing that the Commission should consider the law of shipping, deemed nevertheless advisable for it to defer its work on that subject until the Committee on Shipping of the Trade and Development Board had considered the scope of international shipping legislation and made its recommendations to the Commission. Other representatives drew attention to the activities of the United Nations Conference on Trade and Development and the Inter-Governmental Maritime Consultative Organization in the matter of international shipping legislation and emphasized, in this connexion, that it was of increasing importance that the Commission should co-ordinate the various efforts made in this field so as to avoid, as far as possible, duplication of work.

### *D. Establishment within the Secretariat of a register of organizations and a register of texts*

18. There was general recognition of the importance of a register of organizations, containing a survey of their activities, and a register of international instruments in certain fields of international trade law. The view was expressed that this would permit the Commission to keep abreast of the latest developments and collect the information necessary for its work. It was also stated that such registers would no doubt be useful to Governments and other organizations. Several representatives, however, expressed their hesitation in view of the financial implications and were of the opinion that the Commission should consider further the scope of the register of texts at its second session, taking into account the report of the Secretary-General on the administrative and financial implications of the registers (A/C.6/L.648 and Add.1) and the observations made thereon during the debates in the Sixth Committee. Some representatives were of the opinion that the aim pursued by the Commission could perhaps also be achieved by other means, such as by publishing a list of the titles and sources of the various instruments and documents, without reproducing the

texts thereof. One representative entered a strong protest at the omission of Chinese from the list of official languages in which the registers were to be published.

#### *E. Training and assistance in the field of international trade law*

19. Many representatives supported the Commission's proposals concerning training and assistance in the field of international trade law (see A/7216, chapter VI). It was noted with approval that the Advisory Committee on the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law had recommended that an appropriate place should be given to the activities concerning international trade law within the framework of the activities conducted under the Programme. It was suggested that the Commission, at its second session, should give careful consideration to training and assistance in international trade law on the basis of the report to be submitted by the Secretary-General. Some representatives urged that the Commission should take suitable steps to increase the opportunities for training experts, particularly in the developing countries, and to place at the disposal of the international community the juridical means of stimulating trade.

#### *F. Collaboration with other organizations*

20. A number of representatives referred to the problem of the waste of effort and the confusion caused by the existence of competing agencies in the work of unification. It was stressed, in this connexion, that the remedy would seem to lie in the Commission's functioning as a rallying-ground for unificatory activities and in its co-ordination and supervision of such activities. Some representatives stressed that the Commission should be the main co-ordinating and law-making international organ in the field of international trade law and that it should maintain close co-operation with the specialized agencies and the intergovernmental and non-governmental organizations concerned. Other representatives emphasized that the work of the Commission should be complementary to the efforts that had been made and were being made by such organizations and that stimulating wider interest in, and particular work by, existing institutions was among the significant contributions that the Commission could make.

#### *G. Yearbook*

21. Several representatives deemed it desirable that the Commission should issue a yearbook similar to that of the International Law Commission. Most representatives, however, agreed that there was no need for the Sixth Committee to take a decision on the matter at this time and that it was for the United Nations Commission on International Trade Law to determine the desirability of such a step.

### IV. VOTING

22. At the 1097th meeting of the Sixth Committee, held on 14 December 1968, it was decided, at the request of some representatives, to vote separately on paragraphs 4 and 5 of the draft resolution (A/C.6/L.738/Rev.1 and Add.1-3). Paragraph 4 was adopted by 70 votes to 1, with 8 abstentions. Paragraph 5 was adopted by 60 votes to 4, with 16 abstentions. The draft resolution as a whole was adopted by 77 votes to none, with 2 abstentions. Explanations of vote were given by the representatives of Australia, Bulgaria, Canada, China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

## Recommendation of the Sixth Committee

23. The Sixth Committee therefore recommends to the General Assembly the adoption of the following draft resolution:

### REPORT OF THE UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW

[*Text adopted by the General Assembly without change. See “Resolution adopted by the General Assembly” below.*]

#### (b) Resolution adopted by the General Assembly

At its 1746th meeting, on 18 December 1968, the General Assembly adopted the draft resolution submitted by the Sixth Committee (para. 23 above). For the final text see resolution 2421 (XXIII) below.

#### 2421 (XXIII). Report of the United Nations Commission on International Trade Law

*The General Assembly,*

*Having considered* the report of the United Nations Commission on International Trade Law on the work of its first session,<sup>48</sup>

*Recalling* its resolution 2205 (XXI) of 17 December 1966 by which it established the United Nations Commission on International Trade Law and defined its object and terms of reference,

*Noting* the chapter of the report of the Trade and Development Board on its seventh session<sup>49</sup> concerning the report of the United Nations Commission on International Trade Law on the work of its first session, and noting further that the Board expressed its appreciation of the Commission's report and commended the Commission for its programme of work,

*Endorsing* the statement in which the Trade and Development Board<sup>50</sup> emphasized that the needs of developing countries should receive adequate attention in the programme of work of the United Nations Commission on International Trade Law and stressed the importance of co-operation between the United Nations Conference on Trade and Development and the Commission at the intergovernmental and secretariat levels,

*Bearing in mind* the wish expressed by many members of the Trade and Development Board at its seventh session that the United Nations Commission on International Trade Law should add international shipping legislation to its list of priority topics<sup>51</sup> and also bearing in mind the activities of other agencies active in this field,

*Noting with satisfaction* that the United Nations Commission on International Trade Law intends to carry out its work in co-operation with organs and organizations concerned with the progressive harmonization and unification of international trade law and that such co-operation has already been initiated,

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<sup>48</sup> *Official Records of the General Assembly, Twenty-third Session, Supplement No. 16 (A/7216)*

<sup>49</sup> *Ibid.*, Supplement No. 14 (A/7214), part two, chapter VII.

<sup>50</sup> *Ibid.*, para. 165.

<sup>51</sup> *Ibid.*, para. 74.

*Convinced* that the harmonization and unification of international trade law, in reducing or removing legal obstacles to the flow of international trade, would significantly contribute to economic co-operation between countries and, thereby, to their well-being,

*Having considered* the report of the Secretary-General concerning the financial and administrative implications of the establishment of a register of organizations and a register of texts in the field of international trade law, <sup>52</sup>

1. *Takes note with appreciation* of the report of the United Nations Commission on International Trade Law on the work of its first session;

2. *Notes with approval* the programme of work established by the United Nations Commission on International Trade Law;

3. *Authorizes* the Secretary-General to establish a register of organizations in accordance with directives laid down by the United Nations Commission on International Trade Law;

4. *Approves* in principle the proposal to establish a register of the international instruments and other documents referred to in chapter V of the report of the United Nations Commission on International Trade Law and requests that the Commission should consider further at its second session the precise nature and scope of such a register in the light of the report of the Secretary-General and the discussions on the registers at the twenty-third session of the General Assembly;

5. *Authorizes* the Secretary-General to establish the register referred to in paragraph 4 above in accordance with the further directives to be given by the United Nations Commission on International Trade Law at its second session;

6. *Recommends* that the United Nations Commission on International Trade Law should:

(a) Continue its work on the topics to which it decided to give priority, that is, the international sale of goods, international payments and international commercial arbitration;

(b) Consider the inclusion of international shipping legislation among the priority topics in its work programme;

(c) Consider opportunities for training and assistance in the field of international trade law, in the light of relevant reports of the Secretary-General;

(d) Keep its programme of work under constant review, bearing in mind the interests of all peoples, and particularly those of the developing countries, in the extensive development of international trade;

(e) Consider at its second session ways and means of promoting co-ordination of the work of organizations active in the progressive harmonization and unification of international trade law and of encouraging co-operation among them;

(f) Consider, when appropriate, the possibility of issuing a yearbook which would make its work more readily available;

7. *Requests* the Secretary-General to forward to the United Nations Commission on International Trade Law the records of the discussions on the Commission's report at the twenty-third session of the General Assembly.

*1746th plenary meeting  
18 December 1968*

<sup>52</sup> *Ibid.*, *Twenty-third Session, Annexes*, agenda item 88, document A/C.6/L.648; A/C.6/I.648/Add.1.

(12) CONFERENCE OF NON-NUCLEAR WEAPON STATES: FINAL  
DOCUMENT OF THE CONFERENCE (AGENDA ITEM 96)

Resolution [2456 B (XXIII)] adopted by the General Assembly

**2456 (XXIII). Conference of Non-Nuclear-Weapon States**

**B**

*The General Assembly,*

*Having examined* the Final Document of the Conference of Non-Nuclear-Weapon States,<sup>53</sup>

*Considering* that the establishment of zones free from nuclear weapons, on the initiative of the States situated within each zone concerned, is one of the measures which can contribute most effectively to halting the proliferation of those instruments of mass destruction and to promoting progress towards nuclear disarmament,

*Observing* that the Treaty for the Prohibition of Nuclear Weapons in Latin America,<sup>54</sup> opened for signature on 14 February 1967, has already established a nuclear weapon-free zone comprising territories densely populated by man,

*Reiterates* the recommendation contained in resolution B of the Conference of Non-Nuclear-Weapon States, concerning the establishment of nuclear-weapon-free zones, and especially the urgent appeal for full compliance by the nuclear-weapon Powers with paragraph 4 of General Assembly resolution 2286 (XXII) of 5 December 1967, in which the Assembly invited Powers possessing nuclear weapons to sign and ratify as soon as possible Additional Protocol II of the Treaty for the Prohibition of Nuclear Weapons in Latin America.

*1750th plenary meeting  
20 December 1968*

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**B. Decisions, recommendations and reports of a legal character  
by inter-governmental organizations related to the United Nations**

**1. UNITED NATIONS EDUCATIONAL, SCIENTIFIC  
AND CULTURAL ORGANIZATION**

(a) UNESCO's contribution to peace and UNESCO's tasks with respect to the elimination of colonialism and racialism: resolutions adopted by the General Conference on 15 November 1968 during its fifteenth session

(i) Resolution 9.11

*The General Conference,*

*Having considered* item 11.1 of the agenda: "Implementation of the resolutions of the fourteenth session of the General Conference regarding UNESCO's contribution to peace

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<sup>53</sup> *Official Records of the General Assembly, Twenty-third Session*, agenda item 96, document A/7277 and Corr. 1 and 2.

<sup>54</sup> See *Juridical Yearbook*, 1967, p. 272.

and UNESCO's tasks in the light of the resolutions adopted by the General Assembly of the United Nations at its twentieth session on questions relating to the elimination of colonialism and racialism" and item 11.2: "Application by UNESCO of resolution 2311(XXII) of the United Nations General Assembly on the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples by the Specialized Agencies and the international institutions associated with the United Nations",

*Bearing in mind* the responsibilities placed on UNESCO by its Constitution and the resolutions adopted by the General Conference at successive sessions for the elimination of colonialism and racialism and for the promotion of peace, international co-operation and security of peoples through education, science and culture,

*Recalling* that, in accordance with the provisions of its Constitution, UNESCO aims at promoting the consolidation of international peace and security through the educational scientific and cultural co-operation of all peoples,

*Stressing* the importance of a full and appropriate implementation of resolution 10 on UNESCO's contribution to peace adopted by the General Conference at its fourteenth session (1966),

*Noting with approval* the report by the Director-General on the implementation of resolution 11 adopted by the General Conference at its fourteenth session (doc. 15C/49) and his proposals to intensify the activities of the organization in the service of peace, international co-operation and security of peoples (doc. 15C/50), as well as the measures taken by the Executive Board in this regard,

*Realizing* the significance of the contribution which the Organization and the Member States may make to the furthering of international peace and security and reiterating the supreme importance and urgency of building real and lasting peace based on the principles of justice and amity and the overriding role of UNESCO in implementing significant and practical measures for advancing peace and development,

1. *Confirms* resolution 6.21 adopted by the General Conference at its thirteenth session (1964), calling upon Member States to be guided in their relations with one another by the principles of living peacefully together and peaceful co-operation, and resolution 10 adopted at its fourteenth session (1966), the texts of which are annexed to the present resolution;

2. *Appeals* to all Member States to take appropriate measures to advance these objectives;

3. *Invites* the Director-General to continue, under the 1969-1970 programme, measures which aim at securing the Organization's maximum contribution to peace, and ensuring that all States will live peacefully together and co-operate irrespective of their socio-economic systems, degree of development and type of civilization;

4. *Invites* the Director-General to arrange for a special chapter on UNESCO's contribution to peace in the Organization's long-term plan of activities;

5. *Invites* the Director-General to submit to the Executive Board at its 83rd session a report on the implementation of this resolution, together with specific proposals for elaborating and implementing a long-term plan of integrated action for the advancement of peace and development in the fields of UNESCO's competence, taking into account the principles and suggestions outlined in document 15C/50, and to submit this plan to the General Conference at its sixteenth session;

6. *Considers* that UNESCO, in its work for peace, could with advantage call to a greater extent for support on international non-governmental organizations, and especially the United Towns Organization, which mobilizes public support in communes for under-

standing and international co-operation; and invites the Director-General to submit to the Executive Board proposals regarding measures which might be taken to this end.

## ANNEXES

### Annex A

#### Resolution 6.21 adopted by the General Conference as its thirteenth session (1964)

UNESCO'S TASKS IN CONTRIBUTING TO PEACE, PEACEFUL CO-OPERATION AND LIVING PEACEFULLY TOGETHER, AMONG STATES WITH DIFFERENT ECONOMIC AND SOCIAL SYSTEMS

*The General Conference,*

*Guided by* the provisions of UNESCO's Constitution proclaiming that the basic purpose of the Organization is to "contribute to peace and security by promoting collaboration among the nations through education, science and culture",

*Recognizing* that for the development of science, culture and education, as well as for international collaboration in these fields, conditions of peaceful and good-neighbourly relations among States are necessary,

*Considering* that UNESCO, by its own means and efforts and within the sphere of its competence, while contributing directly to improving the well-being of the peoples and making an important contribution to the easing of international tensions, the securing of universal peace and the promotion of good-neighbourly relations, can and should develop its activities in this direction to the fullest possible extent,

*Recalling* resolution 3.51 adopted at its ninth session, inviting Member States to direct their attention to gaining recognition for the ideas of living peacefully together, and resolution 8.1, on "Peaceful and neighbourly relations", adopted at its eleventh session,

*Calls upon* Member States to be guided in their relations with one another by the principles of living peacefully together and peaceful co-operation, having regard to mutual respect and benefit, non-aggression, respect for each other's sovereignty, equality and territorial integrity, non-intervention in one another's internal affairs, the broadening of international co-operation, the reducing of tensions and the settling of differences and disputes among States by peaceful means, as expressed in resolution 1236(XII) of the General Assembly of the United Nations;

*Requests* that the Director-General and the Executive Board, in the carrying out by all Departments of the Secretariat of their activities with respect to education, science and culture, and the International Co-operation Year, should be guided by the spirit of this resolution and assist in the application of the principles stated above, which will help to eliminate the threat of world war, secure the final abolition of colonialism, improve the well-being of the peoples and create more favourable conditions for the development of education, science and culture as well as international collaboration in these fields.

### Annex B

#### Resolution 10 adopted by the General Conference at its fourteenth session (1966)

CONSIDERATION, ON THE ORGANIZATION'S TWENTIETH ANNIVERSARY,  
OF UNESCO'S CONTRIBUTION TO PEACE

*The General Conference,*

*Taking into consideration* that the United Nations bears the primary responsibility for the maintenance of international peace and security, and that all organizations within the United Nations system discharging responsibilities within their own spheres of activities should contribute to the creation and maintenance of the conditions of peace and international co-operation,

*Bearing in mind* the principles of the UNESCO Constitution proclaiming that the basic purpose of the Organization is "to contribute to peace and security by promoting collaboration among the nations through education, science and culture",



*Desiring* to co-ordinate UNESCO's work with related activities being carried out by other agencies of the United Nations system,

*Noting* with satisfaction that certain activities undertaken by UNESCO during the last twenty years in its field of competence have, taken as a whole, helped to build up and to strengthen the foundations of peace.

*Attaching* great importance to the implementation of previous decisions of the General Conference and the Executive Board directed towards the strengthening of peace and in particular the resolution 8.1, adopted by the General Conference at its eleventh session, concerning "peaceful and neighbourly relations", the resolution 9.3 adopted by the Executive Board at its 66th session concerning "UNESCO's tasks in helping to achieve general and complete disarmament in connexion with the signing of the treaty banning nuclear weapon tests in the atmosphere, in outer space and under water",<sup>55</sup> and resolution 6.21 adopted by the General Conference at its thirteenth session, concerning "UNESCO's tasks in contributing to peace, peaceful co-operation and living peacefully together, among States with different economic and social systems",

*Considering* that the Secretary-General of the United Nations in his message to the General Conference referred to UNESCO's "efforts to disseminate the truth that war is no longer a possible solution to man's problems"; expressed his belief that "in the past twenty years, the very progress of science and technology has brought new, terrible and ever-present dangers to mankind as a whole, the dangers inherent in the new weapons of mass destruction", that "UNESCO can effectively supplement the efforts of the United Nations to contain and reduce these grave dangers" and expressed his "profound hope that it will do so"; stated his desire that the Organization "bring home, at all times, to all peoples and governments in all parts of the world, what war means today" and, lastly, that it "remind them of the solemn obligation to renounce war as an instrument of national policy, assumed under the Charter by all Members of UNESCO who are also Members of the United Nations",

*Taking note* of the report of the Director-General on the views communicated to him by Member States on the occasion of UNESCO's twentieth anniversary concerning the Organization's contribution to peace,

*Noting* also with appreciation the work of the Bellagio Meeting and of the Round Table Conference on UNESCO's Contribution to Peace and thanking the eminent persons who participated in these meetings for their co-operative efforts,

*Convinced* that in the light of the United Nations Charter, UNESCO's Constitution, the appropriate decisions of the governing bodies of these organizations, and the results of the work referred to in paragraph 8, all Member States should:

- (a) reject war once and for all as an instrument of their national policy and condemn all forms of direct or indirect aggression and of interference in the domestic affairs of States;
- (b) renounce all recourse to violence in the settlement of their differences;
- (c) respect the right of all nations to self-determination and independence, and freedom to choose their political, economic, social and cultural systems;
- (d) take all necessary action to contribute to the agreement on general and complete disarmament under international control;
- (e) associate themselves more closely by all possible means with the constructive work for peace through education, science, culture and mass communications with which UNESCO is directly charged,

*Convinced* that the full effectiveness of the Organization depends above all upon its universality and upon the active and loyal participation of all countries willing to respect and implement the principles of its Constitution,

*Mindful* that General Assembly resolution 2105(XX) affirms that "the continuation of colonial rule and the practice of apartheid as well as all forms of racial discrimination threaten international peace and security and constitute a crime against humanity", and expressing the view that the continuation of all these is in contradiction with UNESCO's Constitution,

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<sup>55</sup> See *Juridical Yearbook*, 1963, p. 107.

*Recognizing* the importance of the contribution that the Member States could make towards the implementation of the ideals of peace and the relevant programmes of UNESCO, the necessity of gaining still greater support in this direction and considering as desirable to undertake with this aim a thorough evaluation of the past experience,

*Emphasizing* that greater efforts need to be made to implement the decisions mentioned in paragraph 5 and other decisions of the governing bodies of UNESCO, including resolution 5.202 adopted by the General Conference at its eleventh session concerning the utilization of information media for the purpose of strengthening peace and mutual understanding and decisions on the same subject adopted at subsequent sessions,

1. *Invites* the Director-General, in executing the Organization's programme, to take full account of the decisions adopted by the governing bodies of UNESCO providing for the maximum contribution by the Organization to peace, living peacefully together and peaceful co-operation, among States with different economic and social systems;

2. *Requests* the Director-General to submit to the 77th or the 78th session of the Executive Board, after consultation with the governments of Member States and with the Secretary-General of the United Nations and taking into account the suggestions of the Member States, of the Bellagio Meeting and of the Round Table on Peace, proposals concerning a concrete plan of activity for the next one or two budgetary periods which UNESCO could successfully undertake alone or in co-operation with other United Nations agencies to reinforce the contribution of the Organization to peace, international co-operation and security of peoples through education, science and culture;

3. *Invites* Member States to submit their proposals and recommendations to be included in this plan;

4. *Requests* the Director-General in such consultations, as well as in the preparation of the above-mentioned plan to take into account the convening, among other concrete measures, of international meetings and symposia of persons competent in the fields of education, science and culture as such themes as "Education, science and culture in the defence of peace", and "The social and economic development of mankind and problems of peace";

5. *Requests* the Executive Board to examine at its 77th or 78th session the proposals of the Director-General concerning this subject and to submit such proposals together with its recommendations to the General Conference at its fifteenth session.

(ii) Resolution 9.12

*The General Conference,*

*Considering* that, in view of the UNESCO Constitution and the Charter of the United Nations, the Organization and its Member States must take all necessary measures to ensure the effective implementation of the decision of the United Nations General Assembly regarding the liquidation of colonialism and racialism,

*Guided* by the principles laid down in the 1960 Declaration of the United Nations General Assembly regarding the granting of independence to colonial countries and peoples,

*Considering* resolutions 2105 and 2311 adopted by the United Nations General Assembly at its twentieth (1965) and twenty-second (1967) sessions respectively regarding the liquidation of colonialism and racialism, and the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples,

*Recalling* resolutions 8.2 and 6.3 adopted by the General Conference at its eleventh (1960), twelfth (1962) and thirteenth (1964) sessions on the role of UNESCO in contributing to the attainment of independence by colonial countries and peoples, and resolution 11 adopted at its fourteenth session (1966) on UNESCO's tasks in the light of the resolutions adopted by the General Assembly of the United Nations at its twentieth session on questions relating to the liquidation of colonialism and racialism,

*Noting* with deep concern that many peoples and territories are still under colonial domination,

*Considering* that the continued existence of colonial régimes, the practice of apartheid, the rebirth of fascism and all forms of racial discrimination constitute a threat to international peace and security, and a crime against humanity,

1. *Resolutely reaffirms* its condemnation of all forms and manifestations of colonialism and racialism;

2. *Urges* all States to contribute actively to the implementation of the 1960 Declaration on the Granting of Independence to Colonial Countries and Peoples, and to take appropriate measures to advance these objectives;

3. *Calls* the attention of the Executive Board and the Director-General to the necessity of a further intensification of UNESCO activities, within its own terms of reference, with a view to rendering comprehensive assistance to peoples fighting for their liberation from colonial domination, to eliminating all the consequences of colonialism and to drawing up, in co-operation with the Organization of African Unity and, through its intermediary, with the national liberation movements, concrete programmes to this end;

4. *Invites* the Director-General to take steps in close co-operation with the United Nations and other Specialized Agencies, under the 1969-1970 and future programmes, to implement the decisions of the United Nations General Assembly and UNESCO General Conference regarding the liquidation of colonialism and racialism;

5. *Reaffirms* its decision to withhold assistance from the governments of Portugal, the Republic of South Africa and the illegal régime of Rhodesia in matters relating to education, science and culture, and not to invite them to attend conferences or take part in other UNESCO activities, until such time as the authorities of these countries abandon their policy of colonial domination and racial discrimination.

(iii) Resolution 9.13

*The General Conference,*

*Considering* the urgent need to safeguard human rights and the development of education for peoples in territories under foreign occupation,

*Recalling* the decision of the United Nations to declare 1968 International Year for Human Rights,<sup>56</sup> and to convene an International Conference on Human Rights in 1968 in Teheran,<sup>57</sup>

1. *Invites* all Member States to ensure the strictest respect for the resolutions adopted at the Teheran Conference on Human Rights, and particularly resolution I concerning respect for, and implementation of, human rights in occupied territories (A/CONF.32/41);

2. *Instructs* the Director-General to report on this subject to the sixteenth session of the UNESCO General Conference.

(iv) Resolution 9.14

*The General Conference,*

*Mindful* of the aims set forth in the United Nations Charter, the Constitution of UNESCO and the Declaration on the Granting of Independence to Colonial Countries and Peoples, adopted by the United Nations General Assembly in 1960,

<sup>56</sup> General Assembly resolution 1961 (XVIII) of 12 December 1963.

<sup>57</sup> General Assembly resolution 2081 (XX) of 20 December 1965.

*Noting* with distress that eight years after the adoption of the 1960 Declaration, many territories are still under the colonial domination of Portugal,

*Considering* the policy of genocide and racial extermination followed by Portugal in territories under its domination, and the acts of aggression constantly committed by its troops on the frontiers of many African countries,

*Considering* that Portugal, by aggravating its crimes, is downrightly challenging the conscience of the world and the international community,

*Considering* that 1968 has been declared Human Rights Year,

*Considering* the fact that Portugal has constantly objected to the dispatch of a commission to investigate the problems of education in territories under its domination,

*Reaffirming* the terms of resolution 11 adopted by the General Conference at its fourteenth session (1966), more particularly paragraph 2(d), and recalling resolution 20 adopted at the same session,

1. *Solemnly condemns* Portugal's attitude, which is in contradiction with UNESCO's ideals as they appear in the Organization's Constitution;

2. *Invites* Member States to suspend all co-operation with Portugal in the fields of education, science and culture;

3. *Requests* the Director-General to grant increased aid and assistance, within the framework of the Programme and Budget for 1969-1970 and, if need be, by means of extra-budgetary resources, to the African refugees from countries and territories still under Portuguese domination;

4. *Invites* the General Conference to re-examine the question at its sixteenth session and to make such further provisions as the situation may require.

(b) Recommendation concerning the Preservation of Cultural Property endangered by Public or Private Works <sup>58</sup>

*The General Conference* of the United Nations Educational, Scientific and Cultural Organization, meeting in Paris from 15 October to 20 November 1968, at its fifteenth session,

*Considering* that contemporary civilization and its future evolution rest upon, among other elements, the cultural traditions of the peoples of the world, their creative force and their social and economic development,

*Considering* that cultural property is the product and witness of the different traditions and of the spiritual achievements of the past and thus is an essential element in the personality of the peoples of the world,

*Considering* that it is indispensable to preserve it as much as possible, according to its historical and artistic importance, so that the significance and message of cultural property become a part of the spirit of peoples who thereby may gain consciousness of their own dignity,

*Considering* that preserving cultural property and rendering it accessible constitute in the spirit of the Declaration of the Principles of International Cultural Co-operation <sup>59</sup> adopted on 4 November 1966 in the course of its fourteenth session, means of encouraging mutual understanding among peoples and thereby serve the cause of peace,

<sup>58</sup> Adopted by the General Conference on 19 November 1968 during its fifteenth session.

<sup>59</sup> See *Juridical Yearbook*, 1966, p. 150.

*Considering* also that the well-being of all peoples depends, *inter alia*, upon the existence of a favourable and stimulating environment and that the preservation of cultural property of all periods of history contributes directly to such an environment,

*Recognizing* on the other hand the role that industrialization, towards which world civilization is moving, plays in the development of peoples and their spiritual and national fulfilment,

*Considering*, however, that the prehistoric, protohistoric and historic monuments and remains, as well as numerous recent structures having artistic, historic or scientific importance are increasingly threatened by public and private works resulting from industrial development and urbanization,

*Considering* that it is the duty of governments to ensure the protection and the preservation of the cultural heritage of mankind, as much as to promote social and economic development,

*Considering* in consequence that it is urgent to harmonize the preservation of the cultural heritage with the changes which follow from social and economic development, making serious efforts to meet both requirements in a broad spirit of understanding, and with reference to appropriate planning,

*Considering* equally that adequate preservation and accessibility of cultural property constitute a major contribution to the social and economic development of countries and regions which possess such treasures of mankind by means of promoting national and international tourism,

*Considering* finally that the surest guarantee for the preservation of cultural property rests in the respect and the attachment felt for it by the people themselves, and persuaded that such feelings may be greatly strengthened by adequate measures carried out by Member States,

*Having before it* proposals concerning the preservation of cultural property endangered by public or private works, which constitute item 16 on the agenda of the session,

*Having decided* at its thirteenth session that proposals on this item should be the subject of an international instrument in the form of a recommendation to Member States,

*Adopts* on this nineteenth day of November 1968 this recommendation.

*The General Conference* recommends that Member States should apply the following provisions by taking whatever legislative or other steps may be required to give effect within their respective territories to the norms and principles set forth in this recommendation.

*The General Conference* recommends that Member States should bring this recommendation to the attention of the authorities or services responsible for public or private works as well as to the bodies responsible for the conservation and the protection of monuments and historic, artistic, archaeological and scientific sites. It recommends that authorities and bodies which plan programmes for education and the development of tourism be equally informed.

*The General Conference* recommends that Member States should report to it, on the dates and in a manner to be determined by it, on the action they have taken to give effect to this recommendation.

## I. Definition

1. For the purpose of this recommendation, the term "cultural property" applies to:
  - (a) Immovables, such as archaeological and historic or scientific sites, structures or other features of historic, scientific, artistic or architectural value, whether religious

or secular, including groups of traditional structures, historic quarters in urban or rural built-up areas and the ethnological structures of previous cultures still extant in valid form. It applies to such immovables constituting ruins existing above the earth as well as to archaeological or historic remains found within the earth. The term cultural property also includes the setting of such property;

(b) Movable property of cultural importance including that existing in or recovered from immovable property and that concealed in the earth, which may be found in archaeological or historical sites or elsewhere.

2. The term "cultural property" includes not only the established and scheduled architectural, archaeological and historic sites and structures, but also the unscheduled or unclassified vestiges of the past as well as artistically or historically important recent sites and structures.

## II. General principles

3. Measures to preserve cultural property should extend to the whole territory of the State and should not be confined to certain monuments and sites.

4. Protective inventories of important cultural property, whether scheduled or unscheduled, should be maintained. Where such inventories do not exist, priority should be given in their establishment to the thorough survey of cultural property in areas where such property is endangered by public or private works.

5. Due account should be taken of the relative significance of the cultural property concerned when determining measures required for the:

(a) Preservation of an entire site, structure, or other forms of immovable cultural property from the effects of private or public works;

(b) Salvage or rescue of cultural property if the area in which it is found is to be transformed by public or private works, and the whole or a part of the property in question is to be preserved and removed.

6. Measures should vary according to the character, size and location of the cultural property and the nature of the dangers with which it is threatened.

7. Measures for the preservation or salvage of cultural property should be preventive and corrective.

8. Preventive and corrective measures should be aimed at protecting or saving cultural property from public or private works likely to damage and destroy it, such as:

(a) Urban expansion and renewal projects, although they may retain scheduled monuments while sometimes removing less important structures, with the result that historical relations and the setting of historic quarters are destroyed;

(b) Similar projects in areas where groups of traditional structures having cultural value as a whole risk being destroyed for the lack of a scheduled individual monument;

(c) Injudicious modifications and repair of individual historic buildings;

(d) The construction or alteration of highways which are a particular danger to sites or to historically important structures or groups of structures;

(e) The construction of dams for irrigation, hydro-electric power or flood control;

(f) The construction of pipelines and of power and transmission lines of electricity;

(g) Farming operations including deep ploughing, drainage and irrigation operations, the clearing and levelling of land and afforestation;

(h) Works required by the growth of industry and the technological progress of industrialized societies such as airfields, mining and quarrying operations and dredging and reclamation of channels and harbours.

9. Member States should give due priority to measures required for the preservation *in situ* of cultural property endangered by public or private works in order to preserve historical associations and continuity. When overriding economic or social conditions require that cultural property be transferred, abandoned or destroyed, the salvage or rescue operations should always include careful study of the cultural property involved and the preparations of detailed records.

10. The results of studies having scientific or historic value carried out in connexion with salvage operations, particularly when all or much of the immovable cultural property has been abandoned or destroyed, should be published or otherwise made available for future research.

11. Important structures and other monuments which have been transferred in order to save them from destruction by public or private works should be placed on a site or in a setting which resembles their former position and natural, historic or artistic associations.

12. Important movable cultural property, including representative samples of objects recovered from archaeological excavations, obtained from salvage operations should be preserved for study or placed on exhibition in institutions such as museums, including site museums, or universities.

### III. Preservation and salvage measures

13. The preservation or salvage of cultural property endangered by public or private works should be ensured through the means mentioned below, the precise measures to be determined by the legislation and organizational system of the State: (a) Legislation; (b) Finance; (c) Administrative measures; (d) Procedures to preserve and to salvage cultural property; (e) Penalties; (f) Repairs; (g) Awards; (h) Advice; (i) Educational programmes.

#### LEGISLATION

14. Member States should enact or maintain on the national as well as on the local level the legislative measures necessary to ensure the preservation or salvage of cultural property endangered by public or private works in accordance with the norms and principles embodied in this recommendation.

#### FINANCE

15. Member States should ensure that adequate budgets are available for the preservation or salvage of cultural property endangered by public or private works. Although differences in legal systems and traditions as well as disparity in resources preclude the adoption of uniform measures, the following should be considered:

(a) The national or local authorities responsible for the safeguarding of cultural property should have adequate budgets to undertake the preservation or salvage of cultural property endangered by public or private works; or

(b) The costs of preserving or salvaging cultural property endangered by public or private works, including preliminary archaeological research, should form part of the budget of construction costs; or

(c) The possibility of combining the two methods mentioned in sub-paragraphs (a) and (b) above should be provided for.

16. In the event of unusual costs due to the size and complexity of the operations required, there should be possibilities of obtaining additional funds through enabling legislation, special subventions, a national fund for monuments or other appropriate means. The services responsible for the safeguarding of cultural property should be empowered to administer or to utilize these extra-budgetary contributions required for the preservation or salvage of cultural property endangered by public or private works.

17. Member States should encourage proprietors of artistically or historically important structures, including structures forming part of a traditional group, or residents in a historic quarter in urban or rural built-up areas to preserve the character and aesthetic qualities of their cultural property which would otherwise be endangered by public or private works, through:

(a) Favourable tax rates; or

(b) The establishment, through appropriate legislation, of a budget to assist, by grants, loans or other measures, local authorities, institutions and private owners of artistically, architecturally, scientifically or historically important structures including groups of traditional structures to maintain or to adapt them suitably for functions which would meet the needs of contemporary society; or

(c) The possibility of combining the two methods mentioned in sub-paragraphs (a) and (b) above should be provided for.

18. If the cultural property is not scheduled or otherwise protected it should be possible for the owner to request such assistance from the appropriate authorities.

19. National or local authorities, as well as private owners, when budgeting for the preservation of cultural property endangered by public or private works, should take into account the intrinsic value of cultural property and also the contribution it can make to the economy as a tourist attraction.

#### ADMINISTRATIVE MEASURES

20. Responsibility for the preservation or salvage of cultural property endangered by public or private works should be entrusted to appropriate official bodies. Whenever official bodies or services already exist for the protection of cultural property, these bodies or services should be given responsibility for the preservation of cultural property against the dangers caused by public or private works. If such services do not exist, special bodies or services should be created for the purpose of the preservation of cultural property endangered by public or private works; and although differences of constitutional provisions and traditions preclude the adoption of a uniform system, certain common principles should be adopted.

(a) There should be a co-ordinating or consultative body, composed of representatives of the authorities responsible for the safeguarding of cultural property, for public and private works, for town planning, and of research and educational institutions, which should be competent to advise on the preservation of cultural property endangered by public or private works and, in particular, on conflicts of interest between requirements for public or private works and the preservation or salvage of cultural property.

(b) Provincial, municipal or other forms of local government should also have services responsible for the preservation or salvage of cultural property endangered by public or private works. These services should be able to call upon the assistance of national services or other appropriate bodies in accordance with their capabilities and requirements.



(c) The services responsible for the safeguarding of cultural property should be adequately staffed with the specialists required for the preservation or salvage of cultural property endangered by public or private works, such as architects, urbanists, archaeologists, historians, inspectors and other specialists and technicians.

(d) Administrative measures should be taken to co-ordinate the work of the different services responsible for the safeguarding of cultural property with that of other services responsible for public and private works and that of any other department or service whose responsibilities touch upon the problem of the preservation or salvage of cultural property endangered by public or private works.

(e) Administrative measures should be taken to establish an authority or commission in charge of urban development programmes in all communities having scheduled or unscheduled historic quarters, sites and monuments which need to be preserved against public and private construction.

21. At the preliminary survey stage of any project involving construction in a locality recognized as being of cultural interest or likely to contain objects of archaeological or historical importance, several variants of the project should be prepared, at regional or municipal level, before a decision is taken. The choice between these variants should be made on the basis of a comprehensive comparative analysis, in order that the most advantageous solution, both economically and from the point of view of preserving or salvaging cultural property, may be adopted.

#### PROCEDURES TO PRESERVE AND TO SALVAGE CULTURAL PROPERTY

22. Thorough surveys should be carried out well in advance of any public or private works which might endanger cultural property to determine:

(a) The measures to be taken to preserve important cultural property *in situ*;

(b) The amount of salvage operations which would be required such as the selection of archaeological sites to be excavated, structures to be transferred and movable cultural property salvaged, etc.

23. Measures for the preservation or salvage of cultural property should be carried out well in advance of public or private works. In areas of archaeological or cultural importance, such as historic towns, villages, sites and districts, which should be protected by the legislation of every country, the starting of new work should be made conditional upon the execution of preliminary archaeological excavations. If necessary, work should be delayed to ensure that adequate measures are taken for the preservation or salvage of the cultural property concerned.

24. Important archaeological sites, and, in particular, prehistoric sites as they are difficult to recognize, historic quarters in urban or rural areas, groups of traditional structures, ethnological structures of previous cultures and other immovable cultural property which would otherwise be endangered by public or private works should be protected by zoning or scheduling:

(a) Archaeological reserves should be zoned or scheduled and, if necessary, immovable property purchased, to permit thorough excavation or the preservation of the ruins found at the site.

(b) Historic quarters in urban or rural centres and groups of traditional structures should be zoned and appropriate regulations adopted to preserve their setting and character, such as the imposition of controls on the degree to which historically or artistically important structures can be renovated and the type and design of new structures which can be introduced. The preservation of monuments should be an absolute

requirement of any well-designed plan for urban redevelopment especially in historic cities or districts. Similar regulations should cover the area surrounding a scheduled monument or site and its setting to preserve its association and character. Due allowance should be made for the modification of ordinary regulations applicable to new construction; these should be placed in abeyance when new structures are introduced into an historical zone. Ordinary types of commercial advertising by means of posters and illuminated announcements should be forbidden, but commercial establishments could be allowed to indicate their presence by means of judiciously presented signs.

25. Member States should make it obligatory for persons finding archaeological remains in the course of public or private works to declare them at the earliest possible moment to the competent service. Careful examination should be carried out by the service concerned and, if the site is important, construction should be deferred to permit thorough excavation, due allowance or compensation being made for the delays incurred.

26. Member States should have provisions for the acquisition, through purchase, by national or local governments and other appropriate bodies of important cultural property endangered by public or private works. When necessary, it should be possible to effect such acquisition through expropriation.

#### PENALTIES

27. Member States should take steps to ensure that offences, through intent or negligence, against the preservation or salvage of cultural property endangered by public or private works are severely punished by their Penal Code, which should provide for fines or imprisonment or both.

In addition, the following measures could be applied:

(a) Whenever possible, restoration of the site or structure at the expense of those responsible for the damage to it;

(b) In the case of a chance archaeological find, payment of damages to the State when immovable cultural property has been damaged, destroyed or neglected; confiscation without compensation when a movable object has been concealed.

#### REPAIRS

28. Member States should, when the nature of the property so allows, adopt the necessary measures to ensure the repair, restoration or reconstruction of cultural property damaged by public or private works. They should also foresee the possibility of requiring local authorities and private owners of important cultural property to carry out repairs or restorations, with technical and financial assistance if necessary.

#### AWARDS

29. Member States should encourage individuals, associations and municipalities to take part in programmes for the preservation or salvage of cultural property endangered by public or private works. Measures to that effect could include:

(a) *Ex gratia* payments to individuals reporting or surrendering hidden archaeological finds;

(b) Awards of certificates, medals or other forms of recognition to individuals, even if they belong to government service, associations, institutions or municipalities which have carried out outstanding projects for the preservation or salvage of cultural property endangered by public or private works.

## ADVICE

30. Member States should provide individuals, associations or municipalities lacking the required experience or staff with technical advice or supervision to maintain adequate standards for the preservation or salvage of cultural property endangered by public or private works.

## EDUCATIONAL PROGRAMMES

31. In a spirit of international collaboration, Member States should take steps to stimulate and develop among their nationals interest in, and respect for, the cultural heritage of the past of their own and other traditions in order to preserve or to salvage cultural property endangered by public or private works.

32. Specialized publications, articles in the press and radio and television broadcasts should publicize the nature of the dangers to cultural property arising from ill-conceived public or private works as well as cases where cultural property has been successfully preserved or salvaged.

33. Educational institutions, historical and cultural associations, public bodies concerned with the tourist industry and associations for popular education should have programmes to publicize the dangers to cultural property arising from short-sighted public or private works, and to underline the fact that projects to preserve cultural property contribute to international understanding.

34. Museums and educational institutions and other interested organizations should prepare special exhibitions on the dangers to cultural property arising from uncontrolled public or private works and on the measures which have been used to preserve or to salvage cultural property which has been endangered.

