UNITED NATIONS JURIDICAL YEARBOOK

1973

UNITED NATIONS

UNITED NATIONS JURIDICAL YEARBOOK 1973

UNITED NATIONS—NEW YORK

1975

ST/LEG/SER.C/11

UNITED NATIONS PUBLICATION

Sales No. E.75.V.1

Price: $U.S. 11.00
(or equivalent in other currencies)

CONTENTS

CONTENTS (*continued*)

CONTENTS (*continued*)

CONTENTS (*continued*)

CONTENTS (*continued*)

CONTENTS (*continued*)

CONTENTS (*continued*)

CONTENTS (*concluded*)

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 intergovernmental organizations, and by its resolution 3006 (XXVII) of 18 December 1972 the General Assembly made certain changes in the outline of the *Yearbook*.

Chapters I and II of the present volume—the eleventh of the series—contain legislative texts and treaty provisions relating to the legal status of the United Nations and related intergovernmental organizations. With a few exceptions, the legislative texts and treaty provisions which are included in these two chapters entered into force in 1973. Decisions given in 1973 by international and national tribunals relating to the legal status of the various organizations are found in chapters VII and VIII.

Chapter III contains a general review of the legal activities of the United Nations and related intergovernmental organizations; each organization has prepared the section which relates to it.

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.

Finally, the bibliography lists works and articles of a legal character published in 1973 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

ACABQ	Advisory Committee on Administrative and Budgetary Questions
Bank / IBRD	International Bank for Reconstruction and Development
ECA	Economic Commission for Africa
ECAFE	Economic Commission for Asia and the Far East
ECLA	Economic Commission for Latin America
FAO	Food and Agriculture Organization of the United Nations
Fund / IMF	International Monetary Fund
ICEM	Intergovernmental Committee for European Migration
IAEA	International Atomic Energy Agency
ICAO	International Civil Aviation Organization
IDA	International Development Association
IFC	International Finance Corporation
ILO	International Labour Organisation
IMCO	Inter-Governmental Maritime Consultative Organization
ITU	International Telecommunication Union
OPAS	Operational Assistance
UNICEF	United Nations Children's Fund
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNIDO	United Nations Industrial Development Organization
UPU	Universal Postal Union
WFP	World Food Programme
WHO	World Health Organization
WIPO	World Intellectual Property Organization
WMO	World Meteorological Organization

Part One

LEGAL STATUS OF THE UNITED NATIONS AND RELATED INTERGOVERNMENTAL ORGANIZATIONS

Chapter I

LEGISLATIVE TEXTS CONCERNING THE LEGAL STATUS OF THE UNITED NATIONS AND RELATED INTERGOVERNMENTAL ORGANIZATIONS

1. Canada

(*a*) PRIVILEGES AND IMMUNITIES (INTERNATIONAL ORGANIZATIONS) ACT IAEA PRIVILEGES AND IMMUNITIES ORDER

P.C. 1973—837

3 April, 1973

His Excellency the Governor General in Council, on the recommendation of the Secretary of State for External Affairs, pursuant to section 3 of the Privileges and Immunities (International Organizations) Act,[1] is pleased hereby to make the annexed Order respecting the privileges and immunities in Canada of the International Atomic Energy Agency.

ORDER RESPECTING THE PRIVILEGES AND IMMUNITIES IN CANADA OF THE INTERNATIONAL ATOMIC ENERGY AGENCY

Short Title

1. This Order may be cited as the *IAEA Privileges and Immunities Order.*

Interpretation

2. In this Order,

"Convention" means the Convention on the Privileges and Immunities of the United Nations;[2]

"Organization" means the International Atomic Energy Agency.

Privileges and Immunities

3. (1) The Organization shall have in Canada the legal capacities of a body corporate and shall, to such extent as may be required for the performance of its functions, have the privileges and immunities set forth in Articles II and III of the Convention.

(2) Representatives of States and governments that are members of the Organization shall have in Canada, to such extent as may be required for the performance of their functions, the privileges and immunities set forth in Article IV of the Convention for representatives of Members.

(3) Officials of the Organization shall have in Canada, to such extent as may be required for the performance of their functions, the privileges and immunities set forth in Article V of the Convention for officials of the United Nations.

---

[1] See 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. 10 and *Juridical Yearbook*, 1965, p. 3.

[2] United Nations, *Treaty Series*, vol. 1, p. 15.

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

(*b*) Regulation respecting the Taxation Act[3]

Where an individual employed by an international organization referred to in Section 585.1 has paid to such organization a levy computed in a manner similar to the manner in which income tax is computed, to defray the expenses of such organization, the said individual may, in addition to any deduction contemplated in Sections 585.2 and 585.5, deduct from the tax otherwise payable for the year by him the amount by which such levy exceeds the deduction granted him therefor under Subsection 3 of Section 126 of the Income Tax Act . . .

However, such deduction shall not exceed that proportion of the tax otherwise payable by him for the particular year that the amount included in his income for the year as remuneration, in respect of which the levy was computed, is of his income for the year; in addition it shall not exceed that proportion of the levy that the amount included in his income for the year as remuneration, in respect of which the levy was computed, is of the amount that would be included in computing his income for the year from employment with the organization if Section 386 of the Act did not apply.

The purpose of this Regulation is to enable officials employed by an international organization to avoid payment of Quebec income tax if, in respect of income received from the organization, they have paid to such organization a levy computed in a manner similar to the manner in which income tax is computed. A similar provision is found in Section 126 (3) of the Federal Income Tax Act (19-20-21 Elisabeth II, Chapter 63).[4]

---

2. Netherlands

Ministerial Decree of 3 May–15 May 1973 exempting the personnel of certain international organizations from employment insurances[5]

The Minister for Social Affairs

and

The Minister for Foreign Affairs

Having considered Section 2 (*d*) of the Royal Decree of 27 June 1967 (Bulletin of Acts, Orders and Decrees No. 343);

Hereby decree:

Section 1

No person residing in the Kingdom who is insured against the financial consequences of long-term unfitness for work or of unemployment under any regulation of:

1. the United Nations;
2. the International Court of Justice;

---

[3] O.G. Quebec 27 December 1973, p. 11771. Kindly furnished by the International Civil Aviation Organization.

[4] Note kindly provided by the International Civil Aviation Organization.

[5] English text kindly furnished by the Government of the Netherlands.

3. the Permanent Court of Arbitration;

4. the Hague Conference on Private International Law;

5. the North Atlantic Treaty Organization for the Safety of Air Navigation (Eurocontrol);

6. the European Organization for the Safety of Air Navigation (Eurocontrol);

7. the International Patent Institute;

shall be considered to be an employee within the meaning of the Disablement Insurance Act, the Sickness Benefits Act and the Unemployment Insurance Act.

Section 2

This Decree is retroactive to 1 July 1967.

The Hague, 3 May 1973
THE MINISTER FOR SOCIAL AFFAIRS
(*signed*)

The Hague, 15 May 1973
THE MINISTER FOR FOREIGN AFFAIRS
(*signed*)

---

3. Sierra Leone

THE DIPLOMATIC PRIVILEGES (INTER-GOVERNMENTAL MARITIME CONSULATIVE ORGANIZATION) ORDER 1973[6]

In exercise of the powers conferred upon him by section 11 of the Diplomatic Immunities and Privileges Act,[7] the President acting in accordance with the advice of the Cabinet hereby makes the following Order:—

1. This Order shall come into operation on a date to be fixed by the Minister by notice in the Gazette.

A. *The Organisation*

2. The Inter-Governmental Maritime Consultative Organisation (hereinafter called the "Organisation") is an international body of which Sierra Leone and other sovereign powers are members.

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

4. The Organisation shall have the like inviolability of official archives and premises occupied as offices as is accorded in respect of official archives and premises of an envoy of a foreign sovereign power accredited to Sierra Leone.

5. The Organisation shall have the like exemption from taxes and rates, other than taxes on the importation of goods, as is accorded to a foreign sovereign power.

6. The Organisation shall have exemption from taxes on the importation of goods directly imported by it for its official use in Sierra Leone or for exportation, and such

[6] Public Notice No. 2 of 1973. Published 15 February, 1973. Commencement date: 11 March 1973.
[7] No. 35 of 1961.

exemption shall be subject to compliance with such conditions as the Minister of Finance may prescribe for the protection of the revenue of Sierra Leone.

7. The Organisation shall have exemption from prohibition and restriction on importation and exportation in the case of goods directly imported or exported by the Organisation for its official use and in the case of any publications of the Organisation directly imported or exported by it, such exemption shall be subject to compliance with such conditions as the Minister of Finance may prescribe for the protection of public health, the prevention of diseases in plants and animals and otherwise in the public interest.

B. *Representatives, other than representatives of Sierra Leone, on the organs or committees of the Organisation*

8. (1) Except in so far as in any case any privilege or immunity is waived by the Governments whom they represent, representatives of member Governments at plenipotentiary and administrative council, on consultative committees or on any committee of any of these bodies shall enjoy—

(*a*) while exercising their functions as such and during their journeys to and from the place of meeting, immunity from personal arrest or detention and from seizure of their personal luggage and inviolability of all papers and documents;

(*b*) immunity from legal process of every kind in respect of words spoken or written and things done or omitted to be done by them in their capacity as representatives.

(2) Where the incidence of any form of taxation depends upon residence, representatives shall not be deemed to be resident in Sierra Leone during any period when they are present in Sierra Leone for the discharge of their duties.

(3) For the purposes of the application of this section, the expression "representatives" shall be deemed to include, in addition to the representatives, the following members of their official staffs accompanying them as such representatives—

Alternate representatives,
Advisers,
Technical experts,
Secretaries of delegation

and the fourth Schedule shall not operate so as to confer privileges and immunities on the staffs or representatives other than those falling within the above-mentioned descriptions.

(4) The provisions of the preceding subparagraphs shall not confer any immunity or privileges on any person as a representative of the Sierra Leone Government in Sierra Leone or as a member of the staff of such representative or on any person who is a citizen of Sierra Leone.

C. *High officials of the Organisation*

9. Except in so far as in any particular case any privilege or immunity is waived by the Organisation, an officer of the Organisation holding the office of Secretary-General (including any officer acting for him during his absence from duty) shall be accorded in respect of himself, his spouse and his children under the age of twenty-one years, the like immunity from suit and legal process, the like inviolability of residence and the like exemption or relief from taxes, other than income tax, as are accorded to an envoy of a foreign sovereign power accredited to Sierra Leone, his spouse and children, and exemption from income tax in respect of emoluments received by him as an officer of the Organisation.

D. *Other officials of the Organisation*

10. Except in so far as in any particular case any privilege or immunity is waived by the Organisation, an official of the Organisation of any category specified by it shall enjoy—

(*a*) Immunity from suit and legal process in respect of words spoken or written and things 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 or servants of the Organisation.

(*c*) Exemptions from taxes on the importation of furniture and effects at the time of first taking up their post in Sierra Leone subject to compliance with such conditions as the Minister of Finance may prescribe for the protection of Sierra Leone.

Made this 25th day of January, 1973.

SIAKA STEVENS
President

---

4. Singapore

THE INTERNATIONAL ORGANIZATIONS (IMMUNITIES AND PRIVILEGES) (INTERNATIONAL ATOMIC ENERGY AGENCY) ORDER, 1973[8]

In exercise of the powers conferred by section 2 of the International Organizations (Immunities and Privileges) Act, the President hereby makes the following Order:—

1. This Order may be cited as the International Organizations (Immunities and Privileges) (International Atomic Energy Agency) Order, 1973.

A. *The Organisation*

2. The International Atomic Energy Agency is an organisation of which the Government of the Republic of Singapore and the governments of foreign sovereign Powers are members.

3. The International Atomic Energy Agency 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.

4. The International Atomic Energy Agency shall have the like inviolability of official archives and premises occupied as offices as is accorded in respect of official archives and premises of an envoy of a foreign sovereign Power accredited to the Republic of Singapore.

5. The International Atomic Energy Agency shall have the like exemption or relief from taxes and rates, other than taxes on the importation of goods, as is accorded to a foreign sovereign Power.

6. The International Atomic Energy Agency shall have exemption from taxes on the importation of goods directly imported by the Agency for its official use in the Republic of Singapore or for exportation, or on the importation of any publications of the Agency directly imported by it, such exemption to be subject to compliance with such conditions as the Comptroller of Customs may prescribe for the protection of the Revenue.

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

---

[8]No. S 191.

8. The International Atomic Energy Agency shall have the right to avail itself, for telegraphic communications sent by it and containing only matter intended for publication by the press or for broadcasting (including communications addressed to or despatched from places outside the Republic of Singapore) of any reduced rates applicable for the corresponding service in the case of press telegrams.

B. *Representatives of members and of the Board of Governors of the International Atomic Energy Agency*

9.—(1) Except in so far as in any particular case any privilege or immunity is waived, in the case of representatives of member Governments, by the member Governments whom they represent, and in the case of persons designated to serve on the Board of Governors of the International Atomic Energy Agency and their alternates and advisers, by the Board of Governors, representatives of member Governments and persons designated to serve on the Board of Governors of the Agency and their alternates and advisers shall enjoy:—

(*a*) while exercising their functions as such, and during their journey to and from the place of meeting, immunity from personal arrest or detention and from seizure of their personal baggage and inviolability of all papers and documents;

(*b*) immunity from legal process of every kind in respect of words spoken or written and all acts done by them in their capacity as representatives. Such immunity shall continue notwithstanding that the person concerned is no longer engaged in the discharge of such functions;

(*c*) while exercising their functions and during their journey to and from the place of meeting, the like exemption or relief from taxes as is accorded to an envoy of a foreign sovereign Power accredited to the Republic of Singapore, save that the relief allowed shall not include relief from customs and excise duties or purchase tax except in respect of goods imported as part of their personal baggage. They shall not, where the incidence of any form of taxation depends upon residence, be deemed to be resident in the Republic of Singapore during any period when they are present in the Republic of Singapore whilst exercising their functions or during their journey to and from the place of meeting.

(2) For the purposes of the application of this Order, the expression "representatives of member governments" shall be deemed to include all Governors, representatives, alternates, advisers, technical experts and secretaries of delegation.

(3) The provisions of the preceding paragraphs of this Article shall not confer any immunity or privilege upon any person as the representative of the Government of the Republic of Singapore or as a member of the staff of such a representative or any person who is a Singapore citizen.

C. *High officials*

10. Except in so far as in any particular case any privilege or immunity is waived by the International Atomic Energy Agency, officers of the Agency holding the offices of Director-General or Deputy Director-General shall be accorded in respect of themselves, their spouses and children under the age of 21, the like immunity from suit and legal process, the like inviolability of residence and the like exemption or relief from taxes, other than income tax, as is accorded to an envoy of a foreign sovereign Power accredited to the Republic of Singapore, his spouse and children, and they shall also enjoy exemption from income tax in respect of emoluments received by them as officers of the International Atomic Energy Agency.

D. *Persons serving on Committees of or employed on missions on behalf of the Agency*

11. Except in so far as in any particular case any privilege or immunity is waived by the International Atomic Energy Agency, persons (other than officials of the Agency) serving on

Committees of, or employed on missions on behalf of the Agency shall enjoy:—

(*a*) while exercising their functions as such, and during their journey to and from the place of meeting, immunity from personal arrest or detention and from seizure of their personal baggage and inviolability of all papers and documents relating to the work of the Agency;

(*b*) immunity from legal process of every kind in respect of words spoken or written and all acts done by them in the exercise of their functions. Such immunity shall continue notwithstanding that the person concerned is no longer employed on missions on behalf of the Agency.

E. *Other officials of the Agency*

12. Except in so far as in any particular case any privilege or immunity is waived by the Agency, all officials of the International Atomic Energy Agency, other than those referred to in Article 10 above, shall enjoy:—

(*a*) immunity from suit and legal process in respect of words spoken or written and all acts 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 and servants of the International Atomic Energy Agency, provided the officials are not citizens of Singapore.

F. *General*

13. The names of the persons to whom the provisions of Articles 9, 10, 11 and 12 of this Order apply shall be set forth in a list complied and published from time to time by the President under section 2 (3) of the International Organisations (Immunities and Privileges) Act, and such list shall show in regard to each person the date as from which, for the purposes of this Order, he first held the office or employment in question, and the date when he ceased to hold that office or employment.

Made this 1st day of June, 1973.

By Command,
WONG CHOOI SEN,
Secretary to the Cabinet.

---

5. Swaziland

THE LAND SPECULATION CONTROL ACT[9]

EXEMPTION UNDER SECTION 20[10]

(*Commencement: 30th November 1972*)

In exercise of the powers conferred on him by the above-mentioned Act, the Honourable the Minister for Agriculture is pleased to exempt—

[9]No. 8 of 1972.

[10]Legal Notice No. 83 of 1973.

Any foreign State having diplomatic relations with Swaziland and any public international organisation or public international institution of which Swaziland is a member, from all the provisions of the Land Speculation Control Act No. 8 of 1972.[11]

---

[11] The Act *inter alia* subjects to the consent of a Land Control Board:

(*a*) the sale, transfer, lease, mortgage, exchange or other disposal of land to a person who is not:

(i) a citizen of Swaziland;

(ii) a private company or corporative society all of whose members are citizens of Swaziland;

(iii) a person listed in the Schedule to the Act;

(*b*) the issue, sale, transfer, mortgage or any other disposal of or dealing with any share in a private company or corporative society which owns land in Swaziland to or with a person who is not a Swaziland citizen.

The Act also requires any person who is not a citizen of Swaziland and who is the owner or acquires ownership of land in Swaziland to notify the Land Control Board of the fact of his ownership of such land.

Chapter II

TREATY PROVISIONS CONCERNING THE LEGAL STATUS OF THE UNITED NATIONS AND RELATED INTERGOVERNMENTAL ORGANIZATIONS

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

1. CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS.[1] APPROVED BY THE GENERAL ASSEMBLY OF THE UNITED NATIONS ON 13 FEBRUARY 1946

In 1973, no additional State acceded to the Convention on the Privileges and Immunities of the United Nations. As of 31 December 1973, 107 States were parties to the Convention.[2]

---

2. AGREEMENTS RELATING TO MEETINGS AND INSTALLATIONS

(*a*) Agreement between the United Nations and India concerning arrangements for the third session of the Committee on Natural Resources.[3] Signed at New York on 29 January 1973

This agreement contains provisions similar to articles VI, VII and VIII of an agreement between the United Nations and Kenya, reproduced on p. 19 of the *Juridical Yearbook*, 1971.

(*b*) Agreement between the United Nations and Panama regarding the arrangement for the meetings of the Security Council to be held at Panama City from 15 to 21 March 1973.[4] Signed at Panama City on 6 February 1973

This agreement contains provisions similar to articles I, II and VII of an agreement between the United Nations and Ethiopia, reproduced on p. 19 of the *Juridical Yearbook*, 1972.

(*c*) Agreement between the United Nations and Italy concerning arrangements for the United Nations Seminar on youth and human rights to be held at San Remo, Italy, from 28 August to 10 September 1973.[5] Signed at New York on 14 June 1973

This agreement contains articles similar to articles V and VI of an agreement between the United Nations and Yugoslavia, reproduced on p. 28 of the *Juridical Yearbook*, 1970.

---

[1] United Nations, *Treaty Series*, vol. 1, p. 15.

[2] 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.

[3] Came into force on the date of signature.

[4] Came into force on 2 March 1973.

[5] Came into force on the date of signature.

(*d*) Agreement between the United Nations and the United Republic of Tanzania relating to the Seminar on the study of new ways and means for promoting human rights with special attention to the problems and needs of Africa, to be held in Dar es Salaam from 23 October to 5 November 1973.[6] Signed at New York on 2 and 3 July 1973

This agreement contains articles similar to articles V and VI of the agreement referred to under (*c*) above.

(*e*) Agreement between the United Nations and the Dominican Republic concerning arrangements for the Seminar on the Status of Women and Family Planning to be held in Santo Domingo, Dominican Republic, from 9 to 22 May 1973.[7] Signed at Santo Domingo on 30 April 1973

This agreement contains provisions similar to articles V and VI of the agreement referred to under (*c*) above except that

(i) the last part of paragraph 4 of article V from the words "and, when applications are made . . ." is omitted;

(ii) article VI reads as follows:

"The provisions of article [1], paragraph 6, of the Agreement concerning technical assistance signed on 20 February 1964 between the Government of the Dominican Republic and the United Nations shall apply in respect of this Seminar."

(*f*) Memorandum of Understanding between the United Nations and the United Kingdom of Great Britain and Northern Ireland relating to the seminar on the family in a changing society to be held in London from 18 to 31 July 1973.[8] Signed at New York on 25 April and 1 May 1973

This memorandum of understanding contains provisions similar to those of article V of the agreement referred to under (*c*) above except that paragraphs 3 and 4 read as follows:

"3. For the purpose of this seminar, and in order to ensure to all participants in the seminar, as listed in Article II of this Memorandum of Understanding, 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*), (*e*) and (*f*) of Article II of this Memorandum of Understanding will be designated by him as experts on mission for the United Nations and will 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 Memorandum of Understanding and all persons performing functions in connexion with the seminar who are not nationals of the United Kingdom will be immune from immigration restrictions and alien registration. They will be granted facilities for speedy travel. No charge will be made for the issue, where required, of visas or entry permits."

The Memorandum of Understanding does not contain any provision similar to article VI (Liability) of the agreement referred to under (*c*) above.

---

[6] Came into force on 3 July 1973.

[7] Came into force on the date of signature.

[8] Came into force on 1 May 1973.

(*g*) Agreement between the United Nations and Egypt regarding the arrangements for the Symposium on Population and Development to be held at Cairo from 4 to 14 June 1973.[9] Signed at New York on 29 May 1973

This agreement contains provisions similar to articles V and VI of the agreement referred to under (*c*) above except that paragraphs 1 and 2 of article V are replaced by a single paragraph reading as follows:

"1. The Convention on the Privileges and Immunities of the United Nations shall be applicable in respect of the Symposium. Accordingly, officials and experts of the United Nations performing functions in connexion with or participating in the Symposium shall enjoy the privileges and immunities provided under Articles V, VI and VII of the said Convention."

(*h*) Agreement between the United Nations and Sweden regarding the arrangements for the symposium on population, resources and environment to be held at Stockholm from 26 September to 5 October 1973.[10] Signed at New York on 14 September 1973

This agreement contains provisions similar to articles V and VI of the agreement referred to under (*c*) above except that paragraph 3 and the last sentence of paragraph 4 of article V are omitted.

(*i*) Agreement between the United Nations and France on the Summer Course for remote earth sensing to be held at Tarbes, France, from 21 August to 20 September 1973 (with exchange of letters).[11] Signed at New York on 20 August 1973.

This agreement contains provisions similar to articles V and VI of the agreement referred to under (*c*) above except that:

(i) an additional paragraph reading as follows has been inserted between paragraphs 2 and 3 of article V:

"3. Persons participating in the Course under the terms of article II (*a*) and (*b*) of this Agreement [i.e., duly qualified participants designated by Governments who are invited to the Course and accepted by the United Nations and duly qualified participants who are invited to the Course by the host Government] shall enjoy the privileges and immunities accorded to experts on mission in conformity with article VI of the Convention on the Privileges and Immunities of the United Nations.";

(ii) article VI reads as follows:

"*Liability*

1. The Government shall exempt the United Nations and its personnel from all liability in respect 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 (*f*) and (*g*) above.

---

[9] Came into force on the date of signature.

[10] Came into force on the date of signature.

[11] Came into force on the date of signature.

2. Liability as aforementioned shall be assumed by the Government except where the injury or damage to person or property caused by participants referred to in article II of this Agreement rules from gross misconduct, an act or an omission with intent to cause injury or damage."

This agreement is accompanied by an exchange of letters reading in part as follows:

I

Permanent Mission of France
to the United Nations
20 August 1973

". . . I have the honour to confirm the interpretation which the French Government gives to article V, paragraph 5, concerning the movement of persons:

"It is understood that the French Government will issue the necessary visas, save in the highly exceptional cases of persons banned from French territory. Visas are to be obtained by addressing applications to the French foreign missions (embassies or consulates) in the countries of residence of the persons concerned."

II

United Nations
20 August

". . .

"I should like to confirm the agreement of the United Nations to the interpretation given by the Government of the French Republic to article V, paragraph 5, of [the] Agreement, concerning the movement of persons."

(*j*) Agreement between the United Nations and Argentina concerning the organization of technical panels on the practical applications of space technology.[12] Signed at New York on 29 November 1973

This agreement contains provisions similar to articles V and VI of the agreement referred to above under (*c*) except that an additional paragraph along the lines of the paragraph reproduced above under (*i*) has been inserted between paragraphs 2 and 3 of article V.

(*k*) Exchange of letters constituting an agreement between the United Nations and Norway regarding the International Conference of Experts in Support of Victims of Colonialism and *Apartheid* in Southern Africa, to be held in Oslo from 9 to 14 April 1974.[13] New York, 8 March 1973

I

Permanent Mission of
Norway to the United Nations
7 March 1973

. . .

The Convention on the Privileges and Immunities of the United Nations shall be applicable in respect of the Conference. The Government of Norway undertakes to apply to

[12] Came into force on 29 November 1973.

[13] Came into force on 8 March 1973.

participants who are representatives of African Liberation Movements those provisions of the Convention which refer to representatives of members, and to individual experts those provisions which refer to experts on mission for the United Nations. The privileges and immunities granted under the Convention to officials of the United Nations shall also be applied by the Government to officials of the Organization of African Unity performing functions in connexion with the Conference. The Convention on the Privileges and Immunities of the Specialized Agencies shall be applicable with respect to officials of such agencies attending the Conference.

All participants and persons performing functions in connexion with the Conference who are not nationals of Norway shall have the right of entry into and exit from Norway. Visas and entry permits, where required, shall be granted by the Government free of charge and as speedily as possible.

. . .

The Government shall hold the United Nations and its personnel harmless in respect of any actions relating to the above aspects of the activities of the Conference, save as such actions arise out of the gross negligence or wilful misconduct of United Nations personnel.

II

United Nations
8 March 1973

. . . I have the honour to confirm that the foregoing provisions are acceptable by the United Nations and that your Excellency's letter and this reply shall be regarded as constituting an agreement between Norway and the United Nations on the matter.

(*l*) Agreement between the United Nations and the United States of America on the Symposium on Population and the Family, to be held in Honolulu from 6 to 15 August 1973 (with annexed Supplementary Agreement between the United Nations and the East-West Center of the University of Hawaii).[14] Signed at New York on 1 August 1973 and at Washington on 6 August 1973

(*i*) Articles V and VI of the Agreement

ARTICLE V

Privileges and Immunities

1. Officials and experts of the United Nations, and representatives of the specialized agencies of the United Nations, performing functions in connexion with or participating in the symposium shall enjoy the privileges and immunities provided for such individuals under the Convention on the Privileges and Immunities of the United Nations and in the International Organizations Immunities Act, Public law 291, 79th Congress,[15] as amended.

2. The Government shall give customs clearance between the port of entry and the site of the symposium for the documentation and supplies, required for the symposium, which are entitled under the Convention on the Privileges and Immunities of the United Nations or the International Organizations Immunities Act to inviolability or to exemption from customs duties, prohibitions or restrictions on imports and exports.

---

[14] Came into force on 6 August 1973.

[15] United Nations Legislative Series, *Legislative texts and treaty provisions concerning the legal status, privileges and immunities of international organizations*, vol. I (ST/LEG/SER.B/10), p. 128.

ARTICLE VI

Visas

1. Nominal rolls of the participants referred to in Article II shall be forwarded in due course by the United Nations to the Government through the United States Mission to the United Nations.

2. Upon application for visas by duly invited or designated participants, as referred to herein,

(*a*) when such application is made at least two and a half weeks before the opening of the session, visas shall be granted as speedily as possible but not later than two weeks prior to the opening of the session; and

(*b*) when such application is not made at least two and a half weeks before the opening of the session, visas shall be granted as speedily as possible but not later than three days from receipt of the application.

(*ii*) Article V of the Supplementary Agreement between the United Nations and the East-West Center of the University of Hawaii

Liability

The East-West Center shall be responsible for dealing with any actions, claims or other demands arising out of (*a*) injuries or damages to person or property in the premises referred to in Article II, section 3(*a*) and (*b*); (*b*) injury or damage to person or property caused or incurred in using the transportation referred to in Article II, section 3(*i*); (*c*) the employment of the personnel referred to in Article II, sections 2 and 3(*e*), (*f*) and (*g*) and the East-West Center shall hold the United Nations and its personnel harmless in respect of any such action, claims or other demands.

. . .

(*m*) Memorandum of understanding between the United Nations and Japan concerning the Seventh United Nations Regional Cartographic Conference, for Asia and the Far East to be convened in Tokyo from 15 to 27 October 1973.[16] Signed at New York on 1 October 1973

VI. *Privileges and Immunities*

1. The Conventions on the Privileges and Immunities of the United Nations and of the Specialized Agencies, to which Japan is a party, will be applicable with respect to the Conference and to the participants therein.

2. During the period of the Conference, the area referred to in article I above, will be made available for the exclusive use of the United Nations and, therefore, will be deemed to constitute United Nations premises.

3. The Government will impose no impediment to transit to and from the Conference of the following categories of persons attending the Conference: representatives of States 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 nongovernmental 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 will be granted promptly and without charge.

4. The Government will take necessary measures to ensure, in accordance with the provisions of the Convention on the Privileges and Immunities of the United Nations:

[16] Came into force on the date of signature.

(*a*) the exemption from customs duties and prohibitions and restrictions on imports and exports of articles imported or exported by the United Nations for its official use, and

(*b*) the issuance of necessary import and export permits without delay with respect to all supplies needed by the United Nations for the Conference, including those required for official entertainment.

. . .

VIII. *Liability for Claims*

The Government will secure appropriate insurance, in relation to any activity connected with the Conference, covering any damage that might occur in Japan to any participant and any claim that might be made against the United Nations or its officials.

(*n*) Agreement between the United Nations and Romania regarding the arrangements for the World Population Conference, 1974.[17] Signed at New York on 18 October 1973

ARTICLE XIII

Liability

[This article is similar to article VI of the agreement referred to under (*c*) above except that an additional sentence reading as follows has been added at the end of the article:

"The United Nations shall cooperate with the Government to enable it to discharge its responsibilities under this Article."]

ARTICLE XIV

Privileges and immunities

1. The Convention on the Privileges and Immunities of the United Nations of 13 February 1946 and the Convention on the Privileges and Immunities of the Specialized Agencies of 21 November 1947, as ratified by the Socialist Republic of Romania, shall be applicable in respect of the Conference.

2. Representatives of States Members of the United Nations invited to the Conference shall enjoy the privileges and immunities accorded by Article IV of the Convention on the Privileges and Immunities of the United Nations. Representatives of other States Members of the specialized agencies or of the International Atomic Energy Agency invited to the Conference shall enjoy the privileges and immunities accorded by Article V of the Convention on the Privileges and Immunities of the Specialized Agencies.

3. Members of the United Nations secretariat of the Conference shall enjoy the privileges and immunities provided by Articles V, VI and VII of the Convention on the Privileges and Immunities of the United Nations.

4. Representatives of the specialized agencies or of other intergovernmental organizations invited to the Conference shall enjoy the same privileges and immunities as accorded to officials of comparable rank of the United Nations.

5. The personnel provided by the Government under Article XI of this Agreement shall enjoy immunity from legal process in respect of words spoken or written and all acts performed by them in their official capacity in connexion with the Conference.

6. Without prejudice to the Convention on the Privileges and Immunities of the United Nations, all persons performing functions in connexion with the Conference and all those

[17] Came into force on the date of signature.

invited to the Conference shall enjoy the necessary privileges, immunities and facilities in connexion with their participation in the Conference.

7. The Government shall impose no impediment to transit to and from the Conference for the following categories of persons:

(*a*) the persons referred to in Article II and their families, as well as members of the United Nations secretariat of the Conference and their families;

(*b*) representatives of information media referred to in Article III;

(*c*) participants in recognized parallel activities referred to in Article IV.

8. Any entry or exit visa required for such persons shall be granted immediately on application and without charge.

9. For the purpose of the application of the Convention on the Privileges and Immunities of the United Nations, conference premises shall be deemed to constitute premises of the United Nations and access thereto shall be under the control and authority of the United Nations for the whole duration of the Conference.

10. The participants in the Conference, the representatives of the information media and the members of the United Nations secretariat of the Conference shall have the right to take out of Romania at the time of their departure without any restrictions the unexpended portions of the funds they brought into Romania in connexion with the Conference, in the same currencies and at the United Nations official rates of exchange prevailing when they were brought in.

ARTICLE XV

Import duties and tax

1. The Government shall allow the temporary importation duty-free of all equipment, including technical equipment accompanying representatives of the information media, and shall waive import duties and taxes on supplies necessary for the Conference. It shall issue without delay any necessary import and export permits for this purpose.

2. The Government shall issue at the request of the United Nations the import permits for the supplies required by the United Nations for official use, including protocol purposes, at the Conference.

---

3. EXCHANGE OF LETTERS CONSTITUTING AN AGREEMENT BETWEEN THE UNITED NATIONS (UNITED NATIONS COUNCIL FOR NAMIBIA) AND ZAMBIA CONCERNING THE ISSUANCE BY THE COUNCIL OF TRAVEL AND IDENTITY DOCUMENTS TO NAMIBIANS (WITH A NOTE DATED 12 DECEMBER 1968).[18] LUSAKA, 10 JULY 1970

I

Letter from the Acting Commissioner for the United Nations Council for Namibia

Sir,

At the request of the United Nations Council for Namibia, I have the honour to refer to the following points of agreement and mutual undertakings which have resulted from meetings held in Lusaka in early February 1969, between a delegation of the Council and representatives

[18] Came into force on 10 July 1970.

of the Government of the Republic of Zambia, and from subsequent negotiations in New York.

Points of agreement:

1. The Government of the Republic of Zambia recognises and accepts as valid the travel and identity documents issued to Namibians by the United Nations Council for Namibia and intends to so advise the Secretary-General of the United Nations, pursuant to his note verbale of 12 December 1968.

2. In the exercise of its sovereign rights, the Government of the Republic of Zambia agrees to grant the right of return to the following categories of Namibians who receive the travel and identity documents of the Council:

(*a*) Namibians residing in Zambia;

(*b*) Namibians enjoying first asylum in Zambia;

(*c*) such other Namibians as the Government may determine.

3. The right of return will be inscribed and certified by the Government of the Republic of Zambia in the travel and identity documents issued by the United Nations Council for Namibia for the period of up to two years following the date of issue of the documents and this period may be extended.

4. Applications for travel and identity documents shall be submitted to the Government of the Republic of Zambia which shall examine such applications. A representative of the United Nations Council for Namibia shall be consulted, in accordance with the provisions of paragraph 5 below, and a representative of the Organization of African Unity may be consulted as appropriate. Representatives of the people of Namibia shall be requested to provide relevant information as required. In the event of the Government of the Republic of Zambia informing the United Nations Council for Namibia that it agrees to grant the right of return, the documents shall be issued by the Council. It is understood that, as a rule, the right of return shall be granted to individuals within the categories mentioned in paragraph 2 (*a*) to (*c*) above, unless compelling reasons of national security or public order otherwise require.

5. In its examination of applications for travel and identity documents, the Government of Zambia shall consult the United Nations Council for Namibia in every case, except when:

(*a*) the Government decides not to grant the right of return on grounds of national security or public order. Any determination made by the Government on such grounds shall be final.

(*b*) circumstances are such that the application requires immediate consideration, not permitting time for consultation, and the Government is satisfied, on the basis of the information available to it, with the *bona fides* of the applicant and is prepared to grant the right of return.

6. The provisions of paragraphs 4 and 5 shall not preclude the United Nations Council for Namibia from issuing travel documents, in cases where the right of return is not granted by the Government of the Republic of Zambia, provided that the Council secures for the applicant the right of return to a country other than Zambia or finds a country which would accept him without a return clause.

7. The present arrangements which are made in the interest of Namibians are subject to review on the request of the Government of the Republic of Zambia or of the United Nations Council for Namibia after a period of two years from the date of the present exchange of letters, or as may be decided by the parties, and be amended by agreement between the parties.

Mutual undertakings:

8. The Government of the Republic of Zambia, recognising:

(*a*) the international status of Namibia;

(*b*) the importance and necessity for Namibians to verify their identity and to be able to travel while abroad; and

(*c*) the special responsibilities of the Council for Namibia in matters within its competence;

undertakes to extend its full co-operation with regard to the arrangements herein described.

9. The Council for Namibia, recognising that the Government of the Republic of Zambia should not be required, because of the country's geographical location, to bear to a disproportionate degree the problems arising from the entry of Namibians into Zambia, undertake to make every effort to ensure that other Member States of the United Nations share in the granting of asylum and right of residence to Namibians.

10. Furthermore, the Council for Namibia, recognising that more important than the question of travel documents is the problem of the future welfare of Namibians who sought asylum in other countries, undertakes to give this problem serious attention.

I would be most grateful for your confirmation that the Government of the Republic of Zambia is in full agreement with the points listed above. In such case, I have the honour to propose that this note and your reply shall constitute an Agreement between the United Nations Council for Namibia and the Government of the Republic of Zambia on this matter.

Accept, Sir, the assurances of my highest consideration.

(*signed*) A. A. HAMID
Acting Commissioner for United Nations
Council for Namibia

II

Letter from the Minister of State for Home Affairs of Zambia

Sir,

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

[See letter I]

I have the honour to inform you that the foregoing is acceptable to the Government of the Republic of Zambia which agrees that your letter and this reply shall constitute an Agreement between the Government of the Republic of Zambia and the United Nations Council for Namibia.

Accept, Sir, the assurances of my highest consideration.

(*Signed*) Hon. C. M. MWANANSHIKU
Minister of State for Home Affairs

ANNEX

TR 100(3) NAMI (1-1)

The Secretary-General of the United Nations presents his compliments to the Permanent Representative of Zambia to the United Nations and has the honour to refer to General Assembly resolutions 2248 (S-V) of 19th May 1967, 2325 (XXII) of 16 December 1967 and 2372 (XXII) of 12 June 1968. As the Council for Namibia reported to the General Assembly (A/7088, para. 38), it had decided on 8 February 1968 that in the discharge of its functions under resolutions 2248 (S-V) and 2325 (XXII) it would in principle proceed with arrangements for the issuance of travel documents to Namibians who apply for such documents. Subsequently, the General Assembly, having considered the Council's report on the matter, decided that the Council "shall continue with a sense of urgency its consultations on the question of issuing to Namibians travel documents enabling them to travel abroad" [resolution 2372 (XXII), para. 4 (*c*)].

The Council is now actively pursuing this matter. In this connexion it has asked the Secretary-General to request Governments to undertake, as a step towards finalizing the arrangements for issuing these documents, to recognize and accept as valid the travel and identity documents issued by the Council to Namibians abroad, subject to its usual visa requirements, and to extend its full co-operation to the Council in this regard and afford all the necessary assistance normally accorded to the bearers of such documents.

The Secretary-General would appreciate it if the Permanent Representative would communicate the contents of this note to his Government and forward its reply as soon as possible.

---

12 December 1968

4. EXCHANGE OF LETTERS CONSTITUTING AN AGREEMENT BETWEEN THE UNITED NATIONS (UNITED NATIONS COUNCIL FOR NAMIBIA) AND UGANDA CONCERNING THE ISSUANCE BY THE COUNCIL OF TRAVEL AND IDENTITY DOCUMENTS TO NAMIBIANS.[19] KAMPALA, 17 JULY 1970

I

Letter from the Acting Commissioner for the United Nations Council for Namibia

[Similar to letter I under Section 3 above]

II

Letter from the Deputy Minister of Foreign Affairs of Uganda

[Similar to letter II under Section 3 above]

5. AGREEMENT BETWEEN THE UNITED NATIONS (UNITED NATIONS COUNCIL FOR NAMIBIA) AND NIGERIA ON THE RIGHT OF RETURN TO NIGERIA OF CERTAIN NAMIBIANS.[20] SIGNED AT NEW YORK ON 20 APRIL 1972

The Government of the Federal Republic of Nigeria (hereinafter referred to as "the Government of Nigeria") and the United Nations Council for Namibia (hereinafter referred to as "the Council").

Recognising the international status of Namibia and the importance and necessity for Namibians to verify their identity and to be able to travel about while abroad,

Agree as follows:

ARTICLE 1

The Government of Nigeria recognises and accepts as valid the travel and identity documents issued to Namibians by the Council.

ARTICLE 2

Subject to other provisions of this Agreement, the Government of Nigeria agrees to grant the right of return to the following categories of Namibians who are in possession of the travel and identity documents issued by the Council:

(*a*) Namibians residing in Nigeria prior to the conclusion of this Agreement;

---

[19] Came into force on 17 July 1970.

[20] Came into force on the date of signature.

(*b*) Namibians enjoying asylum in Nigeria; and

(*c*) Such other Namibians as the Government of Nigeria may determine.

ARTICLE 3

1. For the purpose of this Agreement a right of return to Nigeria shall mean a right to be admitted into Nigeria granted to a Namibian.

2. The right of return shall be inscribed and certified by the Government of Nigeria in the travel and identity documents issued by the Council and the right shall be valid for a period of two years from the date of issue of the right of return and this period may be extended by the Government of Nigeria.

ARTICLE 4

1. Applications for a right of return to Nigeria by Namibians shall be made on prescribed forms agreed to by the Government of Nigeria and the Council and shall be submitted through the Council. The Council shall transmit them to the Government of Nigeria after due consultations with the Organisation of African Unity where appropriate.

2. The Government of Nigeria on receiving an application for a grant of a right of return to Nigeria may decide to

(*a*) approve the application with or without prescribing conditions for the approval; or

(*b*) ask for more information about the applicant and on receiving such information may decide to reject the application without giving any reasons for doing so; or

(*c*) reject the application without giving any reasons for doing so.

3. The decision of the Government of Nigeria on every application received shall be conveyed to the Council and where an application is approved the Council shall forward the travel and identity documents of the successful applicant to the Government of Nigeria who shall inscribe and certify the right to return to Nigeria on the travel and identity documents and return them to the applicant through the Council.

ARTICLE 5

The Council undertakes to make every effort to ensure that other member States of the United Nations share in the granting of the right of return to Namibians and that all possible assistance is rendered to such Namibians through the United Nations system.

ARTICLE 6

Namibians admitted into Nigeria under this Agreement shall be subjected to the laws and regulations of Nigeria.

ARTICLE 7

1. This Agreement shall enter into force two months after the authorised representatives of the contracting parties have signed this Agreement and may be terminated by either party giving twelve months notice in writing to the other party.

Done at United Nations Headquarters this 20th April 1972 in two original copies in English language, both copies being authentic.

(*Signed*) A. A. HAMID
For the United Nations Council for Namibia

(*Signed*) E. O. OGBU
For the Government of the Federal Republic of Nigeria

6. AGREEMENTS RELATING TO THE TECHNICAL ASSISTANCE SECTOR OF THE UNITED NATIONS DEVELOPMENT PROGRAMME: REVISED STANDARD AGREEMENT CONCERNING TECHNICAL ASSISTANCE[21]

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]

Revised standard agreement on technical assistance between the United Nations (including UNIDO and UNCTAD), ILO, FAO, UNESCO, ICAO, WHO, ITU, WMO, IAEA, UPU and IMCO, and Bhutan.[22] Signed at New Delhi on 21 February 1973

This agreement contains provisions similar to articles I, 6 and V of the revised standard agreement.

---

7. AGREEMENTS RELATING TO THE SPECIAL FUND SECTOR OF THE UNITED NATIONS DEVELOPMENT PROGRAMME: STANDARD AGREEMENT CONCERNING ASSISTANCE FROM THE UNITED NATIONS DEVELOPMENT PROGRAMME (SPECIAL FUND)[23]

ARTICLE VIII

Facilities, privileges and immunities

[See *Juridical Yearbook*, 1963, p. 31]

ARTICLE X

General provisions

. . .

4. . . . [See *Juridical Yearbook*, 1963, p. 32]

Agreement between the United Nations Development Programme (Special Fund) and Bhutan concerning assistance from the United Nations Development Programme (Special Fund).[24] Signed at New Delhi on 21 February 1973

This agreement contains provisions similar to articles VIII and X, 4 of the standard agreement.

---

[21] United Nations Development Programme, *Administrative Field Manual* (AFM), Section IX-C (May 1973).

[22] Came into force on the date of signature.

[23] United Nations Development Programme, *Administrative Field Manual* (AFM), Section IX-C (May 1973).

[24] Came into force on the date of signature.

8. AGREEMENT RELATING TO OPERATIONAL ASSISTANCE: STANDARD AGREEMENT ON OPERATIONAL ASSISTANCE[25]

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. [See *Juridical Yearbook*, 1968, pp. 46 and 47]

Standard agreements on operational assistance between the United Nations (including UNIDO and UNCTAD), ILO, FAO, UNESCO, ICAO, WHO, ITU, WMO, IAEA, UPU, IMCO and IBRD, and the Governments of Bhutan, Burundi and Gabon.[26] Signed respectively at New Delhi on 21 February 1973, at Bujumbura on 22 March 1973 and at Libreville on 15 December 1973

These agreements contain provisions similar to articles II, 3 and IV, 5 and 6 of the standard agreement.

9. AGREEMENTS RELATING TO THE UNITED NATIONS DEVELOPMENT PROGRAMME: STANDARD BASIC AGREEMENT CONCERNING ASSISTANCE BY THE UNITED NATIONS DEVELOPMENT PROGRAMME[27]

ARTICLE III

Execution of Projects

. . .

5. In the performance of their duties, advisory experts, consultants and volunteers shall act in close consultation with the Government and with persons or bodies designated by the Government, and shall comply with such instructions from the Government as may be appropriate to the nature of their duties and the assistance to be given and as may be mutually agreed upon between the UNDP and the Executing Agency concerned and the Government. Operational experts shall be solely responsible to, and be under the exclusive direction of, the Government or the entity to which they are assigned, but shall not be required to perform any functions incompatible with their international status or with the purposes of the UNDP or the Executing Agency . . .

. . .

---

[25] United Nations Development Programme, *Administrative Field Manual* (AFM), Section IX-C (May 1973).

[26] Came into force on the respective dates of signature.

[27] Document UNDP/ADM/LEG/34 of 6 March 1973. The standard basic agreement prepared by the Bureau of Administration and Finance in consultation with the Executing Agencies of UNDP, represents a consolidation of the standard Special Fund, Technical Assistance, Operational Assistance and Office Agreements of the UNDP, which it is designed to replace.

ARTICLE IX

Privileges and Immunities

1. The Government shall apply to the United Nations and its organs, including the UNDP and United Nations subsidiary organs acting as UNDP Executing Agencies, their property, funds and assets, and to their officials, including the resident representative and other members of the UNDP mission in the country, the provisions of the Convention on the Privileges and Immunities of the United Nations.

2. The Government shall apply to each Specialized Agency acting as an Executing Agency, its property, funds and assets, and to its officials, the provisions of the Convention on the Privileges and Immunities of the Specialized Agencies, including any Annex to the Convention applicable to such Specialized Agency. In case the International Atomic Energy Agency (the IAEA) acts as an Executing Agency, the Government shall apply to its property, funds and assets, and to its officials and experts, the Agreement on the Privileges and Immunities of the IAEA.

3. Members of the UNDP mission in the country shall be granted such additional privileges and immunities as may be necessary for the effective exercise by the mission of its functions.

4. (*a*) Except as the Parties may otherwise agree in Project Documents relating to specific projects, the Government shall grant all persons, other than Government nationals employed locally, performing services on behalf of the UNDP, a Specialized Agency or the IAEA who are not covered by paragraphs 1 and 2 above the same privileges and immunities as officials of the United Nations, the Specialized Agency concerned or the IAEA under Sections 18, 19 or 18 respectively of the Conventions on the Privileges and Immunities of the United Nations or of the Specialized Agencies, or of the Agreement on the Privileges and Immunities of the IAEA.

(*b*) For purposes of the instruments on privileges and immunities referred to in the preceding parts of this Article:

(1) All papers and documents relating to a project in the possession or under the control of the persons referred to in subparagraph 4 (*a*) above shall be deemed to be documents belonging to the United Nations, the Specialized Agency concerned, or the IAEA, as the case may be; and

(2) Equipment, materials and supplies brought into or purchased or leased by those persons within the country for purposes of a project shall be deemed to be property of the United Nations, the Specialized Agency concerned, or the IAEA, as the case may be.

5. The expression "persons performing services" as used in Articles IX, X and XIII of this Agreement includes operational experts, volunteers, consultants, and juridical as well as natural persons and their employees. It includes governmental or non-governmental organizations or firms which UNDP may retain, whether as an Executing Agency or otherwise, to execute or to assist in the execution of UNDP assistance to a project, and their employees. Nothing in this Agreement shall be construed to limit the privileges, immunities or facilities conferred upon such organizations or firms or their employees in any other instrument.

ARTICLE X

Facilities for execution of UNDP assistance

1. The Government shall take any measures which may be necessary to exempt the UNDP, its Executing Agencies, their experts and other persons performing services on their behalf from regulations or other legal provisions which may interfere with operations under this Agreement, and shall grant them such other facilities as may be necessary for the speedy and efficient execution of UNDP assistance. It shall, in particular, grant them the following rights and facilities:

(*a*) prompt clearance of experts and other persons performing services on behalf of the UNDP or an Executing Agency;

(*b*) prompt issuance without cost of necessary visas, licenses or permits;

(*c*) access to the site of work and all necessary rights of way;

(*d*) free movement within or to or from the country, to the extent necessary for proper execution of UNDP assistance;

(*e*) the most favourable legal rate of exchange;

(*f*) any permits necessary for the importation of equipment, materials and supplies, and for their subsequent exportation;

(*g*) any permits necessary for importation of property belonging to and intended for the personal use or consumption of officials of the UNDP, its Executing Agencies, or other persons performing services on their behalf, and for the subsequent exportation of such property; and

(*h*) prompt release from customs of the items mentioned in subparagraphs (*f*) and (*g*) above.

2. Assistance under this Agreement being provided for the benefit of the Government and people of _____, the Government shall bear all risks of operations arising under this Agreement. It shall be responsible for dealing with claims which may be brought by third parties against the UNDP or an Executing Agency, their officials or other persons performing services on their behalf, and shall hold them harmless in respect of claims or liabilities arising from operations under this Agreement. The foregoing provision shall not apply where the Parties and the Executing Agency are agreed that a claim or liability arises from the gross negligence or wilful misconduct of the above-mentioned individuals.

ARTICLE XIII

General provisions

. . .

4. . . . The obligations assumed by the Government under Articles IX (concerning privileges and immunities), X (concerning facilities for project execution) . . . hereof shall survive the expiration or termination of this Agreement to the extent necessary to permit orderly withdrawal of personnel, funds and property of the UNDP and of any Executing Agency, or of any persons performing services on their behalf under this Agreement.

Basic agreements between the United Nations (United Nations Development Programme) and the Governments of Costa Rica and Panama concerning assistance by the United Nations Development Programme. Signed respectively at San José on 7 August 1973 and at Panama City on 23 August 1973[28]

These agreements contain provisions similar to articles III, 5, IX, X and XIII, 4 of the standard basic agreement.

10. AGREEMENTS CONCERNING ASSISTANCE FROM THE WORLD FOOD PROGRAMME

(*a*) Basic agreements concerning assistance from the World Food Programme between the United Nations and the Food and Agriculture Organization of the United Nations, on behalf of the World Food Programme (WFP), and the Governments of Lesotho, Egypt, Honduras, Uganda, Turkey, Costa Rica, the

[28] Came into force on the respective dates of signature.

Philippines and Zaire.[29] Signed respectively at Maseru on 11 November 1968, at Cairo on 5 September 1968, at Tegucigalpa on 17 September 1970, at Kampala on 22 March 1972, at Ankara on 23 May 1968, at San José on 11 February 1971, at Manila on 2 July 1968 and at Kinshasa on 15 June 1968

These agreements contain provisions similar to those reproduced on p. 23 of the *Juridical Yearbook*, 1971.

(*b*) Basic agreement concerning assistance from the World Food Programme between the United Nations and the Food and Agriculture Organization of the United Nations, on behalf of the World Food Programme (WFP), and the Government of Greece.[30] Signed at Athens on 19 September 1968

This agreement contains provisions similar to those reproduced on p. 23 of the *Juridical Yearbook*, 1971, except that:

(*i*) the words "and specialized agencies" do not appear at the end of paragraph 1;

(*ii*) the words "Specialized Agencies" in paragraph 2 are replaced by the words: "United Nations, enacted into Law No. 412/47";

(*iii*) the words "in Greece" have been inserted after the words "under this Agreement" in the fourth and sixth lines of paragraph 3.

B. TREATY PROVISIONS CONCERNING THE LEGAL STATUS OF INTERGOVERNMENTAL ORGANIZATIONS RELATED TO THE UNITED NATIONS

1. CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE SPECIALIZED AGENCIES.[31] APPROVED BY THE GENERAL ASSEMBLY OF THE UNITED NATIONS ON 21 NOVEMBER 1947

In 1973, 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:[32]

State		*Date of receipt of instrument of accession or ratification*	*Specialized Agencies*
Guyana	Accession	13 September 1973	ILO, FAO, UNESCO, ICAO, Fund, Bank, WHO, UPU, ITU, IMCO, WMO, IFC, IDA
Hungary[33]	Notification	9 August 1973	FAO, ICAO, IMCO

As of 31 December 1973, 78 States were parties to the Convention.

---

[29] Came into force respectively on 11 November 1968, 17 February 1969, 8 October 1971, 22 March 1972, 27 March 1972, 13 September 1972, 3 October 1972 and 8 May 1973.

[30] Came into force on 9 June 1972.

[31] United Nations, *Treaty Series*, vol. 33, p. 261.

[32] 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.

[33] Subject to the following declarations:

"Also with regard to the above-mentioned specialized agencies, the Hungarian People's Republic accepts the provisions in articles 24 and 32 with the reservations made when notifying its accession to the Convention" (See *Juridical Yearbook*, 1968, p. 79, footnote 30; see also *Juridical Yearbook*, 1968, p. 50, footnote 30).

2. INTERNATIONAL LABOUR ORGANISATION

Agreement between the International Labour Organisation and Bangladesh concerning the establishment of an Office of the Organisation in Dacca.[34] Signed at Dacca on 25 May 1973

This Agreement contains provisions similar to articles 2 and 3 of the Agreement between the International Labour Organisation and Trinidad and Tobago concerning the establishment of an Office of the Organisation in Port of Spain, signed at Port of Spain on 14 March 1969: see *Juridical Yearbook,* 1969, p. 29.

---

3. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

(*a*) Agreements based on the standard "Memorandum of Responsibilities" in respect of FAO sessions

Agreements concerning specific sessions held outside FAO Headquarters and containing provisions on privileges and immunities of FAO and participants similar to the standard text (published in the *Juridical Yearbook,* 1972, p. 32)[35] were concluded in 1972 and 1973 with the governments of the following countries acting as hosts to such sessions:

Argentina, Australia,[36] Austria, Belgium, Canada,[37] Chile,[37] Cyprus, Egypt, Ethiopia, France,[38,39] Germany, Federal Republic of,[40] Italy,[41] India, Iran,[42] Jamaica,[43] Kenya,

---

[34] Came into force on the date of signature.

[35] Due to re-numbering of the provisions of the General Rules of the Organization, reference is now made in paragraph 9 of the standard text of the agreement, to Rule XXXVI-4 (rather than XXXIV-4).

[36] While accepting the standard clauses of the agreement, the host government made the following declaration:

"In relation to part II, paragraphs 9, 10 and 11 on the Responsibilities of the host governments in regard to privileges and immunities for FAO and participants, you will appreciate that the Convention on Privileges and Immunities of the Specialized Agencies provides for the granting of privileges and immunities to the Organization, its property, funds and assets, to officers of the Organization and to representatives of Members but not to observers. Australian law makes provision accordingly. Nevertheless, you can be assured that observers will be accorded the necessary facilities for their participation in the Conference."

[37] Agreement concluded in 1972.

[38] In paragraph 9, regarding privileges and immunities of FAO and participants, the reference to the Convention on the Privileges and Immunities of the Specialized Agencies, appearing in the standard text, was omitted.

[39] The host government did not assume the hold-harmless obligation set out in paragraph 11 of the standard text.

[40] The standard provisions were replaced by the following clause: "It is understood that the necessary visas and free access to the meetings will be granted to all participants."

[41] The reference to the Convention on the Privileges and Immunities of the Specialized Agencies contained in paragraph 9 of the standard text was replaced by a reference to "the relevant provisions of the Headquarters Agreement".

[42] The host Government and FAO failed to agree on privileges and immunities clause, but it was too late to change the venue of the session.

[43] In paragraph 9 the words "to delegates and observers, and to FAO staff" were omitted. In paragraph 10 the following words were added at the end "in accordance with the laws and regulations in force in Japan".

Libya,[37] Malaysia, Mexico[44] Netherlands,[45] Senegal, Spain,[46] Thailand,[40] Turkey, United Kingdom,[47,40].

(*b*) Agreements based on the standard "Memorandum of Reponsibilities" in respect of group seminars, training courses or workshops

Agreements concerning specific group seminars, training courses or workshops, and containing provisions on privileges and immunities of FAO and participants similar to the standard text (published in the *Juridical Yearbook,* 1972, p. 33). were concluded in 1973 with the Governments of the following countries acting as hosts to such group seminars, training courses and workshops:

Argentina,[37] Chad, Chile, Costa Rica, Cyprus, Denmark,[48] France,[37] Gabon, Ghana, India, Kenya, Libya, Malawi, Nigeria,[49] Thailand, Tunisia, United States of America,[50] Zambia[37]

(*c*) Exchange of letters between the Government of Sweden and the Food and Agriculture Organization of the United Nations regarding training courses and seminars to be held in Sweden

The exchange of letters of 4 February/3 March 1972 regarding training courses and seminars to be held in 1972 (published in the *Juridical Yearbook,* 1972, p. 33) was extended by an exchange of cables of 30 March 1973 to training courses and seminars to be held during 1973.

---

[44] The Government made the following declaration:

"The Government of Mexico considers that the obligations which it is called upon to assume are acceptable, with the exception that it is unable to recognize the privileges and immunities granted under the Convention on the Privileges and Immunities of the Specialized Agencies because, as is known, Mexico is not a party to that international instrument. However, as on previous occasions, the Government of Mexico will apply *mutatis mutandis* the provisions of the Convention on the Privileges and Immunities of the United Nations, to which Mexico is a party, subject to the reservations which it formulated when it ratified that Convention."

[45] Paragraph 9 of the standard text was amended by the addition of the following words:

"and it being understood that immunity of jurisdiction does not apply to road offences, committed by a privileged person, nor to cases of damage caused by a motor vehicle belonging to, or driven by that person, and that no exemption of taxes or duties as to foodstuffs, drinks, tobacco and comparable supplies shall be claimed by FAO."

[46] The standard clauses were replaced by the following text:

"The Host Government undertakes to:

"...

"9. Accord for the purposes of the Session, to delegates and observers, and to FAO, its property, funds and assets, as well as to FAO staff, all the privileges or immunities provided for in article 5 of the Agreement between the United Nations, the specialized agencies and the Government of Spain of 3 May 1969, which basically coincide with those described in Article VIII, paragraph 4, and Article XVI, paragraph 2, of the Constitution and Rule XXXVI-4 of the General Rules."

[47] Paragraph 10 of the standard text was amended to read as follows:

"Expedite the issue of visas to persons attending the Session on behalf of FAO or officially invited by the Director-General of FAO."

[48] In view of a general understanding reached with the Government, no formal agreement was concluded but the following cable was received from the Ministry of Foreign Affairs: "CONFIRM PRIVILEGES IMMUNITIES FAO AND STAFF AND GRANTING VISAS TO PARTICIPANTS".

[49] Paragraph 15 of the standard text regarding the granting of visas and facilities to participants, lecturers etc., was omitted, participants being exclusively from the host country.

4. UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

Agreements relating to conferences, seminars and other meetings

(i) Agreement between the Government of Brazil and the United Nations Educational, Scientific and Cultural Organization concerning the meeting of the Working Group on Project No. 1 of the Man and Biosphere Programme (Man's effect on tropical and sub-tropical forest ecosystems).[51] Signed at Paris on 25 October 1973 and 29 November 1973

III. *Privileges and immunities*

The Government of Brazil shall apply, for the duration of the meeting, the provisions of the Convention on the Privileges and Immunities of the Specialized Agencies and annex IV thereto, to which it has been a party since 22 March 1963. It is understood, in particular, that no restriction upon the right of entry into, sojourn in and departure from its territory shall be applied to persons entitled to attend the meeting in an official capacity, without distinction of nationality.

(ii) Agreements containing a provision similar to that referred to in paragraph (i) above were also concluded between UNESCO and the Governments of Argentina, Barbados, Chile, Egypt, Federal Republic of Germany, India, Indonesia, Kenya, Malaysia, Morocco, Nigeria, Norway, Philippines, Romania and United Republic of Tanzania, concerning meetings to be held in their respective territories.

---

5. WORLD HEALTH ORGANIZATION

Basic agreements between WHO and the Governments of Laos, the Republic of Viet-Nam, Swaziland and the Khmer Republic for the provision of technical advisory assistance.[52] Signed respectively at Manila on 27 February 1973 and Vientiane on 7 May 1973, at Manila on 27 February 1973 and Saigon on 30 May 1973, at Brazzaville on 5 June 1973 and M'babane on 11 July 1973 and at Manila on 27 February 1973 and Phnom Penh on 16 October 1973

These agreements contain provisions similar to article I, paragraph 6, and article V of an Agreement between the World Health Organization and Guyana reproduced on p. 56 of the *Juridical Yearbook*, 1968.

---

[50] The standard text was modified in various respects and the host Government assumed the following obligations:

(*a*) to accord for the purposes of the Course, to invited experts, and to FAO, its property, funds and assets, as well as to FAO staff, all the privileges and immunities specified in the International Immunities Act (Public Law 291, 79th Congress);

(*b*) to grant visas and all necessary facilities to invited participants, lecturers, experts and consultants subject to the provision of the US Immigration Laws, it being understood that visas will not be denied to them on the basis of nationality or the governments which they represent;

(*c*) to hold FAO and its staff immune from suit and legal process relating to acts performed by them in their official capacity, and falling within their functions as officers and employees of the Organization.