The foregoing is the authentic text of the recommendation duly adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization during its fifteenth session, which was held in Paris and declared closed the twentieth day of November 1968.

IN FAITH WHEREOF WE have appended our signatures this twenty-second day of November 1968.

*The President of the General Conference*  
William A. ETEKI-MBOUMOUA  
*The Director-General*  
René MAHEU

(c) Transfer to UNESCO of the resources and responsibilities of other international organizations

(i) International Bureau of Education: resolution 14.1 adopted by the General Conference on 16 November 1968 during its fifteenth session

*The General Conference,*

*Considering* that Article XI, paragraph 2, of the Constitution provides that:

“Whenever the General Conference of this Organization and the competent authorities of any other specialized intergovernmental organizations or agencies whose purpose and functions lie within the competence of this Organization, deem it desirable to effect a transfer of their resources and activities to this Organization, the Director-General, subject to the approval of the Conference, may enter into mutually acceptable arrangements for this purpose”,

*Considering* that the Council of the International Bureau of Education, meeting in extraordinary session from 13 to 15 December 1967, adopted a resolution under which it decided to “seek for the International Bureau of Education a new relationship with UNESCO whereby the International Bureau of Education would become an international centre of comparative education within the framework of UNESCO. . .”,

*Having regard* to resolution 7.5 adopted by the Executive Board at its 78th session,

*Having examined* the draft agreement between UNESCO and the International Bureau of Education prepared by the secretariats of the two organizations,

*Considering* that this draft agreement was unanimously approved by the Council of the International Bureau of Education at its thirty-fourth meeting held in Geneva on 11 and 12 July 1968,

1. *Approves* the draft agreement, set out in full in Annex II of document 15C/83;
2. *Authorizes* the Director-General to sign this Agreement on behalf of the United Nations Educational, Scientific and Cultural Organization;
3. *Approves*, in execution of this Agreement, the Statutes of the International Bureau of Education annexed to this resolution;
4. *Invites* the Director-General to negotiate and conclude with the competent Swiss authorities an agreement defining the privileges and immunities that UNESCO will enjoy in Switzerland as well as the facilities to be extended to UNESCO concerning the premises of the International Bureau of Education;
5. *Requests* the Director-General to make all efforts to obtain payment by the members concerned of arrears in their contributions to the International Bureau of Education and to report to the Executive Board.

#### ANNEX

##### Statutes of the International Bureau of Education

[Not reproduced]

- (ii) International Relief Union: Resolution 15 adopted by the General Conference on 16 November 1968 during its fifteenth session

*The General Conference,*

*Considering* that Article XI, paragraph 2 of the Constitution provides that:

“Whenever the General Conference of this Organization and the competent authorities of any other specialized intergovernmental organizations or agencies whose purpose and functions lie within the competence of this Organization, deem it desirable to effect a transfer of their resources and activities to this Organization, the Director-General, subject to the approval of the Conference, may enter into mutually acceptable arrangements for this purpose,”

*Having regard* to the resolution adopted on 15 December 1965 by the Executive Committee of the International Relief Union,

*Having regard* to the resolution adopted by the Economic and Social Council of the United Nations at its 43rd session,

*Having regard* to resolutions 6.6 and 7.8 adopted by the Executive Board at its 77th and 78th sessions,

*Having examined* the draft agreement between UNESCO and the International Relief Union, drawn up by the Secretariats of the two organizations,

*Considering* that the draft agreement has been approved by the Executive Committee of the Union which met in Geneva on 16 July 1968,

*Approves* the draft agreement set out in Annex II of document 15C/85;

*Authorizes* the Director-General to sign that agreement on behalf of the United Nations Educational, Scientific and Cultural Organization.

## 2. INTER-GOVERNMENTAL MARITIME CONSULTATIVE ORGANIZATION

Resolution C.44 (XXI) adopted by the Council of IMCO at its twenty-first session, on 29 November 1968

### *Activities in the Field of Maritime Law*

*The Council,*

*Recalling* the provisions of Articles 1 and 3 of the IMCO Convention as well as resolution 46 (VII) of the seventh session of the Trade and Development Board and the terms of reference of UNCITRAL, as set out in resolution 2205 (XXI) of the twenty-first session of the General Assembly,

*Cognizant* of the complexities in the field of maritime law and of its many facets,

*Recognizing* the need for progressive harmonization and unification of all aspects of international law in the maritime field and the fact that co-ordination of efforts between the Organizations of the United Nations family appears indispensable in order to elucidate the fields in which international law must be prepared,

*Noting with appreciation* the work undertaken by the Legal Committee of the Organization,

*Cognizant* of the valuable part which IMCO has already played and will continue to play in the preparation of conventions relating to maritime law and the need to avoid duplication of effort in this field,

(1) *Indicates* its desire that IMCO exercise its full competence by taking part as appropriate in the legal work in the maritime field being undertaken under the United Nations system;

(2) *Endorses* the view expressed by the Legal Committee that it can play an effective part in promoting the establishment of law in the maritime field whether such be initiated from within the Organization or referred to it by other bodies competent in associated fields, as appropriate;

(3) *Requests* the Secretary-General to draw the attention of the Secretariat of the United Nations Commission on International Trade Law, the United Nations Office of Legal Affairs, the Secretary-General of UNCTAD and other relevant United Nations bodies to the activities already undertaken by IMCO in the field of maritime law;

(4) *Further requests* the Secretary-General to report to the Council at its twenty-second session on the outcome of his discussions with other members of the United Nations family, with particular emphasis on the degree of agreement achieved in delineating IMCO's role in this field, including steps necessary to avoid areas of possible duplication as well as an estimation of the degree of reinforcement of the Secretariat required during the next biennium to ensure that the Organization is equipped to play its part fully in this field.

## Chapter IV

### TREATIES CONCERNING INTERNATIONAL LAW CONCLUDED UNDER THE AUSPICES OF THE UNITED NATIONS AND RELATED INTER-GOVERNMENTAL ORGANIZATIONS

#### A. Treaties concerning international law concluded under the auspices of the United Nations

##### 1. TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS<sup>1,2</sup>

*The States concluding this Treaty*, hereinafter referred to as the “Parties to the Treaty”,

*Considering* the devastation that would be visited upon all mankind by a nuclear war and the consequent need to make every effort to avert the danger of such a war and to take measures to safeguard the security of peoples,

*Believing* that the proliferation of nuclear weapons would seriously enhance the danger of nuclear war,

*In conformity with* resolutions of the United Nations General Assembly calling for the conclusion of an agreement on the prevention of wider dissemination of nuclear weapons,

*Undertaking* to co-operate in facilitating the application of International Atomic Energy Agency safeguards on peaceful nuclear activities,

*Expressing* their support for research, development and other efforts to further the application, within the framework of the International Atomic Energy Agency safeguards system, of the principle of safeguarding effectively the flow of source and special fissionable materials by use of instruments and other techniques at certain strategic points,

*Affirming* the principle that the benefits of peaceful applications of nuclear technology, including any technological by-products which may be derived by nuclear-weapon States from the development of nuclear explosive devices, should be available for peaceful purposes to all Parties to the Treaty, whether nuclear-weapon or non-nuclear-weapon States,

*Convinced* that, in furtherance of this principle, all Parties to the Treaty are entitled to participate in the fullest possible exchange of scientific information for, and to contribute alone or in co-operation with other States to, the further development of the applications of atomic energy for peaceful purposes,

*Declaring* their intention to achieve at the earliest possible date the cessation of the nuclear arms race and to undertake effective measures in the direction of nuclear disarmament,

*Urging* the co-operation of all States in the attainment of this objective,

<sup>1</sup> See General Assembly resolution 2373 (XXII) of 12 June 1968, reproduced in this *Yearbook*, p. 71.

<sup>2</sup> Signed in London, Moscow and Washington on 1 July 1968.

*Recalling* the determination expressed by the Parties to the 1963 Treaty banning nuclear weapon tests in the atmosphere, in outer space and under water in its Preamble to seek to achieve the discontinuance of all test explosions of nuclear weapons for all time and to continue negotiations to this end,

*Desiring* to further the easing of international tension and the strengthening of trust between States in order to facilitate the cessation of the manufacture of nuclear weapons, the liquidation of all their existing stockpiles, and the elimination from national arsenals of nuclear weapons and the means of their delivery pursuant to a treaty on general and complete disarmament under strict and effective international control,

*Recalling* that, in accordance with the Charter of the United Nations, States must refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations, and that the establishment and maintenance of international peace and security are to be promoted with the least diversion for armaments of the world's human and economic resources,

*Have agreed* as follows!

#### Article I

Each nuclear-weapon State Party to the Treaty undertakes not to transfer to any recipient whatsoever nuclear weapons or other nuclear explosive devices or control over such weapons or explosive devices directly, or indirectly; and not in any way to assist, encourage, or induce any non-nuclear-weapon State to manufacture or otherwise acquire nuclear weapons or explosive devices.

#### Article II

Each non-nuclear-weapon State Party to the Treaty undertakes not to receive the transfer from any transferor whatsoever of nuclear weapons or other nuclear explosive devices or of control over such weapons or explosive devices directly, or indirectly; not to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices; and not to seek or receive any assistance in the manufacture of nuclear weapons or other nuclear explosive devices.

#### Article III

1. Each non-nuclear-weapon State Party to the Treaty undertakes to accept safeguards, as set forth in an agreement to be negotiated and concluded with the International Atomic Energy Agency in accordance with the Statute of the International Atomic Energy Agency and the Agency's safeguards system, for the exclusive purpose of verification of the fulfilment of its obligations assumed under this Treaty with a view to preventing diversion of nuclear energy from peaceful uses to nuclear weapons or other nuclear explosive devices. Procedures for the safeguards required by this article shall be followed with respect to source or special fissionable material whether it is being produced, processed or used in any principal nuclear facility or is outside any such facility. The safeguards required by this article shall be applied on all source or special fissionable material in all peaceful nuclear activities within the territory of such State, under its jurisdiction, or carried out under its control anywhere.

2. Each State Party to the Treaty undertakes not to provide: (a) source or special fissionable material, or (b) equipment or material especially designed or prepared for the processing, use or production of special fissionable material, to any non-nuclear-weapon State for peaceful purposes, unless the source or special fissionable material shall be subject to the safeguards required by this article.

3. The safeguards required by this article shall be implemented in a manner designed to comply with article IV of this Treaty, and to avoid hampering the economic or technological development of the Parties or international co-operation in the field of peaceful nuclear activities, including the international exchange of nuclear material and equipment for the processing, use or production of nuclear material for peaceful purposes in accordance with the provisions of this article and the principle of safeguarding set forth in the Preamble of the Treaty.

4. Non-nuclear-weapon States Party to the Treaty shall conclude agreements with the International Atomic Energy Agency to meet the requirements of this article either individually or together with other States in accordance with the Statute of the International Atomic Energy Agency. Negotiation of such agreements shall commence within 180 days from the original entry into force of this Treaty. For States depositing their instruments of ratification or accession after the 180-day period, negotiation of such agreements shall commence not later than the date of such deposit. Such agreements shall enter into force not later than eighteen months after the date of initiation of negotiations.

#### Article IV

1. Nothing in this Treaty shall be interpreted as affecting the inalienable right of all the Parties to the Treaty to develop research, production and use of nuclear energy for peaceful purposes without discrimination and in conformity with articles I and II of this Treaty.

1. All the Parties to the Treaty undertake to facilitate, and have the right to participate in, the fullest possible exchange of equipment, materials and scientific and technological information for the peaceful uses of nuclear energy. Parties to the Treaty in a position to do so shall also co-operate in contributing alone or together with other States or international organizations to the further development of the applications of nuclear energy for peaceful purposes, especially in the territories of non-nuclear-weapon States Party to the Treaty, with due consideration for the needs of the developing areas of the world.

#### Article V

Each Party to the Treaty undertakes to take appropriate measures to ensure that, in accordance with this Treaty, under appropriate international observation and through appropriate international procedures, potential benefits from any peaceful applications of nuclear explosions will be made available to non-nuclear-weapon States Party to the Treaty on a non-discriminatory basis and that the charge to such Parties for the explosive devices used will be as low as possible and exclude any charge for research and development. Non-nuclear-weapon States Party to the Treaty shall be able to obtain such benefits, pursuant to a special international agreement or agreements, through an appropriate international body with adequate representation of non-nuclear-weapon States. Negotiations on this subject shall commence as soon as possible after the Treaty enters into force. Non-nuclear-weapon States Party to the Treaty so desiring may also obtain such benefits pursuant to bilateral agreements.

#### Article VI

Each of the Parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control.



## Article VII

Nothing in this Treaty affects the right of any group of States to conclude regional treaties in order to assure the total absence of nuclear weapons in their respective territories.

## Article VIII

1. Any Party to the Treaty may propose amendments to this Treaty. The text of any proposed amendment shall be submitted to the Depositary Governments which shall circulate it to all Parties to the Treaty. Thereupon, if requested to do so by one third or more of the Parties to the Treaty, the Depositary Governments shall convene a conference, to which they shall invite all the Parties to the Treaty, to consider such an amendment.

2. Any amendment to this Treaty must be approved by a majority of the votes of all the Parties to the Treaty, including the votes of all nuclear-weapon States Party to the Treaty and all other Parties which, on the date the amendment is circulated, are members of the Board of Governors of the International Atomic Energy Agency. The amendment shall enter into force for each Party that deposits its instrument of ratification of the amendment upon the deposit of such instruments of ratification by a majority of all the Parties, including the instruments of ratification of all nuclear-weapon States Party to the Treaty and all other Parties which, on the date the amendment is circulated, are members of the Board of Governors of the International Atomic Energy Agency. Thereafter, it shall enter into force for any other Party upon the deposit of its instrument of ratification of the amendment.

3. Five years after the entry into force of this Treaty, a conference of Parties to the Treaty shall be held in Geneva, Switzerland, in order to review the operation of this Treaty with a view to assuring that the purposes of the Preamble and the provisions of the Treaty are being realized. At intervals of five years thereafter, a majority of the Parties to the Treaty may obtain, by submitting a proposal to this effect to the Depositary Governments, the convening of further conferences with the same objective of reviewing the operation of the Treaty.

## Article IX

1. This Treaty shall be open to all States for signature. Any State which does not sign the Treaty before its entry into force in accordance with paragraph 3 of this article may accede to it at any time.

2. This Treaty shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America, which are hereby designated the Depositary Governments.

3. This Treaty shall enter into force after its ratification by the States, the Governments of which are designated Depositaries of the Treaty, and forty other States signatory to this Treaty and the deposit of their instruments of ratification. For the purposes of this Treaty, a nuclear-weapon State is one which has manufactured and exploded a nuclear weapon or other nuclear explosive device prior to 1 January 1967.

4. For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Treaty, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or of accession, the date of the entry into force of this Treaty, and the date of receipt of any requests for convening a conference or other notices.

6. This Treaty shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations.

#### Article X

1. Each Party shall in exercising its national sovereignty have the right to withdraw from the Treaty if it decides that extraordinary events, related to the subject-matter of this Treaty, have jeopardized the supreme interests of its country. It shall give notice of such withdrawal to all other Parties to the Treaty and to the United Nations Security Council three months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.

2. Twenty-five years after the entry into force of the Treaty, a conference shall be convened to decide whether the Treaty, shall continue in force indefinitely, or shall be extended for an additional fixed period or periods. This decision shall be taken by a majority of the Parties to the Treaty.

#### Article XI

This Treaty, the Chinese, English, French, Russian and Spanish texts of which are equally authentic, shall be deposited in the archives of the Depositary Governments. Duly certified copies of this Treaty shall be transmitted by the Depositary Governments to the Governments of the signatory and acceding States.

IN WITNESS WHEREOF the undersigned, duly authorized, have signed this Treaty.

DONE in... at... this... day of...

- 
2. CONVENTION ON THE NON-APPLICABILITY OF STATUTORY LIMITATIONS TO WAR CRIMES AND CRIMES AGAINST HUMANITY. ADOPTED AND OPENED FOR SIGNATURE, RATIFICATION AND ACCESSION BY GENERAL ASSEMBLY RESOLUTION 2391 (XXIII) OF 26 NOVEMBER 1968 <sup>2</sup>

#### PREAMBLE

*The States Parties to the present Convention,*

*Recalling* resolutions of the General Assembly of the United Nations 3 (I) of 13 February 1946 and 170 (II) of 31 October 1947 on the extradition and punishment of war criminals, resolution 95 (I) of 11 December 1946 affirming the principles of international law recognized by the Charter of the International Military Tribunal, Nürnberg, and the judgement of the Tribunal, and resolutions 2184 (XXI) of 12 December 1966 and 2202 (XXI) of 16 December 1966 which expressly condemned as crimes against humanity the violation of the economic and political rights of the indigenous population on the one hand and the policies of *apartheid* on the other,

*Recalling* resolutions of the Economic and Social Council of the United Nations 1074 D (XXXIX) of 28 July 1965 and 1158 (XLI) of 5 August 1966 on the punishment of war criminals and of persons who have committed crimes against humanity,

<sup>3</sup> Reproduced in this *Yearbook*, p. 81.

*Noting* that none of the solemn declarations, instruments or conventions relating to the prosecution and punishment of war crimes and crimes against humanity made provision for a period of limitation,

*Considering* that war crimes and crimes against humanity are among the gravest crimes in international law,

*Convinced* that the effective punishment of war crimes and crimes against humanity is an important element in the prevention of such crimes, the protection of human rights and fundamental freedoms, the encouragement of confidence, the furtherance of co-operation among peoples and the promotion of international peace and security,

*Noting* that the application to war crimes and crimes against humanity of the rules of municipal law relating to the period of limitation for ordinary crimes is a matter of serious concern to world public opinion, since it prevents the prosecution and punishment of persons responsible for those crimes,

*Recognizing* that it is necessary and timely to affirm in international law, through this Convention, the principle that there is no period of limitation for war crimes and crimes against humanity, and to secure its universal application,

*Have agreed* as follows:

#### Article I

No statutory limitation shall apply to the following crimes, irrespective of the date of their commission:

(a) War crimes as they are defined in the Charter of the International Military Tribunal, Nürnberg, of 8 August 1945 and confirmed by resolutions 3 (I) of 13 February 1946 and 95 (I) of 11 December 1946 of the General Assembly of the United Nations, particularly the "grave breaches" enumerated in the Geneva Conventions of 12 August 1949 for the protection of war victims;

(b) Crimes against humanity whether committed in time of war or in time of peace as they are defined in the Charter of the International Military Tribunal, Nürnberg, of 8 August 1945 and confirmed by resolutions 3 (I) of 13 February 1946 and 95 (I) of 11 December 1946 of the General Assembly of the United Nations, eviction by armed attack or occupation and inhuman acts resulting from the policy of *apartheid* and, the crime of genocide as defined in the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, even if such acts do not constitute a violation of the domestic law of the country in which they were committed.

#### Article II

If any of the crimes mentioned in article I is committed, the provisions of this Convention shall apply to representatives of the State authority and private individuals who, as principals or accomplices, participate in or who directly incite others to the commission of any of those crimes, or who conspire to commit them, irrespective of the degree of completion, and to representatives of the State authority who tolerate their commission.

#### Article III

The States Parties to the present Convention undertake to adopt all necessary domestic measures, legislative or otherwise, with a view to making possible the extradition, in accordance with international law, of the persons referred to in article II of this Convention.

#### Article IV

The States Parties to the present Convention undertake to adopt, in accordance with their respective constitutional processes, any legislative or other measures necessary to ensure that statutory or other limitations shall not apply to the prosecution and punishment of the crimes referred to in articles I and II of this Convention and that, where they exist, such limitations shall be abolished.

#### Article V

This Convention shall, until 31 December 1969, be open for signature by any State Member of the United Nations or member of any of its specialized agencies or of the International Atomic Energy Agency, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a Party to this Convention.

#### Article VI

This Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

#### Article VII

This Convention shall be open to accession by any State referred to in article V. Instruments of accession shall be deposited with the Secretary-General of the United Nations.

#### Article VIII

1. This Convention shall enter into force on the ninetieth day after the date of the deposit with the Secretary-General of the United Nations of the tenth instrument of ratification or accession.

2. For each State ratifying this Convention or acceding to it after the deposit of the tenth instrument of ratification or accession, the Convention shall enter into force on the ninetieth day after the date of the deposit of its own instrument of ratification or accession.

#### Article IX

1. After the expiry of a period of ten years from the date on which this Convention enters into force, a request for the revision of the Convention may be made at any time by any Contracting Party by means of a notification in writing addressed to the Secretary-General of the United Nations.

2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such a request.

#### Article X

1. This Convention shall be deposited with the Secretary-General of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of this Convention to all States referred to in article V.

3. The Secretary-General of the United Nations shall inform all States referred to in article V of the following particulars:

(a) Signatures of this Convention, and instruments of ratification and accession deposited under articles V, VI and VII;

- (b) The date of entry into force of this Convention in accordance with article VIII;
- (c) Communications received under article IX.

#### Article XI

This Convention, of which the Chinese, English, French Russian and Spanish texts are equally authentic, shall bear the date of 26 November 1968.

IN WITNESS WHEREOF the undersigned, being duly authorized for that purpose, have signed this Convention.

### **B. Treaties concerning international law concluded under the auspices of inter-governmental organizations related to the United Nations**

#### **1. UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION**

Amendments to the Constitution of UNESCO: Resolution 11.1 adopted by the General Conference on 4 November 1968 at its fifteenth session

Composition of the Executive Board, duration of term of office of members and method of election

##### *The General Conference,*

*Recalling* resolution 7 adopted at its fourteenth session (1966), which states, *inter alia*, that the problem of the composition of the Executive Board should be reviewed by the Board so as to ensure an equitable, balanced representation of the various cultures and geographical regions, bearing in mind that members elected to the Board should also be persons with experience and competence in the fields proper to UNESCO, in accordance with the spirit and letter of Article V.A.2 of the Constitution; bearing in mind, further, that half the number of Member States have never been elected to membership of the Executive Board,

*Having studied* the report submitted by the Executive Board in compliance with the above-mentioned resolution, containing its recommendations on the composition of the Executive Board,

*Noting* with satisfaction that the number of Member States of UNESCO has increased over the past few years,

*Appreciating* the need for taking the various measures specified in the present decision, which taken together constitute an appropriate means for achieving the objective of the above-mentioned resolution,

...

2. *Decides* to amend Article V of the Constitution as follows:

- (a) in paragraph 1, the word 'thirty' shall be replaced by the words "thirty-four";
- (b) paragraph 3 shall be replaced by the following text:

"3. Members of the Board shall serve from the close of the session of the General Conference which elected them until the close of the *third* ordinary session of the General Conference following that election. *They shall not be immediately*

*eligible for a second term. The General Conference shall, at each of its ordinary sessions, elect the number of members required to fill the vacancies occurring at the end of the session.”*

(c) paragraph 13 shall be replaced by the following:

*“C. Transitional provisions*

*13. Notwithstanding the provisions of paragraph 3 of this Article, members of the Executive Board elected at the thirteenth and fourteenth sessions of the General Conference for a first term and members appointed by the Board in accordance with the provisions of paragraph 4 of this Article to replace members with a four-year term shall be eligible for a second term of four years.*

*14. At the fifteenth session of the General Conference, nineteen members shall be elected to the Executive Board pursuant to the provisions of this Article. Thereafter, at each of its ordinary sessions, the General Conference shall elect the number of members required to fill the vacancies occurring at the end of the session.”*

## 2. INTERNATIONAL CIVIL AVIATION ORGANIZATION

Protocol <sup>4</sup> on the authentic trilingual text of the Convention on International Civil Aviation (Chicago, 1944). Signed at Buenos Aires on 24 September 1968

THE UNDERSIGNED GOVERNMENTS

CONSIDERING that the last paragraph of the Convention on International Civil Aviation, hereinafter called “the Convention”, provides that a text of the Convention, drawn up in the English, French and Spanish languages, each of which shall be of equal authenticity, shall be open for signature;

CONSIDERING that the Convention was opened for signature, at Chicago, on the seventh day of December, 1944, in a text in the English language;

CONSIDERING, accordingly, that it is appropriate to make the necessary provision for the text to exist in three languages as contemplated in the Convention;

CONSIDERING that in making such provision, it should be taken into account that there exist amendments to the Convention in the English, French and Spanish languages, and that the text of the Convention in the French and Spanish languages should not incorporate those amendments because, in accordance with Article 94(a) of the Convention, each such amendment can come into force only in respect of any State which has ratified it;

HAVE AGREED as follows:

### Article I<sup>5</sup>

The text of the Convention in the French and Spanish languages annexed to this Protocol, together with the text of the Convention in the English language, constitutes the text equally authentic in the three languages as specifically referred to in the last paragraph of the Convention.

<sup>4</sup> Came into force on 24 October 1968.

<sup>5</sup> The text of the Convention in the French and Spanish languages mentioned in this article will be found in the second and third columns at pages 1 to 38 of ICAO document 7300/4, subject to what is stated in paragraph 2 of the Foreword at page III of the same document.

## Article II

If a State party to this Protocol has ratified or in the future ratifies any amendment made to the Convention in accordance with Article 94(a) thereof, then the text of such amendment in the English, French and Spanish languages shall be deemed to refer to the text, equally authentic in the three languages, which results from this Protocol.

## Article III

(1) The States members of the International Civil Aviation Organization may become parties to this Protocol either by:

- (a) signature without reservation as to acceptance, or
- (b) signature with reservation as to acceptance followed by acceptance, or
- (c) acceptance.

(2) This Protocol shall remain open for signature at Buenos Aires until the twenty-seventh day of September 1968 and thereafter at Washington, D.C.

(3) Acceptance shall be effected by the deposit of an instrument of acceptance with the Government of the United States of America.

(4) Adherence to or ratification or approval of this Protocol shall be deemed to be acceptance thereof.

## Article IV

(1) This Protocol shall come into force on the thirtieth day after twelve States shall, in accordance with the provisions of Article III, have signed it without reservation as to acceptance or accepted it.

(2) As regards any State which shall subsequently become a party to this Protocol, in accordance with Article III, the Protocol shall come into force on the date of its signature without reservation as to acceptance or of its acceptance.

## Article V

Any future adherence of a State to the Convention shall be deemed to be acceptance of this Protocol.

## Article VI

As soon as this Protocol comes into force, it shall be registered with the United Nations and with the International Civil Aviation Organization by the Government of the United States of America.

## Article VII

(1) This Protocol shall remain in force so long as the Convention is in force.

(2) This Protocol shall cease to be in force for a State only when that State ceases to be a party to the Convention.

## Article VIII

The Government of the United States of America shall give notice to all States members of the International Civil Aviation Organization and to the Organization itself:

- (a) of any signature of this Protocol and the date thereof, with an indication whether the signature is with or without reservation as to acceptance;

- (b) of the deposit of any instrument of acceptance and the date thereof;
- (c) of the date on which this Protocol comes into force in accordance with the provisions of Article IV, paragraph 1.

#### Article IX

This Protocol, drawn up in the English, French and Spanish languages, each text being equally authentic, shall be deposited in the archives of the Government of the United States of America, which shall transmit duly certified copies thereof to the Government of the States members of the International Civil Aviation Organization.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, duly authorized, have signed this Protocol.

DONE at Buenos Aires this twenty-fourth day of September, one thousand nine hundred and sixty-eight.

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## Chapter V

### DECISIONS OF ADMINISTRATIVE TRIBUNALS OF THE UNITED NATIONS AND RELATED INTER-GOVERNMENTAL ORGANIZATIONS

#### A. Decisions of the Administrative Tribunal of the United Nations <sup>1</sup>

##### 1. JUDGEMENT NO. 114 (23 APRIL 1968): <sup>2</sup> KHEDERIAN V. SECRETARY-GENERAL OF THE UNITED NATIONS

*Appeal under article 17 of appendix D to the Staff Rules—Importance of the report of the Medical Board*

The applicant, alleging a permanent disability attributable to the performance of official duties on behalf of the United Nations, had submitted a claim for compensation, which the Secretary-General had rejected on the recommendation of the Advisory Board on Compensation Claims. The applicant having filed an appeal against this decision under article 17 of appendix D of the Staff Rules, the Medical Board provided for in that article had adopted by a majority opinion a report the conclusions of which were favourable to the applicant. Nevertheless, the Advisory Board, pointing out that, in the Medical Board, votes had been divided and that the report of the Medical Board was inconclusive and ambiguous, had maintained its previous recommendation; the Secretary-General had also maintained his original decision.

The Tribunal stressed in its Judgement that, so far as the medical aspects of an appeal under article 17 of appendix D to the Staff Rules were concerned, the report of the medical board was of crucial importance and that in the present case this report had been to all intents and purposes set aside by the Advisory Board. The Tribunal found that the recom-

<sup>1</sup> Under article 2 of its Statute, the Administrative Tribunal of the United Nations is competent to hear and pass judgement upon applications alleging non-observance of contracts of employment of staff members of the Secretariat of the United Nations or of the terms of appointment of such staff members. Article 14 of the Statute states that the competence of the Tribunal may be extended to any specialized agency upon the terms established by a special agreement to be made with each such agency by the Secretary-General of the United Nations. By the end of 1968, two agreements of general scope, dealing with the non-observance of contracts of employment and of terms of appointment, had been concluded, pursuant to the above provision, with two specialized agencies: the International Civil Aviation Organization; the Inter-Governmental Maritime Consultative Organization. In addition, agreements limited to applications alleging non-observance of the Regulations of the United Nations Joint Staff Pension Fund had been concluded with the International Labour Organisation, the Food and Agriculture Organization of the United Nations, the United Nations Educational, Scientific and Cultural Organization, the World Health Organization, the International Civil Aviation Organization, the World Meteorological Organization and the International Atomic Energy Agency.

The Tribunal is open not only to any staff member, even after his employment has ceased, but also to any person who has succeeded to the staff member's rights on his death, or who can show that he is entitled to rights under any contract or terms of appointment.

<sup>2</sup> Mme P. Bastid, President; the Lord Crook, Vice-President; Mr. Z. Rossides, Member; Mr. H. Groz Espiell, Alternate Member.

mendation of the Advisory Board was made under misapprehension of the functioning of the Medical Board and of the purport of article 17 in providing for the appointment of a third medical practitioner selected by agreement between the medical practitioners appointed by the parties. The Tribunal, without deciding the merits of the case, ordered that the case be remanded for correction of the procedure in accordance with article 9, paragraph 2, of its Statute, and it awarded to the applicant as compensation a sum equivalent to three months of her net base salary for the loss caused to her by the procedural delay.

2. JUDGEMENT NO. 115 (24 APRIL 1968):<sup>3</sup> KIMPTON V. SECRETARY-GENERAL OF THE UNITED NATIONS

*Request for the rescinding of a decision rejecting an applicant for employment on medical grounds*

The applicant had passed a United Nations examination for English translators but was subsequently rejected for employment on medical grounds. He requested the Tribunal to rescind this decision, while the respondent requested the Tribunal to decide that it lacked competence.

The Tribunal declared itself not competent to hear and pass judgement upon the application. It found that the applicant was neither a staff member nor a former staff member of the Secretariat of the United Nations, and that he was not in one of the other situations referred to in article 2, paragraph 2, of the Statute. The Tribunal also pointed out that there had never been at any time an offer of employment made by a competent authority and that the case was therefore different from the Camargo and Vasseur cases. The Tribunal found that, in the absence of statutory or regulatory provisions governing the steps preceding recruitment, it was clear that no right capable of being invoked before the Tribunal could have arisen for the benefit of the applicant.

3. JUDGEMENT NO. 116 (24 APRIL 1968):<sup>4</sup> JOSEPHY V. SECRETARY-GENERAL OF THE UNITED NATIONS

*Request for the rescinding of a decision, described as a "correction" to an earlier decision, purporting to postpone the date of a salary increment as set by the original decision*

The applicant was to have received a salary increment on 1 September 1965. On 22 September 1965, this increment was withheld with effect from 1 September 1965 for insufficient punctuality. On 13 May 1966, the increment was reinstated as of 1 June 1966 and the date of the next salary increment was indicated as September 1966. On 3 June 1966, a "correction" postponed the date of the next salary increment from September 1966 to June 1967.

The applicant requested the Tribunal to order the rescinding of the decision of 22 September 1965 and, as a corollary, the rescinding of the decision of 3 June 1966, or alternatively the rescinding of the decision of 3 June 1966 only.

The Tribunal rejected the main plea. Although it regretted the procedural irregularities and, in particular, the fact that the contested decision was taken after 1 September 1965,

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<sup>3</sup> Mme P. Bastid, President; the Lord Crook, Vice-President; Mr. H. Gros Espiell, Member, Mr. Z. Rossides, Alternate Member.

<sup>4</sup> Mme P. Bastid, President; Mr. H. Gros Espiell and Mr. F.T.P. Plimpton, Members.

the Tribunal was of the opinion that these irregularities were not such as to affect the validity of the decision of 22 September 1965 which otherwise complied with the conditions of substance set forth in the Staff Regulations and Rules.

The Tribunal decided in favour of the alternative plea. It pointed out that the decision of 3 June 1966 in effect deprived the applicant of eighteen months of salary increment instead of the nine months initially contemplated and that, inasmuch as the applicant's next salary increment date was properly fixed at September 1966 by the decision of 13 May 1966, the decision of 3 June 1966 described as a "correction" was without legal foundation.

4. JUDGEMENT NO. 117 (26 APRIL 1968):<sup>5</sup> VAN DER VALK V. UNITED NATIONS RELIEF AND WORKS AGENCY FOR PALESTINE REFUGEES IN THE NEAR EAST

*Termination of a temporary indefinite contract on the ground of abolition or conversion of post—Obligation to prefer the more senior staff in the case of abolition of post does not apply in the absence of specific provisions to that effect*

The applicant, whose temporary indefinite contract had been terminated on the basis of regulation 9.1 of the International Staff Regulations of UNRWA, under which the Commissioner-General might terminate the appointment of a staff member if, in his opinion, such action would be in the interest of the Agency, requested the Tribunal to rescind this decision on the grounds that the abolition of this post and conversion thereof into an area post was unwarranted, that even if the post was abolished the applicant should have been retained in preference to staff members more junior to him in service, and that the contested decision was motivated by prejudice.

The Tribunal rejected the application. It refused to substitute its judgement for that of the Administration in evaluating the merits of the abolition or the conversion of the applicant's post. As for the obligation to prefer the more senior staff in the case of abolition of post, the Tribunal said that it did not apply in the absence of specific provisions to that effect. The Tribunal acknowledged, on the other hand, that UNRWA had been under an obligation to seek to place the applicant in another appropriate post, but it considered that the Agency had properly discharged this obligation. Lastly, the Tribunal found that there was nothing on record to show that the abolition of the post and notice of termination of the applicant had been influenced by prejudice.

5. JUDGEMENT NO. 118 (24 OCTOBER 1968):<sup>6</sup> VERMAAT V. UNITED NATIONS JOINT STAFF PENSION BOARD

*Plea by a technical assistance expert of FAO against a decision refusing to validate a period of service prior to his admission to the Joint Staff Pension Fund in 1958—Was the applicant entitled prior to 1958 to participate in the Fund ?*

The applicant, a technical assistance expert of FAO who had become a participant in the Pension Fund in 1958, requested the Tribunal to rescind a decision by the Standing Committee of the Joint Staff Pension Board refusing to validate his period of service prior

<sup>5</sup> The Lord Crook, Vice-President, presiding; Mr. R. Venkataraman, Vice-President; Mr. F.T.P. Plimpton, Member.

<sup>6</sup> Mme P. Bastid, President; the Lord Crook, Vice-President; Mr. L. Ignacio-Pinto, Member; Mr. Z. Rossides, Alternate Member.

to 1958. He also maintained that he had been entitled to participate in the Pension Fund from the time when he joined FAO and that by not enrolling him FAO had failed to fulfil its contractual obligations.

The Tribunal rejected the plea directed against the Pension Board on the grounds that article III (on validation) of the Pension Fund Regulations, as in force at the critical time, only provided for validation of previous service in the case of persons whose participation in the Pension Fund had been excluded because they had entered employment under a contract for less than one year or had completed less than one year of service, and that the applicant had been in neither of the situations covered by that article.

With regard to the plea directed against FAO, the Tribunal observed that in order to decide whether the applicant was entitled prior to 1958 to participate in the Pension Fund it was necessary to establish whether or not his contract excluded participation in the Fund. Since that question could be settled only by an examination of the contract and of the legal provisions in force in the Organization, it appeared from the FAO staff regulations that it was the ILO Administrative Tribunal which was the competent jurisdiction.

6. JUDGEMENT NO. 119 (25 OCTOBER 1968): <sup>7</sup> WEST V. UNITED NATIONS JOINT STAFF PENSION BOARD

This case is broadly similar to the case dealt with in Judgement No. 118.

7. JUDGEMENT NO. 120 (25 OCTOBER 1968): <sup>8</sup> KHEDERIAN V. SECRETARY-GENERAL OF THE UNITED NATIONS

*Rescinding of a decision rejecting a claim for compensation for sickness or injury attributable to the performance of official duties*

By its Judgement No. 114, <sup>9</sup> the Tribunal had ordered that the case be remanded for correction of the procedure. By its Judgement No. 120, given on the merits, the Tribunal ordered the rescinding of the contested decision and ruled that, should the respondent decide under article 9, paragraph 1, of the Statute to compensate the applicant for the injury sustained, the respondent must pay to the applicant a sum equivalent to two years of her net base salary.

8. JUDGEMENT NO. 121 (25 OCTOBER 1968): <sup>10</sup> MAKRIS-BATISTATOS V. SECRETARY-GENERAL OF THE UNITED NATIONS

*Question whether, in the absence of a contract, the relationships between the applicant and the respondent were those under a fixed-term appointment—Claim for full payment of annual leave accrued on separation.*

The applicant had been recommended by the TAB Congo Office for appointment to a technical assistance post in the Democratic Republic of the Congo and, although he did

<sup>7</sup> Mme P. Bastid, President; the Lord Crook, Vice-President; Mr. Z. Rossides, Member; Mr. L. Ignacio-Pinto, Alternate Member.

<sup>8</sup> Mme P. Bastid, President; the Lord Crook, Vice-President; Mr. H. Gros Espiell, Member; Mr. Z. Rossides, Alternate Member.

<sup>9</sup> See p. 167 of this *Yearbook*.

<sup>10</sup> Mme P. Bastid, President; the Lord Crook, Vice-President; Mr. L. Ignacio-Pinto, Member; Mr. Z. Rossides, Alternate Member.

not hold a contract, he had in fact carried out the duties of the post for several months when he was informed that his candidature for the post had been withdrawn and that no other employment would be offered to him. He contended before the Tribunal that the conduct of the parties established that there existed a contract of service for his employment for one year, and that this fixed-term contract had been terminated illegally. He also claimed full payment of all annual leave—and not merely sixty days—accrued by him on separation.

The Tribunal held that the relationships between the applicant and the respondent had not been those under a fixed-term one-year appointment and that no improper motive on the part of the respondent had been established. On the subject of leave, the Tribunal ruled that it was the respondent's action, justified as it might have been by exceptional circumstances, which had led the applicant to accrue annual leave beyond the maximum of sixty days provided for in staff rule 109.8 (a), and that accordingly the respondent was stopped from invoking the sixty-day limitation as against the applicant.

9. JUDGEMENT NO. 122 (30 OCTOBER 1968):<sup>11</sup> HO V. SECRETARY-GENERAL OF THE UNITED NATIONS (DELETION OF COMMENTS FROM PERIODIC REPORTS)

*Request for the deletion of certain comments from periodic reports*

The respondent having decided to take no action on requests by the applicant that comments which he regarded as incomplete and unwarranted be deleted from some of his periodic reports, the applicant requested the Tribunal to order the deletion of the comments in question.

The Tribunal rejected the application, pointing out that it had not been established that the contested periodic reports had been dictated by improper motives or misrepresented the facts.

10. JUDGEMENT NO. 123 (31 OCTOBER 1968):<sup>12</sup> ROY V. SECRETARY GENERAL OF THE INTERNATIONAL CIVIL AVIATION ORGANIZATION

*Termination of a permanent appointment by discharge as a disciplinary measure*

The applicant requested the Tribunal to rescind a decision by the respondent to terminate her permanent appointment by discharge for misconduct as a disciplinary measure.

The Tribunal found that the safeguards provided by the ICAO Service Code in disciplinary proceedings had not been afforded the applicant. Without determining the merits of the case, the Tribunal remanded the case for correction of the procedure and awarded to the applicant a sum equivalent to two months of her net base salary as compensation for the loss caused to her by procedural delay.

11. JUDGEMENT NO. 124 (31 OCTOBER 1968):<sup>13</sup> KAHALE V. SECRETARY-GENERAL OF THE UNITED NATIONS

*Rescinding of a decision discontinuing an assignment allowance retroactively*

By Judgement No. 124 the Tribunal rescinded a decision of the respondent discontinuing retroactively an assignment allowance paid to the applicant and ordered that the amount deducted from the applicant's salary on that account be paid back to him.

<sup>11</sup> Mme P. Bastid, President; Mr. H. Gros Espiell and Mr. L. Ignacio-Pinto, Members.

<sup>12</sup> Mme P. Bastid, President; Mr. H. Gros Espiell and Mr. F.T.P. Plimpton, Members.

<sup>13</sup> Mme P. Bastid, President; Mr. L. Ignacio-Pinto and Mr. F.T.P. Plimpton, Members; the Lord Crook, Vice-President, Alternate Member.

12. JUDGEMENT NO. 125 (1 NOVEMBER 1968):<sup>14</sup> HO V. SECRETARY-GENERAL OF THE UNITED NATIONS (CHANGE OF VISA STATUS)

*Request for the rescinding of a decision denying entitlement to home leave on the ground of a change in visa status*

By acquiring permanent resident status in the United States, the applicant, a Chinese national, lost his home leave entitlement as from 20 October 1967, the effective date of his change of visa status. Prior to that date, however, he had planned to take home leave from 21 September to 31 October 1967; this plan had been approved when, on 8 September 1967, the Administration informed him that his entitlement to home leave had ceased as a consequence of his having signed the waiver of privileges and immunities required under United States law. Subsequently, however, the Administration took the view that home leave entitlement ceases when the change of visa status becomes effective.

The Tribunal rejected the applicant's plea for an order to reinstate his entitlement to his 1967 home leave. The Tribunal held that home leave entitlement can only exist in law if the staff member, at the time when he is to begin exercising that entitlement, meets all the requirements laid down in the Staff Rules.

**B. Decisions of the Administrative Tribunal of the International Labour Organisation<sup>15,16</sup>**

1. JUDGEMENT NO. 116 (18 MARCH 1968): KIRKBIR V. UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

*Discretion of the Director-General under staff rule 104.6 (b)—Limits of the Tribunal's authority to review*

After holding several successive contracts, the complainant was informed that her appointment was extended until 4 October 1964, after which date her service would terminate. She filed a complaint with the Tribunal requesting her reinstatement.

<sup>14</sup> Mme P. Bastid, President; Mr. H. Gros Espiell and Mr. L. Ignacio-Pinto, Members.

<sup>15</sup> The Administrative Tribunal of the International Labour Organisation is competent to hear complaints alleging non-observance, in substance or in form, of the terms of appointment, and of such provisions of the Staff Regulations as are applicable to the case, of officials of the International Labour Office and of officials of the international organizations that have recognized the competence of the Tribunal, namely, as at 31 December 1968, the World Health Organization, the United Nations Educational, Scientific and Cultural Organization, the International Telecommunication Union, the World Meteorological Organization, the Food and Agriculture Organization of the United Nations, the European Organization for Nuclear Research, the Interim Commission for the International Trade Organization/General Agreement on Tariffs and Trade, the International Atomic Energy Agency, the United International Bureaux for the Protection of Intellectual Property, the European Organization for the Safety of Air Navigation and the Universal Postal Union. The Tribunal is also competent to hear disputes with regard to the execution of certain contracts concluded by the International Labour Office and disputes relating to the application of the Regulations of the former Staff Pensions Fund of the International Labour Organisation.

The Tribunal is open to any official of the International Labour Office and of the above-mentioned organizations, even if his employment has ceased, and to any person on whom the official's rights have devolved on his death, and to any other person who can show that he is entitled to some right under the terms of appointment of a deceased official or under provisions of the Staff Regulations on which the official could rely.

<sup>16</sup> Mr. M. Letourneur, President; Mr. A. Grisel, Vice-President; Lord Devlin, Judge.

The Tribunal dismissed the complaint. It noted that the complainant held a fixed-term appointment with UNESCO and thus was covered by the provisions of staff rule 104.6 (b). It was clear from those provisions that a staff member holding a fixed-term appointment had no right to renewal of his appointment and that such renewal was within the discretion of the Director-General of the Organization. It followed that the authority of the Administrative Tribunal to review a decision of the Director-General refusing such renewal was limited to considering whether the decision was tainted by an error of law or based upon materially incorrect facts, or whether essential material elements had been left out of account or obviously wrong conclusions had been drawn from the evidence in the dossier. In taking the decision impugned, the Director-General had given a ruling which did not appear to be tainted by any of those errors. The decision was therefore in order.

2. JUDGEMENT No. 117 (18 MARCH 1968): WRIGHT V. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

*Qualification for being held to be employed by an organization and consequently to be one of its staff members*

The complainant had entered into a contract of employment with the "FAO Credit Union". She was notified that the Board of Directors of the Union had decided to terminate her appointment. She then submitted an appeal to the Chairman of the FAO Appeals Committee. The Appeals Committee declared that it was not competent because, in its view, the complainant was not a staff member of FAO. The complainant submitted to the Tribunal that she was an FAO staff member and that any decision to the contrary should be reconsidered.

The Tribunal dismissed the complaint. It pointed out that only staff members of the organizations which had recognized its competence could bring suit before it, and noted that it was impossible to be an FAO staff member without being employed by the Organization and that the identity of the employer was fixed by the contract of employment. The employer named in the complainant's contract of employment was the FAO Credit Union. It was unnecessary to consider whether the Credit Union had a legal personality, because, even if "Credit Union" was in the eyes of the law no more than a convenient name for a group of individuals, such individuals were as a group capable of entering into contracts of employment. It was only if it was proved that the signatory to the contract of employment had had authority from FAO to make contracts of employment on its behalf that the complainant could be held to be employed by FAO. The Tribunal could find no evidence of such authority. Accordingly, the complainant not being employed by FAO, and so not one of its staff members, the Tribunal lacked jurisdiction to determine her complaint.

3. JUDGEMENT No. 118 (18 MARCH 1968): JURADO V. INTERNATIONAL LABOUR ORGANISATION (No. 18—CERTIFICATE OF SERVICE AND APPEAL TO THE GOVERNING BODY OF THE ILO \*

*Issue of certificates of service under article 11.17 of the Staff Regulations—The Tribunal's authority to review*

The complainant, whose appointment had been terminated by the ILO, had asked for a certificate of service in accordance with article 11.17 of the ILO Staff Regulations.

\* The complainant submitted an objection to the composition of the Tribunal, which the Tribunal dismissed as lacking any valid grounds.

The certificate was duly given to him. As an error had been made in respect of a date, however, the Administration subsequently sent the complainant a corrected certificate and a second certificate relating to his competence, efficiency and conduct. He submitted a complaint to the Tribunal requesting (1) the rescinding, on the basis of article 11.17 of the Staff Regulations, of the certificate issued by the Administration and its replacement by another certificate, and (2) the rescinding of a tacit decision of the Administration refusing to submit the question of the legal validity of Judgement No. 96 of the Administrative Tribunal to the Governing Body, with a view to an appeal to the International Court of Justice.<sup>17</sup>

The Tribunal declared that it was not competent to consider point (2). With regard to point (1), it noted that, in so far as the complaint was directed against the certificate originally issued, it had become irrelevant; in so far as it might be directed against the certificates issued subsequently, it should be recalled that the assessment made by the Director-General was not open to discussion before the Administrative Tribunal, which could only check whether all the particulars listed in article 11.17 had been given and ascertain that the assessment made by the competent authority was not based on materially incorrect facts or obviously wrong conclusions drawn from the evidence in the dossier. In the case at issue, the certificates issued by the Administration were in order and it was therefore not necessary to rule on the complainant's submissions concerning them.

#### 4. JUDGEMENT NO. 119 (18 MARCH 1968): AMBROZY V. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

*The Tribunal is not competent to rule on complaints from staff members of FAO concerning the benefits of the United Nations Joint Staff Pension Fund—A complaint is not receivable unless the complainant has exhausted the means of resisting provided for in the Staff Regulations*

The complainant, having on several occasions taken extended periods of sick leave following a fall in her office, was asked to undergo an examination by specialists chosen by FAO. Since the findings of the examination led the Organization to conclude that the complainant was fit for work, she was requested to resume her duties. When she did not comply, she was separated for abandonment of post, under section 314.33 of the FAO Manual. She then submitted a complaint to the Tribunal challenging the findings of the medical examinations and requesting (1) payment of compensation for the loss of earning capacity resulting from bodily injuries sustained in the performance of her official duties, and (2) payment of a disability benefit from the United Nations Joint Staff Pension Fund.

The Tribunal dismissed the complaint. It declared that it was not competent to rule on point (2), and recalled that it heard complaints from FAO staff members alleging non-observance of their terms and conditions of appointment, "with the exception of complaints concerning the benefits of the United Nations Joint Staff Pension Fund". On point (1), it noted that, under article VII, paragraph 1, of the Statute of the Tribunal, a complaint was not receivable unless the complainant had exhausted the means of resisting provided for in the Staff Regulations. In the case at issue, the complainant had not submitted a claim for the payment of compensation either to the Director-General or to the FAO Appeals Committee, as specified in section 303.131 of the Manual. On that point, therefore, the complaint was irreceivable.

<sup>17</sup> See *Juridical Yearbook*, 1966, p. 221.



5. JUDGEMENT NO. 120 (18 MARCH 1968): NOWAKOWSKA V. WORLD METEOROLOGICAL ORGANIZATION (No. 2)

The Tribunal recorded the complainant's withdrawal of suit.

6. JUDGEMENT NO. 121 (15 OCTOBER 1968): AGARWALA V. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

*Illegality of suspension from duty otherwise than in accordance with the Staff Regulations—Limits of the Tribunal's authority to review a decision not to renew a fixed-term contract*

The complainant, whose contract had been due to expire on 31 August 1966, had been assigned to two FAO projects in Iraq. Following a difference of opinion between him and his Iraqi counterpart, he was informed on 8 and 9 June that his contract would not be renewed. At the same time, he was asked by the directors of the two projects to which he was assigned not to present himself again for work. The Appeals Committee, to which an appeal was submitted in due form, recommended that the complainant should be granted compensation for the moral and material injury he had suffered. The Director-General of FAO maintained his decision not to renew the appointment and offered the complainant a sum of \$US 2,500 in settlement of all accounts and claims.

The Tribunal, which was requested to rescind this decision and—failing the granting of a new contract—to award damages in the amount of \$US 28,992, noted that the complainant had in effect been relieved of his duties and forbidden to call at his office. The Organization had therefore committed a breach of contract by suspending the complainant otherwise than in accordance with the Staff Regulations, and he was entitled to compensation from it for the moral damage caused by a decision which was tantamount to summary dismissal. The Tribunal accordingly decided that the Organization should pay the complainant the sum of \$US 6,000.

The decision not to renew the contract was a matter within the discretion of the Director-General and was therefore immune from interference by the Tribunal unless it was in irregular form, tainted by illegality or based on incorrect facts, or unless essential facts had not been taken into consideration or conclusions which were clearly false had been drawn from the documents in the dossier. On the facts of this case none of the conditions which would justify interference by the Tribunal was present. The Tribunal therefore dismissed the plea for the rescinding of the decision not to renew the contract.

7. JUDGEMENT NO. 122 (15 OCTOBER 1968): CHADSEY V. UNIVERSAL POSTAL UNION

*Affirmation of the right of any employee having a link other than a purely casual one with an organization to the safeguard of some appeals procedure—Obligation to take into account all the professional and moral qualifications of any candidate for a permanent post—Fundamental principle of the independence of an international organization in relation to its members*

When a new language system was introduced in the Universal Postal Union, it was decided to set up within the framework of the Union an English translation service operating on the instructions of a Management Committee appointed by the "English Language Group"; the staff of the translation service were to enjoy the same conditions of employment as the officials of the International Bureau. Even before the new system was introduced, the International Bureau had set up a temporary English translation service, the staff of

which held fixed-term contracts specifying that the Staff Regulations of the Bureau were not applicable to them. In these circumstances the complainant was engaged as a translator for eighteen months, and his contract was renewed and later tacitly continued as from 1 June 1966. On 26 September 1966, he was informed that one of the members of the English Language Group objected to his appointment as a permanent translator on the ground that he had refused to perform his military service in the army of the country concerned. On 6 March 1967, the International Bureau informed the complainant that, in accordance with the instructions of the Management Committee of the English Language Group, it was not in a position to offer him a permanent position in the new translation service. The complainant then requested the Director-General to submit the decision of 6 March to the appeals machinery provided under the Staff Regulations. The reply was (1) that his complaint was misdirected, inasmuch as the International Bureau had acted on behalf of the English Language Group, and (2) that he was employed by the Bureau without a contract and, in any event, since he had expressly recognized at the time of his initial engagement that the Staff Regulations were not applicable to him, he could not claim the benefit of the appeals procedure laid down in those Regulations. The complainant then requested the Tribunal to order the rescinding of the decision of 6 March.

The Tribunal declared that it was competent. While the Staff Regulations of an organization were as a whole applicable only to those categories of employees expressly specified therein, some of their provisions were merely the translation into written form of general principles of civil service law; those principles must be considered applicable to any employees having a link other than a purely casual one with an organization and consequently could not lawfully be ignored in individual contracts. That applied in particular to the principle that such employees were entitled, in the event of a dispute with their employers, to the safeguard of some appeals procedure.

On the merits, the Tribunal held that the complaint must be regarded as, in fact, attacking the decision of the Management Committee of the English Language Group in refusing to give the complainant a permanent contract. It noted that the appointment of a temporary employee to a permanent post did not constitute a right for the person concerned but was within the discretion of the Management Committee of the Group, which must take into account all the elements disclosed by the dossier. In the case at issue, the Committee had been motivated solely by the objection expressed by the representative of a member State. The Tribunal held that such an objection could not be reconciled with the fundamental principle of the independence of an international organization in relation to its members. In restricting itself to that one reason, which was tainted by illegality, and in omitting to exercise its discretion, the Management Committee had misinterpreted its own competence; the decision must accordingly be rescinded and the case referred back to the Management Committee for a new decision, with reasons stated, on the complainant's request.

#### 8. JUDGEMENT NO. 123 (15 OCTOBER 1968): MARTIN V. INTERNATIONAL ATOMIC ENERGY AGENCY

*Method of reckoning the time-limit for filing a complaint with the Tribunal—Conditions for entitlement to a repatriation grant and payment of travel expenses*

The complainant, after holding short-term contracts, had entered into a special service agreement with IAEA and later into a fixed-term contract, which was renewed twice. Shortly before the expiry of the last contract he applied for a repatriation grant, and this was awarded to him by a decision of 31 August 1966, which also informed him that he would

be paid a lump sum for travel expenses. On 26 June 1967, he was notified that he was not entitled either to the grant or to the payment of travel expenses but that the Director-General was prepared to treat the amount already paid as a *ex gratia* payment; this decision was confirmed on the advice of the Joint Appeals Committee, and two copies of it were sent by the Agency to the complainant, the first being delivered at his usual home address on 27 June 1967 and the second at a business address on 28 June 1967. The complainant filed a complaint with the Tribunal, which was posted on 26 September 1967, requesting the rescinding of the decision of 26 June 1967 and the maintenance of the decision of 31 August 1966.

The Tribunal declared the complaint to be receivable; it ruled that the time-limit—ninety days after the decision impugned—had begun to run on 28 June and not on 27 June. In the first place the Agency, by sending two copies of its decision, had admitted that if one were to go astray the time-limit would run from the date of receipt of the second, and in the second place the complainant, upon receiving the two copies, might reasonably have felt some doubt as to the date from which the time-limit ran. In addition, since the two texts were identical, he could, without failing in his duty to exercise proper care, have kept only one of them—namely the one which was delivered on 28 June—and reckoned the time-limit as running from that date.

On the merits of the case, the Tribunal noted that, since, as could be seen from the facts of the case, the complainant had been recruited locally, he could not invoke either staff rule 6.01.1 or the first part of travel rule 1.04 in order to claim payment of his travel expenses or repatriation grant. Nor had he completed two years of continuous service within the meaning of the second part of travel rule 1.04, since he had been covered by the Staff Regulations and Rules for only eighteen months and short-term contracts and special service agreements specifically excluded the payment of travel expenses.

On the question whether the Agency could legitimately reverse a wrong decision, the Tribunal noted that in the case of the repatriation grant the Director-General was not demanding the return of the amount paid, and the only point at issue was, therefore, the question of travel expenses. While recognizing that in particular circumstances the mere fact of approval by one of its organs might commit the Agency under the rules of good faith, the Tribunal noted that in the case at issue there had been an obvious misinterpretation of the applicable rules, and also that the lump sum for travel expenses had never been paid; furthermore, payment of that sum was subject to a condition which had not been fulfilled—namely, that definite arrangements for travel on repatriation should have been made. The Tribunal consequently dismissed the complaint.

#### 9. JUDGEMENT NO. 124 (15 OCTOBER 1968): PANNIER V. UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

The complainant had obtained a housing loan from UNESCO and had undertaken, in the receipt, to use the loan for the purposes for which it had been granted, namely, to liquidate obligations which he had incurred previously in order to purchase a home but which he found to be too onerous. He nevertheless decided to use the amount lent by UNESCO to acquire shares in a housing development. When the matter came to his notice, the Chief of the Bureau of Personnel of UNESCO informed the complainant, on 7 February 1967, that repayment of the loan was due immediately, and on 18 May 1967 he notified him that, starting with the month of May, a deduction would be made from his monthly salary until the debt was paid off.

The Appeals Board, to which two appeals were submitted—one against the decision of 7 February and one against the decision of 18 May—stated that it was not competent to

hear the first and considered that the second was without foundation. This advice was accepted by the Director-General, who communicated his decision to the complainant on 4 August 1967.

The Tribunal, with which a complaint was filed in due form, held that under article II, paragraph 5, of its Statute it was competent to rule on the validity of the decision of 18 May 1967. It could not, however, reach a decision on that point without considering the regularity of the decision of 7 February 1967. It therefore declared itself competent to rule on the latter decision. Accordingly, the decision of 4 August must be rescinded because it was based on erroneous advice from the Appeals Board.

The Tribunal consequently rescinded the decision of the Director-General and referred the case back to him for a new decision after he had obtained the advice of the Appeals Board.

#### 10. JUDGEMENT NO. 125 (15 OCTOBER 1968): DOUWES V. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

*Authority of the Tribunal to order such measures of investigation as it considers desirable—Right of any employee to see the documents used in evidence against him*

As a result of various disputes, the complainant had been transferred from Central America to Surinam. He subsequently submitted his resignation, and the Director-General decided that his services would be discontinued as from 31 August 1967.

The Tribunal, with which a complaint was filed in due form, noted that under article 11 of the Rules of Court it could take such measures of investigation as it considered desirable. In support of his complaint the complainant contended that the decision to terminate his services had originally been based on letters about him addressed to headquarters by officials of FAO and TAB. The Organization, relying on section 34.023 of the Manual, had not deemed it necessary to furnish the full text of those documents because, in its view, all the points in them concerning the complainant had been reproduced in the statement which it had prepared and in the appendices thereto. The Tribunal held that, since the Organization had relied upon the contents of those letters as evidence against the complainant, he was entitled to see the letters. If there were passages in them which related to some quite different subject-matter or which because of their confidential nature, for example, could not be disclosed to the complainant, the Organization might omit such passages from the copies produced, stating the reasons for any omissions. If the omissions were challenged by the complainant, the Tribunal would examine the passages omitted and decide whether or not they should be shown to the complainant.

As an interlocutory decision, the Tribunal directed the Organization to produce copies of the letters mentioned above in accordance with the terms of the judgement.

#### 11. JUDGEMENT NO. 126 (15 OCTOBER 1968): DANJEAN V. EUROPEAN ORGANIZATION FOR NUCLEAR RESEARCH (NOS. 1 AND 2)

*Right of the Director-General, with certain provisos, to assign a staff member to work normally done by lower-grade employees, if the necessities of the service so require—Authority of the Director-General freely to determine whether or not the retention of a staff member is in the interests of the Organization—Limits of the Tribunal's authority to review the case*

The complainant, who had entered the service of CERN in 1958, protested on several occasions that the conditions in which she had to work were unhealthy. In November

1966, she complained that she had been assigned to work that did not come up to her qualifications and was contrary to her contract of employment, under which she was in grade 5 (calculator III). The Director-General replied on 21 December 1966, contesting her complaints and advising her first to recover her health, and assuring her that the provisions of the Sickness Fund would be interpreted in the broadest possible way in her case. The Joint Appeals Boards, to which an appeal was submitted in due form, found that responsibility for the deterioration in the complainant's situation was shared between the complainant and the Organization. On the recommendation of the Board, the Director-General offered on 22 March 1967 to grant the complainant special leave with pay and to make arrangements for her reclassification. The complainant, who in the meantime had filed a complaint with the Tribunal, agreed to take special leave with pay and suspended her complaint. She later refused to take a vocational guidance test and stated that none of the vacancies in CERN of which she had been given a list matched her qualifications. She then received notice that her appointment would be terminated, whereupon she filed a second complaint with the Tribunal.

The Tribunal ruled that the second complaint did not render the first one irrelevant because the legality of the decision to terminate which was attacked in the second complaint depended on the disposal of the first complaint and because, if the first complaint was held to be well-founded, the complainant could claim compensation even if the complaint concerning termination were dismissed.

With regard to the first complaint, the Tribunal noted, with reference to the legality of the decision of 21 December 1966, that the complainant's contract of employment, while describing the main features of the work of a calculator, stated that the person concerned "performs such other duties as may be assigned to her". Moreover, it was within the discretion of the Director-General—provided that there was no change in grade, reduction in salary or lowering of their dignity—to assign staff members to work done by lower-grade employees if the necessities of the service so required. In the case at issue, it appeared from the evidence that the Director-General had not overstepped the above-mentioned limits of his authority, and also that the assignment to which the complainant objected could not be regarded as a disciplinary measure. With reference to the legality of the decision of 22 March 1967, the Tribunal held that the purpose of the decision was to change the assignment of the complainant, as she had repeatedly demanded. Even assuming that the allegations—deterioration of health caused by unhealthy conditions—were proved, they might conceivably entitle her to financial compensation but could not in any way affect the legality of the decision.

With regard to the second complaint, the Tribunal ruled that, contrary to the complainant's contention, the Director-General, in deciding on 30 May 1967 to terminate her appointment, had not ignored the implications of the decision he had taken on 22 March 1967 in accordance with the recommendations of the Joint Appeals Board. Indeed, he had tried to implement the earlier decision, and the responsibility for his failure to do so lay entirely with the complainant. Moreover, the decision of 30 May 1967 was based on the provisions of article H 1/7 of the Staff Regulations and Rules, which gave the Director-General the discretionary authority to determine whether or not the retention of a staff member was contrary to the interests of the Organization; it followed that a decision taken under that article could not be reviewed by the Tribunal unless it was irregular, tainted by illegality or based on incorrect facts, or unless essential facts had not been taken into consideration or conclusions which were clearly false had been drawn from the evidence in the dossier. None of those errors had been established in the case at issue.

The Tribunal consequently dismissed both complaints.

12. JUDGEMENT No. 127 (15 OCTOBER 1968): GLATZ-CAVIN v. UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

*Staff regulation 9.1—The Director-General is the sole judge of action to be taken in accordance with the necessities of the service—Limits of the Tribunal's authority to review the case*

The complainant, who had been assigned as a teacher to the Special Fund/UNESCO project for the Rabat Teacher Training College, had submitted to his chief, the Senior Technical Adviser, a report criticizing the progress of the project. Soon afterwards, the Technical Adviser gave an official from headquarters copies of two letters, numbered 1009 and 1010, which were supposedly to be dispatched shortly by the Minister of Education of Morocco to the Resident Representative—who said later that he had never received the originals—and which the Technical Adviser had helped to draft. The first letter criticized the complainant's behaviour during a recent students' strike and stated that, despite his undoubted competence, his transfer would be in the general interest; the second proposed the appointment of another person to the post to be vacated by the complainant. On 18 March 1966, the Chief of the Bureau of Personnel of UNESCO informed the complainant orally that the Moroccan Government had asked UNESCO to abolish his post because it wanted to introduce teaching in Arabic. On 24 March and again on 4 April, the Moroccan Government notified UNESCO that it would like the complainant's contract to be terminated and an Arabic-speaking teacher appointed in his place. On 3 September 1966, the Chief of the Bureau of Personnel informed the complainant that, in accordance with staff regulation 9.1, the Director-General had decided to terminate his appointment on the ground of an abolition of post required by the necessities of the service.

The complainant then filed a complaint with the Tribunal requesting the rescinding of the termination decision, which he claimed was the result of a plot against him. The Tribunal noted that the relevance of the reason given in support of the decision impugned was a matter within the discretion of the Director-General, who was the sole judge of action to be taken in accordance with the necessities of the service. It therefore confined itself to considering whether the decision was tainted by procedural errors or by illegality or whether the Director-General had failed to take account of essential facts or drawn conclusions which were clearly false from the evidence in the dossier. It noted that, since the originals of letters Nos. 1009 and 1010 had not been produced, the Organization could not rely on them. On the other hand, the letters from the Moroccan Government dated 24 March and 4 April clearly expressed a desire to replace French-speaking teachers by Arabic-speaking ones. However, it had not been established that the policy of introducing teaching in Arabic had been regarded by the competent authorities as a sufficient ground for requesting the withdrawal of the complainant before the expiry of his contract; on the contrary, it appeared from the evidence in the dossier that his services were highly appreciated. It was therefore extremely likely that the intervention of the Senior Technical Adviser had played a decisive role in the matter. It appeared from the dossier that the views he had expressed concerning the complainant in the presence of Moroccan officials had been lacking in impartiality. In particular, by acknowledging that he had helped to draft copies Nos. 1009 and 1010, he implicitly admitted that he had induced the Moroccan authorities, without proper cause, to take steps which had led to the termination of the complainant's employment before the normal expiry of his contract. Nevertheless, the Organization had rightly based its action on the wishes of the Moroccan authorities, as expressed in the letters of 24 March and 4 April, and the Director-General had not drawn false conclusions from the evidence in the dossier when abolishing the complainant's post in order to replace him by an Arabic-speaking teacher. The decision must therefore be confirmed, but the Organization had an obligation

to the complainant because of the intervention of the Senior Technical Adviser. The Tribunal consequently decided that the Organization should pay the complainant a sum of 10,000 Swiss francs in compensation for the material and moral injury he had suffered.

13. JUDGEMENT NO. 128 (15 OCTOBER 1968): CONNOLLY V. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

The Tribunal recorded the complainant's withdrawal of suit.

## Chapter VI

### SELECTED LEGAL OPINIONS OF THE SECRETARIAT OF THE UNITED NATIONS AND RELATED INTER-GOVERNMENTAL ORGANIZATIONS

#### A. Legal opinions of the Secretariat of the United Nations

(Issued or prepared by the Office of Legal Affairs)

##### 1. QUESTION OF THE EXTENT TO WHICH UNRWA CAN BE EXPECTED TO CONFORM TO THE LAW OF A HOST STATE IN THE IMPLEMENTATION OF ITS EDUCATIONAL PROGRAMME

###### *Opinion of the General Counsel of UNRWA*

1. The question was raised as to what is the position of the Agency in respect to the education law of a host State and its relation to the Agency's educational programme.

2. The Agency is a subsidiary organ of the General Assembly, with a mandate established by that body, and must at all times act as a United Nations agency. A paramount principle, common to all United Nations operations—whether they be educational, economic, peacekeeping or political in character—is that they must remain under the control of the United Nations as such, representing the totality of the Member States, and must *not* fall under the control of any one Member State. The “exclusiveness” of United Nations control is thus a safeguard for the general membership, and international officials serving these various United Nations operations are accordingly under the express injunction of Article 100, paragraph 1, of the United Nations Charter:

“In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any government or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization”.

It may be noted that there is a corresponding obligation on all Member States in paragraph 2 of Article 100:

“Each Member of the United Nations undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities”.

3. In the result, therefore, no United Nations organ ever falls under the jurisdiction of a Member State in the sense of being literally bound by the provisions of its law or subject to its “sovereignty”. The relationship is one of co-operation and co-ordination, not of subordination. With regard to the Agency, the General Assembly has, by resolution 212 (III) of 19 November 1948, placed responsibility for the planning and implementation of the Agency's programmes on the Commissioner-General, as appointed by the Secretary-General, and his responsibility is “to the General Assembly”, as resolution 302 (IV) of 8 December 1949 makes expressly clear; it is to this organ that the Commissioner-General must report. Successive resolutions have emphasized that the Agency's relationship with



host governments is one of consultation and co-ordination, never subordination: resolutions 513 (VI) of 26 January 1952, 818 (IX) of 4 December 1954, 916 (X) of 3 December 1955, 1018 (XI) of 28 February 1957, 1191 (XII) of 12 December 1957, 1315 (XIII) of 12 December 1958, 1456 (XIV) of 9 December 1959, 2154 (XXI) of 17 November 1966 make this relationship abundantly clear.

4. Particularly with the Agency, the need for closest co-operation and co-ordination with a host Government is vital to the successful execution of its mandate. It is a matter of record that, for many years, the Agency's educational programmes have been designed to harmonize with those of the host State, and, to this end, it has been customary for the Agency to conform to the established pattern of textbooks, curricula, examination standards and so forth. This degree of co-ordination has been achieved not because of any duty imposed on the Agency by local law but because co-ordination is a necessary condition for the success of the educational activities of the Agency and because co-operation with host Governments has been required by the General Assembly. However, it is clear that there are limits beyond which, as a United Nations organ, the Agency cannot go. These are, essentially:

(i) Where a host State, whether by legislation or otherwise, requires from the Agency action which is *ultra vires* its mandate or incompatible with its mandate; such action would be tantamount to defiance of the authority of the General Assembly;

(ii) Where a host State, whether by legislation or otherwise, requires action which is beyond the financial capacity of the Agency: such action would be irresponsible and subject to criticism by the United Nations external auditors as well as by the General Assembly;

(iii) Where a host State, whether by legislation or otherwise, assumes power to dictate or control the activities of United Nations officials, or the operations entrusted to them; this would constitute a breach of Article 100 and, in effect, the operation could not continue to be a United Nations operation at that point.

5. It may be observed that these limitations in no way affect the general conformity of United Nations officials, and the activities and operations with which they are charged, with the law of host States. Compliance with criminal law, with road traffic regulations, with legislation on matters of health and with legal rules and procedures affecting transactions carried on within the State is the normal rule and raises no problems. Any special privileges and immunities are based upon the Charter and the Convention on the Privileges and Immunities of the United Nations of 1946, two treaties accepted freely by the host States. Thus, a United Nations body does not claim the right to ignore local law. It claims only that it is not subject to any law which infringes upon its status as a United Nations organ, either by deviating from the Charter and the 1946 Convention or by requiring action incompatible with the three basic limitations set out above.

6. Let it be thought that this position is in some way incompatible with the sovereignty of the host State, it must be emphasised that the special position of a United Nations organ is based upon the Charter—a treaty accepted by all Member States—so that it is a reflection of this very sovereignty and, indeed, designed to protect the interest which each and every Member State has in any United Nations operation, wherever it may be. Moreover, in final analysis, it is certainly true that a General Assembly subsidiary organ can continue to operate in a State's territory only with its consent. The host State is free to determine that, whether because of a belief that its sovereignty is prejudiced or for any other reason, the operations on its territory must cease.

30 March 1968

2. EXEMPTION OF THE UNITED NATIONS FROM CHARGES FOR MUNICIPAL SERVICES—  
SECTION 7 (a) OF THE CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE  
UNITED NATIONS

*Memorandum to the Assistant to the Chief of the Purchase and Transportation Service,  
Office of General Services*

This refers to your memorandum on the lease of office space by the United Nations Development Programme on the territory of a Member State. I understand that the landlord has accepted all the standard clauses for UNDP lease agreement, including the one on arbitration procedures.

It is noted, however, that under the fifth clause of the proposed lease, the obligation to pay for waste removal and “any other service” falls on the tenant, i.e. the UNDP. It would appear that waste removal and the other “services” are in fact services rendered by the municipality concerned. The Office of Legal Affairs has always held the view that where services furnished by municipalities are charged not according to the value of the services but according to property evaluation or other independent criteria, the payment thus made constitutes a tax. Under Section 7 (a) of the Convention on the privileges and immunities of the United Nations, the organization and its subsidiary organs such as the UNDP are exempted from such taxes. In our opinion, the Resident Representative of UNDP should seek exemption from these charges if they are billed according to real estate evaluation and not according to the service actually rendered. No need appears to make a reservation in the lease agreement concerning this point.

Section 7 (a) of the Convention on the Privileges and Immunities of the United Nations reads as follows:

“The United Nations, its assets, income and other property shall be:

(a) exempt from all direct taxes; it is understood, however, that the United Nations will not claim exemption from taxes which are, in fact, no more than charges for public utility services”.

Municipal services such as street lighting, street cleaning, removal of waste, and general services are taxes distinct from the “public utility charges” which are not subject to exemption and, therefore, the United Nations is entitled to the exemption provided for in Section 7 (a), quoted above, of the Convention. The Office of Legal Affairs of the United Nations has dealt with this subject as follows:

“Water and electricity are the types *par excellence* of public utility services, precisely those envisaged by the General Assembly in adopting the Convention. As you know, a public utility is a corporation, very often privately owned, though sometimes owned or controlled by a municipality or other government unit, but in either case impressed with a public interest, which causes a close statutory supervision of the production and sale of the service or commodity in question. This supervision is ordinarily carried out by Public Utilities Commissions; I am sure it is not necessary to refer to the fact that the public utilities supervised by such governmental bodies in any of a large number of countries are principally gas and electricity, water and transport. For example, Quemner, *Dictionnaire juridique* gives the following entry:

*Public utilities, public services corporation*—Services publics concédés (transports, gaz, électricité, etc).’

I think it is clear that the Convention had specifically in mind the payment by the United Nations of water and electricity charges on the grounds that the costs as billed are no more than the *quid pro quo* for commodities or services received; since these would be payable to a private corporation like the price of any other sale made, it was logical that there should not be an exemption merely because the same service happened to be rendered by a municipality or municipally owned company.

A different situation prevails when we come to examine the other municipal services listed above. Whatever may be the advantage to the individual householder of the rendering of such services, it seems clear that these represent normal functions commonly thought of as falling within the responsibilities of municipal government. They are usually carried out by the municipality itself or at least paid for by the municipality out of its own budgeted funds obtained from real property taxation and not from prices charged in respect of the specific amounts of each separate service rendered. It is important to note that water and electricity services are charged for on the basis of units of measurement, such as the kilowatt hour in the latter case. The contrary is true in the case of the various services now under examination. The authorities in international law generally seem to make a distinction as to whether the services rendered by a municipality or other public agency are special ones for which a special charge is made, with definite rates payable by the individual in his character as a consumer and not as a general taxpayer according to fixed principles of real property taxation. Thus, municipal taxation is normally by area and valuation of real property, not by the amount of street lighting furnished to a given frontage.”

27 February 1968

3. POWER OF THE GENERAL ASSEMBLY TO MAKE RECOMMENDATIONS TO THE MEMBERS OF THE UNITED NATIONS ON ANY QUESTIONS OR MATTERS WITHIN THE SCOPE OF THE CHARTER—INTERPRETATION OF ARTICLE 12 OF THE CHARTER <sup>1</sup>

*Statement made by the Legal Counsel at the 1637th meeting  
of the Third Committee, on 12 December 1968*

The Legal Counsel replied to [a] question put by the representative of Peru who had asked whether the adoption of measures of the kind provided for in operative paragraph 7 of . . . draft resolution [A/C.3/L.1637/Rev. 2] [by which the General Assembly would call upon all States to sever all relations with South Africa, Portugal and the illegal minority régime in Southern Rhodesia and to scrupulously refrain from giving any military or economic assistance to these régimes] was within the competence of the Third Committee. Article 10 of the United Nations Charter stated that the General Assembly might discuss any question or any matters within the scope of the Charter or relating to the powers and functions of any organs provided for in the Charter, and, except as provided in Article 12, might make recommendations to the Members of the United Nations or to the Security Council. Article 12 provided that, while the Security Council was exercising in respect of any dispute or situation the functions assigned to it in the Charter, the General Assembly should not make any recommendation with regard to that dispute or situation unless the Security Council so requested. The matters relating to South Africa, Southern Rhodesia and the Territories under Portuguese rule were on the agenda of the Security Council and, in principle, the General Assembly could not make any recommendations. However, the Assembly had interpreted the words “is exercising” as meaning “is exercising at this moment”; consequently, it had made recommendations on other matters which the Security Council was also considering. Thus, in accordance with that practice followed by the General Assembly, there were no obstacles to the recommending of measures of the kind provided for in draft resolution A/C.3/L.1637/Rev. 2.

<sup>1</sup> See also *Juridical Yearbook*, 1964, p. 228.

4. QUESTION WHETHER THE FIRST SENTENCE OF ARTICLE 19 OF THE CHARTER CONCERNING THE LOSS OF VOTE IN THE GENERAL ASSEMBLY OF MEMBER STATES TWO YEARS IN ARREARS IN THE PAYMENT OF THEIR CONTRIBUTIONS HAS AUTOMATIC APPLICATION OR IS SUBJECT TO A PRIOR DECISION OF THE ASSEMBLY

*Opinion of the Legal Counsel*<sup>2</sup>

1. In recent correspondence reference has been made to the roll-call votes which took place at the 1582nd meeting of the First Committee, on 10 June 1968, and at the 1671st and 1672nd meetings of the General Assembly, on 12 June 1968. In the course of these roll-call votes the competent officials of the Secretariat did not call out the names of two Member States which, as previously reported by the Secretary-General to the General Assembly by letters of 24 and 27 April and 3 and 6 May 1968 (A/7086 and Add.1-3), were "in arrears in the payment of their contributions to the United Nations regular budget within the terms of Article 19 of the Charter".

2. In the absence of any specific determination by the competent organs of the United Nations it is the responsibility of Secretariat officials to discharge their duties in the light of their understanding of the relevant provisions of the Charter. It has always been the understanding of the Secretariat, based on a legal analysis of Article 19 of the Charter, that the first sentence of that article has automatic application and is a provision entirely distinct and separate from Article 18, paragraph 2, of the Charter.

3. The provision of Article 18, paragraph 2, concerning a two-thirds majority with respect to "the suspension of the rights and privileges of membership", obviously relates to Article 5 of the Charter, which provides: "A Member of the United Nations against which preventive or enforcement action has been taken by the Security Council may be suspended from the exercise of the rights and privileges of membership by the General Assembly upon the recommendation of the Security Council. The exercise of these rights and privileges may be restored by the Security Council." Article 18, paragraph 2, lists successively admission of new Members, suspension of rights and privileges of membership and the expulsion of Members, which are covered respectively by Articles 4, 5 and 6 of the Charter, all of which, unlike Article 19, require action both by the Security Council and the General Assembly. The wording of Article 19 does not contain the phrase "suspension of rights and privileges" and obviously does not necessitate any action by the Security Council. It provides only for a specific sanction or penalty if a Member is two years in arrears in the payment of its contributions. This sanction is that it "shall have no vote in the General Assembly" but does not affect its other rights and privileges including participation in discussions in the General Assembly and voting in organs of the United Nations other than the plenary meetings of the General Assembly and of its Main Committees.

4. The express language of the first sentence of Article 19 does not call for a decision of the General Assembly prior to the deprivation of vote, since it provides simply that a Member "shall have no vote" if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. Had the contrary been intended, Article 19 would have been drafted in a quite different way in order to provide for a decision by the General Assembly. For example, instead of saying that the Member "shall have no vote" it would have said "may have its vote suspended by the General Assembly" or "the General Assembly may decide that [such Member] shall have no vote ...", as it does in cases where it intends that the General Assembly exercise discretion such as in Article 5.

<sup>2</sup> Issued as an annex to document A/7146.

5. The position of Articles 18 and 19 in a single section is due to the fact that each relates to different aspects of voting in the General Assembly and does not therefore indicate a connexion between the requirement of a two-thirds vote in Article 18, paragraph 2, and the loss of vote in Article 19. The questions specifically enumerated in Article 18, paragraph 2, relate to decisions under articles which appear in different chapters and sections throughout the Charter.

6. The foregoing position is fully borne out by reference to the second sentence of Article 19. The first sentence provides that a Member "shall have no vote" upon the happening of a specified event—becoming two years in arrears in the payment of contributions. The second sentence provides that, nevertheless, the General Assembly "may permit" such a Member to vote if it is satisfied that the failure to pay is due to conditions beyond its control. *Shall* is used in the first sentence, while *may* is used in the second. Likewise, only in the second sentence is reference made to action to be taken by the General Assembly. Thus, it is clear that a positive decision by the General Assembly presumably following a request by a Member which is two years in arrears, is required to permit that Member to vote—not a decision by the General Assembly to "suspend" its vote. The rule of loss of the vote as a mandatory penalty is provided in the first sentence, while the second sentence permits the General Assembly to make an exception to this rule in a specifically defined circumstance, i.e., if it is satisfied that the failure to pay is due to conditions beyond the Member's control. Thus, on the request of the Member concerned and on the basis of adequate data, the General Assembly might exercise a discretion to waive or lift the penalty, for example, in case of natural disasters, such as earthquakes, floods, revolutions or economic depressions. The only other case in which the Assembly might be required to take a decision is in exceptional circumstances in which a Member State disputes the basis of the calculation by which it is determined to be in arrears. For example, this may arise in a case where a question of State succession is involved. It is doubtless for instances such as these that rule 161 of the rules of procedure of the General Assembly provides that the Committee on Contributions, which deals with financial and economic—not political—aspects, shall "advise the General Assembly ... on the action to be taken with regard to the application of Article 19 of the Charter".