[51] Came into force on 20 November 1973.

[52] Came into force respectively on 7 May 1973, 30 May 1973, 11 July 1973 and 16 October 1973.

6. WORLD METEOROLOGICAL ORGANIZATION

Agreement on the GARP Atlantic Tropical Experiment (Gate) between the World Meteorological Organization, the Government of the Republic of Senegal and other Member States of the World Meteorological Organization participating in the Experiment.[53] Done at Geneva on 27 June 1973

SECTION 6

Privileges and Immunities of the World Meteorological Organization in Senegal

(*a*) The Organization's juridical personality in Senegal shall be as provided for in Article II, Section 3 of the Convention on Privileges and Immunities of the Specialized Agencies to which the Government of Senegal has acceded and which it has applied to the Organization since 2 March 1966.

(*b*) The privileges and immunities of officials of the Organization assigned to Senegal for the requirements of the Experiment shall be governed by the terms of that Convention.

. . .

SECTION 10

Importation and Exportation of Materials, Equipment, Supplies, Goods and other Property

(*a*) The Government of the Republic of Senegal shall, upon request, take the necessary steps to facilitate the admission into Senegal, for use in the Experiment, and in due-course, when appropriate, the removal from Senegal without any restrictions of materials, equipment, supplies, goods and other property of, or held on behalf of, the Organization or any other participating Member State;

(*b*) No licence or other form of prior authorization shall be required for the importation into Senegal of the materials, equipment, supplies, goods or other property referred to in (*a*) above, provided such importation does not entail any export of foreign currency from Senegal.

SECTION 11

Fiscal exemptions

(*a*) Materials, equipment, supplies, goods or other property (including motor vehicles) belonging to, or held on behalf of, the Organization or the other participating Member States imported into Senegal for use in the Experiment shall, on request, be admitted free of tax, customs and import duties and other charges, subject to exportation after the conclusion of the Experiment. Detailed lists of such property shall be sent to the Co-operating Agency of Senegal, designated in article 5;

(*b*) No excise, consumption or other duty shall be levied or charged on petroleum, oil and lubricants purchased on behalf of the Organization or the other participating Member States for ships and aircraft involved in the Experiment. However, user shall be required to provide evidence of the quantities actually used;

(*c*) The motor vehicles of the Organization and of the other participating Member States used in Senegal in connexion with the Experiment and their operation shall be exempt from all taxes and other charges;

(*d*) No person involved in the Experiment and ordinarily resident outside Senegal shall be required to possess, or apply for, a work permit or similar form of authorization, or to pay in Senegal any tax, in respect of any service or work in connexion with the Experiment;

[53] Came into force on the date of signature.

(*e*) For locally recruited Senegalese personnel involved in working in the Experiment, the Organization and other participating Member States shall undertake to apply the labour legislation in force on Senegal.

. . .

SECTION 14

Liability

(*a*) Each co-operating agency of a participating Member State shall be responsible for claims for damage to property or injury to persons with respect only to activities under the Experiment directly engaged in or performed by that co-operating Agency or its employees;

(*b*) Similarly, the Organization shall be responsible for claims for such damage or injury but only with respect to activities engaged in or performed by the Organization or its personnel or consultants;

(*c*) Whenever an employee of a co-operating Agency or the Organization is involved in a personal capacity in any litigation, the co-operating Agency or the Organization as the case may be, shall collaborate with Senegalese authorities to facilitate settlement of the litigation.

---

7. INTERNATIONAL ATOMIC ENERGY AGENCY

Agreement on the Privileges and Immunities of the International Atomic Energy Agency,[54] approved by the Board of Governors of the Agency on 1 July 1959

(a) *Deposit of instruments of acceptance*

The following Member State accepted the Agreement on the Privileges and Immunities of the International Atomic Energy Agency in 1973, on the date as indicated:[55]

State	*Date of deposit of instrument of acceptance*
Singapore[56]	19 July 1973

This brought up to 42 the number of States parties to this Agreement.

(b) *Incorporation of provisions of the Agreement on the Privileges and Immunities of the International Atomic Energy Agency by reference in other Agreements*

(i) Article 10 of the Agreement between the Republic of Cyprus and the International Atomic Energy Agency for the Application of Safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons; entered into force on 26 January 1973 (INFCIRC/189).

(ii) Article 10 of the Agreement between Mauritius and the International Atomic Energy Agency for the Application of Safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons; entered into force on 31 January 1973 (INFCIRC/190).

---

[54] Reproduced in the *Juridical Yearbook*, 1963, p. 48. See also United Nations, *Treaty Series*, vol. 374, p. 147.

[55] The Agreement enters into force as between the Agency and the accepting State on the date of deposit of the Instrument of Acceptance.

[56] With the following reservation:

". . . officials of the Agency who are Singapore citizens shall not enjoy exemption from taxation on salaries and emoluments paid to them by the Agency."

(iii) Article X of the Master Agreement between the International Energy Agency and the Polish People's Republic for Assistance by the Agency in furthering Projects by the Supply of Materials; entered into force on 7 February 1973 (INFCIRC/. . .).

(iv) Article 10 of the Agreement between the Government of the Lebanese Republic and the International Atomic Energy Agency for the Application of Safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons; entered into force on 5 March 1973 (INFCIRC/191).

(v) Article X of the Master Agreement between the International Atomic Energy Agency and the Republic of Chile for Assistance by the Agency in furthering Projects by the Supply of Materials; entered into force on 16 March 1973 (INFCIRC/196).

(vi) Article 10 of the Agreement between the Government of Fiji and the International Atomic Energy Agency for the Application of Safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons; entered into force on 22 March 1973 (INFCIRC/192).

(vii) Article 10 of the Agreement between the Kingdom of Lesotho and the International Atomic Energy Agency for the Application of Safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons; entered into force on 12 June 1973.

(viii) Article 10 of the Agreement between the Government of the Malagasy Republic and the International Atomic Energy Agency for the Application of Safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons; entered into force on 14 June 1973 (INFCIRC/200).

(ix) Article 10 of the Agreement between the United Mexican States and the International Atomic Energy Agency for the Application of Safeguards pursuant to the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Treaty on the Non-Proliferation of Nuclear Weapons; entered into force on 14 September 1973 (INFCIRC/197).

(x) Article 10 of the Agreement between the Dominican Government and the International Atomic Energy Agency for the Application of Safeguards in connection with the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Treaty on the Non-Proliferation of Nuclear Weapons; entered into force on 11 October 1973 (INFCIRC/201).

(xi) Section 5 of the Agreement between the International Atomic Energy Agency and the Government of the Argentine Republic relating to the Application of Safeguards; entered into force on 23 October 1973 (INFCIRC/202).

(xii) Article 10 of the Agreement between the Socialist Federal Republic of Yugoslavia and the International Atomic Energy Agency for the Application of Safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons; entered into force on 28 December 1973 (INFCIRC/204).

Part Two

LEGAL ACTIVITIES OF THE UNITED NATIONS AND RELATED INTERGOVERNMENTAL ORGANIZATIONS

Chapter III

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

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

1. DISARMAMENT AND RELATED MATTERS[1]

At its twenty-eighth session, the General Assembly considered *inter alia* the following items relating to disarmament:

(1) REDUCTION OF THE MILITARY BUDGETS OF STATES PERMANENT MEMBERS OF THE SECURITY COUNCIL BY 10 PER CENT AND UTILIZATION OF PART OF THE FUNDS THUS SAVED TO PROVIDE ASSISTANCE TO DEVELOPING COUNTRIES

This item was included in the agenda of the General Assembly at the request of the USSR as an important and urgent item.[2] The Assembly [resolution 3093 A (XXVIII)] recommended that all States permanent members of the Security Council should reduce their military budgets by 10 per cent from the 1973 level during the next financial year and appealed to them to allot 10 per cent of the funds thus released for the provision of assistance to developing countries; and expressed the desire that other States, particularly those with a major economic and military potential, should also take steps to reduce their military budgets and allot part of the funds thus released for the provision of assistance to developing countries.

(2) ECONOMIC AND SOCIAL CONSEQUENCES OF THE ARMAMENTS RACE AND ITS EXTREMELY HARMFUL EFFECTS ON WORLD PEACE AND SECURITY

The Assembly [resolution 3075 (XXVIII)] called upon all States to make renewed efforts towards the adoption of effective measures for the cessation of the arms race, including the reduction of military budgets and requested the organs concerned with disarmament issues to give due consideration to measures aimed at the cessation of the arms race.

(3) WORLD DISARMAMENT CONFERENCE

The Assembly [resolution 3183 (XXVIII)] *inter alia* decided to establish an *Ad Hoc* Committee on the World Disarmament Conference to examine all the views and suggestions expressed by Governments on the convening of a conference and related problems.[3]

(4) GENERAL AND COMPLETE DISARMAMENT

In considering this item, the General Assembly had before it the report of the Conference of the Committee on Disarmament.[4] Noting with satisfaction that a new agreement entitled

---

[1] For detailed information see *Official Records of the Disarmament Commission, Supplement for 1973* and *Official Records of the General Assembly, Twenty-eighth Session, Annexes*, agenda items 29, 32, 33, 34, 35, 36, 37 and 38.

[2] For the request and other relevant documents, see *Official Records of the General Assembly, Twenty-eighth Session, Annexes*, agenda item 102.

[3] The *Ad Hoc* Committee held three series of meetings in 1974.

[4] A/9141-DC/236.

"Basic principles of negotiations on the further limitation of strategic offensive arms" had been signed by the USSR and the United States on 21 June 1973, the Assembly [resolution 3184 A (XXVIII)] appealed to the Governments of those countries to bear in mind in the current phase of the strategic arms limitation talks the necessity and urgency of reaching agreement on important qualitative limitations and substantial reductions of their strategic nuclear-weapon systems as a positive step towards nuclear disarmament and invited the two Governments to keep the Assembly informed of the results of their negotiations.

Furthermore the Assembly [resolution 3184 C (XXVIII)], bearing in mind its specific responsibility under the Charter of the United Nations with regard to the principle governing disarmament and to the achievement of general and complete disarmament, emphasizing the vital interest of all peoples and countries in disarmament negotiations; reaffirmed the responsibility of the United Nations with regard to all disarmament matters, in particular the ultimate goal of general and complete disarmament under effective international control; invited the States parties to disarmament negotiations to ensure that the disarmament measures adopted in one region should not result in increasing armaments in other regions; and also invited all Governments to keep the Assembly informed of their disarmament negotiations.

(5) Napalm and other incendiary weapons and all aspects of their possible use

The General Assembly had before it a report of the Secretary-General[5] containing the comments of Member States on his 1972 report entitled *Napalm and Other Incendiary Weapons and All Aspects of Their Possible Use*.[6] The Assembly [resolution 3076 (XXVIII)] stressed the need for renewed efforts by Governments to seek, through possible legal means, the prohibition of the use of weapons and methods of warfare that might cause unnecessary suffering or are indiscriminate, and invited the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts (to be held at Geneva in February and March 1974) to consider the question of the use of napalm and other incendiary weapons, as well as other specific conventional weapons which might be deemed to cause unnecessary suffering or to have indiscriminate effects, and to seek agreement on rules prohibiting or restricting the use of such weapons.

(6) Chemical and bacteriological (biological) weapons

In considering this item, the General Assembly had before it the report of the Committee on Disarmament.[7] The Assembly [resolution 3077 (XXVIII)] reaffirmed the recognized objective of effective prohibition of the development, production and stockpiling of all chemical weapons and of their elimination from the arsenals of all States; urged Governments to work towards the complete realization of this objective; and requested the Conference of the Committee on Disarmament to continue negotiations, as a matter of high priority, on the problem of chemical and bacteriological (biological) methods of warfare with a view to reaching early agreement on effective measures for the complete realization of the objective. The Assembly further reaffirmed its hope for the widest possible adherence to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) Weapons and on their Destruction.[8] It also invited all States that had not yet done so to accede to or ratify the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare of 17 June 1925,[9] and called anew for the strict observance by all States of the principles and objectives contained therein.

---

[5] A/9207 and Corr.1 and Add.1.

[6] United Nations publication, Sales No. E.73.I.3.

[7] A/9141-DC/236.

[8] Reproduced in the *Juridical Yearbook*, 1971, p. 118.

[9] League of Nations, *Treaty Series*, vol. XCIV, p. 65.

(7) Urgent need for suspension of nuclear and thermonuclear tests

The Assembly had before it, *inter alia,* the report of the Conference of the Committee on Disarmament.[10] After condemning all nuclear weapon tests, the Assembly [resolution 3078 A (XXVIII)] reiterated its conviction that, whatever might be the differences on the question of verification, there was no valid reason for delaying the conclusion of a comprehensive test ban of the nature contemplated ten years earlier in the preamble to the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water;[11] and urged once more that the Governments of nuclear-weapon States bring to a halt without delay all nuclear weapon tests either through a permanent agreement or through unilateral or agreed moratoria.

Furthermore, the Assembly [resolution 3078 B (XXVIII)] emphasized its deep concern that nuclear weapon tests, both in the atmosphere and underground, continued at an active pace ten years after the signature of the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water; called anew upon all nuclear-weapon States to end all tests in all environments; insisted that all the nuclear-weapon States which had carried out such tests in the atmosphere discontinue them forthwith; urged States members of the Conference of the Committee on Disarmament, especially those which are nuclear-weapon States and parties to the partial test ban treaty, to start immediately negotiations for elaborating a treaty designed to achieve a comprehensive test-ban and requested the Conference of the Committee on Disarmament to continue, as a matter of priority, its deliberations on this treaty.

(8) Implementation of General Assembly resolution 2935 (XXVII) concerning the signature and ratification of Additional Protocol II of the Treaty for the Prohibition of Nuclear Weapons in Latin America Treaty of Tlatelolco)[12]

The General Assembly [resolution 3079 (XXVIII)] reiterated its conviction that, for the maximum effectiveness of any treaty establishing a nuclear-weapon-free zone, the co-operation of the nuclear-weapon States was necessary and that such co-operation should take the form of legally binding commitments. Further, the Assembly noted with satisfaction that Additional Protocol II of the above-mentioned Treaty had entered into force for the United Kingdom and the United States and had been signed in 1973 by France and by China, and urged the USSR to sign and ratify it in conformity with the repeated appeals of the Assembly.

2. OTHER POLITICAL AND SECURITY QUESTIONS

Strengthening of international security[13]

The General Assembly [resolution 3185 (XXVIII)] *inter alia* reaffirmed the principles and provisions contained in the Declaration on the Strengthening of International Security,[14] appealing to all States to implement them, to broaden the scope of *détente* and to reaffirm the principles of friendly relations as the basis of relations between States; reaffirmed the recommendation that all States should contribute to the efforts to assure peace and security for all nations and to establish, in accordance with the Charter, an effective system of universal collective security without military alliances; reaffirmed that all States have the right to participate on a basis of equality in the settlement of major international problems; reaffirmed that any measure directed against any State while exercising its sovereign right freely to dispose of its natural resources constituted a flagrant violation of the right of self-determination and

[10] A/9141-DC/236.

[11] Reproduced in the *Juridical Yearbook,* 1963, p. 107.

[12] Reproduced in the *Juridical Yearbook,* 1967, p. 272.

[13] For detailed information, see *Official Records of the General Assembly, Twenty-eighth Session, Annexes,* agenda item 39.

[14] General Assembly resolution 2734 (XXV), reproduced in the *Juridical Yearbook,* 1970, p. 62.

the principle of non-intervention, as set forth in the Charter; appealed to all militarily significant States to extend the political *détente* to a military one, to stop the arms race and to reduce armaments with a view to making available additional resources for economic and social development, particularly to the developing countries; reaffirmed the legitimacy of the struggle of peoples under alien domination to achieve self-determination and appealed to all States to implement the United Nations resolutions on the elimination of colonialism, racism and *apartheid.*

3. ECONOMIC, SOCIAL AND HUMANITARIAN ACTIVITIES

(1) HUMAN RIGHTS QUESTIONS

(a) *Observance of the twenty-fifth anniversary of the Universal Declaration of Human Rights*[15]

The General Assembly [resolution 3060 (XXVIII)] *inter alia* urged Governments, the specialized agencies and other intergovernmental organizations and non-governmental organizations in consultative status, to rededicate themselves during and after the observance of the anniversary to adopting further measures designed to serve the cause of human rights and the implementation of the Declaration; invited States which had not done so to ratify the international instruments concluded in the field of human rights, in particular, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights and Optional Protocol, and the International Covenant on Economic, Social and Cultural Rights.[16]

(b) *Elimination of racial discrimination*

(i) *International Convention on the Elimination of All Forms of Racial Discrimination*[17]

The Assembly [resolution 3134 (XXVIII)] urgently requested all States which were not yet Parties to the Convention to ratify or accede to it as soon as possible.

The Committee on the Elimination of Racial Discrimination established under article 8 of the Convention submitted to the General Assembly its fourth annual report covering its seventh and eighth sessions.[18]

(ii) *International Convention on the Suppression and Punishment of the Crime of Apartheid*[19]

The General Assembly [resolution 3068 (XXVIII)] adopted and opened for signature and ratification the above mentioned Convention.[20]

---

[15] For detailed information on *Official Records of the General Assembly, Twenty-eighth Session, Annexes,* agenda item 56. See also *Official Records of the Economic and Social Council, Fifty-fourth Session, Supplement No. 6* (E/5265).

[16] On 10 December 1973, the General Assembly held a special meeting to commemorate the twenty-fifth anniversary of the Universal Declaration of Human Rights in the course of which six United Nations Human Rights prizes were awarded.

[17] Reproduced in the *Juridical Yearbook,* 1965, p. 63. The Convention came into force on 4 January 1969.

[18] *Official Records of the General Assembly, Twenty-eighth Session, Supplement No. 18* (A/9018).

[19] For detailed information, see *Official Records of the General Assembly, Twenty-eighth Session, Annexes,* agenda item 53.

[20] Reproduced in this *Yearbook,* p. 70.

(c) *Prevention of discrimination and protection of minorities*
Human rights in the administration of justice

As recommended by the Economic and Social Council [resolution 1785 (LIV)], the General Assembly [resolution 3144 A (XXVIII)] called upon Member States to give due consideration, in formulating legislation and taking other measures affecting equality in the administration of justice, to the draft principles on the subject set out in resolution 3 (XXIII) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/1077). The Assembly further recommended [resolution 3144 B (XXVIII)] that Member States should make all possible efforts to implement the Standard Minimum Rules for the Treatment of Prisoners in the administration of penal and correctional institutions[21] and take the Rules into account in the framing of national legislation.

(d) *Question of torture and other cruel, inhuman or degrading treatment or punishment*[22]

The General Assembly [resolution 3059 (XXVIII)] rejected any form of torture and other cruel, inhuman or degrading treatment or punishment, and urged all Governments to become parties to existing international instruments which contain provisions relating to the prohibition of torture and other cruel, inhuman or degrading treatment or punishment.

(e) *Principles of international co-operation in the detection, arrest, extradition and punishment of persons guilty of war crimes and crimes against humanity*

The Economic and Social Council [resolution 1791 (LIV)] endorsed draft principles of international co-operation in the detection, arrest, extradition and punishment of persons guilty of war crimes and crimes against humanity. The General Assembly in turn [resolution 3074 (XXVIII)] declared that the United Nations, in pursuance of the principles and purposes set forth in the Charter concerning the promotion of co-operation between peoples and the maintenance of international peace and security, proclaimed the following principles of international co-operation in the detection, arrest, extradition and punishment of persons guilty of war crimes and crimes against humanity:

1. War crimes and crimes against humanity, wherever they are committed, shall be subject to investigation and the persons against whom there is evidence that they have committed such crimes shall be subject to tracing, arrest, trial and, if found guilty, to punishment.

2. Every State has the right to try its own nationals for war crimes or crimes against humanity.

3. States shall co-operate with each other on a bilateral or multilateral basis with a view to halting or preventing war crimes and crimes against humanity, and shall take the domestic and international measures necessary for that purpose.

4. States shall assist each other in detecting, arresting and bringing to trial persons suspected of having committed such crimes and, if they are found guilty, in punishing them.

5. Persons against whom there is evidence that they have committed war crimes and crimes against humanity shall be subject to trial and, if found guilty, to punishment, as a general rule in the countries in which they committed those crimes. In that connexion, States shall co-operate on questions of extraditing such persons.

6. States shall co-operate with each other in the collection of information and evidence which would help to bring to trial the persons indicated in paragraph 5 above and shall exchange such information.

---

[21] See E/AC.57/8.

[22] For detailed information, see *Official Records of the General Assembly, Twenty-eighth Session, Annexes*, agenda item 56.

7. In accordance with article 1 of the Declaration on Territorial Asylum of 14 December 1967,[23] States shall not grant asylum to any person with respect to whom there are serious reasons for considering that he has committed a crime against peace, a war crime or a crime against humanity.

8. States shall not take any legislative or other measures which may be prejudicial to the international obligations they have assumed in regard to the detection, arrest, extradition and punishment of persons guilty of war crimes and crimes against humanity.

9. In co-operating with a view to the detection, arrest and extradition of person against whom there is evidence that they have committed war crimes and crimes against humanity and, if found guilty, their punishment. States shall act in conformity with the provisions of the Charter of the United Nations and of the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations.[24]

(2) Economic and social questions

(a) *Permanent sovereignty over natural resources*

The General Assembly [resolution 3171 (XXVIII)], taking note of section VII of the Economic Declaration adopted by the Fourth Conference of Heads of State or Government of Non-Aligned Countries, held at Algiers from 5 to 9 September 1973,[25] *inter alia* (1) strongly reaffirmed the inalienable rights of States to permanent sovereignty over all their natural resources, on land within their international boundaries as well as those in the sea-bed and the subsoil thereof within their national jurisdiction and in the superjacent waters; (2) supported resolutely the efforts of the developing countries and of the peoples of the territories under colonial and racial discrimination and foreign occupation in their struggle to regain effective control over their natural resources; (3) affirmed that the application of the principle of nationalization carried out by States, as an expression of their sovereignty in order to safeguard their natural resources, implies that each State is entitled to determine the amount of possible compensation and the mode of payment, and that any dispute which might arise should be settled in accordance with the national legislation of each State carrying out such measures; (4) deplored acts of States which use force, armed aggression, economic coercion or any other illegal or improper means in resolving disputes concerning the exercise of the sovereign rights mentioned in paragraphs (1) to (3) above; re-emphasized that actions, measures or legislative regulations by States aimed at coercing, directly or indirectly, other States or peoples engaged in the reorganization of their internal structure or in the exercise of their sovereign rights over their natural resources, both on land and in their coastal waters, are in violation of the United Nations Charter and of the Declaration contained in General Assembly resolution 2625 (XXV) and contradict the targets, objectives and policy measures of the International Development Strategy for the Second United Nations Development Decade, and that to persist therein could constitute a threat to international peace and security; and emphasized the duty of all States to refrain in their international relations from military, political, economic or any other form of coercion aimed against the territorial integrity of any State and the exercise of its national jurisdiction.

(b) *Co-operation in the field of the environment concerning natural resources shared by two or more States*

The General Assembly [resolution 3129 (XXVIII)] reaffirmed the duty of the international community to adopt measures to protect and improve the environment, and particularly the need for continuous international collaboration to that end; it considered that it is necessary to

---

[23] General Assembly resolution 2312 (XXII), reproduced in the *Juridical Yearbook*, 1967, p. 249.

[24] General Assembly resolution 2625 (XXV), Annex, reproduced in the *Juridical Yearbook*, 1970.

[25] A/9330 and Corr.1, p. 77.

ensure effective co-operation between countries through the establishment of adequate international standards for the conservation and harmonious exploitation of the natural resources common to two or more States in the context of the normal relations existing between them; and considered further that co-operation between countries sharing such natural resources and interested in their exploitation must be developed on the basis of a system of information and prior consultation within the framework of the normal relations existing between them.

(3) HUMANITARIAN ACTIVITIES

Office of the United Nations High Commissioner for Refugees[26]

Following the events which occurred in Chile in September 1973, the Secretary-General and the High Commissioner appealed to the Chilean Government with a view to ensuring the adequate protection of refugees in that country. The Government gave assurances to that effect and agreed to the establishment of "safe havens" run by a national committee where refugees could receive protection and assistance.

Additional States acceded to international instruments relating to the status of refugees and stateless persons. The OAU Convention of 1969 governing the specific aspects of refugee problems in Africa came into force on 26 November 1973 while the 1961 Convention on the Reduction of Statelessness,[27] having been ratified or acceded to by six States, will enter into force in 1975 in accordance with article 18.

The High Commissioner appealed to Governments to ensure that the principles of asylum and *non-refoulement* are fully respected on their territory. He expressed the view that the adoption of a Convention on Territorial Asylum would no doubt contribute to the implementation of the aforementioned principles. The High Commissioner also appealed to Governments to support his efforts to promote the reunion of separated refugee families, pursuant to the recommendation contained in the final act of the Conference of Plenipotentiaries which adopted the 1951 Convention relating to the Status of Refugees.[28]

Further progress was made in respect of naturalization, the issue of travel and identity documents to refugees and the indemnification of refugees who suffered prosecution under the national social régime.

---

4. INTERNATIONAL COURT OF JUSTICE[29]

CASES SUBMITTED TO THE COURT

(a) *Fisheries jurisdiction (United Kingdom* v. *Iceland; Federal Republic of Germany* v. *Iceland)*

These two cases concern Iceland's decision to extend its exclusive fisheries jurisdiction from a limit of 12 to one of 50 miles as from 1 September 1972.[30]

---

[26] For detailed information, see *Official Records of the General Assembly, Twenty-eighth Session, Supplement No. 12 (A/9021 and Corr.1), Supplement No. 12 A (A/9012/Add.1) and Supplement No. 12 B (A/9012/Add.2).*

[27] A/CONF.9/15.

[28] United Nations, *Treaty Series*, vol. 189, p. 137.

[29] For detailed information see I.C.J. *Yearbook* 1972–1973 No. 27, and 1973–1974 No. 28.

[30] Two judgements given by the Court on the merits of each case by 10 votes to 4 were delivered on 25 July 1974.

(b) *Application for review of Judgement No. 158 of the United Nations Administrative Tribunal* (Advisory opinion)

[For a summary of the advisory opinion delivered by the Court, see Chapter VII of this *Yearbook*.]

(c) *Nuclear tests (Australia* v. *France; New Zealand* v. *France)*

These two cases, instituted on 9 May 1973, concern the atmospheric nuclear tests carried out by France in the South Pacific region, which Australia and New Zealand contend to be contrary to international law. Two orders made by 8 votes to 6 on 22 June 1973 indicated interim measures of protection whereby, pending the Court's final decision in either case, each Party should ensure that no action of any kind is taken which might aggravate or extend the dispute or prejudice the rights of the opposing Party in respect of the carrying out of whatever decision the Court might render in the case; and, in particular, France should avoid nuclear tests causing the deposit of radio-active fall-out on Australian or New-Zealand territory.

By the same Orders, the Court decided that the written proceedings should first be addressed to the questions of the jurisdiction of the Court to entertain the disputes and of the admissibility of the applications, and fixed time-limits for the filing of Memorials and Counter-Memorials.

Fiji, pursuant to Article 62 of the Statute of the Court, submitted applications for permission to intervene in each of the two cases. By two Orders made on 12 July 1973, the Court, by 8 votes to 5, decided to defer the consideration until it had pronounced upon the questions to which the pleadings mentioned in its Orders of 22 June 1973 should be addressed.

(d) *Trial of Pakistani prisoners of war* (*Pakistan* v. *India*)

These proceedings concerned 195 Pakistani prisoners of war whom India, according to Pakistan, proposed to hand over to Bangladesh, said to have the intention of trying them on charges of genocide and crimes against humanity.

On 4, 5 and 26 June 1973, the Court heard the observations of Pakistan in support of its request for the indication of interim measures of protection. India was not represented at these hearings. By a letter of 11 July 1973, Pakistan asked the Court to postpone further consideration of its request for interim measures, in order to facilitate certain negotiations.

By an Order of 13 July 1973, the Court, by 8 votes to 4, decided that the written proceedings should first be addressed to the question of its jurisdiction to entertain the dispute, and fixed time limits for the filing of a Memorial and a Counter-Memorial.

Before the expiry of the first of these time-limits Pakistan, in a letter of 14 December 1973, referred to negotiations with India and requested the Court to record discontinuance of the proceedings. This was done in an Order of 15 December 1973.

5. INTERNATIONAL LAW COMMISSION[31]

The International Law Commission's twenty-fifth session was mainly devoted to the consideration of three topics on which the Commission provisionally adopted draft articles, namely "State responsibility", "Succession of States in matters other than treaties" and "the most favoured-nation-clause", and to the review of its programme of work.

The General Assembly [resolution 3071 (XXVIII)] recommended, *inter alia*, that the Commission should: complete at its next session, in the light of comments received from Member States, the second reading of the draft articles on succession of States in respect of

[31] For detailed information see *Official Records of the General Assembly, Twenty-eighth Session, Supplement No. 10* (A/9010/Rev.1) and *Ibid, Annexes*, agenda item 89.

treaties adopted at its twenty-fourth session;[32] continue on a priority basis its work on State responsibility with a view to the preparation of a first set of draft articles on responsibility of States for internationally wrongful acts; undertake at an appropriate time a separate study of the topic of international liability for injurious consequences arising out of the performance of other activities; proceed with the preparation of draft articles on succession of States in respect of matters other than treaties; proceed with the preparation of draft articles on the most-favoured-nation clause; and continue its study of the question of treaties concluded between States and international organizations or between two or more international organizations. It further recommended that the Commission should at its next session commence its work on the law of non-navigational uses of international watercourses by, *inter alia*, adopting measures provided for under article 16 of its Statute.

6. UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW[33]

The Commission's sixth session was mostly devoted to the examination of progress reports from the Working Group on the International Sale of Goods, the Working Group on International Negotiable Instruments and the Working Group on International Legislation on Shipping.

The Commission adopted measures designed to promote unification and harmonization of the law relating to international commercial arbitration, and requested the Secretary-General to prepare a draft set of arbitration rules for optional use in international trade. The Commission also requested the Secretary-General to proceed with the preparation of a set of uniform general conditions which could be adopted by the parties to define their obligations under an international sales transaction. It further requested the Secretary-General to obtain information from Governments and interested international organizations concerning legal problems presented by multinational enterprises and the implications thereof for international trade law.

The General Assembly [resolution 3108 (XXVIII)] commended the Commission for the progress it had made in its work and noted with satisfaction the decision of the Commission to organize an international symposium on the role of universities and research centres in the teaching, dissemination and wider appreciation of international trade law. The Assembly recommended that the Commission should continue its work on the international sale of goods, international payments, international commercial arbitration and international legislation on shipping, and on the legal problems posed by multinational enterprises. The Assembly also invited the Commission to consider the advisability of preparing uniform rules on the civil liability of producers for damage caused by their products intended for or involved in international sale or distribution. Finally, the Assembly decided to increase the membership of the Commission from 29 to 36.

7. OTHER LEGAL QUESTIONS

(1) QUESTION OF DEFINING AGGRESSION[34]

At its 1973 session, the Special Committee on the Question of Defining Agression decided to establish a Working Group open to all delegations with the same right of participation and

[32] *Ibid., Twenty-seventh Session, Supplement No. 10* (A/8710/Rev.1).

[33] For detailed information, see *Official Records of the General Assembly, Twenty-eighth Session, Supplement No. 17* (A/9017) and *ibid., Annexes*, agenda item 92.

[34] For detailed information, see *ibid., Supplement No. 19* (A/9019).

decision. The Working Group submitted a report containing a consolidated text of the reports of the contact group and of the drafting group as well as draft proposals and comments submitted during the session. The Committee took note of that report and decided to annex it to its report to the General Assembly.

The General Assembly [resolution 3105 (XXVIII)], noting the progress so far achieved by the Committee, as well as the common desire of the members of the Committee to continue their work and to arrive with due speed at a draft definition in a spirit of mutual understanding and accommodation, decided that the Committee should resume its work in 1974.

(2) International terrorism[35]

The *Ad Hoc* Committee on International Terrorism met at United Nations Headquarters from 16 July to 11 August 1973. After a general debate, the Committee decided to establish three sub-committees of the whole to study, respectively, the definition of international terrorism, the underlying causes of international terrorism and the measures for the prevention of international terrorism.

The *Ad Hoc* Committee's report contained a concluding statement which read in part as follows:

> "... In taking up the study of the delicate and complex problems entrusted to it by the General Assembly, the *Ad Hoc* Committee was fully aware of the difficulties of its task. Representatives of the various geographical groups took part in the debates of the plenary *Ad Hoc* Committee and of each of the Sub-Committee. The resulting frank and extensive exchange of ideas brought out the diversity of existing views on the various aspects of the subject submitted for consideration to the *Ad Hoc* Committee. Those views are faithfully reflected in the summaries of the plenary and Sub-Committee debates contained in the report, the careful consideration of which the *Ad Hoc* Committee recommends to the General Assembly".

Owing to lack of time, the report of the *Ad Hoc* Committee was not considered by the General Assembly at its twenty-eighth session; it was merely decided that the item should be included in the agenda of the twenty-ninth session.

(3) Respect for human rights in armed conflicts[36]

The General Assembly [resolution 3102 (XXVIII)] expressed its appreciation to the Swiss Federal Council for convoking in 1974 the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts and to the International Committee of the Red Cross for preparing the draft Additional Protocols to the Geneva Conventions of 1949. The Assembly urged that national liberation movements recognized by the various regional intergovernmental organizations concerned be invited to participate in the Diplomatic Conference as observers in accordance with the practice of the United Nations; and that all participants in the Conference do their utmost to reach agreement on additional rules which might help to alleviate the suffering brought about by armed conflicts and to protect non-combatants and civilian objects in such conflicts. Further, the Assembly called upon all parties to armed conflicts to acknowledge and to comply with their obligations under existing humanitarian instruments.

---

[35] For detailed information, See *Official Records of the General Assembly, Twenty-ninth Session, Supplement No. 19* (A/9619 and Corr.1) and *ibid., Annexes*, agenda item 94.

[36] In connexion with this question, the Secretary-General submitted to the General Assembly, (1) a report on developments concerning respect for human rights in armed conflicts (A/9123 and Corr.1 and Add.1 and 2) summarizing, *inter alia*, relevant information concerning the twenty-second International Conference of the Red Cross held at Teheran in November 1973; and (2) a survey of existing rules of international law concerning the prohibition or restriction of use of specific weapons (A/9215, vols. I and II). See also *Official Records of the General Assembly, Twenty-eighth Session, Annexes*, agenda item 96.

Furthermore the Assembly [resolution 3103 (XXVIII)] solemnly proclaimed a certain number of basic principles of the legal status of the combatants struggling against colonial and alien domination and racist régimes without prejudice to their elaboration in the future within the framework of the development of international law applying to the protection of human rights in armed conflicts. The Assembly proclaimed, *inter alia*, that the struggle of peoples under colonial and alien domination and racist régimes for the implementation of their right to self-determination and independence was legitimate and in full accordance with the principles of international law; that any attempt to suppress that struggle was incompatible with the Charter of the United Nations, the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, the Universal Declaration of Human Rights and the Declaration on the Granting of Independence to Colonial Countries and Peoples, and constituted a threat to international peace and security; and that the armed conflicts involving the struggle of peoples against colonial and alien domination and racist régimes were to be regarded as international armed conflicts in the sense of the 1949 Geneva Conventions.

(4) Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents[37]

On the basis of draft articles adopted by the International Law Commission at its twenty-fourth session,[38] the Assembly [resolution 3166 (XXVIII)] adopted and opened for signature the above-mentioned Convention.[39]

(5) Legal aspects of the peaceful uses of outer space[40]

At its sixteenth session, held at the United Nations Headquarters from 25 June to 6 July 1973, the Committee on the Peaceful Uses of Outer Space expressed satisfaction that the Legal Sub-Committee, at its twelfth session, held at United Nations Headquarters from 26 March to 20 April 1973, had formulated six additional provisions of a draft treaty relating to the Moon, and the text of a preamble and 10 articles, as well as the title of the draft convention on registration of objects launched into outer space. With regard to both drafts, however, some issues remained unresolved. Accordingly, the General Assembly resolution 3182 (XXVIII) recommended that the Legal Sub-Committee should, as a matter of the highest priority, make every effort to complete both drafts. It further recommended that the Legal Sub-Committee should consider, as a matter of high priority, the elaboration of principles governing the use by States of artificial earth satellites for direct television broadcasting. The Assembly also recommended that the Legal Sub-Committee should devote part of its next session to a study of the legal implications of the earth resources survey by remote sensing satellites, and agreed that, as time permitted, the Sub-Committee should consider matters relating to the definition of outer space.

(6) Legal aspects of the peaceful uses of the sea-bed and the ocean floor beyond the limits of national jurisdiction[41]

The Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction which held its second session at Geneva in July/August 1973

---

[37] For detailed information, see *Official Records of the Generaly Assembly, Twenty-eighth Session, Annexes*, agenda item 90.

[38] *Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 10* (A/8710/Rev.1).

[39] Reproduced in this *Yearbook*, p. 74.

[40] For detailed information, see *Official Records of the General Assembly, Twenty-eighth session, Supplement No. 20* (A/9020).

[41] For detailed information, see *Official Records of the General Assembly, Twenty-eighth Session, Supplement No. 21* (A/9021 and Corr.1 and 3), vols. I to VI and *ibid., Annexes*, agenda item 40.

submitted to the General Assembly a six-volume report which the Assembly [resolution 3067 (XXVIII)] decided to refer to the Third United Nations Conference on the Law of the Sea.[42]

(7) Relations with the host country[43]

The Committee on Relations with the Host Country continued to deal with all questions concerning the security of missions and the safety of their personnel. It also considered reports of the Working Group established to deal with matters other than the questions referred to above; the Working Group completed its work on the items concerning the public relations of the United Nations community in the host city; the provision of identity documents for members of the family of diplomatic as well as non-diplomatic personnel of missions; and the acceleration of customs procedures. In its report to the General Assembly at the twenty-eighth session, the Committee on Relations with the Host Country made a number of recommendations concerning the security of missions and the safety of their personnel, and included, as part of its recommendations, an appeal to the host country on parking.

The General Assembly [resolution 3107 (XXVIII)] stated, *inter alia*, its deep concern at the violent attacks against the premises of missions accredited to the United Nations, and urged the host country to implement effectively the new federal legislation contained in the Act for the Protection of Foreign Officials and Official Guests of the United States.[44]

(8) United Nations Institute for Training and Research[45]

In addition to carrying out, with the financial assistance and co-operation of the United Nations, a number of seminars and courses and the UN/UNITAR Fellowship Programme in pursuance of the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law, UNITAR co-sponsored with the International Peace Academy conferences held in March and June 1973 dealing with United Nations functions in respect of peaceful settlement of disputes and ways and means of promoting their effectiveness. It also conducted a specialized course on the subject of procedures for the settlement of disputes under United Nations auspices. The subjects discussed included the following: machinery and procedures for cease-fire and truce supervision and observation; third party efforts in the settlement of disputes through the United Nations system; quiet diplomacy in the United Nations; and an assessment of United Nations problems and procedures in the settlement of disputes.

As part of its series on relations between the United Nations and regional intergovernmental organizations, UNITAR has published a study entitled *Governmental Control: a prerequisite for effective relations between the United Nations and regional organizations* (UNITAR Regional Studies No. 3), which is a comprehensive essay analysing the problems arising from the multiplication of global and regional intergovernmental organizations and the modalities for bringing about a more rational and effective system of organizations.

---

[42] See *Juridical Yearbook*, 1972, p. 58.

[43] For detailed information, see *Official Records of the General Assembly, Twenty-eighth session, Supplement No. 26* (A/9026 and Corr.1) and *ibid., Annexes*, agenda item 99.

[44] Reproduced in the *Juridical Yearbook*, 1972, p. 3.

[45] For detailed information, see *Official Records of the General Assembly, Twenty-eighth Session, Supplement No. 14* (A/9014).

B. General review of the activities of intergovernmental organizations related to the United Nations

1. INTERNATIONAL LABOUR ORGANISATION [46]

1. The International Labour Conference (ILC), which held its 58th Session in Geneva, in June 1973, adopted a Convention and a Recommendation concerning the Social Repercussions of New Methods of Cargo Handling (Docks), 1973,[47] and a Convention and a Recommendation concerning Minimum Age for Admission to Employment, 1973.[48]

2. The Committee of Experts on the Application of Conventions and Recommendations met in Geneva from 15 to 28 March 1973 and presented its Report.[49]

3. The Governing Body Committee on Freedom of Association met in Geneva and adopted Reports 133,[50] on 9 November 1972, 134,[51] on 9 November 1972, 135,[51] on 22 February 1973, 136,[51] on 29 May 1973, 137 and 138,[51] on 30 May 1973.

---

2. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

I. OFFICE OF THE LEGAL COUNSEL [52]

1. *General constitutional and legal matters*

In addition to current legal advice and services provided to the Director-General and various units of the Secretariat, activities in 1973 related mainly to the legal matters considered

---

[46] In regard to the adoption of the instruments, the preparatory work, which normally covers a period of two years by virtue of the double-discussion procedure, is mentioned, in order to facilitate reference work, according to the year during which the instrument was adopted.

[47] *Official Bulletin*, vol. LVI, No. 1, pp. 17-20 and 27-33, English, French, Spanish. For preparatory work, see: *First Discussion*—Social Repercussions of New Methods of Cargo Handling (Docks), ILC, 57th Session (1972), Report V(1) (this report contains, *inter alia*, an indication of the action which led to the placing of the question on the agenda of the Conference), and Report V(2), 87 and 41 pages respectively, English, French, German, Russian and Spanish.

See also ILC, 57th Session (1972) *Record of Proceedings*, pp. 555-564, 643-650, English, French, Spanish. *Second Discussion*—Social Repercussions of New Methods of Cargo Handling (Docks), ILC, 58th Session (1973), Report V(1) and Report V(2), 38 and 49 pages respectively, English, French, German, Russian and Spanish. See also ILC, 58th Session (1973), *Record of Proceedings*, pp. 278-288, 497-501, 687-690, English, French, Spanish.

[48] *Official Bulletin*, vol. LVI, No. 1, pp. 21-27, 34-37, English, French, Spanish. For preparatory work, see: *First Discussion*—Minimum Age for Admission to Employment, ILC, 57th Session (1972), Report IV(1) (this report contains, *inter alia*, an indication of the action which led to the placing of the question on the agenda of the Conference), and Report IV(2), 43 and 59 pages respectively, English, French, German, Russian and Spanish.

See also ILC, 57th Session (1972), *Record of Proceedings*, pp. 537-547, 637-643, English, French, Spanish. *Second Discussion*—Minimum Age for Admission to Employment, ILC, 58th Session (1973), Report IV(1) and Report IV(2), 43 and 59 pages respectively, English, French, German, Russian and Spanish. *See also ILC, 58th Session (1973), Record of Proceedings*, pp. 483-495, 677-683, 715-718, English, French, Spanish.

[49] This report has been published as Report III (Part IV) to the 58th Session (1973) of the International Labour Conference and consists of two volumes: Vol. A: "General Report and Observations concerning Particular Countries", Report III (Part 4A), 250 pages, English, French, Spanish, and Vol. B: "General Survey on the Application of the Conventions on Freedom of Association and on the Right to Organise and Collective Bargaining", Report III (Part 4B), 94 pages, English, French, Spanish.

[50] *Official Bulletin*, vol. LV, Supplement, pp. 159-211.

[51] *Official Bulletin*, vol. LVI, Supplement, 144 pages.

[52] For general information on the organization and functions of the Office of the Legal Counsel, see *Juridical Yearbook* 1972, p. 60, note 47.

by the Conference and the Council, most of which were examined, in the first instance, by the Committee on Constitutional and Legal Matters (CCLM) at its twenty-seventh and twenty-eighth sessions held in May and October 1973.

The Conference adopted, at its seventeenth session held in November 1973, the following resolutions or decisions of a legal nature:

—to admit to FAO membership, by a secret ballot requiring a two-thirds majority in accordance with Article II of the Constitution, Albania, Bangladesh, Guinea-Bissau, the Mongolian People's Republic and the United Arab Emirates;[53] in the case of Guinea-Bissau, the Conference had previously suspended paras. 1 and 2 of Rule XIX of the General Rules of the Organization in order to permit, as had been done on previous occasions, the consideration of an application for membership received only during the Conference session;[54]

—no longer to retain as arrears the unpaid assessed contributions for China for 1948–1952, following the resumption by China of its place in the Organization on 1 April 1973[55] in accordance with Conference Resolution 33/71;[56]

—to amend the Constitution and General Rules so as to permit participation of non-member States in FAO bodies and meetings, where provided for, not only if such States are members of the United Nations, but also if they are members of a specialized agency or of the IAEA;[57]

—to authorize the Director-General to invite, through the Organization of African Unity, representatives of African liberation movements to attend FAO meetings in Africa and to participate in their deliberations on items of direct concern to the liberation movements;[58]

—to increase the number of Council seats from 34 to 42 by amendment to Article V of the Constitution;[59] this decision was based on an amendment made during the session and going beyond the initial proposal for increase to 40 seats submitted by the Council and was voted upon after the Conference had decided, in the first instance, that such amendment was receivable under the provisions of Article XX of the Constitution;[60]

—to amend Rule XI of the General Rules so as to permit proposals at Conference sessions being put to the vote if circulated a full 24 hours beforehand; and to make a number of other amendments to the Basic Texts in order to eliminate inconsistencies and ambiguities and to bring certain provisions up to date;[61]

—to amend the Financial Regulations (and some rules of the General Rules) as part of the standardization throughout the United Nations system;[62]

—to authorize acceptance by the Director-General, acting on behalf of FAO, of the Statute of the proposed International Civil Service Commission, it being understood that he shall refer to the Council for a decision in case of important substantive amendments to the initial draft Statute; and to make consequential amendments to the

---

[53] C 73/REP, paras. 337–338; C 73/29; C 73/INF/2; C 73/INF/5; C 73/PV/3; C 73/PV/4.

[54] C 73/LIM/51 Rev.1; C 73/PV/18; C 73/PV/19; C 73/PV/22.

[55] C 73/REP, paras. 329–332; see also CL 60/REP, paras. 253–257, where the Council stressed that this should not be considered as establishing a precedent.

[56] Published in the *Juridical Yearbook* 1971, p. 107.

[57] C 73/REP, paras. 314–315 with further references; CL 60/4, paras. 30–33.

[58] C 73/REP, paras. 321-322; C 73/LIM/40; see also C 73/REP, para. 277 on FAO's general response to United Nations resolutions regarding assistance to liberation movements.

[59] C 73/REP, paras. 306–310.

[60] C 73/111/PV.

[61] C 73/REP, paras. 311–313.

[62] C 73/REP, para. 316 and Appendix E.

General Rules and the Staff Regulations, these to enter into force upon acceptance of the Civil Service Commission Statute.[63]

The Council, in addition to making recommendations to the Conference on the above-mentioned matters, took at its sixtieth, sixty-first and sixty-second sessions (the first held in June and the latter two in November 1973) decisions on the following items of legal interest:

—distribution of Member Nations by Regions: existing rules and practices confirmed;[64]

—status and role of Permanent Representatives: Government comments requested on document of the Secretariat;[65]

—methods of work of the Council: draft prepared by *Ad Hoc* Committee revised and adopted and proposals for delegation of authority to committees requested;[66]

—Regional Animal Production and Health Commission for Asia, the Far East and the South-West Pacific: draft Agreement under Art. XIV of the Constitution approved and submitted to Member Nations for acceptance;[67]

—International Rice Commission: Constitution and Rules of Procedure amended;[68]

—European Commission for the Control of Foot-and-Mouth Disease: Constitution, Rules of Procedure and Financial Regulations amended;[69]

—management/staff relations: Staff Regulation regarding "equitable representation" of all staff for the purpose of Staff Council elections interpreted to require participation of field staff members in elections and their representation on Staff Council.[70]

The following reference documents of legal interest were issued during the course of the year:

(i) Index: FAO Conference and Council Decisions 1945–1972. 498 pp., April 1973.

(ii) Index: Statutory Report on Status of Conventions and Agreements and on Amendments thereto. C 73/26. 21 pp., October 1973.

2. *Environment law*

Legal Office staff participated in the consultation of international legal experts on environmental problems convened by the Executive Director of the United Nations Environment Programme at Geneva in July 1973; contributed a paper to the First World Congress of the International Water Resources Association, "Water and the Human Environment", at Chicago in September 1973; and attended the seminar on "The Networking Concept of the International Referral System of the UN Environment Programme" at Heidelberg in December 1973. FAO published translations and summaries of environmental legislation of various countries and references to other current national legislation in this field.[71] Legislative information on environment protection laws was provided to a number of governments and private researchers.

---

[63] C 73/REP, paras. 334–335 and Appendix H.

[64] CL 60/REP, paras. 200–201; C 73/INF/3.

[65] CL 60/REP, paras. 202–203; CL 60/25; CL 60/PV, pp. 259–266 and 322–331.

[66] CL 60/REP, paras. 170–179 and Appendix G; CL 61/REP, paras. 190–191.

[67] CL 60/REP, paras. 190–194 and Appendix H.

[68] CL 62/REP, paras. 16–17 and Appendix D.

[69] CL 61/REP, paras. 123–125 and Appendix N.

[70] CL 60/REP, paras. 290–295; CL 60/LIM/4 and CL 60/LIM/4—Corr.1; CL 62/REP, para. 18; on other aspects of management/staff relations see also Director-General's Bulletins Nos. 73/5 (Standards of Conduct) and 73/21 (Remuneration of Rome General Service Staff).

[71] *Food and Agricultural Legislation*, Volume XXII, Nos. 1 and 2.

3. *Law of the sea and international fisheries*

Following a review undertaken on the recommendation of the FAO Conference,[72] the Committee on Fisheries decided in April 1973 that no changes should be made at present in its status, basic structure and statutory functions. A further review might be undertaken after the four-year trial period of open membership in the Committee is over (November 1975) and the outcome of the Third United Nations Conference on the Law of the Sea is known. These conclusions were endorsed by the Council.[73]

FAO participated in the preparation of the United Nations Conference on the Law of the Sea and in its opening session in December 1973. Several background documents prepared by FAO were submitted during the preparatory sessions.[74]

The Council approved in June 1973 an Agreement establishing formal relations between FAO and the International Commission for the Conservation of Atlantic Tunas (ECAT) and this approval was confirmed by the FAO Conference.[75] The Agreement entered into force in November 1973.

A Western Central Atlantic Fishery Commission was established in November 1973 by the FAO Council under Article VI, paragraph 1, of the FAO Constitution. The functions of the Commission relate *inter alia* to the collection, compilation and dissemination of statistics and biological data; research; pollution control; the development of aquaculture and stock improvement; and assistance to Member Governments in establishing rational policies for the development and utilization of the fishery resources of the area.[76]

In April 1973, member States of the General Fisheries Council for the Mediterranean (GFCM) bordering on the Western Mediterranean met to discuss the introduction of effective management measures in order to initiate the rebuilding of heavily exploited stocks and to restore the profitability of fisheries in the area. The meeting called for a review of the legal and administrative steps necessary to ensure a more effective application of the recommendations of the GFCM concerning conservation measures.[77]

Following a resolution of the GFCM in 1972 and the positive response of the large majority of the GFCM member Governments in 1973, a Government consultation on the protection of living resources and fisheries from pollution in the Mediterranean has been convened for February 1974 to discuss the preparation of a regional convention for the control of the discharge of pollutants that could affect living resources.[78]

---

[72] See *Juridical Yearbook*, 1972, pp. 61 and 62. The Conference of FAO had recommended at its sixteenth session (November 1971) that the Committee on Fisheries review its ability to perform all the tasks it was likely to be called upon to carry out in the interest of rational management and utilization of the world fishery resources including those that might arise from the United Nations Conferences on the Human Environment and on the Law of the Sea. At its seventh session in April 1972, the Committee on Fisheries considered a secretariat document outlining the constitutional and legal problems involved. After a thorough debate on the question of its status, functions and composition the Committee decided to refer the matter to one of its sub-committees for further study.

[73] CL 60/5, paras. 87–90; CL 60/REP, para. 11(*b*); with regard to open membership see C71/REP, paras. 343–348.

[74] See in particular *Limits and Status of the Territorial Sea, Exclusive Fishing Zones, Fisheries Conservation Zones and the Continental Shelf* (with particular reference to fisheries). FID/C/127, Rev.1; V + 16 pp., 1973.

[75] CL 60/REP, paras. 204-206 and Appendix I; C 73/REP, paras. 319-320.

[76] CL 61/REP, paras. 120-122.

[77] See *Report of the Meeting on Fisheries Management in the Western Mediterranean.* GFCM/XII/74/6; 11 pp., December 1973.

[78] Documents prepared for the Consultation in 1973 include:

—*Principles suggested for inclusion in a draft convention for the protection of living resources and fisheries from pollution in the Mediterranean.* FID: PPM/74/6; 27pp., October 1973.

—*Annexes concerning substances, the dumping of which at sea should be prohibited or controlled, and criteria for issuing permits.* FID: PPM/74/6, Add.1; 14 pp., October 1973.

II. Legislation Branch[79]

In addition to the specific activities described below, legal officers participated in the sessions of the Committee on the Law of International Water Resources of the International Law Association held in Bonn and Geneva in April and September 1973; in an IBRB seminar on international water resources law held in Washington in December 1973; and in the constituent meeting of the European Food Law Association held in Brussels in May 1973.

1. *Legislative assistance and expert advice in the field*

Assistance has been given in 1973 in the following areas:

—international water law and administration in Nepal

—water legislation and administration in Costa Rica and Libya

—rural code for Togo

—land consolidation legislation in Cyprus

—fisheries legislation in Algeria, Indonesia, Mexico, Panama and, under the South China Sea Fisheries Development and Coordinating Programme, in Malaysia, Philippines and Thailand

—wildlife legislation in the Sudan

—forestry legislation in the Dominican Republic, Gabon and Surinam, and forestry, wildlife and fisheries legislation in Upper Volta.

2. *Legal drafting*

Assistance has also been given, without field visits, by drafting or reviewing legislation and other legal documents, at the request of member nations or of FAO technical experts.

This form of assistance covered in 1973 *inter alia* the following subjects:

—draft land reform laws for Latin American countries

—legal aspects of the establishment of joint venture enterprises in fisheries.

3. *Special or comparative legal studies and reports*

A number of studies and documents prepared by or in co-operation with the Legislation Branch of the FAO Legal Office have been issued during the course of the year.[80]

—*Criteria and principles for discharge of matter or energy into coastal waters.* FID:PPM/74/6, Add.2; 4 pp., October 1973.

—*International collaboration in pollution emergencies affecting living resources.* FID: PPM/74/7; 5 pp., November 1973.

[79] For general information on the organization and functions of the Legislation Branch, see *Juridical Yearbook* 1972, p. 62, note 59.

[80] Including the following: Caponera, *Water laws in Moslem countries* (FAO, Irrigation and Drainage Paper 20/1). *Informe al Gobierno de Costa Rica: organización de distritos de riego en la cuenca del río Itiqués* (based on the work of Enrique Herrero-Ayllón) (AGL:SF/COS/71/509). *Informe preparado para el Gobierno de El Salvador sobre establicimiento de una regulación legal del sector forestal* (based on the work of Salvador Grau Fernández (FO:DP/ELS/71/506); Moore, *The role of administrative action as a tool on water pollution control* (ElFAC/T 18). Mylonas, *Agricultural credit legislation: some questions* (ESR:TCNE/73/16). Fischedda Carrain, *Reglamentos de la legislación pesquera de México* (FAO/DT/2). "Recent bilateral veterinary conventions and agreements: synopsis of essential provisions", in *Non-tariff barriers to international meat trade arising from health requirements* (Supp. report to FAO Animal Health Yearbook No. 1). *Report to the Government of the British Solomon Islands Protectorate: fisheries legislation* (based on the work of G.K. Moore) (FAO No. TA 3150). *Report to the Government of Cyprus: land consolidation legislation* (based on the work of Jean R. Masrévéry) (EEG: DP/CYP/008). *Report to the Government of Libya: water legislation* (based on the work of Bernard J. Wohlwend) (TF/9184). *Report to the Government of Nepal: river law adviser* (based on the work of Dante A. Caponera) (Nepal 73/003), *Report to the Government of Surinam: forest legislation* (based on the work of

4. *Collection, translation and dissemination of legislative information*

FAO publishes semi-annually the *Food and Agriculture Legislation.* Annotated lists of laws and regulations on land reform, land settlement and agricultural co-operatives appear regularly in *Land Reform,* a semi-annual FAO publication. Analogous lists are also published in the quarterly *Nutrition Newsletter.*

---

3. UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

1. CONSTITUTIONAL AND PROCEDURAL QUESTIONS

(a) *General Conference*

By decision 6.12 adopted at its 92nd session, the Executive Board invited the Director-General, *inter alia,* to submit to it at its 93rd session a report on the financial situation of the Organization as at 1 June 1973 and a revised statement as at 1 August 1973.

After having examined this report[81] at its 93rd session, the Board decided[82] to summon an extraordinary session of the General Conference[83] under the terms of Article IV.D 9(a) of the Constitution,[84] to meet in Paris from 23 to 27 October 1973.[85]

It was further decided[86] by the Board that the provisional agenda for this third extraordinary session of the General Conference should include only one item of substance, namely: "Consideration of the financial situation of the Organization, caused by the prevailing inflation and the devaluation of the currency of accounting, and measures to be taken in report thereto."

At the extraordinary session, the General Conference, after discussion of the said item of substance and in conformity with a prior recommendation to that effect by the Executive Board,[87] adopted resolution 3XC/2.1 which, in its terms, covered various aspects of the financial situation of the Organization.

(b) *Executive Board*

(i) *Nature of membership*

At its 92nd session, the Executive Board considered a report[88] prepared by its Special Committee, on the methods of work of the Executive Board in the light of the Board's increased membership and with the aim in particular of increasing the efficiency of the Board and of its subsidiary bodies.

F. J. Smithüsen) (FO:DP/SUR/71/506). Thompson, Dill *and* Moore, *The major communicable fish diseases of Europe and North America: a review of national and international measures for their control* (FI:EIFAC 72/SC 11-Symp.10, Rev.1. *Working paper for the Federal Government of Malaysia on forest legislation in West Malaysia* (based on the work of David A. Lawson) (FO:DP/MAL/72/009).

[81] See Document 93 EX/15, Part I, 14 June 1973, 6 p., English, French, Russian, Spanish, Document 93 EX/15, Part I, Rev., 3 August 1973, 5p English, French, Russian, Spanish, and Document 93 EX/15, Part I, Rev. 2, 11 September 1973, 5p., English, French, Russian and Spanish.

[82] See 93 EX/Decision 7.2.3, Part I, September-October 1973, English, French, Russian, Spanish.

[83] This was the third time that such an extraordinary session had been convened.

[84] United Nations, *Treaty Series,* vol. 4, p. 275.

[85] The session actually ended on 26 October 1973, i.e. one day before its scheduled closing date.

[86] See 93 EX/Decision 7.2.3., Part I, September-October 1973, English, French, Russian, Spanish.

[87] See paragraph 28 of Document 3XC/4, 28 September 1973, English, French, Russian, Spanish.

[88] See Document 92 EX/2, Part I, 9 April 1973, 16 p., English, French, Russian, Spanish.

In the course of the consideration of this report, the Board discussed the character of its membership. On that, it endorsed the view expressed by the Special Committee to the effect that "members of the Executive Board are elected in their personal capacity and as representatives of their governments and of the General Conference".[89]

(ii) *Committee on Conventions and Recommendations in Education*

The Executive Board, at its 92nd session, recalled its previous decision 91 EX/72 and 86 EX/5.II concerning the establishment of a Committee on Conventions and Recommendations in Education. It further recalled its decision 77 EX/8.3 on the procedure for handling communications on individual cases involving human rights in education, science and culture.[90]

The Board also took into consideration the fact that the General Conference at its 17th session adopted resolution 31.1 by which it took note, with satisfaction, of the work of the aforesaid Committee and adopted recommendations regarding the time-table for the Committee's future work.

Concerning the terms of reference of the Committee, the Board instructed[91] the former to carry out the tasks arising from the decisions of the General Conference and the Executive Board referred to in the two preceding paragraphs.

(c) *Membership of the Organization*

In the course of the period covered by this review, the Constitution of the Organization was signed, and instrument of its acceptance deposited, on behalf of Gambia on 1 August 1973.

By virtue of the relevant provisions of the Constitution,[92] Gambia became a member State of the Organization on the date its instrument of acceptance took effect, that is, on 1 August 1973.

2. International Regulations

(a) *Transmission of certified copies of instruments previously adopted*

In pursuance of the terms of Article 15 of the "Rules of Procedure concerning Recommendations to Member States and International Conventions covered by the terms of Article IV, paragraph 4, of the Constitution,"[93] certified copies of the Convention concerning the Protection of the World Cultural and Natural Heritage[94] and the Recommendation concerning the Protection, at National Level, of the Cultural and Natural Heritage, adopted by the General Conference on 16 November 1972, at its 17th session were sent to member States in order that they could submit the Convention and the Recommendation to their competent authorities, in accordance with Article IV, paragraph 4, of the Constitution.

Transmitted with the certified copies were copies of a "Memorandum concerning the obligation to submit conventions and recommendations adopted by the General Conference to the 'competent authorities' and the submission of initial special reports on the action taken upon these conventions and recommendations".

This Memorandum has been prepared, upon the instructions of the General Conference, by the Director-General. It contains the various provisions of the Constitution and the

---

[89] See 92 EX/Decision 3.1.1, Part II, April-May 1973, English, French, Russian, Spanish.

[90] Reproduced in the *Juridical Yearbook*, 1967, p. 264.

[91] See 92 EX/Decision 3.4, Part I, April-May 1973, English, French, Russian, Spanish.

[92] See Articles II and XV of the Constitution.

[93] See also the Final Clause of the Convention concerning the Protection of the World Cultural and Natural Heritage.

[94] Reproduced in the *Juridical Yearbook*, 1972, p. 89.

regulations applicable, together with the other suggestions that the General Conference itself has found it necessary to formulate, at its earlier sessions, concerning the matters indicated by the Memorandum's comprehensive title.