7. In the circumstances giving rise to the present reply, it should be noted that the two Member States concerned had not contested the amount of their arrears specified in the letter from the Secretary-General contained in document A/7086. They had not requested that the General Assembly permit them to vote under the second sentence of Article 19. Nor had they submitted data regarding "conditions beyond the control of the Member", which would permit the Assembly to arrive at a decision under the second sentence of that article.

8. It should also be recalled that the procedure followed at the 1982nd meeting of the First Committee, on 10 June 1968, and at the 1671st and 1672nd plenary meetings of the General Assembly, on 12 June 1968, is not without precedent and is not based solely on decisions by the Secretariat. Reference may be made, in this connexion, to a letter of 15 May 1963 from the President of the General Assembly at its fourth special session to the Secretary-General, which was communicated to all Member States under cover of a *note verbale*. In this letter the President noted that a Member State was in arrears in the payment of its financial contributions within the terms of Article 19 of the Charter and pointed out that this would have given rise to a loss of voting rights had there been an occasion to take a formal vote on any question. While a number of States subsequently indicated their disagreement with this letter, the matter was never raised in the General Assembly and the Assembly never issued instructions that the presiding officer or the Secretariat should act in a manner contrary to that indicated in the President's letter.

9. Reference should also be made to the precedent which occurred at the 1518th plenary meeting of the General Assembly, on 19 May 1967, during the fifth special session. On that occasion, the name of a Member State at that time in arrears within the terms of Article 19 of the Charter was not called out during a roll-call vote. No question was raised on that occasion.

10. In the light of the foregoing, it is apparent that if the Secretariat had during a roll-call vote called the names of those Members which were two years in arrears in the payment of their contributions, it would have been asking them how they voted, while the Charter states categorically that they "shall have no vote". Had it acted thus, the Secretariat would have disregarded Article 19 of the Charter. It is therefore clear that the Secretariat is obliged to continue to act in accordance with its understanding of the relevant provisions of the Charter and with the foregoing precedents until such time as the General Assembly should take a contrary decision. It may be added that, although Member States would have been fully within their rights in raising questions during or after the voting at the 1582nd meeting of the First Committee, on 10 June 1968, and at the 1671st and 1672nd plenary meetings of the General Assembly, on 12 June 1968, none of them did so.

26 July 1968

5. AREA OF SERVICE AND LEGAL STATUS OF REGIONAL ADVISERS APPOINTED UNDER THE REGULAR PROGRAMME OF TECHNICAL ASSISTANCE AND ASSIGNED TO THE ECAFE REGION—QUESTION WHETHER GOVERNMENTS OF NON-MEMBER STATES, NON-SELF-GOVERNING TERRITORIES OR TRUST TERRITORIES MAY REQUEST ASSISTANCE UNDER THE REGULAR PROGRAMME<sup>3</sup>

*Memorandum to the Chief of the Section for Asia and the Far East,  
Office of Technical Cooperation*

1. I refer to your memorandum in which you have inquired whether there would be any legal complications which would prevent regional advisers, appointed under the regular programme of technical assistance and assigned to the ECAFE region, from serving in the South Pacific area. You have also asked for advice on the compensation entitlement of those regional advisers. These questions call for an examination of the following points: (A) whether the regional advisers assigned to the ECAFE region must serve within the geographical scope of ECAFE; (B) whether Governments of non-member States, non-self-governing territories or trust territories may request assistance under the regular programme; (C) in so far as the regional advisers are attached to the ECAFE secretariat, what are the administrative and financial responsibilities of ECAFE towards them and, in particular, towards compensation for their service-incurred injuries.

**Point (A)**

2. Resolutions 200 (III) [Economic development], 418 (V) [Social welfare], 723 (VIII) [Public administration], 926 (X) [Human rights], 1256 (XIII) [OPEX] and 1395 (XIV) [Narcotics], of the General Assembly, by which technical assistance under the regular programme was authorized, did not refer to any specific area or region. Regional advisers who are recruited as technical assistance project personnel are governed by a separate set of staff rules and they are paid from a budget which is separate from the budget of the re-

<sup>3</sup> See also *Juridical Yearbook*, 1963, p. 172.

gional economic commissions. Although the regional advisers assigned to the ECAFE region are attached to the ECAFE secretariat, they are not staff members of ECAFE. It appears therefore that their assignment to the various regional economic commissions does not limit their area of service to the geographical scope of the commissions concerned, nor do the terms of reference of the commission concerned govern the scope of their activities. It would also appear that the arrangement to attach them to the secretariat of a regional economic commission is made for the sake of administrative expediency rather than on the basis of legal necessity. Consequently the area of activities of regional advisers attached to the ECAFE secretariat is not restricted by the geographical scope of ECAFE. In other words, such advisers may, from the legal point of view, even be sent to a country in the Middle East if the Office of Technical Co-operation, which is in charge of technical assistance project personnel under the regular programme, considers it expedient to do so.

### Point (B)

3. In the light of the analysis in regard to point (A), the question to be considered is not whether a requesting country should be in a specific area, but whether a country is eligible for technical assistance under the pertinent resolutions of the General Assembly. In particular, it is a question of whether a State not member of the United Nations, or a non-self-governing territory or a trust territory is eligible. The answer to this question depends not only on the status of the countries concerned, but also on the types of assistance provided. The legal situation in this connexion is set out below.

#### a. *Non-member States*

4. While it is clear that States Members of the United Nations are, by virtue of Article 66, paragraph 2, of the Charter and subject to approval by the General Assembly, eligible for technical assistance under the regular programme, the extension of such assistance to non-member States depends on the terms of the resolutions concerned and the relevant proceedings of United Nations organs. As examples, the following resolutions are examined.

#### (1) *General Assembly resolution 200 (III) on technical assistance for economic development*

5. This resolution adopted by the General Assembly on 4 December 1948, refers explicitly to Member States, since it provided in operative paragraph 3 for the appropriation of funds "necessary to enable the Secretary-General to perform the following functions, where appropriate, in co-operation with the specialized agencies, *when requested to do so by Member Governments*". The intention of the Assembly to limit the eligibility to Member States was made clear by the substitution of the expression "Member Governments" for the expression "Governments participating in the work of the United Nations" in the draft resolution which became resolution 200 (III).

6. At its fifth session, ECAFE adopted, on 29 October 1949, a resolution entitled "Technical assistance for certain associate member countries", which read as follows: <sup>4</sup>

<sup>4</sup> It is to be noted that on the same day, ECAFE adopted another resolution entitled "Technical assistance" (see *Official Records of the Economic and Social Council, Eleventh session, Supplement No. 8*, pp. 45-46) in which the Commission

"...  
"Recommends to the governments of the region:  
"(1) That they make full use of the facilities to be made available under resolution 200 (III) with respect to the different services offered under this resolution;  
"..."  
"Requests the Secretariat:  
"..."

*“The Economic Commission for Asia and the Far East,*

*“Having considered at its fifth session the position of the countries of the region in relation to the technical assistance programme of the United Nations initiated in resolution 200 (III) of the General Assembly,*

*“Taking note that, under paragraph 3 of the above resolution, the technical assistance programme is limited to Member Nations of the United Nations,*

*“Considering that this state of affairs is not in accordance with the spirit of the United Nations programme of technical assistance to under-developed countries,*

*“Resolves that the Economic and Social Council be requested to draw the attention of the General Assembly to the need for technical assistance in certain associate member countries of the Commission which are nations responsible for their own international relations;*

*“Recommends that the needs of such countries be represented to the General Assembly with a view to its considering the desirability of making an exception to the limitations set forth in resolution 200 (III), such exception to apply to those countries or regions which hold associate membership in a regional economic commission;*

*“Requests the Secretary-General to bring this resolution to the notice of the General Assembly with a view to having it considered, if possible, at the current session of the General Assembly.”<sup>5</sup>*

7. During the fourth session of the General Assembly (1949) the Philippine representative submitted to the Second Committee a draft resolution on this subject which was ruled out of order as the Committee had completed its work on the item dealing with economic development and technical assistance.<sup>6</sup>

8. At the tenth session of the Economic and Social Council (7 February-6 March 1950), the representative of Chile submitted a draft resolution<sup>7</sup> recommending that the General Assembly should take account of the fact that several self-governing countries which participated as associate members in the work of regional economic commissions were not then eligible to receive technical assistance from the United Nations under Assembly resolution 200 (III). The draft resolution therefore further recommended that the Assembly should decide to amend the first clause of paragraph 3 of resolution 200 (III) by inserting after the words “Member Governments” the words “and any non-member country which is responsible for its international relations and participates as an associate member in the work of any of the regional economic commissions of the United Nations”. This draft resolution, which was similar to the earlier proposal made by the Philippines, was referred to the eleventh session of the Economic and Social Council. In view of the fact, however, that the non-members concerned had meanwhile become eligible for similar technical assistance under the Expanded Programme by virtue of their membership in one or more of the specialized agencies participating in the Expanded Programme, the draft resolution was with-

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*“(b) to make available its facilities to assist the governments of the member and associate member countries to prepare their technical assistance projects and schemes;*

*“Requests the Economic and Social Council:*

*“(a) To consider in what ways the Commission and the secretariat may with advantage participate in the specific aspects of the technical assistance programme under the administration of the Secretary-General of the United Nations, in such ways as receiving and forwarding applications for assistance if governments so desire, and in being associated in any appropriate manner with such arrangements as may be made by the Secretary-General for the provision of assistance, and in any other suitable ways.*

*“...”*

<sup>5</sup> See *Official Records of the Economic and Social Council, Eleventh Session, Supplement No. 8*, pp. 43-44.

<sup>6</sup> *Ibid.*, *Tenth Session, Annexes*, agenda item 9, document E/1576, para. 66.

<sup>7</sup> E/AC.6/L.1.



drawn. Some representatives nevertheless took the opportunity to point out that they would have supported the draft resolution, and indicated that they might re-open the issue in the future should the circumstances require it.<sup>8</sup>

9. On the recommendation of the Economic and Social Council, as contained in its resolution 291 (XI) of 15 August 1950, the General Assembly adopted resolution 399 (V) of 20 November 1950 recommending “that the requests for technical assistance for economic development received by the Secretary-General in accordance with resolution 200 (III) which cannot be financed with funds provided on the regular budget of the United Nations, should be eligible for financing from the special account for technical assistance for economic development established in accordance with General Assembly resolution 304 (IV)<sup>9</sup> and with the actions of the Technical Assistance Conference convened by the Secretary-General under the terms of Economic and Social Council resolution 222 A (IX)”.

10. On 15 December 1960, the General Assembly adopted resolution 1527 (XVI) entitled “Assistance to former Trust Territories and other newly independent States”. In this resolution the Assembly

“... ”

“2. *Notes with satisfaction* the proposals of the Secretary-General, contained in the report of 22 November 1960, for increased assistance to these States from the regular budget of the United Nations;

“... ”

“4. *Invites* the Economic and Social Council to encourage and facilitate the provision through the appropriate international organs—including the United Nations programmes of technical co-operation, the Expanded Programme of Technical Assistance and the Special Fund—in co-operation with and, wherever appropriate, through the Economic Commission for Africa and other regional economic commissions, of assistance requested by Governments for:

“... ”

“(c) The establishment, where economic development programmes do not yet exist, of advisory groups of experts to assist in the preparation of economic development programmes and the determination of investment requirements and priorities, and to render other advisory services as may be required;

“... ”

11. In 1963, after Western Samoa became independent and joined ECAFE as a member but did not become a member of the United Nations, the question arose as to whether it was eligible for technical assistance under Assembly resolution 200 (III). In June 1963 the Commissioner for Technical Assistance made the following statement to the Technical Assistance Committee (E/TAC/L.302, pp. 9-10):

“As regards the operation of the programme, there is also a matter relating to the subject of eligibility for assistance under General Assembly resolution 200 (III) on technical assistance for economic development to which reference should be made. This question of eligibility does not arise in the cases of General Assembly resolutions 418 (V) on social welfare and 723 (VIII) on public administration, nor does it apply to the Expanded Programme. As the Committee is aware, the relevant provisions of General Assembly resolution 200 (III) are to the effect that assistance is to be provided by the Secretary-General at the request of Member Governments. In cases, however, where requests for assistance under the resolution are

<sup>8</sup> See *Official Records of the General Assembly, Fifth Session, Supplement No. 3*, p. 21.

<sup>9</sup> This resolution, entitled “Expanded programme of technical assistance for economic development of under-developed countries” and adopted by the Assembly on 16 November 1949, authorized the Secretary-General to set up a special account for technical assistance for economic development, to be available to those organizations which participated in the expanded programme of technical assistance and which accept the observations and guiding principles set out by the Economic and

Social Council and the arrangements made by the Council for the administration of the programme. received from non-member States which were formerly trust territories, but which participate in the work of the United Nations through membership in the regional economic commissions, there seem to be strong grounds for considering such States as eligible, particularly in the light of General Assembly resolution 1527 (XV), and the ECAFE resolution (E/CN.11/231), adopted at its fifth session, which *inter alia* requested the Secretariat to make available its facilities to assist the Governments of the member and associate member countries to prepare their technical assistance projects and schemes. I am presenting this proposed interpretation as a reasonable course of action with which I trust the Committee will agree, so that the Secretariat may receive and activate requests under General Assembly resolution 200 (III) when made by non-member States which were formerly trust territories and are members of a regional economic commission.”

In its report, the Committee stated that, in commenting upon the proposal of the Commissioner for Technical Assistance, a number of members of the Committee agreed that the interpretation should be made.<sup>10</sup> Consequently the scope of application of resolution 200 (III) was extended to include non-member States which were former trust territories which participated in the work of the United Nations through membership of the regional economic commissions.<sup>11</sup>

(2) *General Assembly resolution 418 (V) on advisory social welfare services*

12. By resolution 58 (X) of 14 December 1946, entitled “Transfer to the United Nations of the advisory social functions of UNRRA”, the Assembly covered both Members and

<sup>10</sup> Document E/TAC/L.302, pp. 9-10.

<sup>11</sup> *Official Records of the Economic and Social Council, Thirty-sixth Session, Annexes*, agenda item 14, document E/3783, paragraph 49. Although it is not clear whether a former trust territory which attained independence but did not become a member either of the United Nations or of a regional economic commission is eligible for technical assistance under resolution 200 (III), the General Assembly, prior to the adoption of resolution 1527 (XV), had before it a report by the Secretary-General on the opportunities for international co-operation on behalf of newly independent countries, which referred to the distribution of additional resources among the areas governed by Assembly resolutions 200 (III), 418 (V), 723 (VIII) and 1256 (XIII). The Secretary-General, however, stated that, while it was not possible at that stage to formulate a definite and fixed programme for the rapidly evolving needs of the newly independent countries over the next budgetary year, a necessary flexibility in the apportionment of new funds among the four resolutions with transferability of the funds as among the budget sections involved should be provided (*Official Records of the General Assembly, Fifteenth Session, Annexes*, agenda items 28, 30, 31 and 32, document A/4585, paragraph 24). Before the adoption of the Assembly resolution, the Economic and Social Council had also adopted a resolution on opportunities for international co-operation on behalf of newly independent countries (resolution 768 (XXX) of 21 July 1960). In that resolution, the Council requested certain organs concerned to prepare detailed programmes to meet the additional needs of newly independent and emerging States and recommended that the General Assembly make appropriate provision for those purposes in the budget of the United Nations.

Thus the proceedings of the United Nations organs indicate that in the early period non-members were excluded from the application of Assembly resolution 200 (III), although efforts to link up membership and associate membership in regional economic commissions with eligibility under that resolution had been made, but abandoned in view of the establishment of the Expanded Programme of Technical Assistance (see paras. 5 to 8 above). Even at the time of the adoption of resolution 1527 (XV) it was not envisaged that a trust territory would not become a Member of the United Nations after its attainment of independence. It was only when the case of Western Samoa arose that it became necessary to extend the application of Assembly resolution 200 (III) by interpretation. Even then, since Western Samoa had joined ECAFE as a member, the interpretation as given by the Commissioner for Technical Assistance, had included membership in regional economic commissions as a condition for eligibility for technical assistance under the said resolution. It would seem that the possibility of a trust territory not joining the United Nations or one of the regional economic commissions after independence was not foreseen in 1963. This situation may arise at the present time in connexion with Nauru. From a strictly legal point of view, the interpretation given by the Commissioner for Technical Assistance in 1963 is not applicable to Nauru, which has not yet become a member of ECAFE. However, as a matter of policy and in the spirit of Assembly resolution 1527 (XV), a more liberal interpretation would seem desirable should the need to assist Nauru arise.

certain non-members in referring to the “continuance of the urgent and important advisory functions in the field of social welfare carried on by UNRRA”, since the countries assisted by UNRRA included some which did not subsequently become Members of the United Nations. Under the terms of this resolution, the various services might be provided to “Governments which show the need for them”, except that furnishing “Technical publications” was limited to Member Governments. This limitation was, however, deleted in the subsequent revision of the resolution by resolution 418 (V) of 1 December 1950, in which all types of social welfare advisory services were made available to “Governments which showed the need for them”. Before the adoption of the latter resolution by the General Assembly, the Economic and Social Council had also adopted a resolution on “Continuance of advisory functions carried out by UNRRA in the field of social welfare” (resolution 43 (IV) of 29 March 1947), in which it was stated that in the consideration of applications “for advisory social welfare services that are submitted by countries formerly assisted by UNRRA”, the Secretary-General was to “make no distinction between those countries other than that of their need for such services”. In view of this historical background of Assembly resolution 418 (V), it may be said that countries formerly assisted by UNRRA which have not become Members of the United Nations, if any, are eligible for assistance under that resolution, the only condition being that their need for such services is manifest.

(3) *General Assembly resolutions 398 (V) on technical assistance for Libya after achievement of independence and 410 (V) on relief and rehabilitation of Korea*

13. On two occasions the General Assembly decided to make non-member States eligible for certain services to which, according to the provisions governing these services, they would not have been otherwise entitled. Thus, the General Assembly, by resolution 398 (V), declared Libya eligible to receive, at its request, technical assistance from the Expanded Programme after its independence had been achieved and before it became a Member of the United Nations or specialized agency participating in the Expanded Programme. Similarly, Korea, although not a Member of the United Nations nor a member of ECAFE at that time, became eligible for technical assistance services otherwise reserved to Member States. The eligibility of Korea was authorized by the General Assembly in its resolution 410 (V), by which the Assembly established UNKRA and recommended that the agency “make use of the advice and technical assistance of the United Nations”.

(4) *General Assembly resolutions 723 (VIII) on technical assistance in public administration, 926 (X) on advisory services in the field of human rights, and 1256 (XIII) on OPEX*

14. The terms of resolution 723 (VIII) on technical assistance in public administration do not specifically limit the benefits thereunder to Member States. Such benefits are authorized to Government “in general” by resolution 723 (VIII), and to “under-developed countries” by resolution 518 (VI), which deals with technical assistance under the regular programme, including technical assistance in public administration. Resolution 926 (X), concerning advisory services in human rights, in this context would seem to apply only to Member States, since the Assembly requested the Secretary-General to inform Member States of this new programme and of the procedures to be followed in obtaining assistance.<sup>12</sup>

15. In its resolution 1256 (XIII), concerning the provision of executive or operational personnel, the Assembly authorized the Secretary-General to submit technical assistance programmes with a view to:

“(a) Assisting Governments participating in these programmes, at their request, to secure on a temporary basis the services of well-qualified persons to perform duties of an executive or operational character as may be defined by the requesting Governments...”.

<sup>12</sup> The proceedings leading to the adoption of this resolution have not been examined.

The proceedings of the Second Committee show that the words “assisting Member Governments” contained in the original draft resolution were changed to read “assisting Governments” on the proposal of the representative of Tunisia, who explained that some of the countries he had in mind in co-sponsoring the draft resolution were not yet Members of the United Nations.<sup>13</sup> It is therefore clear that resolution 1256 (XIII) applies also to non-members participating in the technical assistance programmes.

#### *Concluding observations*

16. The foregoing survey indicates that even in the early days when technical assistance programmes were formulated, an effort was made to extend such assistance to non-member States. This is especially true in the case of Assembly resolution 200 (III). In the light of recent developments it may be said that except where the resolution concerned clearly limits the benefits of technical assistance to Member States, such benefits are extended either by the text of the resolution or by its interpretation to non-member States.

#### *b. Trust territories and non-self-governing territories*

17. Since the trust territories and non-self-governing territories are not responsible for their own international relations, technical assistance should be provided through their Administering Authorities. This is made clear in resolutions adopted by the Assembly. For instance, in its resolution 1412 (XIV) of 5 December 1959, on preparation and training of indigenous civil cadres in trust territories, the General Assembly drew the attention of the Administering Authorities to the facilities provided by the United Nations under the programmes of technical assistance and public administration for training in administration and related functions, and requested them to make fuller use of those facilities.

#### **Point (C)**

18. The attachment to the ECAFE secretariat of regional advisers under the regular programme of technical assistance does not change their legal status as technical assistance project personnel. As such their rights and obligations are governed by Staff Rules 200.1-212.7. In so far as their compensation is concerned, rule 206.4 (c) provides for the assumption by the United Nations of responsibility for the reimbursement of medical expenses incurred by project personnel either in the area of assignment or while on travel on official business, subject to certain limitations. Rule 206.4 (h) provides that “in the event of death, injury or illness attributable to the performance of official duties on behalf of the United Nations, project personnel (or their dependents in the event of the death of the project personnel) shall be entitled to compensation in accordance with the provisions of Appendix D to Staff Rules ...”. Article 2 of Appendix D to Staff Rules sets forth the principles of award of compensation for service-incurred injuries, as follows:

“(a) Compensation shall be awarded in the event of death, injury or illness of a staff member which is attributable to the performance of official duties on behalf of the United Nations, except that no compensation shall be awarded when such death, injury or illness has been occasioned by:

“(i) The wilful misconduct of any such staff member; or

“(ii) Any such staff member’s wilful intent to bring about the death, injury or illness of himself or another;

<sup>13</sup> *Official Record of the General Assembly, Thirteenth Session, Second Committee, 545th meeting, para. 2.*

“(b) Without restricting the generality of paragraph (a), death, injury or illness of a staff member shall be deemed to be attributable to the performance of official duties on behalf of the United Nations in the absence of any wilful misconduct or wilful intent when:

“(i) The death, injury or illness resulted as a natural incident of performing official duties on behalf of the United Nations; or

“(ii) The death, injury or illness was directly due to the presence of the staff member, in accordance with an assignment by the United Nations, in an area involving special hazards to the staff member’s health or security, and occurred as the result of such hazards; or

“(iii) The death, injury or illness occurred as a direct result of travelling by means of transportation furnished by or at the expense or direction of the United Nations in connexion with the performance of official duties; provided that the provisions of this sub-paragraph shall not extend to private motor vehicle transportation sanctioned or authorized by the United Nations solely on the request and for the convenience of the staff member; ...”.

19. Compensation should therefore be paid to regional advisers in accordance with the foregoing provisions. There is no distinction between injuries incurred on route to the country requesting the regional adviser’s services and those incurred while performing their duties in the country, so long as such injuries are attributable to the performance of their official duties on behalf of the United Nations.

20. As pointed out in paragraph 2 above, the attachment of regional advisers to the ECAFE secretariat is for the sake of administrative expediency. In some cases their job description indicates that they are under the supervision of the Executive Secretary of ECAFE or a senior official designated by him. Since the budget of ECAFE is separate from the budget for technical assistance, it is clear that ECAFE does not bear financial responsibility for those regional advisers, but merely acts as an agent of administration.

23 May 1968

6. UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT—PROCEDURES FOR THE SUSPENSION OF A MEMBER STATE FROM AN ORGAN OPEN TO GENERAL MEMBERSHIP—ARTICLE 5 OF THE CHARTER

*Statement submitted in response to a request made at the 1236th meeting of the Second Committee of the General Assembly*<sup>14</sup>

**I. Introduction**

(a) *Opinion requested*

1. At the 1236th meeting of the Second Committee, on 29 November 1968, the representative of Denmark stated:

“In connexion with the suspension of South Africa from UNCTAD, I had the impression, and I believed it was shared by other delegations, that legal and constitutional questions were involved, especially in relation to the articles of the Charter dealing with the rights of Member States. I would therefore ask the Secretariat if the Legal Counsel could make a statement to

<sup>14</sup> Document A/C.2/L.1030.

advise on the problem and have it circulated in writing preferably, so that when the Second Committee takes up the question, it will have all the relevant information needed to take a decision.”

The Chairman of the Second Committee asked the Secretariat to comply with this request.

2. The present paper is submitted in response to the foregoing.

(b) *Background to the question*

3. The United Nations Conference on Trade and Development was established by the General Assembly in its resolution 1995 (XIX) of 30 December 1964, section II, paragraph 1 of which provides in respect of membership:

“1. The members of the United Nations Conference on Trade and Development (hereinafter referred to as the Conference) shall be those States which are Members of the United Nations or members of the specialized agencies or of the International Atomic Energy Agency.”

4. The United Nations Conference on Trade and Development was therefore set up by the General Assembly, under Article 22 of the Charter, as a permanent organ encompassing all Members of the United Nations.

5. During the second session of the United Nations Conference on Trade and Development held in New Delhi from 1 February to 29 March 1968, the question was raised whether the Conference could consider a proposal to exclude South Africa from the Conference. A legal opinion was furnished to the Conference in which it was concluded, on the basis of the relevant resolutions of the General Assembly, that the Conference was not empowered to suspend or exclude any member from participation in the Conference.

6. The opinion noted further that:

“... special procedures for the suspension or expulsion of a Member State from the United Nations are laid down exclusively in Articles 5 and 6 of the Charter. Those articles do not contemplate that a United Nations conference, open to the general membership, may on its own initiative exclude any such Member from its deliberations.”

It further indicated that:

“At no point has the Assembly given any indication that any State member of the Conference was to be excluded from the second session. Had the Assembly wished to initiate action for this purpose, such exclusion would necessarily have to be a matter of express reference in a resolution...”

7. After the foregoing opinion had been delivered, no steps were taken to exclude South Africa from the second session of the Conference. However, on 27 March 1968, the Conference adopted its resolution 26 (II) entitled “Suspension of South Africa”. In the operative part of that resolution the Conference recommended that the General Assembly should amend its resolution 1995 (XIV) of 30 December 1964, section II, paragraph 1, to exclude South Africa from UNCTAD.

8. The Second Committee now has before it a draft resolution<sup>15</sup> entitled “Suspension of South Africa” which seeks to give effect to the above-mentioned recommendation. The operative paragraphs of this draft resolution read as follows:

“*The General Assembly,*

“... ”

“1. *Endorses* resolution 26 (II) of UNCTAD concerning the suspension of South Africa from UNCTAD;

<sup>15</sup> See *Official Records of the General Assembly, Twenty-third Session, Annexes*, agenda item 34, document A/C.2/L.1022 and Corr.1, Add.1 and Add.1/Corr.1.

“2. *Decides* that section II, paragraph 1, of General Assembly resolution 1995 (XIX) of 30 December 1964 should be amended as follows: ‘The members of UNCTAD shall be those States which are Members of the United Nations or members of the specialized agencies or of the International Atomic Energy Agency, with the exception of the Republic of South Africa until it shall have terminated its policy of racial discrimination and until that fact has been duly confirmed by the General Assembly’.”

## II. Examination of the question

### (a) *Definition of the issue*

9. It is understood that the opinion requested relates to the suspension of a Member State from a permanent subsidiary organ of the General Assembly whose membership encompasses all Members of the United Nations. This involves examination of whether the General Assembly acting alone has the authority under the Charter to suspend a Member State from such an organ and, if not, what terms and conditions must be met to carry out such suspension.

10. The General Assembly has the uncontested right, under Article 22 of the Charter, to create subsidiary organs of limited membership. However, this right is not relevant in the present context which refers expressly to suspension from an organ already established. Creation of a subsidiary organ of all the membership of the United Nations, less one or even a few such Members excluded as a sanction, would be tantamount to suspension.

### (b) *General considerations*

11. The Charter of the United Nations is a multilateral treaty, which established an organization aiming at universality. It also set up a legal order which defines, on the basis of the principle of sovereign equality (Article 2, paragraph 1), the rights and obligations of its Members. As in any other treaty, the rights and obligations of the parties may be legally varied only in accordance with the procedures laid down in the treaty. Thus, a State, on its admission to the Organization, is entitled to expect that its obligations will not be increased and its rights will not be curtailed except in the manner expressly laid down in the Charter.

12. The Charter is specific in matters relating to membership, which are dealt with in its Chapter II. Chapter II deals both with the qualifications and procedures for acquiring membership (Articles 3 and 4) and with the conditions and procedures under which rights of membership may be suspended or lost (Articles 5 and 6). Besides Articles 5 and 6, only one other article of the Charter provides for a sanction depriving a Member State of a certain right of membership. This is Article 19, under which a Member State “shall have no vote in the General Assembly” if the amount of its arrears in its financial contributions to the Organization “equals or exceeds the amount of the contributions due from it for the preceding two full years.”

13. Outside of the articles just mentioned, the Charter contains no other provision by which the benefits, rights and privileges of membership may be curtailed. For example, Article 2, paragraph 2, of the Charter contains no specific sanction. It provides that:

“All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfil in good faith the obligations assumed by them in accordance with the present Charter.”

Should a Member State fail to fulfil in good faith the obligations contained in the Charter, in the absence of a special sanction in Article 2, paragraph 2, the only procedures by which

it might be denied the rights and benefits of membership are those laid down in Articles 5 and 6 of the Charter.

14. Had the drafters of the Charter intended to curtail membership rights in a manner other than those provided for in Articles 5, 6 and 19 of the Charter, they would have so specified in the Charter. It may therefore be concluded that procedures to suspend a Member State from any of the benefits, rights and privileges of membership which do not follow those laid down in Article 5 are not consonant with the legal order established by the Charter. If notwithstanding this legal position, procedures outside Article 5 were to be followed, precedent would be created by the General Assembly which would be dangerous in that its consequences would be unpredictable.

(c) *Suspension of the rights and privileges of membership  
under the Charter*

15. Article 5 of the Charter lays down the following requirements for the suspension of a Member State from the rights and privileges of membership:

(a) Preventive or enforcement action has to be taken by the Security Council against the Member State concerned;

(b) The Security Council has to recommend to the General Assembly that the Member State concerned be suspended from the exercise of the rights and privileges of membership;

(c) The General Assembly has to act affirmatively on the foregoing recommendation by a two-thirds vote, in accordance with paragraph 2 of Article 18 of the Charter, which lists "the suspension of the rights and privileges of membership" as an "important question".

16. Article 5 speaks in general terms of "the rights and privileges of membership" (underlining added). It may, however, be envisaged that the Security Council could recommend that only certain, and not all, of these rights and privileges be suspended, under the principle that the greater includes the lesser.

17. Article 5 requires, *inter alia*, a recommendation of the Security Council before the Assembly may act to suspend certain rights and privileges. However, there is nothing in the Charter which would preclude the Assembly, if it so wished, from recommending to the Security Council, under Article 10 of the Charter, that it consider whether the conduct and policies of a Member State do not call for preventive or enforcement action and for the suspension of the rights and privileges of membership under Article 5. Alternatively, an amendment could be effected under Article 108 of the Charter providing new grounds and procedures for the suspension or expulsion of a Member State.

(d) *Precedents*

18. The case here under consideration is, of course, not the only occasion when the question has arisen of the suspension or exclusion of a Member State from a conference or organ of the United Nations or of the specialized agencies. It would be of interest, in the present context and on the basis of available information, to recall some of these other cases where action has been taken.

19. There appears to have been only one instance in the United Nations where Member States have been expelled or suspended from a permanent subsidiary organ. This was the Economic Commission for Africa, an organ of a regional character originally open to all States in the region concerned and to other States having non-self governing or trust



territories in the region. By its resolution 974 (XXXVI) D III of 24 July 1963, the Economic and Social Council decided:

“... ”

“(b) To expel Portugal from membership in the Economic Commission for Africa.”

By part IV of the same resolution, the Council also decided:

“... that the Republic of South Africa shall not take part in the work of the Economic Commission for Africa until the Council, on the recommendation of the Economic Commission for Africa, shall find that conditions for constructive co-operation have been restored by a change in its racial policy.”

20. Earlier, at its resumed thirty-fourth session, the Economic and Social Council had rejected proposals of the foregoing nature. At the thirty-sixth session, several new factors emerged. By that time, Portugal was the only non-African member of the Commission which had refused to accept the status of associate membership, all other non-African members having agreed to a change of their membership from full membership to associate membership; South Africa had also informed the Economic Commission for Africa, by a communication of 13 July 1963, that “... the Government has decided not to attend any ECA conferences in the future nor to participate in other activities of the Commission while the hostile attitude of the African States towards South Africa persists”. The factors just mentioned doubtless influenced the outcome and confused the constitutional issues involved. Nevertheless, it would appear that the majority of the members of the Council were of the view that, apparently under Article 68 of the Charter empowering the Council to create commissions, the Council had the authority to expel one Member State and to suspend another from one such commission. This decision does not, therefore, provide a precedent consonant with the views set forth in the present note. However, the action of the Economic and Social Council has not been followed as a precedent in certain other cases involving the specialized agencies of the United Nations.

21. In March 1964, the World Health Assembly, acting under article 7 of its Constitution, which permits the suspension of voting privileges in “exceptional circumstances”,<sup>17</sup> decided to suspend South Africa’s voting rights. Subsequently, in 1965, the World Health Assembly adopted an amendment to its constitution which would permit the Assembly to suspend or exclude from WHO any Member State if it “ignores the humanitarian principles and objectives laid down in the constitution, by deliberately practising a policy of racial discrimination...”. In this case, therefore, the World Health Assembly considered it necessary to adopt a constitutional amendment before suspending or excluding a member from WHO.

22. Likewise, in July 1964, the International Labour Organisation adopted constitutional amendments<sup>18</sup> empowering the International Labour Conference to expel or suspend from membership any member which had been expelled or suspended from membership in the United Nations, or to suspend from participation any member which had been found by the United Nations to be flagrantly and persistently pursuing by its legislation a declared policy of racial discrimination. In this case also, constitutional amendments were considered necessary before action to suspend or exclude a member from the International Labour Conference was taken.

23. In addition to the foregoing, there are precedents both ways in relation to Conferences convened by the specialized agencies. In 1964, at the twenty-seventh International Conference on Public Education, sponsored by UNESCO and the International Bureau of

<sup>17</sup> United Nations, *Treaty Series*, vol. 14, p. 189.

<sup>18</sup> International Labour Organisation, *Official Bulletin*, vol. XLVII, No. 3, Supplement I, July 1964, pp. 8-10.

Education (IBE), a resolution excluding Portugal was adopted. In view of this decision the secretariat provided by UNESCO and by IBE was withdrawn. Similarly, at the African Low Frequency/Medium Frequency Conference, sponsored by ITU in October 1964, the secretariat of ITU was withdrawn after a decision had been taken to exclude South Africa and Portugal. In other instances, the secretariats have not been withdrawn. Examples of this nature may be found in the Congress of the Universal Postal Union in 1964, where South Africa was excluded by simple majority vote, and at the ITU Plenipotentiary Conference in 1965, where South Africa was likewise excluded by majority vote. The Congresses of the UPU and Plenipotentiary Conferences of the ITU are the principal plenary organs of these two specialized agencies. The Universal Postal Convention in force at the relevant time<sup>19</sup> provided, in article 11, that:

“1. Delegates of the Countries of the Union meet in Congress not later than five years after the date of the entry into force of the acts of the preceding Congress...

“2. Each Country arranges for its representation at Congress by one or more plenipotentiary delegates...”

The International Telecommunication Convention in force in 1965 provided, in article 2, paragraph 1, that:

“All Members shall be entitled to participate in conferences of the Union and shall be eligible for election to any of its organs.”<sup>20</sup>

Neither Convention contained any provision on the suspension or expulsion of members from a UPU Congress or an ITU Plenipotentiary Conference.

24. The above-mentioned examples serve to indicate that the precedents are to some extent conflicting. No clear guidance emerges from them. It is submitted, however, that from the legal point of view the persuasive ones are those where constitutional forms have been followed, even to the extent of the adoption of constitutional amendments.

### III. Conclusions

25. From the foregoing survey of the relevant legal considerations it is concluded that:

(a) Procedures for the suspension of a Member State from an organ open to the general membership are laid down exclusively in Article 5 of the Charter, which permits suspension only through joint action by both the Security Council and the General Assembly.

(b) Any other procedure to suspend a Member State from an organ open to the general membership would not be in accordance with the provisions of the Charter, not with the right of every Member State to expect that its obligations will not be increased and its rights will not be curtailed except in the manner expressly laid down in the Charter.

(c) The General Assembly, acting under Article 10 of the Charter, is free to recommend to the Security Council that it consider whether the conduct and policies of a Member State do not call for preventive or enforcement action and for the suspension of the rights and privileges of membership under Article 5 of the Charter.

(d) Alternatively, an amendment can be effected under Article 108 of the Charter, providing new grounds and procedures for the suspension or expulsion of Member States.

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<sup>19</sup> United Nations, *Treaty Series*, vol. 364, p. 3.

<sup>20</sup> International Telecommunication Convention (Geneva, 1959).

7. COMMODITY CONFERENCES—QUESTION OF THE RECONCILIATION OF UNITED NATIONS RULES CONCERNING PARTICIPATION IN SUCH CONFERENCES AND THE INSTITUTIONAL ARRANGEMENTS OF THE EUROPEAN ECONOMIC COMMUNITY GOVERNING THE NEGOTIATION OF AGREEMENTS

*Opinion prepared for the United Nations Sugar Conference, 1968*<sup>21</sup>

1. I understand that the 1965 Sugar Conference was convened by the United Nations Trade and Development Board acting on the advice of the Interim Co-ordinating Committee for International Commodity Arrangements and upon the recommendation of its Committee on Commodities. Invitations were extended to the States members of UNCTAD, and the European Economic Community sought and was afforded permission by the Executive Committee of the 1965 Conference to participate in the work of the Executive Committee on certain agenda items in a consultative capacity. I also understand that the 1968 Conference continues the work of the 1965 Conference convened by the Trade and Development Board.

2. Invitations to participate in the 1968 Conference were addressed by the Secretary-General of UNCTAD on behalf of the Secretary-General of the United Nations to the States Members of UNCTAD and to certain specialized agencies. The Secretary-General of UNCTAD on behalf of the Secretary-General of the United Nations also notified the European Economic Community of the convening of the 1968 Conference and, after referring to the participation of the Community in the 1965 Conference in a consultative capacity, stated: "It is for the Conference to decide to invite your organization to participate in the 1968 Conference but I am sure that such participation would be welcome. I intend to draw the attention of the Chairman of the Conference to the matter so that the Executive Committee may take a decision thereon at its first meeting." (See TDO/256/SUGAR 2 of 1 February 1968).

3. At the plenary meeting of the Conference on Saturday 27 April 1968, the representative of France proposed that "pending clarification of the legal issues involved, the members of the European Economic Community are provisionally authorized to use a common representation for the States Member and the Community to express the collective position of the Community on matters relating to sugar, it being understood that the right to vote in the Conference may only be exercised individually by the States members of the Community and that the Community itself will have no vote." Several delegations stated that the problem raised in the proposal went beyond the terms of reference of the Sugar Conference and that it was not of a procedural character, but touched upon the Charter of the United Nations; these delegations therefore opposed the proposal. The Conference adopted without objection a ruling of the President to the effect that "based on the views that have been expressed in consultations and in meetings, it is the opinion of the majority of delegations that we should provisionally accept the request of the representative of France in the interest of proceeding with the work of the Conference"

4. The 1968 Sugar Conference is faced with the problem as to the scope of the Community's participation in its work. The extent of the participation which the Conference may afford to the Community has to be decided within the framework of the Charter of the United Nations, which envisages the United Nations as an organization of States, and of the principles of UNCTAD constituent instrument—General Assembly resolution 1995 (XIX)—which in certain circumstances contemplates the participation without vote of bodies other than Member States in UNCTAD deliberations.

<sup>21</sup> Document TD/SUGAR. 7/4 and Corr.1-3.

5. The particular case of the European Economic Community presents the following novel and, for the time being, unique constitutional feature which it may be in the interest of a commodity conference to recognize in order to further its purposes: the Community, which has single legal personality, functions through four institutions, one of them being the Commission. Under Article 228 of the Treaty of Rome,<sup>22</sup> the Commission is the institution afforded the exclusive right and power to *negotiate* (italics added) certain agreements between the Community and other States. The six individual States members of the Community are obliged to recognize the exclusive right of the Commission to negotiate an agreement such as is contemplated by the 1968 Sugar Conference.

6. To enable the six States members of the Community who are required to follow a common agriculture policy to comply with their obligations under the Treaty, and to facilitate their participation in a conference in which negotiations of a commercial nature seem to be an important element, a recognition of the fact that Member States of the Community are bound by the Treaty to present a common European Economic Community view on matters relating to sugar through representatives of one of its institutions, namely the Commission, may commend itself to the Conference. If so, such recognition could be achieved if the representative of the Community were given a position, somewhat different from that of a mere observer but less than that of a State having full rights of participation, which would enable him to take part in negotiations. The Conference could invite the Community to participate in the Conference without vote, and permit the representative of its Commission to act as spokesman for the Community on matters relating to sugar. Such an arrangement would not limit in any way the functions of the States members of the Community participating in the Conference. I believe this procedure could be employed in a commodity conference without infringing upon the United Nations requirements outlined in paragraph 4 above while at the same time satisfying the Community's institutional arrangements.

7. If the Conference adopts this course, the title of Chapter X of the rules of procedure could be amended as follows: "Participation without the right to vote", and the beginning of rule 52 as follows: "Representatives of Economic Communities having obligatory institutional arrangements governing the negotiation of agreements...".

8. With regard to seating arrangements, in view of the special consultative status envisaged, representatives of the Community could be seated separately from, but adjacent to, delegations of States, and in any case not in the area allotted to observers and specialized agencies. For the same reason, with regard to the listing of participants in the Conference, the European Economic Community could be listed separately by name immediately after the States, and before other participant bodies with observer status and the specialized agencies.

24 May 1968

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8. QUESTION WHETHER A STATE WHICH HAS CEASED TO BE A MEMBER OF A FUNCTIONAL COMMISSION OF THE ECONOMIC AND SOCIAL COUNCIL MAY CONTINUE TO SERVE AS MEMBER OF A COMMITTEE OF THE COMMISSION<sup>23</sup>

*Memorandum to the Director of the Division of Human Rights*

1. You have asked what consequences the termination of membership in the Commission on Human Rights of Iraq and Costa Rica would have on their respective member-

<sup>22</sup> United Nations, *Treaty Series*, vol. 298.

<sup>23</sup> See also *Juridical Yearbook*, 1963, p. 170.

ship in the *Ad Hoc* Study Group on Regional Commissions on Human Rights and in the *Ad Hoc* Committee on Periodic Reports.

2. An examination of the rules of procedure of the functional commissions indicates that under rule 20 membership in a committee is expected to be conterminant with membership in the Commission. Rule 20 states: "At each session, the Commission, in consultation with the Secretary-General may set up such committees as are deemed necessary and refer to them any questions on the agenda for study and report. Such committees, composed of members of the Commission may, in agreement with the Secretary-General, be authorized to sit while the Commission is not in session".

3. This seems to have been the general assumption both of the Commission on Human Rights when it decided, by resolution 6 (XXIII), "to set up an *Ad Hoc* Study Group [on Regional Commissions on Human Rights] of eleven of its members, bearing in mind equitable geographical distribution", and of the Economic and Social Council when it requested the Commission on Human Rights, by resolution 1074 C (XXXIX), "to establish an *ad hoc* committee [on periodic reports] composed of persons chosen from its members ...".

4. In the light of the above, there would seem to be no doubt that membership of committees of the Commission on Human Rights is limited to members of the Commission. This conclusion is also supported by practice. For example, when members of the Commission were elected during the twelfth session of the Commission to the Committee to study the right of everyone to be free from arbitrary arrest, detention and exile, it was expressly stated that members whose terms on the Commission expired would have to be replaced.<sup>24</sup> At the thirteenth session, the term of office of two members—Pakistan and Chile—of the Committee had expired on the Commission: the Commission elected two new members—Argentina and Ceylon—as members of the Committee to replace Chile and Pakistan on the basis that they had ceased to be members on the expiry of their term of office on the Commission.<sup>25</sup> On this occasion the advice of the Office of Legal Affairs had been sought, on what effect the expiration of the term of office of Chile and Pakistan on the Commission would have on their membership in the Committee on the Right of Everyone to be Free from Arbitrary Arrest, Detention and Exile. This Office, in an opinion dated 7 February 1957, concluded that the cessation of membership in the Commission terminated membership in the Committee.

5. In another instance, at the 889th meeting of the Commission, it was pointed out that the terms of office on the Commission of two States that were also members of the *Ad Hoc* Committee on Periodic Reports were due to expire. In conformity with the general principle that cessation of membership in the Commission had the effect of terminating membership in a Committee, the Chairman was authorized by the Commission to appoint, if necessary, two members to the *Ad Hoc* Committee so as to fill any vacancies which might arise following the election, by the Economic and Social Council, of members to the Commission.<sup>26</sup> The authorization given to the Chairman at the 889th meeting to appoint two members of the *Ad Hoc* Committee was specifically given with respect to possible vacancies at the end of 1966 and cannot be interpreted to mean that the Chairman of the Commission has authority to make appointments to the *Ad Hoc* Committee whenever a vacancy occurs. It therefore does not give authority to the Chairman to appoint a member at the end of 1967 to replace Costa Rica on the *Ad Hoc* Committee on Periodic Reports.

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<sup>24</sup> *Official Records of the Economic and Social Council, Thirty-second Session, Supplement No. 3 (E/2844)*, para. 65.

<sup>25</sup> *Ibid.*, *Twenty-fourth Session, Supplement No. 4 (E/2970/Rev.1)*, para. 121.

<sup>26</sup> *Ibid.*, *Forty-first Session, Supplement No. 8 (E/4184)*, para. 466.

6. It is our conclusion, therefore, that, since the term of office of Costa Rica as a member of the Commission on Human Rights expired at the end of 1967, this cessation of membership in the Commission is followed by termination of membership in the *Ad Hoc* Committee. Similarly the membership of Iraq in the *Ad Hoc* Study Group is terminated with the termination of its membership in the parent body, i.e. the Commission. However, both the Committee and the Study Group could, if they so desired, invite the States whose membership has come to an end to participate in their work by application, *mutatis mutandis*, of rule 72 of the rules of procedure of the functional commissions as was in fact done in 1957.

8 January 1968

9. QUESTION WHETHER THE SUB-COMMISSION ON THE PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES MAY INVITE STATES NOT MEMBERS OF THE UNITED NATIONS TO PARTICIPATE IN ITS PROCEEDINGS

*Memorandum to the Director of the Division of Human Rights*

1. Rule 71 of the rules of procedure of the functional commissions provides that those rules shall apply to the proceedings of sub-commissions and their subsidiary bodies in so far as they are applicable. Under rule 72, which was taken from rule 76 of the rules of procedure of the Economic and Social Council, a functional commission may invite States which are Members of the United Nations but are not represented on it to participate in its deliberations on matters which are of particular concern to them. There is no provision in that rule or in any other rule for participation of States that are not members of the United Nations.

2. Although the Economic and Social Council has, on a number of occasions, invited non-member States to participate in its proceedings, such practice does not automatically apply to the functional commissions. In the first place, the powers and composition of the commissions are defined by the Council (see Council rule 71); secondly, the rules of procedure of the functional commissions and their subsidiary bodies are drawn up by the Council (Council rule 74), and amendments thereto can be made only by the Council (rule 77 of the rules of procedure of the functional commissions). Consequently, the power of the functional commission or its subsidiary bodies to deal with the procedural question of participation is limited in the context of those provisions.

3. There is no practice indicating the competence of a functional commission or its sub-commissions, in the absence of prior authorization from the Economic and Social Council, to invite non-member States to participate in their deliberations. When a non-member State has been invited, it has been only with such prior authorization by the Council. Thus the Commission on Narcotic Drugs was "authorized by the Council to appoint in a consultative capacity, and without the right to vote, representatives of bodies created under the terms of international conventions on narcotic drugs" (Economic and Social Council resolution I/9 of 16 February 1946). It is under this provision that the Commission had invited States not members of the United Nations but parties to one of the conventions on narcotic drugs to participate in its deliberations. The only other functional commission which has extended such invitations was the Commission on International Commodity Trade. In establishing this Commission, the Economic and Social Council, in resolution 557 F (XVIII), paragraph 3 (b), laid down certain principles to guide its work. One of those principles stated that "any Member State not represented

on the Commission may participate in the Commission's debates on problems in which it has a direct concern; similarly, the Commission, *subject to prior authorization by the Council*, may invite States which are not members of the United Nations to take part in its discussions when their presence appears advisable for further clarification on the problem under study" (italics added). When that Commission was subsequently reconstituted, it was the Council which invited to the first session of the reconstituted Commission "States Members of the United Nations or members of specialized agencies directly interested in commodity problems..." (Economic and Social Council resolution 691 B (XXVI)).

4. Apart from the question of participation in deliberations discussed in the preceding paragraphs, there is also the question whether a commission or sub-commission can invite any individual from whom it may wish to obtain information to make a statement on a matter under consideration by that body. While only the Security Council has a specific rule on this point, practice in other organs indicates that a decision on this question is within the competence of the organ itself.

16 October 1968

10. INTERNATIONAL CONFERENCE ON HUMAN RIGHTS—QUESTION WHETHER A STATE INVITED TO PARTICIPATE IN THE CONFERENCE BY THE GENERAL ASSEMBLY MAY BE EXCLUDED FROM PARTICIPATION BY THE CONFERENCE ITSELF ON THE BASIS OF ASSEMBLY RESOLUTIONS CALLING UPON MEMBER STATES TO TAKE VARIOUS MEASURES AGAINST THAT STATE—QUESTION WHETHER THE CONFERENCE MAY INVITE STATES OTHER THAN THOSE REFERRED TO IN THE CONVENING RESOLUTION

*Memorandum to the Director, Division of Human Rights*

1. Where the convening resolution adopted by the competent organ of the United Nations contains a provision designating the States or categories of States to be invited to a conference, such provision determines the composition of the conference. Neither the Secretariat nor the conference itself is competent to invite any other State to participate in the conference or to exclude from the conference any State which has been invited pursuant to the resolution. This conclusion is firmly based on the legal interpretation of the pertinent provisions of such convening resolutions and on well-established practice. Thus, a determination of the States entitled to participate in the International Conference on Human Rights is exclusively within the competence of the General Assembly.

2. In operative paragraph 3 of its resolution 2217 C (XXI) adopted on 19 December 1966, the General Assembly, which had previously decided that an International Conference on Human Rights should be convened, invited

"States Members of the United Nations, States members of the specialized Agencies, States Parties to the Statute of the International Court of Justice and States that the General Assembly decides specially to invite, to participate in the Conference and to include among their representatives eminent persons whose qualifications in the field of human rights would enable them to make a valuable contribution to the work of the Conference."

(a) *Question of the exclusion from the Conference of States referred to in the above-quoted provision of the resolution*

3. A State included in this paragraph of resolution 2217 C (XXI) is entitled to be invited to and participate in the Conference. There is no provision in that resolution, or in any other resolution, by which the Conference may act to suspend or exclude any

State from participation in the Conference. It follows, therefore, that the Conference has not been given the competence to exclude such invited States from participation.

4. In the case of South Africa or Portugal, the question remains to be considered whether the foregoing matter of principle is in any way affected by the resolutions of the General Assembly calling upon States, either individually or collectively, to take various measures to bring about the abandonment by South Africa of its policies of *apartheid* or by Portugal of its colonial policy. Many of those resolutions were adopted prior to the adoption of resolution 2217 C (XXI) and it is obvious that these did not have in mind the question of participation of South Africa or Portugal in the Conference on Human Rights. This may be confirmed by reference to the fact that when it adopted resolution 2217 C (XXI), the General Assembly, being aware of its previous resolutions on South Africa or Portugal, did not envisage the question of their exclusion from participation in the Conference. So far as resolutions regarding South Africa or Portugal subsequent to the adoption of the said resolution are concerned, for example resolution 2307 (XXII) of 13 December 1967, it should be observed that the Assembly did not link those resolutions with the participation in conferences convened by the United Nations. Nor did it take any action to exclude them in its latest resolution—resolution 2339 (XXII) of 18 December 1967—in which it dealt in some detail with modalities and procedures for the Conference.

(b) *Question of participation of States not referred to  
in General Assembly resolution 2217 C (XXI)*

5. In accordance with both the legal interpretation of the convening resolutions and United Nations practice as stated in paragraph 1 above, the Conference on Human Rights is not competent to invite States other than those referred to in resolution 2217 C (XXI). It may also be noted that, although the said resolution includes as an additional category “States that the General Assembly decides specially to invite”, no State other than those which are Members of the United Nations or members of the specialized agencies, or Parties to the Statute of the International Court of Justice, has in fact been so invited by the Assembly.

6. Another question to be considered is whether “States” other than those designated in the convening resolution may be invited or permitted to take part in the Conference in some other capacity. The practice shows that specialized agencies and other inter-governmental organizations, as well as non-governmental organizations, have been invited to send observers to attend international conferences convened by the United Nations. With respect to the International Conference on Human Rights, the General Assembly in resolution 2217 C (XXI) invited the competent specialized agencies to send observers. By resolution 2339 (XXII) of 18 December 1967 (paragraphs 9, 10 and 11), it invited (or provided the modalities to invite) certain other inter-governmental organizations and non-governmental organizations to send observers to the Conference. No provision was made, however, for inviting any “State” that may not have been invited “to participate” to send observers.

12 April 1968



11. QUESTION WHETHER THE SPECIAL COMMITTEE ON THE SITUATION WITH REGARD TO THE IMPLEMENTATION OF THE DECLARATION ON THE GRANTING OF INDEPENDENCE TO COLONIAL COUNTRIES AND PEOPLES COULD EXAMINE THE CONDITIONS IN A TERRITORY BEFORE THE DECISION OF THE SPECIAL COMMITTEE TO INCLUDE THAT TERRITORY IN THE LIST OF TERRITORIES TO WHICH THE DECLARATION APPLIES WAS APPROVED BY THE GENERAL ASSEMBLY

*Memorandum to the Secretary of the Special Committee*

1. Paragraph 5 of the Declaration on the Granting of Independence to Colonial Countries and Peoples states that:

“Immediate steps shall be taken, in Trust and Non-Self-Governing Territories or all other territories which have not yet attained independence, to transfer all powers to the peoples of those territories, without any conditions or reservations, in accordance with their freely expressed will and desire, without any distinction as to race, creed or colour, in order to enable them to enjoy complete independence and freedom.”

2. The Special Committee established by General Assembly resolution 1654 (XVI) and 1810 (XVIII) was invited by the Assembly to submit a full report containing its suggestions and recommendations on all territories mentioned in paragraph 5 of the Declaration.

3. A preliminary list of territories to which the Declaration is applicable was established by the Special Committee in 1963 and included in its report to the Assembly. In its resolution 1956 (XVIII), the General Assembly, “taking into consideration the observations of the Special Committee regarding the list of Territories to be examined by it”, approved the report of the Special Committee. This preliminary list consisted of four categories of territories:

(a) Trust Territories;

(b) The Territory of South West Africa;

(c) Territories which have been declared by the General Assembly as Non-Self-Governing Territories within the meaning of Chapter XI of the Charter, but on which information is not transmitted under Article 73 e by the administering Powers concerned; and

(d) Non-Self-Governing Territories on which information is transmitted by the administering Powers concerned.

The third category has since then included Territories under Portuguese administration and Southern Rhodesia.

4. Since its establishment, the Special Committee has recommended only one additional territory, namely, French Somaliland (French Territory of the Afars and Issas), for inclusion in the list of territories to which the Declaration applies. In its 1965 report to the Assembly,<sup>27</sup> which contained the decision to include French Somaliland in the list, the Special Committee further stated that “subject to any directives the General Assembly at its twentieth session may wish to give for the speedy implementation of the Declaration, the Special Committee intends to continue its consideration of the question of the list of Territories to which the Declaration is applicable”. In its resolution 2105 (XX) of 20 December 1965, the General Assembly, “noting the action taken and envisaged by the Special Committee regarding the list of Territories to which the Declaration is applicable”, approved the decision taken by the Special Committee to include French Somaliland in the list of territories to which the Declaration is applicable. It was after this approval by the

<sup>27</sup> *Official Records of the General Assembly, Twentieth Session, Annexes*, addendum to agenda item 23, p. 9.

General Assembly that the Special Committee proceeded to examine conditions in French Somaliland in 1966.

5. In 1966 the Special Committee reported to the General Assembly that it would make a study of the question of the inclusion of Puerto Rico and the Comoro Archipelago in the list of territories to which the Declaration is applicable and also consider any other territories which might be included in the list of "all other territories which have not yet attained independence."<sup>28</sup> In its resolution 2189 (XXI) of 13 December 1966, the General Assembly approved "the action taken and envisaged by the Special Committee *for the year 1967* (italics added) with respect to the list of Territories to which the Declaration applies".

6. In 1967 the Special Committee reported that "subject to any directives that the General Assembly might give at its twenty-second session"<sup>29</sup> for the speedy implementation of the Declaration, consideration of the list of territories to which the Declaration is applicable should be continued during the next session of the Special Committee. In its resolution 2326 (XXII) of 16 December 1967, the General Assembly approved "the programme of work envisaged by the Special Committee *during 1968* (italics added) including ... the review of the list of Territories to which the Declaration applies."

7. The foregoing records have therefore clearly established the practice that the addition of a territory to the list of territories to which the Declaration applies is subject to the approval of the General Assembly before that territory can be examined by the Special Committee. This practice is sound from the legal point of view for the following reasons:

(1) The Assembly approves the report of the Special Committee regarding the list of territories to be examined by it, and the final decision on whether a specific additional territory should be included in this list rests with the Assembly.

(2) Neither in the initial establishment of the Special Committee nor in subsequent resolutions of the General Assembly which entrusted further functions to, or approved recommendations by, the Special Committee, was there any indication that the Assembly had delegated to the Special Committee the authority to make final decision on additional territories. On the contrary, the Assembly has retained its authority each year in referring to such territories.

8. It follows therefore that the Special Committee can examine conditions in a territory only after the Assembly has approved the inclusion that of territory in the list of territories to which the Declaration is applicable.

4 November 1968

12. PROCEDURE BY WHICH STATES MAY BECOME PARTIES TO TREATIES IN RESPECT OF WHICH THE SECRETARY-GENERAL PERFORMS DEPOSITORY FUNCTIONS—DECLARATION OF ACCEPTANCE OF THE COMPULSORY JURISDICTION OF THE INTERNATIONAL COURT OF JUSTICE IN ACCORDANCE WITH ARTICLE 36, PARAGRAPH 2, OF THE STATUTE OF THE COURT

*Letter to the Permanent Representative of a Member State*

I have the honour to refer to our recent conversation in which you asked me for a list of multilateral treaties in respect of which the Secretary-General performs depository func-

<sup>28</sup> *Ibid.*, *Twenty-first Session, Annexes*, addendum to agenda item 23, p. 30.

<sup>29</sup> *Ibid.*, *Twenty-second Session, Annexes*, addendum to agenda item 23, p. 37.

tions and to which your country has not yet become a party. You also inquired about the procedure whereby it may do so.

May I call your attention, in this regard, to the United Nations publication *Multilateral treaties in respect of which the Secretary-General performs depositary functions—List of signatures, ratifications, accessions, etc., as at 31 December 1967*.<sup>30</sup> This publication covers all multilateral treaties which have been concluded under the auspices of the United Nations or its specialized agencies and the original of which have been deposited with the Secretary-General, as well as certain League of Nations treaties and pre-United Nations treaties referred to in paragraphs 5 to 7 of the introduction to the said publication and in respect of which the Secretary-General performs depositary functions. The publication gives a list of States which have taken any action in respect of any of the treaties covered by it. A list of all treaties dealt with in the publication will be found on pages iii to xii thereof.

As a Member of the United Nations, your country is entitled to become a party to most of the treaties covered by the above-mentioned publication, except for those which have ceased to be in force and those which are either regional in scope or in which participation is otherwise restricted.

The procedure by which States may become parties to any of these treaties is set forth in the final clauses of each. Most of the United Nations treaties are open for signature either indefinitely or until a certain date, to be followed by ratification or, alternatively, for accession; others are open only for accession. (There are also some treaties which provide either for signature without reservation as to acceptance [definitive signature], or signature subject to acceptance followed by acceptance, or acceptance without a prior signature.)

Ratification, accession or acceptance are all acts by which a State established, on an international plane, its consent to be bound by a treaty. Such acts are carried out by deposit with the Secretary-General of a formal instrument of ratification, accession or acceptance, as the case may be. The consent of a State to be bound by a treaty may also be expressed by a signature alone, where a treaty—as mentioned above—provides that States may become parties by definitive signature. Otherwise, signature itself has no binding effect until it is followed by the deposit of an instrument of ratifications.

Thus, to those treaties which are open for signature indefinitely and are subject to ratification, the Government of your country may become a party by first signing a treaty and then depositing with the Secretary-General an instrument of ratification thereof, or alternatively may accede to it by depositing with him an instrument of accession. The originals of those treaties remain open for signature at the Headquarters of the United Nations and may be signed on behalf of the Government by its representative, duly authorized to that effect in full powers issued by the Head of the State or the Government or by the Minister for Foreign Affairs.

To those treaties which are no longer open for signature, the Government of your country may become a party by depositing an instrument of accession thereto with the Secretary-General.

In accordance with established international practice, an instrument of ratification, accession or acceptance, should be made in a formal document emanating either from the Head of State or the Government or from the Minister for Foreign Affairs and bearing the signature of one of those authorities. It should give the exact title of the treaty concerned and express the consent of the Government, acting on behalf of the State, to be bound by the treaty.

<sup>30</sup> United Nations publication, Sales No. : E.68.V.3.

Among the treaties which are open for your country to become a party to, there is only one to which, according to its provisions, States may become parties either by signature without reservation as to acceptance or by signature subject to acceptance, followed by acceptance, or by acceptance, namely, the Convention on the Inter-Governmental Maritime Consultative Organization, signed at Geneva on 6 March 1948.<sup>31</sup> Should your Government wish to become a party to this Convention by signature without reservation as to acceptance, it should so specify in the full powers authorizing its representative to sign the Convention.

Finally, I wish to call your attention to paragraph 2 of Article 36 of the Statute of the International Court of Justice under which your country may at any time declare that it recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes concerning: (a) the interpretation of a treaty; (b) any question of international law; (c) the existence of any fact which, if established, would constitute a breach of an international obligation; (d) the nature or extent of the reparation to be made for the breach of an international obligation. Such declaration may be made unconditionally or on condition of reciprocity on the part of several or certain States, or for a certain time and shall be deposited with the Secretary-General who transmits copies thereof to the parties to the Statute and to the Registrar of the Court.

I refer you in this regard to the publication mentioned in the second paragraph of this letter, where on page 9 you will find a list of States which have made such declarations, followed by the texts of the declarations.

6 March 1968

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### 13. INDEPENDENT AND EXCLUSIVE AUTHORITY OF THE COMMISSIONER-GENERAL OF UNRWA WITH REGARD TO THE APPOINTMENT, TRANSFER AND PROMOTION OF ITS STAFF

#### *Opinion of the General Counsel of UNRWA*

1. The question was raised as to the Agency's authority with regard to the appointment, promotion and transfer of its staff under the regulations and rules of the Agency, and its relationship in this respect to the host Governments.

2. The Agency is a subsidiary organ of the General Assembly and is therefore governed by the United Nations Charter; Agency staff are United Nations officials and the competence of the Agency in matters affecting its staff is governed by the principles which are applicable to the United Nations Organization as a whole.

3. It will be recalled that the first paragraph of Article 101 of the United Nations Charter provides as follows:

"The staff shall be appointed by the Secretary-General under regulations established by the General Assembly."

4. It will also be recalled that the staff employed by UNRWA for the fulfilment of the tasks entrusted to it by the General Assembly are appointed under the provisions of paragraph 9 (b) of General Assembly resolution 302 (IV), adopted on 8 December 1949, as staff members of a subsidiary organ of the United Nations, and thus of the United Nations itself. The text of paragraph 9 (b) of this resolution reads as follows:

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<sup>31</sup> United Nations, *Treaty Series*, vol. 289, p. 3.

“(b) The Director shall select and appoint his staff in accordance with general arrangements made in agreement with the Secretary-General, including such of the staff rules and regulations of the United Nations as the Director and the Secretary-General shall agree are applicable, and to the extent possible utilize the facilities and assistance of the Secretary-General;”.

5. The independent and exclusive authority of the Commissioner-General of UNRWA to appoint his staff is thus an integral part of his constitutional role as the chief executive officer of the Agency, and is based upon a long standing and well established principle embodied in the United Nations Charter itself, designed to assure the independent and truly international character of the staff of the United Nations.

6. This principle is further complemented by the requirement contained in Article 100 of the United Nations Charter concerning the independence of the United Nations officials. Paragraph 1 of this article, concerning the obligations of the Secretary-General and the staff, reads as follows:

“1. In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any government or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization.”

7. Moreover paragraph 2 of Article 100 of the United Nations Charter, which reads as follows, provides a corresponding duty on the part of governments to respect the exclusively international character of the staff:

“2. Each Member of the United Nations undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities.”

8. It necessarily follows from these provisions that the Commissioner-General of UNRWA is precluded from seeking or receiving instructions from any government or external authority in regard to the performance of his duties, including the duty of appointing staff, and also that the governments of all Member States are under a clear obligation to respect the international character of these duties, and not to seek to influence the Commissioner-General or his staff in the discharge of their responsibilities.

9. It is, of course, self-evident that the Commissioner-General of UNRWA needs and desires the fullest cooperation with Member States in the discharge of his responsibilities. Moreover he naturally appreciates assistance offered by governments in making available, or providing information on candidates for appointment to the staff of UNRWA, with a view to securing for the Agency the highest standards of efficiency, competence and integrity, as required in paragraph 3 of Article 101 of the United Nations Charter. Nevertheless, while welcoming such assistance in the form of offers of help or relevant information, the Commissioner-General must always reserve to himself the final decision on the basis of all the facts available to him.

10. It has been for the purpose of establishing such cooperation and sharing such information that the Agency has, in some areas, instituted “joint selection boards”, comprising representatives of both the host government and the Agency, which consider the qualifications of available candidates for certain categories of posts, and make recommendations to the Commissioner-General or his authorised representative.

11 June 1968

14. SCOPE AND EFFECT OF THE PRIVILEGES AND IMMUNITIES REQUIRED UNDER THE 1946 CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS FOR LOCALLY RECRUITED STAFF

*Memorandum from the General Counsel of UNRWA*

1. The purpose of this memorandum is to explain the privileges and immunities to which locally-recruited United Nations staff are entitled within the territory of a State party to the 1946 Convention. There are three points of particular importance which require emphasis before entering into the detailed discussion of particular privileges.

2. Firstly, and most important, none of the privileges or immunities are intended for the personal benefit or advantage of the individual concerned. As Section 20 of the Convention states:

“Privileges and immunities are granted to officials in the interests of the United Nations and not for the personal benefit of the individuals themselves. The Secretary-General shall have the right and the duty to waive the immunity of any official in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the United Nations. In the case of the Secretary-General, the Security Council shall have the right to waive immunity.”

The basic purpose of these privileges and immunities is to ensure the independence of the individual *in all that concerns his official acts*, for, as Article 100 of the United Nations Charter recognizes, it is imperative that, in the performance of official duties, a staff member be not subject to instructions or control by any government or authority external to the United Nations. Thus, Article 100 embodies not only obligations on the staff, but also obligations on every Member State. It will also be noted that Article 105, paragraph 2, is mandatory in providing that

“... officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization”.

It was this provision of the United Nations Charter which, together with paragraph 1 of the same article, the 1946 Convention was intended to implement.

3. Secondly, locally-recruited personnel of the Agency no less than internationally-recruited personnel are staff within the meaning of Article 101, paragraph 1, of the Charter. In accordance with General Assembly resolution 76 (I) of 7 December 1946, privileges and immunities under Section 18 of the Convention apply to all officials of the United Nations except those who are both locally-recruited and assigned to hourly rates. This is a decision of the General Assembly and as such neither the Secretary-General nor the Commissioner-General have authority to agree to any modification of this decision.

4. Thirdly, locally-recruited staff do not enjoy the same extent of privileges and immunities as do expatriate staff, recruited abroad. Several of the privileges and immunities mentioned in Section 18, Article V, of the Convention on the Privileges and Immunities of the United Nations are only relevant in the case of staff working outside their country of normal residence. Privileges which fall into this category include the repatriation facilities mentioned in paragraph (f) of Section 18, and the right to import furniture and effects free of duty when first taking up a post in the country in question, which is conferred by paragraph (g) of Section 18. The exchange facilities mentioned in paragraph (e) will usually fall into the same category, because, if an Agency official is normally resident and working in a host State prior to employment by UNRWA, it is not likely that circumstances will arise in which the transfer of funds, into or out of the host State will be regarded as an act related to his employment by UNRWA. The immunity from immigration restrictions and alien regis-

tration, which is mentioned in paragraph (d) of Section 18, is also concerned primarily with non-residents.

5. Thus, the categories of privileges and immunities directly relevant to locally-recruited staff are the following:

(a) *Immunity from legal process in respect of words spoken or written and all acts performed by them in their official capacity (Section 18(a))*

Paragraph (a) of Section 18, which confers immunity from legal process in respect of words spoken or written and all acts performed by officials in their official capacity, is the most important provision of that section. The United Nations has never agreed to any derogation from this provision. The extreme importance of this provision lies in the fact, that, when acting in their official capacity, the acts of the official are in effect the acts of the United Nations itself, and the nationality of the official is totally irrelevant. Without this immunity, officials would be liable to be sued or prosecuted for acts done in their official capacity; they would be liable to be forced to appear as witnesses in court to give evidence on official matters; they would be liable to arrest and interrogation by State authorities on matters arising out of their official duties. Removal of such protection would place officials in a situation where they could be subjected to external pressures and influence directly contrary to Article 100 of the Charter. It will also be apparent that subjection of staff to legal process could lead to the disclosure of matters which, within any civil service, are properly regarded as internal matters of a confidential nature. It could also lead to the circumvention of Section 4 of the Convention (on the inviolability of archives and documents) in that the contents of such documents might be divulged under oral examination of Agency staff. It must also be apparent that, precisely because it is the basic principle of Article 100 which is at stake here, the notion of "legal process" has to be given a broad interpretation. Thus, where a Member State uses a system of administrative bodies or tribunals, rather than courts *stricto sensu*, for conducting enquiries or hearings, the immunity from jurisdiction applies with equal force. This has been accepted both by Member States and even by non-member States with whom the United Nations has made agreements on privileges and immunities of the Organization. It must be remembered, however, that for all staff other than the Commissioner-General himself this immunity is not the general immunity conferred on diplomatic agents but is strictly limited to the official acts of the staff member: it is a strictly "functional" immunity.

Admittedly, there can be borderline cases in which it may be disputed whether the act is "official" or "non-official" and, as the employer, the Agency must reserve the right to make this decision. But a host Government will find reassurance in the fact that any acts by a staff member which are truly part of political activities are by definition "non-official". The abstention from political activities is not only a characteristic of United Nations employment but is reinforced by specific obligations undertaken by the staff member. Thus, the immunity for official acts cannot be used by staff as a protection behind which they may shelter whilst engaging in political activities directed against the Government. Indeed, such action would lead to disciplinary action by the Agency including, where necessary, dismissal from the Agency's employment. A host Government has the further reassurance that, even where an act is official, the immunity of the official not only can but must be waived by the Secretary-General (or the Commissioner-General, acting on his behalf) "where the immunity would impede the course of justice and can be waived without prejudice to the interests of the United Nations" (Section 20). The Government can always, therefore, request a waiver in a particular case where these conditions would be met. Even where the Agency is not prepared to waive the immunity of a staff member, this does not mean that no possibilities exist for the Agency to assist the administrative or judicial

authorities of the host Government. The Agency has, on frequent occasions, given information to these authorities and has transmitted to local courts information from Agency files relevant to proceedings before those courts. Moreover, the Agency has, on occasions, engaged in joint investigations with the local authorities over matters such as the theft of Agency property. In some cases the Agency has first dismissed the staff member and then actually requested the local authorities to prosecute and been joined, at its request, as a “partie civile” in the criminal action. These are all practical measures which the Agency can take, and has taken, with a view to fulfilling its obligation under Section 21 of the Convention to “cooperate at all times with the appropriate authorities of Members to facilitate the proper administration of justice, secure the observance of police regulations etc...”.

(b) *Exemption from taxation on the salaries and emoluments paid by the United Nations (Section 18(b))*

This exemption is not designed to create a specially-privileged class. In fact, the levels of salaries paid tax-free to UNRWA officials are fixed by reference to the levels of salaries of governmental officials holding comparable posts *after deduction of tax*. The true purpose of the exemption is twofold. First, given the desirability of equality in salary treatment for officials of equal rank, it enables the Agency to fix comparable salary levels for comparable posts throughout the entire area of the Agency’s operations, without the need for continuous adjustment which would be necessary if changes and variations in national tax legislation had to be taken into account. Second, and even more important, the exemption ensures that the funds contributed by Member States and private organizations for the support of the Agency, on a voluntary basis,<sup>32</sup> are not diverted into the Treasuries of host States by means of national taxation of the salaries of locally-recruited officials. It is basic to all United Nations operations within the territory of a host State that it is not the purpose, direct or indirect, of these operations to constitute a profit to the national Treasury. Indeed, it must be obvious that the Agency could not expect contributing States to increase their contributions for the purpose of offsetting the increased costs which the Agency would incur if salaries had to be paid subject to tax: the increased costs would have to be met by cutting services to the refugees, and it can scarcely be imagined that the host States would wish this to occur.

(c) *Immunity from national service obligations (Section 18(c))*

This immunity is based upon the need to ensure that the efficient conduct of United Nations operations is not jeopardized by the withdrawal from United Nations service of officials of an international organization for the purpose of serving a period of national military service. The immunity also reflects an assumption, which Member States may be expected to share, that service in the United Nations is as constructive a role for the individual to play in the preservation of international peace and security as would be service in national armed forces. Obviously, the possible jeopardy to the Agency’s operations is greatest in the case of senior, locally-recruited officials who could be replaced only with the greatest difficulty: heads of departments, medical officers, vocational training instructors are obvious examples. For this category of senior officials the Agency would be bound to maintain this immunity.

However, there are other lower categories of staff for whom practical arrangements might be made so as to reconcile any conflicting claims to their services by both Agency and Government. For example, a system of deferment from national service might be

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<sup>32</sup> It is the voluntary nature of these contributions which also prevents UNRWA from operating a tax equalization fund comparable to that used by the United Nations.



arranged for such period as would allow the Agency to make alternative staffing arrangements. One point must, however, be emphasized. The Agency could not undertake obligations (such as are placed on employers in some States) to continue payments of salary, either in whole or in part, or of any other emoluments or benefits during a period of military service. Obligations of this kind would in effect mean that the United Nations was subsidizing military service in a particular State—a use of funds scarcely likely to be acceptable to contributing States and private entities—and paying double salaries for one post, since a replacement staff member would also have to be paid.

There is, however, a major disadvantage to the relaxation of this immunity in that it would force the Agency to deal somewhat harshly with one or other of the individuals affected. That is to say, the Agency would either have to terminate the staff member required to do military service *or* appoint a replacement on a purely temporary basis on the condition that he would have to be terminated when the previous staff member completed his military service. There is yet a further disadvantage in the wastage and relative inefficiency of the Agency's training and re-training of staff so as to accommodate periods of absence for military service. Thus, taking all considerations into account, the justification for retaining this immunity is a very compelling one. The Agency would hope to secure a host State's acceptance of the proposition that to impose military service on Agency officials would do harm to the Agency which would far outweigh any benefit to the host State.

6. It has already been emphasized that privileges and immunities do not exist for the benefit of the individual and that, in a proper case, the Secretary-General and on his delegation the Commissioner-General can waive these privileges and immunities. Thus, any abuse of these privileges and immunities would lead to internal disciplinary action by the Agency and to the possibility that, consequent upon a waiver, the host State's own courts might assume jurisdiction over an offender.

7. The host State has ample opportunity for conveying its views about possible abuse to the Commissioner-General. In the event that the Agency should not feel able to share the host State's view that an abuse had occurred, the host State would still have open to it ample safeguards. It could convey its views directly to the Secretary-General of the United Nations who, by reason of his acquaintance with the world-wide application of the 1946 Convention, could take his decision upon the reasonableness of opposed views. And, in final analysis, it could utilize the disputes procedure provided by the Convention itself in Section 30.

15 May 1968

15. QUESTION WHETHER THE SALARY OF A STAFF MEMBER CAN BE ATTACHED  
AS A RESULT OF A COURT ORDER

*Letter to the Legal Liaison Officer, United Nations Industrial  
Development Organization*

You refer to the hypothetical situation where a court of law, in the execution of a judgement against a staff member for a debt owed by him, attempts to require the UNIDO to pay a part of the salary of the staff member to his creditor. Such a proceeding is sometimes referred to as garnishment, or attachment, of salary.

There is no doubt that such a proceeding with respect to the UNIDO is null and void. In the first place, service of the court order upon UNIDO is a legal process from which the

UNIDO is immune. This is in virtue of Section 2 of the Convention on the Privileges and Immunities of the United Nations<sup>33</sup> and Section 9 (a) of the UNIDO Headquarters Agreement.<sup>34</sup> Secondly, the proceeding would be tantamount to a seizure of the assets of the UNIDO from which the UNIDO is exempt under Section 3 of the Convention on the Privileges and Immunities of the United Nations. It should be noted that any such court order would be directed to UNIDO and the “salary” to be seized is, before it is actually paid to the staff member, a part of the assets of UNIDO.

However, as you know, the Organization’s immunities afford no justification for a staff member’s failure to meet his legal obligations and it is the United Nations policy, in line with the dictates of the General Assembly, to take measures to prevent the immunity from legal process from defeating creditors’ rights.

Accordingly, the following practice has been followed with respect to garnishments and other court orders similarly reporting to direct the Organization, as employer, to make regular payments out of a staff member’s salary directly to a judgement creditors. The court order, if received, is returned to the creditor (or court official) with the explanation of the Organization’s immunity and also the United Nations policy concerning private legal obligations of staff members. As for the staff member, he is requested—usually by his Personnel Officer—to settle the matter in such a way, either by payment or further court action, as to avoid any further embarrassment to the United Nations. Even if he disclaims the debt or intends to appeal the judgement, he is required, as a matter of proper conduct, to take whatever legal steps would ordinarily be necessary to delay any direct action *vis-à-vis* his salary; for the Organization tries to avoid involvement in the question of the validity of court judgements concerning staff in their unofficial capacity.

With respect to deductions under Staff Rule 203.18 (b) (iii) for debts to third persons, it is against established policy to authorize deductions from regular salary checks for debts to judgement creditors; but it is not unusual to make such deductions from final salary or other terminal payments due to staff member upon separation.

6 February 1968

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<sup>33</sup> United Nations, *Treaty Series*, vol. 1, p. 15.

<sup>34</sup> See *Juridical Yearbook*, 1967, p. 44.

**Part Three**

**JUDICIAL DECISIONS ON QUESTIONS RELATING  
TO THE UNITED NATIONS AND RELATED  
INTER-GOVERNMENTAL ORGANIZATIONS**



## **Chapter VII**

### **DECISIONS OF INTERNATIONAL TRIBUNALS**

[No decisions on questions relating to the United Nations and related inter-governmental organizations were rendered by international tribunals in 1968.]

## Chapter VIII

### DECISIONS OF NATIONAL TRIBUNALS

[No decisions of national tribunals on questions relating to the United Nations and related inter-governmental organizations were communicated for 1968.]

**Part Four**

**LEGAL DOCUMENTS INDEX AND BIBLIOGRAPHY  
OF THE UNITED NATIONS AND RELATED  
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## Chapter IX

# LEGAL DOCUMENTS INDEX OF THE UNITED NATIONS AND RELATED INTER-GOVERNMENTAL ORGANIZATIONS

### A. Legal Documents Index of the United Nations<sup>1, 2</sup>

#### MAIN HEADINGS

##### I. GENERAL ASSEMBLY AND SUBSIDIARY ORGANS

1. Plenary General Assembly and Main Committees
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5. Special Committee on the Question of Defining Aggression
6. *Ad Hoc* Committee to Study the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction
7. International Law Commission
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9. International Conference on Human Rights (Teheran, 1968)
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##### III. UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

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1. Economic Commission for Europe
2. Office of Technical Co-operation

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<sup>1</sup> The documentary material relating to each United Nations organ is divided, where appropriate, into two sections: ["(A)] Documents relating to agenda, items of legal interest" and "[ (B) Other] documents of legal interest". Section (A) contains references to the summary and verbatim records where the item was discussed, as well as to all the documents related to the agenda item. Section (B) lists the remaining documents of legal interest. A document relating to a given United Nations organ is not listed in the section (B) relating to that organ if it appears in the section (A) of any other organ.

<sup>2</sup> The following abbreviations have been used in the document references: a.i. = agenda item; E.S.C. = Economic and Social Council; G.A. = General Assembly; mtg. = meeting; Plen. = Plenary meeting.