(b) *Preparation of new instruments*

Following decisions[95] taken by the General Conference at its 17th session to that effect, and in conformity with Article 10 (1) and (2) of the "Rules of Procedure concerning the Recommendations to Member States and International Conventions covered by the terms of Article IV, paragraph 4, of the Constitution", the Director-General prepared and transmitted to Member States for their comments and observations, preliminary reports on the following:

—education for international understanding, co-operation and peace and education relating to human rights and fundamental freedoms;[96]

—revision of the Recommendation concerning Technical and Vocational Education of 1962;[97]

—the status of scientific research workers;[98]

These reports set forth the position with regard to the problems to be regulated and to the possible scope of the regulating action proposed in each case.

3. Copyright and "neighbouring" rights[99]

(a) *Universal Copyright Convention (1952)*[100]

The Intergovernmental Copyright Committee established under Article XI of the Universal Convention, for which UNESCO provides the Secretariat, held its twelfth ordinary session at UNESCO Headquarters in Paris from 5 to 11 December 1973.

The Committee held some of its meetings with the Executive Committee of the Berne Union, which met in extraordinary session at the same place and time. During these meetings, matters of concern to both the Intergovernmental Committee and the Executive Committee were studied, in particular the possibility of preparing an international instrument concerning the reprographic reproduction of works protected by copyright, the question of establishing an international instrument for the protection of signals transmitted by satellite, and the draft of a model copyright law for use by developing countries.[101]

(b) *International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention)*[102]

The Intergovernmental Committee established under Article 32 of the Rome Convention, for which the International Labour Office (ILO), UNESCO and the World Intellectual Property Organization (WIPO) jointly provide the Secretariat, held its fourth ordinary session at UNESCO Headquarters in Paris on 3, 4 and 11 December 1973.

During the session, the Committee adopted revised Rules of Procedure. It also studied the conclusions of the third Committee of Governmental Experts on Problems in the Field of Copyright and of the Protection of Performers, Producers of Phonograms and Broadcasting

---

[95] 17C/Resolutions 1.222, 1.312 and 2.122.

[96] See Document ED/MD/27, 16 August 1973, 19 p. and Annexes, English, French, Russian, Spanish.

[97] See Document ED/MD/28, 14 September 1973, 48 p. and Annexes, English, French, Russian, Spanish.

[98] See Document SC/MD/35, 16 August 1973, 18 p., English, French, Russian, Spanish.

[99] A quarterly review, the *Copyright Bulletin*, is published in three separate editions: English, French and Spanish.

[100] United Nations, *Treaty Series*, vol. 216, p. 132.

[101] See Report adopted by the Committee, IGC/XII/17, 15 February 1974.

[102] United Nations, *Treaty Series*, vol. 496, p. 43.

Organizations raised by Transmission via Space Satellites, and a draft model law relating to the protection of performers, producers of phonograms and broadcasting organizations. This preliminary draft was the subject of discussions by a non-governmental working group convened by the Secretariat, the International Labour Office and the World Intellectual Property Organization, which met in Geneva in September 1973. The Inter-governmental Committee was invited to give its opinion as to whether the text of the draft model law, as revised by the non-governmental working group, was an effective instrument for facilitating broader ratification and implementation of the Rome Convention. The Intergovernmental Committee decided to convene another non-governmental working group to study this text.[103]

(c) *Studies of copyright protection for new categories of beneficiaries and in light of new communication techniques*

(i) *Translators*

Following discussion of this item of its agenda, the Intergovernmental Copyright Committee (Paris, 5–11 December 1973) adopted a resolution in which it stressed the highly important rôle that translation plays in the general context of development and in the interpenetration of cultures, considered that the protection afforded to translators under the Universal Copyright Convention, the Berne Convention[104] and most national legislation was adequate, but that, nevertheless, in order to promote the dissemination of works, States party to the Universal Copyright Convention should accord translators, on the national level, the full rights granted to authors of literary, scientific and artistic works, without prejudice to the copyright in the original works; it also invited States to adopt measures of a practical nature to ameliorate the effective application of the principles contained in the international conventions and national laws on this subject.

(ii) *Reprographic reproduction of works protected by copyright*

Pursuant to resolution 17 C/5.151, adopted by the 17th session of the General Conference of UNESCO, the Secretariat prepared a working document on the reprographic reproduction of works protected by copyright which it submitted to the Intergovernmental Copyright Committee and the Executive Committee of the Berne Union at their joint sittings in December 1973. Following the discussion of this item of the agenda, the Intergovernmental Copyright Committee adopted resolution 64 (XII) in which it considered that the matter was not yet ripe for a definitive stand as to the feasibility of adopting a recommendation on this subject and its study should be continued; and it decided to continue the examination of the question at its 13th ordinary session to be held in 1975, at the same time as the third extraordinary session of the Executive Committee of the Berne Union; it also recommended that the General Conference of UNESCO defer to a future session its decision regarding the adoption of a recommendation concerning the reprographic reproduction of works protected by copyright.

(iii) *Transmission by satellite*

Pursuant to resolution 17 C/5.161, adopted by the 17th session of the General Conference of UNESCO, the third Committee of Governmental Experts on Problems in the Field of Copyright and of the Protection of Performers, Producers of Phonograms and Broadcasting Organizations raised by Transmission via Space Satellites, convened jointly by UNESCO and the World Intellectual Property Organization (WIPO), met in Nairobi (Kenya) from 2 to 11 July 1973.

During the discussion of the draft convention drawn up by the second Committee of Experts in Paris, the Committee finally decided to alter substantially the structure and

---

[103] See Report adopted by the Committee, ILO/UNESCO/WIPO/ICR.4/10, 20 December 1973.

[104] United Nations, *Treaty Series*, vol. 331, p. 217.

philosophy of the draft convention by eliminating any notion of private rights and leaving States free to decide for themselves the most appropriate means for suppressing the pirating of signals on their territories. Rather than obliging States to enforce individual property rights in the form of an exclusive right of authorization, the draft convention requires States to take appropriate measures to prevent the distribution on their territories of satellite signals by distributors for whom those signals were not intended. At the conclusion of its deliberations, the Committee adopted a resolution in which it considered that it had entirely fulfilled its mandate by drawing up a draft Convention susceptible of general acceptance and recommended that a Diplomatic Conference be convened in 1974 to conclude an international convention on the subject.

(d) *International Copyright Information Centre*

The Centre continued to serve as a link between publishers in the developing countries and copyright holders, either acting through regional or national copyright information centres where such exist, or otherwise transmitting requests direct to the holders of the relevant copyrights.

In order to facilitate the negotiation of the authorizations needed for the use of protected works, the Centre began to prepare preliminary drafts of model contracts for the transfer, by mutual agreement, of certain elements of copyright from book-producing countries to developing countries.

A meeting of officials of regional or national copyright information centres, publishing associations or agencies and organizations representing authors was held at UNESCO Headquarters in Paris from 21 to 25 May 1973. The purpose of the meeting was (i) to study the means of collaboration which might be established between the UNESCO International Copyright Information Centre and officials of regional or national copyright information centres, publishing associations or agencies and organizations representing authors; (ii) preparation of proposals concerning the future orientation of the activities of the Centre.

At the close of its deliberations, the meeting adopted 21 recommendations outlining a broad programme of medium-term action. The most important of these recommendations, which relate directly to the programme being carried out, by the International Centre, concern (i) the creation in each Member State of a national committee for liaison with the International Copyright Information Centre; (ii) the continuation of the work already begun with a view to making available to the developing States draft model contracts for the transfer of copyright; (iii) the creation of a translation clearing house in the UNESCO International Centre; (iv) the possibility of preparing a new international instrument to avoid the double taxation of copyright royalties remitted from one country to another; and (v) the extension of the activities of the Centre to audio-visual works.

(e) *Model law on copyright*

In order to assist Member States in preparing their national copyright legislation and in bringing existing laws into line with international standards, the Secretariat, in collaboration with the International Bureau of WIPO, prepared a preliminary draft of a model law on copyright for the use of developing countries. This was submitted for comment to the governments of the member States of UNESCO and member States of the Berne Union, to international non-governmental organizations concerned and to a working group of African consultants which met in Geneva in March 1973. Subsequently, in October 1973, the Secretariat convened in Abidjan a committee of African experts to study this preliminary draft. The recommendations adopted by the Abidjan Committee of Experts were studied by the Intergovernmental Copyright Committee and the Executive Committee of the Berne Union in December 1973.

4. Human Rights

In the course of its 93rd session, the Executive Board decided to add to its agenda a new item[105] entitled "Communication from the Cuban National Commission for UNESCO".[106]

The Board was informed, during its consideration of this item, that the Organization had received a number of communications complaining of violations of human rights in Chile.

After taking into consideration certain relevant provisions of the Constitution of the Organization, the Board decided to apply, in respect of the complaints, a procedure similar to that provided for by its previous decision 77 EX/8.3, in accordance with the procedure adopted in the United Nations under Economic and Social Council resolution 728F (XXVIII).[107]

The Board therefore requested the Director-General, in accordance with the aforesaid procedure, to bring the communications received in the Chile case to the attention of the Board's Committee on Conventions and Recommendations in Education which was to be convened as soon as possible.[108]

---

4. INTERNATIONAL CIVIL AVIATION ORGANIZATION

1. Settlement of Disputes between Contracting States—Pakistan versus India

During the year, at the request of the Parties (Pakistan and India), the Council did not consider the complaint and disagreement laid before it by the Government of Pakistan on 3 March 1971 under the *Rules for the Settlement of Differences* (Doc 7782).[109]

2. Libyan civil aircraft shot down on 21 February by Israeli fighters over the occupied Egyptian territory of Sinai

On 28 February, the Assembly, at its 19th Session (Extraordinary), adopted Resolution A19-1 condemning the Israeli action, relating to the shooting down of a Libyan civil aircraft on 21 February by Israeli fighters over the occupied Egyptian territory of Sinai, which resulted in the eventual loss of 108 lives, and directed the Council to instruct the Secretary-General to institute an investigation and report to the Council. Later, the Secretary-General, acting on instructions of the Council, established an investigation team. When the Council considered the report of the investigation team, on 4 June, it found from the report no justification for the shooting down of the Libyan civil aircraft, strongly condemned the Israeli action which resulted in the destruction of the aircraft and the loss of life and urged Israel to comply with the aims and objectives of the Convention.[110]

3. Forcible diversion and seizure by Israeli military aircraft on 10 August of a Lebanese civil aircraft chartered by Iraqi Airways

On 20 August, the Council, meeting in Extraordinary Session, condemned Israel for violating Lebanon's sovereignty and for the diversion and seizure of a Lebanese civil aircraft on 10 August, considered that these actions by Israel constituted a violation of the Chicago Convention and recommended to the Assembly at its 20th Session (Extraordinary) that it include in its agenda consideration of these actions in violation of the Chicago Convention and

---

[105] Item 8.2

[106] See Document 93EX/INF.13, 2 October 1973, 1 p. and Annex, English, French, Russian, Spanish.

[107] See 93EX/Decision 8.2, September-October 1973, English, French, Russian, Spanish.

[108] *Ibid.*

[109] See Annual Report of the Council to the Assembly for 1973, p. 97.

[110] *Ibid.*

take measures to safeguard international civil aviation. On 30 August, in Resolution A20-1, the Assembly strongly condemned Israel for violating Lebanon's sovereignty, for the forcible diversion and seizure of a Lebanese civil aircraft and for violating the Chicago Convention on International Civil Aviation,[111] urgently called upon Israel to desist from committing acts of unlawful interference with international civil air transport and airports and other facilities serving such transport, and solemnly warned Israel that if it continued committing such acts the Assembly would take further measures against Israel to protect international civil aviation.[112]

4. Request from the Government of Israel relating to missiles seized in the vicinity of Rome International Airport at Fiumicino

On 1 October, the Council deferred action on inclusion in its work programme of an Israeli request in accordance with Article 54 (n) of the Chicago Convention to take appropriate action with respect to the case relating to two ground-to-air missiles seized by the Italian police in the vicinity of Rome International Airport at Fiumicino.[113]

5. The Council Resolution of 19 June 1972[114]—Joint Action

In January, the 20th Session (Special) of the Legal Committee considered the Council Resolution of 19 June 1972 and the report of the Special Subcommittee of the Legal Committee which had met at Washington in September 1972 to consider that Resolution. The Committee recommended to the Council to submit to an extraordinary session of the Assembly of ICAO certain draft amendments to the Chicago Convention. It also recommended that at the same time and place as the Assembly was held, a diplomatic conference be convened and that there be submitted to the Conference both a draft convention proposed by Denmark, Finland, Norway and Sweden (known as "the Nordic draft") to provide the machinery for use in the case of certain actions of States in cases of unlawful seizure of aircraft and unlawful interference with civil aviation and a "draft Protocol to the Convention for the Suppression of Unlawful Seizure of Aircraft,[115] signed at The Hague on 16 December 1970" proposed by the USSR, which had also indicated that a similar Protocol could be developed in respect of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation,[116] signed at Montreal on 23 September 1971.

The Assembly and conference were held at Rome from 28 August to 21 September and failed to adopt amendments to the Chicago Convention, a separate Convention on the topic of joint action or Protocols amending the Hague and Montreal Conventions.

On 30 August, the Assembly adopted Resolution A20-1: *Diversion and Seizure by Israeli Military Aircraft of a Lebanese Civil Aircraft* and, on 21 September, Resolution A20-2: *Acts of Unlawful Interference with Civil Aviation.*[117]

6. Subcommittee on the Study of the Rome Convention on Damage Caused by Foreign Aircraft to Third Parties on the Surface (1952)[118]

The Subcommittee on the Study of the Rome Convention (1952) met from 2 to 12 April and discussed the following main items: Reasons why States have not ratified or adhered to the Convention; limitation of liability; nuclear damage; security for operators' liability; jurisdiction; possible consolidation of international rules contained in the Convention on

---

[111] *Ibid.*

[112] United Nations, *Treaty Series*, vol. 15, p. 295.

[113] See Annual Report of the Council to the Assembly for 1973, p. 97.

[114] See *Juridical Yearbook*, 1972, p. 72.

[115] *Ibid.*, 1970, p. 131.

[116] *Ibid.*, 1971, p. 143.

[117] See Annual Report of the Council to the Assembly for 1973, p. 97.

[118] United Nations, *Treaty Series*, vol. 310, p. 181.

Damage Caused by Foreign Aircraft to Third Parties on the Surface (Rome, 1952); the draft Convention on Aerial Collisions and the subject of liability of air traffic control agencies; liability for damage caused by noise or sonic boom, and the relationship between the Rome Convention (1952) and the new instrument which might modify that Convention. At the conclusion of its session, the Subcommittee considered that it could do no further useful work without guidance from the Legal Committee.[119]

7. Sonic Boom

In 1972, the Council requested the Legal Committee to consider as soon as possible the question of the applicability of Article 1(1) of the Rome Convention to the sonic boom. In April 1973, the Subcommittee on the Study of the Rome Convention (1952) reached no firm conclusion on the question of sonic boom. However, it noted that there was a general view in favour of compensating for damage due to sonic boom, although there was no agreement as to the methods which might be employed to achieve that result.[120]

8. Problems arising out of the lease, charter and interchange of aircraft in international operations

The Council considered questions arising under Clauses (2) and (3) of Part B of Resolution A18-16 in March, these clauses being concerned respectively with such legal matters as the position in regard to the different international conventions under which problems might arise in connexion with the lease, charter and interchange of aircraft in international operations and the question of national laws and regulations pertaining to international lease, charter and interchange of aircraft. Action on this subject had not been terminated by the year's end.[121]

9. Proposed Convention on International Intermodal Transport

On 26 March, the Council considered the question of the further action that might be taken on the international combined transport of goods and decided to defer action in view of the pending studies to be carried out by the United Nations Conference on Trade and Development pursuant to Economic and Social Council Resolution 1734 (LIV) which established the Intergovernmental Preparatory Group on a Convention on International Intermodal Transport. ICAO was represented at the First Session of that body held at Geneva between 29 October and 2 November.[122]

10. Unlawful Interference with International Civil Aviation and its Facilities

During the year, the Council finished the revision of the terms of reference of its Committee on Unlawful Interference established on 10 April 1969 in order to bring them up to date with developments that had taken place since their initial adoption and so as to broaden appropriately the scope of the Committee's work of assisting the Council.[123]

11. Aviation Security Specifications

The Council entrusted the Committee with the task of recommending to it the format of a new Annex on Security, and the text of the specifications to be contained in it, based on the material initially developed by the Air Navigation Commission, amended by the Council during a preliminary review, and circulated to States for their comments at the end of 1972.

---

[119] See Annual Report of the Council to the Assembly for 1973, p. 99.

[120] *Ibid.*

[121] *Ibid.*

[122] *Ibid.*

[123] *Ibid.*

Accordingly, the Committee thoroughly considered the whole question during four meetings held in November and submitted to the Council the draft text of a new Annex, and associated material. The Council discussed the Report of the Committee and made considerable amendments in the draft new Annex. When put to the vote, however, on 12 December, the draft Annex failed to receive the 20 votes required for its adoption. Thereafter, the Committee was requested to study the situation in the light of the discussions in the Council with the view to making any proposals that may be considered appropriate.[124] (*Ibid.*, 99.)

12. ANNEXES TO THE CONVENTION ON INTERNATIONAL CIVIL AVIATION, PROCEDURES FOR AIR NAVIGATION SERVICES (PANS), REGIONAL SUPPLEMENTARY PROCEDURES (SUPPS)

See "ICAO Technical Publications, Current Edition" which is published in the *ICAO Bulletin.*

---

5. UNIVERSAL POSTAL UNION [125]

PROBLEMS CONSIDERED IN THE EXECUTIVE COUNCIL

General questions

1. *Possibilities of extension and development of relations between the UPU and the Restricted Unions*[126]

This question was considered by the General Committee (Committee 3) whose task this year was to find an appropriate legal framework for justifying and encouraging the extension and development of relations between the UPU and the Restricted Unions. The solution adopted is a draft resolution outlining the main lines of these relations and appealing to the various UPU bodies to contribute to their development within their terms of reference. The flexibility of this legal framework seemed adapted to such relations, which by their nature will develop constantly in conformity with events and needs.

2. *Legal and technical possibilities of maintaining postal relations in cases of dispute, conflict or war*

On the basis of the reports written by Austria in 1972 and 1973, the International Bureau was instructed to prepare, in conjunction with the reporting country, a draft resolution inviting Governments of Member Countries to refrain from interrupting or obstructing postal service in case of dispute, conflict or war. This text would also authorize the Director-General to take certain initiatives or to offer his good offices in order to find a solution to the postal problems which may arise in such circumstances.[127]

3. *Study on reservations*

On the two questions raised by this study the Executive Council came to the following conclusions:

(i) The UPU's existing practice with regard to reservations was still fully valid. It was entirely unnecessary and undesirable to change it. At the most the existing regulations dealing with cases of admission and the majorities required for the adoption of final protocols might be slightly clarified. Proposals on those lines were prepared.

---

[124] *Ibid.*

[125] For a short description of the respective functions of the main organs of the UPU, see *Juridical Yearbook*, 1972, p. 79, note 131.

[126] See also *ibid.*, pp. 79 and 80.

[127] This draft resolution has been adopted by the 1974 Lausanne Congress (resolution C 37).

(ii) As to the desirability of transferring certain reservations from the Final Protocols to the Convention or the Agreements, the Executive Council adopted a fairly conservative attitude. The considerations adduced in the comparative study by the International Bureau [128] led it to recommend to Congress only four cases of transfer. It proposed transferring to the Convention articles III, paras. 1 and 2 (Equivalents. Maximum and minimum limits), XII (Exception to the provisions concerning printed papers), XIV (Posting abroad of letter-post items) and XV (International reply coupons). Article II (Exception to the exemption of literature for the blind from postal charges) will remain in the Final Protocol, but the names of the countries using this reservation will be mentioned.[129]

6. WORLD HEALTH ORGANIZATION

1. By Resolution WHA26.37 [130] the Twenty-sixth World Health Assembly adopted on 22 May 1973 amendments to Articles 34 and 55 of the WHO Constitution. The deletion of the words "annually" and "annual" in the respective Articles will provide a flexible arrangement under which, in future, the Health Assembly itself can determine whatever budgetary period it considers most appropriate for the Organization. The amendments will come into force when accepted by two thirds of the Members in accordance with the provisions of Article 73 of the Constitution.

2. On 23 May 1973 the Twenty-sixth World Health Assembly, by its Resolution WHA26.55, adopted Additional Regulations amending the International Health Regulations (1969), in particular with respect to Articles 1, 21, 63–71 and 92. The Additional Regulations (1973) came into force on 1 January 1974, in accordance with the provisions of their Article III.

7. INTER-GOVERNMENTAL MARITIME CONSULTATIVE ORGANIZATION

1. International Conferences convened by IMCO in 1973

1. The International Conference on Space Requirements for Special Trade Passenger Ships was held in London. It adopted the Protocol on Space Requirements for Special Trade Passenger Ships, 1973, which is complementary to the Special Trade Passenger Ships Agreement, 1971.

2. The International Conference on Marine Pollution was held in London. It adopted:

(i) The International Convention for the Prevention of Pollution from Ships, 1973;[131] and

(ii) The Protocol Relating to Intervention on the High Seas in Cases of Marine Pollution by Substances other than Oil, 1973.[132]

The Convention covers all the technical aspects of marine pollution emanating from ships (excluding the dumping of shore-generated wastes and pollution directly arising from sea-bed exploration and exploitation), and applies to ships of all types and to fixed and floating platforms operating in the marine environment.

The Convention comprises articles concerning general principles, two Protocols dealing respectively with Reports of incidents involving harmful substances and Arbitration, and five annexes dealing with pollution by oil, by bulk and packaged noxious substances other than oil,

[128] See *Juridical Yearbook*, 1971, p. 230.

[129] Decision CE 20.

[130] Reproduced in this *Yearbook*, p. 79.

[131] *Ibid*, p. 81.

[132] *Ibid*, p. 91.

and by ship-generated sewage and garbage. Provisions relating to ship construction and operational requirements are also included.

The Protocol extends the application of the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969, to harmful substances other than oil.

2. Other legal activities

Amendments to the IMCO Convention[133]

The Assembly at its eighth session adopted Resolution A.314(VIII) by which it *inter alia* decided (1) to convene in February 1974 an Ad Hoc Working Group open to all Members of the Organization to study any proposed amendments to the Convention on the Inter-Governmental Maritime Consultative Organization concerning the size and composition of the Council and the Maritime Safety Committee and any compromise related amendments and (2) to convene in October 1974 an extraordinary session of the Assembly to consider the recommendations of the *Ad Hoc* Working Group and possible further proposals related to these matters and to adopt amendments to the IMCO Convention, as appropriate.

Establishment of a Marine Environment Protection Committee

The Assembly at its eighth session adopted Resolution A.297(VIII) by which it decided to establish a Marine Environment Protection Committee as a permanent subsidiary body of the Assembly pursuant to Article 16(c) of the IMCO Convention.

The Committee's general terms of reference are "to assist IMCO in its consultation with other bodies within the United Nations system, especially the United Nations Environment Programme, and with other international organizations and expert bodies in the field of marine pollution, and to co-ordinate and administer, in consultation as appropriate with other bodies of IMCO, the activities of the Organization concerning the prevention and control of marine pollution from ships".

Amendment procedures for conventions of which IMCO is depositary

Pursuant to Assembly Resolution A.249(VII) requesting the Legal Committee and the Maritime Safety Committee to prepare proposals for accelerating the bringing into force of amendments to conventions of which IMCO is depositary, the Assembly of IMCO considered at its eighth session the conclusions of the above-mentioned committees on the subject in the light of the provisions on amendment procedure adopted by the International Conference on the Revision of the Regulations for Preventing Collisions at Sea, 1972, the UN/IMCO Conference on International Container Traffic, 1972, and the International Conference on Marine Pollution, 1973. It adopted Resolution A.293(VIII) by which it *inter alia* requested the Secretary-General to make available to all future conferences convened under the auspices of IMCO the results of the work of the Legal Committee and the Maritime Safety Committee as well as the conclusions reached by the above-named conferences.

Interpretation of Article 43 of the IMCO Convention

In Resolution 294A(VIII) the Assembly, having noted the provisions on amendment procedures contained in some of the conventions of which IMCO is depositary:

(*a*) expressed the view that nothing in the IMCO Convention prevents the granting of the right to participate and vote to a non-IMCO member State in an IMCO body when that body considers or adopts amendments to a convention to which that State is a Party, when such participation is provided for in the convention for which the IMCO body concerned considers or adopts amendments;

---

[133] United Nations, *Treaty Series*, vol. 289, p. 48.

(*b*) decided accordingly that whenever so provided in a convention assigning functions in respect of amendments to an IMCO body, Parties to that convention which are not members of IMCO or the IMCO bodies concerned should be accorded the right to participate and vote when the IMCO bodies perform functions in respect of amendments to the convention in question.

Legal questions considered by the Legal Committee

The Legal Committee considered, *inter alia*:

(*a*) Questions dealing with the extension of the 1969 Convention on Civil Liability for Oil Pollution Damage[134] to Noxious and Hazardous Substances other than Oil (18th session);

(*b*) Questions concerning wreck removal and related issues (19th session);

(*c*) Draft articles of a convention relating to the carriage of passengers and their luggage on board ships with a view to preparing a draft convention for submission to a diplomatic conference scheduled for 1974 (20th session).

8. INTERNATIONAL ATOMIC ENERGY AGENCY

1. Statute and membership of the Agency: Action taken by States in connexion with the Statute

(*a*) The Agency's membership at the end of 1973 stood at 104, the German Democratic Republic having become a member by depositing an Instrument of Acceptance of the Agency's Statute[135] with the depositary Government (United States of America) on 18 September 1973, and the Mongolian People's Republic having become a member by depositing an Instrument of Acceptance of the Agency's Statute with the depositary Government on 20 September 1973.

(*b*) The Amendment to Article VI.A–D of the Statute of the Agency entered into force on 1 June 1973. This Amendment was approved by the General Conference of the International Atomic Energy Agency on 28 September 1970 by Resolution GC(XIV)RES/272,[136] and entered into force upon acceptance by two-thirds of the members in accordance with their respective constitutional requirements, as provided for by Article XVIII.C.(ii) of the Statute. The Amendment had the effect of increasing the size of the Board, thus providing for more ample representation of the developing member States.

2. Legal activities

(*a*) During the seventeenth regular session of the General Conference, approval[137] was given to proposed amendments of the General Conference's Rules of Procedure,[138] in order to enable the Conference to give effect to the provisions of Article VI.A.2 of the Statute that came into force on 1 June 1973.

(*b*) By 31 December 1973, 98 States had signed, and 82 States had ratified, or acceded to, the Treaty on the Non-Proliferation of Nuclear Weapons.[139] Fifty-three per cent of the Non-Nuclear Weapon States Party to the Treaty had concluded the required safeguards agreements with the Agency; this figure includes almost all the Non-Nuclear Weapon States that have any significant nuclear activities.

---

[134] Reproduced in the *Juridical Yearbook*, 1969, p. 174.

[135] United Nations, *Treaty Series*, vol. 276, p. 3.

[136] Reproduced in the *Juridical Yearbook*, 1970, p. 135.

[137] GC(XVII)RES/300.

[138] GC(VII)/INF/60.

[139] Reproduced in the *Juridical Yearbook*, 1968, p. 156.

(*c*) The Agency was represented at the International Conference on Marine Pollution, convened in London in October 1973. The Conference adopted the Convention for the Prevention of Pollution from Ships[140] and the Protocol Relating to Intervention on the High Seas in Cases of Marine Pollution by Substances Other than Oil,[141] which do not exclude nuclear ships nor nuclear materials from their scope of application. Since the hazardous substances falling within the scope of the Protocol were to be determined by a body designated by IMCO, the Agency suggested the inclusion in the text of the Protocol of a provision for consultation with the competent international organizations in defining the hazardous substance. The Conference considered it preferable to adopt a resolution to the same effect (resolution 26).

(*d*) A regional seminar on nuclear law was held in Rio de Janeiro in June 1973. The subjects discussed ranged from problems concerning the structure and functions of national bodies on atomic energy, to licensing regulations and procedures for a nuclear power programme as well as legislation on nuclear liability and the legal aspects of Agency safeguards.

(*e*) Advisory services on the regulatory requirements and the elaboration of legislation for the introduction of nuclear power were provided to three member States.

(*f*) Lawyers from two member States were trained in the legal aspects of atomic energy at the Agency's Headquarters.

(*g*) The Agency started improving the Thesaurus on key-words in nuclear law.

---

[140] Reproduced in this *Yearbook*, p. 81.

[141] *Ibid*, p. 91.

Chapter IV

TREATIES CONCERNING INTERNATIONAL LAW INCLUDED 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. PROTOCOL OF ENTRY INTO FORCE OF THE AMENDMENT TO ARTICLE 61 OF THE CHARTER OF THE UNITED NATIONS ADOPTED BY THE GENERAL ASSEMBLY IN RESOLUTION 2847 (XXVI) OF 20 DECEMBER 1971

WHEREAS Article 108 of the Charter of the United Nations provides as follows:

"*Article 108*

"Amendments to the present Charter shall come into force for all Members of the United Nations when they have been adopted by a vote of two thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by two thirds of the Members of the United Nations, including all the permanent members of the Security Council."

WHEREAS, pursuant to the said Article 108, the General Assembly of the United Nations adopted on 20 December 1971 an amendment to Article 61 of the Charter of the United Nations as set forth in resolution 2847 (XXVI),

WHEREAS the requirements of the said Article 108 with respect to the ratification of the above-mentioned amendment were fulfilled by 24 September 1973 as shown in the Annex to this Protocol, and the said amendment entered into force on that day for all Members of the United Nations,

AND WHEREAS the text of Article 61, paragraphs 1, 2 and 3, of the Charter of the United Nations, as amended, reads as follows:

"*Article 61*

"1. The Economic and Social Council shall consist of fifty-four Members of the United Nations elected by the General Assembly.

"2. Subject to the provisions of paragraph 3, eighteen members of the Economic and Social Council shall be elected each year for a term of three years. A retiring member shall be eligible for immediate re-election.

"3. At the first election after the increase in the membership of the Economic and Social Council from twenty-seven to fifty-four members, in addition to the members elected in place of the nine members whose term of office expires at the end of that year, twenty-seven additional members shall be elected. Of these twenty-seven additional members, the term of office of nine members so elected shall expire at the end of one year, and of nine other members at the end of two years, in accordance with arrangements made by the General Assembly.",

NOW, THEREFORE, I, KURT WALDHEIM, Secretary-General of the United Nations, sign this Protocol in two original copies in the Chinese, English, French, Russian and Spanish

languages, of which one shall be deposited in the archives of the Secretariat of the United Nations and the other transmitted to the Government of the United States of America as the depositary of the Charter of the United Nations. Copies of this Protocol shall be communicated to all Members of the United Nations.

DONE AT THE HEADQUARTERS OF THE UNITED NATIONS, NEW YORK, this twenty-fourth day of September, one thousand nine hundred and seventy-three.

KURT WALDHEIM

Secretary-General

ANNEX

TO THE PROTOCOL OF ENTRY INTO FORCE OF THE AMENDMENT TO ARTICLE 61 OF THE CHARTER OF THE UNITED NATIONS, ADOPTED BY THE GENERAL ASSEMBLY IN RESOLUTION 2847 (XXVI) OF 20 DECEMBER 1971

List of Members having deposited instruments of ratification of the above-mentioned amendment with the Secretary-General as at 24 September 1973:

Member	*Date of deposit*
Finland	30 March 1972
Singapore	18 April 1972
Jordan	2 June 1972
Barbados	12 June 1972
Fiji	12 June 1972
Uganda	12 June 1972
Qatar	15 June 1972
Democratic Yemen	15 June 1972
Malaysia	16 June 1972
Kuwait	20 June 1972
Algeria	21 June 1972
Oman	23 June 1972
Cyprus	26 June 1972
Yemen	7 July 1972
New Zealand	19 July 1972
Thailand	19 July 1972
Iraq	9 August 1972
Niger	22 August 1972
Bahrain	22 August 1972
Brazil	7 September 1972
Trinidad and Tobago	11 September 1972
Bhutan	13 September 1972
Malawi	15 September 1972
China	15 September 1972
Morocco	26 September 1972
Panama	26 September 1972
Canada	28 September 1972
United Arab Emirates	29 September 1972
Guatemala	3 October 1972
Sudan	4 October 1972
Kenya	5 October 1972
Jamaica	6 October 1972
Ireland	6 October 1972
Zambia	13 October 1972
Yugoslavia	23 October 1972

Netherlands	31 October	1972
Tunisia	8 November	1972
Philippines	14 November	1972
Australia	16 November	1972
Nepal	24 November	1972
Dominican Republic	29 November	1972
Liberia	4 December	1972
Sri Lanka	6 December	1972
Cameroon	12 December	1972
Sweden	22 December	1972
Egypt	28 December	1972
India	5 January	1973
Ghana	8 January	1973
Austria	12 January	1973
Denmark	23 January	1973
Senegal	25 January	1973
Dahomey	5 February	1973
Botswana	12 February	1973
Malta	22 February	1973
Romania	26 February	1973
Ivory Coast	28 February	1973
Iceland	6 March	1973
Norway	14 March	1973
Iran	15 March	1973
Argentina	19 March	1973
Belgium	26 March	1973
Indonesia	30 March	1973
United Republic of Tanzania	4 April	1973
Mexico	11 April	1973
Libyan Arab Republic	12 April	1973
Ecuador	20 April	1973
Chad	11 May	1973
Ukrainian Soviet Socialist Republic	16 May	1973
Mongolia	18 May	1973
Guyana	22 May	1973
Lesotho	30 May	1973
France	1 June	1973
Union of Soviet Socialist Republics	1 June	1973
Bulgaria	5 June	1973
Luxembourg	5 June	1973
Byelorussian Soviet Socialist Republic	15 June	1973
Japan	15 June	1973
United Kingdom of Great Britain and Northern Ireland	19 June	1973
Peru	26 June	1973
Guinea	27 June	1973
Mauritius	29 June	1973
Bolivia	29 June	1973
Lebanon	2 July	1973
Hungary	12 July	1973
Nicaragua	17 July	1973
Madagascar	19 July	1973
Italy	25 July	1973
Spain	26 July	1973
Costa Rica	14 August	1973
Zaire	16 August	1973
Pakistan	21 August	1973
Mali	30 August	1973
Poland	19 September	1973
Afghanistan	20 September	1973
United States of America	24 September	1973

Total number of instruments deposited:	95
Membership in the United Nations as at 24 September 1973:	135
Number of ratifications required under Article 108 of the Charter of the United Nations to bring the amendment into force (two thirds of the Members of the United Nations, including all the permanent members of the Security Council):	90
The last instrument of ratification fulfilling the above-mentioned requirements was deposited on:	24 September 1973
Date of entry into force of the amendment for all the Members of the United Nations:	24 September 1973

2. INTERNATIONAL CONVENTION ON THE SUPPRESSION AND PUNISHMENT OF THE CRIME OF *APARTHEID.* ADOPTED AND OPENED FOR SIGNATURE AND RATIFICATION BY GENERAL ASSEMBLY RESOLUTION 3068 (XXVIII) OF 30 NOVEMBER 1973 [1]

The States Parties to the present Convention,

Recalling the provisions of the Charter of the United Nations, in which all Members pledged themselves to take joint and separate action in co-operation with the Organization for the achievement of universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Considering the Universal Declaration of Human Rights, which states that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth in the Declaration, without distinction of any kind, such as race, colour or national origin.

Considering the Declaration on the Granting of Independence to Colonial Countries and Peoples,[2] in which the General Assembly stated that the process of liberation is irresistible and irreversible and that, in the interests of human dignity, progress and justice, an end must be put to colonialism and all practices of segregation and discrimination associated therewith,

Observing that, in accordance with the International Convention on the Elimination of All Forms of Racial Discrimination,[3] States particularly condemn racial segregation and *apartheid* and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction,

Observing that, in the Convention on the Prevention and Punishment of the Crime of Genocide,[4] certain acts which may also be qualified as acts of *apartheid* constitute a crime under international law,

Observing that, in the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity,[5] "inhuman acts resulting from the policy of *apartheid*" are qualified as crimes against humanity.

---

[1] By its resolution 3068 (XXVIII), the General Assembly *inter alia* appealed to all States to sign and ratify the Convention as soon as possible, requested all Governments and intergovernmental and non-governmental organizations to acquaint the public as widely as possible with the text of the Convention using all the information media at their disposal, requested the Secretary-General to ensure the urgent and wide dissemination of the Convention and, for that purpose, to publish and circulate its text and requested the Economic and Social Council to invite the Commission on Human Rights to undertake the functions set out under article X of the Convention.

[2] General Assembly resolution 1514 (XV).

[3] Reproduced in the *Juridical Yearbook,* 1965, p. 63.

[4] See General Assembly resolution 260 A (III), annex.

[5] Reproduced in the *Juridical Yearbook,* 1968, p. 160.

Observing that the General Assembly of the United Nations has adopted a number of resolutions in which the policies and practices of *apartheid* are condemned as a crime against humanity,

Observing that the Security Council has emphasized that *apartheid*, its continued intensification and expansion, seriously disturbs and threatens international peace and security,

Convinced that an International Convention on the Suppression and Punishment of the Crime of *Apartheid* would make it possible to take more effective measures at the international and national levels with a view to the suppression and punishment of the crime of *apartheid*,

Have agreed as follows:

Article I

1. The States Parties to the present Convention declare that *apartheid* is a crime against humanity and that inhuman acts resulting from the policies and practices of *apartheid* and similar policies and practices of racial segregation and discrimination, as defined in article II of the Convention, are crimes violating the principles of international law, in particular the purposes and principles of the Charter of the United Nations, and constituting a serious threat to international peace and security.

2. The States Parties to the present Convention declare criminal those organizations, institutions and individuals committing the crime of *apartheid*.

Article II

For the purpose of the present Convention, the term "the crime of *apartheid*", which shall include similar policies and practices of racial segregation and discrimination as practised in southern Africa, shall apply to the following inhuman acts committed for the purpose of establishing and maintaining domination by one racial group of persons over any other racial group of persons and systematically oppressing them:

(*a*) Denial to a member or members of a racial group or groups of the right to life and liberty of person:

(i) By murder of members of a racial group or groups;

(ii) By the infliction upon the members of a racial group or groups of serious bodily or mental harm by the infringement of their freedom or dignity, or by subjecting them to torture or to cruel, inhuman or degrading treatment or punishment;

(iii) By arbitrary arrest and illegal imprisonment of the members of a racial group or groups;

(*b*) Deliberate imposition on a racial group or groups of living conditions calculated to cause its or their physical destruction in whole or in part;

(*c*) Any legislative measures and other measures calculated to prevent a racial group or groups from participation in the political, social, economic and cultural life of the country and the deliberate creation of conditions preventing the full development of such a group or groups, in particular by denying to members of a racial group or groups basic human rights and freedoms, including the right to work, the right to form recognized trade unions, the right to education, the right to leave and to return to their country, the right to a nationaltiy, the right to freedom of movement and residence, the right to freedom of opinion and expression, and the right to freedom of peaceful assembly and association;

(*d*) Any measures, including legislative measures, designed to divide the population along racial lines by the creation of separate reserves and ghettos for the members of a racial group or groups, the prohibition of mixed marriages among members of various racial groups, the expropriation of landed property belonging to a racial group or groups or to members thereof;

(*e*) Exploitation of the labour of the members of a racial group or groups, in particular by submitting them to forced labour;

(*f*) Persecution of organizations and persons, by depriving them of fundamental rights and freedoms, because they oppose *apartheid.*

Article III

International criminal responsibility shall apply, irrespective of the motive involved, to individuals, members of organizations and institutions and representatives of the State, whether residing in the territory of the State in which the acts are perpetrated or in some other State, whenever they:

(*a*) Commit, participate in, directly incite or conspire in the commission of the acts mentioned in article II of the present Convention;

(*b*) Directly abet, encourage or co-operate in the commission of the crime of *apartheid.*

Article IV

The States Parties to the present Convention undertake:

(*a*) To adopt any legislative or other measures necessary to suppress as well as to prevent any encouragement of the crime of *apartheid* and similar segregationist policies or their manifestations and to punish persons guilty of that crime;

(*b*) To adopt legislative, judicial and administrative measures to prosecute, bring to trial and punish in accordance with their jurisdiction persons responsible for, or accused of, the acts defined in article II of the present Convention, whether or not such persons reside in the territory of the State in which the acts are committed or are nationals of that State or of some other State or are stateless persons.

Article V

Persons charged with the acts enumerated in article II of the present Convention may be tried by a competent tribunal of any State Party to the Convention which may acquire jurisdiction over the person of the accused or by an international penal tribunal having jurisdiction with respect to those States Parties which shall have accepted its jurisdiction.

Article VI

The States Parties to the present Convention undertake to accept and carry out in accordance with the Charter of the United Nations the decisions taken by the Security Council aimed at the prevention, suppression and punishment of the crime of *apartheid,* and to co-operate in the implementation of decisions adopted by other competent organs of the United Nations with a view to achieving the purposes of the Convention.

Article VII

1. The States Parties to the present Convention undertake to submit periodic reports to the group established under article IX on the legislative, judicial, administrative or other measures that they have adopted and that give effect to the provisions of the Convention.

2. Copies of the reports shall be transmitted through the Secretary-General of the United Nations to the Special Committee on *Apartheid.*

Article VIII

Any State Party to the present Convention may call upon any competent organ of the United Nations to take such action under the Charter of the United Nations as it considers appropriate for the prevention and suppression of the crime of *apartheid.*

Article IX

1. The Chairman of the Commission on Human Rights shall appoint a group consisting of three members of the Commission on Human Rights, who are also representatives of States

Parties to the present Convention, to consider reports submitted by States Parties in accordance with article VII.

2. If, among the members of the Commission on Human Rights, there are no representatives of States Parties to the present Convention or if there are fewer than three such representatives, the Secretary-General of the United Nations shall, after consulting all States Parties to the Convention, designate a representative of the State Party or representatives of the States Parties which are not members of the Commission on Human Rights to take part in the work of the group established in accordance with paragraph 1 of this article, until such time as representatives of the States Parties to the Convention are elected to the Commission on Human Rights.

3. The group may meet for a period of not more than five days, either before the opening or after the closing of the session of the Commission on Human Rights, to consider the reports submitted in accordance with article VII.

Article X

1. The States Parties to the present Convention empower the Commission on Human Rights:

(*a*) To request United Nations organs, when transmitting copies of petitions under article 15 of the International Convention on the Elimination of All Forms of Racial Discrimination, to draw its attention to complaints concerning acts which are enumerated in article II of the present Convention;

(*b*) To prepare, on the basis of reports from competent organs of the United Nations and periodic reports from States Parties to the present Convention, a list of individuals, organizations, institutions and representatives of States which are alleged to be responsible for the crimes enumerated in article II of the Convention, as well as those against whom legal proceedings have been undertaken by States Parties to the Convention;

(*c*) To request information from the competent United Nations organs concerning measures taken by the authorities responsible for the administration of Trust and Non-Self-Governing Territories, and all other Territories to which General Assembly resolution 1514 (XV) of 14 December 1960 applies, with regard to such individuals alleged to be responsible for crimes under article II of the Convention who are believed to be under their territorial and administrative jurisdiction.

2. Pending the achievement of the objectives of the Declaration on the Granting of Independence to Colonial Countries and Peoples, contained in General Assembly resolution 1514 (XV), the provisions of the present Convention shall in no way limit the right of petition granted to those peoples by other international instruments or by the United Nations and its specialized agencies.

Article XI

1. Acts enumerated in article II of the present Convention shall not be considered political crimes for the purpose of extradition.

2. The States Parties to the present Convention undertake in such cases to grant extradition in accordance with their legislation and with the treaties in force.

Article XII

Disputes between States Parties arising out of the interpretation, application or implementation of the present Convention which have not been settled by negotiation shall, at the request of the States Parties to the dispute, be brought before the International Court of Justice, save where the parties to the dispute have agreed on some other form of settlement.

Article XIII

The present Convention is open for signature by all States. Any State which does not sign the Convention before its entry into force may accede to it.

Article XIV

1. The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

2. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article XV

1. The present Convention shall enter into force on the thirtieth day after the date of the deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

2. For each State ratifying the present Convention or acceding to it after the deposit of the twentieth instrument of ratification or instrument of accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or instrument of accession.

Article XVI

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.

Article XVII

1. A request for the revision of this Convention may be made at any time by any State 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 request.

Article XVIII

The Secretary-General of the United Nations shall inform all States of the following particulars:

(*a*) Signatures, ratifications and accessions under articles XIII and XIV;

(*b*) The date of entry into force of the present Convention under article XV;

(*c*) Denunciations under article XVI;

(*d*) Notifications under article XVII.

Article XIX

1. The present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Convention to all States.

---

3. CONVENTION ON THE PREVENTION AND PUNISHMENT OF CRIMES AGAINST INTERNATIONALLY PROTECTED PERSONS, INCLUDING DIPLOMATIC AGENTS. ADOPTED BY GENERAL ASSEMBLY RESOLUTION 3166 (XXVIII) OF 14 DECEMBER 1973

3166 (XXVIII). CONVENTION ON THE PREVENTION AND PUNISHMENT OF CRIMES AGAINST INTERNATIONALLY PROTECTED PERSONS, INCLUDING DIPLOMATIC AGENTS

The General Assembly,

Considering that the codification and progressive development of international law contributes to the implementation of the purposes and principles set forth in Articles 1 and 2 of the Charter of the United Nations,

Recalling that in response to the request made in General Assembly resolution 2780 (XXVI) of 3 December 1971, the International Law Commission, at its twenty-fourth session, studied the question of the protection and inviolability of diplomatic agents and other persons entitled to special protection under international law and prepared draft articles[6] on the prevention and punishment of crimes against such persons,

Having considered the draft articles and also the comments and observations thereon submitted by States, specialized agencies and other intergovernmental organizations[7] in response to the invitation extended by the General Assembly in its resolution 2926 (XXVII) of 28 November 1972,

Convinced of the importance of securing international agreement on appropriate and effective measures for the prevention and punishment of crimes against diplomatic agents and other internationally protected persons in view of the serious threat to the maintenance and promotion of friendly relations and co-operation among States created by the commission of such crimes,

Having elaborated for that purpose the provisions contained in the Convention annexed hereto,

1. *Adopts* the Convention on the Prevention of Crimes against Internationally Protected Persons, including Diplomatic Agents, annexed to the present resolution;

2. *Re-emphasizes* the great importance of the rules of international law concerning the inviolability of and special protection to be afforded to internationally protected persons and the obligations of States in relation thereto;

3. *Considers* that the annexed Convention will enable States to carry out their obligations more effectively;

4. *Recognizes also* that the provisions of the annexed Convention could not in any way prejudice the exercise of the legitimate right to self-determination and independence, in accordance with the purposes and principles of the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations,[8] by peoples struggling against colonialism, alien domination, foreign occupation, racial discrimination and *apartheid*;

5. *Invites* States to become parties to the annexed Convention;

6. *Decides* that the present resolution, whose provisions are related to the annexed Convention, shall always be published together with it.

2202nd plenary meeting
14 December 1973

ANNEX

Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents

The States Parties to this Convention,

Having in mind the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and the promotion of friendly relations and co-operation among States,

---

[6] *Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 10* (A/8710/Rev.1), chap. III, sect. B.

[7] A/9127 and Add.1.

[8] Reproduced in the *Juridical Yearbook*, 1970, p. 104.

Considering that crimes against diplomatic agents and other internationally protected persons jeopardizing the safety of these persons create a serious threat to the maintenance of normal international relations which are necessary for co-operation among States,

Believing that the commission of such crimes is a matter of grave concern to the international community,

Convinced that there is an urgent need to adopt appropriate and effective measures for the prevention and punishment of such crimes,

Have agreed as follows:

Article 1

For the purposes of this Convention:

1. "internationally protected person" means:

(*a*) a Head of State, including any member of a collegial body performing the functions of a Head of State under the constitution of the State concerned, a Head of Government or a Minister for Foreign Affairs, whenever any such person is in a foreign State, as well as members of his family who accompany him;

(*b*) any representative or official of a State or any official or other agent of an international organization of an intergovernmental character who, at the time when and in the place where a crime against him, his official premises, his private accommodation or his means of transport is committed, is entitled pursuant to international law to special protection from any attack on his person, freedom or dignity, as well as members of his family forming part of his household;

2. "alleged offender" means a person as to whom there is sufficient evidence to determine *prima facie* that he has committed or participated in one or more of the crimes set forth in article 2.

Article 2

1. The intentional commission of:

(*a*) a murder, kidnapping or other attack upon the person or liberty of an internationally protected person;

(*b*) a violent attack upon the official premises, the private accommodation or the means of transport of an internationally protected person likely to endanger his person or liberty;

(*c*) a threat to commit any such attack;

(*d*) an attempt to commit any such attack; and

(*e*) an act constituting participation as an accomplice in any such attack shall be made by each State Party a crime under its internal law.

2. Each State Party shall make these crimes punishable by appropriate penalties which take into account their grave nature.

3. Paragraphs 1 and 2 of this article in no way derogate from the obligations of States Parties under international law to take all appropriate measures to prevent other attacks on the person, freedom or dignity of an internationally protected person.

Article 3

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the crimes set forth in article 2 in the following cases:

(*a*) when the crime is committed in the territory of that State or on board a ship or aircraft registered in that State;

(*b*) when the alleged offender is a national of that State;

(*c*) when the crime is committed against an internationally protected person as defined in article 1 who enjoys his status as such by virtue of functions which he exercises on behalf of that State.

2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over these crimes in cases where the alleged offender is present in its territory and it does not extradite him pursuant to article 8 to any of the States mentioned in paragraph 1 of this article.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with internal law.

Article 4

States Parties shall co-operate in the prevention of the crimes set forth in article 2, particularly by:

(*a*) taking all practicable measures to prevent preparations in their respective territories for the commission of those crimes within or outside their territories;

(*b*) exchanging information and co-ordinating the taking of administrative and other measures as appropriate to prevent the commission of those crimes.

Article 5

1. The State Party in which any of the crimes set forth in article 2 has been committed shall, if it has reason to believe that an alleged offender has fled from its territory, communicate to all other States concerned, directly or through the Secretary-General of the United Nations, all the pertinent facts regarding the crime committed and all available information regarding the identity of the alleged offender.

2. Whenever any of the crimes set forth in article 2 has been committed against an internationally protected person, any State Party which has information concerning the victim and the circumstances of the crime shall endeavour to transmit it, under the conditions provided for in its internal law, fully and promptly to the State Party on whose behalf he was exercising his functions.

Article 6

1. Upon being satisfied that the circumstances so warrant, the State Party in whose territory the alleged offender is present shall take the appropriate measures under its internal law so as to ensure his presence for the purpose of prosecution or extradition. Such measures shall be notified without delay directly or through the Secretary-General of the United Nations to:

(*a*) the State where the crime was committed;

(*b*) the State or States of which the alleged offender is a national or, if he is a stateless person, in whose territory he permanently resides;

(*c*) the State or States of which the internationally protected person concerned is a national or on whose behalf he was exercising his functions;

(*d*) all other States concerned; and

(*e*) the international organization of which the internationally protected person concerned is an official or an agent.

2. Any person regarding whom the measures referred to in paragraph 1 of this article are being taken shall be entitled:

(*a*) to communicate without delay with the nearest appropriate representative of the State of which he is a national or which is otherwise entitled to protect his rights or, if he is a stateless person, which he requests and which is willing to protect his rights; and

(*b*) to be visited by a representative of that State.

Article 7

The State Party in whose territory the alleged offender is present shall, if it does not extradite him, submit, without exception whatsoever and without undue delay, the case to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State.

Article 8

1. To the extent that the crimes set forth in article 2 are not listed as extraditable offences in any extradition treaty existing between States Parties, they shall be deemed to be included as such therein. States Parties undertake to include those crimes as extraditable offences in every future extradition treaty to be concluded between them.

2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may, if it decides to extradite, consider this Convention as the legal basis for extradition in respect of those crimes. Extradition shall be subject to the procedural provisions and the other conditions of the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize those crimes as extraditable offences between themselves subject to the procedural provisions and the other conditions of the law of the requested State.

4. Each of the crimes shall be treated, for the purpose of extradition between States Parties, as if it had been committed not only in the place in which it occurred but also in the territories of the States required to establish their jurisdiction in accordance with paragraph 1 of article 3.

Article 9

Any person regarding whom proceedings are being carried out in connexion with any of the crimes set forth in article 2 shall be guaranteed fair treatment at all stages of the proceedings.

Article 10

1. States Parties shall afford one another the greatest measure of assistance in connexion with criminal proceedings brought in respect of the crimes set forth in article 2, including the supply of all evidence at their disposal necessary for the proceedings.

2. The provisions of paragraph 1 of this article shall not affect obligations concerning mutual judicial assistance embodied in any other treaty.

Article 11

The State Party where an alleged offender is prosecuted shall communicate the final outcome of the proceedings to the Secretary-General of the United Nations, who shall transmit the information to the other States Parties.

Article 12

The provisions of this Convention shall not affect the application of the Treaties on Asylum, in force at the date of the adoption of this Convention, as between the States which are parties to those Treaties; but a State Party to this Convention may not invoke those Treaties with respect to another State Party to this Convention which is not a party to those Treaties.

Article 13

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State Party may at the time of signature or ratification of this Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by paragraph 1 of this article with respect to any State Party which has made such a reservation.

3. Any State Party which has made a reservation in accordance with paragraph 2 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 14

This Convention shall be open for signature by all States, until 31 December 1974 at United Nations Headquarters in New York.

Article 15

This Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 16

This Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 17

1. This Convention shall enter into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.

2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article 18

1. Any State Party may denounce this Convention by written notification to the Secretary-General of the United Nations.

2. Denunciation shall take effect six months following the date on which notification is received by the Secretary-General of the United Nations.

Article 19

The Secretary-General of the United Nations shall inform all States, *inter alia*:

(*a*) of signatures of this Convention, of the deposit of instruments of ratification or accession in accordance with articles 14, 15 and 16 and of notifications made under article 18;

(*b*) of the date on which this Convention will enter into force in accordance with article 17.

Article 20

The original of this Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed this Convention, opened for signature at New York on 14 December 1973.[9]

B. Treaties concerning international law concluded under the auspices of intergovernmental organizations related to the United Nations

1. WORLD HEALTH ORGANIZATION

RESOLUTION[10] OF THE TWENTY-SIXTH WORLD HEALTH ASSEMBLY AMENDING THE CONSTITUTION OF THE WORLD HEALTH ORGANIZATION[11]

(Articles 34 and 55)

The Twenty-sixth World Health Assembly,

Having examined the desirability of introducing a biennial programme and budget as set out in Resolution WHA25.24 and in the Report of the Director-General to the Twenty-fifth World Health Assembly on this subject;

Considering the recommendation made to the Twenty-sixth Health Assembly by the Executive Board at its Fifty-first session in Resolution EB51.R51 that a programme and budget for a biennial period be introduced as soon as possible and to adopt the proposed amendments to Articles 34 and 55 of the Constitution;

---

[9] At its 2202nd plenary meeting, on 14 December 1973, the General Assembly adopted the following text as representing an understanding by the members of the Assembly:

"In accordance with its terms, the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, will be open to participation by all States and the Secretary-General of the United Nations will act as depositary. It is the understanding of the General Assembly that the Secretary-General, in discharging his functions as depositary of a convention with an 'all States' clause, will follow the practice of the Assembly in implementing such a clause and, whenever advisable, will request the opinion of the Assembly before receiving a signature or an instrument of ratification or accession."

[10] Resolution WHA 26.37 adopted at the fifteenth plenary meeting, on 22 May 1973.

[11] United Nations, *Treaty Series*, vol. 14, p. 185.

Noting that the provision of Article 73 of the Constitution, which requires that the texts of proposed amendments to the Constitution shall be communicated to Members at least six months before consideration by the Health Assembly, has been duly complied with,

I

1. *Adopts* the amendments to the Constitution set forth in the Annexes to this resolution, and which shall form an integral part of this resolution, the texts in the Chinese, English, French, Russian and Spanish languages being equally authentic;

2. *Decides* that two copies of this resolution shall be authenticated by the signatures of the President of the Twenty-sixth World Health Assembly, and the Director-General of the World Health Organization, of which one copy shall be transmitted to the Secretary-General of the United Nations, depositary of the Constitution, and one copy retained in the archives of the World Health Organization.

II

Considering that the aforesaid amendments to the Constitution shall come into force for all Members when accepted by two-thirds of the Members in accordance with their respective constitutional processes, as provided for in Article 73 of the Constitution,

Decides that the notification of such acceptance shall be effected by the deposit of a formal instrument with the Secretary-General of the United Nations, as required for acceptance of the Constitution by Article 79(b) of the Constitution.

IN FAITH WHEREOF we have appended our signatures hereto.

DONE AT GENEVA this twenty-fourth day of May 1973 in two copies.

(Signed)
J. SULIANTI
President of the Twenty-sixth World Health Assembly

(Signed)
M. G. CANDAU
Director-General of the World Health Organization

ANNEX B [12]

In *Article 34* delete the word "annually",

In Article 55 delete the word "annual";

the amended Articles reading as follows:

Article 34

The Director-General shall prepare and submit to the Board the financial statements and budget estimates of the Organization.

Article 55

The Director-General shall prepare and submit to the Board the budget estimates of the Organization. The Board shall consider and submit to the Health Assembly such budget estimates, together with any recommendations the Board may deem advisable.

[12] Annexes A, C, D and E contain the text of the amendments in Chinese, French, Russian and Spanish respectively.

2. INTER-GOVERNMENTAL MARITIME CONSULTATIVE ORGANIZATION

INTERNATIONAL CONFERENCE ON MARINE POLLUTION 1973

(a) *International Convention for the Prevention of Pollution from Ships, 1973. Done at London on 2 November 1973*

The Parties to the Convention,

Being conscious of the need to preserve the human environment in general and the marine environment in particular,

Recognizing that deliberate, negligent or accidental release of oil and other harmful substances from ships constitutes a serious source of pollution.

Recognizing also the importance of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954,[13] as being the first multilateral instrument to be concluded with the prime objective of protecting the environment, and appreciating the significant contribution which that Convention has made in preserving the seas and coastal environment from pollution,

Desiring to achieve the complete elimination of intentional pollution of the marine environment by oil and other harmful substances and the minimization of accidental discharge of such substances,

Considering that this object may best be achieved by establishing rules not limited to oil pollution having a universal purport,

Have agreed as follows:

Article 1

General Obligations under the Convention

1. The Parties to the Convention undertake to give effect to the provisions of the present Convention and those Annexes thereto by which they are bound, in order to prevent the pollution of the marine environment by the discharge of harmful substances or effluents containing such substances in contravention of the Convention.

2. Unless expressly provided otherwise, a reference to the present Convention constitutes at the same time a reference to its Protocols and to the Annexes.

Article 2

Definitions

For the purposes of the present Convention, unless expressly provided otherwise:

1. "Regulations" means the Regulations contained in the Annexes to the present Convention.

2. "Harmful substance" means any substance which, if introduced into the sea, is liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea, and includes any substance subject to control by the present Convention.

3. (*a*) "Discharge", in relation to harmful substances or effluents containing such substances, means any release howsoever caused from a ship and includes any escape, disposal, spilling, leaking, pumping, emitting or emptying;

(*b*) "Discharge" does not include:

---

[13] United Nations, *Treaty Series*, vol. 327, p. 3.

(i) dumping within the meaning of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, done at London on 13 November 1972; or

(ii) release of harmful substances directly arising from the exploration, exploitation and associated off-shore processing of sea-bed mineral resources; or

(iii) release of harmful substances for purposes of legitimate scientific research into pollution abatement or control.

4. "Ship" means a vessel of any type whatsoever operating in the marine environment and includes hydrofoil boats, air-cushion vehicles, submersibles, floating craft and fixed or floating platforms.

5. "Administration" means the Government of the State under whose authority the ship is operating. With respect to a ship entitled to fly a flag of any State, the Administration is the Government of that State. With respect to fixed or floating platforms engaged in exploration and exploitation of the sea-bed and subsoil thereof adjacent to the coast over which the coastal State exercises sovereign rights for the purposes of exploration and exploitation of their natural resources, the Administration is the Government of the coastal State concerned.

6. "Incident" means an event involving the actual or probable discharge into the sea of a harmful substance, or effluents containing such a substance.

7. "Organization" means the Inter-Governmental Maritime Consultative Organization.

Article 3

Application

1. The present Convention shall apply to:

(*a*) ships entitled to fly the flag of a Party to the Convention; and

(*b*) ships not entitled to fly the flag of a Party but which operate under the authority of a Party.

2. Nothing in the present Article shall be construed as derogating from or extending the sovereign rights of the Parties under international law over the sea-bed and subsoil thereof adjacent to their coasts for the purposes of exploration and exploitation of their natural resources.

3. The present Convention shall not apply to any warship, naval auxiliary or other ship owned or operated by a State and used, for the time being, only on government non-commercial service. However, each Party shall ensure by the adoption of appropriate measures not impairing the operations or operational capabilities of such ships owned or operated by it, that such ships act in a manner consistent, so far as is reasonable and practicable, with the present Convention.

Article 4

Violation

1. Any violation of the requirements of the present Convention shall be prohibited and sanctions shall be established therefor under the law of the Administration of the ship concerned wherever the violation occurs. If the Administration is informed of such a violation and is satisfied that sufficient evidence is available to enable proceedings to be brought in respect of the alleged violation, it shall cause such proceedings to be taken as soon as possible, in accordance with its law.

2. Any violation of the requirements of the present Convention within the jurisdiction of any Party to the Convention shall be prohibited and sanctions shall be established therefor under the law of that Party. Whenever such a violation occurs, that Party shall either:

(*a*) cause proceedings to be taken in accordance with its law; or

(*b*) furnish to the Administration of the ship such information and evidence as may be in its possession that a violation has occurred.

3. Where information or evidence with respect to any violation of the present Convention by a ship is furnished to the Administration of that ship, the Administration shall promptly inform the Party which has furnished the information or evidence, and the Organization, of the action taken.

4. The penalties specified under the law of a Party pursuant to the present Article shall be adequate in severity to discourage violations of the present Convention and shall be equally severe irrespective of where the violations occur.