# I. GENERAL ASSEMBLY AND SUBSIDIARY ORGANS

## I. PLENARY GENERAL ASSEMBLY AND MAIN COMMITTEES

- (A) (i) *Documents relating to agenda items of legal interest*  
(twenty-second session [24 April-12 June and 23 September 1968])
- (1) *Non-proliferation of nuclear weapons* (a) *Report of the Conference of the Eighteen-Nation Committee on Disarmament* (agenda item 28)
- (a) Basic document: Report of the Conference of the Eighteen-Nation Committee on Disarmament (A/7072-DC/230): see G.A. (XXII), Annexes, a.i. 28.
- (b) Consideration by the First Committee:
- (i) *draft resolution* (A/C.1/L.421 and Add.1, L.421/Rev.1 and Add.1-6, L.421/Rev.2 and Add.1 and Corr.1, L.421/Rev.2 and Add.2-6) and *report* of the First Committee (A/7016/Add.1): see G.A. (XXII), Annexes, a.i. 28.
- (ii) *debates*: G.A. (XXII), 1st Committee, 1556th to 1582nd mtgs.
- (c) Consideration in plenary:
- (i) *debate*: G.A. (XXII), Plen., 1672nd mtg.
- (ii) *resolution adopted*: General Assembly resolution 2373 (XXII)<sup>3</sup> of 12 June 1968.
- (2) *Question of South West Africa* (agenda item 64)
- (a) Basic document: Report of the United Nations Council for South West Africa (A/7088): see G.A. (XXII), Annexes, a.i. 64.
- (b) Consideration in plenary:
- (i) *draft resolution* (A/L.546 and Add.1, L.546/Rev.1): see G.A. (XXII), Annexes, a.i. 64.
- (ii) *debates*: G.A. (XXII), Plen., 1644th to 1671st mtgs.
- (iii) *resolution adopted*: General Assembly resolution 2372 (XXII) of 12 June 1968.
- (A) (ii) *Documents relating to agenda items of legal interest* (twenty-third session)
- (1) *Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples: report of the Special Committee on the situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples* (agenda item 23)
- (a) Basic document: Report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples (A/7200/Rev.1): G.A. (XXIII), Annexes, addenda to a.i. 23.
- (b) Consideration by the Fourth Committee:
- (i) *draft resolutions* (A/C.4/L.908 and Add.1, L.908/Rev.1, L.909 and Add.1, L.909/Rev.1, L.911 and Add.1-8, L.926, L.927 and Add.1) and *reports* of the Fourth Committee (A/7265 [or Equatorial Guinea], A/7290 and Add.1 [on Southern Rhodesia] and A/7419 [on Territories not considered separately]): see G.A. (XXIII), Annexes, a.i. 23.
- (ii) *debates*: G.A. (XXIII), 4th Committee, 1759th to 1772nd, 1775th to 1780th, 1791st to 1806th, 1808th, 1813th and 1814th mtgs.
- (c) Consideration in plenary:
- (i) *draft resolutions* (A/L.560 and Rev.1, L.561 and Add.1, L.563).
- (ii) *debates*: G.A. (XXIII), Plen., 1692nd, 1707th, 1708th, 1710th, 1742nd to 1744th, 1746th, 1747th, 1749th, 1751st and 1752nd mtgs.

<sup>3</sup> Text reproduced in this *Yearbook*, p. 71.

(iii) *resolutions adopted*: General Assembly resolutions 2379 (XXIII) of 25 October 1968 and 2383 (XXIII) of 7 November 1968 (on Southern Rhodesia), 2428 (XXIII) of 18 December 1968 (on Ifni and Spanish Sahara), 2429 (XXIII) of 18 December 1968 (on Gibraltar) and 2430 (XXIII) of 18 December 1968 (on American Samoa, Antigua, Bahamas, Bermuda, British Virgin Islands, Cayman Islands, Cocos (Keeling) Islands, Dominica, Gilbert and Ellice Islands, Grenada, Guam, Montserrat, New Hebrides, Niue, Pitcairn, St. Helena, St. Kitts-Nevis-Anguila, St. Lucia, St. Vincent, Seychelles, Solomon Islands, Tokelau Islands, Turks and Caicos Islands and the United States Virgin Islands).

*See also* the decisions taken by the General Assembly at its 1692nd and 1747th plenary meetings held respectively on 11 October 1968 and 18 December 1968.

(2) *International co-operation in the peaceful uses of outer space: report of the Committee on the Peaceful Uses of Outer Space* (agenda item 24) <sup>4</sup>

(a) Basic document: Report of the Committee on the Peaceful Uses of Outer Space: G.A. (XXIII), a.i. 24, document A/7285.

(b) Consideration by the First Committee:

(i) *draft resolution* (A/C.1/L.463) and *report* of the First Committee (A/7462): see G.A. (XXIII), Annexes, a.i. 24.

(ii) *debates*: G.A. (XXIII), 1st Committee, 1644th to 1646th mtgs.

(c) Consideration in plenary:

(i) *debate*: G.A. (XXIII), Plen., 1750th mtg.

(ii) *resolutions adopted*: General Assembly resolutions 2453A (XXIII) and 2453 B (XXIII), <sup>5</sup> of 20 December 1968.

(3) *Examination of the question of the reservation exclusively for peaceful purposes of the sea-bed and the ocean floor, and the subsoil thereof, underlying the high seas beyond the limits of present national jurisdiction, and the use of their resources in the interests of mankind: report of the Ad Hoc Committee to Study the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction* (agenda item 26) <sup>6</sup>

(a) Basic document: Report of the *Ad Hoc* Committee to Study the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction: G.A. (XXIII), a.i. 26, document A/7230.

(b) Consideration by the First Committee:

(i) *draft resolutions* (A/C.1/L.425 and Add.1-7, L.425/Rev.1 and Add.1-4, L.425/Rev.2, L.426 and Add.1, L.426/Rev.1 and Add.1, L.427 and Corr.1, L. 428, L.429 and Rev.1, L.429/Rev.2 and Add.1-4, L.430, L.431 and Add.1-3, L.431/Rev.1 and 2, L.432 and Rev.1 and Add.1, L.433 and Corr.1, L.434 and Rev.1, L.435, L.437 and Add.1 and 2, L.438, L.439, L.440 and Rev.1 and 2, L.441 and Add.1-5, L.442, L.465 and Rev.1-3, L.466) and *report* of the First Committee (A/7477): see G.A. (XXIII), Annexes, a.i. 26.

(ii) *debates*: G.A. (XXIII), 1st Committee, 1588th to 1605th and 1646th to 1649th mtgs.

(c) Consideration in plenary:

(i) *debate*: G.A. (XXIII), Plen., 1752nd mtg.

(ii) *resolutions adopted*: General Assembly resolutions 2467 A (XXIII), <sup>7</sup> 2467 B (XXIII) <sup>8</sup>, 2467 C (XXIII) and 2467 D (XXIII), of 21 December 1968.

<sup>4</sup> See also section 3 below.

<sup>5</sup> Text reproduced in this *Yearbook*, p. 72.

<sup>6</sup> See also section 6 below.

<sup>7</sup> Text reproduced in this *Yearbook*, p. 75.  
*Ibid.*, p. 75.

- (4) *Question of general and complete disarmament: report of the Conference of the Eighteen-Nation Committee on Disarmament* (agenda item 27)
- (a) Basic document: Report of the Conference of the Eighteen-Nation Committee on Disarmament: Disarmament Commission, Supplement for 1967 and 1968, document DC/231.
- (b) Consideration by the First Committee:
- (i) *draft resolutions* (A/C.1/L.444 and Add.1-9, L.444/Rev.1, L.445 and Add.1, L.446, L.448 and Rev.1 and 2, L.449 and Rev.1), and *report* of the First Committee (A/7441): see G.A. (XXIII), Annexes, a.i. 27, 28, 29, 94 and 96.
- (ii) *debates*: G.A. (XXIII), 1st Committee, 1606th to 1617th, 1623rd to 1635th, 1640th and 1643rd mtgs.
- (c) Consideration in plenary:
- (i) *debate*: G.A. (XXIII), Plen., 1756th mtg.
- (ii) *resolution adopted*: General Assembly resolutions 2454 A (XXIII) and 2454 B (XXIII), of 20 December 1968.
- (5) *Urgent need for suspension of nuclear and thermo-nuclear tests: report of the Conference of the Eighteen-Nation Committee on Disarmament* (agenda item 28)
- (a) Basic document: Report of the Conference of the Eighteen-Nation Committee on Disarmament: Disarmament Commission, Supplement for 1967 and 1968, document DC/231.
- (b) Consideration by the First Committee:
- (i) *draft resolution* (A/C.1/L.447 and Add.1-5) and *report* of the First Committee (A/7442): see G.A. (XXIII), Annexes, a.i. 27, 28, 29, 94 and 96.
- (ii) *debates*: G.A. (XXIII), 1st Committee, 1606th to 1617th and 1623rd to 1635th mtgs.
- (c) Consideration in plenary:
- (i) *debate*: G.A. (XXIII), Plen., 1750th mtg.
- (ii) *resolution adopted*: General Assembly resolution 2455 (XXIII)<sup>9</sup> of 20 December 1968.
- (6) *The policies of apartheid of the Government of the Republic of South Africa: report of the Special Committee on the Policies of Apartheid of the Government of the Republic of South Africa* (agenda item 31)
- (a) Basic document: Report of the Special Committee on the Policies of *Apartheid* of the Government of the Republic of South Africa: G.A. (XXIII), a.i. 31, document A/7254.
- (b) Consideration by the Special Political Committee:
- (i) *draft resolutions* (A/SPC/L.160 and Add.1 and 2, L.160/Rev.1 and Corr.1 and Add.1, L.162, L.163, L.164) and *report* of the Special Political Committee (A/7348): see G.A. (XXIII), Annexes, a.i. 31.
- (ii) *debates*: G.A. (XXIII), Special Political Committee, 598th to 611th and 613th to 615th mtgs.
- (c) Consideration in plenary:
- (i) *debate*: G.A. (XXIII), Plen. 1731st mtg.
- (ii) *resolutions adopted*: General Assembly resolutions 2396 (XXIII)<sup>10</sup> and 2397 (XXIII), of 2 December 1968.
- (7) *Resources of the sea: report of the Secretary-General* (agenda item 41)
- (a) Basic documents: Notes by the Secretary-General (A/7245, A/7264 and A/C.2/244): see G.A. (XXIII), Annexes, a.i. 41.

<sup>9</sup> *Ibid.*, p. 78.

<sup>10</sup> *Ibid.*, p. 79.

- (b) Consideration by the Second Committee:
    - (i) *draft resolutions* (A/C.2/L.1034 and Rev.1, L.1035 and Rev.1) and *report* of the Second Committee (A/7394): see G.A. (XXIII), Annexes, a.i. 41.
    - (ii) *debates*: G.A. (XXIII), 2nd Committee, 1192nd, 1193rd, 1224th, 1226th to 1229th, 1231st and 1244th to 1246th mtgs.
  - (c) Consideration in plenary:
    - (i) *debate*: G.A. (XXIII), Plen., 1745th mtg.
    - (ii) *resolutions adopted*: General Assembly resolutions 2413 (XXIII) and 2414 (XXIII), of 17 December 1968.
- (8) *Draft Declaration on Social Development* (agenda item 50)
- (a) Basic document: Note by the Secretary-General (A/7161) (containing in annex I the draft declaration prepared by the Commission for Social Development and in annex II amendments submitted by members of the Economic and Social Council at its forty-fourth session)
  - (b) Consideration by the Third Committee:
    - (i) *draft resolutions* (A/C.3/L.1575 and Rev.1 and 2, L.1576, L.1577 and Rev.1, L.1578 to L.1581, L.1582 and Rev.1, L.1583, L.1584 and Corr.1-7, L.1586 and Rev.1-3, L.1587 to L.1592, L.1594 and Rev.1, L.1596 to L.1602, L.1603 and Rev.1, L.1604, L.1606 to L.1612, L.1614 to L.1617) and *report* of the Third Committee (A/7374): see G.A. (XXIII), Annexes, a.i. 50.
    - (ii) *debates*: G.A. (XXIII), 3rd Committee, 1574th to 1605th mtgs.
  - (c) Consideration in plenary:
    - (i) *debate*: G.A. (XXIII), Plen., 1735th mtg.
    - (ii) *action taken*: decision taken by the General Assembly at its 1735th plenary meeting, on 6 December 1968.
- (9) *Report of the United Nations High Commissioner for Refugees* (agenda item 51)<sup>11</sup>
- (a) Basic document: Report of the United Nations High Commissioner for Refugees: G.A. (XXIII), Supplement No. 11 (A/7211 and Corr.2) (Chapter II: International protection) and II A (A/7211/Add.1) (Chapter III: International protection).
  - (b) Consideration by the Third Committee:
    - (i) *draft resolution* (A/C.3/L.1622 and Rev.1) and *report* of the Third Committee (A/7369): see G.A. (XXIII), Annexes, a.i. 51.
    - (ii) *debates*: G.A. (XXIII), 3rd Committee, 1611th to 1613th mtgs.
  - (c) Consideration in plenary:
    - (i) *debate*: G.A. (XXIII), Plen., 1735th mtg.
    - (ii) *resolution adopted*: General Assembly resolution 2399 (XXIII) of 6 December 1968.
- (10) *Question of the punishment of war criminals and of persons who have committed crimes against humanity: report of the Secretary-General* (agenda item 55)<sup>12</sup>
- (a) Basic document: Report of the Secretary-General (A/7174 and Add.1-3) (containing in annex the text of the draft convention on the non-applicability of statutory limitations to war crimes and crimes against humanity, adopted at the twenty-second session by a Joint Working Group of the Third and Sixth Committees)
  - (b) Consideration by the Third Committee:
    - (i) *draft resolutions* (A/C.3/L.1560 to L.1563, L.1564 and Rev.1, L.1565 and Rev.1, L.1566 and Rev.1, L.1567, L.1569, L. 1570 and Rev.1 and 2, L.1618) and *report* of the Third Committee (A/7342): see G.A. (XXIII), Annexes, a.i. 55.

<sup>11</sup> See also section 2 below.

<sup>12</sup> See also section II 2 (A) (2) below.

- (ii) *debates*: G.A. (XXIII), 3rd Committee, 1562nd to 1574th and 1604th to 1606th mtgs.
- (c) Consideration in plenary:
- (i) *debate*: G.A. (XXIII), Plen., 1727th mtg.
- (ii) *resolutions adopted*: General Assembly resolutions 2391 (XXIII)<sup>13</sup> and 2392 (XXIII), of 26 November 1968.
- (11) *Elimination of all forms of racial discrimination (a) Implementation of the United Nations Declaration on the Elimination of All Forms of Racial Discrimination (b) Status of the International Convention on the Elimination of All Forms of Racial Discrimination: report of the Secretary-General (c) Measures to be taken against nazism and racial intolerance: report of the Secretary-General (agenda item 57)*
- (a) Basic documents: Note by the Secretary-General (A/7163): see G.A. (XXIII), Annexes, a.i. 57—Report by the Secretary-General on the status of the International Convention on the Elimination of All Forms of Racial Discrimination (A/7163/Add.1, Add.1/Corr.1, Add.2 and 3).
- (b) Consideration by the Third Committee:
- (i) *draft resolutions* (Economic and Social Council resolution 1335 (XLIV) and A/C.3/L.1646) and *report* of the Third Committee (A/7435): see G.A. (XXIII), Annexes, a.i. 57.
- (ii) *debates*: G.A. (XXIII), 3rd Committee, 1644th and 1645th mtgs.
- (c) Consideration in plenary:
- (i) *debate*: G.A. (XXIII), Plen., 1748th mtg.
- (ii) *resolution adopted*: General Assembly resolution 2438 (XXIII),<sup>14</sup> of 19 December 1968.
- (12) *Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid in all countries, with particular reference to colonial and other dependent countries and territories: report of the Secretary-General (agenda item 58)*<sup>15</sup>
- (a) Basic document: Note by the Secretary-General (A/7155): see G.A. (XXIII), Annexes, a.i. 58.
- (b) Consideration by the Third Committee:
- (i) *draft resolutions* (Economic and Social Council resolutions 1332 (XLIV) and 1333 (XLIV)) and *report* by the Third Committee (A/7447): see G.A. (XXIII), Annexes, a.i. 58.
- (ii) *debate*: G.A. (XXIII), 3rd Committee, 1645th mtg.
- (c) Consideration in plenary:
- (i) *debate*: G.A. (XXIII), Plen., 1748th mtg.
- (ii) *resolutions adopted*: General Assembly resolutions 2439 (XXIII) and 2440 (XXIII), of 19 December 1968.
- (13) *Capital punishment (agenda item 59)*<sup>16</sup>
- (a) Basic document: Note by the Secretary-General (A/7243): see G.A. (XXIII), Annexes, a.i. 59—Draft resolution submitted by the Economic and Social Council in the annex to its resolution 1337 (XLIV) of 31 May 1968.

<sup>13</sup> Text reproduced in this *Yearbook*, p. 81.

<sup>14</sup> *Ibid.*, p. 82.

<sup>15</sup> See also sections II 1 (1) and 2 (A) (1) and (B) below.

<sup>16</sup> See also section II 2 (A) (4) below.

- (b) Consideration by the Third Committee:
- (i) *draft resolutions*: (A/C.3/L.1554 and Rev.1, L.1555, L.1556 and Rev.1 and 2, L.1557 and Rev.1 and 2, L.1558) and *report* of the Third Committee (A/7303): see G.A. (XXIII), Annexes, a.i. 59.
  - (ii) *debates*: G.A. (XXIII), 3rd Committee, 1557th to 1562nd mtg.
- (c) Consideration in plenary:
- (i) *debate*: G.A. (XXIII), Plen., 1727th mtg.
  - (ii) *resolutions adopted*: General Assembly resolutions 2393 (XXIII)<sup>17</sup> and 2394 (XXIII), of 26 November 1968.
- (14) *International Year for Human Rights* (a) *Measures and activities undertaken in connexion with the International Year for Human Rights: report of the Secretary-General* (b) *International Conference on Human Rights* (agenda item 62)<sup>18</sup>
- (a) Basic documents: Note by the Secretary-General (A/7194)—Measures and activities undertaken in connexion with the International Year for Human Rights: report of the Secretary-General (A/7195 and Add.1-9).
- (b) Consideration by the Third Committee:
- (i) *draft resolutions* (A/C.3/L.1623 and Add.1, L.1623/Rev.1 and Rev.1/Add.1, L.1626 and Add.1, L.1633 and Add.1, L.1633/Rev.1 and Rev.1/Add.1, L. 1635 and Rev.1 and 2) and *report* of the Third Committee (A/7433): see G.A. (XXIII), Annexes, a.i. 62.
  - (ii) *debates*: G.A. (XXIII), 3rd Committee, 1620th to 1642nd mtgs.
- (c) Consideration in plenary:
- (i) *debate*: G.A. (XXIII), Plen., 1748th mtg.
  - (ii) *resolutions adopted*: General Assembly resolutions 2441 (XXIII), 2442 (XXIII), 2443 (XXIII), 2444 (XXIII),<sup>19</sup> 2445 (XXIII), 2446 (XXIII), 2447 (XXIII), 2448 (XXIII), 2449 (XXIII)<sup>20</sup> and 2450 (XXIII), of 19 December 1968.
- (15) *Question of Namibia* (a) *Report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples* (b) *Report of the United Nations Council for Namibia* (c) *Appointment of the United Nations Commissioner for Namibia* (agenda item 64)
- (a) Basic documents: Report of the Secretary-General (A/7171 and Add.1-6): see G.A. (XXIII), Annexes, a.i. 64—Report of the United Nations Council for Namibia: G.A. (XXIII), a.i. 64, document A/7338 and Corr.1.
- (b) Consideration in plenary:
- (i) *draft resolutions* (A/L.556 and Add.1, L.557).
  - (ii) *debates*: G.A. (XXIII), Plen., 1725th, 1726th, 1728th to 1731st, 1734th, 1737th to 1739th and 1742nd mtgs.
  - (iii) *resolutions adopted*: General Assembly resolutions 2403 (XXIII) and 2404 (XXIII), of 16 December 1968.
- See also* the decision taken by the General Assembly at its 1742nd plenary meeting, held on 16 December 1968.
- (16) *Activities of foreign economic and other interests which are impeding the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples in Southern Rhodesia, Namibia and Territories under Portuguese domination and in all other Territories under colonial domination and efforts to eliminate colonialism, apartheid and racial discrimi-*

<sup>17</sup> Reproduced in this *Yearbook*, p. 83.

<sup>18</sup> See also section 9 below.

<sup>19</sup> Text reproduced in this *Yearbook*, p. 85.

<sup>20</sup> *Ibid.*, p. 85.

*mination in southern Africa: report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples* (agenda item 68)

- (a) Basic document: Report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples (A/7320 and Add.1): see G.A. (XXIII), Annexes, a.i. 68.
- (b) Consideration by the Fourth Committee:
  - (i) *draft resolution* (A/C.4/L.916 and Add.1-3) and *report* of the Fourth Committee (A/7423): see G.A. (XXIII), Annexes, a.i. 68.
  - (ii) *debates*: G.A. (XXIII), 4th Committee, 1791st to 1802nd, 1805th to 1808th, 1812th and 1814th mtgs.
- (c) Consideration in plenary:
  - (i) *debate*: G.A. (XXIII), Plen., 1747th mtg.
  - (ii) *resolution adopted*: General Assembly resolution 2425 (XXIII) of 18 December 1968.

(17) *Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples by the specialized agencies and the international institutions associated with the United Nations* (a) *Report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples* (b) *Report of the Secretary-General* (agenda item 69)

- (a) Basic documents: Report of the Secretary-General (A/7301)—Note by the Secretary-General transmitting a communication from the representative of the International Bank for Reconstruction and Development (A/7446)—Letter from the Director-General of the International Labour Organisation to the Secretary-General of the United Nations (A/C.4/714)—Letter from the Director-General of the United Nations Educational, Scientific and Cultural Organization to the Secretary-General of the United Nations (A/C.4/716): see G.A. (XXIII) Annexes, a.i. 69 and 12—Note by the Secretariat (A/C.4/718) (transmitting notification of action by UNHCR, WHO and IMCO).
- (b) Consideration by the Fourth Committee:
  - (i) *draft resolutions* (A/C.4/L.917 and Add.1 and 2 and A/C.4/L.921) and *report* of the Fourth Committee (A/7424): see G.A. (XXIII), Annexes, a.i. 69 and 12.
  - (ii) *debates*: G.A. (XXIII), 4th Committee, 1791st to 1802nd, 1805th to 1809th, 1812th and 1814th mtgs.
- (c) Consideration in plenary:
  - (i) *debate*: G.A. (XXIII), Plen., 1747th mtg.
  - (ii) *resolution adopted*: General Assembly resolution 2426 (XXIII) of 18 December 1968.

(18) *Report of the International Law Commission on the work of its twentieth session* (agenda item 84)<sup>21</sup>

- (a) Basic document: Report of the International Law Commission on the work of its twentieth session: G.A. (XXIII), Supp. No. 9 (A/7209/Rev.1).
- (b) Consideration by the Sixth Committee:
  - (i) *draft resolutions* (A/C.6/L.649 and Add.1, L.650, L.651 and Rev.1) and *report* of the Sixth Committee (A/7370):<sup>22</sup> see G.A. (XXIII), Annexes, a.i. 84.
  - (ii) *debates*: G.A. (XXIII), 6th Committee, 1029th to 1039th mtgs.

<sup>21</sup> See also section 7 below.

<sup>22</sup> Text reproduced in this *Yearbook*, p. 87.



- (c) Consideration in plenary:
  - (i) *debate*: G.A. (XXIII), Plen., 1738th mtg.
  - (ii) *resolution adopted*: General Assembly resolution 2400 (XXIII)<sup>23</sup> of 11 December 1968.
  
- (19) *Draft Convention on Special Missions* (agenda item 85)
  - (a) Basic documents: Report of the International Law Commission on the work of its nineteenth session: G.A. (XXII), Supp. No. 9 (A/6709/Rev.1 and Corr.1)—Comments received from Governments of Member States: report of the Secretary-General (A/7156 and Add.1 and 2): see G.A. (XXIII), Annexes, a.i. 85.
  - (b) Consideration by the Sixth Committee:
    - (i) *draft resolutions* (A/C.6/L.652, L.653, L.654 and Add.1, L.655 to L.661, L.662 and Add.1, L.663, L.664 and Rev.1, L.665 to L.670, L.671 and Rev.1, L.672 and Rev.1, L.674 to L.695, L.696 and Rev.1, L.697, L.698 and Corr.1, L.699 to L.706, L.707 and Rev.1, L.708 to L.727, L.729 to L.731, L.735 and Add.1, L.736 and Rev.1), *texts adopted by the Drafting Committee* (A/C.6/L.728 and Add.1-4) and *report* of the Sixth Committee (A/7375): see G.A. (XXIII), Annexes, a.i. 85.
    - (ii) *debates*: G.A. (XXIII), 6th Committee, 1039th to 1059th, 1061st to 1072nd and 1087th to 1090th mtgs.
  - (c) Consideration in plenary:
    - (i) *debate*: G.A. (XXIII), Plen., 1746th mtg.
    - (ii) *resolution adopted*: General Assembly resolution 2419 (XXIII) of 18 December 1968.
  
- (20) *Report of the Special Committee on the Question of Defining Aggression* (agenda item 86)<sup>24</sup>
  - (a) Basic document: Report of the Special Committee: G.A. (XXIII), a.i. 86, document A/7185/Rev.1.
  - (b) Consideration by the Sixth Committee:
    - (i) *draft resolution* (A/C.6/L.733 and Rev.1 and Add.1-3) and *report* of the Sixth Committee (A/7402): see G.A. (XXIII), Annexes, a.i. 86.
    - (ii) *debates*: G.A. (XXIII), 6th Committee, 1028th, 1073rd to 1082nd and 1096th mtgs.
  - (c) Consideration in plenary:
    - (i) *debate*: G.A. (XXIII), Plen., 1746th mtg.
    - (ii) *resolution adopted*: General Assembly resolution 2420 (XXIII) of 18 December 1968.
  
- (21) *Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations: report of the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States* (agenda item 87)<sup>25</sup>
  - (a) Basic document: Report of the Special Committee (1968) on Principles of International Law concerning Friendly Relations and co-operation among States: G.A. (XXIII), a.i. 87, document A/7326.
  - (b) Consideration by the Sixth Committee:
    - (i) *draft resolution* (A/C.6/L.740 and Add.1) and *report* of the Sixth Committee (A/7429):<sup>26</sup> see G.A. (XXIII), Annexes, a.i. 87.
    - (ii) *debates*: G.A. (XXIII), 6th Committee, 1086th, 1090th to 1096th and 1099th mtgs.

<sup>23</sup> *Ibid.*, p. 105.

<sup>24</sup> See also section 5 below.

<sup>25</sup> See also section 4 below.

<sup>26</sup> Text reproduced in this *Yearbook*, p. 113.

- (c) Consideration in plenary:
    - (i) *debate*: G.A. (XXIII), Plen., 1751st mtg.
    - (ii) *resolution adopted*: General Assembly resolution 2463 (XXIII)<sup>27</sup> of 20 December 1968.
- (22) *Report of the United Nations Commission on International Trade Law on the work of its first session (agenda item 88)*<sup>28</sup>
- (a) Basic document: Report of the Commission on the work of its first session: G.A. (XXIII), Supp. No. 16 (A/7216).
  - (b) Consideration by the Sixth Committee:
    - (i) *draft resolution* (A/C.6/L.738, L.738/Rev.1 and Add.1-3) and *report* of the Sixth Committee (A/7408):<sup>29</sup> see G.A. (XXIII), Annexes, a.i. 88.
    - (ii) *debates*: G.A. (XXIII), 6th Committee, 1082nd to 1085th, 1096th and 1097th mtgs.
  - (c) Consideration in plenary:
    - (i) *debate*: G.A. (XXIII), Plen., 1746th mtg.
    - (ii) *resolution adopted*: General Assembly resolution 2421 (XXIII)<sup>30</sup> of 18 December 1968.
- (23) *United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law: report of the Secretary-General (agenda item 89)*<sup>31</sup>
- (a) Basic document: Report of the Secretary-General (A/7305): see G.A. (XXIII), Annexes, a.i. 89.
  - (b) Consideration by the Sixth Committee:
    - (i) *draft resolution* (A/C.6/L.739 and Add.1 and 2) and *report* of the Sixth Committee (A/7346): see G.A. (XXIII), Annexes, a.i. 89.
    - (ii) *debates*: G.A. (XXIII), 6th Committee, 1097th and 1098th mtgs.
  - (c) Consideration in plenary:
    - (i) *debate*: G.A. (XXIII), Plen., 1751st mtg.
    - (ii) *resolution adopted*: General Assembly resolution 2464 (XXIII) of 20 December 1968.
- (24) *Conference of Non-Nuclear-Weapon States: Final Document of the Conference (agenda item 96)*
- (a) Basic document: Final Document of the Conference of Non-Nuclear-Weapon States: G.A. (XXIII), a.i. 96, document A/7277 and Corr.1 and 2.
  - (b) Consideration by the First Committee:
    - (i) *draft resolutions* (A/C.1/L.450, L.451, L.452, L.458 and Add.1, L.459 and Rev.1 and Rev.1/Add.1, L.460 and Add.1, L.462 and Add.1 and 2) and *report* of the First Committee (A/7445): see G.A. (XXIII), Annexes, a.i. 27, 28, 29, 94 and 96.
    - (ii) *debates*: G.A. (XXIII), 1st Committee, 1606th to 1617th, 1623rd to 1635th, 1640th and 1643rd mtgs.
  - (c) Consideration in plenary:
    - (i) *debate*: G.A. (XXIII), Plen., 1750th mtg.
    - (ii) *resolutions adopted*: General Assembly resolutions 2456 A (XXIII), 2456 B (XXIII),<sup>32</sup> 2456 C (XXIII) and 2456 D (XXIII), of 20 December 1968.

<sup>27</sup> *Ibid.*, p. 130.

<sup>28</sup> See also section 8 below.

<sup>29</sup> Text reproduced in this *Yearbook*, p. 132.

<sup>30</sup> *Ibid.*, p. 138.

<sup>31</sup> See also section (B) below.

<sup>32</sup> *Ibid.*, p. 140.

(B) *Other documents of legal interest*

*Article 19 of the Charter*

Note verbale dated 26 July 1968 from the Secretary-General to the Permanent Representative of the Union of Soviet Socialist Republics (A/7146) (containing in annex an opinion of the Legal Counsel) <sup>33</sup>

*United Nations Relief and Works Agency for Palestine Refugees in the Near East*

Report of the Commissioner-General of UNRWA: G.A. (XXIII), Supp. No. 13 (A/7213) (Annex II: Legal aspects of the work of the Agency).

*United Nations Conference on Trade and Development*

Report of the Trade and Development Board: G.A. (XXIII), Supp. No. 14 (A/7214) (Chapter VII: Progressive development of international trade law).

Statement by the Legal Counsel submitted pursuant to a request made at the 1236th meeting of the Second Committee (A/C.2/L.1030). <sup>34</sup>

*Political rights of women*

Report of the Secretary-General (A/7197).

*International Court of Justice*

Report of the Court: G.A. (XXIII), Supp. No. 17 (A/7217).

*Administrative Tribunal*

Note by the Secretary-General (A/INF/130) (transmits annual note by the Administrative Tribunal to the President of the General Assembly as to the functioning of the Tribunal).

Appointments to fill vacancies in the membership of subsidiary bodies of the General Assembly. United Nations Administrative Tribunal. Note by the Secretary-General (A/7154): see G.A. (XXIII), Annexes, a.i. 76.

Report of the Fifth Committee (A/7314): *ibid.*

See also General Assembly resolution 2471 (XXIII) of 21 December 1968.

*United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law*

Addendum (A/7293) to the register of experts and scholars in international law (A/6677 and Rev.1).

2. EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME <sup>35</sup>

*Documents of legal interest*

Note on international protection. Submitted by the High Commissioner (A/AC.96/377).

Report on the eighteenth session of the Executive Committee of the the High Commissioner's Programme (A/AC.96/386).

Note on international protection. Submitted by the High Commissioner (A/AC.96/398).

3. COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE <sup>36</sup> LEGAL SUB-COMMITTEE

*Documents relating to agenda items of legal interest (seventh session)*

(1) *Draft agreement on liability for damage caused by objects launched into outer space* (agenda item 2)

<sup>33</sup> *Ibid.*, p. 186.

<sup>34</sup> *Ibid.*, p. 195.

<sup>35</sup> See also section 1 (A) (ii) (9) above.

<sup>36</sup> See also section 1 (A) (ii) (2) above.

- (a) Basic documents: Revised draft convention submitted by Belgium (A/AC.105/C.2/L.7/Rev.3); draft convention submitted by the United States (A/AC.105/C.2/L.10/Rev.1); draft convention submitted by Hungary (A/AC.105/C.2/L.19/Rev.1 and Corr.1).
  - (b) Consideration by the Sub-Committee:
    - (i) *draft conventions* submitted by India (A/AC.105/C.2/L.32 and Add.1, L.32/Rev.1 and Corr.1) and Italy (A/AC.105/C.2/L.40 and Corr.1 and 2), *proposals* (A/AC.105/C.2/L.34, L.36 and Rev.1 and 2, L.37 and Rev.1, L.38, L.39, L.41 and Add.1, and Corr.1-3, L.42, L.43, L.44, L.47, L.48, L.51) and *report* of the Sub-Committee to the Committee on the Peaceful Uses of Outer Space (A/AC.105/45): see G.A. (XXIII), a.i. 24, document A/7285, Annex III.
    - (ii) *debates*: A/AC.105/SR.90 to 106 and 108.
- (2) *Study of the questions relative to:*
- (A) *the definition of outer space;*
  - (B) *the utilization of outer space and celestial bodies, including the various implications of space communications* (agenda item 3)
    - (a) Basic documents: Conclusions reached by the Scientific and Technical Sub-Committee at its fifth session: see G.A. (XXII), Annexes, a.i. 32, document A/6804 and Add.1, Annex II.
    - (b) Consideration by the Sub-Committee:
      - (i) *proposals* (A/AC.105/C.2/L.45, L.46, L.49, L.50 and Rev.1) and *report* of the Sub-Committee to the Committee on the Peaceful Uses of Outer Space (A/AC.105/45): see G.A. (XXIII), a.i. 24, document A/7285, Annex III.
      - (ii) *debates*: A/AC.105/SR.102 to 104 and 107.

#### 4. 1968 SPECIAL COMMITTEE ON PRINCIPLES OF INTERNATIONAL LAW CONCERNING FRIENDLY RELATIONS AND CO-OPERATION AMONG STATES <sup>37</sup>

##### *Documents relating to an agenda item of legal interest*

*Completion of the formulation, in the light of the debate which took place in the Sixth Committee during the seventeenth, eighteenth, twentieth, twenty-first and twenty-second sessions of the General Assembly and in the 1964, 1966 and 1967 sessions of the Special Committee, of:*

- (A) *The principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity and political independence of any State or in any other manner inconsistent with the purposes of the United Nations;*
- (B) *The principle of equal rights and self-determination of peoples (paragraph 4 of General Assembly resolution 2327 (XXII) (agenda item 6)*
  - (a) Basic document: General Assembly resolution 2327 (XXII).
  - (b) Consideration by the Special Committee:
    - (i) *draft resolutions* (A/AC.125/L.16, part I, L.22, L.44, part I, L.48, L.49 and Rev.1, L.51) and *report* of the Drafting Committee (A/AC.125/L.65) on the principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State or in any other manner inconsistent with the purposes of the United Nations, *draft resolutions* (A/AC.125/L.16, part VI, L.31 and Add.1-3, L.32, L.34, L.44, part VI, L.48, L.50), *report* of the Drafting Committee (A/AC.125/L.66) on the principle of equal rights and self-determination of peoples and *report* of the Special Committee: G.A. (XXIII), a.i. 87, document A/7326.
    - (ii) *debates*: A/AC.125/SR.84 to 89, 91 to 93 and 96.

<sup>37</sup> See also section 1 (A) (ii) (21) above.

## 5. SPECIAL COMMITTEE ON THE QUESTION OF DEFINING AGGRESSION<sup>38</sup>

*Documents relating to an agenda item of legal interest (1968 session)*

*Consideration of the question of defining aggression (General Assembly resolution 2330 (XXII)) (agenda item 5)*

- (a) Basic document: Survey of previous United Nations action on the question of defining aggression. Memorandum prepared by the Secretariat (A/AC.134/1 and Add.1).
- (b) Consideration by the Special Committee:
  - (i) *draft resolutions* (A/AC.134/L.3 and Corr.1 and 2 [French only] and Add.1, L.4, L.4/Rev.1 and Corr.1 [Spanish only] and Add.1, L.6 and Add.1 and 2, L.7, L.8) and *report* of the Special Committee: G.A. (XXIII), a.i. 86, document A/7185/Rev.1.
  - (ii) *debates*: A/AC.134/SR.4 to 20, 22 and 24.

## 6. "AD HOC" COMMITTEE TO STUDY THE PEACEFUL USES OF THE SEA-BED AND THE OCEAN FLOOR BEYOND THE LIMITS OF NATIONAL JURISDICTION<sup>39</sup>

*Legal Working Group*

(A) *Documents relating to an agenda item of legal interest (first session)*

*Consideration of the legal aspects of the study which the Ad Hoc Committee has been requested to prepare for the General Assembly according to resolution 2340 (XXII) (agenda item 3)*

- (a) Basic documents: Legal aspects of the question of the reservation exclusively for peaceful purposes of the sea-bed and the ocean floor, and the subsoil thereof, underlying high seas beyond the limits of present national jurisdiction, and the use of their resources in the interests of mankind (A/AC.135/19 and Add.1 and 2).
- (b) Consideration by the Working Group:
  - (i) *programme of work* adopted by the Working Group (A/AC.135/WG.1/R.4) and *report* of the Working Group to the Ad Hoc Committee: see G.A. (XXIII), document A/7230, Annex II.
  - (ii) *debates*: A/AC.135/WG.1/SR.1 to 3 and 6 to 14.

(B) *Other documents of legal interest*

*Survey of existing international agreements concerning the sea-bed and the ocean floor, and the subsoil thereof, underlying the high seas beyond the limits of present national jurisdiction (A/AC.135/10/ and Rev.1)*

*Survey of national legislation concerning the sea-bed and the ocean floor, and the subsoil thereof, underlying the high seas beyond the limits of present national jurisdiction (A/AC.135/11 and Add.1)*

*Ad Hoc Committee*

*Documents relating to an agenda item of legal interest (third session)*

*Consideration of practical means to promote international co-operation in the exploration, conservation and use of the sea-bed and the ocean floor, and the subsoil thereof, and of their resources*

- (a) Basic document: Note by the Secretary-General containing views of Member States (A/AC.135/1 and Corr.1 [English only] and Add.1-10).
- (b) Consideration by the Ad Hoc Committee:
  - (i) *draft resolutions* (A/AC.135/20, 21, 24, 25, 26, 27, 29 and Rev.1, 31 and 36) and *report* of the Ad Hoc Committee: G.A. (XXIII), document A/7230, section III.
  - (ii) *debates*: A/AC.135/SR.20 and 21.

<sup>38</sup> See also section 1 (A) (ii) (20) above.

<sup>39</sup> See also section 1 (A) (ii) (3) above.

## 7. INTERNATIONAL LAW COMMISSION <sup>40</sup>

### (A) *Documents relating to agenda items of legal interest (twentieth session)*

#### (1) *Succession of States and Governments (a) Succession in respect of treaties (b) Succession in respect of rights and duties resulting from sources other than treaties (agenda item 1)*

(a) Basic documents: First report on succession of States in respect of rights and duties resulting from sources other than treaties by Mr. Mohammed Bedjaoui, Special Rapporteur (A/CN.4/204) — First report on the succession of States and Governments in respect of treaties by Sir Humphrey Waldock, Special Rapporteur (A/CN.4/202)—Five studies prepared by the Secretariat on the succession of States to multi-lateral treaties (A/CN.4/200 and Corr.1 and Add.1 and 2).

(b) Consideration by the Commission:

(i) *report* of the Commission: G.A. (XXIII), Supp. No. 9 (A/7209/Rev.1), Chapter III.

(ii) *debates*: International Law Commission, 960th to 968th mtgs.

#### (2) *Relations between States and intergovernmental organizations (agenda item 2)*

(a) Basic document: Third report on relations between States and intergovernmental organizations by Mr. Abdullah El-Erian, Special Rapporteur (A/CN.4/203 and Add.1-5).

(b) Consideration by the Commission:

(i) *report* of the Commission: G.A. (XXIII), Supp. No. 9 (A/7209/Rev.1), Chapter II.

(ii) *debates*: International Law Commission, 943rd to 956th, 958th to 960th, 968th to 975th and 980 to 986th mtgs.

### (B) *Other documents of legal interest*

#### *General*

Yearbook of the International Law Commission, 1967, vol. I: Summary records of the nineteenth session (A/CN.4/SER.A/1967-Sales No.: E.68.V.1).

The final stage of the codification of international law. Memorandum by Mr. Roberto Ago (A/CN.4/205/Rev.1).