Article 5

Certificates and Special Rules on Inspection of Ships

1. Subject to the provisions of paragraph 2 of the present Article a certificate issued under the authority of a Party to the Convention in accordance with the provisions of the Regulations shall be accepted by the other Parties and regarded for all purposes covered by the present Convention as having the same validity as a certificate issued by them.

2. A ship required to hold a certificate in accordance with the provisions of the Regulations is subject, while in the ports or off-shore terminals under the jurisdiction of a Party, to inspection by officers duly authorized by that Party. Any such inspection shall be limited to verifying that there is on board a valid certificate, unless there are clear grounds for believing that the condition of the ship or its equipment does not correspond substantially with the particulars of that certificate. In that case, or if the ship does not carry a valid certificate, the Party carrying out the inspection shall take such steps as will ensure that the ship shall not sail until it can proceed to sea without presenting an unreasonable threat of harm to the marine environment. That Party may, however, grant such a ship permission to leave the port or off-shore terminal for the purpose of proceeding to the nearest appropriate repair yard available.

3. If a Party denies a foreign ship entry to the ports or off-shore terminals under its jurisdiction or takes any action against such a ship for the reason that the ship does not comply with the provisions of the present Convention, the Party shall immediately inform the consul or diplomatic representative of the Party whose flag the ship is entitled to fly, or if this is not possible, the Administration of the ship concerned. Before denying entry or taking such action the Party may request consultation with the Administration of the ship concerned. Information shall also be given to the Administration when a ship does not carry a valid certificate in accordance with the provisions of the Regulations.

4. With respect to the ships of non-Parties to the Convention, Parties shall apply the requirements of the present Convention as may be necessary to ensure that no more favourable treatment is given to such ships.

Article 6

Detection of Violations and Enforcement of the Convention

1. Parties to the Convention shall co-operate in the detection of violations and the enforcement of the provisions of the present Convention, using all appropriate and practicable measures of detection and environmental monitoring, adequate procedures for reporting and accumulation of evidence.

2. A ship to which the present Convention applies may, in any port or off-shore terminal of a Party, be subject to inspection by officers appointed or authorized by that Party for the purpose of verifying whether the ship has discharged any harmful substances in violation of the provisions of the Regulations. If an inspection indicates a violation of the Convention, a report shall be forwarded to the Administration for any appropriate action.

3. Any Party shall furnish to the Administration evidence, if any, that the ship has discharged harmful substances or effluents containing such substances in violation of the

provisions of the Regulations. If it is practicable to do so, the competent authority of the former Party shall notify the Master of the ship of the alleged violation.

4. Upon receiving such evidence, the Administration so informed shall investigate the matter, and may request the other Party to furnish further or better evidence of the alleged contravention. If the Administration is satisfied that sufficient evidence is available to enable proceedings to be brought in respect of the alleged violation, it shall cause such proceedings to be taken in accordance with its law as soon as possible. The Administration shall promptly inform the Party which has reported the alleged violation, as well as the Organization, of the action taken.

5. A Party may also inspect a ship to which the present Convention applies when it enters the ports or off-shore terminals under its jurisdiction, if a request for an investigation is received from any Party together with sufficient evidence that the ship has discharged harmful substances or effluents containing such substances in any place. The report of such investigation shall be sent to the Party requesting it and to the Administration so that the appropriate action may be taken under the present Convention.

Article 7

Undue Delay to Ships

1. All possible efforts shall be made to avoid a ship being unduly detained or delayed under Article 4, 5 or 6 of the present Convention.

2. When a ship is unduly detained or delayed under Article 4, 5 or 6 of the present Convention, it shall be entitled to compensation for any loss or damage suffered.

Article 8

Reports on Incidents Involving Harmful Substances

1. A report of an incident shall be made without delay to the fullest extent possible in accordance with the provisions of Protocol I to the present Convention.

2. Each Party to the Convention shall:

(*a*) make all arrangements necessary for an appropriate officer or agency to receive and process all reports on incidents; and

(*b*) notify the Organization with complete details of such arrangements for circulation to other Parties and Member States of the Organization.

3. Whenever a Party receives a report under the provisions of the present Article, that Party shall relay the report without delay to:

(*a*) the Administration of the ship involved; and

(*b*) any other other State which may be affected.

4. Each Party to the Convention undertakes to issue instructions to its maritime inspection vessels and aircraft and to other appropriate services, to report to its authorities any incident referred to in Protocol I to the present Convention. That Party shall, if it considers it appropriate, report accordingly to the Organization and to any other party concerned.

Article 9

Other Treaties and Interpretation

1. Upon its entry into force, the present Convention supersedes the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, as amended, as between Parties to that Convention.

2. Nothing in the present Convention shall prejudice the codification and development of the law of the sea by the United Nations Conference on the Law of the Sea convened pursuant to Resolution 2750 C(XXV) of the General Assembly of the United Nations nor the

present or future claims and legal views of any State concerning the law of the sea and the nature and extent of coastal and flag State jurisdiction.

3. The term "jurisdiction" in the present Convention shall be construed in the light of international law in force at the time of application or interpretation of the present Convention.

Article 10

Settlement of Disputes

Any dispute between two or more Parties to the Convention concerning the interpretation or application of the present Convention shall, if settlement by negotiation between the Parties involved has not been possible, and if these Parties do not otherwise agree, be submitted upon request of any of them to arbitration as set out in Protocol II to the present Convention.

Article 11

Communication of Information

1. The Parties to the Convention undertake to communicate to the Organization:

(*a*) the text of laws, orders, decrees and regulations and other instruments which have been promulgated on the various matters within the scope of the present Convention;

(*b*) a list of non-governmental agencies which are authorized to act on their behalf in matters relating to the design, construction and equipment of ships carrying harmful substances in accordance with the provisions of the Regulations;

(*c*) a sufficient number of specimens of their certificates issued under the provisions of the Regulations;

(*d*) a list of reception facilities including their location, capacity and available facilities and other characteristics;

(*e*) official reports or summaries of official reports in so far as they show the results of the application of the present Convention; and

(*f*) an annual statistical report, in a form standardized by the Organization, of penalties actually imposed for infringement of the present Convention.

2. The Organization shall notify Parties of the receipt of any communications under the present Article and circulate to all Parties any information communicated to it under subparagraphs 1 (*b*) to (*f*) of the present Article.

Article 12

Casualties to Ships

1. Each Administration undertakes to conduct an investigation of any casualty occurring to any of its ships subject to the provisions of the Regulations if such casualty has produced a major deleterious effect upon the marine environment.

2. Each Party to the Convention undertakes to supply the Organization with information concerning the findings of such investigation, when it judges that such information may assist in determining what changes in the present Convention might be desirable.

Article 13

Signature, Ratification, Acceptance, Approval and Accession

1. The present Convention shall remain open for signature at the Headquarters of the Organization from 15 January 1974 until 31 December 1974 and shall thereafter remain open for accession. States may become Parties to the present Convention by:

(*a*) signature without reservation as to ratification, acceptance or approval; or

(*b*) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or

(*c*) accession.

2. Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General of the Organization.

3. The Secretary-General of the Organization shall inform all States which have signed the present Convention or acceded to it of any signature or of the deposit of any new instrument of ratification, acceptance, approval or accession and the date of its deposit.

Article 14

Optional Annexes

1. A State may at the time of signing, ratifying, accepting, approving or acceding to the present Convention declare that it does not accept any one or all of Annexes III, IV and V (hereinafter referred to as "Optional Annexes") of the present Convention. Subject to the above, Parties to the Convention shall be bound by any Annex in its entirety.

2. A State which has declared that it is not bound by an Optional Annex may at any time accept such Annex by depositing with the Organization an instrument of the kind referred to in Article 13(2).

3. A State which makes a declaration under paragraph 1 of the present Article in respect of an Optional Annex and which has not subsequently accepted that Annex in accordance with paragraph 2 of the present Article shall not be under any obligation nor entitled to claim any privileges under the present Convention in respect of matters related to such Annex and all references to Parties in the present Convention shall not include that State in so far as matters related to such Annex are concerned.

4. The Organization shall inform the States which have signed or acceded to the present Convention of any declaration under the present Article as well as the receipt of any instrument deposited in accordance with the provisions of paragraph 2 of the present Article.

Article 15

Entry into Force

1. The present Convention shall enter into force twelve months after the date on which not less than fifteen States, the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of the world's merchant shipping, have become parties to it in accordance with Article 13.

2. An Optional Annex shall enter into force twelve months after the date on which the conditions stipulated in paragraph 1 of the present Article have been satisfied in relation to that Annex.

3. The Organization shall inform the States which have signed the present Convention or acceded to it of the date on which it enters into force and of the date on which an Optional Annex enters into force in accordance with paragraph (2) of the present Article.

4. For States which have deposited an instrument of ratification, acceptance, approval or accession in respect of the present Convention or any Optional Annex after the requirements for entry into force thereof have been met but prior to the date of entry into force, the ratification, acceptance, approval or accession shall take effect on the date of entry into force of the Convention or such Annex or three months after the date of deposit of the instrument whichever is the later date.

5. For States which have deposited an instrument of ratification, acceptance, approval or accession after the date on which the Convention or an Optional Annex entered into force, the Convention or the Optional Annex shall become effective three months after the date of deposit of the instrument.

6. After the date on which all the conditions required under Article 16 to bring an amendment to the present Convention or an Optional Annex into force have been fulfilled, any instrument of ratification, acceptance, approval or accession deposited shall apply to the Convention or Annex as amended.

Article 16

Amendments

1. The present Convention may be amended by any of the procedures specified in the following paragraphs.

2. Amendments after consideration by the Organization:

(*a*) any amendment proposed by a Party to the Convention shall be submitted to the Organization and circulated by its Secretary-General to all Members of the Organization and all Parties at least six months prior to its consideration;

(*b*) any amendment proposed and circulated as above shall be submitted to an appropriate body by the Organization for consideration;

(*c*) Parties to the Convention, whether or not Members of the Organization, shall be entitled to participate in the proceedings of the appropriate body;

(*d*) amendments shall be adopted by a two-thirds majority of only the Parties to the Convention present and voting;

(*e*) if adopted in accordance with sub-paragraph (*d*) above, amendments shall be communicated by the Secretary-General of the Organization to all the Parties to the Convention for acceptance;

(*f*) an amendment shall be deemed to have been accepted in the following circumstances:

(i) an amendment to an Article of the Convention shall be deemed to have been accepted on the date on which it is accepted by two-thirds of the Parties, the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of the world's merchant fleet;

(ii) an amendment to an Annex to the Convention shall be deemed to have been accepted in accordance with the procedure specified in subparagraph (*f*)(iii) above unless the appropriate body, at the time of its adoption, determines that the amendment shall be deemed to have been accepted on the date on which it is accepted by two-thirds of the Parties, the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of the world's merchant fleet. Nevertheless, at any time before the entry into force of an amendment to an Annex to the Convention, a Party may notify the Secretary-General of the Organization that its express approval will be necessary before the amendment enters into force for it. The latter shall bring such notification and the date of its receipt to the notice of Parties;

(iii) an amendment to an Appendix to an Annex to the Convention shall be deemed to have been accepted at the end of a period to be determined by the appropriate body at the time of its adoption, which period shall be not less than ten months, unless within that period an objection is communicated to the Organization by not less than one third of the Parties or by the Parties the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of the world's merchant fleet whichever condition is fulfilled;

(iv) an amendment to Protocol I to the Convention shall be subject to the same procedures as for the amendments to the Annexes to the Convention, as provided for in subparagraphs (*f*)(ii) or (*f*)(iii) above;

(v) an amendment to Protocol II to the Convention shall be subject to the same procedures as for the amendments to an Article of the Convention, as provided for in subparagraph (*f*)(i) above;

(*g*) the amendment shall enter into force under the following conditions:

(i) in the case of an amendment to an Article of the Convention, to Protocol II, or to Protocol I or to an Annex to the Convention not under the procedure specified in subparagraph (*f*)(iii), the amendment accepted in conformity with the foregoing provisions shall enter into force six months after the date of its acceptance with respect to the Parties which have declared that they have accepted it;

(ii) in the case of an amendment to Protocol I, to an Appendix to an Annex or to an Annex to the Convention under the procedure specified in subparagraph (*f*) (iii), the amendment deemed to have been accepted in accordance with the foregoing conditions shall enter into force six months after its acceptance for all the Parties with the exception of those which, before that date, have made a declaration that they do not accept it or a declaration under subparagraph (*f*)(ii) of this paragraph, that their express approval is necessary.

3. Amendment by a Conference:

(*a*) Upon the request of a Party, concurred in by at least one third of the Parties, the Organization shall convene a Conference of Parties to the Convention to consider amendments to the present Convention.

(*b*) Every amendment adopted by such a Conference by a two-thirds majority of those present and voting of the Parties shall be communicated by the Secretary-General of the Organization to all Contracting Parties for their acceptance.

(*c*) Unless the Conference decides otherwise, the amendment shall be deemed to have been accepted and to have entered into force in accordance with the procedures specified for that purpose in paragraphs 2 (*f*) and (*g*) above.

4. (*a*) In the case of an amendment to an Optional Annex, a reference in the present Article to a "Party to the Convention" shall be deemed to mean a reference to a Party bound by that Annex.

(*b*) Any Party which has declined to accept an amendment to an Annex shall be treated as a non-Party only for the purpose of application of that Amendment.

5. The adoption and entry into force of a new Annex shall be subject to the same procedures as for the adoption and entry into force of an amendment to an Article of the Convention.

6. Unless expressly provided otherwise, any amendment to the present Convention made under this Article, which relates to the structure of a ship, shall apply only to ships for which the building contract is placed, or in the absence of a building contract, the keel of which is laid, on or after the date on which the amendment comes into force.

7. Any amendment to a Protocol or to an Annex shall relate to the substance of that Protocol or Annex and shall be consistent with the Articles of the present Convention.

8. The Secretary-General of the Organization shall inform all Parties of any amendments which enter into force under the present Article, together with the date on which each such amendment enters into force.

9. Any declaration of acceptance or of objection to an amendment under the present Article shall be notified in writing to the Secretary-General of the Organization. The latter shall bring such notification and the date of its receipt to the notice of the Parties to the Convention.

Article 17

Promotion of Technical Co-operation

The Parties to the Convention shall promote, in consultation with the Organization and other international bodies, with assistance and co-ordination by the Executive Director of the United Nations Environment Programme, support for those Parties which request technical assistance for:

(*a*) the training of scientific and technical personnel;

(*b*) the supply of necessary equipment and facilities for reception and monitoring;

(*c*) the facilitation of other measures and arrangements to prevent or mitigate pollution of the marine environment by ships; and

(*d*) the encouragement of research;

preferably within the countries concerned, so furthering the aims and purposes of the present Convention.

Article 18

Denunciation

1. The present Convention or any Optional Annex may be denounced by any Parties to the Convention at any time after the expiry of five years from the date on which the Convention or such Annex enters into force for that Party.

2. Denunciation shall be effected by notification in writing to the Secretary-General of the Organization who shall inform all the other Parties of any such notification received and of the date of its receipt as well as the date on which such denunciation takes effect.

3. A denunciation shall take effect twelve months after receipt of the notification of denunciation by the Secretary-General of the Organization or after the expiry of any other longer period which may be indicated in the notification.

Article 19

Deposit and Registration

1. The present Convention shall be deposited with the Secretary-General of the Organization who shall transmit certified true copies thereof to all States which have signed the present Convention or acceded to it.

2. As soon as the present Convention enters into force, the text shall be transmitted by the Secretary-General of the Organization to the Secretary-General of the United Nations for registration and publication, in accordance with Article 102 of the Charter of the United Nations.

Article 20

Languages

The present Convention is established in a single copy in the English, French, Russian and Spanish languages, each text being equally authentic. Official translations in the Arabic, German, Italian and Japanese languages shall be prepared and deposited with the signed original.

IN WITNESS WHEREOF the undersigned * being duly authorized by their respective Governments for that purpose have signed the present Convention.

DONE AT LONDON this second day of November, one thousand nine hundred and seventy-three.

PROTOCOL I. PROVISIONS CONCERNING REPORTS ON INCIDENTS INVOLVING HARMFUL SUBSTANCES

(in accordance with Article 8 of the Convention)

[*Not reproduced*]

PROTOCOL II. ARBITRATION

(in accordance with Article 10 of the Convention)

Article I

Arbitration procedure, unless the Parties to the dispute decide otherwise, shall be in accordance with the rules set out in this Protocol.

* *Signatures omitted.*

Article II

1. An Arbitration Tribunal shall be established upon the request of one Party to the Convention addressed to another in application of Article 10 of the present Convention. The request for arbitration shall consist of a statement of the case together with any supporting documents.

2. The requesting Party shall inform the Secretary-General of the Organization of the fact that it has applied for the establishment of a Tribunal, of the names of the Parties to the dispute, and of the Articles of the Convention or Regulations over which there is in its opinion disagreement concerning their interpretation or application. The Secretary-General shall transmit this information to all Parties.

Article III

The Tribunal shall consist of three members: one Arbitrator nominated by each Party to the dispute and a third Arbitrator who shall be nominated by agreement between the two first named, and shall act as its Chairman.

Article IV

1. If, at the end of a period of sixty days from the nomination of the second Arbitrator, the Chairman of the Tribunal shall not have been nominated, the Secretary-General of the Organization upon request of either Party shall within a further period of sixty days proceed to such nomination, selecting him from a list of qualified persons previously drawn up by the Council of the Organization.

2. If, within a period of sixty days from the date of the receipt of the request, one of the Parties shall not have nominated the member of the Tribunal for whose designation it is responsible, the other Party may directly inform the Secretary-General of the Organization who shall nominate the Chairman of the Tribunal within a period of sixty days, selecting him from the list prescribed in paragraph 1 of the present Article.

3. The Chairman of the Tribunal shall, upon nomination, request the Party which has not provided an Arbitrator, to do so in the same manner and under the same conditions. If the Party does not make the required nomination, the Chairman of the Tribunal shall request the Secretary-General of the Organization to make the nomination in the form and conditions prescribed in the preceding paragraph.

4. The Chairman of the Tribunal, if nominated under the provisions of the present Article, shall not be or have been a national of one of the Parties concerned, except with the consent of the other Party.

5. In the case of the decease or default of an Arbitrator for whose nomination one of the Parties is responsible, the said Party shall nominate a replacement within a period of sixty days from the date of decease or default. Should the said Party not make the nomination, the arbitration shall proceed under the remaining Arbitrators. In case of the decease or default of the Chairman of the Tribunal, a replacement shall be nominated in accordance with the provisions of Article III above, or in the absence of agreement between the members of the Tribunal within a period of sixty days of the decease or default, according to the provisions of the present Article.

Article V

The Tribunal may hear and determine counter-claims arising directly out of the subject matter of the dispute.

Article VI

Each Party shall be responsible for the remuneration of its Arbitrator and connected costs and for the costs entailed by the preparation of its own case. The remuneration of the

Chairman of the Tribunal and of all general expenses incurred by the Arbitration shall be borne equally by the Parties. The Tribunal shall keep a record of all its expenses and shall furnish a final statement thereof.

Article VII

Any Party to the Convention which has an interest of a legal nature and which may be affected by the decision in the case may, after giving written notice to the Parties which have originally initiated the procedure, join in the arbitration procedure with the consent of the Tribunal.

Article VIII

Any Arbitration Tribunal established under the provisions of the present Protocol shall decide its own rules of procedure.

Article IX

1. Decisions of the Tribunal both as to its procedure and its place of meeting and as to any question laid before it, shall be taken by majority votes of its members; the absence or abstention of one of the members of the Tribunal for whose nomination the Parties were responsible, shall not constitute an impediment to the Tribunal reaching a decision. In cases of equal voting, the vote of the Chairman shall be decisive.

2. The Parties shall facilitate the work of the Tribunal and in particular, in accordance with their legislation, and using all means at their disposal:

(*a*) provide the Tribunal with the necessary documents and information;

(*b*) enable the Tribunal to enter their territory, to hear witnesses or experts, and to visit the scene.

3. Absence or default of one Party shall not constitute an impediment to the procedure.

Article X

1. The Tribunal shall render its award within a period of five months from the time it is established unless it decides, in the case of necessity, to extend the time limit for a further period not exceeding three months. The award of the Tribunal shall be accompanied by a statement of reasons. It shall be final and without appeal and shall be communicated to the Secretary-General of the Organization. The Parties shall immediately comply with the award.

2. Any controversy which may arise between the Parties as regards interpretation or execution of the award may be submitted by either Party for judgment to the Tribunal which made the award, or, if it is not available to another Tribunal constituted for this purpose, in the same manner as the original Tribunal.

Annexes

[*Not reproduced*]

(b) *Protocol relating to Intervention on the High Seas in Cases of Marine Pollution by Substances other than Oil. Done at London on 2 November 1973*

The Parties to the Present Protocol,

Being Parties to the International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, done at Brussels on 29 November 1969,[14]

[14] Reproduced in the *Juridical Yearbook*, 1969, p. 166.

Taking into account the Resolution on International Co-operation Concerning Pollutants other than Oil adopted by the International Legal Conference on Marine Pollution Damage, 1969,[15]

Further taking into account that pursuant to the Resolution, the Inter-Governmental Maritime Consultative Organization has intensified its work, in collaboration with all interested international organizations, on all aspects of pollution by substances other than oil,

Have agreed as follows:

Article I

1. Parties to the present Protocol may take such measures on the high seas as may be necessary to prevent, mitigate or eliminate grave and imminent danger to their coastline or related interests from pollution or threat of pollution by substances other than oil following upon a maritime casualty or acts related to such a casualty, which may reasonably be expected to result in major harmful consequences.

2. "Substances other than oil" as referred to in paragraph 1 shall be:

(*a*) those substances enumerated in a list which shall be established by an appropriate body designated by the Organization and which shall be annexed to the present Protocol, and

(*b*) those other substances which are liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea.

3. Whenever an intervening Party takes action with regard to a substance referred to in paragraph 2(*b*) above that Party shall have the burden of establishing that the substance, under the circumstances present at the time of the intervention, could reasonably pose a grave and imminent danger analogous to that posed by any of the substances enumerated in the list referred to in paragraph 2(*a*) above.

Article II

1. The provisions of paragraph 2 of Article I and of Articles II to VIII of the Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969, and the Annex thereto as they relate to oil, shall be applicable with regard to the substances referred to in Article I of the present Protocol.

2. For the purpose of the present Protocol the list of experts referred to in Articles III (*c*) and IV of the Convention shall be extended to include experts qualified to give advice in relation to substances other than oil. Nominations to the list may be made by Member States of the Organization and by Parties to the present Protocol.

Article III

1. The list referred to in paragraph 2(*a*) of Article I shall be maintained by the appropriate body designated by the Organization.

2. Any amendment to the list proposed by a Party to the present Protocol shall be submitted to the Organization and circulated by it to all Members of the Organization and all Parties to the present Protocol at least three months prior to its consideration by the appropriate body.

3. Parties to the present Protocol whether or not Members of the Organization shall be entitled to participate in the proceedings of the appropriate body.

4. Amendments shall be adopted by a two-thirds majority of only the Parties to the present Protocol present and voting.

5. If adopted in accordance with paragraph 4 above, the amendment shall be communicated by the Organization to all Parties to the present Protocol for acceptance.

[15] *Ibid.*, p. 181.

6. The amendment shall be deemed to have been accepted at the end of a period of six months after it has been communicated, unless within that period an objection to the amendment has been communicated to the Organization by not less than one-third of the Parties to the present Protocol.

7. An amendment deemed to have been accepted in accordance with paragraph 6 above shall enter into force three months after its acceptance for all Parties to the present Protocol, with the exception of those which before that date have made a declaration of non-acceptance of the said amendment.

Article IV

1. The present Protocol shall be open for signature by the States which have signed the Convention referred to in Article II or acceded thereto, and by any State invited to be represented at the International Conference on Marine Pollution, 1973. The Protocol shall remain open for signature from 15 January 1974 until 31 December 1974 at the Headquarters of the Organization.

2. Subject to paragraph 4 of this Article, the present Protocol shall be subject to ratification, acceptance or approval by the States which have signed it.

3. Subject to paragraph 4, this Protocol shall be open for accession by States which did not sign it.

4. The present Protocol may be ratified, accepted, approved or acceded to only by States which have ratified, accepted, approved or acceded to the Convention referred to in Article II.

Article V

1. Ratification, acceptance, approval or accession shall be effected by the deposit of a formal instrument to that effect with the Secretary-General of the Organization.

2. Any instrument of ratification, acceptance, approval or accession deposited after the entry into force of an amendment to the present Protocol with respect to all existing Parties or after the completion of all measures required for the entry into force of the amendment with respect to all existing Parties shall be deemed to apply to the Protocol as modified by the amendment.

Article VI

1. The present Protocol shall enter into force on the ninetieth day following the date on which fifteen States have deposited instruments of ratification, acceptance, approval or accession with the Secretary-General of the Organization, provided however that the present Protocol shall not enter force before the Convention referred to in Article II has entered into force.

2. For each State which subsequently ratifies, accepts, approves or accedes to it, the present Protocol shall enter into force on the ninetieth day after the deposit by such State of the appropriate instrument.

Article VII

1. The present Protocol may be denounced by any Party at any time after the date on which the Protocol enters into force for that Party.

2. Denunciation shall be effected by the deposit of an instrument to that effect with the Secretary-General of the Organization.

3. Denunciation shall take effect one year, or such longer period as may be specified in the instrument of denunciation, after its deposit with the Secretary-General of the Organization.

4. Denunciation of the Convention referred to in Article II by a Party shall be deemed to be a denunciation of the present Protocol by that Party. Such denunciation shall take effect on

the same day as the denunciation of the Convention takes effect in accordance with paragraph 3 of Article XII of that Convention.

Article VIII

1. A conference for the purpose of revising or amending the present Protocol may be convened by the Organization.

2. The Organization shall convene a conference of Parties to the present Protocol for the purpose of revising or amending it at the request of not less than one third of the Parties.

Article IX

1. The present Protocol shall be deposited with the Secretary-General of the Organization.

2. The Secretary-General of the Organization shall:

(*a*) inform all States which have signed the present Protocol or acceded thereto of:

(i) each new signature or deposit of an instrument together with the date thereof;

(ii) the date of entry into force of the present Protocol;

(iii) the deposit of any instrument of denunciation of the present Protocol together with the date on which the denunciation takes effect;

(iv) any amendments to the present Protocol or its Annex and any objection or declaration of non-acceptance of the said amendment;

(*b*) transmit certified true copies of the present Protocol to all States which have signed the present Protocol or acceded thereto.

Article X

As soon as the present Protocol enters into force, a certified true copy thereof shall be transmitted by the Secretary-General of the Organization to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

Article XI

The present Protocol is established in a single original in the English, French, Russian and Spanish languages, all four texts being equally authentic.

IN WITNESS WHEREOF the undersigned being duly authorized for that purpose have signed the present Protocol.

DONE AT LONDON this second day of November one thousand nine hundred and seventy-three.

Chapter V

DECISIONS OF ADMINISTRATIVE TRIBUNALS OF THE UNITED NATIONS AND RELATED INTERGOVERNMENTAL ORGANIZATIONS

A. Decisions of the Administrative Tribunal of the United Nations [1]

1. JUDGEMENT NO. 167 (23 MARCH 1973):[2] FERNANDEZ RODRIGUEZ v. SECRETARY-GENERAL OF THE UNITED NATIONS

Application alleging non-observance of terms of appointment—Principle of good faith in relations between the parties to an agreement—Compensation for injury caused by invalid periodic report

The applicant, after having worked for some time at the Latin American Institute for Economic and Social Planning, agreed that his appointment with the Institute should be terminated and that he should be assigned to ECLA. A few months before his contract with ECLA expired, he complained that the terms of the arrangement to which he had agreed had not been observed and requested that he be reinstated in his post with the Institute. After being advised that consultations had been started with Headquarters before taking a final decision on his request and that in the meantime he would have to continue to discharge his duties at ECLA, he filed an appeal with the Joint Appeals Board. Since he was not satisfied with the decision taken by the Secretary-General of the United Nations in the light of the recommendations of the Board, he filed an application with the Tribunal, alleging that the aforementioned arrangement had not been justified and that his assignment to ECLA in violation of the principle of good faith had caused him enormous material and moral injury.

The Tribunal noted that the applicant had been assigned to ECLA as a result of a mutual agreement between the Institute, ECLA and the applicant; since there was no evidence of what had been mutually agreed upon, it was not in a position to find that the assignment of duties to the applicant by ECLA was either a breach of any agreement arrived at during the compromise of his appeal or a violation of any specific staff regulation or rule applicable to him.

The applicant contended that the functions assigned to him in ECLA were a violation of his terms of appointment. The Tribunal noted that when the applicant was assigned to ECLA,

[1] 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 1973, 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 and 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 Telecommunication Union, 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.

[2] Mr. R. Venkataraman, President; Mme P. Bastid, Vice-President; Mr. F. A. Forteza, Member.

he had every reason to expect fair treatment in the new sphere of activity allotted to him, but he had been assigned duties which he was not qualified to perform, for example, the gleaning of information from publications written in a language with which he was not familiar. The Tribunal therefore endorsed the conclusion of the Joint Appeals Board that "the respondent, by assigning the appellant to work in ECLA which he was patently unqualified to perform, had disregarded the principle of good faith in relations between the parties to an agreement". However, it found that since the applicant had completed the full term of his appointment he had suffered no financial loss.

With regard to moral injury, the Tribunal observed that, as stated in its Judgement No. 92[3] "in awarding damages it [the Tribunal] has to be satisfied that the damages claimed follow naturally as a consequence of the action contested", and considered that the moral injury mentioned by the applicant was too vague and not capable of quantification in terms of money.

The applicant also affirmed that he had been the subject of an unfavourable periodic report which the Secretary-General had subsequently decided, in accordance with a recommendation of the Joint Appeals Board, to withdraw from his file, and which had jeopardized his employment prospects. The Tribunal considered that the evidence provided by the applicant did support that assertion to a certain extent and awarded the applicant a sum of $1,000 as compensation.

2. JUDGEMENT NO. 168 (26 MARCH 1973):[4] MARIAFFY V. SECRETARY-GENERAL OF THE UNITED NATIONS

Application contesting a decision terminating a probationary appointment—Latitude accorded the Administration concerning the duration of the probationary period—Assessment of suitability as an international civil servant is a matter within the competence of the Secretary-General

The applicant held a probationary appointment, which would normally have lasted for two years. Shortly before the end of this two-year period, the competent authorities in the applicant's duty station did not recommend that he should be given a permanent appointment or that his appointment should be terminated, but that it should be extended for an additional year. That view was not accepted by the Office of Personnel in New York, which recommended that the applicant's services should be terminated. That recommendation was accepted by the Appointment and Promotion Committee. The applicant's appointment was therefore terminated pursuant to Staff Regulation 9.1 (*c*).

The applicant contested the decision to terminate his appointment before the Tribunal; in his view, the decision had not been taken in full awareness of his abilities because for medical reasons he had worked only 16 out of the 21 months of service which the Appointment and Promotion Committee had taken into consideration and thus had not had the opportunity to serve a normal probationary period. The Tribunal observed that the probationary contract and the relevant provisions of the Staff Rules and Staff Regulations contained no strict rules relating to the length of service. It was merely stated in Staff Rule 104.12 (*a*) that "The period of probationary service under such an appointment shall normally be two years" and that "The probationary appointment shall have no specific expiration date". Only the possibility of extending the probationary period "in exceptional circumstances" was, under that rule, limited to one year at the most.

The Tribunal therefore considered that the respondent had a wide margin of discretion in determining the moment at which a decision was taken on the future of the holder of a probationary contract and there were no grounds for asserting that the respondent was legally obliged to extend the probationary period in order to compensate for the applicant's absenses for medical reasons.

---

[3] See *Juridical Yearbook*, 1964, p. 206.

[4] Mme P. Bastid, Vice-President, presiding; Mr. F. A. Forteza, Member; Mr. Mutuale-Tshikantshe, Member.

The applicant also contended that it was not correct to state that he had not proved his suitability as an international civil servant. The Tribunal observed that the assessment of the applicant's abilities was a matter within the competence of the respondent, who must also take into consideration, on the recommendation of his appropriate advisers, medical factors as they existed at the time when the question of the granting of a permanent contract arose.

3. JUDGEMENT NO. 169 (26 MARCH 1973): [5] SENGHOR v. SECRETARY-GENERAL OF THE UNITED NATIONS

Termination of the appointment of a staff member holding a fixed-term appointment—The individual concerned must be informed of the reason for the decision to terminate his appointment at the time when it is taken—Payment of compensation in lieu of specific performance

The applicant held a fixed-term appointment with the Economic Commission for Africa (ECA). Just over a year after he took up his duties, he sent to his uncle, the President of Senegal, a letter of which he sent a copy to the Executive Secretary of ECA and in which he expressed his desire to "devote himself fully and fearlessly to an intelligent campaign which would open wide the doors of ECA to *'francophonie'*", and described how he was trying "skilfully to overcome obstacles and in spite of [the Executive Secretary] to bring about the basic changes which are needed". On the same day, the Executive Secretary sent the applicant a confidential memorandum in which he said that he considered the applicant unsuited to fulfil the duties of an international civil servant. Some months later, in a confidential memorandum addressed to the Director of Personnel, he recommended termination of the applicant's appointment. Two years after he entered the service, the applicant was given a periodic report in which he was rated as "on the whole, an unsatisfactory staff member", and which he rebutted as being ill-founded. Some months later, he requested a transfer to United Nations Headquarters in New York, but the Office of Personnel informed him that the prospects of finding a suitable post for him were bad and suggested that he should resign or agree to the termination of his appointment with full indemnities. The applicant rejected those proposals and a decision was then taken terminating his appointment. The Joint Appeals Board, with which he lodged an appeal, recommended the payment to the applicant of compensation equal to the total of his salary and allowances for the period between the date of the termination of his appointment and the date on which that appointment was due to expire. The Secretary-General decided to grant the applicant compensation amounting to six months of his salary and allowances.

The Tribunal had first to consider whether the decisions taken with respect to the applicant disregarded his rights under his contract and under the provisions of the Staff Regulations and Rules. It noted that although the letter informing the applicant of his termination referred to Staff Regulation 9.1 (*b*), which authorizes the termination of the appointment of a staff member with a fixed-term appointment for any of the reasons specified in Regulation 9.1 (*a*) (Unsatisfactory service, abolition of post or reasons of health), it gave no precise reason for the termination. The same applied to the letter confirming the termination decision. Not until a later stage had the Administration expressed its regrets to the applicant that the reason for the termination had not been conveyed to him before and explained to him that his appointment had been terminated for unsatisfactory service.

The Tribunal found that the Secretary-General had modified his decision concerning the amount of the indemnity to be paid to the applicant "in the light of" the report of the Joint Appeals Board, an attitude which necessarily implied acceptance in substance of the Board's position. The respondent admitted that the termination of the appointment was improper, but his assessment of the injury sustained by the applicant was different from and less favourable than that of the Board. The Tribunal consequently considered that the question still at issue was essentially that of the amount of compensation to which the applicant was entitled.

[5] Mme P. Bastid, Vice-President, presiding; Mr. F. A. Forteza, Member; Mr. Mutuale-Tshikantshe, Member.

In that connexion the Tribunal noted that at the time when the termination decision was taken, the applicant had not been officially informed of the reason for the termination and had not been requested to give an explanation. The contested decision must therefore be regarded as improper.

Noting that the applicant had not requested reinstatement and that in any event his contract had expired before the pronouncement of the judgement, the Tribunal concluded that rescission of the contested decision could not have the effect of restoring the parties to the *status quo ante*. Referring to previous judgements (No. 68,[6] 92[7] and 113[8]), it stated that compensation in lieu of specific performance might prove to be adequate and proper relief. In that connexion the Tribunal referred to its Judgement No. 113[9] in which it had granted the individual concerned, as compensation, the equivalent of his base salary for the period of the contract remaining as from the date of termination. It considered, however, that the applicant could not expect to remain in his post until the end of his contract and considered that in assessing the injury sustained at an amount equal to six months' salary and allowances, the respondent had assessed the injury equitably and reasonably.

4. JUDGEMENT NO. 170 (30 MARCH 1973):[10] SULE v. SECRETARY-GENERAL OF THE UNITED NATIONS

Application contesting a decision refusing to renew a fixed-term appointment or to convert it into a different type of appointment

The applicant, who had entered the service of the UNDP Office at Lagos on 9 September 1963, received a succession of fixed-term appointments, the last of which was due to expire on 31 January 1968. On 29 May 1967 he was suspended indefinitely from duty without pay on the grounds of misconduct and insubordination and on 11 September 1967 his appointment was terminated on the ground of unsatisfactory services under Staff Regulation 9.1 (*b*). The Joint Appeals Board, with which he filed an appeal, submitted a report in the light of which the Secretary-General decided to rescind the termination decision and to order that the applicant's fixed-term appointment be allowed to run its course. The applicant then asserted that his contract was due for renewal covering the period February 1968-February 1969 and that by September 1968 he had become eligible for indefinite appointment. Since he was denied such an appointment and the outcome of his appeal to the Joint Appeals Board was not favourable to him, he submitted an application to the Tribunal, requesting basically (1) rescission of the decision of the Secretary-General not to renew his fixed-term appointment and not to convert that appointment into an indefinite appointment and (2) payment of compensation for the injury sustained.

The Tribunal noted that the applicant's letter of appointment contained the following provision: "This Fixed-Term Appointment does not carry any expectancy of renewal or of conversion to any other type of appointment in the Secretariat of the UNDP", and that Staff Rule 104.12 (*b*) contained a similar provision. With regard to the Conditions of Service for locally recruited staff members of the UNDP Office in Nigeria, the Tribunal noted that paragraph 3 (*a*) reads as follows:

"3. *Appointment*

(*a*) On recruitment staff members may be granted one of the following types of appointment:

---

[6] *Judgements of the United Nations Administrative Tribunal*, Numbers 1 to 70 (United Nations publication, Sales No.: 58.X.1), p. 398.

[7] See *Juridical Yearbook*, 1964, p. 206.

[8] See *Juridical Yearbook*, 1967, p. 299.

[9] *Ibid.*

[10] Mr. R. Venkataraman, President; Mr. F. T. P. Plimpton, Vice-President; Sir Roger Stevens, Member.

"*Initial fixed-term appointment.* If a staff member is recruited with an expectation of continuing service (as distinct from recruitment specifically for temporary or short-term duties) he normally is given initially a fixed-term appointment for a trial period of three months duration.

"*Fixed-term appointment.* If the staff member's services have proved satisfactory during the trial period he normally receives on completion of that period an appointment for a fixed term of one year.

"*Indefinite appointment.* If the staff member's services are to continue after completion of the first year's fixed-term appointment, he receives either a further fixed-term appointment or, alternatively, an indefinite appointment.

"*Appointments for temporary assistance.* Fixed-term appointments for temporary assistance may be authorized for brief periods."

The applicant, relying on the words of the provision entitled "Indefinite appointment", argued that he was entitled to receive either another fixed-term appointment or an indefinite appointment and that he could not be denied both. The Tribunal noted, however, that the clause was applicable only "if the staff member's services are to continue". The applicant had received successive fixed-term appointments when the Administration had decided that his services were to continue. But as the decision regarding the applicant's latest fixed-term appointment had been that his services were not to continue, the aforementioned provision did not apply to him. The Tribunal added, furthermore, that to construe the provision as guaranteeing the applicant, at the end of a fixed-term appointment, either a further fixed-term appointment or an indefinite appointment would be inconsistent with the terms of the applicant's letter of appointment and of the Staff Rules, and would negate the very concept of a fixed-term appointment through in effect making such an appointment interminable.

The Tribunal therefore rejected the application.

5. JUDGEMENT NO. 171 (3 APRIL 1973):[11] CHAMPETIER v. SECRETARY-GENERAL OF THE UNITED NATIONS

Application seeking compensation for injury caused to the individual concerned by a letter sent by the Administration to the authorities of the country in which he was performing his duties.

The applicant was engaged as a mining engineer for a Special Fund project in Guinea for a period of one year beginning on 12 February 1969. On 4 August 1969 he addressed to a Guinean official a report criticizing the management of the project, sending a copy to the UNDP Resident Representative. That step gave rise to an exchange of correspondence between Headquarters and the applicant. On 15 December 1969, the Guinean Secretary of State for Foreign Affairs informed the UNDP Resident Representative a.i. that the Government of Guinea wished the applicant to be appointed project manager. In reply it was stated that "United Nations Headquarters considers that the applicant's skills do not qualify him for the post of project manager". On 5 February 1970 the applicant, whose contract had in the meantime been extended for two months, wrote a letter of complaint to the Commissioner for Technical Co-operation, in which he alleged that the terms of the aforementioned letter were defamatory. He subsequently sought compensation for the moral and material injury which he considered he had sustained as a result of the letter complained of.

The Tribunal, to which an application was submitted, noted that in a letter of 20 January 1970 a member of the Office of Technical Co-operation had informed the Resident Representative a.i. that United Nations Headquarters could not accede to the Guinean authorities' request that the applicant should be appointed project manager. The Resident Representative a.i. had therefore informed the Guinean authorities that the applicant's skills did not qualify him for the post of project manager; he added that the applicant's appointment

[11] Mme P. Bastid, Vice-President, presiding; Mr. Mutuale-Tshikantshe, Member; Sir Roger Stevens, Member.

was being extended for two months until an adequate candidate could be submitted to the Guinean Government for approval and the name of a "competent candidate" presented. The letter had been sent to several units of the Guinean administration and was not marked "confidential". The applicant, too, received a copy.

The Tribunal considered that it did not have to determine whether the terms of the aforementioned letter were defamatory in the legal sense. It addressed itself rather to the question of whether the letter and the circumstances of its dispatch were of such a nature as to be prejudicial to the applicant professionally. It was of the view that the respondent had handled the matter in an unusual manner and with considerable ineptitude. It seemed surprising that the applicant had not been informed personally by the Resident Representative a.i. of the decisions relating to him contained in the letter addressed to the Guinean authorities. The Tribunal also considered that the text of the letter itself was open to a number of objections: the references to future candidates for the post of project manager could be construed as carrying critical implications concerning the applicant and might well cause him embarrassment during the remainder of his stay in Guinea. Moreover, the Guinean Government had been notified of the extension of the applicant's appointment before the applicant himself had been informed and could indicate whether he was willing to accept the offer of an extension.

The Tribunal then had to consider whether the respondent's conduct had in fact caused the applicant embarrassment and distress and whether the applicant's professional standing had been adversely affected. The Tribunal first noted that although the applicant had complained in a letter of 5 February 1970 that the terms of the letter complained of were defamatory, he had nevertheless accepted the offer of an extension of his appointment. The Tribunal next observed that the Administration, in a letter dated 3 March 1970, had assured the applicant that nobody was questioning his professional competence and subsequently offered to send him a certificate which would indicate the quality of his work and his official conduct. The applicant complained that he had been unable to find employment, but the Tribunal stated that if he considered that he was the victim of prejudice created by the letter complained of, he could have taken advantage of the possibilities offered to him by the Administration with a view to redressing the situation, which he did not seem to have done. That being so, the Tribunal stated that it remained unconvinced that serious or lasting prejudice to the applicant had been caused by the terms of, or the circumstances surrounding the dispatch of, the letter of 30 January 1970. The Tribunal recognized, however, that embarrassment during the remainder of his stay in Guinea might have resulted from the extraordinary ineptitude with which that letter had been drafted and delivered. The Tribunal considered that the only reparation to which the applicant would appear to be entitled was a moral one and that the substance of the judgement itself should give him suitable satisfaction.

6. JUDGEMENT NO. 172 (5 APRIL 1973):[12] QUEMERAIS v. SECRETARY-GENERAL OF THE UNITED NATIONS

Application contesting a decision terminating a regular appointment—The Secretary-General may terminate a staff member holding a regular appointment if, in his opinion, such action would be in the interest of the Organization—The ground of abolition of post may be reasonably invoked only if it proves impossible to retain the staff member in a suitable post—Conditions under which a work evaluation procedure which might lead to the termination of the appointment of a staff member must be conducted—Granting of an indemnity in lieu of reinstatement

The applicant had been employed at UNICEF for almost 10 years and had held a regular appointment. After UNICEF decided to discontinue the activities to which the applicant was assigned, it offered him a post in another service, explaining that a trial period of three months was prescribed, and that if the applicant proved unable during that period to adapt himself to

[12] Mme P. Bastid, Vice-President, presiding; Mr. R. Venkataraman, President; Mr. Mutuale-Tshikantshe, Member.

his new duties, there would be no other alternative than to terminate him owing to the abolition of his post. The staff member accepted that offer. At the end of the trial period—which meanwhile had been extended by six months—his supervisor submitted a report in which he concluded that he could not consider the applicant to be the collaborator he needed. Since no post could be found for him in the European Office or at Headquarters in New York, the applicant was notified on 17 November 1970 that his appointment would be terminated on 28 February 1971 but that in order to facilitate his readjustment he would be released from all duties forthwith.

The Tribunal felt that the basic issue in the case was the conditions under which a regular appointment may be terminated. It noted that despite the many similarities which existed in respect of Staff Rules 104.13, 104.14 and 109.1 between the regular appointment and the permanent appointment, there was an essential difference between regular and permanent appointments where termination conditions were concerned. The rules applicable to permanent appointments were specified in Staff Regulation 9.1 (*a*). Under Staff Rule 104.13 (*b*), regular appointments were in general subject to the Staff Regulations and Staff Rules applicable to temporary appointments which are not for a fixed term. Consequently, the matter was governed by Staff Regulation 9.1 (*c*) under which "the Secretary-General may at any time terminate [the appointment] if, in his opinion, such action would be in the interest of the United Nations".

Consequently, the Tribunal held that it could not be maintained that, for the purposes of a termination decision, the applicant should be assimilated with a staff member holding a permanent appointment.

The Tribunal noted that the applicant had been terminated as a result of a change in the activities for which the European Office of UNICEF was responsible. As a result of that change, the applicant's supervisor had been transferred to Abidjan and there ceased to be any justification for the existence of the post held by the applicant. The Tribunal noted that UNICEF had foreseen the problem since 1968 and that a Special Committee had been instructed to formulate proposals in order to mitigate the effects of the forthcoming termination of the applicant's assignment. The offer made to the applicant and referred to above constituted implementation of Staff Rule 109.1, according to the respondent. Since the offer was conditional on the results of a trial period, its acceptance by the applicant did not finally resolve his situation.

The Tribunal noted that there was no change in the number of posts budgeted for, but observed that a change in orientation had nevertheless been given to an operational activity and that a Technical Assistant post could very well be affected by that change. Consequently, the Tribunal considered that a change in a field of activity of the Organization resulting in the complete elimination of a previous activity could, because of the nature of the applicant's assignment, justify the respondent's terminating his appointment on the ground of abolition of post, but that the respondent was obliged to observe Staff Rule 109.1 (*c*), as he had in fact acknowledged by himself assimilating abolition of an assignment to abolition of post; the applicant could therefore be terminated on the basis of Staff Regulation 9.1 (*c*) only if the application of Rule 109.1 (*c*) did not enable him to be retained in a suitable post in which his services could be effectively utilized.

The Tribunal noted that in the notice of termination the respondent had merely indicated that there was no suitable vacancy. On 9 June 1972, however, the respondent had felt obliged to give a detailed explanation of the real reasons for termination in which he based himself essentially on the evaluation of the applicant's work. The Tribunal did not accept the contention of the applicant that the respondent had changed reasons during the termination procedure in contravention of the rule *allegans contraria non audiendus est.* It held that since it was not possible to retain the staff member concerned in accordance with Staff Rule 109.1 (*c*), the staff member in question might be terminated under Staff Regulation 9.1 (*a*) if he held a permanent appointment and under the very general provisions of Staff Regulation 9.1 (*c*) if he held a regular appointment.

It remained to determine whether the applicant's suitability for the purposes of Staff Rule 109.1 (*c*) had been assessed according to a proper procedure. In connexion with the trial period to which the staff member had been subjected, the Tribunal noted that under Staff Rule 109.1 (*c*), the preference given to staff members with regular appointments was made contingent upon the existence of reasonable conditions for adaptation to the post in question. It felt that it might in general be useful to verify such adaptation over a certain period and hence to defer a final decision.

In connexion with the procedure followed by the respondent in arriving at the decision to terminate the applicant's appointment on the basis of the reports drawn up after the trial period, the Tribunal noted that the minutes of the meeting of the Personnel Committee—which the respondent indicated was the equivalent in local UNICEF offices of the Appointment and Promotion Board—did not show that the Committee itself had carried out an evaluation of the applicant's work. It emerged that the Committee had regarded the opinion of the applicant's supervisor as decisive. In no way had the applicant been called upon to present his case in writing or in person to the Committee or to convey his opinion on the reports concerning him. The Tribunal stated that it could not regard as proper an evaluation of a staff member's work which might lead to the termination of his appointment when it was entrusted to a body comparable to the Appointment and Promotion Board and that body was not put in a position to be informed of the observations of the staff member concerned as well as the complaints about him. The Tribunal therefore concluded that the applicant had not been afforded the guarantees of due process before the Committee, and that consequently, the final termination decision, which the respondent based on the evaluation of the applicant's work by the Committee, was improper and must be rescinded.

The Tribunal recalled that as a locally recruited staff member, the applicant was entitled to remain in service only so long as the European Office of UNICEF had its headquarters in Paris. Since the European Office was transferred to Geneva on 1 October 1972, the rescinding of the termination decision did not afford a basis for ordering the applicant's reinstatement. That being so, and in accordance with its previous judgements, the Tribunal granted the applicant, in lieu of reinstatement, an indemnity which it fixed at the net base salary which the staff member would have been entitled to receive from the end of his appointment (28 February 1971) up to 30 September 1972; the applicant would retain possession of the amounts paid to him in connexion with the notice of termination and the termination indemnity.

7. Judgement No. 173 (5 April 1973):[13] Papaleontiou v. Secretary-General of the United Nations

Application contesting a decision refusing to renew a fixed-term appointment

The applicant, who since 2 February 1966 had held a fixed-term appointment which had been renewed on several occasions, was reassigned on 1 July 1968 to UNTSO with Damascus as his first duty station. Before taking up his new assignment, he took his home leave in Cyprus, his home country, where he had left his family. On 12 July 1968, he asked to be informed of his future assignment in order to be able to decide whether his family would join him. On 23 August 1968, he was advised that he would be reassigned to either Amman or Jerusalem on completion of his Damascus detail but that if he were assigned to Jerusalem he would be considered for the normal three-months rotation to Kantara as the needs of the service arose. In the meantime, however, the applicant had brought his family to Damascus. On 17 September 1968 the applicant was reassigned to Amman but was advised not to bring his family with him. On two occasions at the end of 1968 he complained to the Chief Administrative Officer about the inconvenience of being separated from his family. On 4 January 1969, he received a performance evaluation which contained the following conclusion:

[13] Mr. R. Venkataraman, President; Mr. F. T. D. Plimpton, Vice-President; Sir Roger Stevens, Member.

"In summary Mr. Papaleontiou was a conscientious and capable secretary. He could not, however, adjust to temporary separation from his family. This affected his work and his constant complaining about his situation did not enhance inter-personal relations within the Liaison Office."

On the same date, the applicant was reassigned to Jerusalem. Since his appointment was about to expire, the Chief Administrative Officer was called upon to make a recommendation concerning the staff member's future; he did so in a negative sense, stressing that the applicant did not seem prepared to accept the type of service which was a concomitant of his obligations as a Field Service staff member. When that recommendation had been approved by Headquarters and confirmed by the Secretary-General, the applicant referred the matter to the Tribunal, requesting it to order his reinstatement or the payment of compensation.

The Tribunal stressed that the fixed-term appointments received by the applicant each contained the usual stipulation that a fixed-term contract does not carry any expectancy of renewal or of conversion to any other type of appointment. He had, therefore, under the terms of his appointment, no contractual rights to renewal. Moreover, nothing in the files supported the applicant's allegation of an express or implied commitment on the part of UNTSO to renew his appointment.

The applicant contended that the evaluation report whose conclusion is quoted above and upon which the contested decision was based, was vindictive and a distortion of the truth. The Tribunal, however, noted that the report was favourable to the applicant so far as his competence was concerned. With regard to the assessment of the adverse effects of the staff member's family situation on his work, the applicant had produced no evidence to show that it was a distortion of truth. Neither had he proved that the author of the report had been prejudiced against him. Consequently, the Tribunal rejected the applicant's conclusion on that lead.

In conclusion, with regard to the applicant's charge of "discrimination, humiliation and having an ulterior motive" made against the respondent because of the refusal to allow him to bring his family to his successive duty stations, the Tribunal recognized that the movement of dependants with the staff member to duty stations must be subject to the exigencies of the Field Service. Accordingly, it also rejected the conclusions of the applicant in that respect.

8. JUDGEMENT NO. 174 (6 APRIL 1973):[14] DUPUY v. SECRETARY-GENERAL OF THE UNITED NATIONS

Application contesting a termination decision for abandonment of post—A staff member who, having been the subject of a decision of suspension without pay, is reinstated in his post must, in principle, be paid his full salary for the entire period of suspension, less appropriate deductions

The applicant was employed in the UNDP Office at Yaoundé and held an indefinite appointment. She had requested the Acting Resident Representative for leave without pay in order to be able to accompany her husband, who had been summoned to France as a matter of urgency. After having given his approval on 31 July 1968, the Acting Resident Representative reconsidered his decision on the following day and informed the applicant that if she refused to reconsider her request for leave, he would be compelled to terminate her contract with the Organization. On 4 August 1968, the applicant left for France. On 28 August 1968, the Chief of the Personnel Branch sent the staff member a letter informing her that she had been suspended from duty without pay and inviting her to submit a written explanation of the reasons for her action. When the applicant took cognizance of the letter upon her return to Yaoundé, she sent the Chief of the Personnel Branch the explanations he had requested. The latter proposed that the Resident Representative should permit the applicant to resume her work with pay immediately after the Deputy Resident Representative (who was Acting Resident Representa-

[14] Mme. P. Bastid, Vice-President, presiding; Mr. F. T. P. Plimpton, Vice-President; Sir Roger Stevens, Member.

tive at the time of the events) had been reassigned. On 17 January 1969, the Resident Representative had not yet been able to put the proposal to the applicant since he did not know the date of the Deputy Resident Representative's transfer. In the meantime, the applicant had accepted temporary employment with the Area Office of the ILO, which was prepared to offer her a permanent contract. On 14 March 1969, the Chief of the Personnel Division cabled the Resident Representative that Headquarters was agreeable to the applicant's transfer to the ILO and prepared to restore her to full pay status for the period 2 August 1968 to 2 January 1969, the date on which she had begun to work for the ILO. Having been informed of this offer, the applicant wrote to the Director of the ILO Area Office that the question of her transfer to the ILO had never been raised officially, that in order to facilitate the settlement of her problem she would not do any more work for the ILO and that she intended to claim payment in full of the sums owing to her to the date of official notification of UNDP's decision. On 8 April 1969, the Resident Representative wrote to the applicant that it had been decided to terminate her contract and that the applicant's emoluments for the period 16 September 1968 (date of her return from leave without pay) to 8 April 1969 would be paid, less the period during which she had worked for the ILO. The applicant having referred the matter to the Joint Appeals Board, the Chief of the Personnel Division sought the advice of the Rules and Procedures Section, whose Chief replied in the following terms:

> "Had our views been taken on this case at the outset we would have recommended separation for abandonment of post, or dismissal. Having taken no measure against her for almost a year, UNDP will have to decide between reinstatement or an agreed termination with full indemnities. Every month that passes by will increase your liability towards her. If she refuses a separation I suggest that your office demand of her to report back for duty right away, failing which she should be separated for abandonment of post. If she returns, you will have to put up with her for a while until she evokes a new reason for her separation which, judging from her behaviour, I have no doubt will happen quite soon."

After various administrative developments, the applicant stated that she rejected the arrangements proposed by UNDP with a view to an agreed termination agreement. The Resident Representative then informed the applicant—who was then working at the French Embassy—that Headquarters had decided to reinstate her immediately in her post and asked her to discuss the procedures of her reinstatement with the Deputy Resident Representative. On the same day, at the UNDP Office, the applicant had an interview with the Deputy Resident Representative in the course of which, asked whether she was planning to take leave in the near future, she refused to reply. In fact, the Deputy Resident Representative had heard that she would be going to Europe on leave in October for three or four months, but he did not question her further on that matter.

The applicant resumed her work on 26 September 1969 but in a letter to the Chief of the Personnel Division dated 26 September which was received in New York on 10 October she indicated that she would be unable to perform her duties at Yaoundé as from 2 October 1969 to 1 January 1970.

The applicant did not report for duty on 2 October or thereafter. On 13 October 1969, the Resident Representative had a memorandum handed to the applicant in which he asked her to indicate in writing the reasons for her absence from the office without authorization and without having notified or warned the Office; he also asked her to resume her post immediately and warned her that if she did not it would mean that she had abandoned her post. On 31 October 1969, the Chief of the Personnel Division instructed the Resident Representative to advise the applicant formally that she had been separated from UNDP for abandonment of post, but she had left Yaoundé for France and she was advised of the decision only on 29 November 1969.

The Tribunal, to which the matter was referred, had first to consider whether the applicant was justified in claiming that she had accepted her reinstatement only conditionally and that

the conditions she had made—namely that she could not work from 2 October 1969 to 1 January 1970 and that she should be paid full salary for the period of suspension—had not been met, so that there was no reinstatement. The Tribunal noted that those conditions had not been mentioned by her either at her interview with the Deputy Resident Representative or in the course of her last three working days at UNDP. On the other hand, in the official correspondence the applicant had acknowledged that she had accepted "an immediate reinstatement" and that she had resumed her duties on 26 September 1969. The Tribunal therefore reached the conclusion that the applicant was in fact reinstated on 26 September 1969.

The applicant also contended that the Administration's delay in replying to her letter of 26 September concerning her absence amounted to tacit approval of that absence. However, in the opinion of the Tribunal, the file showed that the Resident Representative's so-called "silence" lasted only one day and could not be interpreted as implicit acceptance of 1 January 1970 as the date of the applicant's reinstatement. In any case, silence even if prolonged could not be regarded as implying consent when it was, as in the case in question, contrary to the intent and declarations of the parties. The applicant also contended that her letter of 26 September 1969 to the Chief of the Personnel Division constituted a request for leave without pay, that the delay in replying to her was tantamount to approval and that the subsequent termination was therefore null and void. For the reasons set forth above, the Tribunal held that the so-called delays did not amount to approval of a request for leave.

Third, the applicant claimed that termination for "abandonment of post" was neither authorized nor provided for in the Staff Rules and that for a grievance of that nature disciplinary proceedings ought to have been initiated. However, the Tribunal noted that annex III, paragraph (*d*), to the Staff Regulations provided that no termination indemnity should be paid to a staff member who abandoned his post; that confirmed, in the opinion of the Tribunal, the long-standing Administration practice of regarding unauthorized absence, in certain circumstances, as abandonment of post and cause for separation since the prohibition against paying termination indemnity to a staff member who abandons his post would be meaningless if abandonment of post was not a distinct and independent reason for termination.

Neither did the Tribunal allow the applicant's claim that she had been the victim of prejudice. It felt that, however deplorable it might be, the fact that the Administration in New York hesitated for 14 months provided proof of its desire to reach a solution acceptable to the applicant.

However, the Tribunal considered that the reinstatement of the applicant, which put an end to her suspension without pay, meant in effect that she should not have been suspended and that in principle she should be paid her full salary for that period less appropriate deductions. In the circumstances, the Administration had wrongly credited her with no salary or leave accruals for the period during which the applicant had worked at the ILO and the French Embassy. The Tribunal therefore decided that the Respondent should (1) pay the applicant the difference between the salary she would have received at UNDP for the period during which she had worked at the ILO and the French Embassy and the salary she had received from the ILO and the French Embassy during that period and (2) calculate the applicant's leave entitlement for that period and pay the cash equivalent thereof to her. In addition, the Tribunal recalled that if she had not been suspended, the applicant would normally have received a salary increment on 1 July 1969. Noting that at the end of 1967, the applicant's supervisor had recommended that she should receive *two* annual increments on 1 May 1968 in view of her excellent record of service, the Tribunal ruled that the Respondent should recalculate the salary due to the applicant for the period 1 July 1969 to 2 October 1969 in such a way as to include in it a one-step increment.

Finally, in view of the long delays in the settlement of the case, the Tribunal ruled that the Respondent should pay the applicant interest at a rate of 6 per cent per annum, from 2 October 1969 until the day of payment, on the sums owing in application of the judgement.

9. JUDGEMENT NO. 175 (11 OCTOBER 1973):[15] GARNETT v. SECRETARY-GENERAL OF THE UNITED NATIONS

Motion for interpretation of a Tribunal judgement—Computation, on the basis of Staff Rule 103.9, of the increase in salary following promotion—For the purposes of that provision, "salary" includes post adjustment—The requirements of the provision in question are satisfied if the monthly salary earned by the staff member promoted exceeds, during the year following his promotion, the salary which he would have obtained in his former post by an amount equal to the prorated portion of one full step in the new post allocable to the period

By its Judgement No. 156,[16] the Tribunal had ordered the respondent to re-compute the applicant's salary for the year 1 September 1969 to 1 September 1970[17] in accordance with Staff Rule 103.9 (i) as construed by the Tribunal, taking into account all increases during the year in the salary scale of either her prior position or the position to which she was promoted. After she had been informed of the method which the respondent had used to re-compute her salary, the applicant filed a motion for interpretation of Judgement No. 156 with the Tribunal, requesting it to state that the computation should continue throughout the first year following her promotion.

The Tribunal recalled that Staff Rule 103.9 (i) reads as follows:

"(i) During the first year following promotion a staff member in continuous service shall receive in salary the amount of one full step in the level to which he has been promoted more than he would have received without promotion, except where promotion to the lowest step of the level yields a greater amount. The step rate and date of salary increment in the higher salary level shall be adjusted to achieve this end."

The Tribunal noted that the re-computation which the respondent had carried out pursuant to Judgement No. 156 had resulted in the applicant's receiving, in her promotion post during the period 1 September 1969 to 31 December 1969, an amount which exceeded the portion of one full step in the P-2 level which would have been allocable to that period.

As to the period 1 January 1970 to 30 June 1970, the re-computation had resulted in the applicant's receiving in her promotion post an amount which she claimed was less than what she would have received during that period in her old post after adding thereto the portion of one full step in the P-2 level which would have been allocable to that period.