## 8. UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW <sup>41</sup>

### *Documents relating to an agenda item of legal interest (first session)*

*Programme of work of the Commission under section II, paragraph 8, of General Assembly resolution 2205 (XXI) including:*

(A) *Selection of topics and priorities;*

(B) *Organization of work and methods;*

(C) *Working relationships and collaboration with other bodies (agenda item 5)*

(a) Basic documents: Comments by Member States, organs and organizations on the work programme of the Commission (A/CN.9/4 and Corr.1 and Add. 1 and 2)—Survey of activities of organizations concerned with the harmonization and unification of the law of international trade (A/CN.9/5)—Organization and methods of work (A/CN.9/6 and Corr.1)—Collaboration and working relationships with organs and organizations concerned with international trade law (A/CN.9/7).

<sup>40</sup> See also section 1 (A) (ii) (18) above. For detailed information, see *Yearbook of the International Law Commission, 1968* (United Nations publication-Sales Nos: E.69.V.3 and E.69.V.4)

<sup>41</sup> See also section 1 (A) (ii) (22) above.

(b) Consideration by the Commission:

- (i) *working papers* (A/CN.9/L.1 and Rev.1, L.2, L.3 and Corr.1 *draft resolution* (A/CN.9/L.4), *draft recommendation* (A/CN.9/L.5), *decisions* (A/CN.9/9) and *report* of the Commission: G.A. (XXIII), a.i. 88, document A/7216.  
(ii) *debates*: A/CN.9/SR.2 to 23.

9. INTERNATIONAL CONFERENCE ON HUMAN RIGHTS  
(TEHERAN, 1968)<sup>42</sup>

*Documents of legal interest*

Human Rights: Compilation of international instruments of the United Nations (A/CONF.32/4).  
Measures taken within the United Nations in the field of human rights (A/CONF.32/5 and Add.1).

Methods used by the United Nations in the field of human rights (A/CONF.32/6 and Add.1).

Status of multilateral agreements in the field of human rights concluded under the auspices of the United Nations and of the specialized agencies (A/CONF.32/7 and Add.1 and 2).

Report submitted by the World Health Organization (A/CONF.32/8).

Report submitted by the International Labour Organisation (A/CONF.32/9).

Report submitted by the United Nations Educational, Scientific and Cultural Organization (A/CONF.32/10).

Report submitted by the United Nations High Commissioner for Refugees (A/CONF.32/12 and Rev.1 [English only]).

Report submitted by the United Nations Children's Fund (A/CONF.32/13 and Corr.1 [English only]).

Acceptance of human rights treaties—Document prepared by UNITAR (A/CONF.32/15).

Report submitted by the Food and Agriculture Organization of the United Nations (A/CONF.32/16).

Note submitted by the Commissioner-General of UNRWA (A/CONF.32/22).

Final Act of the International Conference on Human Rights (A/CONF.32/41-Sales No.: E.68.XIV.2).

10. UNITED NATIONS CONFERENCE ON THE LAW OF TREATIES  
(VIENNA, 1968)

*Documents of legal interest*

Methods of work and procedures of the first session of the Conference. Memorandum by the Secretary-General.

Selected bibliography on the law of treaties prepared by the Secretariat (A/CONF.39/4).

Analytical compilation of comments and observations made in 1966 and 1967 with respect to the final draft articles on the law of treaties: working paper prepared by the Secretariat (A/CONF.39/5 (Vol. I) and (Vol. II)).

Comments and amendments to the final draft articles on the law of treaties submitted in 1968 in advance of the Conference in accordance with General Assembly resolution 2287 (XXII) (A/CONF.39/6 and Add.1 and 2).

Written statements submitted by specialized agencies and intergovernmental bodies invited to send observers to the Conference (A/CONF.39/7 and Add.1 and Add.1/Corr.1 [English, French and Spanish only]).

Official Records: Summary records of plenary meetings and of meetings of the Committee of the Whole (First session) (A/CONF.39/11-Sales No.: E.68.V.7).

<sup>42</sup> See also section I 1 (A) (ii) (14) above.

## II. ECONOMIC AND SOCIAL COUNCIL AND SUBSIDIARY ORGANS

### 1. ECONOMIC AND SOCIAL COUNCIL AND SESSIONAL COMMITTEES

*Documents relating to agenda items of legal interest (forty-fourth session)*

- (1) *Report of the Commission on Human Rights* (agenda item 13) <sup>43</sup>
  - (a) Basic document: Report of the Commission: E.S.C. (XLIV), Supp. No. 4 (E/4475).
  - (b) Consideration by the Social Committee:
    - (i) *draft resolutions* (E/AC.7/L.547 to L.551) and *report* of the Social Committee (E/4335 and Add.1): see E.S.C. (XLIV), Annexes, a.i. 13.
    - (ii) *debates*: E/AC.7/SR.601 to 606.
  - (c) Consideration by the Council:
    - (i) *debate*: E.S.C. (XLIV), 1530th mtg.
    - (ii) *resolutions adopted*: Economic and Social Council resolutions 1330 (XLIV) [on the question of slavery], 1331 (XLIV) [on measures which the United Nations could adopt to eradicate all forms and practices of slavery], 1332 (XLIV) [on measures for effectively combating racial discrimination], 1333 (XLIV) [on the report of the *Ad Hoc* Working Group of Experts on the treatment of political prisoners in the Republic of South Africa], 1334 (XLIV) [on the composition of the Sub-Commission on Prevention of Discrimination and Protection of Minorities], 1335 (XLIV) [on measures to be taken against nazism and racial intolerance], 1336 (XLIV) [on the question of human rights in the territories occupied as a result of hostilities in the Middle East], 1337 (XLIV) [on capital punishment] and 1329 (XLIV) [on the item as a whole], of 31 May 1968.
- (2) *Report of the Commission on the Status of Women* (agenda item 14) <sup>44</sup>
  - (a) Basic document: Report of the Commission: E.S.C. (XLIV), Supp. No. 6 (E/4472).
  - (b) Consideration by the Social Committee:
    - (i) *draft resolutions* (E/AC.7/L.541 and L.542) and *report* of the Social Committee (E/4527): see E.S.C. (XLIV), Annexes, a.i. 14.
    - (ii) *debates*: E/AC.7/SR.598 to 602.
  - (c) Consideration by the Council:
    - (i) *debate*: E.S.C. (XLIV), 1530th mtg.
    - (ii) *resolutions adopted*: Economic and Social Council resolutions 1324 (XLIV) [on the political rights of women], 1325 (XLIV) [on the implementation of the Declaration on the Elimination of Discrimination against Women] and 1323 (XLIV) [on the item as a whole], of 31 May 1968.
- (3) *Advisory services in the field of human rights* (agenda item 15)
  - (a) Basic document: Report of the Secretary-General (E/4474): see E.S.C. (XLIV), Annexes, a.i. 15.
  - (b) Consideration by the Social Committee:
    - (i) *draft resolution* (E/AC.7/L.542) and *report* of the Social Committee (E/4536): see E.S.C. (XLIV), Annexes, a.i. 15.
    - (ii) *debate*: E/AC.7/SR.606.
  - (c) Consideration by the Council:
    - (i) *debate*: E.S.C. (XLIV), 1530th mtg.

<sup>43</sup> See also section I 1 (A) (ii) (12) above and section 2 below.

<sup>44</sup> See also section 3 below.



- (ii) *resolution adopted*: Economic and Social Council resolution 1338 (XLIV) of 31 May 1968.
- (4) *Allegations regarding infringements of trade union rights* (agenda item 16)
  - (a) Basic document: Report of the *Ad Hoc* Working Group of Experts established under resolution 2 (XXIII) of the Commission on Human Rights (E/4459): see E.S.C. (XLIV), Annexes, a.i. 16.
  - (b) Consideration by the Council:
    - (i) *draft resolution* (E/L.1206 and Corr.1 and 2 and Add.1).
    - (ii) *debate*: E.S.C. (XLIV), 1520th, 1522nd, 1525th and 1526th mtgs.
    - (iii) *resolution adopted*: Economic and Social Council resolution 1302 (XLIV) of 28 May 1968.
- (5) *Non-governmental organizations* (agenda item 18)
  - (a) Basic document: Report of the Council Committee on Non-Governmental Organizations (E/4485): see E.S.C. (XLIV), Annexes, a.i. 18. (containing in annex the text of a draft resolution adopted by the Committee for action by the Council).
  - (b) Consideration by the Council:
    - (i) *debate*: E.S.C. (XLIV), 1517th to 1520th mtgs.
    - (ii) *resolution adopted*: Economic and Social Council resolution 1296 (XLIV) of 23 May 1968.  
See also the decision taken by the Council at its 1520th meeting, on 23 May 1968.

## 2. COMMISSION ON HUMAN RIGHTS <sup>45</sup>

- (A) *Documents relating to agenda items of legal interest* (twenty-fourth session)
  - (1) *Question of the violation of human rights and fundamental freedoms including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries, including*
    - (a) *Report and recommendations of the Special Rapporteur appointed under resolution 7 (XXIII) of the Commission*;
    - (b) *Review of the situation referred to in resolution 2 (XXIII) of the Commission: report of the Ad Hoc Working Group of Experts*;
    - (c) *Study of situations which reveal a consistent pattern of violations of human rights as provided in resolution 8 (XXIII) of the Commission and resolution 1235 (XLII) of the Economic and Social Council*;
    - (d) *Report of the Ad Hoc Study Group set up under resolution 6 (XXIII) of the Commission on:*
      - (i) *the proposal concerning regional commissions on human rights (resolution 6 (XXIII) of the Commission)*;
      - (ii) *the question of the ways and means by which the Commission might be enabled or assisted to discharge functions in relation to violations of human rights and fundamental freedoms whilst meeting and fulfilling its existing functions (resolution 9 (XXIII) of the Commission and resolution 1235 (XLII) of the Economic and Social Council)* (agenda item 4) <sup>46</sup>
  - (a) Basic documents: Report of the Special Rapporteur appointed under resolution 7 (XXIII) of the Commission (E/CN.4/949 and Corr.1 and Add.1 and Add.1/Corr.1 and Add.2-5)—Report of the *Ad Hoc* Working Group of Experts established by

<sup>45</sup> See also section II 1 (I) above.

<sup>46</sup> See also section I 1 (A) (ii) (12) above and section (B) below.

resolution 2 (XXIII) of the Commission (E/CN.4/950)—Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/947, para. 95)—Report of the *Ad Hoc* Study Group set up under resolution 6 (XXIII) of the Commission (E/CN.4/966 and Add.1.).

(b) Consideration by the Commission:

(i) *draft resolutions* (E/CN.4/L.987, L.989 and Rev.1, L.990 and Rev.1, L.991 and Rev.1, L.992 and Rev.1, L.993 and Rev.1, L.994, L.995 and Rev.1 and 2, L.996, L.1004 and Rev.1, L.1005 and Rev.1, L.1006, L.1007, L.1011 and Rev.1, L.1012 and Rev.1, L.1014, L.1015) and *report* of the Commission E.S.C. (XLIV), Supp. No. 4 (E/4475).

(ii) *debates*: E/CN.4/SR.945 to 979.

(2) *Question of the punishment of war criminals and of persons who have committed crimes against humanity* (agenda item 9)<sup>47</sup>

(a) Basic documents: Report submitted by the Secretary-General in accordance with Economic and Social Council resolution 1158 (XLI) (E/CN.4/927 and Add.1-9)—Note by the Secretary-General (E/CN.4/965).

(b) Consideration by the Commission:

(i) *draft resolution* (E/CN.4/L.1016) and *report* of the Commission: E.S.C. (XLIV), Supp. No. 4 (E/4475).

(ii) *debates*: E/CN.4/SR.986 and 987.

(3) *Study of the question of the realization of the economic and social rights contained in the Universal Declaration of Human Rights* (agenda item 11)

(a) Basic document: Explanatory memorandum by the Chairman of the Commission at its twenty-third session, proposing the inclusion of the item in the agenda (E/CN.4/958/Add.1).

(b) Consideration by the Commission:

(i) *draft resolution* (E/CN.4/L.1010 and Rev.1) and *report* of the Commission: E.S.C. (XLIV), Supp. No. 4 (E/4475).

(ii) *debates*: E/CN.4/SR.981, 983 and 984.

(4) *Capital punishment* (agenda item 10)<sup>48</sup>

(a) Basic document: Note by the Secretary-General (E/CN.4/955 and Add.1 and 2).

(b) Consideration by the Commission:

(i) *draft resolution* (E/CN.4/L.1013 and Add.1) and *report* of the Commission: E.S.C. (XLIV), Supp. No. 4 (E/4475).

(ii) *debate*: E/CN.4/SR.990.

(B) *Other documents of legal interest*

*Question of the violation of human rights and fundamental freedoms*

Texts of (or extracts from) decisions taken by the United Nations organs containing provisions relevant to the question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of *apartheid* in all countries, with particular reference to colonial and other dependent countries and territories (E/CN.4/923/Add.1)<sup>49</sup>

*Periodic reports on human rights*

Reports [on freedom of information] submitted by the specialized agencies [UNESCO, UPU, ITU, ILO] (E/CN.4/951 and Add.1 and 2).

<sup>47</sup> See also section I 1 (A) (ii) (10) above.

<sup>48</sup> See also section I 1 (A) (ii) (13) above.

<sup>49</sup> See also sections I 1 A (ii) (12) and II 2 (A) (1) above.

*Sub-Commission on Prevention of Discrimination and Protection of Minorities*

Review of further developments in fields with which the Sub-Commission has been concerned—Memorandum submitted by the United Nations Educational, Scientific and Cultural Organization (E/CN.4/Sub.2/292 and Add.1).

Memorandum submitted by the International Labour Office (E/CN.4/Sub.2/293).

3. COMMISSION ON THE STATUS OF WOMEN <sup>50</sup>

*Documents relating to agenda items of legal interest (twenty-first session)*

- (1) *Political rights of women:*
  - (a) *Progress achieved in the field of political rights;*
  - (b) *Status of women in Trust Territories;*
  - (c) *Report of the Seminar on Civic and Political Education of Women (Finland, 1967)* (agenda item 3)
    - (a) Basic documents: First annual supplement (A/6807 and Add.1) to the consolidated report on constitutions, electoral laws and other legal instruments relating to political rights of women (A/6447/Rev.1-Sales No.: E.69.IV.2)—Report of the Secretary-General on information concerning the status of women in Trust Territories (E/CN.6/491)—Report of the Seminar on Civic and Political Education of Women (ST/TAO/HR/30).
    - (b) Consideration by the Commission:
      - (i) *draft resolutions* (E/CN.6/L.528 and Rev.1, L.529, L.530 and Rev.1 and 2, L.532) and *report* of the Commission: E.S.C. (XLIV), Supp. No. 6 (E/4472).
      - (ii) *debates*: E/CN.6/SR.494 to 496 and 498 to 501.
- (2) *Measures for the implementation of the Declaration on the Elimination of Discrimination against Women* (agenda item 4)
  - (a) Basic document: Report of the Working Group established by the Commission to draw up proposals on measures to implement the Declaration (E/CN.6/L.543).
  - (b) Consideration by the Commission:
    - (i) *draft resolution* recommended by the Working Group in its report (E/CN.6/L.543) and *report* of the Commission: E.S.C. (XLIV), Supp. No. 6 (E/4472).
    - (ii) *debates*: E/CN.6/SR.497 and 517.
- (3) *Status of women in private law: review of the Work of the Commission in the field of family law with suggestions for its future programme* (agenda item 5)
  - (a) Basic document: Report of the Secretary-General (E/CN.6/492).
  - (b) Consideration by the Commission:
    - (i) *report* of the Working Group established by the Commission (E/CN.6/L.544) and *report* of the Commission: E.S.C. (XLIV), Supp. No. 6 (E/4472).
    - (ii) *debates*: E/CN.6/SR.497 and 517.
- (4) *Measures which the United Nations could adopt to eradicate all forms and practices of slavery and the slave-trade affecting the status of women* (agenda item 6)
  - (a) Basic document: Note by the Secretary-General (E/CN.6/503).
  - (b) Consideration by the Commission:
    - (i) *draft resolutions* (E/CN.6/L.531 and Rev.1-5, L.536 and L.539) and *report* of the Commission: E.S.C. (XLIV), Supp. No. 6 (E/4472).
    - (ii) *debates*: E/CN.6/SR.500 to 502, 505 to 507, 510 and 512.

<sup>50</sup> See also section 1 (2) above.

#### 4. COMMISSION ON NARCOTIC DRUGS

##### *Documents of legal interest*

The control of psychotropic substances not under international control. Legal, Administrative and Other Questions—Note by the Secretary-General (E/CN.7/509).

Programme and priorities in the field of narcotic drugs; control and limitation of documentation; implementation of Economic and Social Council resolution 1264 (XLIII) (E/CN.7/511) (contains in annex a study by the Secretariat of the Commission's work in relation to the frequency of its sessions).

Report of the Division on Narcotic Drugs for the period 1 November 1967-31 October 1968 (E/CN.7/514 and Corr.1 and 2 and Add.2).

The control of psychotropic drugs not under international control—Note by the Secretary-General (E/CN.7/519).

### III. UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

##### *Documents of legal interest*

Commodity Problems and Policies—A general agreement on commodity arrangements—Report by the UNCTAD Secretariat (TD/30).

International Legislation on Shipping, by T. K. Thommen (TD/32/Rev.1—Sales No.: E.69.II.D.2).

The role of private enterprise in investment and promotion of experts in developing countries—Report prepared by Dirk V. Stikker (TD/35/Rev.1—Sales No.: E.68.II.D.9) (Chapter III: Legal aspects).

Special problems of the land-locked countries. State of ratifications of the Convention on the Transit Trade of Land-locked Countries, 1965—Note by the UNCTAD Secretariat (TD/II/WG.III/L.2 and Corr.1).

##### *Trade and Development Board*

The role of the United Nations Commission on International Trade Law in international shipping legislation. Note circulated by the Secretariat of the United Nations (TD/B/SC.8/1).

##### *Conferences*

International Wheat Conference, 1967 (TD/WHEAT.4/1—Sales No.: E.68.II.D.5) (contains the text of the International Grains Arrangement, 1967, including the Wheat Trade Convention and the Food Aid Convention).

United Nations Sugar Conference, 1968. Summary of Proceedings (TD/SUGAR.7/12—Sales No.: E.69.II.D.6) (contains in Annex II the text of a Protocol for further prolongation of certain provisions of the International Sugar Agreement 1958 and in Annex III the text of the International Sugar Agreement 1968)

Participation of the European Economic Community in the United Nations Sugar Conference, 1968—Note by the Secretary-General of UNCTAD (TD/SUGAR.7/4 and Corr.1-3)<sup>51</sup>

<sup>51</sup> See p. 201 of this *Yearbook*.

## IV. SECRETARIAT <sup>52</sup>

### 1. ECONOMIC COMMISSION FOR EUROPE

The legal status of international gas pipe-lines (ST/ECE/GAS/21—Sales No.: 67.II.E/Mim.49).

### 2. OFFICE OF TECHNICAL CO-OPERATION

#### *Human Rights Series*

Seminar on Freedom of Association. London, United Kingdom, 18 June-1 July 1968. Organized by the United Nations in co-operation with the Government of the United Kingdom (ST/TAO/HR/32).

Seminar on the Elimination of All Forms of Racial Discrimination. New Delhi, India, 27 August-9 September 1968. Organized by the United Nations in co-operation with the Government of India (ST/TAO/HR/34).

Seminar on the Civil and Political Education of Women. Accra, Ghana, 19 November-2 December 1968. Organized by the United Nations in co-operation with the Government of Ghana (ST/TAO/HR/35).

## V. INTERNATIONAL COURT OF JUSTICE <sup>53</sup>

### 1. GENERAL

Annuaire, 1967-1968. No. 22. 1968. XII, 151 pp. Printed. Sales No. 323.

Yearbook, 1967-1968. No. 22. 1968. XII, 154 pp. Printed. Sales No. 324.

Bibliography of the International Court of Justice. Prepared by the Library of the Court. No. 21, 1967-1968. [44] xxvii pp. Printed. Sales No. 318.

### 2. REPORTS OF JUDGMENTS, ADVISORY OPINIONS AND ORDERS

Reports of Judgments, Advisory Opinions and Orders, 1967 [1968]. 13, 13 pp. Printed. Sales Nos. 309, 310, 311 and 316. Bound volume containing the Reports published in 1967, with index.

Reports of Judgments, Advisory Opinions and Orders, 1968. North Sea Continental Shelf Case (Denmark/Federal Republic of Germany). Order of 1 March 1968. 1968. [3-4], 2,2 pp. Printed. Sales No. 319.

— North Sea Continental Shelf Case (Federal Republic of Germany/Netherlands). Order of 1 March 1968. 1968. [6-7], 2,2 pp. Printed. Sales No. 320.

— North Sea Continental Shelf Cases (Denmark/Federal Republic of Germany; Federal Republic of Germany/Netherlands). Order of 26 April 1968. 1968. [9-11], 3,3 pp. Printed. Sales No. 321.

— Case concerning the *Barcelona Traction, Light and Power Co., Ltd.* (New application: 1962) (Belgium v. Spain). Order of 24 May 1968. 1968. [13-14], 2,2 pp. Printed. Sales No. 322.

### 3. PLEADINGS, ORAL ARGUMENTS, DOCUMENTS

Pleadings, Oral arguments, Documents, [1960] 1966.

<sup>52</sup> The recurrent publications of the Office of Legal Affairs are not listed in this section; see the *United Nations Documents Index* published by the Dag Hammarskjöld Library, United Nations.

<sup>53</sup> For detailed information see *Yearbook* of the International Court of Justice, 1967-1968 and 1968-1969.

South West Africa Cases (Ethiopia *v.* South Africa; Liberia *v.* South Africa), Vol. VI [1968], XIII, 483 pp. Printed. Sales No. 315.

South West Africa Cases (Ethiopia *v.* South Africa; Liberia *v.* South Africa), Vol. VII [1968], XI, 383 pp. Printed. Sales No. 317.

## B. Legal Documents Index of Inter-Governmental Organizations Related to the United Nations

### I. INTERNATIONAL LABOUR ORGANISATION

#### A. REPRESENTATIVE ORGANS

##### 1. INTERNATIONAL LABOUR RECOMMENDATION ADOPTED IN 1968<sup>54</sup>

Recommendation concerning the Improvement of Conditions of Life and Work of Tenants, Share-croppers and Similar Categories of Agricultural Workers

- (i) Technical Advisory Group on Agrarian Reform, Geneva, 24 February-5 March 1964. Report<sup>55</sup> (roneoed). Document Ag.Rf/R.2, 40 pages. English, French, Spanish, German, Russian.
- (ii) Technical Advisory Group on Agrarian Reform. Recommendation for placing on the agenda of a very early session of the International Labour Conference the question of the improvement of conditions of life and work of tenants, share-croppers and similar categories of agricultural workers, with a view to the adoption of appropriate international standards. Minutes of the 159th session of the Governing Body, Geneva, June-July 1964, p. 58.
- (iii) Agrarian reform, with particular reference to employment and social aspects. International Labour Conference, 49th session, Geneva, 1965. Record of Proceedings, pp. 420-427, 650-662, 698-707. English, French, Spanish.
- (iv) Agenda of the 51st session (1967) of the International Labour Conference. Question of the improvement of conditions of life and work of tenants, share-croppers and similar categories of agricultural workers. Minutes of the 163rd session of the Governing Body, Geneva, November 1965, pp. 4-12, 53-54. English, French, Spanish.
- (v) Improvement of conditions of life and work of tenants, sharecroppers and similar categories of agricultural workers. International Labour Conference, 51st session, Geneva, 1967. Report VII (1) and Report VII (2); 92 and 119 pages respectively. English, French, Spanish, German, Russian.
- (vi) Improvement of conditions of life and work of tenants, share-croppers and similar categories of agricultural workers. International Labour Conference, 51st session, Geneva, 1967. Record of Proceedings, pp. 446-464, 746-761. English, French, Spanish.
- (vii) Agenda of the 52nd session (1968) of the International Labour Conference; 51st session (1967) of the Conference. Record of Proceedings, p. 793. English, French, Spanish.
- (viii) Improvement of conditions of life and work of tenants, share-croppers and similar categories of agricultural workers. International Labour Conference, 52nd session, Geneva, 1968. Report IV (1) and Report IV (2); 43 and 63 pages respectively. English, French, Spanish, German, Russian.

<sup>54</sup> For convenience of reference all the preparatory work of such instruments, which normally covers a period of two years, will be given in the year in which the instrument was adopted.

<sup>55</sup> This document contains, in Annex IV, "draft suggestions concerning improvements in the living and working conditions of tenants and share-croppers and similar categories of agricultural workers".

- (ix) Improvement of conditions of life and work of tenants, share-croppers and similar categories of agricultural workers. International Labour Conference, 52nd session, Geneva, 1968. Record of Proceedings, pp. 353-357, 450. English, French, Spanish.
- (x) Recommendation concerning the Improvement of Conditions of Life and Work of Tenants, Share-croppers and Similar Categories of Agricultural Workers. *Official Bulletin*, Vol. LI, No. 3, July 1968, Supplement, pp. 1-8. English, French, Spanish.

## 2. AMENDMENTS TO THE STANDING ORDERS OF THE INTERNATIONAL LABOUR CONFERENCE

Proposed amendments concerning the number of deputy members of the Governing Body as specified in Article 49, paragraph 4, and in Article 50, paragraph 2, of the Standing Orders of the Conference

- (i) Working Party on the Programme and Structure of the ILO Minutes of the 171st session of the Governing Body, Geneva, February-March 1968, document GB. 171/7/19. English, French, Spanish.
- (ii) International Labour Conference, 52nd session, Geneva, 1968. Record of Proceedings, pp. 411, 505. English, French, Spanish.
- (iii) Amendments to the Standing Orders of the Conference. Number of deputy members of the Governing Body as specified in Article 49, paragraph 4, and in Article 50, paragraph 2 of the Standing Orders of the Conference. *Official Bulletin*, Vol. LI, No. 3, July 1968, Supplement, p. 21. English, French, Spanish.

## B. QUASI-JUDICIAL BODIES AND COMMITTEES OF EXPERTS

### 1. REPORTS OF THE GOVERNING BODY COMMITTEE ON FREEDOM OF ASSOCIATION

- (a) 102nd and 103rd Reports, 9 November 1967, 15 February 1968. *Official Bulletin*, Vol. LI, No. 2, April 1968, Supplement, 53 pages. English, French, Spanish.
- (b) 104th, 105th and 106th Reports, 15 February 1968, 29 May 1968, 29 May 1968. *Official Bulletin*, Vol. LI, No. 4, October 1968, Supplement, 71 pages. English, French, Spanish.
- (c) 107th and 108th Reports, 7 November 1968, 7 November 1968. *Official Bulletin*, Vol. LII, No. 1, January 1969, Supplement, 77 pages. English, French, Spanish.

### 2. REPORT OF THE COMMITTEE OF EXPERTS ON THE APPLICATION OF CONVENTIONS AND RECOMMENDATIONS

International Labour Conference, 52nd session, Geneva, 1968, Report III (Part 4), 252 pages. English, French, Spanish.

## C. AGREEMENTS WITH THE UNITED NATIONS AND OTHER ORGANISATIONS

(a) Memorandum of Guidelines for Co-operation between the International Labour Organisation and the United Nations Development Organization. *Official Bulletin*, Vol. LI, No. 4, October 1968, pp. 309-310. English, French, Spanish.

(b) Co-operation between the Food and Agriculture Organization, the United Nations Educational, Scientific and Cultural Organization and the International Labour Organisation:

Aide-Mémoire setting forth guidelines for co-operation between the FAO, UNESCO and the ILO in agricultural education, science and training. *Official Bulletin*, Vol. LI, No. 4, October 1968, pp. 311-314.

Joint statement on agricultural education submitted to the Administrative Committee on Co-ordination. *Official Bulletin*, Vol. LI, No. 4, October 1968, pp. 315-316.

## II. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

### A. CONSTITUTIONAL QUESTIONS

| <i>Question</i>  | <i>Documents</i>  |
|--|---|
| 1. Quorum requirements for Commissions of the Conference   | CL 51/5, para. 48; CL 51/REP. <sup>56</sup> , paras. 123-127        |
| 2. Review of FAO statutory bodies  | CL 51/31; CL 51/REP., paras. 233-237; CL 51/6, PART I, paras. 31-33 |
| 3. Membership in FAO's subsidiary bodies of non-member nations which are Members of the United Nations   | CL 51/6, PART I, paras. 58-61; CL 51/REP., paras. 257-260           |
| 4. FAO reorganization plan   | CL 51/9; CL 51/REP., paras. 60-101, App. F                          |
| 5. Procedure for the appointment of the Director-General   | CL 51/12; CL 51/13; CL 51/REP., paras. 134-140                      |
| 6. Independent Chairman of the Council   | CL 51/LIM/4; CL 51/REP., paras. 141-145                             |
| 7. Implementation of the Declaration of the Granting of Independence to the Colonial Countries and Peoples by the specialized agencies and the international institutions associated with the United Nations (G.A. Res. 2311 (XXII)) | CL 51/26, Sup. 1; CL 51/REP., para. 205                             |

### B. BODIES ESTABLISHED UNDER ARTICLE VI OF THE FAO CONSTITUTION

| <i>Body</i>  | <i>Documents</i>   |
|--|--|
| 1. Consultative Sub-Committee on Surplus Disposal (Reappraisal of terms of reference)  | CCP 68/7/1; CL 51/4, paras. 86-97; CL 51/REP., para. 39          |
| 2. Joint IMCO/FAO/UNESCO/WMO Group of Experts on the Scientific Aspects of Marine Pollution (establishment)  | CL 51/25; CL 51/REP., para. 200                                  |
| 3. Amendment to the terms of reference of the FAO Desert Locust Control Committee and abolition of the FAO Technical Advisory Committee on Desert Locust Control | CL 51/32; CL 51/REP., paras. 238-242; CL Res. 3/51 <sup>57</sup> |
| 4. Amendments to the Rules of Procedure of the Codex Alimentarius Commission   | ALINORM 68/4; CAC 5 REP. <sup>58</sup> , paras. 65-72            |
| 5. Codex Alimentarius—Procedural Manual  | First Edition, 86 pages  |

### C. AGREEMENTS WITH GOVERNMENTS AND INTER-GOVERNMENTAL ORGANIZATIONS

| <i>Agreement</i>                 | <i>Documents</i>   |
|----------------------------------|--|
| 1. Agreement between FAO and OAU | CL 51/5, paras. 26-35; CL 51/7; CL 51/43; CL 51/REP., paras. 244-250, App. 4; CL Res. 4/51 |

<sup>56</sup> CL 51/REP refers to the report of the fifty-first session of the Council.

<sup>57</sup> CL Res. 3/51 refers to a resolution of the fifty-first session of the Council.

<sup>58</sup> CAC 5 REP refers to the report of the fifth session of the Codex Alimentarius Commission.



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|---|---|
| 2. Co-operation between FAO, UNESCO and ILO in agricultural education, science and training   | CL 51/28; CL 51/REP., paras. 207-214, App. G; CL Res. 2/51    |
| 3. Memorandum of Agreement between the Asian Development Bank (ADB) and the Food and Agriculture Organization of the United Nations (FAO) relating to a procedure for co-operative action | CL 51/30, paras. 1-3 (Text in Annex A); CL 51/REP., para. 218 |
| 4. Memorandum of Understanding on procedures for the application of the "Agreement for the Co-ordination of FAO and Inter-American Development Bank Activities"                           | CL 51/30, paras. 6-7 (Text in Annex B); CL 51/REP., para. 218 |

#### D. CONVENTIONS AND AGREEMENTS UNDER ARTICLES XIV AND XV OF THE FAO CONSTITUTION

| <i>Agreement</i>  | <i>Document</i>                      |
|---|--------------------------------------|
| Agreement for the Establishment of a Near East Forest Rangers' School (Termination) | CL 51/35; CL 51/REP., paras. 262-263 |

#### E. SUBSTANTIVE LEGAL QUESTIONS

##### 1. AGRICULTURE AND ANIMAL HUSBANDRY

| <i>Question</i>  | <i>Documents</i>   |
|--|--|
| (a) * Legislative and administrative provisions in European countries to ensure proper distribution of water resources | ECA:WR/68/3(4) Rev. 1, iv + 51 p., July 1968, Multilithed    |
| (b) * Recent trends in legislation on agrarian structure in Europe   | ECA:AS/68/10, 16 p. Multilithed                              |
| (c) * Legislation on land use planning in Europe (Supplement 1966-1968)  | ECA:LU/68/9D, ii + 17 p. Multilithed. (Provisional document) |
| (d) * Retirement schemes and inheritance laws as applied to farmers in European Member Countries                       | ECA/15/67 (9) (Rev. 1, iv + 43 p., August 1968. Multilithed  |
| (e) * Provisions of laws and regulations designed to protect domestic animals against unnecessary suffering            | 12 p. Multilithed  |
| (f) Jacoby, E.H.: Agrarian reconstruction  | FFHC Basic Studies No. 18, 86 p. 4 Tab.                      |

##### 2. FISHERIES, POLLUTION CONTROL

|  |  |
|--|--|
| (a) * Limits and status of the territorial sea, exclusive fishing zones, fishery conservation zones and the continental shelf (with particular reference to fisheries) | FAO Fisheries Technical Paper No. 79, FID/T79, FR—Law of the Sea, vi + 30 p., December 1968. Multilithed |
| (b) Co-operation among international agencies concerned with the oceans (G.A. Res. 2172 XXI)   | COFI 68/3 (and Sups. 1,2); CL 51/INF/3; CL 51/8, paras. 19-27; CL 51/REP., para. 198                     |

\* Prepared by, or in co-operation with, the Legislation Branch, FAO.

- (c) International Convention for the Conservation of Atlantic Tunas COFI/68/6; CL 51/8, paras. 39-42
- (d) Draft Convention for the Conservation of the Living Resources of the South East Atlantic COFI/68/5 (and Sups. 1,2); CL 51/8, paras. 32-35
- (e) Marine Pollution COFI/68/14 (and Sup. 1); CL 51/8, paras. 65-66; CL 51/REP., para. 200
- (f) Malakoff, E.R.: Water pollution control: national legislation and policy. A comparative study LA:MISC/67, December 1967. Rome, 1968. vi + 63 p. Multilithed

### 3. COMMODITIES AND TRADE

- (a) \* Comparative study of laws and regulations governing the international traffic in live fish and fish eggs FI/EIFAC 68/SC II-17, ii + 34 p. May 1968. Multilithed
- (b) Summary of veterinary regulations—Imports and exports, Central and South America Animal Health Branch Monograph No. 9, viii + 125 p., 1968. Multilithed
- (c) Feasibility of commodity arrangements for tea CCP: Tah 68/6 (Rev.), 29 p.
- (d) The International Sugar Agreement of 1968 Monthly Bulletin of Agricultural Economics and Statistics, Vol. 17, No. 12, 1968
- (e) Commodity agreements and arrangements FAO Commodity Review 1968, FAO, 1968, iii + 229 pp. (see esp. paras. 561-590)
- (f) Scott, T.H.: La importación, exportación y el tránsito de especies animales y vegetales—Importación, exportación y transporte de animales UN/FAO 13 p.
- (g) Gonzalez Lopez, J.L.: Incentivos para el desarrollo industrial. Resumen de beneficios de las leyes de fomento industrial en Guatemala, El Salvador, Honduras, Nicaragua, Costa Rica y Panamá 21 p., 4 Tab.

### 4. FOOD STANDARDS AND NUTRITION

- (a) Index of current legal and statutory provisions of various countries concerning pesticide residues in foods CCPR/68/9 (CX 4/40.3), 26 p., July 1968. Multilithed
- (b) Acceptance of Codex Standards ALINORM 68/9, paras. 5-7, App. III; CAC 5 REP., paras. 14-25; PG/68/2; PG/68/3; PG/68/4
- (c) Withdrawal of acceptances PG/68/6
- (d) Codes of practice in relation to the Codex Alimentarius ALINORM 68/7; CAC 5 REP., para. 46-49. App. IV

### 5. INVESTMENT

- (a) \* Legislative and administrative measures taken in Turkey to attract and regulate foreign private investment in agriculture, forestry, fisheries and related industries FAO/IND. Coop. Prog., 27 p. February 1968. Multilithed

\* Prepared by, or in co-operation with, the Legislation Branch, FAO.

- (b) \* Legislative and administrative measures taken in Indonesia to attract and regulate foreign private investment in agriculture, forestry, fisheries and related industries *FAO/IND. Coop. Prog.*, 25 p December 1968. Multilithed
- (c) \* Legislative and administrative measures taken in Kenya to attract and regulate foreign private investment in agriculture, forestry, fisheries and related industries *FAO/IND. Coop. Prog.*, 14 p. February 1968. Multilithed
- (d) \* Legislative and administrative measures taken in Morocco to attract and regulate foreign private investment in agriculture, forestry, fisheries and related industries *FAO/IND. Coop. Prog.*, 28 p. May 1968. Multilithed
- (e) Legal techniques for the protection of foreign investment in pulp and paper industries in developing countries Vol. 3 of technical papers. Conference on Pulp and Paper Development in Africa and the Near East, March 1968

## F. PERIODICALS

- Quarterly “Food and Agricultural Legislation”—Printed
- “Legislative Report”—Multilithed—6 issues per year. (English + titles in French and Spanish)
- “Current Food Additives Legislation”—Multilithed—10 issues per year

## III. UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

### (A) CONSTITUTIONAL AND PROCEDURAL QUESTIONS

#### (a) *Executive Board*

- (1) Establishment of the Permanent Commissions of the Executive Board. *81 EX/Decision 5*, November 1968, English, French, Russian, Spanish.
- (2) Terms of reference of Committees. *Document 81 EX/7*, 22 November 1968, 2 p., English, French, Russian, Spanish.
- (3) Establishment of other subsidiary bodies of the Executive Board (81 EX/7). *81 EX/Decision 6*, November 1968, English, French, Russian, Spanish.
- (4) Procedure for the election of FAO Council Members. Information note by the Secretariat. *Document 78 EX/SP/8*, 31 January 1968, 26 p., English, French, Russian, Spanish.
- (5) Composition of the Executive Board. Draft resolution. *Document 78 EX/SP/9*, 31 January 1968, 6 p., English, French, Russian, Spanish.
- (6) Draft Report of the Special Committee. *Document 78 EX/SP/10*, 16 February 1968, 45 p., and *Add.*, 15 February 1968, 2 p., and *Add. 2*, 16 February 1968, 1 p., English, French, Russian, Spanish.
- (7) Composition of the Executive Board: voting procedure. Note by the Secretariat. *Document 78 EX/SP/11*, 29 May 1968, 4 p., English, French, Russian, Spanish.
- (8) Note by the Chairman. Term of office of members of the Board: transitional provisions. *Document 78 EX/SP/12*, 29 May 1968, 2 p., English, French, Russian, Spanish.

\* Prepared by, or in co-operation with, the Legislation Branch, FAO.

- (9) Report of the Special Committee. *Document 78 EX/2*, 11 April 1968, 48 p., and *Add.*, 5 June 1968, 5 p., English, French, Russian, Spanish.
- (10) Report of the Special Committee of the Executive Board (78 EX/2 and Add.). *78 EX/Decision 3.1*, May-June 1968, English, French, Russian, Spanish.
- (11) Composition of the Executive Board, duration of term of office of members and method of election. *Document 15C/24*, 30 July 1968, 14 p., English, French, Russian, Spanish.
- (12) Composition of the Executive Board, duration of term of office of members and method of election. Draft amendments to Constitution (Article V, paragraph 2), submitted by Japan and Peru. *Document 15C/25*, 30 July 1968, 3 p., English, French, Russian, Spanish.
- (13) Composition of the Executive Board, duration of term of office of members and method of election. Draft amendments to the Constitution (Article V) and to the Rules of Procedure of the General Conference (part of a term of office served by a member of the Executive Board), submitted by the United States of America. *Document 15C/26*, 30 July 1968, 3 p., English, French, Russian, Spanish.
- (14) Composition of the Executive Board: draft resolution proposed by France. Draft amendment proposed by Japan and the Philippines. *Document 15C/74*, 23 October 1968, 1 p., English, French, Russian, Spanish.
- (15) Composition of the Executive Board: Resolution adopted by the General Conference (14th plenary meeting, 23 October 1968). *Document 15C/74 (Rev.)*, 24 October 1968, 1 p., English, French, Russian, Spanish.
- (16) Legal Committee, Second Report (Composition of the Executive Board, duration of term of office of members and method of election). *Document 15C/76*, and *Corr.*, 1 November 1968, 12 p. and annexes, English, French, Russian, Spanish.
- (17) Special Report of the Administrative Commission on the Composition of the Executive Board. *Document 15C/77*, 2 November 1968, 1 p., English, French, Russian, Spanish.
- (18) Procedure for examination in plenary meeting, on 4 and 5 November 1968, of item 29 of agenda: "Composition of the Executive Board, duration of term of office of members and method of election". *Document 15C/INF/9*, 4 November 1968, 2 p., English, French, Russian, Spanish.
- (19) Draft resolution submitted by India, Japan and Nepal. *Document 15C/DR/PLEN/5 Rev.*, 2 November 1968, 1 p., English, French, Russian, Spanish.
- (20) Draft amendments to the draft resolution contained in document 15C/24, Annex V, and to Annex VI of the same document. Submitted by the Byelorussian Soviet Socialist Republic. *Document 15C/DR/PLEN/6*, 4 November 1968, 1 p., English, French, Russian, Spanish.
- (21) Composition of the Executive Board, duration of term of office of members and method of election. *15C/Resolution 11*, 4 November 1968, English, French, Russian, Spanish.<sup>59</sup>
- (22) Composition of the Executive Board, duration of term of office of members and method of election. *Document 15C/INF. 10*, 7 November 1968, 11 p., English, French, Russian, Spanish.
- (23) Amendments to be made to the Rules of Procedure of the Executive Board. *Document 81 EX/6*, 19 November 1968, 2 p., English, French, Russian, Spanish.
- (24) Amendments to be made to the Rules of Procedure of the Executive Board (81 EX/6). *81 EX/Decision 9.2*, November 1968, English, French, Russian, Spanish.