The Tribunal first had to determine whether, in the calculations incidental to the application of Staff Rule 103.9 (i), post adjustment should be taken into account in the computation of the "salary" received by the staff member in the post to which he or she had been promoted. It was emphasized that the rule in question did not specifically define the term "salary", and that there was no basis for the applicant's contention that the term meant only base salary prior to post adjustment. Furthermore, the obvious purpose of Staff Rule 103.9 (i) was to ensure that a staff member should not suffer financially by reason of a promotion. Thus, in comparing remuneration in the new position with remuneration in the old, the rule must have intended in both cases to include all amounts actually received. General Service salary scales were related to local costs of living, since they were based on the best prevailing conditions of employment in the locality concerned, and Professional category remuneration was similarly related through post adjustment. The Tribunal felt that to omit post adjustment in calculations under Staff Rule 103.9 (i) would have been to compare unlikes and to misunderstand the purpose of the rule.

The applicant also claimed that on 1 January 1970 the salary scale in her old post had risen, as a result of a general salary increase and what would have been her next salary increment, from $8,770 to $9,701, whereas at that date her new salary scale (including post

[15] Mme. P. Bastid, Vice-President, presiding; Mr. F. T. P. Plimpton, Vice-President; Mr. Mutuale-Tshikantshe, Member.

[16] See *Juridical Yearbook*, 1972, p. 125.

[17] The applicant had been promoted from the General Service category to the P-2 level, as of 1 September 1969.

adjustment) at P-2 step I was only $9,593. The Tribunal considered that that contention lost sight of the fact that from 1 September 1969 to 31 December 1969, while her old salary was at the rate of $8,770, she had been receiving, at the P-2 step I level, a salary of $9,593, which was substantially more than what she was entitled to claim under Staff Rule 103.9 (i). Indeed, there would be no reason to change the applicant's status as of the beginning of a month unless, calculated cumulatively from the beginning of the year to date, her receipts in her new post during that period had not exceeded what she would have received in her old post during the period by an amount equal to the prorated portion of one full step in the new post allocable to the period.

Noting that the over-all effect of the measures taken by the respondent was in conformity with Rule 103.9 (i), since the applicant had received, by the end of the year following her promotion, slightly more than the amount required by that rule, the Tribunal rejected the application.

10. Judgement No. 176 (12 October 1973):[18] Fayad v. Secretary-General of the United Nations

Application for validation of a period of service completed by a participant in the United Nations Joint Staff Pension Fund prior to his admission to the Fund—Question whether the person concerned was a United Nations staff member during that period or not—Computation of the five-year period of service which an associate participant in the Fund must prove in order to become a full participant

From 3 March 1963 to 2 March 1965 the applicant served as a judge in the Republic of the Congo (now the Republic of Zaire) under a contract, hereinafter referred to as a "judiciary contract", concluded between himself and the United Nations. On 16 August 1965, he was appointed a United Nations technical assistance expert. He was admitted to the United Nations Joint Staff Pension Fund as an associate participant on 16 August 1965 and as a full participant on 16 August 1966. On 3 October 1966, he requested that the period of service he had completed before becoming a participant be included in his contributory service under article III.2 (*a*) of the Pension Fund Regulations concerning validation of non-pensionable service. His request was rejected. The parties then agreed to submit the case directly to the Tribunal under article 7, paragraph 1, of its Statute.

The Tribunal noted that the respondent, in agreeing that the application be submitted directly to the Tribunal, had taken into account, *inter alia,* the fact that the dispute related not only to the terms of the judiciary contract but also to the interpretation of the United Nations Joint Staff Pension Fund Regulations. In the circumstances, the Tribunal concluded that it was competent to pass judgement upon all aspects of the application in conformity with article 2 of its Statutes.

The Tribunal examined first the scope of the judiciary contract. While noting that, under the terms of the contract, the applicant was not a staff member of the United Nations Secretariat, the Tribunal admitted that the fact that the contract had been concluded by the United Nations could lead to misunderstanding. Indeed, one of the preambular paragraphs stated that "the United Nations desires to engage the services" of the applicant, a formula which could be taken to mean that the applicant would be employed by the United Nations, if not as a member of the Secretariat, then at least in some other capacity. Moreover, in a report drawn up on 5 April 1963 by the United Nations Office in Kinshasa, the applicant was described as a staff member. Accordingly, in so far as the respondent relied on the contract clause indicating that the applicant was not a member of the United Nations Secretariat to prove that the applicant was not employed by the United Nations, the contention was not entirely convincing.

[18] Mme. P. Bastid, Vice-President, presiding; Mr. Mutuale-Tshikantshe, Member; Sir Roger Stevens, Member.

The Tribunal considered, however, that it was clear from the contract that the applicant could, without having been consulted or advised, have ceased to have any administrative link with the United Nations if the Government of the Congo had been substituted for the Organization after the contract had been in force for one year. The Tribunal took the view that that clause showed in fact that the applicant was not in the service of the United Nations, since otherwise it would have been necessary to concede that the applicant could change employers without further formality.

The Tribunal also emphasized that the clause in the contract providing that the applicant must neither seek nor accept instructions from any other Government or any authority external to the Republic of the Congo showed that it was to the Government of the Congo that the applicant had contracted his fundamental obligations. Such a commitment was undoubtedly imcompatible with Staff Regulation 1.1, and nothing in the contract allowed the conclusion that the Staff Regulations and Rules were applicable to the applicant.

The Tribunal therefore decided that, by accepting the judiciary contract, the applicant had not acquired the rights or incurred the obligations of a United Nations staff member, and consequently accepted the respondent's conclusion that the applicant could not claim admission to the Fund for the period of service completed as a judge, either at the time, or by way of subsequent validation. Moreover, the record showed the applicant had not only been advised indirectly that he was excluded from participation in the Fund, but had also been informed that he would receive additional financial assistance to help him to continue contributing to another pension scheme. The Tribunal therefore considered unfounded the applicant's claim that he was entitled to assume that his service as a judge could subsequently be validated for pension purposes.

The Tribunal next considered the conditions in which the applicant, having been admitted to the Pension Fund, had requested validation of his service for the period covered by the judiciary contract. It noted that on 3 October 1966 the applicant had applied to become a full participant in the Fund, pointing out that he had been employed by the United Nations under a two-year contract from 1963 to 1965, then for one year from 16 August 1965, and that having just concluded a new two-year contract—which brought his period of service up to five years—he fulfilled the conditions laid down in article II of the Regulations of the Fund.

The Tribunal noted that in reply to that letter, the Office of Personnel had issued a Personnel Action form described as an "amendment to show entitlement to full participation in the United Nations Joint Staff Pension Fund (from 16 August 1966), in accordance with article II, paragraph 2, of the Regulations of the Pension Fund". The reference to article II.2 (which allows the five-year period required in article II.1 to be calculated under certain conditions) indicated clearly that the Office of Personnel considered at the time that the two years' service completed by the applicant under his judiciary contract constituted a period of service that allowed him to become a full participant in the Fund. However, when the Pension Fund had received the applicant's request for validation, it had indicated that it intended to validate only the period of one year during which the applicant had been an associate participant. The Tribunal considered that it was the Pension Fund which had interpreted article III of its Regulations correctly, since the applicant could not claim validation for the period of service completed under his judiciary contract either on the basis of article III.1 (*a*) (since the applicant was not an associate participant during that period), or on the basis of article III.1 (*b*) (since at that time he was not a full-time staff member of a member organization).

The Tribunal therefore rejected the application.

11. JUDGEMENT NO. 177 (12 OCTOBER 1973):[19] FASLA V. SECRETARY-GENERAL OF THE UNITED NATIONS

Confirmation of a Tribunal judgement which had been the subject of a request for an advisory opinion of the International Court of Justice—Inadmissibility of an application submitted in violation of the rule concerning time-limits for internal remedies

A. Since Judgement No. 158[20] had been the subject of a request by the Committee on Applications for Review of Administrative Tribunal Judgements for an advisory opinion of the International Court of Justice, and since the Court had expressed the opinion[21] that the Tribunal had not failed to exercise the jurisdiction vested in it and had not committed a fundamental error in procedure which had occasioned a failure of justice, the Tribunal confirmed the judgement in question, which accordingly became final as of 12 October 1973.

B. As differences of opinion had arisen between the applicant and the respondent regarding the enforcement of Judgement No. 158, the applicant requested the Tribunal to decide on the amount of compensation due to him under the judgement.

The Tribunal noted that the application dealt in substance with questions which had neither been discussed by the parties nor considered by the Tribunal when Judgement No. 158 had been rendered. What was in effect before the Tribunal was a new application which did not comply with the requirements of article 7, paragraph 1, of the Statute, which reads as follows:

> "An application shall not be receivable unless the person concerned has previously submitted the dispute to the joint appeals body provided for in the staff regulations and the latter has communicated its opinion to the Secretary-General, except where the Secretary-General and the applicant have agreed to submit the application directly to the Administrative Tribunal."

The Tribunal therefore declared that the application was not receivable.

C. The applicant had also submitted an application for revision of Judgement No. 158, under article 12 of the Statute of the Tribunal. The Tribunal had first to consider whether the application for revision had been made within one year of the date of the judgement. It found that, since the revision proceedings could be instituted only against a final judgement, the time-limit for applying for revision could begin to run only from the date on which the judgement had become final, i.e., in the present case, from the date of the judgement confirming the original judgement. The Tribunal concluded that the application was not barred by time.

The Tribunal next considered whether the conditions for an application for revision laid down in article 12 of the Statute were fulfilled. That provision made it possible to challenge a judgement which had been given on the basis of erroneous or incomplete facts, provided that the facts invoked by the party claiming revision had been unknown to that party and to the Tribunal when the judgement had been given and that those facts were of such a nature as to be decisive factors.

The applicant asserted that he had "discovered" that his counsel had not conducted the case in the applicant's best interests. The Tribunal emphasized, however, that any appeal involved various options on the pleas to be made and on the arguments to be presented, and that it could not be considered that a fact unknown to the Tribunal and to the applicant had been discovered when, after the event, the applicant arrived at the conclusion that another course should have been followed in the presentation of his case. With regard to the documents which the applicant claimed had not been produced to the Tribunal before it rendered Judgement No. 158, it appeared that they had not been unknown to the applicant at the time of the case. The Tribunal therefore considered that the conditions laid down in article 12 of the Statute were not fulfilled and that the application should therefore be rejected.

---

[19] Mr. R. Venkataraman, President; Mme. P. Bastid, Vice-President; Mr. Mutuale-Tshikantshe, Member.

[20] See *Juridical Yearbook*, 1972, p. 127.

[21] See p. 193 of this *Yearbook*.

12. JUDGEMENT NO. 178 (16 OCTOBER 1973):[22] SURINA v. SECRETARY-GENERAL OF THE UNITED NATIONS

Application contesting a decision refusing renewal of a fixed-term appointment—Circumstances liable to create in the holder of such an appointment an expectation of renewal—Granting of an indemnity because of those circumstances

The applicant had been appointed to a post as associate expert in Trinidad and Tobago for a one-year term beginning on 2 March 1970. On 14 January 1971, the Office of Technical Co-operation asked the UNDP Regional Representative in the Caribbean to inform it whether the Government of Trinidad and Tobago was requesting an extension of the applicant's contract. On 9 March 1971, the Regional Representative replied in the negative but added that, since the Government concerned had given earlier indication for extending the applicant's contract, he suggested that an appropriate extension should be granted him in order to enable him to settle his personal affairs. The contract was, accordingly, extended by one month, and the applicant was separated from service on 1 April 1971.

Before the Tribunal, the applicant claimed that his appointment should have been extended. Noting that his letter of appointment did not carry any expectation of renewal or of conversion to any other type of appointment in the United Nations Secretariat, the Tribunal found that the applicant's claim had no legal foundation.

It noted, however, that the applicant, knowing that the host Government had at one point requested an extension of his contract, had had legitimate grounds for expecting such extension. The expectation thus created had extended for one week after the expiration of the applicant's initial period of appointment and that during that week the applicant had continued to work exactly as if the procedure for renewing his contract had been under way and, according to the file, without having been officially informed that that was not the case.

The Tribunal noted that if the applicant's appointment had in fact been extended for one year and if the applicant had been terminated at the end of one month, he would have been entitled, in accordance with annex III to the Staff Regulations, to an indemnity equivalent to five days' salary for each of the 11 months remaining before the expiration of his contract—a total of 55 days. The Tribunal considered that equivalent compensation should be granted to the applicant because of the behaviour of the respondent mentioned above. The Tribunal therefore decided that the respondent should pay to the applicant an indemnity equal to his net base salary for a total of 55 days.

13. JUDGEMENT NO. 179 (18 OCTOBER 1973):[23] ASHTON v. SECRETARY-GENERAL OF THE INTERNATIONAL CIVIL AVIATION ORGANIZATION

Application submitted by a claimant of validation of prior service where the claim was barred by time—Question of the existence of a causal link between the Administration's action and the applicant's inaction.

The applicant, referring to Judgement No. 152,[24] requested compensation for injury suffered as a result of having been deterred from filing in time a request for validation of his prior non-contributory service because of the issuance of a circular of 26 February 1958.

The Tribunal had to examine whether the applicant's failure to comply with the time-limit prescribed for requesting validation of prior service resulted directly from the circular dated 26 February 1958. While agreeing that the circular in question would normally have had a dissuasive effect on a staff member from making an application for validation of prior service, it concluded, from an examination of the file, that that circular could not be considered as a factor which by itself alone determined the applicant's decision not to request validation. It therefore held that the causal link between the respondent's circular and the applicant's failure

[22] Mme. P. Bastid, Vice-President, presiding; Mr. Z. Rossides, Member; Sir Roger Stevens, Member.

[23] Mr. R. Venkataraman, President; Mme. P. Bastid, Vice-President; Mr. F. A. Forteza, Member.

[24] See *Juridical Yearbook*, 1971, p. 166.

to request validation had not been established and consequently that the damage, if any, suffered by the applicant was not directly attributable to the respondent's action. For those reasons, the Tribunal rejected the application.

14. JUDGEMENT NO. 180 (19 OCTOBER 1973):[25] OSMAN V. SECRETARY-GENERAL OF THE UNITED NATIONS

Application by a former associate participant in the Joint Pension Fund claiming wrongful deprivation of benefits under a provision of the Regulations of the United Nations Joint Staff Pension Fund relating to conditions for admission as a full participant—Rejection of the claim on the grounds that associate participants are not eligible for benefits under the provision in question—Question of the propriety of an administrative decision extending the applicant's appointment to a date prior to the anticipated date of completion of the project to which he was assigned

The applicant had been recruited as a technical assistance expert on 5 February 1964 and had served thereafter under a succession of fixed-term appointments. Upon completing one year of uninterrupted employment on 16 June 1965, he became an associate participant in the United Nations Joint Staff Pension Fund. On 8 November 1967, he reached the age of 60 and, consequently, ceased to be an associate participant. On 15 May 1971, he requested that he be considered as continuing to be an associate participant in the Fund up till 16 June 1969, the date of completion of five years' continuous service, that from 16 June 1969 he become a participant, and that his whole period of service, including two months' service in the early part of 1964, be validated as contributory service towards pension. His request was rejected.

Before the Tribunal, the applicant contended that under the Pension Fund Regulations which came into force on 1 January 1967 he had become entitled on that date to full participation in the Pension Fund since prior to that date he had completed more than one year of continuous service and had received an appointment for one year, as required by paragraph 1 of article II of the said Regulations, and that the Administration by oversight or administrative error had failed to apply correctly the Regulations in his case.

The Tribunal pointed out, however, that, under article II of the Regulations, the right to become a participant in the Pension Fund under paragraph 1 was available to every full-time member of the staff who *was not an associate participant under paragraph 2.* The applicant's contention that, since he fulfilled the conditions prescribed under paragraph 1, he became entitled to participation in the Fund ignored the qualifying proviso that such participation was "subject to paragraph 2", dealing with the category of associate participants, to which the applicant belonged.

The Tribunal did not agree with the applicant's argument that such an interpretation of article II led to an absurdity.

It therefore concluded that there had been no administrative error or oversight on the part of the respondent in not enrolling the applicant as a participant in the Fund on 1 January 1967.

The applicant had alternately pleaded that he had been entitled on the expiry of his appointment ending on 9 September 1967 to an appointment from 10 September 1967 to 31 October 1969 or later and that, had he been given such an appointment, he would have become a participant under paragraph 2 of article II. The applicant had, in fact, been offered by a letter dated 31 July 1967 an extension of his contract which would carry through to the end of the project to which he was assigned, i.e., February 1969, and had thereafter been issued on 5 October 1967 a letter of appointment from 10 September 1967 to 9 March 1969.

The Tribunal noted that if the applicant's appointment had been extended to 16 June 1969, he would have had an appointment extending his total continuous period of employment to five years, thus fulfilling the requirements for becoming a participant. The appointment granted to him covered only the period up to 9 March 1969, a little over three months short of the period required for the applicant to become a participant in the Fund. The applicant

[25] Mr. R. Venkataraman, President; Mme. P. Bastid, Vice-President; Mr. F. A. Forteza, Member.

maintained that as a consequence of the date of expiration of his appointment having been fixed as 9 March 1969, he had suffered an injury in that he was deprived of his pension benefits. He argued that, by granting him such an appointment at a time when it had become likely that the project would be further extended and that his services would be required accordingly, the respondent had acted improperly and had caused loss for which he was under an obligation to compensate.

The Tribunal noted that when the applicant signed his letter of appointment, it had become obvious to the Administration that, subject to the agreement of the recipient Government, the date of completion of the project would have to be shifted to 31 October 1969. However, nothing in the file indicated that, when that letter was issued, the Administration had been notified of any agreement with the recipient Government to warrant a change in the plan of operation. Noting that, in accordance with UNDP practice, the formal consent of the recipient Government was essential for an extension of the duration of the project, the Tribunal did not agree with the applicant's contention that the Administration's decision to fix the date of expiration of the applicant's appointment as 9 March 1969 was improper.

It was, unquestionably, possible to argue that, in view of his length of service, the applicant should have been enabled to earn the benefits of participation in the Pension Fund. However, he had not raised any question regarding the duration of his appointment and its extension beyond 9 March 1969 either when the offer was made to him or when the letter of appointment was issued to him, even though he had been informed that the date of completion of the project would have to be shifted to 31 October 1969. Thus, if there had been any oversight on the part of the respondent, there had equally been a lapse on the part of the applicant in not bringing the matter at the relevant time to the attention of the Administration.

Accordingly, the Tribunal rejected the application.

B. Decisions of the Administrative Tribunal of the International Labour Organisation[26,27]

1. Judgement No. 198 (14 May 1973): Ozorio v. World Health Organization

The Tribunal recorded the withdrawal of suit by the complainant.

---

[26]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 1973, the World Health Organization (including the Pan American Health Organization (PAHO)), 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 World Intellectual Property Organization, the European Organization for the Safety of Air Navigation, the Universal Postal Union, the International Patent Institute, the European Southern Observatory and the Intergovernmental Council of Copper Exporting Countries. 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.

[27]Mr. M. Letourneur, President; Mr. A. Grisel, Vice-President; Lord Devlin, Judge.

2. JUDGEMENT NO. 199 (14 MAY 1973): LEE v. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

Calculation of the salary increment upon promotion— Case of a staff member promoted to grade G-6 one month before the addition of new steps to grade G-5— Discretionary power of the Director-General

The complainant was promoted to grade G-6 on 1 December 1970 and was placed at step 6 in grade G-6 in accordance with staff rule 302.3051, which states:

> "... a staff member upon promotion shall be placed at the entrance rate of the higher grade level, provided that at this rate he would receive for continuous service during the first year following promotion a salary amounting to at least one full increment step (of the grade level to which he has been promoted) more than he would have received without the promotion. If he would not receive such an amount at the entrance rate, then his salary shall be placed at the step within the higher grade level which would provide such an increase. The date of the staff member's next salary increment in the higher grade level shall be adjusted to achieve this end."

On 5 January 1971 the staff was informed by administrative circular that three new steps (12, 13 and 14) had been added to grade G-5 with effect from 1 January 1971.

The complainant then asked for review of the decision to place her at step 6 in grade G-6 and for the grant of a higher step to take account of the fact that she would have been placed at the new step 12 from 1 January 1971 had she remained at grade G-5. The Administration dismissed her claim.

A complaint having been lodged, the Tribunal found that the Organization had acted strictly in accordance with the regulations as they were on 1 December 1970, the date when the complainant had been promoted to grade G-6. It agreed that it would have been for the personal benefit of the complainant if the promotion had been delayed until after 1 January 1971. The Tribunal noted that the Appeals Committee had recommended making the complainant's promotion effective from 2 January 1971 but that the Director-General had chosen not to endorse that recommendation, on the ground that the object of the change in the regulations was to benefit those who were unlikely to receive promotion. The Tribunal held that the decision was one which fell within the discretion of the Director-General and stated that it could see no grounds for interfering with it. It accordingly dismissed the complaint.

3. JUDGEMENT NO. 200 (14 MAY 1973): PANNIER v. UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

Complaint against a decision to defer the annual salary increment— Limits of the Tribunal's power to interfere with such a decision

On 17 December 1969 the complainant was transferred from one post to another in the Office in which he worked. On 7 December 1970 the Director of the Office recommended deferring his annual salary increment because his services had been unsatisfactory. The complainant then lodged two appeals with the Appeals Board, one against the decision to transfer him and the other against the decision to defer his annual salary increment. The Appeals Board held that the former was time-barred and therefore irreceivable and that the latter should be dismissed as unfounded. The Director-General having accepted that view, the complainant prayed the Tribunal *inter alia* to quash the two decisions mentioned above.

As to the decision to transfer the complainant, the Tribunal stated that it had not been impugned in time and had thus become final. The fact that the complainant had impugned in time the decision to defer the annual salary increment—which had no connexion with the decision to transfer him—could not have the effect of extending the period within which an appeal might be lodged against the latter decision.

As to the decision to defer the annual salary increment, the Tribunal noted that, according to staff rule 103.4, "the granting of an increment may be deferred or withheld if service is not satisfactory". The Tribunal found, on the basis of the dossier, that the decision had been taken

solely on the ground of the complainant's unsatisfactory service and that it was not tainted with any of the irregularities which enabled the Tribunal to interfere with such decisions. It accordingly dismissed the complaint.

4. JUDGEMENT NO. 201 (14 MAY 1973): SMITH v. WORLD HEALTH ORGANIZATION

Request for the revision of a judgement of the Tribunal—There being no provision in the Statute or Rules of Court of the Tribunal for revision, such a request can be considered only in quite exceptional circumstances

The complainant asked the Tribunal to review Judgement No. 189,[28] on the ground that the WHO official who had signed the observations of the Organization on the case had formerly been Assistant Registrar of the Tribunal.

The Tribunal pointed out that there was no provision in its Statute or Rules of Court for the revision of its judgements and that such a request could therefore be considered only in quite exceptional circumstances, in particular if the complainant adduced facts or evidence which he had been unable, through no fault of his own, to produce during the earlier proceedings; it would in any event not provide an opportunity for the parties to repair an omission or correct an error made by them during the original hearing of the case.

Since in the present case the sole ground adduced by the complainant in support of his request could have been put forward during the proceedings terminated by Judgement No. 189, and in addition the ground adduced was clearly without foundation, the Tribunal dismissed the complaint.

5. JUDGEMENT NO. 202 (14 MAY 1973): MALIĆ v. INTERNATIONAL PATENT INSTITUTE

Complaint against a decision rejecting the claim of a staff member to benefit from Staff Regulations which came into force subsequent to completion of his probation—A new provision relating to terms of recruitment cannot be validly invoked by a staff member already in service unless it has been given retroactive effect—Meaning of the principle of equal treatment for all staff members of an organization

On his appointment as a staff member, the complainant was granted two "seniority bonuses" under former staff rule 13, paragraph 2, which read as follows: "The Administrative Council may, however, on a substantiated proposal by the Director, grant seniority bonuses to take account of experience gained by a staff member in previous service in the public or private sector and of real and direct usefulness in carrying out his duties at the Institute." Under this system, up to two years' bonuses might be granted on recruitment, the payment being confirmed only at the end of the probation period, when an extra bonus might be granted or one granted on recruitment might be withdrawn. On completing his probation, the complainant had his two original bonuses confirmed.

Article 21 of the new Staff Regulations, which came into force on 1 January 1971, provided that up to four seniority bonuses might be granted to a staff member on recruitment. The complainant cited that provision in support of a claim for a third seniority bonus in addition to the two he had already received. In reply, he was informed that the new Staff Regulations did not provide for the review of decisions taken before their entry into force.

After an unsuccessful appeal to the Appeals Committee of the Institute, the complainant prayed the Tribunal to order the Institute to take account of the total period of his professional experience prior to his appointment (three years).

The Tribunal noted that, under both the old Staff Rules and the new Staff Regulations, the bonuses formed part of the terms of recruitment. Since the complainant had been appointed and confirmed before the entry into force of the new Regulations, he could have been granted an additional bonus on the basis of article 21 of the new Regulations only by retroactive application of that provision. Except for section VI, however, the new Regulations,

[28] See *Juridical Yearbook*, 1972, p. 142.

including article 21, had no retroactive effect and thus applied only to situations which had arisen after the date of their entry into force.

The Tribunal went on to say that the rejection of the complainant's application for an extra bonus did not violate the principle of equal treatment. That principle, which was laid down in article 5 of the new Staff Regulations and which would be applicable even in the absence of a specific provision, was intended to ensure that persons who were in similar circumstances in fact and in law were put on the same legal footing. However, since at the time of his recruitment the complainant had been subject to the former Staff Rules, he was actually in a different position from staff members recruited under the new Regulations. Consequently, he could not have suffered unequal treatment in relation to them.

The Tribunal found that there was no contradiction in the fact that all staff members, whatever the date of their appointment, enjoyed the benefits of the family allowances provided under article 41 of the new Regulations, even though the new article 21 was applied only to staff members appointed after the entry into force of the new Regulations. To grant family allowances on the basis of article 41 to the whole staff merely meant applying that provision normally to situations existing after it came into force. To grant the complainant an extra bonus under article 21, on the other hand, would mean giving retroactive effect to that provision in preference to the rules that had been applicable at the time.

The complainant also cited a transitional decision by the Administrative Council granting an additional bonus to staff members who had received three bonuses under the old Rules and who would have deserved one more if the new Regulations had been effective at the time. The Tribunal pointed out that, as the complainant had received only two bonuses up to the time when they did become effective, he was not covered by the Administrative Council's decision and could not, therefore, rely on it. Moreover, that decision did not violate the principle of equal treatment because, firstly, it was quite conceivable that a staff member who had received three bonuses under the former system might have been in a position to claim a fourth had the new Regulations been applicable, and, secondly, that possibility was not open to staff members who, like the complainant, had not reached the upper limit of three bonuses at the time of recruitment. Since the decision in question did not deal differently with similar situations, it did not violate the principle of equal treatment.

The Tribunal accordingly dismissed the complaint.

6. JUDGEMENT NO. 203 (14 MAY 1973): FERRECCHIA v. INTERNATIONAL CENTRE FOR ADVANCED TECHNICAL AND VOCATIONAL TRAINING (INTERNATIONAL LABOUR ORGANISATION)

Complaint against a decision to discharge a staff member for misconduct—Right of a staff member against whom disciplinary proceedings are taken to be heard—Principle of proportionality between the misconduct committed and the sanction

On 14 July 1971 the complainant received a reprimand after being found asleep at work. He contested the facts on the ground that he had been not asleep, but unwell. During the night of 7/8 March 1972 he was once again found sleeping on duty. On 23 January 1972 he was informed that the Director intended to impose the sanction of summary dismissal prescribed in article 11.8 of the Staff Regulations. After receiving the recommendations of the internal appeals body, with which an appeal had been lodged, the Director of the Centre decided to discharge the complainant under article 11.7 of the Staff Regulations (discharge with notice) and to grant him the maximum indemnity provided for under that article.

The complainant prayed the Tribunal to quash the decision to discharge him.

The Tribunal noted that in the proceedings before the internal appeals body the complainant, although he had been duly questioned, had not been allowed to be present during the hearing of witnesses or to participate in the examination of the evidence; although the statements made by the witnesses had been communicated to him he had not been in a position, during the hearing, to rebut the charges against him, to put questions, or to ask for

clarification. The right of a staff member against whom disciplinary proceedings were taken to be heard, which must be respected even where contrary provisions existed or in the absence of any explicit text, included *inter alia* the opportunity to participate in the examination of the evidence. Consequently, the complainant's claim that, because his right to be heard had not been respected, the decision impugned was tainted by a procedural irregularity was valid.

The complainant also contended that the decision to discharge him was out of proportion to his offence. In that connexion, the Tribunal pointed out that it would quash a decision if it was found *inter alia* upon an error of law. Cases in which a disciplinary sanction appeared out of all proportion to the objective and subjective circumstances in which the misconduct had been committed should be assimilated to cases of error of law. Since discharge and summary dismissal might cause serious harm to the staff member concerned, they should, in accordance with the principle of proportionality, be imposed only on one whose conduct appeared to be incompatible with the performance of his duties.

The Tribunal found that that condition was not fulfilled in the case before it. The seriousness of the complainant's misconduct could not be evaluated without taking into account the extenuating circumstances; in particular, in the course of six years' employment he had incurred only one mild penalty and had given proof of qualities which were appreciated by his supervisors. In those circumstances the complainant did not appear to be unfit for employment with the Centre, and therefore in discharging him the Director had not observed the principle of proportionality.

The Tribunal accordingly quashed the decision impugned. Inasmuch as the Centre considered that the complainant's reinstatement would be inadvisable, the Tribunal, on the basis of article VIII of its Statute, awarded him compensation in the amount of 1 million Italian lire.

7. Judgement No. 204 (14 May 1973): Silow v. International Atomic Energy Agency and Food and Agriculture Organization of the United Nations

Complaint against a decision that a staff member should retire—Discretionary power of the head of an organization

The complainant contested a decision by the Director-General of FAO informing him that on the FAO Appeals Committee's recommendation he was confirming his decision that the complainant should retire. The complainant also asked the Tribunal to find FAO and IAEA guilty of having wittingly submitted false information to it in the course of earlier proceedings[29] and to order them to pay damages.

The Tribunal noted that, under FAO staff regulation 301.095, the pensionable age for officials was 62. Since the complainant had reached that age by the time of his separation, the Administration had complied strictly with the aforementioned provision. The regulation did empower the Director-General to retain the services of an official beyond the specified age-limit, but such a derogation was confined to exceptional cases and lay within the discretion of the head of the Organization, who was responsible for its efficient operation. In refusing to make use of his discretionary power in the present case, the Director-General had made an appraisal of the facts which was not tainted with any of the irregularities that the Tribunal might correct.

Since the other arguments put forward by the complainant were not pertinent to the matters raised in the case and must therefore be disregarded, the Tribunal dismissed the complaint.

---

[29] See *Juridical Yearbook*, 1969, p. 203 (Judgement No. 142) and *Juridical Yearbook*, 1970, p. 149 (Judgement No. 151).

8. JUDGEMENT NO. 205 (14 MAY 1973): SILOW V. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

The complainant was protesting, firstly, against a decision forbidding him to attend a meeting of an FAO Committee and, secondly, against the manner in which his numerous appeals had been and were being dealt with in the FAO Appeals Committee.

The Tribunal recalled that, under article 8, paragraph 3, of its Rules of Court, "If it appears that a complaint is clearly irreceivable or devoid of all merit, the President may instruct the Registrar to take no further action thereon until the next session of the Tribunal. The Tribunal shall then consider the complaint and may either adjudge that it be summarily dismissed as clearly irreceivable or devoid of all merit, or order that it should be proceeded with in the ordinary way."

In this case, the Tribunal considered that the actions referred to it did not relate to the observance either of the terms of the complainant's contract of employment or of the Staff Regulations or Staff Rules. It therefore dismissed the complaint as being clearly outside its competence.

9. JUDGEMENT NO. 206 (14 MAY 1973): SILOW V. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

The complainant stated that he had received from an anonymous source a copy of a roneoed notice inviting all delegates to the FAO Executive Council to take care if they were accosted by a mentally disturbed person. He believed that to be a move against him in his lengthy dispute with FAO. He therefore asked the Tribunal to hold the Director-General of FAO responsible for the incident and to order the Organization to pay him damages and to make him a public apology.

The Tribunal reached the same conclusion as in the case which was the subject of Judgement No. 205 and dismissed the complaint.

10. JUDGEMENT NO. 207 (14 MAY 1973): KHELIFATI V. UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

Complaint against summary dismissal—Principle of respect for the rights of defence—Discretionary power of the head of the organization with regard to the penalty to be imposed, subject to the principle of proportionality—Scope of the rule of equality as between officials in disciplinary matters

After receiving two successive censures, including one with a warning, the complainant had been suspended from his functions in accordance with staff rule 110.3, pending the report of the Joint Disciplinary Committee, and had then been dismissed on 30 June 1971 under staff regulation 10.2, for having come to work in a drunken condition. Although such dismissal did not entitle him to any period of notice or termination indemnity, the Director-General decided to pay the complainant his salary and allowances for the period of notice and the termination indemnity to which he would have been entitled had his appointment been terminated under staff regulation 9.1. That decision was brought before the Appeals Board, which held that the correct procedure had been followed and that the impugned decision respected the relevant Staff Regulations and Staff Rules.

The case was referred to the Tribunal, which first noted that it was clear from the minutes of the meeting of the Joint Disciplinary Committee, which had not been challenged, that the complainant had been invited before that meeting to acquaint himself with the contents of his file, that he had participated in the meeting of the Committee, that, assisted by his representative, he had been given the opportunity of submitting oral observations to the Appeals Board and that the principle of respect for the rights of defence had thus been respected.

The Tribunal then noted that the complainant was alleging that the charges against him were false but was not providing the slightest evidence in support of those allegations. On the

contrary, the Joint Disciplinary Committee had accepted the charges against the complainant only after hearing several witnesses. In addition, the charges were such as to warrant a disciplinary measure: it was within the sole discretion of the Director-General to decide upon the appropriate penalty, and the Tribunal could not substitute its judgement for that of the head of the Organization, unless it found that the penalty imposed was clearly out of proportion with the gravity of the offence, which was not so in the present case.

Lastly, the complainant contended that the decision impugned violated the principle of equal treatment for all public servants, inasmuch as several of his colleagues who had been found to be drunk had not been subjected to disciplinary measures. The Tribunal pointed out that the rule of equality as between officials within the same category did not apply to officials against whom disciplinary action had been or might be taken for different reasons and in different circumstances.

Consequently, the Tribunal dismissed the complaint.

11. JUDGEMENT NO. 208 (14 MAY 1973): JOSHI v. UNIVERSAL POSTAL UNION

Complaint against a decision refusing to grant a serving staff member the benefit of a liberalization of the criteria for recruitment—Limit of the Tribunal's power to interfere with a decision lying within the discretion of the head of the organization—Scope of the principle of equality as between the staff members of the same organization—This principle must be applied within the limits imposed by efficient administration

At the age of 33, the complainant had accepted an appointment as Third Secretary, after being informed that under the recently adopted rules on the recruitment, appointment and promotion of staff members of the International Bureau candidates for a post as Second Secretary should be at least 35 years of age and candidates for a post as First Secretary should be at least 40. Two years later he was promoted to Second Secretary.

In June 1971, having learned that an official aged 36 had just been appointed as Assistant Counsellor, the grade immediately above that of First Secretary, the complainant requested that his post be regraded to that of Assistant Counsellor. He was told that the minimum age of recruitment had been reduced because the retirement age would in future be 60 instead of 65, but that that change in the conditions of appointment conferred no rights on serving staff members.

The case was referred to the Tribunal, which recalled that under regulation 5, paragraph 3 (*a*), of the Regulations of the International Bureau of UPU the Director-General classified posts according to the functions mentioned in regulation 15 and determined grading standards, and that under regulation 13 the Internal Rules concerning post grading empowered the Director-General to grade staff members in accordance with their age, education, experience and ability. The Tribunal stressed that, in applying those provisions, the Director-General was required to exercise his discretion. It followed that his decisions could be set aside only if they were taken without authority, were irregular in form or tainted by procedural irregularities, or were based on incorrect facts, or on illegality, or if essential facts had not been taken into consideration, or if there had been a misuse of authority, or if conclusions which were clearly false had been drawn from the documents in the dossier.

With regard to the alleged lack of authority, the complainant maintained that the Director-General had in fact applied two parallel grading systems, the first adopted in 1968 and the second in 1971, and had thus acted *ultra vires*. The Tribunal noted, however, that the Regulations did not determine the substance of the measures to be taken and, in particular, did not forbid the successive adoption of different systems. Consequently, the Director-General had not exceeded his authority.

The complainant also charged the Director-General with having introduced in 1971 post grading standards which he had not previously published in a document communicated to the whole staff. The Tribunal considered that the complainant might not properly rely upon the failure to publish those standards, which applied to staff members recruited after his own appointment and which therefore did not directly concern him.

Thirdly, the complainant claimed that he had accepted appointment to the staff of the Union in the light of the Director-General's assurances concerning uniform application of the age criteria. Consequently, he alleged that the refusal to regrade him in the light of the new recruitment standards amounted to a breach of contract. The Tribunal noted, however, that the Director-General had not at any time excluded the possibility of amending the grading standards then in force or promised to adjust the complainant's position if that were done. The complainant himself had accepted appointment on the terms stated by the Director-General, without making any reservations to cover the possibility of the adoption of new grading standards. There could therefore be no question of any breach of contract.

Lastly, the complainant maintained that as a result of the adoption of new classification standards he had been put at a disadvantage in relation to officials appointed later. The Tribunal emphasized that, according to the principle of equality which was applicable in international organizations as a general rule of law, even if not embodied in any specific text, persons who found themselves in a similar factual and legal position should be put on the same legal footing. At the time of his appointment, the complainant had been subject to the old grading standards. His position was therefore different from that of staff members recruited in accordance with the new standards. The Tribunal therefore concluded that, since he had not been in the same position as those staff members, the complainant had not suffered any discrimination in relation to them.

The Tribunal added that the principle of equality must be applied within the limits imposed by efficient administration. If any amendment of grading standards were to entail a review of the position of staff members already appointed, complications would inevitably arise which might discourage the organizations from making necessary adjustments and thus compromise their efficient operation. It would therefore be unreasonable to require an organization to review the terms of appointment of all its staff members in the light of the principle of equality as a result of changes in standards of recruitment. The Tribunal therefore dismissed the complaint.

12. JUDGEMENT NO. 209 (14 MAY 1973): LINDSEY V. INTERNATIONAL TELECOMMUNICATION UNION

Complaint against a decision concerning the effect on salaries of a new exchange rate—Position under the regulations and rules of staff members of an international organization—The Tribunal is not competent to rule on the legality of resolutions adopted by the legislative organs of an international organization

By a resolution adopted in 1959 by the Plenipotentiary Conference of ITU, the conditions of service, salaries, allowances and pensions of the Union had been assimilated to those of the United Nations common system and the ITU Staff Regulations had been amended accordingly. The complainant had at that time submitted an appeal to the Tribunal—which led to Judgement No. 61 of 4 September 1962—protesting at the prejudice which ITU staff members might suffer because of the assimilation to the United Nations common system, stressing in particular that the Swiss franc had become slightly stronger than the dollar, that a change in the exchange rate had caused a slight loss and that in any case staff members faced a chronic risk. In response to the complainant's allegations, the Union pointed out that ". . . the dollar exchange rate is taken into account in establishing the index on which changes in the post adjustment allowance are based" and stated that "Fluctuations in that rate can therefore have only a negligible effect on ITU staff members . . .". By a Service Order of 17 May 1971, the Secretary-General of ITU decided to apply the exchange rate of 4.08 Swiss francs to the dollar. The complainant took the view that the increase granted in the post adjustment allowance did not fully offset the reduction in the value of the dollar, and he wrote to the Secretary-General pointing out the disadvantages of the new exchange rate and ascribing them to a breach of his conditions of service. Having unsuccessfully requested that he be granted fair compensation for the loss of salary allegedly suffered by him as a result of revaluation, the complainant appealed to the Tribunal and claimed that the rejection of his request (1) constituted a

violation of Judgement No. 61 and of the undertaking given by the organization during the proceedings which led to that judgement, (2) disregarded his terms of appointment and (3) had caused him serious prejudice for which he was entitled to compensation.

As to the first claim, the Tribunal considered that the present complaint was entirely different in origin and purpose from the complaints settled by Judgement No. 61. It followed that the complainant could not properly rely on the decision given in that judgement. Moreover, it appeared from the observations submitted by ITU during the proceedings which led to the aforesaid judgement that the Union did not, and in fact could not legally, undertake any commitment for the future.

As to the second claim, the Tribunal noted that the complainant's contract of appointment stated that his "duties and rights as an official of the International Telecommunication Union are laid down in the Staff Regulations and in the Rules of the Staff Provident Fund". Thus from the time of his appointment the complainant's position under the regulations and rules was liable in principle to be changed by the competent bodies of ITU; only if the Union had upset the whole structure of the complainant's contract could its action have given rise to the award of compensation. The Tribunal added that, even if it were granted that the whole structure of the contract had been upset in the present case, the complainant could not properly rely on that argument since he had agreed to the payment of his salary in dollars since 1960 without protest.

In any case, the complainant's position under the regulations and rules had been changed following the adoption of a resolution by the Plenipotentiary Conference in 1965 and the Tribunal was not competent to rule on the legality of such a resolution. The decisions taken by the executive authorities of the Union in pursuance of that resolution, and specifically those providing that staff salaries should be expressed and paid in United States dollars and not in Swiss francs as before, had themselves been explicitly approved by the Plenipotentiary Conference in 1965 and consequently were no longer open to discussion in contentious proceedings.

The Tribunal therefore reached the conclusion that the complaint could not substantiate his plea to the Tribunal to the effect that the Secretary-General of the Union, after the devaluation of the dollar, ought to have taken decisions contrary to those approved by the above-mentioned resolution of 1965; nor could he ask the Tribunal to substitute itself for the administrative authorities for the purpose of taking decisions which he claimed to be necessary.

As to the third claim, the Tribunal stated that the complainant's allegations of liability on the part of the Union were ill-founded, because he could not properly maintain either that the impugned decision constituted a breach of the terms of his contract or that it was taken in application of unlawful decisions.

13. Judgement No. 210 (14 May 1973): Mendis v. World Health Organization

Complaint against dismissal for misconduct—Concept of misconduct—Principle of proportionality between the impropriety and the penalty

Shortly before the expiry of his appointment, the complainant had been warned that it was the intention of the administration to dismiss him on the grounds of unsatisfactory service and misconduct. He appealed to the Regional Board of Appeal, which held that he had indeed committed misconduct and had shown himself to be unsuited for international service. The Board added, however, that considering his long record of service a warning would have been more appropriate. It accordingly recommended that the Regional Director should uphold his decision to dismiss the complainant but grant him an *ex gratia* payment equivalent to three months' salary in lieu of notice of non-renewal of appointment. The Regional Director accepted those recommendations, but the complainant appealed to the Headquarters Board of Inquiry and Appeal, which found that the complainant's misconduct was not of such gravity as to warrant dismissal as a disciplinary measure, and therefore recommended that the Director-General should take any step he deemed appropriate in the light of that finding. That recommendation was not endorsed by the Director-General, who on 11 August 1971 confirmed

the Regional Director's decision to dismiss the complainant for misconduct but said that he was prepared to adopt the Regional Board's recommendation for payment of three months' salary.

The case was referred to the Tribunal, which noted that the only ground mentioned in the decision of 11 August 1971 was in respect of "irregularities in dealing with a fellowship". In its reply, the Organization described the nature of the complainant's misconduct as follows:

> "Mr. Mendis ignored instructions from the Regional Office, provided false information, misrepresented facts in the letters he prepared to the Ceylonese Government and betrayed the trust that was placed in him by the WHO Representative in so far as signing documents was concerned".

In the view of the Tribunal, that summary of the grievances of the Organization raised four questions:

(1) Was there misrepresentation?

(2) Was the complainant responsible for it?

(3) Did it amount to misconduct within the meaning of Staff Rule 510.6?

(4) Was the penalty of summary dismissal out of all proportion to the degree of misconduct?

With regard to the first question, the Tribunal observed that the correspondence from the Office where the complainant worked contained four statements which had proved to be false. As to the second question, it found that one of the four misrepresentations appeared in a letter which had been signed by an official other than the complainant but that the three others bore the complainant's signature; it was clear that the four misrepresentations were part of a single scheme of deception; thus, if the complainant was innocent, he should have explained how he came to sign three of them. The explanations provided by the complainant on the subject were rejected by the Tribunal, which therefore concluded that the complainant was responsible for the four misrepresentations.

As to the third question, the Tribunal emphasized that "improper action" was a very wide term, which must to some extent be narrowed by its context in Staff Rule 510; that context showed that the impropriety must be sufficiently great to be treated as a species of "misconduct". Misconduct itself might vary very much in gravity. In the present case, the misrepresentations ascribed to the complainant were part of a deliberate plan and might have had a serious effect on the relations between WHO and the Government. In the opinion of the Tribunal, they amounted to misconduct.

With regard to the fourth question, the Tribunal considered whether the penalty imposed gave adequate weight not only to the nature of the misconduct taken by itself, but also to the extent to which in the circumstances of the case the complainant should be held to blame. In that connexion, the Tribunal considered that there were mitigating factors, which the Regional Director and the Director-General did not appear to have taken into account. The complainant might well have supposed that the regulations which he was required to follow did not count for much; in addition, because of defective organization in the Office where he worked, he had come to assume responsibilities greater than those appropriate to his grade. There was no evidence that he had been warned or closely supervised, or that he had been told that methods which had previously gone unrebuked were no longer acceptable. In the opinion of the Tribunal, when those mitigating factors were put into the scale together with the lack of any corrupt motive and the complainant's previous good record, they caused the sentence of summary dismissal to appear out of all proportion to the degree of misbehaviour in the case. Indeed, the Director-General himself had entertained some doubts, since he had accepted the recommendation of the Regional Board of Appeal concerning the payment of three months' salary in lieu of notice; that was consistent with automatic termination and inconsistent with dismissal for misconduct.

The Tribunal therefore quashed the decision of 11 August 1971 in so far as it confirmed the dismissal of the complainant for misconduct and confirmed that decision in so far as it granted to the complainant payment of three months' salary.

14. JUDGEMENT NO. 211 (14 MAY 1973): HOPKIRK v. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

Complaint seeking the rescission of a certificate of service—Discretionary power of the Director-General—A certificate of service, unless expressly covering a specific period, must take account of the entire period of service

The complainant left the Organization on 5 January 1969 upon the expiry of his contract. On 5 February 1969, he requested a certificate of service commenting on his work and conduct as an FAO staff member. Since the certificate given to him did not meet his expectations, he took the matter to the Appeals Committee and also requested reinstatement at the P-5 level and payment of damages.

Not meeting with satisfaction, he appealed to the Tribunal, calling for (1) reinstatement and (2) a new certificate of service.

On the first point, the Tribunal pointed out that the request could only have been granted if the Director-General's decision not to renew the complainant's contract had been set aside and that, since it had not been impugned within the prescribed time-limit, the decision had become final.

On the second point, the Tribunal noted that the principle that the Tribunal will not interfere, except upon particular and limited grounds, with decisions of the Director-General on matters that fall within his discretion, applied with special force to the form and contents of such documents as appraisal reports and certificates of service. In the Tribunal's opinion, it was the Director-General's responsibility to determine whether a certificate of service was in substance and language just and fair.

The Tribunal considered that there was no evidence of any prejudice in this case. However, it noted that according to the conclusions of the Appeals Committee, which were not disputed by the Organization, the services of the complainant had been satisfactory up to the last year and had only become unsatisfactory towards the end of his employment. The Organization maintained that "the assessment of a staff member's services, when set out in a certificate of service, should in particular reflect the standard of a former staff member's services at the time of his leaving the Organization". The Tribunal did not accept this view. It pointed out that a certificate of service relates to the whole period and that if an evaluation is correct only in relation to a part of the period, it must be limited to that part. It accordingly granted the relief sought by the complainant only on the grounds that the evaluation in the certificate was not based on the entire record and decided that the certificate would be rescinded in order that the Director-General might, if the complainant so requested, issue a new certificate on the correct basis.

15. JUDGEMENT NO. 212 (22 OCTOBER 1973): ZAMUDIO v. WORLD HEALTH ORGANIZATION

Complaint seeking the rescission of an appraisal report and of a decision to withhold an annual salary increment

The complainant was employed on a short-term contract; he had been given several warnings about the quality of his work and received a very bad appraisal report for 1971, which resulted in a decision to withhold his annual salary increment. The complainant appealed to the Board of Inquiry and Appeal but the decision impugned was confirmed by a decision of the Director-General dated 19 July 1972.

Since the complainant had been absent for several months on account of illness, the Director of the Joint Medical Service advised the Administration that, on medical grounds, WHO could not make further use of his services. On the date of expiry of his contract, which was 31 January 1973, the complainant ceased to be employed by WHO. Meanwhile, that is, when he was still working for the Organization, he had filed a complaint with the Tribunal, seeking:

(1) An end to the "policy of discrimination" against him;

(2) A transfer to a post suited to his abilities;

(3) The rescission of his appraisal report for 1971; and

(4) Payment of the salary increment which had been withheld from him.

As to the first point, the Tribunal stated that a thorough examination of the evidence revealed no trace of any "policy of discrimination" followed in respect of the complainant because of his nationality. It was, in fact, established that the decision of 19 July 1972 had been based on the way in which the complainant had performed his duties, and there was no evidence that it had been based on incorrect facts or represented abuse of authority.

As to the second point, the Tribunal noted that the assignment of a staff member to a specific post was a matter for the discretion of the Director-General. It did not appear from the evidence in the dossier that the Director-General's decision in the case was tainted by any of the irregularity which the Tribunal is competent to censure.

As to the third and fourth points, the Tribunal noted that the report to which exception was taken was based on facts which had not been proved to be incorrect and which were such as to provide legal justification for withholding the complainant's salary increment.

The Tribunal accordingly dismissed the complaint.

16. JUDGEMENT NO. 213 (22 OCTOBER 1973): MISRA v. INTERNATIONAL TELECOMMUNICATION UNION

Criteria for receivability of a complaint: time-limits, need for a decision giving grounds for a complaint, rule about exhausting internal remedies

The complainant had been appointed by ITU for one year, on 8 December 1968, and his contract expired on 8 December 1969. In the course of his mission he had been involved in a traffic accident. After his end-of-contract medical examination, the Director of the Joint Medical Services wrote to ITU on 20 January 1970 to report that the complainant was fully fit for work but should probably undergo physiotherapeutic treatment. On 26 August 1970, the complainant asked the Director of the Joint Medical Service whether he could claim under two insurance policies (a life insurance policy and a sickness and accident insurance policy) taken out in his name. On 5 July 1972, ITU wrote to the complainant confirming its earlier decisions, to the effect that the Organization would pay for 45 sessions of physiotherapeutic treatment. Meanwhile, in June 1972, the complainant had visited Geneva where he had held consultations with senior ITU officials. He claims to have then been promised a second mission. On 14 December 1972 he wrote to ITU referring to these alleged promises but was informed on 11 January 1973 that there were no vacancies suited to his qualifications and experience.

The complainant then took the matter to the Tribunal, asking it to order ITU to honour the assurances given to him by the Secretary-General.

The Tribunal dismissed the complaint. It pointed out that if the complainant intended to impugn the letter of 5 July 1972 in which the Secretary-General of ITU rejected his claim for compensation, his complaint was irreceivable because it was not filed within the time-limit required under article VII, paragraph 2, of the Statute of the Tribunal. If he intended to impugn the refusal to give him a new appointment, that complaint was also irreceivable because he was not impugning any decision embodying such a refusal and in any event he ought not to have addressed himself directly to the Tribunal before submitting an appeal to the administrative appeals body.

17. JUDGEMENT NO. 214 (22 OCTOBER 1973): DHAWAN v. WORLD HEALTH ORGANIZATION

Complaint against a decision to terminate staff member for abandonment of post—Failure to complete end-of-contract medical formalities does not constitute grounds for invalidating a termination

The complainant impugned a decision to terminate him for abandonment of post.

The Tribunal noted that the staff member's absence began on 22 June 1969 and continued until 11 October 1969, when the complainant was notified of his termination. It pointed out

that staff rule 980 provided that a staff member absent from duty without satisfactory explanation for more than 15 days was considered to have abandoned his post and should be terminated.

The Tribunal considered that the explanation given by the complainant—that during the whole of this period he was too sick to attend—could only be regarded as unsatisfactory in the light of the undisputed evidence. The Tribunal accordingly held the view that the complainant's appointment was validly terminated under Staff Rule 980.

The Tribunal noted that the complainant did not undergo the end-of-contract medical examination provided for in staff rule 330.7. It nevertheless considered that non-compliance with this rule did not in itself render a termination invalid.

The Tribunal accordingly dismissed the complaint.

18. JUDGEMENT NO. 215 (22 OCTOBER 1973): LIBERATI v. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

Complaint against a decision refusing extension of a period of secondment—The Tribunal is only competent to hear complaints alleging non-observance, in substance or in form, of the terms of appointment of staff members and of provisions of the Staff Regulations

The complainant, who had been a staff member of FAO since 1963, had been seconded to the Secretariat of GATT from June 1970 to June 1971. On applying for an extension of his secondment for a further year, he was refused on the grounds of "pressing requirements" in FAO. He then decided to return to FAO. Considering that the reasons given in support of the refusal to extend his secondment had not proved valid, he asked the Appeals Committee to recommend that the Director-General should pay him damages, or to recommend his termination owing to abolition of post. The negative findings of the Appeals Committee were accepted by the Director-General.

The Tribunal, in considering the case, noted that under article II of its Statute, it was competent to hear complaints alleging non-observance, in substance or in form, of the terms of appointment of staff members and of provisions of the Staff Regulations. There was not, nor was there alleged to be, any term of the complainant's appointment or any provision in any Staff Regulations which required the Organization either to grant or to extend secondments to another international organization. The Tribunal accordingly decided that it was not competent to examine this complaint or to consider whether or not the reasons given by the Organization for its refusal were well founded.

19. JUDGEMENT NO. 216 (22 OCTOBER 1973): HAKIN v. INTERNATIONAL PATENT INSTITUTE

Complaint seeking the payment of child allowances—Definition of a dependent child—Case of a divorced staff member not having custody of his children

The complainant was divorced and custody of his two two children had been awarded to the mother. By a document signed before a notary he had undertaken to pay a monthly maintenance allowance for each of his two children. On 1 June 1970 he wrote to the Director-General of the Institute objecting to the Administration's decision to interpret the Staff Rules then in force to mean that the child allowance was not payable to a divorced father who did not have custody. His claim was dismissed by a letter of 19 June 1970. He then lodged an appeal with the Appeals Committee which was not receivable under the restrictive rules then in force. Later amendment of the rules enabled him to lodge a valid appeal, by a letter to the Director-General of 22 April 1972. On 5 May 1972 the Director-General dismissed his claim and he appealed to the Appeals Committee. The majority of the Committee recommended dismissing the appeal and the Director-General endorsed that recommendation in a letter to the complainant of 26 June 1972.

The Tribunal first had to consider the question of its competence. It pointed out that article 83 of the present Staff Regulations laid down the procedure for internal appeals which began with a request to the Director-General or to the Administrative Council, followed by

reference to an Appeals Committee if the request was rejected, and ended with a decision taken after consideration of the findings of the Appeals Committee. The internal procedure and the procedure before the Tribunal were connected; therefore, subject to any provisions to the contrary in its own Statute, the Tribunal was competent to hear any cases referrable to the internal appeals body. Under article 98, paragraph 4, of the present Staff Regulations, the Appeals Committees were competent to deal with disputes arising out of the application of the former Staff Rules. It followed that the same was true of the Tribunal itself, since its Statute contained no provisions to the contrary. Article 98, paragraph 4, could not, however, apply to disputes on which a final decision had been taken and which therefore could not be reopened failing a specific provision to that effect.

As to the substance of the question, the Tribunal pointed out that, as both parties agreed, the definition of a dependent child was the same in the old Rules as in the present Regulations (art. 43). Both texts specify that a child is the dependent of a staff member if he actually maintains him. It was the interpretation of the word "maintain" on which the parties disagreed. The complainant interpreted it to mean that a parent need only contribute to the costs of housing, feeding, clothing and educating the child in order to be deemed to maintain the child. The Institute held that only the person who provided for all the child's material and moral needs could claim to maintain it, and it followed that a child of divorced parents was considered to be maintained by the parent who had custody of the child.

The Tribunal acknowledged that both these interpretations were compatible with the letter of the applicable regulations. It noted, however, that under article 41 (*b*), the head of the family was defined as "a widowed, legally separated, divorced or unmarried staff member, of either sex, who has one or more dependent children within the terms of articles 43 and 44 below". The term "dependent child" therefore had the same meaning in article 41 and in article 43. It would clearly be unreasonable to describe a divorced staff member as the "head of the family" for the sole reason that he paid an allowance for his children. Besides, the complainant accepted this view himself inasmuch as he recognized that he was not entitled to an allowance as head of the family. It therefore followed that he could not claim the child allowance either, since the grant of both allowances depended on the fulfilment of the same condition.

In the opinion of the Tribunal, this interpretation could be regarded as conforming to the intentions of the authors of the former Rules and of the present Regulations. The maintenance allowance payable by a divorced person for children could very well be less than the amount of the allowance payable for a dependent child, and it would then be contrary to the spirit of the Regulations for the person paying the maintenance allowance to receive the whole amount of the child allowance. Hence, if the authors had intended that the applicable provisions should have the effect of making child allowances payable to a divorced staff member responsible for paying a mere maintenance allowance, they would presumably have included in the Regulation special provisions to deal with such cases; at the very least, provision would have been made for the payment of the child allowance to the parent having custody. The fact that both the former Rules and the present Regulations were silent on these points suggested that child allowances were in principle payable only to the staff member who had custody of the children. The only possible exception would be the case of a parent having custody being wholly unable to maintain the children, with the result that full responsibility for their maintenance was assumed by the other parent. In the present case the financial contribution made by the complainant to the maintenance of the children was probably smaller than that made by their mother, and he therefore did not actually maintain his children according to the strict interpretation adopted by the Tribunal. His claim for the payment of child allowances therefore failed.

The Tribunal also rejected the arguments of the complainant in support of his claim to an education allowance. The relevant provisions, as was clear from their wording, applied only to staff members with dependent children. It followed that the complainant was not entitled to an education grant or allowance since he had no dependent children within the meaning of the Regulations.

20. JUDGEMENT NO. 217 (23 OCTOBER 1973): HAKIN V. INTERNATIONAL PATENT INSTITUTE

This case is similar to the case dealt with in Judgement No. 202 [30]

21. JUDGEMENT NO. 218 (22 OCTOBER 1973): HAKIN V. INTERNATIONAL PATENT INSTITUTE

Complaint seeking to have the extension of a probation period some years earlier taken into account in the reclassification of staff members in a new system of grades and steps

The complainant was appointed to the Institute on a probationary basis in 1967, and in 1968 it was decided to extend his probation period by three months. His appointment was confirmed on 1 July 1968 and he was classed at grade 3 on scale 1. On 22 December 1971 the Administrative Council of the Institute adopted new Staff Regulations which replaced the Staff Rules under which the complainant had been recruited and prescribed a new system of grades and steps. On the basis of a scale of equivalence adopted by the Administrative Council, the complainant was reclassified at grade A.6, step 1, with effect from 1 January 1971, his seniority as of that date being fixed at 18 months. The complainant appealed against the regrading decision on the grounds that according to the scale of equivalence the seniority on which regrading was based should be the actual period spent in the service of the Institute, and that the delay in his advancement owing to the extension of his probation period should not be taken into account in regrading him. That appeal was dismissed, and he lodged an internal appeal, to which the response was a negative recommendation which was accepted by the Director-General.

The Institute, in its reply to the Tribunal contended that the complainant, although ostensibly contesting his regrading, was in reality impugning decisions taken in 1968 which had become final, and that it was therefore questionable whether his complaint was receivable and, if so, whether his arguments against the effects of the 1968 decisions could be taken into consideration. The Tribunal considered that there was nothing to prevent a staff member from lodging a complaint against one decision while at the same time disputing the validity of an earlier one, or claiming the cancellation of its effects, provided that it had not become final.

The Tribunal noted that in his memorandum the complainant stated that he did not dispute that "the purpose of the scale of equivalence used in regrading was to translate the staff member's position on the old scale at the time of regrading into the grades and steps prescribed by the new Staff Regulations". He thus recognized that in assessing his seniority with due regard to the situation created by the decision confirming his appointment in 1968, the Director-General had correctly applied the instructions contained in the new Staff Regulations. It followed that his claims appeared to be without merit.

It was true that the complainant contended that the decision on his regrading should have had regard to his real seniority, including the three months' extension of his probation, but that argument was not only in contradiction with his own statements but was also irrelevant. Article 98, paragraph 4, of the present Regulations did indeed give the appeals committees competence to consider disputes arising out of the application of the former Staff Rules, but it did not apply to disputes which had been the subject of a final decision; the complainant could not therefore rely on it to contest the validity of the 1968 decision, which had become effective immediately.

The Tribunal accordingly dismissed the complaint.

22. JUDGEMENT NO. 219 (22 OCTOBER 1973): HEROUAN V. INTERNATIONAL PATENT INSTITUTE

This case is similar to the case dealt with in Judgement No. 216.[31]

---

[30] See p. 114 of this *Yearbook*.

[31] See p. 124 of this *Yearbook*.

23. JUDGEMENT NO. 220 (22 OCTOBER 1973): HEROUAN v. INTERNATIONAL PATENT INSTITUTE

Complaint seeking the revocation of a minute depriving staff members who were nationals of three specified countries of the option to have part of their remuneration transferred to accounts opened in their names with banks in their home countries—Applications to intervene—Any staff member affected by the disputed minute, whether or not he had availed himself of the above-mentioned option, had a direct personal interest in seeking the revocation of the minute in question—Revocation of the said minute on the ground of misuse of authority and violation of the principle of equal treatment

Prior to being amended article 63 of the Staff Regulation of the Institute contained the following provision:

> "In so far as exchange regulations and the rules governing Institute accounts opened abroad may allow, a staff member may ask for the regular remittance of part of his remuneration to an account opened in his name with a bank in his home country, provided that the Institute itself has a bank account in that country. Subject to these conditions, the remittance will be made at current official monetary exchange rates and any expenses incurred by the Institute shall be borne by the staff member."

By a minute of 28 July 1972 the Director-General had informed staff members who were nationals of Belgium, France and Luxembourg that because of exchange regulations and the rules governing the Institute's accounts in those countries it would not be possible until further notice to transfer part of their remuneration from those accounts. The minute was read out at a meeting of the Administrative Advisory Committee on 4 August. On 4 September 1972 the complainant asked the Director-General to revoke the disputed decision. The Director-General refused, and the case was submitted to the Appeals Committee, which held that the appeal was irreceivable on the ground that it impugned a decision taken after consultation with the Administrative Advisory Committee. This present complaint and applications to intervene from staff members of Belgian, French and Luxembourg nationality were then submitted to the Tribunal.

The Tribunal ruled first on the applications to intervene. It declared the applications from staff members of French nationality, whose interests were identical with those of the complainant and who accordingly had an interest in intervening in his complaint, to be receivable. It delcared the other applications not receivable on the ground that the applicants, being subject to different national laws and regulations, had not the same interests as the complainant.

The Institute maintained that the complainant had not at any time asked to be given the benefit of former article 63, so that the minute of 28 July 1962 could not be regarded as detrimental to him as an individual; only the Institute's refusal to grant an application based on former article 63 would have given rise to a valid complaint. It added that since former article 63 had been revoked and replaced the complaint was without foundation.

In response to that argument the Tribunal pointed out that the complainant, even though he had never availed himself of former article 63, had had the option to do so at any time; accordingly he had a direct personal interest in seeking the quashing of a decision which deprived him of that option. Moreover, the minute of 28 July had actually been applied until the entry into force of new article 63 of the Staff Regulations. The new provision, not being retroactive, affected future circumstances alone, and could not have the effect of nullifying a decision which had actually been applied from August 1972 to 15 March 1973.

The Tribunal ruled next on the legality of the minute of 28 July 1972. It pointed out that under former article 63 the Director-General of the Institute had had authority to decide whether the condition laid down in that article was fulfilled and, if not, to take such measures as the exchange regulations might require at any time. In that matter he necessarily had discretionary power, and it followed that the competence of the Tribunal to review his decision was a restricted competence.

The Tribunal noted that the minute of 28 July 1972 had been issued as the result of a circular from the French Minister of Finance. It held that the new regulations introduced by the French Government did not in themselves impede the exercise by staff members of their rights under former article 63; its effect was merely to oblige the Institute to obtain a supply of financial francs, which was neither impossible nor particularly difficult for it to do. It followed that the Director-General had misunderstood the effects of the article and had, moreover, violated the principle of equal treatment for staff members who were, in relation to the Institute, on an identical legal footing. The decision impugned was consequently quashed.

24. Judgement No. 221 (22 October 1973): Ozorio v. World Health Organization

Complaint against a decision, agreed to by the complainant subject to certain reservations, to extend an appointment—The Tribunal has no power to adjudicate upon claims and arguments that lead to a final decision unless they form part of that decision—Participation of the administration in the expenses incident to an appeal

The complainant was employed in Washington under a five-year appointment which was to expire on 31 December 1971. On 21 October 1971 he was notified of a decision to transfer him to New York and informed that his appointment was extended by one year; it was subsequently extended by two years. On 16 December 1971 the complainant informed the Director-General that he was submitting the decision to terminate his tenure of the post he had accepted in Washington to the Regional Board of Appeal. His appeal having been dismissed by the Regional Board of Appeal, the complainant appealed to the Headquarters Board of Inquiry and Appeal, which recommended that the appeal be dismissed on the ground that the impugned decision had not had the effect of separating him from service, since he had been given a new appointment in New York; the Board recommended, however, that he should be given a five-year appointment instead of a two-year appointment, and that the Organization should participate in meeting the costs incurred by the complainant in relation to the appeal; the Director-General accepted the first two recommendations of the Board of Inquiry and Appeal, but rejected the third; he notified the complainant of his decision on 6 November 1972. On 22 December 1972 the complainant agreed to the replacement of his two-year appointment by a five-year appointment, but reserved his right to appeal against the decision of 6 November 1972 in so far as it related to the termination of his appointment in Washington.

The Tribunal, on the subject of this aspect of the decision of 6 November 1972, pointed out that its competence extended, and extended only, to the review of final decisions that were impugned. In the course of proceedings leading to a final decision various claims and arguments might be put forward and resisted; except in so far as they formed part of the final decision, the Tribunal had no power to adjudicate upon them. It might be that at the end of the proceedings a complainant, while satisfied with the decision itself, would be dissatisfied with the reasoning or some of the reasoning by which it was sustained; unless the decision itself was impugned, the Tribunal had no power to review the reasoning or to comment thereon. Likewise, the Tribunal had no power to grant relief except that which flowed from the successful impugning of a final decision.

The Tribunal pointed out that the decision impugned in the current proceedings was contained in a letter of 6 November 1972 in which the Director-General had accepted the first and second recommendations of the Board of Inquiry and Appeal and had rejected the third. The decision impugned was therefore in two parts: the first part of the decision was, in effect, a single decision to reverse the termination and to grant an extension of appointment of five years, a decision reached not on the ground that the complainant was entitled to it but in the interests of the Organization.

The complainant had accepted the five-year appointment, "it being understood that such acceptance does not preclude me from appealing your decision of 6 November 1972 relating to the circumstances of the non-renewal of my appointment". The Tribunal considered that by that reservation the complainant was seeking to say one of two things:

(*a*) that while accepting the renewal of his contract, he was appealing against the non-renewal; or

(*b*) that while accepting the renewal, he still wished to complain about an earlier non-renewal and about the circumstances in which a decision, since superseded, had been reached.

The first assertion was self-contradictory; the second would involve an investigation into the history of a decision which was not being impugned and which, having been superseded, was not impugnable. The Tribunal could not therefore, give effect to the complainant's reservation.

With regard to the second part of the impugned decision, i.e., the refusal of the administration to participate in meeting the costs incurred by the complainant in relation to his appeal, the Tribunal noted that the complainant was not alleging that an obligation to pay the expenses incident to his appeal was one of the terms of his appointment or the subject of any provision in the Staff Regulations. It pointed out that there were provisions in the Staff Rules which required the Organization to pay costs in certain special situations which did not arise in the case in question. From which it was to be inferred that there was not in the Staff Rules any general or implied obligation to pay costs. The Tribunal consequently declared that it was not competent, under article II of its Statute, to order the relief requested.

25. JUDGEMENT NO. 222 (22 OCTOBER 1973): SMITH v. WORLD HEALTH ORGANIZATION

Complaint by a staff member who, after being granted a disability pension by the Organization, was awarded an annual disability benefit by the United Nations Joint Staff Pension Fund— Principle that there should be no double indemnity

As the result of an accident which had been held to be partly attributable to the performance of official duties, the complainant was granted an annual permanent disability benefit of 2,850 Swiss francs. The complainant had also submitted to the WHO Staff Pension Committee a claim for a full disability benefit. His claim having been rejected and his application for review dismissed, he appealed to the Standing Committee of the United Nations Joint Staff Pension Fund, which awarded him an annual disability benefit of $US 1,747.56, payable from 31 March 1970.

On 8 August 1972 the complainant was informed by WHO that under section II, paragraph 6, of the rules governing compensation, the award of the disability benefit by the Joint Staff Pension Fund would entail the deduction of that benefit from the amount payable in compensation.

Since the amount which remained due to the complainant from WHO after the deduction in question was made was so small, the Organization proposed commuting the benefit into a lump-sum payment of 4,290 Swiss francs. The complainant offered to make no further claim against the WHO if it raised the lump sum to 50,000 Swiss francs.

The Organization stated in a letter of 5 October 1972 that it stood by its decision.

In its considerations the Tribunal pointed out that by notifying the complainant of its decision to grant him an annual permanent disability pension of 2,850 Swiss francs, the Organization was not making a fresh promise and thereby creating a new contract. It was merely stating the manner in which it proposed to fulfil the obligations which it had already undertaken by its contract of employment with the complainant, governed as that contract was by the Staff Regulations. Staff rule 720 provided that a staff member was entitled to compensation in the event of illness, accident or death attributable to the performance of official duties on behalf of the Organization, payable in accordance with rules established by the Director-General. Section II, paragraph 6, of the rules so established provided that there should be deducted from the compensation prescribed "all benefits actually paid in respect of the same series of circumstances under the regulations of any international staff pension fund or international provident fund to which the staff member may belong".

The complainant did not dispute that benefits under such a fund which were actually payable at the time when the compensation was being established under staff rule 720 would

fall to be deducted from the amount to be fixed; but he contended that, once the compensation had been established and embodied in an award, benefits which thereafter became payable could not be deducted from it. That contention might be sustainable on a strict and literal construction of paragraph 6, but it was contrary to the principle that was clearly being expressed in the Rules, which was that an accident should not form an element in the assessment both of the compensation and of the pension benefits; that principle was, in fact, the familiar principle of insurance law that there should be no double indemnity. Accordingly the complainant's contention failed.

26. JUDGEMENT NO. 223 (22 OCTOBER 1973): GAUSI v. INTERNATIONAL CENTRE FOR ADVANCED TECHNICAL AND VOCATIONAL TRAINING (INTERNATIONAL LABOUR ORGANISATION)

Complaint seeking the quashing of a decision not to renew a fixed-term appointment— Discretionary power of the administration to retain in service a staff member who has reached retirement age— Quashing of a decision of non-renewal whose sole purpose is to remove a staff member in consequence of certain irregularities that have come to light in his service without any disciplinary proceedings having been undertaken

The complainant, who had reached the age of 60 on 22 October 1969 and would normally have retired on that date, had had several renewals of appointment, the last of which was due to expire on 31 July 1972. At the beginning of 1972 irregularities came to light in the evaluation reports on external training courses followed by holders of Centre fellowships, and the complainant's superior carried out inquiries. During one of his interviews with the complainant, the latter signed a statement promising not to ask for the renewal of his appointment. Immediately afterwards the complainant suffered a nervous breakdown and remained on sick leave until the end of July. On 26 July 1972 he was informed that his appointment at the Centre would end on 31 July 1972.

Since he was not a staff member and therefore, in his view, could no longer seek redress under the internal procedures, the complainant submitted directly to the Tribunal a complaint against the decision of 26 July 1972, in which he asked that he should be awarded damages for adverse effects on his health and on his prospects of finding new employment.

With regard to the receivability of the complaint, the Tribunal noted that the complainant had on 4 August 1972 submitted a complaint against the decision of 26 July 1972. He had thus complied with the rule that a staff member must make a complaint to the director of the organization before filing a complaint with the Tribunal. The Director, who had the option of referring the complaint first to the Staff Relations Committee, had replied by a decision of 23 August 1972 which gave the complainant only very partial satisfaction. The complainant was therefore entitled to submit a complaint to the Tribunal.

As to the legality of the decision impugned, it was clear from article 13.3 of the Staff Regulations that the Director had discretion in determining the special cases in which a staff member might be retained in service beyond the normal age limit, and the Tribunal's competence to review the legality of the decision was confined to determining, among other things, whether it was tainted by misuse of authority.

The Tribunal found that it appeared from the evidence as a whole that the Director's decision had not been based on the physical or mental inability of the complainant or on his unsatisfactory performance to date or on the necessities of the service. The sole purpose of the decision had been to remove the complainant from the Centre in consequence of irregularities that had come to light in his service, without any serious inquiry to determine who had been responsible and without any disciplinary proceedings providing proper safeguards having been undertaken. The decision was therefore tainted by misuse of authority and had to be quashed.

The Tribunal consequently ruled that the Centre should pay the complainant the sum of 35,000 Swiss francs as compensation.

27. JUDGEMENT NO. 224 (22 OCTOBER 1973): GAUSI v. INTERNATIONAL CENTRE FOR ADVANCED TECHNICAL AND VOCATIONAL TRAINING (INTERNATIONAL LABOUR ORGANISATION)

Following the submission of his first complaint to the Administrative Tribunal,[32] the complainant sent the Chief of Personnel of the Centre a letter enclosing a medical certificate and expressing the view that his poor health was due to the Centre's ill-treatment of him. Five months later, having received no reply, he submitted a further claim for compensation to the Tribunal.

The Tribunal ruled that in so far as the complainant's request was based on facts prior to 31 July 1972, his claims had been dealt with in Judgement No. 223, and that in so far as he was claiming compensation on account of circumstances or actions of the Centre subsequent to 31 July 1972, his claims were without merit, because he had at the latter date severed all his ties with the Centre and the dossier showed no trace of any action by the Centre subsequent to 31 July which might have arisen out of previous action or caused further injury to a former staff member who was no longer employed by the Centre.

The Tribunal consequently dismissed the complaint.

---

[32] See Judgement No. 223 above.

Chapter VI

SELECTED LEGAL OPINIONS OF THE SECRETARIAT OF THE UNITED NATIONS AND RELATED INTERGOVERNMENTAL ORGANIZATIONS

A. Legal opinions of the Secretariat of the United Nations

(Issued or prepared by the Office of Legal Affairs)

1. National legislation providing for the levying of certain air travel taxes—The United Nations should be exempt from such taxes under section 7 (*a*) of the Convention on the Privileges and Immunities of the United Nations

Letter to the Permanent Representative of a Member State

1. I have the honour to refer to a note of the Permanent Mission of your country concerning the imposition on the United Nations of certain air travel taxes under an Act of 1970.

2. The Secretariat of the United Nations had previously received from the Mission of your country the text of a News Release dated 1 July 1970 announcing that the Treasury Department was studying whether employees of international organizations were exempt from the new air travel taxes. Pending completion of the study, air carriers and their agents were instructed to collect the charges from such employees, it being understood that persons paying the taxes could apply for refund if it were to be concluded that they were not liable for them.

3. In the Note referred to in paragraph 1 above, the Mission of your country advised that "the Department of the Treasury . . . has decided that foreign Governments and diplomatic and consular personnel, as well as officials of international organizations, are liable for the payment of these fees or taxes. No exemption is allowable because the taxes are actually user charges for specific services rendered and are paid into the Airport and Airway Trust Fund and used exclusively for the construction, maintenance, and administration of the airport and airway system . . ." With this Note was forwarded a copy of an Opinion of the General Counsel of the Department of the Treasury, dated 14 April 1971 and entitled "Applicability of the Air Travel Taxes to Diplomatic, Consular Officials and International Organizations".

4. The Secretariat of the United Nations in oral discussions immediately informed the Mission that it was unable to agree with the position taken by your Government in this matter and requested that this position be re-examined. In this connexion, it was pointed out that such a position was contrary to that which had been consistently applied in interpreting the Convention on the Privileges and Immunities of the United Nations in similar cases arising in other States.

5. The Opinion of the General Counsel of the Treasury Department, on which the position of your Government appears to be based, has been studied very carefully, but the Secretariat remains of the opinion that the United Nations is entitled to exemption from the taxes imposed under the Act of 1970. While reserving the right to claim exemption from any of the taxes imposed under the Act whenever the occasion arises, the Secretariat hereby formally requests that, with specific reference to the taxes in question, the Government recognize the United Nations exemption therefrom.

6. It is to be understood that exemption is only sought where the incidence of the tax falls on the United Nations, that is, whenever travel or shipment is undertaken at the expense of the United Nations by officials or experts or by others duly authorized to travel at the

expense of the Organization. With regard to taxes on travel undertaken by United Nations officials or experts at their own expenses, as well as on shipments for private purposes, no exemption is claimed.

I. *Convention on the Privileges and Immunities of the United Nations*

7. The exemption is sought on the basis of the Convention on the Privileges and Immunities of the United Nations,[1] which has been acceded to by your country. Section 7(*a*) of the Convention provides:

> "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."

It is submitted that the taxes for which exemption is sought are within the purview of the exemption provided in Section 7(*a*).

8. There can be no doubt that the charges in question constitute direct taxes. This appears clearly, *inter alia,* from the reports and proceedings quoted in the Treasury Counsel's Opinion. The fact that they are characterized as "user taxes" does not remove them from the category of direct taxes—it merely describes their incidence.

9. The question, therefore, is whether these taxes are "*no more* than charges for public utility services" (emphasis added). In this connexion it should be noted that the term "public utility services" is much narrower than the term "public services" and has been interpreted most restrictively in the application of the Convention. The taxes here in question cannot, for a number of reasons, be considered as coming within the quoted phrase.

10. In the first place, the term "public utility services" has a restricted connotation applying to particular supplies or services rendered by a government or by a corporation under government regulation, for which charges are made at a fixed rate according to the amount of supplies furnished or services rendered.

11. In the second place, the "charges", in accordance with established practice in applying the Convention, must be for services that can be specifically identified, described, itemized and calculated according to some predetermined unit. While "transportation" is an accepted public utility, it is the fare for such transportation (exclusive of taxes) that is a charge for that public utility service. For example, in the case of a government-owned bus company it is the fare, and not any tax added thereto for any purpose, such as the construction of highways, that would qualify as a charge for public utility services.

12. Moreover, the purpose of the tax clearly indicates that it is more than a charge for public utility services. It appears from the 1970 Act that the Trust Fund into which the taxes in question are to be paid is to be utilized primarily for the capital expenditures incurred in establishing and developing a national system of airports. The Act sets out, as the reason for its adoption,

> "That the Nation's airport and airway system is inadequate to meet the current and projected growth in aviation.
>
> "That substantial expansion and improvement of the airport and airway system is required to meet the demands of interstate commerce, the postal service, and the national defense.
>
> ". . ."

13. The Act also specifies that the assets in the Trust Fund be available to meet expenditures incurred under Title I of the Act, which provides for the preparation and implementation of a "national airport system plan for the development of public airports" and those "which are attributable to planning, research and development, construction, or

[1] United Nations, *Treaty Series,* vol. 1, p. 15

operation and maintenance" of air traffic control, navigation and communication for the airways system.

14. The expenditures in question are clearly intended to be largely of a capital nature, and would, if the airways system were in private hands, be financed from capital funds raised by the sale of stocks or bonds, and not from current revenues. Since the system is governmentally owned, these capital expenditures would normally be borne by the general tax revenues either immediately or gradually, as bonds issued for the purpose are repaid.

15. While it is true that public utility charges normally do include an element for return on or repayment of capital, this is generally merely incidental to the portion of the charges designed to cover current expenditures for labour and materials. Moreover, the capital in question would be that already invested in the infrastructure used to provide the services for which the charges are rendered, rather than that required for the future expansion of the system, the cost of which must in the first instance be borne either by existing stockholders through retained earnings or by new investors in equity or debt securities.

16. While some of the revenues produced by the taxes here under consideration may be used for current operation and maintenance, and thus are of the type for which a utility could normally charge its customers, this is clearly not the principal destination of these taxes. It cannot, therefore, be said that these taxes are "no more" than public utility charges, as specified by Section 7(*a*) of the Privileges and Immunities Convention for taxes as to which no exemption is to be claimed by the United Nations.

17. If such exemption were not claimed by and granted to the United Nations, then the Organization would, in effect, be forced to use its resources to build up the aeronautical infrastructure of one of its members, that is of a host State, in which of necessity a significant proportion of flights by its staff members originate or terminate.

18. It is not disputed that the United Nations through its staff members travelling on official business will benefit from the proposed national airport system but that is not the criterion specified in Section 7(*a*) of the Convention. Staff members also benefit from police and fire protection, public health and sanitary measures, the work of the meteorological office and the countless other protective and supportive services of a modern government. These are financed by taxes paid by the nationals and residents of the country, except to the extent that certain persons are exempted from such contributions for various policy reasons—such as international civil servants whose taxation by national authorities would merely burden the coffers of the organization employing them. It appears to the United Nations Secretariat that the aeronautical facilities and charges here under consideration, which later would burden directly the Organization itself, fall within the category of services and taxes covered by the above principle.

19. The United Nations has, therefore, consistently taken the position that taxes that are not merely substitutes for charges for current services are covered by the general exemption granted by Section 7(*a*) of its Privileges and Immunities Convention. This issue is discussed in the Secretariat study on *Relations between States and Intergovernmental Organizations*[2] which is cited in the Treasury Counsel's Opinion. The cited page quotes a letter from the Legal Counsel of the United Nations reading in pertinent part as follows:

> "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.).'"

[2] *Yearbook of the International Law Commission, 1967*, vol. II, p. 247.

The letter continues

> "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; . . ."

It is further stated

> "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."

This reasoning is equally applicable, *mutatis mutandis*, with respect to the taxes in question, as is the argument set forth in the *United Nations Juridical Yearbook*, 1968, pages 184 and 185.

20. The following paragraph of the 1967 study contains an extract from a note from the Secretary-General in which representations are made to the Government of a Member State that had sought to levy fees for various airport facilities provided to United Nations aircraft. Although distinguishable as regards its actual incidence from the case under discussion, the following arguments advanced there are of direct applicability in the present case:

> "In the view of the Secretariat of the United Nations, charges exacted by a Government upon aircraft for landing or parking at its airport constitute a direct tax, in respect of which the United Nations is exempt pursuant to Section 7(*a*) of the Convention on the Privileges and Immunities of the United Nations. That section provides that the United Nations shall be 'exempt from all direct taxes'. Such charges are levied for the mere fact of calling or stopping at an airport. They cannot be considered as 'charges for public utility services' from which the United Nations, by the terms of the same Section 7(*a*) of the Convention, will not claim exemption.
>
> "The term 'public utility' has a restricted connotation applying to particular supplies or services rendered by a government or a corporation under government regulation for which charges are made at a fixed rate according to the amount of supplies furnished or services rendered. The 'handling charges' actually levied at . . . Airport would fall into this category and, as may have been noted, the Secretariat has consistently refrained from claiming exemption from such handling charges. Similarly, the Secretariat will not claim exemption, for example, from payment of rental for hangar storage space or for electricity charges, for the lighting of runways during night landing or take-off; these are in the realm of public utility charges.
>
> ". . .
>
> "As concerns the feeling of the Government that the payments made were for actual services rendered, the Secretary-General wishes to emphasize that, both as a matter of principle and as a matter of obvious practical necessity, charges for actual services rendered must relate to services which can be specifically identified, described and itemized. Moreover, it follows that the charge would then differ for each aircraft or each landing according to some predetermined unit (such as a day, a night, the mere act of landing on the runway or parking on the apron, or the type of aircraft), then clearly the Organization is being subjected to a standard rate of assessment in the nature of a tax.
>
> "If, therefore, the Government, in the light of these criteria, should adhere to the views that the payments in question were for actual services, the Secretary-General would ask to be furnished (and the auditors would no doubt eventually require) an itemized account showing the specific services provided on each occasion, the cost of each service, and how the total was arrived at. The Secretary-General is satisfied that the submission of such a voucher would be normal practice wherever a party is billed for specific services. Thus, labour is normally charged by hours of work provided, electricity by kilowatt-hour,

etc. On the other hand, if the charges have been established by fixed statutory or regulatory fee, it would seem evident that Section 7(*a*) is applicable.

". . ."

21. The position taken by the United Nations as to the interpretation of the Convention has generally been accepted by its Members, and indeed the effectiveness of a multilateral instrument of this type requires that the parties thereto accept such uniformity of interpretation. The summary of international practice in part V of the Treasury Counsel's Opinion, which asserts that in a number of countries aviation-related taxes are imposed on international organizations, does not indicate either the nature of these taxes, which in some instances are purely public utility charges (such as discussed in the Note quoted in the previous paragraph), or whether any genuine taxes are imposed on the United Nations by States parties to the Convention.

II. *Intent of the legislative authorities*

22. The Treasury Counsel's Opinion demonstrates that the legislative authorities of your country intended that the taxes here in question be charged to all users of the civil aviation system, including international organizations. However, it is by no means clear that in so doing those authorities expressed an intention "to abrogate or restrict the application" of any relevant treaties; therefore, such a purpose should not be implied.

23. As pointed out in the Opinion, your country has in the past granted and at present still grants exemptions from various excise taxes to diplomatic, consular and international personnel and organizations, on various bases and for different reasons: as a customary courtesy, on the basis of reciprocity, because of the requirements of customary international law, because of provisions of domestic legislation or administrative rulings, etc. While the legislative authorities evidently decided that these considerations should not limit the imposition of the taxes here in question on normally protected persons and organizations, there is no evidence that it was aware that in some instances exemptions are required by treaties or that it in any way wished to abrogate or limit such treaties. Indeed, it appears more than likely that the impact of that treaty on the legislation then under consideration was never explicity taken into account.

III. *Conclusion*

24. On the basis of the foregoing considerations, the Secretariat of the United Nations trusts that the Government of your country will agree that the United Nations is, by virtue of Section 7(*a*) of the Convention on the Privileges and Immunities of the United Nations, entitled to exemption from the taxes imposed under the Act of 1970. Consequently it is hoped that the Government will find it possible to review and reverse the position taken by the Department of the Treasury concerning the liability of the United Nations for the payment of those taxes.

20 June 1973

---

2. PROTECTION OF THE UNITED NATIONS FLAG AND EMBLEM—GENERAL ASSEMBLY RESOLUTIONS 92 (I) AND 167 (II) AND ARTICLE 6 *ter* OF THE CONVENTION FOR THE PROTECTION OF INDUSTRIAL PROPERTY—EMBLEMS PROTECTED UNDER OTHER INTERNATIONAL AGREEMENTS

Letter to a private person

We believe that in your examination of the question of the protection of the Olympic symbol and banner, the manner in which the United Nations emblem and flag are protected

would be of interest to you. The United Nations emblem and flag are protected under resolutions adopted by the General Assembly of the United Nations.

General Assembly resolution 92(I) of 7 December 1946 concerns the United Nations emblem. It provides, among other matters, that States Members of the United Nations "should take such legislative or other appropriate measures as are necessary to prevent the use, without authorization by the Secretary-General of the United Nations, and in particular for commercial purposes by means of trade marks or commercial labels, of the emblem . . . of the United Nations." A number of Member States, pursuant to that resolution, adopted special legislation for the protection of the emblem. Other Member States, considering that their existing legislation would adequately provide the necessary protection, deemed special legislation unnecessary.

General Assembly resolution 167(II) of 20 October 1947 concerns the United Nations Flag. It is pursuant to that resolution that the United Nations Flag Code and Regulations were established by the Secretary-General.

We have found that this system of protection, namely the two General Assembly resolutions together with the willingness of Member States to act pursuant thereto, is in practice a reasonable, practical and effective arrangement.

The discretionary authority vested in the Secretary-General to permit use of the emblem by non-United Nations bodies or persons enables authorization to be granted for the emblem's use in affirmations of support for the United Nations. However, it is required, then, that the words "United Nations" or the letters "UN" be placed above the emblem, and the words "We believe" or "Our hope for mankind" be placed below the emblem.

Use of the United Nations Flag by non-United Nations bodies or persons is permissible under article 5 of the Flag Code to demonstrate support of the United Nations.

As the emblem and flag of an "international intergovernmental organization", the United Nations emblem and flag are also protected, to some degree, under article 6 *ter* of the Paris Convention for the Protection of Industrial Property of 20 March 1883, as revised at Stockholm on 14 July 1967, which is administered by the World Intellectual Property Organization.

You will note that article 6 *ter* (*b*) of the Paris Convention refers to emblems which are protected under other international agreements. One such emblem would be the Red Cross emblem. The Red Cross emblem is protected under chapter VII of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, of 12 August 1949;[3] and under chapter VI of the Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, also of 12 August 1949.[4]

We do not believe that we are in a position to advise on the particular steps which the International Olympic Committee should take to ensure the protection of the Olympic symbol and banner. It seems to us, however, that a basic element, whether protection is sought by way of an international convention or by way of a resolution of the International Olympic Committee, is the willingness of governments to act. Consultations between the International Olympic Committee and governments would therefore appear necessary.

4 June 1973

---

[3] United Nations, *Treaty Series*, vol. 75, p. 31.

[4] *Ibid.*, p. 85.

3. QUESTION WHETHER NON-UNITED NATIONS BODIES ESTABLISHED OR MAINTAINED WITH THE PARTICIPATION OF THE ORGANIZATION MAY USE THE UNITED NATIONS EMBLEM ON THEIR STATIONERY—QUESTION OF THE USE OF UNITED NATIONS DECALS ON EQUIPMENT

Memorandum to the Chief, Human Resources Projects Section, Asia and Middle East Branch, Office of Technical Co-operation

1. You have asked whether the various bodies listed in your memorandum may use the United Nations emblem on their stationery.

2. The Asian Institute for Economic Development and Planning was established by the Economic Commission for Asia and the Far East (resolution 43 (XIX) dated 11 March 1963).[5] It is, therefore, a subsidiary organ of the Commission and may, as a United Nations body, use the United Nations emblem on its stationery.

3. As to the use of the United Nations emblem by non-United Nations bodies, the fact that the United Nations had a role in the establishment of a non-United Nations body or the fact that the United Nations provides assistance to a non-United Nations body does not, in our opinion, render use of the United Nations emblem on the stationery of such a body appropriate.

4. Authorization is granted for use, by non-United Nations bodies, of the United Nations emblem (with the letters "UN" placed above the emblem and "We believe" or "Our hope for mankind" placed below the emblem) as a demonstration of support for the United Nations. However, such use of the United Nations emblem, as a demonstration of support for the United Nations, would not appear to be a solution in the cases mentioned in your memorandum.

5. As you have noted, the Asian Centre for Development Administration when established will not be a United Nations body. Accordingly, use of the United Nations emblem on the stationery of the Centre will not in our opinion be appropriate. Similarly, use of the United Nations emblem on the stationery of the two Regional Demographic Institutes mentioned in your memorandum, both of which we note from your memorandum have independent juridical personality, is not in our opinion appropriate.

6. Use of olive branches in the emblems of non-United-Nations bodies is not objectionable. We would, also, have no objection to a notation acknowledging United Nations assistance (for example, the words "The .... is assisted by the United Nations"), being included on the stationery of a non-United Nations body.

7. You also ask for our views on the use of UN decals on equipment at UNDP projects. Use of UN decals on United Nations owned equipment is in order. Use of UN decals on equipment not owned by the United Nations would be permissible, in our view, where (*a*) the equipment is provided for the exclusive use of the United Nations and is being exclusively used by the United Nations; and (*b*) identification of the equipment as equipment in United Nations use is deemed advisable.

11 July 1973

---

[5] *Official Records of the Economic and Social Council, Thirty-sixth Session, Supplement No. 2* (E/3735), p. 50.

4. CONDITIONS UNDER WHICH RESEARCHERS APPOINTED BY THE UNITED NATIONS UNDER SPECIAL SERVICE AGREEMENTS MAY PUBLISH THE RESULTS OF THEIR WORK—PUBLICATION RIGHTS OF THE UNITED NATIONS

Summary of a memorandum to the Acting Director, Office of Technical Co-operation

1. We refer to your memorandum requesting advice on the conditions under which researchers serving under special service agreements for country studies for a technical co-operation project should be able to publish the results of their work. You recall that in a previous case where not only the researcher and his institution but also his government were interested in public availability of a country study, it was agreed that the United Nations, if it should decide not to arrange for the publication of the study in full, would impose no impediment to its publication in whole or in part either by the subscriber or by others.

2. If all relevant considerations are the same, we see no objection to your applying the same rule to all the project's researchers whether by making the provision in their agreements or by granting any requests for permission on the same terms. This would, if course, be on the clear understanding that such private publication would have to be preceded by a decision by the United Nations not to publish the material itself.

3. In the absence of such a decision, the United Nations should retain all rights, and the results of the study should not be published privately until after publication by the United Nations. As concerns subsequent private publication, the study would, depending on whether the United Nations published it without or with copyright, either be in the public domain or be available for republishing only to the United Nations or persons authorized by it.

4. We agree that any private publication should mention that the work was done as part of a United Nations project, and when United Nations permission for publication is sought and granted, the permission should be conditioned on appropriate United Nations credit.

22 June 1973

---

5. POWERS OF REPRESENTATIVES TO THE GENERAL ASSEMBLY—PRACTICE OF THE CREDENTIALS COMMITTEE—DECISIONS TAKEN BY THE ASSEMBLY IN CERTAIN SPECIFIC CASES IN THE LIGHT OF THE REPORT OF THE COMMITTEE

Letter to the New York Liaison Office of the United Nations Educational, Scientific and Cultural Organization

1. We refer to your letter of 14 November 1973 in which you transmitted a request for information concerning the practice followed in examining the credentials of representatives to the General Assembly.

2. As you know, the procedure for the examination of credentials is the subject of rules 27, 28 and 29 of the rules of procedure of the General Assembly. The *Repertory of Practice of United Nations Organs* (volume I, Articles 1-22 of the Charter; supplement No. 1 to volume I, Articles 1-54 of the Charter; and supplement No. 2 to volume II, Articles 9-54 of the Charter) provides certain interesting although succinct information concerning this procedure in connexion with Article 9.

We shall confine this letter to answering the precise question raised in the request for information.

When is the Credentials Committee constituted?

3. The Committee is constituted at the opening of each session of the General Assembly, at the first meeting. Traditionally, this question appears as item 3 of the Assembly's agenda, following:

(1) The opening of the session by the Acting President, and

(2) The minute of silence.

4. In accordance with rule 28 of the rules of procedure, the nine members of the Credentials Committee are appointed by the General Assembly on the proposal of the President. If there are no objections, the proposal of the President is considered as being accepted without a vote.

Does the Committee meet more than once?

5. Generally speaking, the Committee meets once at the beginning of the session, during the second or third week, to consider a memorandum of the Secretary-General concerning the status of credentials received by the latter, and at a second meeting, held at the end of the session, it considers the situation of the representatives whose powers in due form had not been received at the time of the first meeting. The Committee may, of course, meet at any time to consider questions within its jurisdiction, either on its own or at the request of the General Assembly.

When does the Committee submit its first report to the General Assembly?

Does it submit one, two or more reports?

6. The Committee reports to the General Assembly immediately after the first examination of credentials. Generally speaking, it submits two reports to the Assembly (one report following each of its customary meetings), but may submit more if necessary.[6]

At the current session, the Committee met two or three weeks after it was constituted in order to consider a specific case: has this happened at previous sessions?

7. At the twenty-fifth session, the Credentials Committee met on 26 October 1970 to examine, as a matter of urgency, the credentials of the representatives of South Africa. At the fifteenth session, in 1960, it met at the beginning of the session, immediately after the admission of the Congo-Leopoldville to the Organization.

Has the Assembly ever decided, prior to the twenty-eighth session, to "reject the credentials" of the representatives of a Member State, and if so, what were the consequences with regard to the rights and privileges of that State?

8. At its twenty-fifth, twenty-sixth and twenty-seventh sessions, after considering the reports of the Credentials Committee concluding that all credentials should be accepted, the General Assembly on each occasion adopted a resolution approving the report "except with regard to the credentials of the representatives of South Africa". At the twenty-fifth session, when that formulation was used for the first time, the President of the General Assembly, after consulting the Legal Counsel (see document A/8160),[7] provided in the meeting the following interpretation, which was not contested: a vote in favour of the aforementioned formulation would mean "on the part of this Assembly, a very strong condemnation of the policies pursued by the Government of South Africa. It would also constitute a warning to that Government as solemn as any such warning could be. But, apart from that, [the formulation] would not seem to me to mean that the South African delegation is unseated or cannot continue to sit in this Assembly; if adopted, it will not affect the rights and privileges of membership of South Africa."[8]

9. At its twenty-eighth session, the General Assembly, on a point of order adopted when the Minister for Foreign Affairs of South Africa was about to take the floor in the general

[6] See, for example, with regard to the twenty-fifth session, *Official Records of the General Assembly, Twenty-fifth Session, Annexes*, agenda item 3, documents A/8142 and A/8142/Add.1.

[7] Reproduced in the *Juridical Yearbook*, 1970, p. 169.

[8] A/PV.1901.

debate, decided to suspend its 2140th meeting until the Credentials Committee had reported to it on the credentials of the representatives of South Africa. The Committee having concluded in its report[9] that the credentials were in order, the General Assembly, on the basis of an amendment proposed by Syria,[10] decided to add to that report a paragraph reading: "The General Assembly rejects the credentials of the representatives of South Africa". The President of the General Assembly was led to give his interpretation of the vote in an open meeting; he adopted the same interpretation as his predecessors, and concluded: "Since it is not held that the credentials of South Africa are not in keeping with the terms of rule 27 of the rules of procedure, the vote that has just taken place . . . does not affect the rights and privileges of South Africa as a Member of the Organization."[11] The Chairman of the African Group, speaking on behalf of 41 States, then stated that the group did not intend to challenge "the ruling or the personal interpretation" of the President, but intended to study the implications of the ruling and to take any appropriate steps at a future stage.

23 November 1973

---

6. PRIORITY OF DRAFT RESOLUTIONS BEFORE THE GENERAL ASSEMBLY—A DRAFT RESOLUTION SUBMITTED AT ONE SESSION WILL NOT NORMALLY BE BEFORE A SUBSEQUENT SESSION UNLESS *inter alia* THERE IS AN EXPRESS DESIRE ON THE PART OF THE SPONSORS TO MAINTAIN IT—WHERE AN AGENDA ITEM HAS VARIOUS SUBITEMS, THE RELEVANT RESOLUTIONS ARE VOTED ON IN THE ORDER OF SUBMISSION REGARDLESS OF THE SUBITEM TO WHICH THEY RELATE—A DRAFT RESOLUTION RETAINS ITS STATUS EVEN IF IT IS REVISED

Memorandum to the Under-Secretary-General for Political and Security Council Affairs

I. *Historical background*

1. At its 1939th plenary meeting during the twenty-sixth session, the General Assembly decided, on the recommendation of the General Committee (A/8500, para. 18), to include the following items in the provisional agenda of the twenty-seventh session:

"Withdrawal of United States and all other foreign forces occupying South Korea under the flag of the United Nations.

"Dissolutions of the United Nations Commission for the Unification and Rehabilitation of Korea.

"Question of Korea: report of the United Nations Commission for the Unification and Rehabilitation of Korea."

2. These three items were therefore included in the provisional agenda of the twenty-seventh regular session (A/8760), numbered respectively 35, 36 and 37. In addition, on 17 July 1972, Algeria and twelve other Member States had requested the inclusion in the provisional agenda of that session of an item entitled "Creation of favourable conditions to accelerate the independent and peaceful rehabilitation of Korea" (A/8752), which was included as item 96 on the provisional list; a number of new sponsors were added subsequently, and on 15 September 1972 the sponsors communicated to the Secretary-General a draft resolution under the proposed item (A/8752/Add.9).

3. The General Committee recommended to the Assembly that items 35 and 36 not be included in the agenda, and that items 37 and 96 be included in the provisional agenda of the twenty-eighth session (A/8800/Rev.1). The Assembly accepted this recommendation at its 2037th meeting.

[9] A/9179.

[10] A/L.700.

[11] A/PV.2141.

4. The two items were therefore included as numbers 40 and 41 on the preliminary list of items to be included in the provisional agenda of the twenty-eighth regular session (A/9000), in the annotated preliminary list (A/9090) and in the provisional agenda (A/9100).

5. On 10 September 1973 the representatives of Algeria and 21 other States constituting most of those that had co-sponsored the resolution in document A/8752/Add.9 addressed a letter to the Secretary-General transmitting a draft resolution relating to item 41 ("Creation of favourable conditions to accelerate the independent and peaceful rehabilitation of Korea"), indicating that the new draft replaced that contained in the 1972 document; that letter was circulated the same day (A/9145). Later on 10 September 1973 the representatives of Australia and twelve other States addressed a note verbale to the Secretary-General in which they requested that a draft resolution relating to item 40 of the provisional agenda ("Question of Korea, report of the United Nations Commission for the Unification and Rehabilitation of Korea") be circulated as an official document of the Assembly "for the information of Member States"; this was done on the same day in document A/9146. The reason for the difference in the presentation of the two draft resolutions was that the Secretariat had indicated to the sponsors of resolution A/9146 that they could not at that stage introduce a draft resolution with respect to an item not yet placed on the agenda by the Assembly and allocated to a Committee; on the other hand, the sponsors of resolution A/9145 could, under rule 20 of the rules of procedure of the General Assembly, introduce a revision of the draft resolution that they had previously presented with respect to an item they had proposed for the agenda of the previous session of the Assembly.

6. On 20 September, the General Committee considered the provisional agenda, and with respect to items 40 and 41 the Chairman announced that he understood that "there was a general sentiment that those items should be recommended for inclusion as subitems of a single item under the heading "Question of Korea". The Committee then "decided to recommend to the General Assembly that items 40 and 41 should be combined into a single item and included in the agenda" (A/BUR/SR.206, pp. 3-4; A/9200, para. 19). At the afternoon meeting on 21 September of the General Assembly, the President called attention to item 41 as recommended by the General Committee "which contains two subitems under the single heading 'Question of Korea'"; the Soviet representative "did not object to the recommendation of the General Committee that the two questions concerning Korea be merged as two subparagraphs of one general item". The Assembly thereupon decided, without objection, to include item 41 as recommended by the General Committee. Later, at the same meeting, the Assembly approved the recommendation of the General Committee (A/9200, para. 27, p. 23) that item 41 be allocated to the First Committee (A/PV.2123, pp. 6-10 and 16).

7. Immediately after the Assembly had decided on the allocation of items to the First Committee, the representatives of Japan and the United States presented to the Secretary of that Committee in his office, on their behalf and on behalf of sixteen other States, the same draft resolution that they had presented on 10 September. Slightly later the sponsors of the "Algerian" resolution informed the Secretary of the Committee that they wished to maintain the revised draft they had introduced on 10 September. The "Algerian" draft was therefore re-published as document A/C.1/L.644 and A/C.1/L.644/Corr.1 under the names of 32 sponsors, and the other draft was re-published as document A/C.1/L.645 with 18 sponsors.

II. *Legal considerations*

8. Both rules 80 and 122 of the rules of procedure of the General Assembly[12] provide that "proposals and amendments shall normally be submitted in writing to the Secretary-General, who shall circulate copies to the delegations." Rules 93 and 133[13] provide that "if two or more proposals relate to the same question, the General Assembly/committee shall, unless it decides otherwise, vote on the proposals in the order in which they have been submitted." The

[12] Numbered 78 and 120 respectively in the current rules of procedure.

[13] Numbered 91 and 131 respectively in the current rules of procedure.

question therefore is: what is "submission" within the meaning of these rules? The prevailing practice is that submission means the written submission provided for in rules 80 and 122.[14]

9. There is no rule explicitly providing for the introduction of proposals with respect to any question before that question has been placed as an item on the agenda by the General Assembly and before it has been allocated to a Committee. However, rule 20 does provide that "all items proposed for inclusion in the agenda shall be accompanied . . . if possible . . . by a draft resolution." Consequently, it can be concluded that as to items proposed by Member States for inclusion in the agenda the proposer may submit therewith a draft resolution. With respect to sponsors other than those that introduced the item or with respect to items not so introduced, there is no authority in the rules for the submission of draft resolutions in advance.

10. The question of the status of resolutions introduced at a previous session of the Assembly was examined in a memorandum dated 14 November 1966,[15] from which it appears that up to then no definitive decision had been reached on that point. However, the memorandum concludes that "generally a draft resolution submitted at one session will not be before the subsequent session unless (1) it is resubmitted, (2) there is an express desire on the part of the sponsors to maintain it, or (3) the General Assembly in recommending postponement and/or in placing the item on the agenda has expressly transmitted all documents relating thereto." Since then, there have been no relevant decisions or changes in the rules or practice. In the present case, it is clear that alternative (3), an express decision of the Assembly to transmit all relevant documents to a later session, has not taken place; the "Algerian" draft comes under alternative (2) as a revision (see paragraph 12 below) of the draft resolution submitted in September 1972, which the sponsors desired to maintain. This would have been the case even if, as implicity assumed in the 1966 memorandum, the item and the draft would have been discussed at the previous session of the Assembly; *a fortiori,* it should apply to an item and draft that was merely postponed by the Assembly, without any substantive consideration.

11. There appears to have been no decision whatsoever relating to the status of resolutions introduced with respect to items on the provisional agenda when these items are later included in the agenda in an altered form: i.e., change of title, or combination with another item. In the present case it seems clear from para. 6 above that items 40 and 41 of the provisional agenda were not altered at all by their merger under a single heading, especially since each survived under a separate subheading, corresponding to its original title and neither the debates in the General Committee nor in the Assembly suggested any desire to alter the items otherwise. It should be noted that where an agenda item has various subitems, the draft resolutions are voted on in the order of submission, regardless of the subitem to which they relate. This was illustrated at both the twenty-second and twenty-third sessions when the Korean item was considered in the First Committee, respectively with three and with four subitems. In both instances, four drafts were introduced (respectively A/C.1/L.399/Rev.1, L.401 and Add.1 and 2, L.404 and Add.1-3 and L.405 and Add.1, and A/C.1/L.453 and Add.1, L.454 and Add.1, L.455 and Add.1 and 2 and L.461), and these were voted on in the order of their submission which did not correspond to that of the relative subitems.[16]

12. In accordance with established practice, a draft resolution retains its status even if it is revised.[17]

---

[14] Only once, in the Special Political Committee at the eighteenth session, did the Chairman rule and the Committee decide that as between two draft resolutions submitted in writing, priority would be given to the one first orally introduced during the debate in the Committee (*Official Records of the General Assembly, Eighteenth Session,* Special Political Committee, 405th meeting, paras. 41-85).

[15] *Juridical Yearbook,* 1966, p. 227-229.

[16] See *Official Records of the General Assembly, Twenty-second session, Annexes,* agenda item 33, document A/6906; and *ibid., Twenty-third Session, Annexes,* agenda item 25, document A/7460.

[17] See, e.g., *Official Records of the General Assembly, Third Session,* First Committee, 213rd to 215th and 221st meetings.

13. The draft published as document A/C.1/L.644 and Corr.1 thus maintained its continuous status in spite of the transmission from one session of the Assembly to the next (para. 10 above), the merger of the item under which it was originally proposed with another item (para. 11 above) and a slight revision of text (para. 12 above). Having maintained its status it also maintained its priority with respect to alternative drafts, and the Secretariat attempted to reflect this in the numbering of the documents (see para. 7 above).

28 September 1973

---

7. OFFICERS OF SUBSIDIARY ORGANS OF THE GENERAL ASSEMBLY—UNDER THE RULES OF PROCEDURE OF THE ASSEMBLY, SUCH OFFICERS ARE ELECTED AS INDIVIDUAL REPRESENTATIVES

Memorandum to the Secretary of the Working Group on the Financing of UNRWA

1. The Working Group on the Financing of UNRWA[18] is a subsidiary organ of the General Assembly and under rule 163 of the rules of procedure of the Assembly, the rules relating to the procedure of committees of the General Assembly apply, unless the Assembly or the subsidiary organ decides otherwise. The General Assembly has taken no contrary decision and consequently unless the Working Group were itself to decide otherwise, the election of officers is governed by rule 105 of the rules of procedure of the General Assembly.[19] This rule provides, *inter alia,* that "in the case of other committees [committees other than Main Committees], each shall elect a Chairman, one or more Vice-Chairmen and a Rapporteur. These officers shall be elected on the basis of equitable geographical distribution, experience and personal competence . . ."

2. Under this rule, and in accordance with normal practice for Committees and subsidiary organs of the General Assembly, the Chairman and other officers are elected as individual representatives and not as Member States or delegations. This is indicated by the rule which includes individual qualifications ("experience and personal competence") among the criteria for selection. The procedure under General Assembly rule 105 is in contrast with the practice in the Security Council where the presidency, under rule 18 of the provisional rules of procedure of the Council, is held in turn by member States on the Security Council. The Security Council thus has no provision for Vice-President since it is the delegation which holds the presidency. In this connexion, it will be noted that in General Assembly Committees and subsidiary organs, under rule 107, it is a Vice-Chairman and not another member of the Chairman's delegation who is designated to serve in the absence of the Chairman.

3. It should also be noted that under rule 107, if any officer of the Committee is unable to perform his functions, a new officer is to be elected for the unexpired term. While, in practice, it very often occurs that the new officer is a member of the same delegation as his predecessor, under the rules this is by election (which in some cases may take the form of explicit or tacit confirmation) and not by automatic succession.

4. Of course the subsidiary organ under rule 163 is free to depart from this normal procedure if it so decides and there are cases in which subsidiary organs have adopted other procedures with respect to the Chairman. The United Nations Commission for the Unification and Rehabilitation of Korea, for example, adopted a method of rotation modelled on that of the Security Council. In practice the vast majority of the subsidiary organs apply rule 105 and elect their officers as individual representatives.

---

[18] Established by General Assembly resolution 2656 (XXV) of 7 December 1970.

[19] This rule has since been amended by the General Assembly. Rules 105, 107 and 163 referred to in this memorandum are numbered 103, 105 and 161 respectively in the current version of the rules of procedure of the General Assembly.

5. As to the terms of office, there is no uniform practice. Some subsidiary organs re-elect officers each year, while others continue with the same officers. This depends on the decision or the practice of the subsidiary organ concerned.

12 January 1973

---

8. United Nations resolutions restricting relations and collaboration with South Africa until the latter has renounced its policies of racial discrimination and *apartheid*

Note prepared for the Assistant Administrator and Director, Regional Bureau for Africa, United Nations Development Programme

1. Questions have arisen from time to time concerning the propriety of United Nations participation in development or other activities involving certain types of relationship with the Republic of South Africa. It may therefore be useful to summarize the more relevant directives incorporated in resolutions of United Nations principal organs which have the effect of restricting such activity.

2. It may be noted at the outset that the policies and restraints contained in the resolutions referred to below constitute directives with which those who act under the authority of the General Assembly, or of other principal organs of the United Nations, are bound to comply. For whether or not such resolutions are considered legally binding by States, United Nations organs are bound to apply such resolutions to their own actions, irrespective of the positions which may be taken by individual governments in the conduct of their own affairs.

3. As will be shown below, United Nations participation in activities which are designed to promote or enlarge economic or trade relations, or other forms of collaboration with South Africa would, in general, be in conflict with current United Nations decisions.

Synopsis of pertinent resolutions

4. On repeated occasions the General Assembly has requested that States and international organizations and institutions should not assist[20] in any way or collaborate[21] with the South African Government until the latter has renounced its policies of racial discrimination and *apartheid*. The General Assembly has also called for a boycott of all South African goods,[22] and has requested States to refrain from exporting goods, including all arms and ammunition, to South Africa.[23] The General Assembly has also appealed to States, *inter alia*, to discourage the establishment of closer economic and financial relations with South Africa, particularly in investment and trade, and also to discourage loans by banks to the Government of South Africa or South African companies.[24] The General Assembly has further urged States to terminate official relations with the Government of South Africa and to terminate all military, economic, technical and other co-operation with South Africa.[25]

5. In one of its more comprehensive requests, the General Assembly has specifically invited all States:

---

[20] See General Assembly resolutions 2105(XX), para. 11; 2189(XXI), para. 9; 2311(XXII), para. 4; 2326(XXII), para. 8; 2426(XXIII), para. 4; 2506 B (XXIV), para. 10; 2548(XXIV), para. 6; 2555(XXIV), para. 6; 2704(XXV), para. 9; 2874(XXVI), para. 7; and 2908(XXVII), para. 9.

[21] General Assembly resolutions 2506 B (XXIV), para. 5; and 2704(XXV), para. 8.

[22] General Assembly resolution 1761(XVII), para. 4.

[23] *Ibid.*

[24] General Assembly resolution 2202 A (XXI), para. 5(*b*).

[25] General Assembly resolution 2671 F (XXV), para. 7.

"(*a*) to desist from collaborating with the Government of South Africa, by taking steps to prohibit financial and economic interests under their national jurisdiction from co-operating with the Government of South Africa and companies registered in South Africa;

"(*b*) to prohibit airlines and shipping lines registered in their countries from providing services to and from South Africa and to deny all facilities to air flights and shipping services to and from South Africa;

"(*c*) to refrain from extending loans, investments and technical assistance to the Government of South Africa and companies registered in South Africa;

"(*d*) to take appropriate measures to dissuade the main trading partners of South Africa and economic and financial interests from collaborating with the Government of South Africa and companies registered in South Africa;".[26]

6. At its twenty-seventh session, the General Assembly re-affirmed and enlarged existing restraints in this regard. In three of the resolutions adopted at that session, the General Assembly again requested all States, specialized agencies and other organizations to withhold assistance from, discontinue collaboration with, and deny commercial and other facilities to the Government of South Africa for so long as it pursues its policies of *apartheid* and racial discrimination.[27] The General Assembly also invited:

"all organizations, institutions and information media to organize in 1973, in accordance with the relevant resolutions adopted by the United Nations, intensified and co-ordinated campaigns with the following goals:

"(*a*) Discontinuance of all military, economic and political collaboration with South Africa;

"(*b*) Cessation of all activities by foreign economic interests which encourage the South African régime in its imposition of *apartheid;*

"(*c*) . . ."[28]

7. With regard to the need for reinforced and obligatory sanctions, the General Assembly, at its twenty-seventh session, also reaffirmed "its conviction that economic and other sanctions, instituted under Chapter VII of the Charter and universally applied, constitute one of the essential means of achieving a peaceful solution of the grave situation in South Africa".[29]

This view concerning the necessity for economic sanctions universally applied has been repeatedly expressed on previous occasions, both by the General Assembly[30] and, *inter alia,* by the Special Committee on the Policies of *Apartheid* of the Government of the Republic of South Africa.[31]

8. It should further be added that all activities are prohibited which would contravene either directly or indirectly the Security Council resolutions establishing the arms embargo against South Africa which is currently in force.[32] In particular, this would preclude making

---

[26] General Assembly resolution 2506 B (XXIV), para. 5.

[27] General Assembly resolutions 2908(XXVII), para. 9; 2980(XXVII), para. 6; and 2923 E (XXVII), paras. 12 and 13.

[28] General Assembly resolution 2923 E (XXVII), para. 16.

[29] *Ibid.*, para. 7.

[30] General Assembly resolutions 2054 A (XX), para. 6; 2307(XXII), para. 3; 2396(XXIII), para. 4. Measures under Chapter VII of the Charter were recommended *inter alia* in General Assembly resolutions 2506 B (XXIV), para. 9; 2671 F (XXV), para. 6; and 2775 F (XXVI), para. 13.

[31] Reports of the Special Committee (S/5426, para. 517; S/5717, para. 15; S/6073, paras. 640 and 641). The same recommendation was also contained in the Report of the Group of Experts established in pursuance of the Security Council resolution of 4 December 1963 (*Official Records of the Security Council, Supplement for April, May and June 1964,* document S/5658, Annex, para. 121)

[32] Security Council resolutions 181 (1963), 182 (1963), 191 (1964), 282 (1970), and 311 (1972).

available any materials, or products or assistance, capable of being used for military purposes, or in the manufacture or maintenance of arms, ammunition, or military vehicles or equipment.

The situation of Botswana, Lesotho and Swaziland

9. A factor which has not been overlooked is the continued economic dependence of Botswana, Lesotho and Swaziland on South Africa in many important respects, and the fact of continued relations between these countries and South Africa. For our present purposes, however, our primary concern is not with the existence of such relationships between States, but rather with the propriety or legality of action by the United Nations itself, and especially of action which would be calculated to enlarge or reinforce these relationships with South Africa.

10. Prior to the independence of Botswana (on 30 September 1966), Lesotho (on 4 October 1966), and Swaziland (on 6 September 1968), and the admission of these States to the United Nations,[33] the General Assembly had been concerned to secure their territorial integrity and sovereignty,[34] and with ways and means of ensuring their greater economic independence vis-à-vis the Republic of South Africa.[35] At the same time, both before and subsequent to their independence, the United Nations has also been concerned with the evident need on the part of these three States for assistance in the area of economic and social development.[36]

11. However, the decisions and policies thus far adopted in General Assembly resolutions have not envisaged (or permitted) action by the United Nations itself which would further reinforce and enlarge economic relationships with South Africa, especially if this would be profitable to the latter, or would further increase the dependence of Botswana, Lesotho or Swaziland or any other State, on South Africa.

Conclusion

12. In the event that Member States should wish to allow exceptions to be made to the provisions of existing resolutions, this can be authorized by the organ from which the resolution in question emanated. In the meantime, however, it is not open to the Secretariat, on its own responsibility, to make such exceptions.

13. Restrictions of the kind discussed in the foregoing cannot fail to have at least some economic consequences (especially so far as United Nations assistance is concerned), as was clearly envisaged when the resolutions in question were adopted. While it is for governments to determine their own needs and policies and actions in the light of such General Assembly resolutions, the assistance which organs of the United Nations can properly give is not unlimited in scope, being provided at all times under the authority of the Charter and the decisions of United Nations principal organs.

---

[33] Botswana, on 17 October 1966, by General Assembly resolution 2136 (XXI), Lesotho, on 17 October 1966, by General Assembly resolution 2137 (XXI) and Swaziland, on 24 September 1968, by General Assembly resolution 2376 (XXIII).

[34] General Assembly resolutions 1817 (XVII), 1954 (XVIII), 2063 (XX) and 2134 (XXI).

[35] See the report by the Secretary-General on Basutoland, Bechuanaland and Swaziland (*Official Records of the General Assembly, Twentieth Session, Annexes*, agenda item 23, document A/5958) requested by 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/5800/Rev.1, chap. VIII, para. 365).

[36] General Assembly resolutions 1817 (XVII), 1954 (XVIII), 2063 (XX) and 2134 (XXI). A Fund for the Economic Development of Basutoland, Bechuanaland, and Swaziland was established under operative paragraph 7 of General Assembly resolution 2063 (XX) of 16 December 1965. On 29 September 1966, the General Assembly noted that contributions so far pledged had not been sufficient for the Fund to be brought into operation (see General Assembly resolution 2134 (XXI), fifth preambular paragraph). In that same resolution, the General Assembly expressed its concern regarding the economic and social situation in these three territories, "and their imperative and urgent need for United Nations assistance". (*ibid.*, fourth preambular paragraph).

14. Accordingly, this note has been prepared with a view to facilitating the consideration, on a case by case basis, of requests for action or assistance which could involve relations of collaboration with South Africa.

28 March 1973

---

9. UNITED NATIONS POLICY OF SANCTIONS IN RELATION TO RHODESIAN COMMERCE—COMMENTS ON WHETHER THE AUTHORITIES OF A STATE COULD LEGALLY EXERCISE SOME CONTROL OR EXERT SOME INFLUENCE ON COMMERCIAL COMPANIES REGISTERED IN THAT STATE

Summary of a memorandum to the Acting Director, Security Council and Political Committees Division, Department of Political and Security Council Affairs[37]

1. I refer to your memorandum in which you request my views on whether the authorities of a State could legally exercise some control or exert some influence upon commercial companies which are apparently registered in that State and which conduct business outside its territory. The Government concerned has declared its readiness to take steps, independently and without thereby recognizing any legal obligation, to prevent the possibility of its territory being used to circumvent the United Nations policy of sanctions in relation to Rhodesian commerce.

2. You have pointed out that this question has been discussed by the Committee established in pursuance of Security Council resolution 253 (1968), certain companies established in the State concerned having apparently been engaged in transactions of benefit to Southern Rhodesia. . .

3. I have noted that the authorities of the State concerned have commented very briefly on the activities of one of those companies and have stated that they "have no legal or practical means of intervening outside the territory of the [country]."

4. This comment seems to me to deal only partially with the means available to the authorities concerned to influence the firms in question. . . It would, for example, seem that these authorities may be in a position to require that the companies concerned desist from engaging in the transactions in question as a condition of the continuance of their registration in the country.

5. The authorities also comment that "Under public international law, each State is entitled to apply legal rules only in its own territory; the authorities cannot therefore take steps which would contravene positive international law."

6. If this comment is intended to convey that a State may only enforce its national legislation within its own territory, it is no doubt correct, but not pertinent to the question under review. If on the other hand the comment is intended to assert that public international law precludes a State from enacting laws having extra-territorial effect and providing for enforcement within the territory of the legislating State, then it is at variance with both law and precedent.

7. With regard to the law, reference is made to a pertinent passage in the Judgement of the Permanent Court of International Justice in the case of the SS "Lotus":

> "Now the first and foremost restriction imposed by international law upon a State is that—failing the existence of a permissive rule to the contrary—it may not exercise its power in any form in the territory of another State. In this sense jurisdiction is certainly territorial; it cannot be exercised by a State outside its territory except by virtue of a permissive rule derived from international custom or from a convention.

[37] The full text of the memorandum is reproduced in document S/11178/Add.1, Annex I, pp. 59 *et seq.*

"It does not, however, follow that international law prohibits a State from exercising jurisdiction in its own territory, in respect of any case which relates to acts which have taken place abroad, and in which it cannot rely on some permissive rule of international law. Such a view would only be tenable if international law contained a general prohibition to States to extend the application of their laws and the jurisdiction of their courts to persons, property and acts outside their territory, and if, as an exception to this general prohibition, it allowed States to do so in certain specific cases. But this is certainly not the case under international law as it stands at present. Far from laying down a general prohibition to the effect that States may not extend the application of their laws and the jurisdiction of their courts to persons, property and acts outside their territory, it leaves them in this respect a wide measure of discretion which is only limited in certain cases by prohibitive rules; as regards other cases, every State remains free to adopt the principles which it regards as best and most suitable."[38]

8. With regard to precedent, the United Kingdom Trading with the Enemy Act of 1939 (2 and 3 Geo 6(c) 89), the United States Trading with the Enemy Act (50 USCA), and more recently, the United Kingdom-Southern Rhodesia (Petroleum) Order of 1965 (ST/1965 No. 2140), and the Southern Rhodesia (Prohibitive Export and Import) Order of 1966 (SI/1966 No. 41) all provide clear examples of national legislation controlling the activities of nationals and legal persons not only at home but also abroad and providing for enforcement at home of penalties in respect of contraventions by them abroad without such legislation being regarded as in conflict with public international law.

8 May 1973

---

10. Amendment to Article 61 of the Charter increasing the membership of the Economic and Social Council from twenty-seven to fifty-four members—Question whether, during the period between the entry into force of the amendment and the time when the General Assembly elects the new members, the Council should meet in its old composition or whether interim arrangements should be made to permit it to convene with fifty-four members

Note to the Secretary of the Economic and Social Council

1. By its resolution 2847 (XXVI) of 20 December 1971, the General Assembly adopted the following amendment to the Charter and submitted it for ratification by the States Members of the United Nations:

"*Article 61*

"1. The Economic and Social Council shall consist of fifty-four Members of the United Nations elected by the General Assembly.