(b) *Functions of Legal Committee*

- (25) Draft amendments to the Rules of Procedure of the General Conference. Functions of the Legal Committee (Rule 32). *Document 15C/63*, 30 July 1968, 3 p., English, French, Russian, Spanish.
- (26) Legal Committee, Fourth Report (Draft amendments to the Rules of Procedure of the General Conference: functions of the Legal Committee—Rule 32). *Document 15C/82*, 14 November 1968, 2 p., English, French, Russian, Spanish.

<sup>59</sup> See p. 163 of this *Yearbook*.

- (27) Amendment to Rule 32 of the Rules of Procedure (Functions of the Legal Committee). *15C/Resolution 12.2*, 16 November 1968, English, French, Russian, Spanish.

(c) *Summary records*

- (28) Organization of the work of the General Conference: records of Commissions and Committees. *Document 78 EX/SP/5*, 17 January 1968, 2 p., English, French, Russian, Spanish.
- (29) Draft amendments to the Rules of Procedure of the General Conference. Summary records (Rules 55, 56, 58, 59, 60). *Document 15C/62*, 30 July 1968, 5 p., English, French, Russian, Spanish.
- (30) First report of the Administrative Commission: Summary records—draft amendments to the Rules of Procedure of the General Conference (15C/62). *Document 15C/71*, 18 October 1968, 2 p., English, French, Russian, Spanish.
- (31) Legal Committee. First Report (Draft amendments to the Rules of Procedure of the General Conference: Summary records (Rules 55, 56, 58, 59, 60)). *Document 15C/72*, 21 October 1968, 3 p., English, French, Russian, Spanish.
- (32) Amendments to Rules 55, 56, 58, 59, 60 and 84 of the Rules of Procedure (Summary records). *15C/Resolution 12.1*, 21 October 1968, English, French, Russian, Spanish.
- (33) Texts of Rules 55, 56, 58, 59, 60 and 84 of the Rules of Procedure of the General Conference as amended by the General Conference at its fifteenth session. *Document 15C/INF/8*, 25 October 1968, 2 p., English, French, Russian, Spanish.

(d) *Quorum*

- (34) Draft amendment to the Rules of Procedure of the General Conference: Quorum (Rule 69.3). *Document 15C/66*, 30 September 1968, 3 p., English, French, Russian, Spanish.
- (35) Legal Committee, Third Report (Draft amendments to the Rules of Procedure of the General Conference: Quorum (Rule 69.3)). *Document 15C/81*, 14 November 1968, 2 p., English, French, Russian, Spanish.
- (36) Recommendation of the Legal Committee that the present wording of Rule 69.3 should be maintained. Adopted by the General Conference at the 38th plenary meeting of the fifteenth session on 16 November 1968. *15C/VR.38, para. 13.3*, English, French, Russian, Spanish.

(e) *Other*

- (37) Contract and Statute of the Director-General. *Document 15C/69*, 18 October 1968, 3 p., English, French, Russian, Spanish.
- (38) Appointment of the Director-General. *15C/Resolution 7*, 19 October 1968, English, French, Russian, Spanish.
- (39) Staff Regulations and Rules. *Document 15C/37*, 12 September 1968, 3 p., English, French, Russian, Spanish.
- (40) Draft amendments to the regulations for the general classification of the various categories of meetings convened by UNESCO. *Document 15C/64*, 30 September 1968, 4 p., English, French, Russian, Spanish.
- (41) Legal Committee, Eighth Report (Draft amendments to the Regulations for the general classification of the various categories of meetings convened by UNESCO). *Document 15C/86*, 14 November 1968, 2 p., English, French, Russian, Spanish.
- (42) Recommendation of the Legal Committee to defer examination of the term “Draft amendments to the regulations for the general classification of the various categories of meetings convened by UNESCO (15C/64)” adopted by the General Conference at the 38th plenary meeting of the fifteenth session on 16 November 1968. *15C/VR., para. 27.4*, English, French, Russian, Spanish.

## B. MEMBER STATES

- (1) Credentials of the Delegation of China. *15C/Resolution 0.13*, 15 October 1968, English, French, Russian, Spanish.
- (2) Right to vote of Bolivia, Costa Rica, Dominican Republic, Guinea, Haiti, Paraguay and Yemen. *15C/Resolution 0.2*, 15 October 1968, English, French, Russian, Spanish.

## C. RELATIONS WITH OTHER ORGANIZATIONS

### (a) *Joint Afro-Malagasy Organization*

- (1) Draft agreement with the Joint Afro-Malagasy Organization (OCAM). *Document 78 EX/18*, 25 March 1968, 6 p., English, French, Russian, Spanish.
- (2) Draft agreement with the Joint Afro-Malagasy Organization (OCAM) (78 EX/18 and 78 EX/37, Part I). *78 EX/Decision 7.7*, May-June 1968, English, French, Russian, Spanish.

### (b) *Organization for African Unity*

- (3) Draft agreement with the Organization of African Unity (OAU), *Document 78 EX/34*, 8 April 1968, 6 p., English, French, Russian, Spanish.
- (4) Draft agreement with the Organization of African Unity (OAU) (78 EX/34 and 78 EX/37, Part I). *78 EX/Decision 7.6*, May-June 1968, English, French, Russian, Spanish.
- (5) Corrections to the text of the Agreement between UNESCO and the Organization of African Unity (OAU). *Document 81 EX/4*, 19 November 1968, 5 p., English, French, Russian, Spanish.
- (6) Corrections to the text of the Agreement between UNESCO and the Organization of African Unity (OAU) (81 ES/4). *81 EX/Decision 8.2*, November 1968, English, French, Russian, Spanish.

### (c) *Food and Agricultural Organization of the United Nations and International Labour Organisation*

- (7) Co-operation with FAO and ILO in the field of agricultural education, science and training. *Document 78 EX/15*, 12 April 1968, 3 p., *78 EX/15 Add.*, 9 May 1968, 8 p., *78 EX/15 Add. 2*, 29 May 1968, 2 p., English, French, Russian, Spanish.
- (8) Co-operation with FAO and ILO in agricultural education, science and training. *78 EX/Decision 5.1 B.V.AA.*, May-June 1968, English, French, Russian, Spanish.
- (9) Co-operation with FAO and ILO in agricultural education, science and training. *Document 15C/56*, 12 September 1968, 8 p., English, French, Russian, Spanish.

### (d) *United Nations Relief and Works Agency*

- (10) Co-operation with the United Nations Relief and Works Agency (UNRWA). *Documents 78 EX/16*, 18 April 1968, 4 p., *78 EX/16 Add.*, 10 p., *78 EX/16 Add. 2*, 4 p., English, French, Russian, Spanish.
- (11) Co-operation with the United Nations Relief and Works Agency (UNRWA) (78 EX/16 and Add. 1 and 2). *78 EX/Decision 7.4*, May-June 1968, English, French, Russian, Spanish.
- (12) Co-operation with the United Nations Relief and Works Agency (UNRWA). *Document 81 EX/3*, 20 November 1968, 7 p., English, French, Russian, Spanish.
- (13) Co-operation with the United Nations Relief and Works Agency (UNRWA) (81 EX/3), *81 EX/Decision 8.1*, November 1968, English, French, Russian, Spanish.

### (e) *African Development Bank*

- (14) Co-operation with the African Development Bank. *Document 78 EX/35*, 30 April 1968, 6 p., English, French, Russian, Spanish.

- (15) Co-operation with the African Development Bank (ADB) (78 EX/35 and 78 EX/37, Part III). *78 EX/Decision 7.12*, May-June 1968, English, French, Russian, Spanish.
- (16) Draft agreement with the African Development Bank (ADB). *Document 80 EX/13*, 11 October 1968, 5 p., English, French, Russian, Spanish.
- (17) Draft agreement with the African Development Bank (ADB) (80 EX/13). *80 EX/Decision 6.2*, October-November 1968, English, French, Russian, Spanish.

(f) *International Bureau of Education*

- (18) Co-operation with the International Bureau of Education (IBE). *Document 78 EX/17*, 14 June 1968, 13 p., and *Add.*, 1 p., English, French, Russian, Spanish.
- (19) Co-operation with IBE (78 EX/17 and *Add.*). *78 EX/Decision 7.5*, May-June 1968, English, French, Russian, Spanish.
- (20) Transfer to UNESCO of the resources and activities of the International Bureau of Education. *Document 15C/17* and *Corr.*, 12 September 1968, 9 p., English, French, Russian, Spanish.
- (21) Legal Committee, Fifth Report (Transfer to UNESCO of the resources and activities of the International Bureau of Education). *Document 15C/83*, and *Corr.*, 14 November 1968, 3 p., English, French, Russian, Spanish.
- (22) Transfer to UNESCO of the resources and responsibilities of other international organizations: International Bureau of Education. *15C/Resolution 14.1*, 16 November 1968, English, French, Russian, Spanish.<sup>60</sup>

(g) *International Relief Union*

- (23) Transfer to UNESCO of certain responsibilities and assets of the International Relief Union. *Document 78 EX/19*, 8 April 1968, 4 p., and *Add.*, 6 p., 24 May 1968, English, French, Russian, Spanish.
- (24) Transfer to UNESCO of certain responsibilities and assets of the International Relief Union (78 EX/19 and *Add.* and 78 EX/37 Part III). *78 EX/Decision 7.8*, May-June 1968, English, French, Russian, Spanish.
- (25) Transfer to UNESCO of certain responsibilities and assets of the International Relief Union. *Document 15C/19*, 31 July 1968, 6 p., English, French, Russian, Spanish.
- (26) Legal Committee, Seventh Report (Transfer to UNESCO of certain responsibilities and assets of the International Relief Union). *Document 15C/85*, 14 November 1968, 4 p., English, French, Russian, Spanish.
- (27) Transfer to UNESCO of the resources and responsibilities of other international organizations: International Relief Union. *15C/Resolution 15*, 16 November 1968, English, French, Russian, Spanish.<sup>61</sup>

D. INTERNATIONAL REGULATION:  
CONVENTIONS AND RECOMMENDATIONS

(a) *Convention on the Protection of Cultural Property in the Event  
of Armed Conflict*

- (1) Implementation of the Convention on the Protection of Cultural Property in the Event of Armed Conflict. *Document 78 EX/5*, 16 May 1968, 16 p., English, French, Russian Spanish.
- (2) Implementation of the Convention on the Protection of Cultural Property in the Event of Armed Conflict (78 EX/5). *78EX/Decision 4.4.1*, May-June 1968, English, French, Russian, Spanish.

<sup>60</sup> See p. 153 of this *Yearbook*.

<sup>61</sup> *Ibid.*, p. 154.

- (3) Special account for the implementation of the Convention on the Protection of Cultural Property in the Event of Armed Conflict. *Document 80 EX/9*, 30 September 1968, 2 p., English, French, Russian, Spanish.
- (4) Special account for the implementation of the Convention on the Protection of Cultural Property in the Event of Armed Conflict (80 EX/9 and 80 EX/14). *80 EX/Decision 7.3*, October-November 1968.

(b) *Convention and Recommendation against Discrimination  
in Education*

- (5) First periodic reports of Member States and additional information received from certain Member States concerning their reports on the implementation of the Convention and Recommendation against Discrimination in Education. *Document 15C/10*, 10 July 1968, 129 p., *15C/10 Add.*, 12 September 1968, 51 p., *15C/10 Add. 2*, 10 October 1968, 4 p., English, French, Russian, Spanish.
- (6) Report of the Special Committee on Discrimination in Education. *Document 79 EX/13*, 2 August 1968, 3 p., English, French, Russian, Spanish.
- (7) Reports of Member States on the implementation of the Convention and Recommendation against Discrimination in Education: Report of the Special Committee of the Executive Board on Discrimination in Education. *Document 15C/11*, 5 August 1968, 28 p. and Annexes, English, French, Russian, Spanish.
- (8) Note concerning the draft report of the Special Committee of the Executive Board on Discrimination in Education. *Document 79EX/INF. 2*, 13 August 1968, 4 p., English, French, Russian, Spanish.
- (9) Comments of the Executive Board on the Implementation of the Convention against Discrimination in Education. *Document 15C/11 Add.*, 10 October 1968, 2 p., English, French, Russian, Spanish.
- (10) Report of the Special Committee on Discrimination in Education (79 EX/13 and 15C/11) and Executive Board's comments thereon. *79 EX/Decision 3.3.1*, August-September 1968, English, French, Russian, Spanish.
- (11) Report of the Reports Committee, Section I, Implementation of the Convention and Recommendation against Discrimination in Education: Periodic reports by Member States. *Document 15C/87*, p. 2, and Annexes I and II, 15 November 1968, English, French, Russian and Spanish.
- (12) Periodic reports by Member States on the implementation of the Convention and Recommendation against Discrimination in Education. *15C/Resolution 29*, 20 November 1968, English, French, Russian, Spanish.

(c) *Recommendation concerning the Status of Teachers*

- (13) Implementation of the Recommendation concerning the Status of Teachers. *Document 78 EX/3*, 8 April 1968, 3 p., and *78 EX/3 Add.*, 14 May 1968, 2 p., and *78 EX/3 Add./Rev.* 16 May 1968, 2 p., English, French, Russian, Spanish.
- (14) Implementation of the Recommendation concerning the Status of Teachers (78 EX/3 and Add./Rev. and 78 EX/37, Part I), *78 EX/Decision 4.2.1*, May-June 1968, English, French, Russian, Spanish.
- (15) Initial special reports by Member States on action taken by them on the Recommendation concerning the Status of Teachers. *Document 15C/13*, 30 September 1968, 45 p., *15C/13 Add.*, 7 October 1968, 4 p., *Add. 2*, 30 October 1968, 3 p., and *Add. 3*, 14 November 1968, 4 p., English, French, Russian, Spanish.
- (16) Report of the Reports Committee, Section III—Initial special reports by Member States on action taken by them on the Recommendation concerning the Status of Teachers. *Document 15C/87*, 3 p., and Annexes V and VI, 15 November 1968, English, French, Russian, Spanish.



- (17) Initial special reports by Member States on action taken by them on the Recommendation concerning the Status of Teachers. *15C/Resolution 31*, 20 November 1968, English, French, Russian, Spanish.

(d) *Recommendation concerning the Preservation of Cultural Property endangered by Public or Private Works*

- (18) Recommendation concerning the Preservation of Cultural Property endangered by Public or Private Works. Adopted by the General Conference at its fifteenth session, Paris, 19 November 1968.<sup>62</sup> English, French, Russian, Spanish.
- (19) The preservation of cultural property endangered by public or private works: draft recommendation. *Document 15C/14*, 24 July 1968, 2 p., and Annexes, English, French, Russian, Spanish.
- (20) Report of the Reports Committee, Section V, Initial special reports to be submitted to the General Conference at its sixteenth session on action taken by Member States on the Recommendation adopted at the fifteenth session. *Document 15C/87*, p. 2., and Annex VII, English, French, Russian, Spanish.
- (21) Initial special reports to be submitted to the General Conference at its sixteenth session on action taken by Member States on the Recommendation adopted at the fifteenth session. *15C/Resolution 32*, 20 November 1968, English, French, Russian, Spanish.

(e) *Recommendations adopted by the General Conference at its thirteenth session*

- (22) Initial special reports by Member States on action taken by them on the Recommendations adopted by the General Conference at its thirteenth session. *Document 15C/12*, 30 September 1968, 27 p., *15C/12 Add.*, 17 October 1968, 5 p., *15C/12 Add. 2.*, 30 October 1968, 4 p., and *15C/12 Add. 3*, 4 p., English, French, Russian, Spanish.
- (23) Report of the Reports Committee, Section II—Initial special reports by Member States on action taken by them on the Recommendations adopted by the General Conference at its thirteenth session. *Document 15C/87*, p. 2-3, and Annexes III and IV. 15 November 1968, English, French, Russian and Spanish.
- (24) Initial special reports by Member States on action taken by them on the Recommendations adopted by the General Conference at its thirteenth session. *15C/Resolution 30*, 20 November 1968, English, French, Russian, Spanish.

(f) *Proposals for international regulations*

- (25) Report on the possibility of drafting a convention concerning the illicit import, export and transfer of ownership of cultural property. *Document 78 EX/9*, 22 April 1968, 10 p., English, French, Russian, Spanish.
- (26) Report on the possibility of drafting an international convention concerning the illicit import, export and transfer of ownership of cultural property (78 EX/9 and 78 EX/37, Part I). *78 EX/Decision 4.4.3*, May-June 1968, English, French, Russian, Spanish.
- (27) Desirability of drafting an international convention concerning the means of prohibiting and preventing the illicit import, export and transfer of ownership of cultural property. *Document 15C/15*, and *Corr.*, 22 August 1968, 11 p., English, French, Russian, Spanish.
- (28) International standardization of library statistics: Proposal for international regulations. *Document 78 EX/8*, 8 April 1968, 10 p., English, French, Russian, Spanish.
- (29) International standardization of library statistics: proposal for international regulations (78 EX/8 and 78 EX/37, Part I), *78 EX/Decision 4.5.2*, May-June 1968, English, French, Russian, Spanish.
- (30) International standardization of library statistics: advisability of international regulations. *Document 15C/16* and *Corr.*, 30 July 1968, 11 p., English, French, Russian, Spanish.

<sup>62</sup> *Ibid* p. 146.

## E. CONFERENCES AND OTHER MEETINGS

- (1) Invitations to the Conference on Education and Scientific and Technical Training in Relation to Development in Africa. *Document 78 EX/36*, 10 May 1968, 1 p., English, French, Russian, Spanish.
- (2) Invitations to the Conference on Education and Scientific and Technical Training in Relation to Development in Africa (78 EX/36 and 78 EX/37, Part III). *78 EX/Decision 4.2.3*, May-June 1968, English, French, Russian, Spanish.
- (3) Invitations to the International Conference on the Practical and Scientific Results of the International Hydrological Decade and on International Co-operation in Hydrology. *Document 81 EX/2*, 19 November 1968, 4 p., English, French, Russian, Spanish.
- (4) Invitations to the International Conference on the Practical and Scientific Results of the International Hydrological Decade and on International Co-operation in Hydrology (81 EX/2). *81 EX/Decision 7.1*, November 1968, English, French, Russian, Spanish.

## F. INSTITUTES AND OTHER BODIES

- (1) Draft amendment to the Statutes of the International Institute for Educational Planning (Article III—Governing Board). *Document 15C/18*, 30 July 1968, 2 p., English, French, Russian, Spanish.
- (2) Legal Committee, Sixth Report (Draft amendment to the Statutes of the International Institute of Educational Planning—Article III—Governing Board). *Document 15C/84*, 14 November 1968, 3 p., English, French, Russian, Spanish.
- (3) Amendment to the Statutes of the International Institute for Educational Planning. *15C/Resolution 13*, 16 November 1968, English, French, Russian, Spanish.
- (4) Regulations of the UNESCO Staff Savings and Loan Service. *Document 78 EX/30*, 25 March 1968, 6 p., English, French, Russian, Spanish.
- (5) Regulations of the UNESCO Staff Savings and Loan Service (78 EX/30 and 78 EX/38, Part II). *78 EX/Decision 8.9*, May-June 1968, English, French, Russian, Spanish.

## G. COPYRIGHT

- (1) Intergovernmental Copyright Committee, Ninth Session, Geneva, December 1967. Reports adopted by the Committee. *Document IGC/IX/11*, *INLA/CS/193/9*, and *Corr.*, 31 January 1968, 13 p. and Annexes, English, French, Spanish.
- (2) Intergovernmental Committee established under Article 32 of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations adopted in Rome on 26 October 1961, First Session, Geneva, December 1967. Report. *Document CIPA/1967/II/7*, 7 p. and Appendices, English, French, Spanish.
- (3) Committee of Experts on the Photographic Reproduction of Protected Works, Paris, 1-5 July 1968
  - Photocopying practices in the Federal Republic of Germany. *Document RP/5*, *INLA/CS/114/4*, 25 March 1968, 10 p., English, French, Spanish.
  - Photocopying practices in the United Kingdom. *Document RP/6*, *INLA/CS/114/5*, 25 March 1968, 45 p., English, French, Spanish.
  - Photographic reproduction. *Document RP/3*, *INLA/CS/114/6*, 15 April 1968, 59 p., English, French, Spanish.
  - Reproduction by processes analogous to photography—Reproduction effected by commercial firms—Reproduction effected for commercial purposes. *Document RP/4*, *INLA/CS/114/7*, 15 April 1968, 26 p., English, French, Spanish.

- Photocopying practices in the United States of America. *Document RP/7, INLA/CS/114/10*, 28 June 1968, 3 p., English, French, Spanish.
  - General Report. *Document RP/9, INLA/CS/114/14*, 12 August 1968, 10 p. and Annexes, English, French, Spanish.
- (4) Committee of Experts on Translators' Rights, Paris, 23-27 September 1968
- Legal protection of translators. *Document INLA/CS/170/3*, 1 July 1968, 39 p. and Annexes, English, French, Spanish.
  - Practical application of multilateral conventions and national laws concerning the protection of translators. Report prepared by the International Federation of Translators. *Document INLA/CS/170/4*, 1 July 1968, 19 p., English, French, Spanish.
  - Effects of translators' rights on publishers' rights. Report drafted by the International Publishers Association. *Document INLA/CS/170/6*, 1 July 1968, 9 p., English, French, Spanish.
  - Report of the International Federation of Translators to the fifth session of the Intergovernmental Copyright Committee (London, 1960). *Document INLA/CS/170/INF.2*, 1 July 1968, 16 p., English, French, Spanish.
  - Repercussions of the rights of translators on copyright. Report prepared by the International Confederation of Societies of Authors and Composers. *Document INLA/CS/170/5*, 16 August 1968, 7 p., English, French, Spanish.
  - General Report. *Document INLA/CS/170/8*, 31 October 1968, 14 p., English, French, Spanish.
- (5) Copyright Laws and Treaties of the World
- Supplement No. 3 (1968). French.
  - Supplement No. 11 (1968). English.
- (6) UNESCO Copyright Bulletin, Quarterly Review, Vol. II, Nos. 1, 2, 3, 4 (1968). *Document NORMS.68/III.43,44,45,46/A*, 1968, English, French, Spanish.

## H. HUMAN RIGHTS

- (1) United Nations, Educational, Scientific and Cultural Organization: Meeting of Experts on Educational Methods Designed to Combat Racial Prejudice, House, Paris, 24-28 June 1968, Final Report. *Document ED/MD/4*, 24 October 1968, 58 p., English, French.
- (2) United Nations Educational, Scientific and Cultural Organization: Comparative Study on Access of Girls and Women to Technical and Vocational Education. *Document ED/MD/3*, 20 December 1968, 129 p., English, French, Russian, Spanish.
- (3) Report by the Director-General on the implementation of 14C/Res. 11: UNESCO's tasks in the light of the resolution adopted by the General Assembly of the United Nations at its twentieth session on questions relating to the elimination of colonialism and racialism. *Document 15C/49*, 12 September 1968, 20 p., English, French, Russian, Spanish.
- (4) Proposals of the Director-General to the General Conference to intensify during the next one or two budgetary periods the activities of the Organization in the service of peace, international co-operation and security of peoples through education, science and culture. *Document 15C/50*, 27 October 1968, 17 p. and Annexes, English, French, Russian, Spanish.
- (5) UNESCO's contribution to peace and UNESCO's tasks with respect to the elimination of colonialism and racialism. *15C/Resolution 9*, 15 November 1968, English, French, Russian, Spanish.<sup>63</sup>

<sup>63</sup> *Ibid.*, p. 140.

## I. OCEANOGRAPHY

- (1) Intergovernmental Oceanographic Commission. Working Group on Legal Questions Related to Scientific Investigations of the Ocean. First Meeting, Paris, 16-20 September 1968. Summary Report. *Document AVS/9/89M (8)*, 12 p. and Annexes, 30 October 1968, English, French.
- (2) Intergovernmental Oceanographic Commission. Summary Report of the IOC Group of Experts on the Legal Status of Manned and Unmanned Ocean Data Systems, First Meeting, Paris, 18-19 September 1969. *Document IOC/INF-141, AVS/9/89M-ODAS*, 20 December 1968, 10 p., English, French, Russian, Spanish.

## J. OTHERS

- (1) Report by the Director-General on the statutes of the international non-governmental organizations in categories A and B particularly in regard to arbitration clauses. *Document 78 EX/21* 8 April 1968, 2 p., English, French, Russian, Spanish.
- (2) Report by the Director-General on the statutes of the international non-governmental organizations in categories A and B particularly in regard to arbitration clauses (78 EX/21 and 78 EX/37, Part I). *78 EX/Decision 7.10*, May-June 1968, English, French, Russian, Spanish.

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## IV INTERNATIONAL CIVIL AVIATION ORGANIZATION

### (1) THE AUTHENTIC TRILINGUAL TEXT OF THE CHICAGO CONVENTION

[The International Conference on the Authentic Trilingual Text of the Convention on International Civil Aviation (Chicago, 1944) formulated and unanimously adopted on 20 September a Protocol on the Authentic Trilingual Text of the Convention on International Civil Aviation (Chicago, 1944) including annexes which contain respectively the texts of the Convention in the French and Spanish languages. The Government of the United States of America is the depositary of the Protocol which was opened for signature on 24 September, and on 24 October came into force among the sixteen States that signed it without reservation as to acceptance or adherence.]

Doc 7300/4—Authentic Trilingual Text of the Convention on International Civil Aviation. English, French, Spanish.

### (2) PROPOSAL FOR THE AMENDMENT OF ARTICLE 7 (CABOTAGE) OF THE CHICAGO CONVENTION

[The Executive Committee of the sixteenth session of the Assembly recommended that the Assembly adopt a Swedish proposal for the deletion of the second sentence of Article 7 (Cabotage) of the Chicago Convention. The Assembly itself rejected the amendment which failed to receive the two-thirds vote of the Assembly required by Article 94 for the adoption of amendments to the Convention.]

Doc 8744-C/979—Action of the Council, 63rd session. English, French, Spanish.

Doc 8771 A16-EX, Assembly, 16th session, Report of the Executive Committee, p. 43-47. English, French, Spanish.

Doc 8775 A16-Min. P/1-9, Minutes of the plenary meetings, Assembly—Sixteenth session. English, French, Spanish.

(3) PROPOSAL FOR THE AMENDMENT OF ARTICLE 29 (DOCUMENTS CARRIED IN AIRCRAFT) OF THE CHICAGO CONVENTION

[The Economic Commission of the sixteenth session of the Assembly and the Assembly itself agreed with a proposal by the Czechoslovak Socialist Republic which suggested that Article 29 of the Convention should be amended so as to eliminate references to passenger and cargo manifests at such time as the Convention, as a whole, was being generally amended. They further agreed that, in the meantime, the Secretariat might study what was involved in amending Article 29 from the technical and legal viewpoints.]

Doc 8772 A16-EC, Assembly, 16th session, Report of the Economic Commission, p. 26. English, French, Spanish.

Doc 8775 A16-Min. P/1-9, Minutes of the plenary meetings, Assembly—Sixteenth session. English, French, Spanish.

(4) REQUEST FROM NIGERIA UNDER ARTICLES 54(n), 55(e) AND 54(j) OF THE CHICAGO CONVENTION

[In December 1967, the Government of Nigeria filed a request with ICAO charging the Government of Portugal with violations of eight articles of the Chicago Convention through the operation of aircraft from Portuguese territory into eastern Nigeria without authorization from the Government of Nigeria, for purposes inimical to that Government. It asked the Council to consider these violations under Article 54(n), to investigate them under Article 55(e) and to report to other Contracting States in accordance with Article 54(j). During 1968 attempts to give effect to a Council resolution for the establishment of a fact-finding body were unsuccessful.]

Doc 8744-C/979, Action of the Council, 63rd session. English, French, Spanish. Doc 8802-C/984, Action of the Council, 64th session. English, French, Spanish. Doc 8808-C/985, Action of the Council, 65th session. English, French, Spanish. Doc 8792 A17-P/1, Annual report of the Council to the Assembly for 1968, p. 122. English, French, Spanish.

(5) DISAGREEMENT BETWEEN THE UNITED KINGDOM AND SPAIN CONCERNING THE INTERPRETATION OR APPLICATION OF ARTICLE 9 OF THE CHICAGO CONVENTION IN RELATION TO THE SPANISH PROHIBITED AREA IN THE VICINITY OF GIBRALTAR

[On 6 September 1967, the Government of the United Kingdom invoked Article 84 of the Chicago Convention and filed with ICAO a request for the settlement of the above-mentioned disagreement. During 1968, the Government of Spain filed its counter-memorial and some further documentation. The United Kingdom reply to the counter-memorial was circulated before the year's end.]

Doc 8792, A17-P/1, Annual report of the Council to the Assembly for 1968, p. 122. English, French, Spanish.

(6) NOTIFICATIONS UNDER ARTICLE 89 (WAR AND EMERGENCY CONDITIONS) OF THE CHICAGO CONVENTION

[During 1968 the Government of India informed the Organization that it had revoked the proclamation of 1962 declaring a state of emergency, which had led it to submit a notification under Article 89 that it might be unable to comply with all or any of the provisions of the Convention and the Transit Agreement. Contracting States have been informed of this and at the same time of the fact that the Government of Pakistan has advised that the notification made by it in 1965 under the same Article remains in force.]

Doc 8792, A17-P/1, Annual report of the Council to the Assembly for 1968, p. 122. English, French, Spanish.

(7) LEGAL COMMISSION OF THE SIXTEENTH SESSION OF THE ASSEMBLY

[The main items on the Commission's agenda were the establishment of the work programme for 1969-1971, the status of international conventions on air law and the classification and consolidation of Assembly resolutions concerned with subjects of interest to the Legal Commission.]

Doc 8774 A16-LE, Report and minutes of the Legal Commission, sixteenth session of the Assembly, pp. (iv), 50. English, French, Spanish.

(8) QUESTION OF REVISION OF THE CONVENTION FOR THE UNIFICATION OF CERTAIN RULES RELATING TO INTERNATIONAL CARRIAGE BY AIR SIGNED AT WARSAW ON 12 OCTOBER 1929 AND THE PROTOCOL TO AMEND THE WARSAW CONVENTION SIGNED AT THE HAGUE ON 28 SEPTEMBER 1955

[The Council having charged the ICAO Legal Committee to consider, as a matter of urgency, the question of the revision of the Warsaw Convention as amended by the Hague Protocol, a legal subcommittee of the Committee met in November and produced a report. Meanwhile the Assembly, at its sixteenth session in September, had adopted a resolution concerning the further work to be done in connexion with the revision of the Warsaw Convention as amended by the Hague Protocol.]

Doc 8744-C/979, Action of the Council, 63rd session. English, French, Spanish.

Doc 8779 A16-RES, Assembly Resolution A16-35. English, French, Spanish.

LC/SC Warsaw—Report 9/12/68, Report of the Subcommittee on Revision of the Warsaw Convention as Amended by the Hague Protocol, pp. 34. English, French, Spanish.

Doc 8792, A17-P/1. Annual report of the Council to the Assembly for 1968, p. 123-126. English, French, Spanish.

(9) PARTICIPATION OF STATES IN INTERNATIONAL CONVENTIONS ON AIR LAW

[At its sixteenth session, the Assembly adopted a resolution concerning, *inter alia*, the importance of securing a wide participation in international conventions on air law.]

Doc 8779 A16-RES, Assembly Resolution A16-36. English, French, Spanish.

(10) UNLAWFUL SEIZURE OF AIRCRAFT

[At its sixteenth session, the Assembly adopted a resolution urging States to become parties as soon as possible to the Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft (1963), inviting States, even before ratification of, or adherence to, the Tokyo Convention, to give effect to the principles of Article 11 of that Convention and requesting the Council to institute, at the earliest possible date, a study of other measures to cope with the problem of unlawful seizure of aircraft. In December, the Council decided that the question of unlawful seizure of aircraft should be referred for study to the Legal Committee, the Air Navigation Commission and the Air Transport Committee and, at the same time, urged Contracting States to take all possible measures to prevent acts of unlawful seizure of aircraft and, where appropriate, to co-operate with any State whose aircraft has been the subject of such a seizure.]

Doc 8779 A16-RES, Assembly Resolution A16-37. English, French, Spanish.

Doc 8808-C/985, Action of the Council, 65th session. English, French, Spanish.

Doc 8792, A17-P/1, Annual report of the Council to the Assembly for 1968, p. 127. English, French, Spanish.

(11) CLASSIFICATION AND CONSOLIDATION OF ASSEMBLY RESOLUTIONS IN FORCE

[At its sixteenth session, the Assembly adopted a general resolution to which a list of Assembly resolutions no longer in force was attached.]

Doc 8779 A16-RES, Assembly Resolution A16-1. English, French, Spanish.

Doc 8770, Assembly Resolutions in force (as of 26 September 1968), pp. 224. English, French, Spanish.

#### (12) RULES OF PROCEDURE FOR ICAO MEETINGS

[On 12 June, the Council requested the preparation of a draft set of Rules of Procedure that would be suitable for all ICAO meetings or, failing that, as a basis for rules for various types of meetings.]

[On 11 December, it was decided that there should be a review of the provisions of the Rules of Procedure of the Council relating to election of subordinate bodies and Vice-Presidents because some of the provisions were not clear.]

[On 20 June, the Council approved the revision of Doc 8144-Revised Directives to Air Navigation Meetings and Rules of Procedure for Their Conduct.]

Doc 8802-C/984, Action of the Council, 64th session. English, French, Spanish.

Doc 8808-C/985, Action of the Council, 65th session. English, French, Spanish.

#### (13) ANNEXES TO THE CONVENTION ON INTERNATIONAL CIVIL AVIATION, PROCEDURES FOR AIR NAVIGATION SERVICES (PANS), REGIONAL SUPPLEMENTARY PROCEDURES (SUPPS)

See "ICAO Technical Publications, Current Editions as of 1 December 1968". ICAO Bulletin, Vol. XXIV, No. 2, 1969, p. 15-20.

## V. INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

### INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

- ICSID/3/Rev.5 List of Contracting States and Other Signatories of the Convention (as of November 4, 1968)
- ICSID/5 Model clauses recording consent to the jurisdiction of the International Centre for Settlement of Investment Disputes
- AC/68/5 Proceedings: second annual meeting—September 30, 1968
- Second annual report 1967/1968
- Documents concerning the origin and formulation of the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, Vol. II, Parts 1 and 2.

## VI. INTERNATIONAL MONETARY FUND

Establishment of a Facility Based on Special Drawing Rights in the International Monetary Fund and Modifications in the Rules and Practices of the Fund: A report by the Executive Directors to the Board of Governors Proposing Amendments of the Articles of Agreement (reproduced in Appendix I to the 1968 Annual Report).

## VII. INTER-GOVERNMENTAL MARITIME CONSULTATIVE ORGANIZATION

### A. ASSEMBLY RESOLUTIONS

- (1) Amendments to the International Convention for the Safety of Life at Sea, 1960. *Resolution A.146 (ES.IV)*, 26 November 1968.
- (2) Detection of offences against and enforcement of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954. *Resolution A.151 (ES.IV)*, 26 November 1968.
- (3) Penalties for unlawful discharge of oil into the sea. *Resolution A.153 (ES.IV)*, 27 November 1968.
- (4) Prevention of pollution of the sea by oil outside the prohibited zones. *Resolution A.155 (ES.IV)*, 27 November 1968.
- (5) Recommendation on Establishing Traffic Separation Schemes and Areas to be Avoided by Ships of Certain Classes. *Resolution A.161 (ES.IV)*, 27 November 1968.
- (6) Recommendation on Intact Stability of Fishing Vessels. *Resolution A.168 (ES.IV)*, 28 November 1968.
- (7) Participation in official inquiries into maritime casualties. *Resolution A.173 (ES.IV)*, 28 November 1968.

### B. COUNCIL RESOLUTIONS

- (1) National co-ordination (Economic and Social Council resolution 1281 (XLIII), Part I). *Resolution C.35 (XX)*, 16 May 1968.
- (2) Containers (consideration of problems related to container traffic). *Resolution C.36 (XX)*, 16 May 1968.
- (3) Revised text of Annex XII to the Convention on the Privileges and Immunities of the Specialized Agencies. *Resolution C.37 (XX)*, 16 May 1968.<sup>64</sup>
- (4) Technical assistance (expanding the activities of IMCO in the field of technical co-operation). *Resolution C.40 (XX)*, 17 May 1968.
- (5) Review of the Organization's work (and its objectives and methods). *Resolution C.41 (XX)*, 17 May 1968.
- (6) Continuation of the work of the Working Group on Objectives and Methods (continuation of the review of the Organization's work, its objectives and methods). *Resolution C.42 (XXI)*, 29 November 1968.
- (7) The rôle of IMCO (a statement of the expanding and intensified activities of the Organization). *Resolution C.43 (XXI)*, 29 November 1968.

### C. LEGAL COMMITTEE

- (1) Progress in the *Torrey Canyon* legal work achieved in two sessions by Working Group I of the Legal Committee, on: rights of States to take action to forestall pollution; participation in official inquiries into marine casualties; access to territorial waters of foreign seaborne salvage equipment; amendment of the 1954 Oil Pollution Convention to provide measures of detection and enforcement; powers of surveillance and control. *Document LEG/WG (I). III/3*, 31 May 1968.
- (2) Report to the Council by the Legal Committee on the work of its third and fourth sessions, including consideration of draft convention articles on the right of a coastal State to take action to forestall pollution and on liability and insurance for marine pollution damage. *Document LEG IV/6*, 15 November 1968.

<sup>64</sup> Reproduced in this *Yearbook*, p. 66.



#### D. CONFERENCES AND OTHER MEETINGS

- (1) Convening of a Conference on *Torrey Canyon* matters (convening of an international conference for the purpose of adopting a convention or conventions on the subject of pollution damage arising from maritime casualties, its public and private law aspects). *Resolution A.171 (ES.IV)*, 28 November 1968.
- (2) Technical assistance matters (convening of a special session of the Council of the Organization on technical assistance matters within the purview of the Organization). *Resolution C.45 (XXI)*, 29 November 1968.

### VIII. INTERNATIONAL ATOMIC ENERGY AGENCY

#### 1. STATUTE AND MEMBERSHIP OF THE AGENCY

(a) *Action taken by States in connection with the Statute (INFCIRC/42/Rev.5)*

In addition to the information contained in that document, which was published on 15 July 1968, the following changes have taken place:

Liechtenstein has become a member of the International Atomic Energy Agency by depositing an instrument of acceptance of the Agency's Statute with the depositary Government on 13 December 1968. The Agency's membership at the end of 1968 stood at 99.

(b) *Applications for membership*

Liechtenstein GC(XII)/378; GC(XII)/RES/231

Niger GC(XII)/386; GC(XII)/RES/233

Zambia GC(XII)/378; GC(XII)/RES/232

#### 2. AGREEMENTS

Contract for the transfer of enriched uranium for a nuclear power reactor in Pakistan (INF-CIRC/116, I); entered into force on 17 June 1968.

Agreement between the International Atomic Energy Agency and the Government of the Socialist Republic of Romania relating to the Application of Safeguards (INFCIRC/117); entered into force on 27 June 1968.

*See also* the agreements listed under (i) to (x), p. 67 of this *Yearbook*.

#### 3. OTHER DOCUMENTS

Provisions for Conversion Plants and Fabrication Plants (GOV/1245, GOV/1245/Corr.1, GOV/1256, GOV/1259, GOV/1261, GOV/1282, GOV/1288).

Code of Practice for the Safe Operation of Nuclear Power Plants (GOV/1278).

## Chapter X

# LEGAL BIBLIOGRAPHY OF THE UNITED NATIONS AND RELATED INTER-GOVERNMENTAL ORGANIZATIONS

## MAIN HEADINGS

- A. INTERNATIONAL ORGANIZATIONS IN GENERAL
  - 1. General
  - 2. Particular questions
- B. UNITED NATIONS
  - 1. General
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  - 3. Particular questions or activities
- C. INTER-GOVERNMENTAL ORGANIZATIONS RELATED TO THE UNITED NATIONS
  - 1. General
  - 2. Particular organizations

### A. INTERNATIONAL ORGANIZATIONS IN GENERAL

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