"2. Subject to the provisions of paragraph 3, eighteen members of the Economic and Social Council shall be elected each year for a term of three years. A retiring member shall be eligible for immediate re-election.

"3. At the first election after the increase in the membership of the Economic and Social Council from twenty-seven to fifty-four members, in addition to the members elected in place of the nine members whose term of office expires at the end of that year, twenty-seven additional members shall be elected. Of these twenty-seven additional members, the term of office of nine members so elected shall expire at the end of one year, and of nine other members at the end of two years, in accordance with arrangements made by the General Assembly.

[38] *P.C.I.J.*, Series A, No. 9, pp. 18 and 19.

"4. Each member of the Economic and Social Council shall have one representative."

2. The foregoing amendment entered into force on 24 September 1973, the requirements of Article 108 of the Charter regarding ratification being met on that date by the deposit of an instrument of ratification by the United States of America.

3. The resumed fifty-fifth session of the Economic and Social Council is scheduled to take place at United Nations Headquarters from 15 to 18 October 1973. The question therefore arises whether the Council should, at that time, meet in its old composition of twenty-seven members or whether arrangements should be made to permit it to convene with fifty-four members, such arrangements being of an interim nature pending the election by the General Assembly of thirty-six Member States to serve on the Council in accordance with Article 61, paragraph 3 of the Charter, as amended, and the entry into office of those Member States on 1 January 1974, in accordance with rule 141 of the rules of procedure of the General Assembly.[39] This rule provides, *inter alia,* that "the term of office of members of Councils shall begin on 1 January following their election by the General Assembly and shall end on 31 December following the election of their successors." In this connexion, a suggestion has been made that, as an interim arrangement, the General Assembly should elect for a term of office commencing on the day of election and ending on 31 December 1973 those twenty-seven States currently serving on the sessional committees of the Economic and Social Council in addition to the existing members of the Council.

4. The situation which has now arisen is, *mutatis mutandis,* identical with that which arose in 1965 when a previous amendment to Article 61 of the Charter, enlarging the membership of the Economic and Social Council, entered into force. On that occasion, a legal opinion was issued indicating that there was no obstacle to the Council meeting in its old composition pending the implementation by the General Assembly of the amendment by electing the new members of the Council and their entry into office in accordance with rule 141 of the rules of procedure.[40] That opinion was in fact followed, the Council meeting in 1965 for a resumed session in its old composition after the entry into force of the amendment concerned. At that time no argument was raised that the Council was not properly constituted.

5. The legislative history of General Assembly resolution 2847 (XXVI) adopting the present amendment to the Charter, and Economic and Social Council resolution 1621 (XLI) recommending that amendment, does not reveal any understanding that there should be a departure from the procedures followed in 1965, or that interim arrangements should be made of the nature indicated in paragraph 3 above. In other words, there is no indication that a departure should be made from the regular procedure whereby the Economic and Social Council would meet for the remainder of this year in its old composition and the General Assembly would at its current session elect the requisite number of members, to take office on 1 January 1974, in order to permit the Economic and Social Council to meet in that year in its new composition.

6. An interim arrangement whereby the General Assembly would first elect to the Council for a term of office ending on 31 December 1973 the additional members of the sessional committees of the Council, and then elect the Member States to take office on 1 January 1974, would not, therefore, accord with precedent and does not seem to have been foreseen when the present amendment to the Charter was adopted. Furthermore, such an arrangement might be difficult to reconcile with paragraph 3 of Article 61 of the Charter, as amended, which lays down precise procedures to be followed in the "first election after the increase in membership of the Economic and Social Council" and for determining the term of office of the members so elected. In view of this difficulty, and as there is an established precedent indicating that there is no bar to the Council meeting in its old composition for the duration of this year, there would appear to be no necessity for any interim arrangement of the

[39] Numbered 139 in the current rules of procedure.

[40] See *Juridical Yearbook,* 1965, pp. 224–225.

nature which has been suggested. Such an arrangement would only be possible, perhaps by analogy to by-elections provided for in rule 142[41] of the rules of procedure of the General Assembly, if there were a consensus in which all Member States participated that the arrangement should be followed and if there was general agreement on those States to serve until 31 December 1973.[42]

28 September 1973

---

11. Question of the relationship between the terms of office of the officers of the Economic and Social Council and the terms of office of the States members of the Council of which the officers are representatives

Note prepared for the Director, Legal Division, World Health Organization

A. *Rules 21 and 23 of the rules of procedure of the Economic and Social Council: history and relevant practice*

1. The rules of procedure the Council adopted at the Council's first session[43] included two rules reading respectively as follows:

"*Rule 17*

"The President and Vice-Presidents shall hold office until their successors are elected at the first meeting of the Council following the next regular session of the General Assembly, and shall be eligible for re-election."

"*Rule 19*

"If the President ceases to be a representative of a member of the Council or is incapacitated, the first Vice-President shall serve for the unexpired term. If the first Vice-President ceases to be a representative of a member of the Council or is incapacitated, the second Vice-President shall take his place."

2. Rule 17 was in harmony with rule 78 of the provisional rules of procedure of the General Assembly, adopted by the Assembly at the first part of its first session,[44] which read:

---

[41] Numbered 140 in the current rules of procedure.

[42] At the 2152nd meeting of the General Assembly, on 12 October 1973, the President of the General Assembly stated the following (translation from Spanish):

"... I have held consultations in order to ascertain whether a consensus could be arrived at on an interim arrangement which would permit the Council to hold its resumed session with a full complement of fifty-four members.

"The interim arrangement proposed was to the effect that the additional twenty-seven members of the sessional committees of the Council already elected by the Council for this year should be empowered to serve on the Council itself for a term of office commencing on the day action is taken by the General Assembly and ending 31 December 1973.

"I am happy to announce that a consensus has been reached among all the regional groups to the effect that we adopt the interim arrangement I have just described."

The General Assembly then decided that the twenty-seven additional members of the sessional committees would become members of the Council for the period 12 October 1973-31 December 1973.

[43] *Official Records of the Economic and Social Council, First year: first session*, 12th meeting (16 February 1946).

[44] *Official Records of the General Assembly, First Part of the First Session*, Plenary Meetings, Second plenary meeting (11 January 1946).

"The term of office of each member [of the Councils] shall begin immediately on election by the General Assembly and shall end on the election of a member for the next term."

At the second part of its first session, the Assembly, by its resolution 87(I) of 9 November 1946, amended this rule to read:

"The term of office of members [of the Councils] shall begin on 1 January following their election by the General Assembly, and shall end on 31 December following the election of their successors."

In so far as the Economic and Social Council is concerned, the term of office of its members prescribed in this rule (which has become rule 141 of the Assembly's rules of procedure[45]) has remained unchanged.

3. As a result of the modification by the General Assembly of rule 87 of its rules of procedure referred to above, the Council decided, as its fourth session,[46] to amend rule 17 of its rules of procedure to read:

"The President and the Vice-Presidents shall hold office until their successors are elected at the first meeting of the Council on or after 1 January in each year and shall be eligible for re-election."

Rule 19 remained unchanged.

4. Rules 17 and 19, however, did not take into consideration a situation where the State of which an officer was a representative ceased to be a member of the Council. Thus, the opening meeting of the Council's sixth session (122nd meeting on 2 February 1948), which was the first session held in 1948, was initially presided over by the officer elected as first Vice-President in 1947, notwithstanding the fact that Czechoslovakia, the State of which that officer was a representative, was no longer a member of the Council in 1948.

5. This difficulty was brought to the attention of the Office of Legal Affairs by the Secretariat of the Council. In document E/883, which was issued on 26 July 1948, and for the preparation of which the Office of Legal Affairs was duly consulted, the Secretary-General recommended that rule 19 (former rule 17) and rule 21 (former rule 19) of the rules of procedure of the Council be amended to read:

"*Rule 19*

"The President and Vice-Presidents shall hold office until their successors are elected at the first meeting of the Council on or after the first of January in each year and shall be eligible for re-election, *provided that the President or a Vice-President shall cease to hold office should the term of office of the member of which he is a representative expire before his term of office is completed.*"

"*Rule 21*

"If the President ceases to be [a] *the* representative of a member of the Council or is *so* incapacitated *that he can no longer hold office,* or *should the Member of the United Nations of which he is the representative cease to be a member of the Council,* the First Vice-President shall [serve for the unexpired term] *take his place.* If the First Vice-President ceases to be [a] *the* representative of a member of the Council or is *so* incapacitated *that he can no longer hold office or should the Member of the United Nations of which he is the representative cease to be a member of the Council,* the Second Vice-President shall take his place."

6. Document E/883 was before the Council at its seventh session in connexion with agenda item 45 entitled "Revision of Rules of Procedure of the Council." However, the

[45] Numbered 139 in the current rules of procedure.

[46] *Official Records of the Economic and Social Council, Second year: fourth session,* 51st meeting (28 February 1947).

Committee on Procedure that the Council set up at that session was not able to undertake a comprehensive revision of the rules of procedure during the session (the amendments in question as suggested by the Secretary-General being among those it was unable to consider). By its resolution 177(VII) of 28 August 1948, the Council asked the Committee to revise the Council's rules of procedure on the basis of the proposal contained in document E/883.

7. At its 16th meeting on 13 January 1949, the Committee had before it a French proposal[47] to amend rules 19 and 21 to read respectively as follows:

"*Rule 19*

"The President and the Vice-Presidents shall hold office until their successors are elected. They shall be eligible for re-election. None of them may however hold office after the expiration of the term of office of the member of which he is a representative."

"*Rule 21*

"If the President ceases to be a representative of a member of the Council or is incapacitated, or should the Member of the United Nations of which he is a representative cease to be a member of the Council, the first Vice-President shall take his place. If this latter is in the same case, the second Vice-President shall take his place."

8. The French proposal in respect of rule 19 was adopted by the Committee without change and without substantive discussion. It is, however, interesting to note that, before the adoption of this rule, the representative of France stated that "some difficulties might arise if the membership of the three countries whose representatives were President and Vice-Presidents of the Council should expire at the same time, but such an eventuality was not very probable", whereupon the representative of the United States observed that he "thought that the Council would keep that possibility in mind when electing its officers".[48] Subject to drafting changes, the French proposal in respect of rule 21 was also adopted by the Committee without substantive discussion. As thus adopted the text, with minor drafting changes, read as follows:

"*Rule 21*

"If the President ceases to be a representative of a member of the Council or is incapacitated, or if the Member of the United Nations of which he is a representative ceases to be a member of the Council, the first Vice-President shall take his place. In similar circumstances, the second Vice-President shall take the place of the first Vice-President."

9. By its resolution 217(VIII) of 18 March 1949, the Council adopted revised rules of procedure including rules 20 and 22 which were identical, respectively, with rules 19 and 21, as recommended by the Committee on Procedure.

10. Thus, the revised rule, although establishing a relationship between the terms of office of the Council's officers and the terms of office of States members of the Council of which the officers were representatives, still did not resolve the difficulty that would arise if at the opening meeting of a given year all the States represented by the officers elected the previous year had ceased to be members of the Council. This difficulty thereafter arose on three occasions in the Council.

11. At the opening of the Council's tenth session (344th meeting on 7 February 1950), the three States of which the Council's officers were representatives had ceased to be members of the Council, as their terms of office had expired on 31 December 1949 and they had not been re-elected. The meeting was opened by the representative of the Secretary-General, acting as Temporary President, who proposed that the representative of New Zealand should be asked

[47] E/AC.28/W.18.

[48] E/AC.28/SR.16, p. 2.

to preside over the meeting until the election of the new President. The representative of New Zealand took the chair (following the raising of a point of order unrelated to the situation in respect of the officers of the Council) without any objection being raised. The President and the two Vice-Presidents were then elected at the same meeting. The same situation occurred at the twenty-seventh (1959) and thirty-first (1961) sessions, of which the former was opened by the Secretary-General and the latter by the Under-Secretary-General for Economic and Social Affairs.

12. At the opening meetings of the seventeenth (1954), twenty-third (1959), thirty-third (1962) and fortieth (1966) sessions, a representative of the Secretary-General acted as president prior to the election of the new President although the Council had one or two officers whose countries continued to be, or had been re-elected, members of the Council, the reason for this being that these officers were no longer members of their countries' delegations at the respective sessions of the Council.

13. Rule 22 of the Council's rules of procedure (see paragraph 9 above), which had been renumbered 23, was amended by the Council in its resolution 1193 (XLI) of 20 December 1966.[49] As revised by that resolution, this rule, which is still numbered 23 and has not undergone further change, reads:

> "If the President or any of the Vice-Presidents ceases to be a representative of a member of the Council or is incapacitated, or if the Member of the United Nations of which he is a representative ceases to be a member of the Council, a new President or Vice-President, as the case may be, shall be elected for the unexpired term."

14. After the revision of rule 23 in 1966, the Council changed its practice in the following two years by electing new officers at the last meeting of a given year to replace the officers who could not continue in office because the terms of office of the members of the Council which they represented would expire at the end of that year. Thus the term of office of Dahomey, a State member of the Council in 1967, was due to expire on 31 December of that year. One of the Council's Vice-Presidents in 1967 was the representative of Dahomey. At its 1515th meeting on 18 December 1967, the Council, acting under rule 23, elected as Vice-President the representative of Libya to replace the representative of Dahomey "for [his] unexpired term".[50] Two of the officers elected the following year, namely the President, who was the representative of Venezuela, and one of the Vice-Presidents, who was the representative of Norway, represented States whose terms of office as Council members were due to expire on 31 December 1968. At its last meeting of 1968, which was the 1577th meeting on 19 December 1968, the Council, again acting under rule 23, elected as President the representative of Uruguay and as Vice-President the representative of Sweden to replace, as from 1 January 1969, the two officers precluded from holding office in 1969 under rule 21 of the rules of procedure. At that meeting, however, the propriety of this action was questioned by two representatives, who considered that the provision in rule 23 that called for the replacement of an officer representing a State that ceased to be a member of the Council applied only to the situation where a State ceased to be represented on the Council for reasons other than the normal expiration of its term of office.[51]

15. In 1969, the Council refrained from electing officers to replace two of its officers (the President and one of the Vice-Presidents) who were precluded from holding office in 1970 because the terms of office as Council members of the States they represented were due to expire on 31 December 1969. . . . It may further be noted that all the officers elected in 1970 and 1971 belonged to the delegations of States that continued to be members of the Council

---

[49] It should be noted that in this resolution the Council also amended rule 20, thereby increasing the number of Vice-Presidents from two to three and amending their titles so as to exclude ordinal numbers therefrom.

[50] That is, for the period from 1 January 1968 until the election, at the first meeting of 1968, of a Vice-President from the African Group.

[51] *Official Records of the Economic and Social Council, Resumed Forty-fifth Session*, 1577th meeting, paras. 74-89.

during the year following their election, so that the difficulty under consideration did not actually arise. Nor did it arise in 1972 for, although one of the Vice-Presidents elected in 1971 was the representative of a State whose term of office was due to expire on 31 December 1971, that State was re-elected a member of the Council prior to the Council's last meeting in 1972.

16. Another practice to be noted is that from the forty-eighth session (held in 1970) to the fifty-fourth session (which began in January 1973) inclusive, the Council has elected as President the retiring Vice-President belonging to the geographical group from which the President is to be drawn in accordance with the geographiccaical rotation provided in the Annex to Council resolution 1193 (XLI) of 20 December 1966. This practice presupposes that the retiring officer so elected represents a State whose term of office as member of the Council did not expire on 31 December of the year immediately preceding the election. It should be noted, however, that in 1974 the presidency is to be held by the Western European and other States and the Vice-President from that group in 1973 represents a State—New Zealand—whose term of office as Council member expires on 31 December 1973. . .[52]

17. The functions that the President of the Council may be called upon to perform individually under the rules of procedure while the Council is not in session consist in (*a*) communicating to the members of the Council, through the Secretary-General, requests made by any such member or by the Secretary-General for alterations of the dates of regular sessions (rule 3), as well as requests made by the Trusteeship Council, any Member of the United Nations or a specialized agency for the holding of special sessions (in cases where the President and the three Vice-Presidents have not, within four days of the receipt of such a request, notified the Secretary-General of their agreement thereto), (*b*) convening special sessions (rule 4, last paragraph) and (*c*) notifying Members of the United Nations, the President of the Security Council, the President of the Trusteeship Council, the specialized agencies and the non-governmental organizations in consultative status, through the Secretary-General, of the date of the first meeting of each session (rule 7). Rules 4 and 5 assign to the President functions exercised jointly with the other officers: under the former rule the President and the three Vice-Presidents may agree to a request for the holding of a special session of the Council made by the Trusteeship Council, any Member of the United Nations or a specialized agency, whereas under the latter the President may, with the concurrence of the three Vice-Presidents, call special sessions of the Council and fix the dates thereof.

18. For the most part these functions involve situations that have not arisen in practice. The special session held by the Council on 24 March 1952, was called by the General Assembly (in its resolution 549 (VI) of 5 February 1952).[53] As for the notifications called for in rule 7, it should be noted that in practice they are made by the Secretary-General without the participation of any of the officers of the Council. This would probably apply to any communication made pursuant to rules 3 or 4.

19. One of the amendments to the Council's rules of procedure that the Secretary-General proposed to the Council in 1967[54] related to the functions discharged by the officers of the Council when the latter is not in session. The amendment in question sought to add at the end of rule 23 a sentence reading as follows: "If an unforeseen vacancy occurs when the

[52] In 1974, the Council elected as President the representative of Finland (see *Official Records of the Economic and Social Council, Organizational Session for 1974*, 1887th meeting held on 7 January 1974), thus setting aside, in this particular instance, the practice described in paragraph 16.

[53] Subsequent to the drafting of this note however, the Council held on 17 September 1973 a second special session to deal with "Measures to be taken following the natural disaster in Pakistan". The session was convened on the basis of a letter dated 11 September 1973 from the Permanent Representative of Pakistan to the United Nations addressed to the President of the Council, containing a request regarding the possibility of convening a special session of the Council (E/5417). By letter dated 12 September 1973, addressed to the Secretary-General of the United Nations, the President of the Council indicated that, as the other members of the Bureau were in agreement with the proposal, he wished, under the provisions of rule 4, to convene the Council for a special session (E/5418).

[54] *Official Records of the Economic and Social Council, Forty-second Session, Annexes*, agenda item 21, document E/4313.

Council is not in session, the member of the Council of which the President or the Vice-President, as the case may be, was a representative shall designate another representative to fill the vacancy until a successor is elected by the Council." This amendment was not considered by the Council. The decision of the Council in 1969 to hold organizational meetings early in January[55] has met the major difficulties which the proposal had sought to resolve.

B. *Conclusions*

(1) *With regard to the question whether the Council elects its officers in such a way as to ensure that they are not precluded from holding office the following year by reason of the fact that the States they represent are no longer members of the Council*

20. The conclusion to be drawn from the Council's practice as described herein seems to be that the Council does not adhere to any consistent pattern in this respect, except that from the thirty-second session up to the present, at least one of the officers elected by the Council in a given year was not precluded from holding office at the first meeting of the first session of the following year by reason of his representing a State that was no longer a member of the Council that year.

(2) *With regard to the question as to who presides at the opening of the first session of a given year if for any reason none of the officers are available*

21. The practice of the Council is consistent in this respect: in such circumstances the opening meeting is initially presided over by the Secretary-General or his representative.

(3) *With regard to the question as to who assumes the functions of President while the Council is not in session if for any reason none of the officers are available*

22. These functions are set out in paragraph 17 above. There are no precedents to go by to resolve such a difficulty, which the amendment proposed by the Secretary-General and referred to in paragraph 19 above sought to overcome.

8 May 1973

---

12. QUESTION WHETHER A MEMBER STATE WHICH IS MEMBER OF THE ECONOMIC AND SOCIAL COUNCIL MAY INCLUDE IN ITS DELEGATION TO THE COUNCIL AN OFFICIAL FROM ANOTHER MEMBER STATE NOT MEMBER OF THE COUNCIL—QUESTION WHETHER SUCH AN OFFICIAL COULD MAKE A STATEMENT IN THE COUNCIL ON BEHALF OF HIS OWN COUNTRY

Memorandum to the Office for Inter-Agency Affairs

1. You have referred to us the question whether it is possible for a Member State which is a member of the Economic and Social Council to include in its delegation to the Council officials from another Member State which is not a member of the Council. In this connexion, I would like to refer to a legal opinion given in 1965. After stating that "there is no voting or representation by proxy at meetings or conferences of the United Nations", the opinion went on to say

> "Although there is no such express prohibition, representation of more than one government by a single representative has never been permitted and interested governments have been so informed. However, representation of a member by a national of another State (or by a member of a different delegation) has been permitted in cases where the representative does not simultaneously serve as a representative of both States."[56]

The answer to your question is therefore in the affirmative.

---

[55] *Ibid., Forty-seventh Session,* 1637th meeting held on 8 August 1969.

[56] *Juridical Yearbook,* 1965, p. 224.

2. As to whether the non-national so appointed by the State member of the Economic and Social Council as a member of its delegation could make a statement on behalf of the government of his own country which is not a member of the Council, I agree with you that this should not be done and that the government in question could resort to rules 75 and 76 of the rules of procedure of the Council.[57] The principle which prohibits a member of one delegation from representing another delegation applies, in our view, both with respect to voting and in regard to the making of statements. It would be even more inconsistent with this principle if a delegate of a State member of the Council should speak on behalf of a State which is not a member of the Council.

7 March 1973

---

13. QUESTION OF THE ESTABLISHMENT OF A SUB-COMMISSION OF THE COMMISSION ON NARCOTIC DRUGS—REQUIREMENT OF AN AUTHORIZATION BY THE ECONOMIC AND SOCIAL COUNCIL—METHOD OF REPORTING AND COMPOSITION OF THE PROPOSED SUB-COMMISSION

Letter to the legal Liaison Officer, United Nations Office at Geneva

This is in reply to your letter of 5 January 1973, to which a preliminary answer was sent by cable on 19 January 1973. Your letter concerns the possibility that at the current (twenty-fifth) session of the Commission on Narcotic Drugs a draft resolution may be submitted by which that body would establish a sub-commission on a permanent or standing basis.

Three basic questions would appear to be involved in such a proposal: (1) whether the Commission could, on its own authority, establish a permanent sub-commission, (2) whether the Commission could require its sub-commission to report directly to the Economic and Social Council and (3) whether the sub-commission could be composed of States. Ancillary to the last question is the question whether States not members of the Commission are eligible for membership in the sub-commission.

In regard to the first question, rule 66 of the rules of procedure of the functional commissions of the Council provides that the commissions shall "set up such sub-commissions as may be authorized by the Council". It is therefore clear that a functional commission may establish a sub-commission only if it has been authorized to do so by the Council.[58] This need for the authorization of the Council as a condition precedent to the establishment of sub-commissions (as distinct from the committees provided for in rules 20-22[59] of the above-mentioned rules of procedure) is also reflected in the terms of reference of the Commission on Narcotic Drugs, which state that "the Commission may make recommendations to the Council

[57] Rules 75 and 76 read as follows:

"*Rule 75*

"The Council shall invite any Member of the United Nations which is not a member of the Council to participate in its deliberations on any matter which the Council considers it of particular concern to that Member. Any Member thus invited shall not have the right to vote, but may submit proposals which may be put to the vote by request of any member of the Council.

"*Rule 76*

"A committee may invite any Member of the United Nations which is not one of its own members to participate in its deliberations on any matter which the committee considers is of particular concern to that Member. Any Member thus invited shall not have the right to vote, but may submit proposals which may be put to the vote by request of any member of the committee."

[58] *Repertory of Practice of United Nations Organs*, volume III, Article 68, paras. 24-29.

[59] Under rule 20, the commissions, in consultation with the Secretary-General, may, at each session, "set up such committees as are deemed necessary and refer to them any questions on the agenda for study and report".

concerning any sub-commission which it considers should be established" (Council resolution 9 (I) of 16 February 1946, paragraph 3).

As to the second question, normally a subsidiary organ is required to report to its own parent body which in the present case is the Commission on Narcotic Drugs. In exceptional cases, the Economic and Social Council has decided that a sub-commission should report to the Council on certain matters (see Economic and Social Council resolution 197 (VIII) of 24 February 1949 and also resolution 5 (III) of 3 October 1946). That is why in our cable it was suggested that the Commission should recommend to the Council that the proposed sub-commission report directly to the Council only if the Commission has compelling reasons for proposing such a method of reporting.

With respect to the third question concerning the composition of the sub-commission, it may be recalled that at the time the Council adopted resolution 100 (V) of 12 August 1947 setting forth the original rules of procedure of the functional commissions (rule 55 of which was identical with present rule 66), the Council had already set up functional commissions, some of which had established sub-commissions. Every *standing* sub-commission was composed exclusively of indiviudals serving in their personal capacities. This is reflected in the language of rule 70 of the rules of procedure of the functional commissions[60] and also explains why in the course of the debates in the Council that led up to resolution 100 (V) delegates appear to have assumed that all sub-commissions of functional commissions dealing with specialized subjects would be composed of individual experts. (See the record of the 113th plenary meeting of the Council, held during the Council's fifth session, on 12 August 1947.) The situation has not changed since then, for every one of the standing sub-commissions set up thus far by functional commissions of the Council (and of which the only one still in existence is the Sub-Commission on Prevention of Discrimination and Protection of Minorities, a sub-commission of the Commission on Human Rights) has been likewise composed solely of individuals serving in their personal capacity.

It should be noted, however, that none of the sub-commissions set up so far has been established by the Commission on Narcotic Drugs, which differs from the other existing functional commissions in that it is composed of States whose representatives are not subject to confirmation by the Economic and Social Council.

The formula proposed in our cable [under which the proposed sub-commission, like some functional commissions would be composed of States each of which should nominate a qualified representative to be confirmed by the Commission on Narcotic Drugs] strikes a balance between the practice in respect of the composition of sub-commissions and this special characteristic of the Commission on Narcotic Drugs. It has the further advantage of being in line with the provisions of rule 70 of the rules of procedure of the functional commissions. However, if the Commission feels strongly that its sub-commission should be composed of States which should appoint their representatives, rather than nominate them subject to confirmation, this is also legally possible taking into account the exceptional nature of the composition of the Commission itself and assuming that some criteria will be laid down by the Commission in the selection of the States for membership in the sub-commission.

States eligible for membership in the Commission but not represented thereon may also be eligible for membership in the sub-commission, regardless of whether or not a sub-commission has a larger membership than that of the Commission. Both the language of rule 66 of the rules of procedure of the functional commissions and the precedents that exist of subsidiary bodies including in their membership States not represented on their parent bodies support this view.

---

[60] Rule 70 reads as follows:

"When a member of a sub-commission is unable to attend the whole or part of a session and, with the consent of his Government and in consultation with the Secretary-General, has designated an alternate, such alternate shall have the same status as a member of the sub-commission, including the right to vote."

States which are not members of the sub-commission could participate in the deliberations of that body in accordance with rule 72 of the rules of procedure of the functional commissions, which would apply to the sub-commission in question by virtue of rule 71 thereof.[61]

24 January 1973

---

14. CONSTITUTIONAL AND ADMINISTRATIVE QUESTIONS RAISED BY A RESOLUTION OF THE CONFERENCE OF MINISTERS OF THE ECONOMIC COMMISSION FOR AFRICA, INVITING THE EXECUTIVE SECRETARY OF THE COMMISSION TO PRESENT BEFORE THE EXECUTIVE COMMITTEE OF THE CONFERENCE REPORTS RELATING TO STAFF CONDITIONS

Opinion of the Legal Counsel[62]

1. Before the adoption by the Conference of Ministers of the Economic Commission for Africa of resolution 242 (XI) on "Reporting on staff and administrative questions",[63] the Executive Secretary of the Commission expressed certain reservations concerning that resolution, in particular concerning its operative paragraph 4. The tenor of these reservations is set forth in document E/5253/Add.2 (E/CN.14/591/Add.2) of 6 July 1973.

2. The operative part of resolution 242 (XI) reads as follows: (The Conference of Ministers)

"1. *Confirms* the interest of the Conference of Ministers in administrative questions relating to the secretariat of the Commission and its working;

"2. *Requests* the Executive Committee to include reports on administrative questions as a standing item on the agenda of its meetings;

"3. *Requests* the Executive Secretary to provide reports on administrative questions of interest to the Executive Committee or that he may wish to bring to their notice;

"4. *Invites* the Executive Secretary to present before the Executive Committee, having taken into account the views of the ECA Staff Committee, reports relating to staff conditions and other questions of interest to the Executive Committee."

3. The question was asked in the Economic Committee of the Economic and Social Council on what grounds the aforementioned resolution did not conform with the constitutional principles and administrative arrangements of the United Nations established by the Charter and Staff Regulations of the United Nations.

4. According to Article 101 of the Charter of the United Nations, "The staff shall be appointed by the Secretary-General under regulations established by the General Assembly".

5. The General Assembly issued regulations under which the Secretary-General, as the Chief Administrative Officer of the United Nations Organization, was entrusted with their implementation. As the General Assembly has pointed out:

---

[61] At its twenty-fifth (1973) session, the Commission on Narcotic Drugs recommended the Economic and Social Council to adopt a resolution authorizing the establishment of a Sub-Commission on Illicit Drug Traffic and Related Matters in the Near and Middle East (*Official Records of the Economic and Social Council, Fifty-fourth Session, Supplement No. 3* (E/5248), resolutions 6 (XXV) and 7 (XXV)). By its resolution 1776 (LIV) of 18 May 1973, the Council authorized the establishment of the Sub-Commission and decided that the representatives of the members of the Sub-Commission and of its working groups would be nominated by their Governments, in consultation with the Secretary-General and subsequently confirmed by the Council.

[62] Circulated as document E/AC.6/L.515.

[63] *Official Records of the Economic and Social Council, Fifty-fifth Session, Supplement No. 3* (E/5253), p. 94.

"The Staff Regulations embody the fundamental conditions of service and the basic rights, duties and obligations of the United Nations Secretariat. They represent the broad principles of personnel policy for the staffing and administration of the Secretariat. The Secretary-General, as the Chief Administrative Officer, shall provide and enforce such staff rules consistent with these principles as he considers necessary".

6. On the other hand, the General Assembly, under rule 156 of its rules of procedure, established an Advisory Committee on Administrative and Budgetary Questions and, under rule 101, set up as one of its Main Committees an Administrative and Budgetary Committee (Fifth Committee) to deal with administrative and budgetary questions.

7. There are thus *only two organs* of the United Nations which were given, as their terms of reference, the duty to assist the General Assembly in dealing with administrative questions, including personnel and budgetary questions.

8. Under established practice, the Secretary-General reports yearly to the General Assembly on administrative questions. His report is submitted to the Advisory Committee which submits any comments it may deem appropriate to the Fifth Committee. The Fifth Committee, after discussion, submits its own report with recommendations to the General Assembly.

9. Neither the Economic Commission for Africa nor any other organ of the United Nations, principal or subsidiary, has been given, in its terms of reference, any competence to deal with administrative questions.

10. Consequently, in the absence of specific terms of reference, the Economic Commission for Africa lacks a statutory ground on which it can request the Secretary-General or his representative to perform tasks which fall solely within the competence of the General Assembly, including the organs it established for that purpose, and that of the Secretary-General.

11. There is nothing in the Charter of the United Nations which would permit an organ, principal or not, to add to its competence or to impinge on the competence of another organ of the United Nations.

12. In this connexion, it is to be noted that under paragraph 16 of the terms of reference of the Economic Commission for Africa:[64] "The Secretary-General of the United Nations shall appoint the Executive Secretary of the Commission", and that "the staff of the Commission shall form part of the Secretariat of the United Nations", which under Article 7 of the Charter of the United Nations is a principal organ of the United Nations.

13. It has been suggested that the fact that the terms of reference do not prohibit expressly the Economic Commission for Africa from dealing with personnel questions would seem to imply that it is permitted to do so. This argument does not stand up to scrutiny. Indeed, the terms of reference under which an organ operates are there to determine what it may and should do, and not what it may not and should not do; and there are many things such an organ cannot do.

14. It may well be that the present controversy is due to a misunderstanding of the constitutional implications of the Conference of Ministers' request, since the Conference itself, in the preambular part of resolution 242 (XI), notes

"the value of the periodic reports on administrative questions and on staff conditions *presented before the Advisory Committee on Administrative and Budgetary Questions and the Fifth Committee in maintaining the viability, the effectiveness and the efficiency of the United Nations Secretariat as a whole*".

15. It is admittedly to be welcomed when a United Nations organ shows a genuine interest in matters related to the Staff. But at issue is whether such interest can be shown in a formal manner when the organ in question lacks competence therefor. To admit this would

---

[64] *Ibid., Fifty-first Session, Supplement No. 5* (E/4997), Annex VI.

amount to including in the agenda of such organ a potentially standing item, leading in turn to discussions and recommendations that are not within its authority.

16. No one would of course question the fact that interest in staff matters is being shown informally. But if it is preferred to express such interest in a formal manner, then the correct approach would be for the representatives of the Governments concerned to present any questions or suggestions they may have before the organs competent to deal with the matter, i.e. the General Assembly and its Fifth Committee, or the Secretary-General himself.

12 July 1973

---

15. QUESTION OF THE PARTICIPATION IN THE WORLD POPULATION CONFERENCE, 1974 OF NON-GOVERNMENTAL ORGANIZATIONS AND INTERGOVERNMENTAL ORGANIZATIONS NOT WITHIN THE UNITED NATIONS SYSTEM—DATE OF ISSUANCE AND CONTENTS OF THE LETTERS OF INVITATION

Memorandum to the Acting Director, Office of the Secretary-General of the World Population Conference, 1974

1. You have asked for our advice on the question of the participation in the World Population Conference, 1974 of non-governmental organizations and intergovernmental organizations not within the United Nations system.

2. With respect to non-governmental organizations, paragraph 34 of Economic and Social Council resolution 1296 (XLIV) reads as follows:

> "CONSULTATION WITH INTERNATIONAL CONFERENCES CALLED BY THE COUNCIL
>
> "34. The Council may invite non-governmental organizations in categories I and II and on the Roster to take part in conferences called by the Council under Article 62, paragraph 4, of the Charter of the United Nations. The organizations shall be entitled to the same rights and privileges and shall undertake the same responsibilities as at sessions of the Council itself, unless the Council decides otherwise."

This provision consists of three elements: (*a*) only the Economic and Social Council may invite non-governmental organizations to take part in conferences called by the Council; (*b*) the Council has discretion to invite some or all of the non-governmental organizations in consultative status with it and (*c*) once the organizations are invited by the Council to a conference, they should be entitled to the same rights and privileges and should undertake the same responsibilities as at sessions of the Council itself, unless the Council decides otherwise. It is therefore clear that the Council must take a decision concerning the participation of non-governmental organizations.

3. We have examined the formulations of such invitations by the Council in the past. The most commonly used terms appear to be: "appropriate non-governmental organizations", "interested non-governmental organizations" or "non-governmental organizations in this field". In our view, when the term "appropriate" is used, it is for the Secretary-General to decide which are the appropriate organizations to invite. When the term "interested" is used, it is for the organizations themselves to decide and to inform the Secretariat whether they wish to participate in the conference concerned. Therefore when the Population Commission considers the question of the invitation of non-governmental organizations with a view to making a recommendation to the Economic and Social Council, you may wish to draw its attention to this distinction.

4. Regarding intergovernmental organizations not within the United Nations system, the convening resolution normally provides for invitation of such organizations that are concerned with the subject of the conference. Unless the matter has already been considered and the Secretariat has definite guidance as to which organizations should be invited, we would suggest

that such a provision be considered by the Population Commission for recommendation to the Economic and Social Council.[65]

5. As to the date of issuance and contents of the letters of invitation, you may wish to consider the following points:

(1) Letters of invitation are sent out only after the decision on invitees has been taken by the competent organ which in the present case is the Economic and Social Council.

(2) In addition to indications on the date and place of the Conference, letters of invitation usually contain:

(*a*) That part of the provisions of the convening resolution which relates to participants;

(*b*) A request for designation of delegations;

(*c*) If it is deemed desirable, a summary of the essential terms of reference of the Conference, thus drawing attention to the main purpose of the Conference (the full text of the relevant resolution or resolutions may of course be annexed);

(*d*) Any other matters which in the opinion of the Secretariat should be brought to the attention of the participants.

(3) Letters of invitation are normally accompanied by the provisional agenda of the Conference.

1 October 1973

---

16. ALLEGATIONS RELATING TO MASSACRES IN A NON-SELF-GOVERNING TERRITORY—POWER OF THE SECRETARY-GENERAL UNDER THE CHARTER TO INVESTIGATE SUCH ALLEGATIONS SUBJECT TO THE CONSENT OF THE GOVERNMENT CONCERNED—DISCRETION HE MAY EXERCISE IN THAT RESPECT—THE SPECIAL COMMITTEE ON THE SITUATION WITH REGARD TO THE IMPLEMENTATION OF THE DECLARATION ON THE GRANTING OF INDEPENDENCE TO COLONIAL COUNTRIES AND PEOPLES IS COMPETENT TO EXAMINE THE ALLEGATIONS IN QUESTION UNDER THE GENERAL MANDATE GIVEN TO IT BY THE GENERAL ASSEMBLY

Memorandum to the Under-Secretary-General for Political and General Assembly Affairs

1. You have asked for a legal opinion concerning the authority of the Secretary-General, 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 (Committee of 24) and of a Working Group of the Commission on Human Rights to investigate various allegations relating to massacres of the indigenous population in a Non-Self-Governing Territory.

---

[65] At its third special session (4-15 March 1974), the Population Commission recommended that the Economic and Social Council should authorize the Secretary-General of the Conference to invite to participate in the Conference: (1) the intergovernmental organizations listed in Annex IV (*a*) of the Commission's report to the Council; (2) the non-governmental organizations listed in Annex IV (*b*) of that same report, as well as any other non-governmental organizations in consultative status with the Council which might, before the Council's fifty-sixth session, also express the wish to be represented. (*Official Records of the Economic and Social Council, Fifty-sixth Session, Supplement No. 3 A* (E/5462), para. 46.) The Council, by resolution 1835 (LVI) of 17 May 1974 authorized the Secretary-General to invite . . . "(*c*) the intergovernmental organizations listed in the report of the Population Commission on its third special session and the regional banks to be represented at the Conference by observers . . . (*e*) the non-governmental organizations listed in that report and in the note by the Secretary-General (E/5481) to be represented by observers." It further authorized the Secretary-General of the Conference "to invite additional intergovernmental organizations and the non-governmental organizations in consultative status with the Economic and Social Council that may express the wish to be represented by observers at the Conference".

2. The Secretary-General has inherent powers under the Charter to engage in fact-finding activities, always provided that he has the consent of the Government or Governments concerned[66] . . . However, though the Secretary-General has inherent powers in particular circumstances to undertake fact-finding, he is under no obligation to use those powers; unless some competent organ directs him to engage in fact-finding, he can decide whether to do so or not in the exercise of his free discretion and in the light of his judgment whether such an activity would be likely to have any useful result. In the present case he will no doubt wish to take account of the fact that allegations about the massacres are already before United Nations deliberative bodies, whose views on how those allegations should be dealt with must naturally be given the most serious consideration.

3. The Committee of 24 is competent to examine the allegations under its general mandate as laid down in General Assembly resolutions 1654 (XVI) of 27 November 1961 and 1810 (XVII) of 17 December 1962. It is also seized of at least one petition on the subject, which it is competent to deal with pursuant to General Assembly resolution 1970 (XVIII) of 16 December 1963.

4. With respect to the competence of the *Ad Hoc* Working Group of Experts established by the Commission on Human Rights to deal with violations of human rights in southern Africa, resolution 7 (XXVII) of the Commission *inter alia* requested the Working Group to examine the effects of colonialism in the territory in question, and therefore the Group's competence is clear.

17 July 1973

---

17. ENVIRONMENT FUND ESTABLISHED BY GENERAL ASSEMBLY RESOLUTION 2997 (XXVII)—QUESTION OF THE APPLICATION TO THE FUND OF THE UNITED NATIONS FINANCIAL REGULATIONS AND RULES

Memorandum to the Under-Secretary-General for Administration and Management

1. You have asked for advice on the question of the application of the United Nations Financial Regulations and Rules to the Environment Fund established by General Assembly resolution 2997 (XXVII) of 15 December 1972.

2. The general rule is that the United Nations Financial Regulations and Rules govern the administration of all financial activities of the United Nations except as may otherwise be provided by the General Assembly, or specifically exempted therefrom by the Secretary-General himself. In the present case, this general rule is reinforced by express provision in paragraph 1 of section III of General Assembly resolution 2997 (XXVII) which states that the Environment Fund shall be a voluntary fund established "in accordance with existing United Nations financial procedures". It follows that in the absence of an express provision to the contrary in General Assembly resolution 2997 (XXVII), the Environment Fund is governed by the United Nations Financial Regulations and Rules.

3. The only other pertinent provisions of General Assembly resolution 2997 (XXVII) are paragraph 7 of section III which authorizes the Governing Council "to formulate such general procedures as are necessary to govern the operations of the Environment Fund" (underlining supplied) and paragraph 2(h) of section II which entrusts the Executive Director with the responsibility "to administer, under the authority and policy guidance of the Governing Council, the Environment Fund referred to in section III below". It is to be noted that nowhere in the resolution is the Governing Council empowered to make its own financial regulations and rules.

---

[66] See *Repertory of Practice of United Nations Organs*, especially Supplement No. 2, Article 98, paras. 279-282, 291 and 308-311.

4. There is no inconsistency as between on the one hand the authority of the Governing Council and that of the Executive Director respectively with regard to the operations and administration of the Fund and on the other hand the applicability of the United Nations Financial Regulations and Rules. In our view, therefore, the general rule that all financial activities of the United Nations should be governed by the United Nations Financial Regulations and Rules, reinforced as this general rule is by the express provision of paragraph 1 of section III of General Assembly resolution 2997 (XXVII), is in no way qualified with respect to the Environment Fund by either paragraph 7 of section III or paragraph 2(h) of section II.

5. Accordingly, we consider that paragraph 7 of section III and paragraph 2(h) of section II have to be interpreted as empowering the Governing Council to provide guidance to the Executive Director in his administration of the Fund within the framework and always subject to the application of the United Nations Financial Regulations and Rules.

6. We consider that the questions here involved are of the utmost importance, not only where the Environment Fund itself is concerned, but also in relation to other existing situations or new cases which may arise in the future. We believe that a very thorough study should be undertaken by the competent services, so that a policy may be established which is consistent with legal principle and with the requirements of good administration. It cannot be permitted that, through the process of interpretation of piecemeal and ambiguous resolutions, *de facto* amendments to fundamental provisions of the Charter are brought about.

15 March 1973

---

18. Convention on the Privileges and Immunities of the United Nations—Inclusion of additional categories of personnel among the categories of officials to which the provisions of articles V and VII of the Convention shall apply

Note by the Secretary-General[67]

1. Article V, section 17, of the Convention on the Privileges and Immunities of the United Nations states:

> "The Secretary-General will specify the categories of officials to which the provisions of this Article and Article VII shall apply. He shall submit these categories to the General Assembly. Thereafter these categories shall be communicated to the Governments of all Members. The names of the officials included in these categories shall from time to time be made known to the Governments of Members."

In pursuance of this provision, the Secretary-General proposed to the General Assembly, at the second part of its first session, the categories of officials to which the provisions of article V, section 17, and article VII of the Convention should apply. The General Assembly adopted resolution 76 (I) of 7 December 1946, in which it approved the granting of privileges and immunities referred to in articles V and VII of the Convention "to all members of the staff of the United Nations, with the exception of those who are recruited locally and are assigned to hourly rates".

2. It is to be noted that, in consequence of the action taken by the Secretary-General and by the General Assembly in the aforementioned resolution, the only officials of the United Nations who at present come within the purview of the Convention are "members of the staff of the United Nations". Other officials of the United Nations who are not members of the staff of the United Nations, do not, under present circumstances, come within the purview of the Convention. The Secretary-General wishes to draw the attention of Members to instances where the Assembly has appointed or participated in the appointment of members of

[67] Circulated as document A/C.5/1584/Rev.1 and Rev.1/Corr.1.

subsidiary bodies, and where he considers application of the provisions of the Convention would be appropriate.

3. In each such case, the governing criteria are the following:

(*a*) The official in question must be engaged on a full-time or substantially full-time basis to the point where he is effectively precluded from accepting other employment.

(*b*) The official must be a member of a body responsible directly to the General Assembly.

4. Based upon these criteria, the officials of the United Nations whom the Secretary-General proposes to include within the provision of articles V and VII of the Convention are as follows:

(a) *Inspectors serving in the United Nations Joint Inspection Unit*

The members of the Unit are appointed by the Secretary-General, in their personal capacity, on the basis of nominations by eight countries designated by the President of the General Assembly and are responsible, as a unit, only to the Assembly. All inspectors serve full-time. By the very nature of the terms of reference of the Unit, as set forth in paragraph 67 of document A/6343, its members are not regarded as staff members, and thus their names have not so far been included in the list of officials submitted to Governments of Members under the terms of article V of the Convention.

(b) *The Chairman of the Advisory Committee on Administrative and Budgetary Questions (ACABQ)*

The Chairman of ACABQ, along with the other members, is appointed by the General Assembly, in his personal capacity, under the provisions of rules 157 and 158 of the rules of procedure of the General Assembly.[68] He is appointed as an ordinary member of the Advisory Committee and is elected annually to the post of Chairman by the members of the Committee. As a result of a proposal put before the Assembly by the Secretary-General at the twenty-sixth session,[69] the Assembly approved the payment of an honorarium to the Chairman of ACABQ in the amount of $25,000 per annum (net). In his submission to the Assembly, the Secretary-General gave as justification for his proposal the following:

(i) The increasing demands of the post of Chairman on the time and availability of the incumbent;

(ii) As a result, the stage had been reached where the Chairman's independent earning capacity had virtually disappeared;

(iii) It was felt that the Committee would wish at all times to have first call on the services of its Chairman and, consequently, it would be impossible for him to be, at the same time, actively engaged on behalf of his Government or other body.

To all intents and purposes, therefore, the Chairman of ACABQ may be considered to be engaged full time in the performance of his duties for the Committee and thus for the United Nations. As in the case of the Inspectors, the Chairman of ACABQ has not hitherto been included in the listing of officials submitted to Governments of Members in accordance with article V of the Convention on Privileges and Immunities of the United Nations.

5. The Secretary-General feels that this would be an appropriate time to regularize the situation as it relates to these members of subsidiary bodies of the General Assembly. This action would also serve as a precedent in any similar cases that might arise in the future, such as that of any full-time commissioners of the International Civil Service Commission, once it is duly constituted. However, it is expected that these will be extremely limited in number. Accordingly, the Secretary-General proposes to include the Inspectors members of the Joint Inspection Unit and the Chairman of ACABQ in the categories of officials to which the provisions of articles V and VII of the Convention on the Privileges and Immunities of the

[68] Numbered 155 and 156 in the current rules of procedure.

[69] A/C.5/1365.

United Nations shall apply and to make known the names of these officials to the Governments of Members, as provided in article V, section 17, of the Convention.

6. Should the Fifth Committee decide to approve the Secretary-General's proposal contained herein it may wish to include an appropriate paragraph in its report to the General Assembly on this item. Alternatively, a resolution similar to the original resolution 76 (I) of 7 December 1946 could be submitted to the Assembly, along the lines of the attached draft [not reproduced].[70]

7 December 1973

---

19. REQUEST BY THE GOVERNMENT OF A MEMBER STATE THAT UNITED NATIONS TECHNICAL ASSISTANCE EXPERTS SIGN A DECLARATION UNDER AN ACT ON STATE SECURITY[71]

Internal memorandum

. . . Concerning the request by [a Member State] that a "United Nations adviser" sign a declaration under the State Security Act, the position which we have taken in the past (cases have arisen in two other Member States) has been that signature of such declarations is incompatible with the Conventions on the privileges and immunities of the United Nations and of the specialized agencies. As you point out, it is difficult to argue, however, that signature of the declaration is inconsistent with immunity from legal process *per se*.

As against this is the fact that a United Nations or specialized agency official is required, under the pertinent staff rules—based directly on the Charter and other constituent instruments—to owe his primary obligation to the organization, from whom alone he may receive instructions. In previous cases which have arisen, it has been found that the submission of reports by the official to the organization was, on a strict reading of the declaration, either precluded or was subject to the scrutiny of the government concerned. This would have had the effect of impairing the effectivity of the expert in the performance of his functions and of the UNDP programme in question, as well as imposing a possible (and unwarranted) criminal penalty on a legitimate and normal consequence of the relationship between an expert and his agency. As a matter of principle, the United Nations (or specialized agency) cannot grant Governments the right to control communications between the expert and headquarters, or indeed between the expert and, say, the local resident representative. Furthermore, acceptance on the part of the expert or the organizations of the applicability of the State Security Act and of the penal provisions prescribed could be deemed to constitute a waiver of the immunity from legal process in respect of official acts. There is no sanction in the Conventions for such a general advance waiver, and the Secretary-General (or, in the case of FAO, the Director-General) in whom authority to make waivers in specific cases rests, thus has no basis for permitting signatures of the declaration in its present form.

---

[70] At its 2206th meeting, on 18 December 1973, the General Assembly adopted its resolution 3188 (XXVIII) reading as follows:

"*The General Assembly*,

"*Having considered* the proposals of the Secretary-General that, in accordance with article V, section 17, of the Convention on the Privileges and Immunities of the United Nations, adopted by the General Assembly on 13 February 1946, the categories of officials to which the provisions of articles V and VII of the Convention shall apply should include the members of the Joint Inspection Unit and the Chairman of the Advisory Committee on Administrative and Budgetary Questions,

"*Approves* the granting of the privileges and immunities referred to in articles V and VII of the Convention on the Privileges and Immunities of the United Nations to the members of the Joint Inspection Unit and the Chairman of the Advisory Committee on Administrative and Budgetary Questions."

[71] See also *Juridical Yearbook*, 1964, p. 260.

In view of the foregoing, the UNDP Assistant Regional Representative should, in our opinion, be asked to seek to persuade the Government not to press its request that the expert concerned sign the declaration. It may be that the Government will find the declaration unnecessary if the UNDP representative were to stress to it the fact that experts are already prohibited, in the case of United Nations officials, by regulation 1.5 of the Staff Regulations,[72] from communicating to unauthorized persons unpublished information acquired in the course of their duties. There is the possibility, of course, that the national authorities will then argue that since regulation 1.5 so provides, there should be no obstacle to signing the declaration, which merely amplifies the regulation. This, however, ignores the question of the staff member's obligation to the organization and the privity of communication between the expert and the organization, as well as the "general waiver" issue.

Nevertheless, should it not prove possible to persuade the Government to give up its request for signature of the declaration, then in our view it should be modified in order to protect the position of FAO and to take account of its legal provisions.

8 January 1973

---

20. REQUEST BY A MEMBER STATE THAT ITS NATIONALS CONSIDERED FOR APPOINTMENT UNDER A UNITED NATIONS PROJECT SHOULD NOT ENJOY ON ITS TERRITORY THE PRIVILEGES AND IMMUNITIES NORMALLY EXTENDED TO NON-NATIONAL UNITED NATIONS OFFICIALS—SUCH A REQUEST WOULD BAR THE GRANTING TO THE PERSONS CONCERNED OF UNITED NATIONS STAFF APPOINTMENTS

Memorandum to the Technical Assistance Recruitment Service

1. We refer to your memorandum concerning the communication you received from the Government of a Member State on the matter of the privileges and immunities to be accorded by that Government to two of its nationals being considered by the United Nations for appointment under a regional project.

2. We note that the Government has indicated that the two persons concerned "being nationals of the host country will not be exempted from income and other taxes and they will not be accorded the privileges and immunities which are normally extended to other [non-national] United Nations officials . . . under the Convention on the Privileges and Immunities of the United Nations while they are serving in the country".

3. If the two persons in question are to receive United Nations staff appointments, the proposal made by the Government on privileges and immunities could not be considered to be in accord with the Convention on the Privileges and Immunities of the United Nations to which the Member State concerned is a party.

4. The Convention provides in article V for the privileges and immunities to be accorded "officials of the United Nations"; and it is required under the Convention, therefore, that nationals of the Member State concerned who are officials of the United Nations be accorded privileges and immunities in accordance with the Convention.

5. The proposal referred to in paragraph 2 above is, thus, not a proposal with which we can agree.

6. Should the Government of the Member State concerned find difficulties in granting privileges and immunities to its nationals employed by the United Nations under the project, an alternative may be that the Government employ the persons concerned and assign them to the project with appropriate reimbursement being made by the United Nations Development Programme.

---

[72]The specialized agencies have a similar regulation.

7. We note from your memorandum that the Government has agreed to the release of its two nationals "on secondment". We wonder whether the Government's intention is that its two nationals, while continuing to remain government officials and while continuing to be paid by the Government, would be assigned by the Government to the project, with appropriate reimbursement being made by UNDP. The two persons concerned would, in such circumstances, not be appointed and paid by the United Nations, and would not be officials of the United Nations. They would remain officials of their Government, and the Convention on the Privileges and Immunities of the United Nations would not be applicable in their cases.

13 December 1973

---

21. QUESTION OF THE ISSUANCE OF A VISA TO AN OFFICIAL OF A REGIONAL ECONOMIC COMMISSION—UNDER BOTH THE CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS AND THE RELEVANT HEADQUARTERS AGREEMENT, OFFICIALS OF THE COMMISSION REGARDLESS OF THEIR NATIONALITY ARE ENTITLED TO THE ISSUANCE OF ANY VISA WHICH MAY BE REQUIRED TO RETURN TO THEIR DUTY STATION

Memorandum to the Chief, Regional Commission Section, Department of Economic and Social Affairs

1. You have requested a legal opinion as to the legal right of a member of the staff of a regional economic commission to obtain a visa from the host country in order to return to his duty station.

2. The Convention on the Privileges and Immunities of the United Nations to which the country concerned is a party provides in Article V, Section 18 that "officials of the United Nations shall be immune, together with their spouses and relatives dependent on them, from immigration restrictions and aliens registration". This provision has been taken to mean that States Parties to the Convention are bound to issue visas to officials to the United Nations without any restrictions. In addition, the Convention, in Article VII, Section 25, provides for a speedy handling of applications for visas from the holders of United Nations Laissez-Passer when such applications are accompanied by a certificate that the applicants are travelling on the business of the United Nations.

3. The headquarters agreement for the regional economic commission concerned provides that the appropriate authorities shall impose no impediment to transit to or from the headquarters of the commission of, among others, officials of the commission and their families.

4. In view of the foregoing, there can be no doubt that from a legal point of view an official of the commission concerned, regardless of his nationality, has the right to return to his duty station and to the issuance of any visa which may be required for entry into the host country.

13 November 1973

---

22. EXEMPTION OF UNITED NATIONS OFFICIALS FROM THE OBLIGATION OF SUBMITTING A TAX RETURN WITH RESPECT TO THEIR UNITED NATIONS INCOME—SUCH INCOME IS TO BE CONSIDERED AS NON-EXISTENT FOR INCOME TAX PURPOSES AND SHOULD NOT IN PARTICULAR BE TAKEN INTO ACCOUNT IN DETERMINING THE TAX RATE ON INCOME FROM OTHER SOURCES

Note verbale to the Permanent Representative of a Member State

The Secretary-General of the United Nations presents his compliments to the Permanent Representative and has the honour to acknowledge receipt of his note which states that, under

the terms of the Internal Revenue Code, nationals of his country are required to file an income tax return if their annual gross income exceeds a specified amount. It is assumed that, in keeping with the exemption, referred to in the note, of United Nations salary and emoluments from national taxation under the Convention on the Privileges and Immunities of the United Nations, tax is not in fact levied on United Nations income in excess of the specified amount.

As regards the wish expressed in the note that United Nations officials of the nationality of the State concerned should nevertheless file an annual income tax return, the Secretary-General would point out that, in accordance with the principle of exemption, United Nations salary and emoluments are considered as non-existent for income tax purposes. United Nations officials are in consequence not required to submit a return unless the income from non-United Nations sources is in excess of the specified amount, nor may United Nations income be taken into account in determining the rate of tax on any additional income. Thus, in the opinion of the Secretary-General, United Nations officials of the nationality of the State concerned would be obliged to submit an income tax return only in so far as they may have other income in excess of the specified amount referred to in the first paragraph above.

The note states that a fine is payable when a national passport is extended or renewed and the holder did not file a return. Since, for the reasons explained, United Nations officials are not, in the view of the Secretary-General, under an obligation to file a return where their sole source of income is from the United Nations, and since their need for a passport is directly related to their United Nations employment, the Secretary-General would express the wish that the authorities concerned would take the necessary steps to waive this fine, at least in the case of officials whose income from non-United Nations sources is below the specified amount.

9 January 1973

---

23. TECHNICAL CO-OPERATION PROGRAMME OF THE UNITED NATIONS—QUESTION WHETHER COMMUNICATION BY THE ORGANIZATION TO A MEMBER STATE OF INFORMATION CONCERNING ITS NATIONALS SERVING AS ASSOCIATE EXPERTS UNDER THE PROGRAMME WOULD BE COMPATIBLE WITH THE RELEVANT PROVISIONS OF THE CHARTER AND THE STAFF REGULATIONS

Memorandum to the Deputy Chief, Technical Assistance Recruitment Service, Office of Personnel

1. You have asked for our views on two proposals of the Government of a Member State concerning its nationals serving as associate experts with the Organization pursuant to Economic and Social Council resolution 849 (XXXII).

2. Under the first of these proposals, the nationals of the Member State in question serving as associate experts would submit to their Government a "substantive report" aimed at providing it with the information required to assess the training which an associate expert receives during his assignment on a project, and to determine the extent to which the services performed by him during such assignment correspond to his job description. The report would be prepared and signed by the associate expert and transmitted through the Organization to the Government, with the Organization entitled to make such comments thereupon as it may deem necessary.

3. We find it difficult to reconcile such a proposal with the principle laid down in the Charter that the responsibilities of the Secretary-General and the staff shall be exclusively international in character, and with Staff Regulation 1.1 which states: "Members of the Secretariat are international civil servants. Their responsibilities are not national but exclusively international. By accepting appointment, they pledge themselves to discharge their functions and to regulate their conduct with the interests of the United Nations only in view." It is evident that associate experts are staff members, as provided for by paragraph 4 of the

Annex to resolution 849 (XXXII).[73] It appears equally evident that reports by a staff member concerning his service with the Organization fall within the purview of his "international responsibilities" and cannot therefore be submitted by him to his Government directly or through the Organization. It is recognized that the Government concerned has a special interest in the personnel it provides to serve as associate experts with the Organization. The salaries and other identifiable costs of such personnel are paid by the Organization from the voluntary contributions made by that Government specifically for such purposes. Additionally, it appears that one of the principal purposes of the Government in providing such personnel is to enable them to receive training during their service on a project. We are unable to agree, however, that these considerations render inapplicable the relevant provisions of the Charter and the Staff Regulations to the associate expert programme, so as to provide a legal basis for the submission by associate experts to their Government of the proposed "substantive reports" through the Organization.

4. We would also draw attention to the standard basic agreement between the United Nations Development Programme (UNDP) and recipient Governments which appears to be relevant here. Paragraph 5 of article III of the standard basic agreement states: "The Parties shall consult each other regarding the publication as appropriate of any information relating to any project or the benefits derived therefrom." In our opinion, the term "publication" in this context denotes the act of making known or divulging to any party other than the UNDP, recipient Government, or executing agency, any information relating to a project or the benefits derived therefrom. We further consider that the expression "any information" is not to be narrowly interpreted as meaning only classified information. It appears therefore that if the proposed "substantive reports" would involve disclosure to the Government concerned of information relating to a project or to the benefits derived therefrom, the Organization, acting as executing agency on behalf of the UNDP, would be legally obliged to submit the proposed reports to the UNDP and recipient Government for consultation prior to any transmission to the Government concerned. Accordingly, even in the absence of the fundamental objections mentioned in paragraph 3 above, the propriety of the transmission of the proposed "substantive reports" to the Government would be influenced by the outcome of the consultations between the UNDP and recipient Government.

5. Under the second proposal, the nationals of the Member State concerned serving as associate experts would receive from the Organization a "performance report" evaluating their service and conduct during the relevant period of their service on a project and a copy thereof would be transmitted by the Secretary-General to the Government. It appears that the Government has indicated that if the Secretary-General is not prepared to agree to transmit to it copies of such reports, it will examine the possibility of requiring a person to sign, prior to his appointment as an associate expert, a binding commitment to transmit to it copies thereof.

6. We would call attention to the Administrative Instruction which states that a specific form (Form P.91 (3-56)—PROF) shall be used for periodic reports on the service and conduct of all staff members in the professional category. As all associate experts are within this category, it appears that the Organization is obliged to use the said form for such periodic reports.

7. In our opinion, the proposal that the Secretary-General transmit to the Government copies of periodic reports given to its nationals serving as associate experts with the Organization is not consistent with the exclusively international character of the Secretary-General's responsibilities under the Charter. We would add, however, that there appears to be no objection from the legal point of view to the Secretary-General providing in his discretion to the Government concerned a copy of a certification of service issued to an Associate Expert pursuant to Staff Rule 109.11, which states: "Any staff member who so requests shall, on

[73] Paragraph 4 of the annex to the resolution reads as follows: "Volunteer personnel will be required to take a United Nations oath of office and be subject to the appropriate staff rules and regulations of the executing agency. They will be subject to the authority of the executive head of the executing agency and his representatives in the field."

leaving the service of the United Nations, be given a statement relating to the nature of his duties and the length of his service. On his written request the statement shall also refer to the quality of his work and his official conduct."

8. We see no legal impediment to an associate expert transmitting to his Government, or to any other party, a copy of periodic reports given him by the Organization—provided this is done on a voluntary basis. In our opinion, the imposition by the Government of a requirement that a person sign, prior to his appointment as an associate expert, a binding legal commitment to submit to it copies of his periodic reports would improperly restrict the freedom of the Secretary-General to appoint his staff and, additionally, would impinge on the principle that Member States shall not seek to influence the staff in the performance of their duties.

26 February 1973

---

24. Legal aspects of the establishment of a trade union at the Geneva Office of the United Nations

Memorandum to the Under-Secretary-General for Administration and Management

1. You have asked for our views on the legal status of the recently established *Union syndicale du personnel des Nations Unies à Genève.*

2. A first question to be considered is that of the right of the staff to organize. Several references were made by representatives of the *Union syndicale du personnel des Nations Unies à Genève* to the Convention (No. 87) concerning Freedom of Association and Protection of the Right to Organize adopted by the General Conference of the International Labour Organisation (ILO) in 1948.[74] This Convention is of course only applicable to those States that ratified it and not to any intergovernmental organizations they may belong to. If States feel obliged to bring the provisions or the principles of such treaties to bear on an international organization, they can do so by means of appropriate resolutions in the organization.

3. Leaving aside the question of the applicability of ILO Convention No. 87 to the United Nations, it should be noted that the right of persons to organize and in particular to participate in trade unions is also specified in articles 20 and 23 (4) of the Universal Declaration of Human Rights—an instrument that is, as far as relevant, applicable to the United Nations itself. Moreover, the right of the staff to organize itself has never been denied and it is indeed provided for in Staff regulation 8.1 of the Staff Regulations and in rule 108.1 of the Staff Rules. The Administrative Tribunal has specifically held that the creation of the Staff Association was in recognition of and satisfied the right to organize specified in the Universal Declaration.[75]

---

[74] United Nations, *Treaty Series,* vol. 68, p. 17.

[75] Paragraphs 11 to 13 of the Judgement in question (No. 15, Robinson *v.* the Secretary-General of the United Nations), as reproduced in *Judgements of the United Nations Administrative Tribunal,* Numbers 1 to 70, 1950-1957, pp. 43-53, read as follows:

"11. The right of association is recognized by articles 20 and 23(4) of the Universal Declaration of Human Rights, adopted by the third General Assembly. The Tribunal notes that the Secretary-General has taken steps to make known to the staff his clear views that the staff should be organized in an association with rights of representation to the Administration. The Tribunal is satisfied that the principle of the right of association to which the United Nations are solemnly pledged is admitted on all sides to be a principle which must prevail also inside the organization's own Secretariat.

"12. The Secretary-General took a number of steps to implement this right of association. Regulation 15 of the Provisional Staff Regulations prescribed that 'the Secretary-General shall provide machinery through which members of the staff may participate in the discussion of questions relating to appointments and promotions.'. Rule 135 of the Staff Rules provided that 'A Staff Committee, elected by staff members to represent their views, shall be consulted on general questions relating to staff administration and welfare . . .'. The Staff Association of the United Nations

4. The establishment and functioning of the Staff Association[76] does not necessarily exhaust the right of staff members to organize themselves or to form trade unions. Generally speaking, staff members may form or join any type of association not incompatible with their status as international civil servants or with the law of the host State, to the extent that that law applies within the headquarters or office concerned. However, as indicated below, this right does not impose an obligation on the Organization to negotiate with such a union or association outside the established machinery, or to grant it any special facilities.

5. The right to organize trade unions is not synonymous with the right to insist that the employer bargain collectively. This is indicated, for instance, by the fact that the ILO, a year after adopting Convention No. 87 referred to above, adopted the Convention (No. 98) concerning the Application of the Principles of the Right to Organize and to Bargain Collectively.[77] Incidentally, that Convention which was also referred to by the representatives of the *Union syndicale,* specifically "does not deal with the position of public servants engaged in the administration of the State" (article 6), and therefore could in no event be applied, even by analogy, to international civil servants.

6. In the United Nations, the right of collective bargaining and the method by which it is to be exercised are defined in the Staff Regulations and Rules (primarily those cited in note 76 above). All staff members may participate in the election of the Staff Council, which in turn elects the Staff Committee, and these two organs then interact with the administration on the Joint Advisory Committee, which deals with general problems, and also in the selection of members to serve on joint bodies dealing with individual cases (such as the Appointment and Promotion Board and Committee, the Joint Disciplinary Committee and the Joint Appeals Board); in addition, the Regulations of the United Nations Joint Staff Pension Fund and Appendix D to the Staff Rules provide other methods by which separately elected staff representatives can participate in both general and particular decisions affecting certain types of staff benefits. In this scheme, established by the General Assembly and elaborated by the Secretary-General, it is not foreseen that staff members or representatives should address themselves directly to the General Assembly or its organs.[78] Though the Secretary-General has from time to time forwarded communications from the Staff Council and from the Federation of International Civil Servants Associations (FICSA) to the Fifth Committee to illustrate the questions he has considered, any right of staff members to direct access (either in writing or in person) to such organs would have to be provided by the General Assembly, which has only specified the general rule that "representatives of the staff" have the right to be heard by the

---

Secretariat was established, the rules of which provide in article 4 that 'all members of the staff of the United Nations are members of the Staff Association.'. This Staff Association elects a Staff Council which in turn elects a Staff Committee.

"13. It is clear, therefore, that the right of association is recognized for the staff of the United Nations . . .".

The ILO Administrative Tribunal did not avail itself of its one opportunity up to now to declare whether staff members of an international organization can legally join a trade union (Judgement No. 87 (Di Giuliomaria *v.* Food and Agriculture Organization of the United Nations), summarized in the *Juridical Yearbook,* 1965, p. 214).

[76]The representatives of the *Union syndicale* have argued that the Staff Association is not provided for in the Staff Regulations, and therefore should not be given any special status vis-à-vis other organizations of staff members. However, a Staff Council is provided for in regulation 8.1 of the Staff Regulations and in rules 108.1-108.2 of the Staff Rules, and a Staff Committee in rules 110.2 and 111.2 of the Staff Rules; all of which are organs of the Staff Association (in New York now called the Staff Union).

[77]United Nations, *Treaty Series,* vol. 96. p. 257.

[78]The International Civil Service Advisory Board (ICSAB) has specifically reported that it considers it inadmissible for staff representatives to participate in actual debates of legislative organs for the purpose of upholding views in opposition to those of the Executive Head (Report on Standards of Conduct of the International Civil Service, 1954 (COORD/CIVIL SERVICE/5, 1965 edition), para. 30).

Advisory Committee on Administrative and Budgetary Questions;[79] in context it is clear that these representatives must be those selected in accordance with the provisions specified by the Assembly itself in the Staff Regulations, which call for the election of a Staff Council.

7. Thus the procedures for collective bargaining in the United Nations necessarily define the means by which any staff member or group or union of staff members can participate in this process: by winning elections to the Staff Council and the Staff Pension Committee, or by influencing the persons who have done so. However, no union that circumvents this democratic process by appealing to some fraction of the electorate has the right to insist that the administration deal with it directly rather than through the established organs of consultation. The United Nations, which must provide uniform or comparable conditions of employment in many offices throughout the world in order to maintain the civil service nature of the Secretariat and to assure the transferability of staff, would be particularly handicapped if it had to negotiate with persons who did not have a collective mandate from the entire staff.

8. The right to organize and to bargain collectively does not automatically imply a right to use facilities of the employer, except perhaps to the minimal extent necessary for non-obtrusive contacts with other staff members.[80] Again no analogy can be drawn with the facilities granted to the Staff Association and to its organs, since these are by definition representing the majority of the staff and are responsible for carrying out particular functions defined in the Staff Regulations and Rules.

ANNEX

TRADE/LABOUR UNIONS IN INTERNATIONAL ORGANIZATIONS

1. *The United Nations system*

In the United Nations, FAO appears to be the only organization in which the question of representation of staff members by trade unions has ever been seriously raised. This occurred first in 1963-64 (see Judgement No. 87 of the Administrative Tribunal of ILO in the case Di Giuliomaria *v.* FAO), and the issue was raised again in 1970/71, when the structure of staff representation through the regular Staff Association had completely broken down and some of the local General Service staff (who constitute a separate constituency in the FAO Staff Council) considered affiliation with a local trade union. One immediately apparent obstacle was the affiliation of all these unions with national political parties in Italy, whose involvement in the internal operations of an international organization would at best be awkward.

2. *The European Co-ordinated Organizations (Council of Europe, ELDO, ESRO, NATO, OEDC, WEU)*

In both OEDC and the Council of Europe (and possible in some of the other "co-ordinated organizations") a number of staff members belong to trade unions, such as the "Council of Europe Staff Trade Union (P.S.I.-I.C.F.T.U.)", which is affiliated with the International Confederation of Free Trade Unions. However, these unions appear to function mostly through the statutory staff associations, i.e.,

---

[79] General Assembly resolution 14 A(I). Similar rights have been granted in other international organizations: thus in ILO, the Financial and Administration Committee of the Governing Body hears representatives of the Staff Union on matters directly affecting the staff, without, however, permitting them to participate in the debate or to include matters in the agenda. Similarly, the Finance Committee of the FAO Council (a body somewhat corresponding to the Advisory Committee on Administrative and Budgetary Questions hears representatives of the Staff Council, though occasionally the FAO Council itself has permitted representatives to address it. Only in the European Communities have the unions won more general rights of direct consultation with organs of both the Commission and the Council of Ministers (see paragraph 3 of the Annex to this memorandum).

[80] This appears, for instance, from the fact that the ILO in 1971 formulated a separate Convention on this subject, the Convention (No. 135) concerning the Protection and Facilities Afforded to Workers' Representatives in the Undertaking, designed to supplement Convention No. 98 and thus presumably subject to the same limitations (described in para. 5 above). While the representatives of the *Union syndicale* did not cite this Convention, they did refer to ILO Recommendation No. 143, which was adopted in conjunction with it and has the same scope.

they attempt to accomplish their objectives by winning elective posts in these associations and then using that vantage to negotiate with the administration within the normal channels established within the respective staff regulations.

3. *European Communities*

The widest unionization within the staff of an international organization has occurred in the European Communities. By 1971 three unions and one professional association (which in effect differs from a union only in name) had attracted the active membership of some 10 to 40% (the actual figures are confidential, estimates vary—but a short strike in December 1970 received nearly 100% co-operation) of the then 5,000 employees of the Commission in Brussels—while these and other unions had also obtained members among the Commission's employees elsewhere as well as among the employees of other organs of the Communities (the Council of Ministers, the Parliament, the Court, etc.). Two of the unions are affiliated with the socialist International Federation of Unions of Public Officials (London) and through it with the International Confederation of Free Trade Unions; the other is affiliated with the International Christian Federation of Public Officials and through it with the World Confederation of Labour (formerly the International Federation of Christian Trade Unions); the European Civil Service Federation is unaffiliated. The right of Community officials to "be members of trade unions or staff associations of European officials" is now specifically provided for in Article 24a of the Staff Regulations of Officials of the European Communities.[81]

These unions in the European Communities function in part by winning posts in the statutory staff associations (which are provided for in the staff regulations). However, instead of utilizing these associations as the primary means of furthering their demands, they in effect caused the associations to restrict themselves largely to formal matters (administration of various social programmes), while the unions demanded to negotiate directly with the administration. They secured the right to negotiate directly with the Commission in July 1970, and after further pressures (including both a short strike and the withdrawal of staff representatives from all joint bodies, which were thus prevented from functioning) obtained the right of direct consultation with the Council of Ministers (which is ultimately responsible for conditions of employment throughout the Communities). Certain amendments to the Staff Regulations that were being considered in 1971 would have codified this right of consultation, but in the current Regulations, adopted on 5 March 1972, that right is still not specified.

28 June 1973

---

25. Procedure for extending and modifying the International Coffee Agreement, 1968[82]—Under Article 69, paragraph 2 of the Agreement such extension and modification may be effected by way of a resolution of the International Coffee Council—Provisions which such a resolution ought to contain

Letter to the International Coffee Organization

In view of the fact that the International Coffee Agreement, 1968 will terminate, under Article 69, paragraph 1, on 30 September 1973, you ask for our opinion whether, under Article 69, paragraph 2 of the Agreement,[83] the International Coffee Council may simply adopt a resolution extending the Agreement and specifying the modifications in it, or whether on the

---

[81] Reproduced in the Supplement to the *Official Journal of the European Communities*, Number C.12 of 24 March 1973.

[82] United Nations, *Treaty Series*, vol. 647, p. 3.

[83] Article 69, paragraph 2 reads as follows:

"The Council after 30 September 1972 may, by a vote of a majority of the Members having not less than a distributed two thirds majority of the total vote, either renegotiate the Agreement or extend it, with or without modification, for such period as the Council shall determine. Any Contracting Party, or any dependent territory which is either a Member or a party to a Member group, on behalf of which notification or acceptance of such a renegotiated or extended Agreement has not been made by the date on which such renegotiated or extended Agreement becomes effective, shall as of that date cease to participate in the Agreement."

other hand it should adopt a protocol to be sent to the Secretary-General of the United Nations for signature and acceptance by Contracting Parties.

It would always be possible for the Council to choose to extend and modify the Agreement by means of a protocol, or to replace it by a whole new Agreement (as was done in 1968). Article 69, paragraph 2, however, provides a simpler and more expeditious means of effecting the extension and modification, which does not necessarily involve a protocol. That paragraph provides that the Council after 30 September 1972 may, by a prescribed special vote, extend the Agreement, "with or without modification, for such period as the Council shall determine". Extension and modification under this provision result, not from the conclusion of any new treaty, but simply from the decision of the Council, taken by the required special vote. As we understand that the Council normally records its decisions in the form of resolutions, a resolution would be appropriate in this case.

Though the Council can extend and modify the Agreement by a resolution, the effect of that decision can be avoided by any Contracting Party or dependent territory which is a Member or party to a Member group; if it, by the date on which the extended Agreement becomes effective, has not made a notification of acceptance, it "shall as of that date cease to participate in the Agreement", and it loses its right to a share of the proceeds of liquidation of the Organization in accordance with Article 68, paragraph 2. Article 69, paragraph 2 speaks of "notification of acceptance of such a renegotiated or extended Agreement", and accordingly it is the whole Agreement which must be accepted, rather than a separate protocol.

It may be helpful to give you our views about certain provisions which an extending and modifying resolution ought to contain, and the procedures to be followed in connexion therewith.

The Council's resolution should request the Contracting Parties to the Agreement, on their own behalf and on behalf of any of their dependent territories which are Members or parties to Member group, to transmit to the Secretary-General of the United Nations, as depositary, their notifications of acceptance of the Agreement as extended and modified by the resolution, in such manner that the notifications reach the Secretary-General on or before 30 September 1973. It should also specify that such notifications should be signed by the Head of State or Government or Minister for Foreign Affairs, or made under full powers signed by one of the foregoing. These requirements will be explained below.

Article 69, paragraph 2 does not expressly state to whom the notifications are to be made, though Article 71 requires the Secretary-General of the United Nations to notify all Contracting Parties "of the date to which the Agreement is extended . . . under Article 69", and Article 70, paragraph 1, which deals with an analogous situation, expressly states that notifications of acceptance of amendments are to be sent to the Secretary-General. As stated in article 77, paragraph 1(*c*) of the Vienna Convention on the Law of Treaties,[84] however, a normal function of the depositary of a treaty is "receiving and keeping custody of any instruments, notifications and communications relating to" the treaty. This principle has been recognized in our practice; the amendment clause of the Constitution of the World Health Organization (article 73)[85] does not expressly state to whom acceptances of amendments adopted by the World Health Assembly are to be sent, but the Assembly has by resolution decided that they should be deposited with the Secretary-General, the depositary of the Constitution.[86]

The date of 30 September 1973 is the last date on which notifications of acceptance may be made. Article 69, paragraph 2 of the Agreement provides that they must be made "by the date on which [the] renegotiated or extended Agreement becomes effective", if cessation of participation is not to result. Since the Agreement remains in force until 30 September 1973, the extended and modified Agreement will, if the Council so decides, become effective only on 1 October 1973. The notifications must therefore be made by that date, i.e., on 30 September

[84] Reproduced in the *Juridical Yearbook*, 1969, p. 140.

[85] United Nations, *Treaty Series*, vol. 14, p. 185.

[86] *Ibid.*, vol. 377, p. 380.

1973 at the latest. That date happens to fall on a Sunday, but no account need be taken of that fact in the Council's resolution, since our Secretariat has a well-established practice for dealing with treaty time-limits that fall on weekends.

The notifications of acceptance are legal instruments that have the effect of preventing loss of participation in the Agreement. Under established international practice, such instruments should be signed by the Head of State, Head of Government or Minister for Foreign Affairs, or should be made pursuant to full powers signed by one of them, since such signatures bind the State in respect of treaties.

As soon as the Council adopts the extending and modifying resolution, we would be obliged if you would notify us by cable, so that we may be prepared in case any State is prompt in sending the Secretary-General a notification of acceptance. We would also be grateful if you would send us promptly a certified copy of the resolution in all the languages in which it was adopted, with a certification by the Executive Director that it was adopted in accordance with article 69, paragraph 2 of the Agreement. The Council's decision is subject to registration under article 2 of the Regulations to give effect to Article 102 of the Charter, as a "subsequent action which effects a change in . . . the terms, scope or application" of the Agreement. In accordance with the Regulations and our practice, we shall then proceed to register the decision *ex officio*. This is the procedure we have followed in the somewhat similar case of amendments of the WHO Constitution.[87]

21 March 1973

---

26. Agreement establishing the Asian Rice Trade Fund[88]—Extension of the time limits for signature and acceptance provided for by the Agreement

Memorandum to the Chief, Regional Commissions Section, Department of Economic and Social Affairs

1. We have received your memorandum of 15 August 1973, by which you transmitted a copy of a letter from the Special Assistant to the Executive Secretary of the Economic Commission for Asia and the Far East, requesting legal advice on the interpretation to be given to article 17 (i) of the above-mentioned Agreement. Also enclosed with your memorandum were a copy of an aide-mémoire accompanying the Special Assistant's letter, a copy of a letter dated 31 July 1973 from the Ambassador of the Republic of Viet-Nam in Bangkok, informing the Executive Secretary of ECAFE that his Government had decided to join the Asian Rice Trade Fund and had authorized him to sign the latter, as well as a copy of the Agreement itself.

2. In the aide-mémoire it is noted that while, under article 17 (i) of the Agreement, the last day for signature was 30 June 1973, ECAFE received shortly after that date informal indications that other countries—in addition to the Republic of Viet-Nam which subsequently sent the notification referred to above—were interested in participating in the Agreement. The aide-mémoire goes on to suggest various approaches that might be adopted in order to allow further participation in the Agreement, mainly through a liberal interpretation of article 17 (i).

[87] The International Coffee Council, by resolution No. 264 adopted at its Twenty-second session (12-14 April 1973), approved the extension of the Agreement—made subject to certain modifications—to 30 September 1975. Under the resolution, the Agreement as modified shall remain in force among those Contracting Parties that notified their acceptance to the Secretary-General by 30 September 1973, if on that date such Parties represent at least 20 exporting members holding a majority of the votes of the exporting members and at least 10 importing members holding a majority of the votes of the importing members. The necessary number of notifications of acceptance had been received by 30 September 1973 to enable the Agreement to be extended.

[88] Drawn up by the Intergovernmental meeting on the Establishment of an Asian Rice Trade Fund, convened by the United Nations Economic Commission for Asia and the Far East at Bangkok, Thailand, from 12 to 16 March 1973.

3. The provisions dealing with the conditions for participation therein are to be found in articles 1 (ii) and (iii) and articles 17 (i) and 18, which read as follows:

"*Article 1*

". . .

"(ii) The Rice Fund shall consist initially of those members, not being less than three, that shall have acceded to this Agreement as hereinafter provided."

"(iii) Other eligible developing countries as specified in clause (i) above may apply for membership of the Rice Fund and may become members on the unanimous decision of all of the existing members of the Rice Fund and by accession to this Agreement."

"*Article 17*

"(i) The original of this Agreement in a single copy in the English language shall remain open for signature by the fully accredited representatives of the parties to this Agreement at the United Nations Economic Commission for Asia and the Far East until 30 June 1973. Thereafter, the Agreement shall be transmitted to the Secretary-General of the United Nations."

"*Article 18*

"This Agreement shall be subject to acceptance by the signatory Governments in accordance with their respective constitutional procedures.

"Instruments of acceptance shall be deposited with the Secretary-General of the United Nations by 1 July 1974."

4. There is no doubt that, as noted in paragraph 2 of the aide-mémoire, the last date for signing the Agreement was indeed 30 June 1973; it would do violence to both the letter and the spirit of article 17 (i) if the second sentence of that article were taken as meaning that the Agreement may be signed after 30 June 1973 at some other location than Bangkok.

5. In the present circumstances, two methods could be envisioned in order to allow countries beyond the current four signatories to participate in the Agreement:

(a) *Accession under article 1 (iii):*

Under that provision an eligible developing country may become a member of the Rice Fund upon the unanimous decision of all of the existing members of the Fund and by "accession" to the Agreement. Although the Agreement does not contain specific clauses to that effect, accession under article 1 (iii), under the prevailing international practice, could be effected through the deposit of an instrument of accession with the Secretary-General, the instrument to take effect on the date of deposit or on the date when unanimous consent is reached, whichever is later. Article 1 (iii), however, obviously refers to a situation where the Agreement has already entered into force. Hence it follows that those States which did not sign the Agreement by 30 June 1973 cannot now apply for membership in the Rice Fund nor accede to the Agreement before the conditions of article 19 have been fulfilled, i.e. before the Agreement has entered into force as a result of the deposit of instruments of acceptance by at least three of the present four signatories.[89] Upon the unanimous decision of those three signatories, eligible States could then deposit their instrument of accession with the Secretary-General, thus becoming parties to the Agreement and members of the Rice Fund on the date of such deposit.

[89] Article 19 reads as follows:

"This Agreement shall enter into force when not less than three of the parties to this Agreement have deposited instruments of acceptance."

(b) *Extension of the time limit for signature provided for by article 17 (i):*

The four signatories, if they are unanimous, could also decide to extend the time-limit for signature of the Agreement beyond the date of 30 June 1973 initially provided for by article 17 (i). Since such an action could be construed simply as a suspension of the time-limit in article 17 (i), a record of concurrence by the four signatories would be sufficient for that purpose, without the text of the Agreement having to be modified. Eligible States could then sign the Agreement, and subsequently deposit their instrument of acceptance in accordance with article 18.

6. Therefore, if there seems to be some practical urgency about giving effect to the Republic of Viet-Nam's desire to sign, without waiting for entry into force, the following procedure could be used:

(*a*) The Executive Secretary of ECAFE should as soon as possible get in touch with the present four signatories of the Agreement and the eligible States interested in becoming parties thereto with a view to determining a new time-limit for signing the Agreement, and inform the Legal Counsel accordingly. That new time-limit should not be set beyond 1 July 1974 (the time-limit provided for by article 18 for acceptance of the Agreement following signature) unless it is also decided, in the same conditions, to extend the time-limit for acceptance.

(*b*) The original of the Agreement and all related documents (full powers for signature, authentic texts of declarations, texts of all decisions and documents issued in the course of negotiating the Agreement and all other pertinent information) should be forwarded as soon as possible to Headquarters so that the depositary functions may be taken over by the competent service in conformity with the usual depositary procedure.

(*c*) Upon receipt of the information and documents mentioned above, the Secretary-General would send a formal communication to the present signatories asking their consent for the extension of the time-limit for signature. He would also inform all eligible States of the new time-limit and the status of the Agreement.

(*d*) Further signatures would be received at Headquarters, in New York.[90]

B. Legal opinions of the Secretariats of intergovernmental organizations related to the United Nations

1. INTERNATIONAL LABOUR ORGANISATION

The following memoranda concerning the interpretation of international labour Conventions were prepared by the International Labour Office at the request of particular governments:

(*a*) Memorandum concerning Convention No. 14 on Weekly Rest (Industry), 1921, prepared at the request of the Government of Luxembourg, 21 May 1973. Document GB.193/21/1; 193rd Session of the Governing Body, May-June 1974.

(*b*) Memorandum concerning Convention No. 32 on the Protection against Accidents (Dockers) (Revised), 1932, prepared at the request of the Belgian Government, 21 November 1973. Document GB.193/21/1; 193rd Session of the Governing Body, May-June 1974.

---

[90] By a communication dated 5 March 1974, the Secretary-General informed eligible States that as of that date, the Agreement had been signed by Bangladesh, India, the Philippines and the Khmer Republic and that the signatories had decided on 29 November 1973 to extend to 31 May and 1 December 1974 respectively the time-limits provided for in articles 17 and 18 of the Agreement.

(*c*) Memorandum concerning Convention No. 81 on Labour Inspection, 1947, prepared at the request of the Government of Luxembourg, 10 August 1973. Document GB.193/21/1; 193rd Session of the Governing Body, May-June 1974.

(*d*) Memorandum on Convention No. 114 on Fishermen's Articles of Agreement, 1959, prepared at the request of the Government of the Netherlands, 5 December 1973. Document GB.193/21/1; 193rd Session of the Governing Body, May-June 1974.

(*e*) Memorandum concerning Convention No. 127 on Maximum Weight, 1967, prepared at the request of the Government of Nigeria, 16 April 1973. Document GB.193/21/1; 193rd Session of the Governing Body, May-June 1974.

(*f*) Memorandum concerning Convention No. 128 on Invalidity, Old-Age and Survivors' Benefits, 1967, prepared at the request of the Government of Finland, 1 June 1973. Document GB.193/21/1; 193rd Session of the Governing Body, May-June 1974.

(*g*) Memorandum concerning Convention No. 134 on the Prevention of Accidents (Seafarers), 1970, prepared at the request of the Government of Poland, 11 June 1973. Document GB.193/21/1; 193rd Session of the Governing Body, May-June 1974.

---

2. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

(Legal opinions issued by the Office of the Legal Counsel)

(*a*) TAXABILITY OF A CITIZEN OF A MEMBER STATE UNDER AN OPAS CONTRACT

Memorandum to the Personnel Division

1. We wish to refer to your memorandum of 22 December 1972 concerning the question whether FAO-derived income received by a national of a member State under an OPAS contract is subject to income tax in that State.

2. Under the terms of Article VI, Section 19 (*b*) of the Convention on the Privileges and Immunities of the Specialized Agencies to which the State concerned has acceded "officials" of the specialized agencies enjoy the same exemptions from taxation in respect of the salaries and emoluments paid to them by the specialized agencies, and on the same conditions, as are enjoyed by officials of the United Nations.

3. To this effect, Section 18 of the same Article requires that each specialized agency will specify the categories of officials to which the provisions of Article VI (and Article VIII—*laissez-passer*) shall apply, and communicate them to the Governments of all States parties to the Convention in respect of that agency. In pursuance of the provision of Section 18, the FAO Conference, by resolution 71/59 (1959), confirming its previous practice in line with United Nations General Assembly resolution 76 (I) of 7 December 1946, approved the granting of the privileges and immunities referred to in Articles VI and VIII of the Convention to all officials of FAO "with the exception of those officials recruited locally who are paid on the basis of hourly rates".

4. It should be considered whether OPAS officers are to be regarded as "officials" for the purpose of the Convention. In this connexion it should be recalled that OPAS officers are not appointed by the United Nations or the specialized agencies, but by the Governments to which they are assigned. The officers enter the service of the requesting Government; perform functions as national civil servants or other comparable government employees and therefore are under the exclusive direction of the Government and do not report or receive instructions from the United Nations or specialized agencies. As regards salaries and emoluments, OPAS officers receive from the Government an amount equivalent to the salary of national officials of comparable rank, supplemented by an additional stipend and allowances to be paid by the

Organization concerned, so that they receive in total approximately the same remuneration as international civil servants of equivalent category.

5. The legal status of the OPAS officers is governed by the following documents:

(*a*) The OPAS Standard Agreement covering the relationship between the Organization and the Government.

(*b*) The Contract between the United Nations or specialized agency and the officer.

(*c*) The relationship contract or arrangements between the Government and the officer concerned.

Therefore, since OPAS officers are not appointed by the organizations in accordance with their Staff Regulations or Rules, they do not have the legal status of officials or staff members and therefore do not fall within the scope of Article VI, Section 19 (*b*) of the Convention on the Privileges and Immunities of the Specialized Agencies for tax exemption purposes. This conclusion is confirmed by the provisions of Article VII.3 of the contract between the Organizations and the OPAS officers in which it is specifically stated that they do not have the status of "an official or a staff member" of the organizations although any relevant matter for which no provision is made in the contract shall be settled according to the administrative practices of the organizations.

6. Since OPAS officers are not "officials" for the purposes of the Convention on the Privileges and Immunities of the Specialized Agencies, they do not enjoy the tax exemption granted under Article VI, Section 19 (*b*). However, the Standard Agreement on Operational Assistance between the United Nations and Specialized Agencies and the employer Governments states in Article IV, paragraph 5 (*b*) as follows:

> "The Government recognizes the officers shall:
>
> "(*a*) . . .
>
> "(*b*) be exempt from taxation on the stipends, emoluments and allowances paid to them by the Organizations."

Thus OPAS officers enjoy tax exemption which, however, is limited: (*a*) only to the part of their income received from the organizations; (*b*) only in respect of the employer Government for which the officers perform their duties. We are not aware of any other document, provision or agreement with the State concerned or other countries whereby OPAS officers enjoy income tax exemption in the country of their nationality.

7. Finally, it should be pointed out that Article II.3 of the relationship contract between the organizations and OPAS officers, provides:

> "The Organization shall reimburse any income taxes which may be levied by the country of the officer's nationality or normal residence on the salary and related emoluments received from the Government, and on the stipend and any of the allowances or emoluments paid by the Organization. This reimbursement shall be computed without regard to any income except that mentioned in the preceding sentence."

Thus OPAS officers are entitled to reimbursement of income tax levied by their countries of nationality or normal residence.

27 February 1973

(*b*) Reimbursement of income tax levied by a member State

Memorandum to the Assistant Director-General, Administration and Finance Department

1. We wish to refer to your memorandum of 13 August 1973. In your memorandum you raise the question whether staff members may claim from FAO the reimbursement of income tax that they have paid in the circumstances described below.

2. The attachment to your memorandum shows how the tax assessment of a staff member was calculated and in particular the effect that an FAO-derived income has on allowances provided for in the current taxation laws. To the best of my knowledge, the income tax authorities of the State concerned always calculate the entitlement to allowances of a person who is considered a non-resident for income tax purposes, taking into account that person's total income from all sources, irrespective of whether all such income is liable to income tax.

3. In accordance with this practice, where FAO staff members are concerned, no income tax is levied directly on their FAO-derived income, but their FAO-derived income is added to their income from all other sources for the purpose of calculating entitlement to allowances.

4. This practice results, presumably invariably, in a reduction of the allowances that would have been granted to a staff member on his private income (i.e. non-FAO-derived income) had such private income been his sole income. In other words, the staff member suffers a higher incidence of taxation on his private income as a consequence of having an FAO-derived income.

5. The question therefore arises whether a staff member may claim reimbursement of the income tax he has paid in an amount equivalent to the difference between the assessment which takes into account his FAO-derived income and the assessment that would have been made on his private income had he had no FAO-derived income. While entitlement to reimbursement of income tax is governed primarily by FAO's Staff Rules and Manual provisions, the question you have raised also affects the interpretation of the Convention on the Privileges and Immunities of the Specialized Agencies to which the State concerned is a party.

6. The relevant Staff Rules and Manual provisions are to be found in Manual Section 309 which was promulgated on 1 August 1972. The Staff Rule which is most relevant to the question under consideration is Staff Rule 302.3153 which reads as follows:

> "*Limitations of Reimbursement.* A staff member whose terms of employment entitle him to tax reimbursement is entitled to reimbursement of the difference between the minimum total income tax legally payable and actually paid for the period of his FAO service, and the amount that would have been payable if he had had no FAO income. The determination of the tax that would have been payable on non-FAO income takes into account all exemptions, deductions, and credits allowed by the laws and regulations of the jurisdiction concerned."[91]

The wording of this provision would clearly appear to mean that a staff member is entitled to claim that the Organization place him in exactly the same position in which he would have found himself had he had no FAO-derived income. Therefore, if a staff member is deprived of all or part of the allowances that he would have received with respect to his private income, it would follow that he could invoke Staff Rule 302.3153 and claim reimbursement of the difference.

7. The above conclusion is indeed borne out by the circumstances preceding the enactment of Staff Rule 302.3153 in its present form. You may recall that towards the end of 1969 the Consultative Committee on Administrative Questions (CCAQ) considered the question of reimbursement of income taxes, and in particular the United Nations' proposal to adopt a new practice regarding the reimbursement of United States income tax. Basically, the new United Nations practice was designed to eliminate all indirect effects that United Nations-derived remuneration might have on the taxation of private income. Thus the United Nations

---

[91] The corresponding provision which had previously been in force was Staff Rule 302.31591, which reads as follows:

> "A staff member whose terms of employment entitle him to tax reimbursement, and who is employed by the Organization (i) during an entire taxable year, or (ii) during part of a taxable year, and who has no non-FAO earned income in such years, shall be reimbursed by FAO the minimum tax payable on his FAO-derived income only. This is computed without regard to any unearned income he may have, but takes into account all exemptions and deductions allowed by the relevant laws and regulations of the country concerned."

would reimburse the difference between the total tax paid with United Nations-derived income included, and the tax payable if United Nations-derived income had been excluded. Previously the United Nations reimbursed the tax which would have been due if the United Nations-derived income had been the sole income.

8. The whole question was the subject of a paper submitted by the United Nations (Doc. CCAQ/SEC/92(FB) of 11 December 1969) and a report of a Special Working Group of CCAQ (Doc. CCAQ/SEC/97 (FB) of 15 January 1970). The United Nations went ahead with the application of its proposal despite the reservations of a number of Specialized Agencies.

9. In May 1970, the FAO Finance Committee endorsed the new United Nations practice and the Director-General issued DGB 70/24 on 24 June 1970, which in substance relates exclusively to the reimbursement of United States income tax. In your memorandum of 13 August 1973 you refer to the Legal Counsel's memorandum of 16 March 1971. In this memorandum, which was primarily devoted to a specific form of allowance provided for under United States income tax legislation and to the interpretation of DGB 70/24, two main conclusions were reached:

(i) that since FAO had adopted the new reimbursement practice introduced by the United Nations, a staff member's liability to income tax on his private income should be restricted to the tax that he would have paid had he had no FAO-derived income;

and

(ii) that, with respect to individual allowances or other tax benefits, it would be impracticable for the Organization to take into account any social purposes that might underlie specific legislative provisions as a criterion for deciding whether or not to reimburse taxes paid.

10. Probably on account of the greater financial implications, both for the agencies and for individual staff members, arising from the reimbursement of United States income tax, comparatively little attention appears to have been paid to the effects of the income tax legislation of other countries on emoluments received from organizations in the United Nations family, DGB 70/24 related only to the reimbursement of United States income tax. However, it was pointed out in document CCAQ/SEC/97(FB) that if the procedure proposed by the United Nations were adopted, staff members who were British nationals and whose international salaries were taken into account when they submitted claims for abatement of tax on their other income, would also expect to be reimbursed under the same conditions as staff.

11. It would seem axiomatic that all staff members entitled to the reimbursement of income tax should receive the same treatment irrespective of where they were taxed. It therefore follows that the practice applicable to staff members paying United States income tax, as set forth in DGB 70/24, should apply equally to those paying income tax in other countries.

12. Thus, the circumstances leading up to the introduction of Staff Rule 302.3153 (quoted in paragraph 6 above) in August 1972 leave little room for doubt that this Staff Rule was intended to give general application to the practice set forth in DGB 70/24 with respect to the reimbursement of United States income tax. That is to say staff members should be placed in exactly the same position as they would have been in had they had no FAO-derived income whatever.

13. It should be noted, however, that Staff Rule 302.3153 provides that the Organization only reimburses the "minimum legally-due tax". The question therefore arises whether the tax authorities of the member State concerned are entitled, under the Convention on the Privileges and Immunities of the Specialized Agencies to which that State is a party, to take FAO-derived income into account, in any manner whatsoever, when assessing income tax due by FAO staff members. If such a practice were contrary to the provisions of the Convention, staff members could be required to contest the current practice and seek exemption before claiming reimbursement.

14. In the above connexion there seems little doubt that it would be contrary to the Convention for a party to apply a higher basic rate of taxation to private income as a result of taking into account the FAO-derived income—see the legal opinion of the United Nations Legal Office annexed to document CCAQ/SEC/92(FB). The position is somewhat less clear in cases where the FAO-derived income is only taken into account in connexion with entitlement to specific allowances. Indeed a party to the Convention might contend that allowances were granted in order to afford relief from taxation to low-income groups or to cover circumstances which do not prevail where a person receives a substantial income from an international agency. However, as indicated in paragraph 14 of the Legal Counsel's memorandum of 16 March 1971, this contention is not persuasive.

15. The question of the consistency of the practice of the member State concerned with the Convention has been raised on a number of occasions in the past. It also transpires that that practice has been consistently applied for a great many years and that there seems little chance of obtaining its reversal. Under the circumstances, failure to contest a ruling by the tax authorities concerned to the effect that all sources of income including FAO-derived income should be taken into account when assessing allowances can scarcely be considered a reason for withholding the reimbursement of the taxes so paid. However, before charging any such reimbursement to the Tax Equalization Fund it might be opportune to inform the authorities concerned of the Organization's proposed action.

16. In the light of the considerations set out above, it is concluded that staff members are entitled, under Staff Rule 302.3153, to claim the reimbursement of income tax in an amount which would place them in the position that they would have been in had their FAO-derived income not been taken into account when determining their entitlement to allowances.[92]

19 September 1973

(*c*) Applicability of FAO personnel practices to the World Food Programme

Memorandum to the Director, Personnel Division

1. We wish to refer to your memorandum of 13 March 1973 requesting an opinion on whether FAO personnel practices are applicable to the UN/FAO World Food Programme (WFP).

2. WFP General Regulation 14(i) provides as follows:

> "The Executive Director[93] will administer the staff of the Programme in accordance with FAO Staff Regulations and Rules and such special rules as may be approved by the Secretary-General and the Director-General, after consultation with the Executive Director."

Since no "special rules" have been approved by the Secretary-General and the Director-General, the FAO Staff Regulations and Staff Rules, and by implication any subsidiary legislation promulgated by the Director-General to supplement these provisions, are applicable to staff members assigned to WFP.

---

[92] As a result of the legal opinion appearing above, the Assistant Director-General, Administration and Finance Department of FAO, issued for distribution to all staff an Administrative Circular the last paragraph of which reads as follows:

> "Staff members whose income tax assessment on their private income is higher than it would have been had their FAO-derived income not been taken into consideration in the calculation, are thus entitled to claim reimbursement of the difference in accordance with Staff Rule 302.3153."

[93] Official appointed by the Secretary-General of the United Nations and the Director-General of FAO to head the joint United Nations/FAO administrative unit operating the World Food Programme, see WFP General Regulation 14(*a*) and (*b*).

3. Pursuant to General Regulation 14(i), the Executive Director is only expressly required to administer the staff of WFP in accordance with the FAO Staff Regulations and Staff Rules. There is no provision in the General Regulations of WFP, or elsewhere, which specifies that FAO personnel practices shall be applied in respect to staff administered by the Executive Director.

4. The question therefore arises whether a distinction may be drawn between provisions contained in the Staff Regulations and the Staff Rules on the one hand, and personnel practices on the other hand, and if so, whether General Regulation 14(i) should be interpreted as including the application of such practices.

5. Since the Staff Regulations and Staff Rules, and the Manual Sections which supplement them, are applicable to staff members assigned to WFP in virtue of General Regulation 14(i) and form part of their terms and conditions of appointment, such staff members have a legal right to the application of these provisions.

6. Although personnel practices to some extent reflect the manner in which the provisions contained in the Staff Regulations and Staff Rules are to be applied, unlike these provisions, they do not give rise to legal obligations for FAO towards the staff members concerned. In particular, such practices—which may relate to the type or duration of appointments that are normally granted in given circumstances, recruitment policies and many other topics—may be applied in individual cases or to given units or categories of staff as a matter of discretion.

7. Consequently, from the legal point of view, there is an essential difference between the provisions laid down in the Staff Regulations and Staff Rules and mere practices introduced by the Director-General to give effect to personnel policies that take into account the manifold considerations of an administrative, budgetary or other nature which arise from time to time.

8. A distinction does therefore exist between the provisions of the Staff Regulations and Staff Rules, and personnel practices; consequently, in the light of the wording of General Regulation 14(i) FAO's personnel practices are not automatically applicable to WFP.

9. In considering the question whether General Regulation 14(i) should nevertheless be interpreted as including personnel practices, there are certain factors which should be borne in mind. First, WFP is a joint FAO/United Nations Programme with an inter-governmental committee which under General Regulation 9 provides, *inter alia,* general guidance on the administration of the Programme. Under General Regulation 14(i) it is the Executive Director who is vested with responsibility for administering the staff of WFP. The Director-General, in administering the staff of FAO, adopts the personnel practices that he deems appropriate. In the absence of any clear indication to the contrary it would appear normal for the Executive Director to have a similar authority to devise personnel practices suited to the particular exigencies of WFP.

10. Secondly, the fact that under General Regulation 14(i) "special rules" approved by the Secretary-General and the Director-General in consultation with the Executive Director may be promulgated, shows that even the terms and conditions of appointment of WFP staff may differ from those of FAO. This lends support to the view that it was not intended that FAO's personnel practices should automatically apply to WFP.

11. As the assignment of staff to and from WFP to FAO programmes is not infrequent there are doubtless a number of policy and practical reasons which militate in favour of harmonizing and co-ordinating the practices applied in FAO and WFP. However, the Executive Director of WFP is not legally bound to apply the FAO personnel practices in the administration of WFP.

22 May 1973

(*d*) GRANTS FROM FAO

Memorandum to the Director, Policy Analysis Division

1. We wish to refer to your memorandum of 18 May 1973 in which you enquire whether FAO is legally in a position to make a grant. You raised this question in connection with a letter which the Director-General has received from the President of the International Association of . . .[94] asking whether FAO could make a grant of $10,000 to finance the travel of some agricultural economists from Asia and Africa to attend a conference to be held in São Paulo, Brazil, in August this year.

2. While grants are not specifically provided for in the Basic Texts of FAO, there is no provision in the Constitution, the General Rules of the Organization or the Financial Regulations which would prohibit FAO from making a grant, so long as the purpose of the grant is within the scope of the Organization's Programme of Work and Budget.

3. Therefore, in the present case there would be no legal objection to FAO making a grant to the International Association of . . .[94] provided that there is a chapter in the current budget to which such a grant may properly be charged.

4. If FAO were to provide a grant it would seem desirable to draw up an agreement or arrange for an exchange of letters in which provision could be made for consultations between FAO and the Association on the themes and topics to be dealt with at the proposed conference.

13 June 1973

---

3. UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

(Legal opinion issued by the Office of International Standards and Legal Affairs)

QUESTION OF UNESCO'S EXEMPTION FROM THE VALUE-ADDED TAX IN FRANCE[95]

1. The value-added tax has always been regarded as an indirect tax, and exemption from it has always been considered within the context of article 16 of the Agreement of 2 July 1954 between the Government of the French Republic and the United Nations Educational, Scientific and Cultural Organization regarding the headquarters of UNESCO and the Privileges and Immunities of the Organization on French Territory,[96] known as the Headquarters Agreement. The question of its being a direct tax has never been raised, and that point has therefore not been discussed.

2. The system of exemption defined in article 16 of the Headquarters Agreement ("any such taxes levied in respect of purchases made or activities undertaken officially by the Organization may be reimbursed by lump sums to be agreed . . .") was not applied for very long. The French tax authorities had granted the Organization exemption at the source (agreement by an exchange of letters dated 1949); tax exemption was granted to suppliers and contractors dealing with the Organization upon presentation, in respect of each order, of a certified statement from the Organization referring to article 16 of the Headquarters Agreement and stating the nature, amount and date of the tax-free deliveries and services in question. This system is the most favourable ever accorded to the Organization.

---

[94] Full name of Association seeking a grant omitted.

[95] Memorandum prepared in response to a request for information from the Legal Counsel of the United Nations.

[96] 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. 240.

3. In 1967 the French authorities wished to modify this system of exemption, it being understood, however, that there could be no question of a reconsideration of the exemption from taxes on turnover hitherto enjoyed by the Organization. Following a decision by the Executive Board of UNESCO, which had been seized of the question by the Director-General, and an exchange of letters,[97] a new system came into force in July 1967 which provides that "the Organization shall be reimbursed for all indirect taxes in respect of activities undertaken officially and which form part of the cost of goods sold and services rendered to it and activities involving movable or immovable property, including building activities". For that purpose, the Organization makes a request each month to the Ministry of Foreign Affairs (Department of Protocol) for reimbursement of taxes, enclosing the invoices of the suppliers to whom the amounts disbursed the previous month relate and a statement of those invoices. The Ministry for Economic and Financial Affairs grants the Organization an advance to cover those taxes on a monthly basis. The advance is subject to equalization each month. It may thus be said that the system currently in force is that of exemption from tax by reimbursement of the amounts levied, this reimbursement being, in the main, effected before the expenditures have been made.

4. Neither article 16 of the Headquarters Agreement nor the exchanges of letters of 1949 and July 1967 contain the notion of a "major purchase". This legal concept is unknown in relations between UNESCO and France. . . . Exemption has always been granted regardless of the price of the goods, services or activities.

. . .

6. Goods imported by the Organization for its official use are exempt from the value-added tax. In the case of goods imported by staff members, a distinction should be drawn.

Whatever their grade, officials are, provided they formerly resided abroad, granted the right to import free of duty their furniture and personal effects at the time of their installation in France.

Non-French officials, whatever their grade, may temporarily import motor cars free of duty, under customs certificates without deposits.

Distributions of tobacco, imported or purchased free of duty, are made each month to all staff members.

Alcoholic beverages imported free of duty by virtue of the privileges of the Director-General are distributed regularly to officials having diplomatic status. Alcoholic beverages (whisky) are also distributed by way of exception and in small quantities to officials not having diplomatic status.

Finally, staff members of diplomatic grade and of non-French nationality may import free of duty (temporarily) certain personal and household effects in limited quantity.

. . .

8. Permanent delegates of member States accredited to the Organization enjoy such privileges, immunities and facilities as are accorded to diplomats of equal rank belonging to foreign diplomatic missions accredited to the French Government (Headquarters Agreement, art. 18, para. 1), and, if they are accredited to the Organization with the rank of ambassador or minister plenipotentiary, they are accorded the same status as heads of diplomatic missions (art. 18, para. 3). In UNESCO's reply to the questionnaire on the status, privileges and immunities of representatives of member States accredited to the specialized agencies, which the Assistant Director-General for International Standards and Legal Affairs sent you with a covering letter dated 2 March 1965, for the purposes of the International Law Commission,[98] he explained to you the fiscal status accorded to such permanent delegates in France. . . .

---

[97] *Juridical Yearbook*, 1967, p. 89.

[98] This letter contains, in particular, the following passage:

"The fiscal régime applying to permanent delegations is in principle the same as that applying to embassies.

9. The information obtained seems to indicate that diplomatic missions in France are not accorded more extensive exemption from the value-added tax than the Organization. Nor does the exemption from this tax accorded to heads of diplomatic missions and other officials of such missions appear, from the information obtained, to be more extensive than that accorded to senior officials of the Organization (Headquarters Agreement, art. 19, paras. 1 and 2).

---

4. UNIVERSAL POSTAL UNION

(Opinion given by the International Bureau)

CURRENCY OF PAYMENT FOR INTERNATIONAL ACCOUNTS

(Universal Postal Convention, article 10 and Detailed Regulations, article 103)

By virtue of article 11, paragraph 2, of the General Regulations of the Union, the International Bureau was called on to give its opinion on the currency to be used for the liquidation of international accounts according to article 103, paragraphs 4 and 5, of the Detailed Regulations of the Convention.[99]

If reference is made to the correspondence submitted to the International Bureau, the question may be summarized in the following terms:

To take into account the current monetary position and in application of article 103, sections 4 and 5, of the Detailed Regulations, a creditor administration A asked all administrations which normally settled all their postal debts in U.S. dollars to use in future the currency of country A, converting the debt expressed in gold francs at the official rate fixed by the monetary authorities of that country and approved by the International Monetary Fund.

However, administration B maintains that by using the U.S. dollar it liquidates its debts in gold-based currency and that therefore the creditor can nominate the currency for payment only if there are several currencies in existence which meet the definition of gold-based currency given in article 103, section 4, of the Detailed Regulations of the Convention. As the currency of the creditor country is not a gold-based currency within the meaning of this paragraph, the request of administration A appears inadmissible to it. Moreover, as the U.S. dollar has a gold equivalent recognized by the International Monetary Fund, this currency also

---

"Delegations pay only taxes for services rendered (road-sweeping, sewerage, collection of household refuse) and the 'tax on real property', if the permanent delegate is the owner of immovable property.

"Permanent delegates are exempt from the 'tax on movable property' (a tax levied on residents of France in respect of rented or occupied accommodation) in respect of their principal residence but not in respect of their secondary residence."

[99] Paragraphs 4 and 5 of article 103 of the Detailed Regulations read as follows:

"4. The transfer of funds referred to in paragraph 3 shall be made:

"(*a*) in principle in a gold-based currency, that is to say the currency of a country where the Central Issuing Bank or other official issuing authority buys and sells gold against the national currency at fixed rates determined by law and under an agreement with the Government. If the currencies of several countries satisfy these conditions, the creditor country shall designate the currency which suits it;

"(*b*) if the creditor agrees, in its own or any other currency.

"5. When the currency of payment does not satisfy the definition of a gold-based currency, consideration shall be given as to whether it can be related to gold either direct (special agreement between the countries concerned—equivalent fixed by the International Monetary Fund—internal law—agreement between the Government and an official issuing authority) or through the intermediary of a gold-based currency with which it is linked by a fixed relationship. Conversion shall be carried out in accordance with the gold equivalent determined in these circumstances and accepted by both parties.".

meets section 5 of article 103 of the Detailed Regulations. On principle, administration B liquidates its debts in U.S. dollars.

An examination of the two currencies' position in relation to gold shows that the central bank of country A is dispensed from converting banknotes into gold. Consequently the currency of that country does not meet the definition of a gold-based currency within the meaning of our Acts. However, the monetary authorities of that country have fixed a parity which is always recognized by the International Monetary Fund. Consequently its currency can thus be directly related to gold through the intermediary of this gold equivalent within the meaning of section 5 of article 103 of the Detailed Regulations of the Convention.

Until 15 August 1971 the Federal Reserve Bank of the United States of America bought and sold gold at the fixed price of 35 U.S. dollars per fine ounce. However, such transactions were accepted only on condition that they were made on behalf of governments or central banks of countries with which the United States of America maintained diplomatic relations and which used gold to back their currency reserves or for international settlements.

Since 15 August 1971 this external convertibility of the dollar into gold has been suspended and the U.S. dollar no longer meets the requirements of article 103, section 4 (*a*), of the Detailed Regulations. Under an agreement which several countries made at Washington on 18 December 1971 concerning the general realignment of currency parities (Smithsonian Institute Agreement), the U.S. dollar was devalued by 7.89 per cent. The gold definition of the dollar was thus changed from 0.888671 grammes of fine gold (35 U.S. dollars per fine ounce of gold) to 0.818513 grammes of fine gold (38 U.S. dollars per fine ounce of gold).

This new parity became official only by decision of the American Congress on 9 May 1972, but already from 18 December 1971 certain countries liquidated their international commercial transactions on the basis of the new rate, which the International Monetary Fund also applied in its publications from the same date.

On 12 February 1973, the International Monetary Fund was informed that the President of the United States had asked Congress to bring the parity of the dollar from 0.921053 SDR units to 0.828948 SDR units, equivalent to 42.2222 U.S. dollars per fine ounce of gold or to 2.5374 gold francs. Since then the International Monetary Fund has been applying this new rate, which was ratified by the United States monetary authorities only in October 1973.

In its reply the International Bureau gave the following opinion:

Under article 10 of the Universal Postal Convention, international accounts arising from postal traffic may be effected in accordance with the current international obligations of the countries concerned, and in this case the provisions of the Detailed Regulations have only a supplementary character. Moreover, section 2 of article 103 of the Detailed Regulations offers still further procedures which can be used for liquidating postal accounts.

However the two administrations concerned cite only sections 4 and 5 of article 103 of the Detailed Regulations of the Convention. This being so, it can be assumed that these administrations wish to pay their debts within the framework of these provisions only.

The first question is therefore which of the two parties, the creditor or the debtor, can choose the currency for payment.

Where there is but one gold-based currency, the reply is simple. The creditor must accept payment in gold-based currency. At the present time when no currency meets the definition of article 103, section 4 (*a*), of the Detailed Regulations of the Convention, this case has become purely theoretical.

It is therefore necessary to choose another currency conforming to subparagraph (*b*) of that paragraph. This provision makes no distinction between the currency of the creditor or any other currency when requiring the consent of the creditor. In fact article 103 is conceived from the point of view of the debtor who must liquidate the debt and of the creditor who demands payment due. The debtor may propose the currency of the creditor but the latter is not obliged to accept it.

As consent is necessary, the initiative can also come from the creditor. The latter does appear to have a certain advantage. As his consent is required, it is possible for him to impose his choice by a simple process of exclusion. However it should be noted that in practice it is advisable not to interpret this possibility too literally.

It is possible that the currency proposed for the liquidation does not suit the other party if this currency is neither negotiated nor quoted on its financial markets. The debtor can thus have difficulties in procuring the currency concerned whereas the creditor can have difficulties in converting the instrument of payment into cash. Moreover it is possible that one of the parties concerned is not sufficiently informed of changes in the gold equivalent of the money in question and lacks reference-points to compare the gold equivalents of other currencies which could be more favourable to it without however putting the other party at a disadvantage. In practice, therefore, endeavours should be made to reach agreement between the two parties as regards the currency for payment.

The second problem concerns the conversion rate to be applied. In the present monetary situation, only currencies which can be related directly to gold in accordance with section 5 of article 103 of the Detailed Regulations are still suitable as a basis for liquidating postal accounts. In the case under discussion, neither of the two parties proposes to use such a currency.

Under the Detailed Regulations of the Convention it is sufficient for the conversion rate chosen to be based on a gold equivalent based on a special agreement between the countries concerned, on the equivalent fixed by the International Monetary Fund, an internal law or an agreement between the Government and an official issuing authority. The case of the U.S. dollar proves that at least for a certain time there can be considerable divergence between the different equivalents so determined. It is therefore necessary that an administration should propose not only the currency for payment but also the conversion rate which it wishes to apply as well as its legal basis so as to enable regular verification by both sides.

In the present case the creditor administration can thus propose that its debtor should convert the gold debts into currency of the creditor country at the official parity of that currency. If, on the other hand, the debtor administration prefers to retain the U.S. dollar as currency for payment, as this currency suits it best, it must take account of the fact that the U.S. dollar is not a gold-based currency but a currency which can be related to gold. Consequently this administration should state the conversion rate which it wishes to apply and the legal source of this rate, which must also be recognized by the creditor administration. The latter could thus give better consideration to the position of the debtor administration in order to reach definite agreement as to the currency to be used in reciprocal arrangements.

Furthermore, attention is drawn to the advantage which our rules offer to the debtor which liquidates its accounts in the currency of the creditor country. By virtue of section 9 of article 103 of the Detailed Regulations of the Convention, the risks caused by changes in the equivalents which occur between the dispatch of the instrument of payment and its encashment are in this case entirely borne by the creditor administration. If another currency which can be related to gold is used, this risk is shared.

Finally, as it is necessary for the two administrations concerned to reach agreement, and in view of the scope of article 10 of the Convention, it is suggested that the administrations concerned should seek an equitable solution taking into account as much as possible the present practice of their countries as regards reciprocal international obligations.

Part Three

JUDICIAL DECISIONS ON QUESTIONS RELATING TO THE UNITED NATIONS AND RELATED INTERGOVERNMENTAL ORGANIZATIONS

Chapter VII

DECISIONS AND ADVISORY OPINIONS OF INTERNATIONAL TRIBUNALS

INTERNATIONAL COURT OF JUSTICE

APPLICATION FOR REVIEW OF JUDGEMENT NO. 158 OF THE UNITED NATIONS ADMINISTRATIVE TRIBUNAL:[1] ADVISORY OPINION OF 12 JULY 1973

1. By a letter of 28 June 1972, the Secretary-General of the United Nations submitted to the Court a request for an advisory opinion in the following terms:

"The Committee on Applications for Review of Administrative Tribunal Judgements has decided that there is a substantial basis within the meaning of Article 11 of the Statute of the Administrative Tribunal for the application for the review of Administrative Tribunal Judgement No. 158, delivered at Geneva on 28 April 1972.

"Accordingly, the Committee requests an advisory opinion of the International Court of Justice on the following questions:

"1. Has the Tribunal failed to exercise jurisdiction vested in it as contended in the applicant's application to the Committee on Applications for Review of Administrative Tribunal Judgements?

"2. Has the Tribunal committed a fundamental error in procedure which has occasioned a failure of justice as contended in the applicant's application to the Committee on Applications for Review of Administrative Tribunal Judgements?"

2. The Court decided by 10 votes to 3 to comply with the request and delivered an Advisory Opinion in the following terms:[2]

"The Court is of opinion

"With regard to Question I, by 9 votes to 4, that the Administrative Tribunal has not failed to exercise the jurisdiction vested in it as contended in the applicant's application to the Committee on Applications for Review of Administrative Tribunal Judgements;

"with regard to Question II, by 10 votes to 3, that the Administrative Tribunal has not committed a fundamental error in procedure which has occasioned a failure of justice as contended in the applicant's application to the Committee on Applications for Review of Administrative Tribunal Judgements."[3]

3. An analysis of the Opinion is given below:[4]

---

[1] See *Juridical Yearbook*, 1972, p. 127.

[2] For these proceedings, the Court was composed as follows: President Lachs; Vice-President Ammoun; Judges Forster, Gros, Bengzon, Onyeama, Dillard, de Castro, Morozov, Jiménez de Aréchaga, Sir Humphrey Waldock, Nagendra Singh and Ruda.

[3] President Lachs has appended a declaration to the Advisory Opinion, and Judges Forster and Nagendra Singh a joint declaration. Separate opinions have been appended by Judges Onyeama, Dillard and Jiménez de Aréchaga; and dissenting opinions by Vice-President Ammoun and Judges Gros, de Castro and Morozov.

[4] The analysis has been prepared by the Registry and in no way involves the responsibility of the Court. It cannot be quoted against the actual text of the Advisory Opinion, of which it does not constitute an interpretation. For the text of the Opinion and of the declarations, separate opinions and dissenting opinions appended to it, see *I.C.J. Reports 1973*, pp. 166 *et seq.*

Facts and Procedure (paras. 1-13 of the Advisory Opinion)

In its Advisory Opinion, the Court recalls that Mr. Mohamed Fasla, an official of the United Nations Development Programme (UNDP), held a fixed-term contract which was due to expire on 31 December 1969. When his contract was not renewed, he appealed successively to the Joint Appeals Board and to the United Nations Administrative Tribunal. The Tribunal gave its decision in Judgement No. 158 at Geneva on 28 April 1972. On 26 May 1972 Mr. Fasla raised objections to the decision and asked the Committee on Applications for Review of Administrative Tribunal Judgements to request an advisory opinion of the Court. This the Committee decided to do on 20 June 1972.

In formulating the request for an advisory opinion, the Committee on Applications exercised a power conferred upon it by the General Assembly of the United Nations in resolution 957(X) of 8 November 1955, by adding to the Statute of the United Nations Administrative Tribunal a new Article 11 providing *inter alia:*

> "1. If . . . the person in respect of whom a judgement has been rendered by the Tribunal . . . objects to the judgement on the ground that the Tribunal . . . has failed to exercise jurisdiction vested in it . . . or has committed a fundamental error in procedure which has occasioned a failure of justice . . . the person concerned may . . . make a written application to the Committee established by paragraph 4 of this article asking the Committee to request an advisory opinion of the International Court of Justice on the matter.
>
> "2. . . . the Committee shall decide whether or not there is a substantial basis for the application. If the Committee decides that such a basis exists, it shall request an advisory opinion of the Court, and the Secretary-General shall arrange to transmit to the Court the views of the person referred to in paragraph 1.
>
> "3. . . . the Secretary-General shall either give effect to the opinion of the Court or request the Tribunal to convene specially in order that it shall confirm its original judgement, or give a new judgement, in conformity with the opinion of the Court. . . .
>
> "4. For the purpose of this article, a Committee is established and authorized under paragraph 2 of Article 96 of the Charter to request advisory opinions of the Court. The Committee shall be composed of the Member States the representatives of which have served on the General Committee of the most recent regular session of the General Assembly. . . ."

Pursuant to Article 65, paragraph 2, of the Statute of the Court, the Secretary-General of the United Nations transmitted to the Court on 29 August 1972 documents likely to throw light upon the question. Pursuant to Article 66, paragraph 2, of the Statute, the United Nations and its member States were informed that the Court would be prepared to receive written statements likely to furnish information on the question put to it. Within the time-limit fixed by an Order of 14 July 1972,[5] i.e., 20 September 1972, the United Nations submitted a written statement on behalf of the Secretary-General, together with the views of Mr. Fasla, transmitted to the Court in accordance with Article 11, paragraph 2, of the Statute of the Administrative Tribunal. Subsequently Mr. Fasla was authorized to present, through the Secretary-General, a corrected version of the statement of his views within a time-limit expiring on 5 December 1972. The time-limit for the submission of written comments under Article 66, paragraph 4, of the Statute of the Court having been fixed by the President at 27 November 1972 and then extended to 31 January 1973, written comments were filed on behalf of the United Nations, comprising the comments of the Secretary-General on the corrected version of the statement of the views of Mr. Fasla, and the comments of Mr. Fasla on the statement submitted on behalf of the Secretary-General. The United Nations and its Member States had been informed on 6 October 1972 that it was not contemplated that public hearings for the submission of oral statements would be held in the case; this was confirmed by a decision of the Court on 25 January 1973.

[5] *I.C.J. Reports 1972*, p. 9.

Competence of the Court (paras. 14-40 of the Advisory Opinion)

The proceedings represented the first occasion on which the Court had been called upon to consider a request for an advisory opinion made under the procedure laid down in Article 11 of the Statute of the Administrative Tribunal. Accordingly, although, in the statements and comments submitted to the Court, no question was raised either as to the competence of the Court to give the opinion or as to the propriety of its doing so, the Court examined those two questions in turn.

As to the Court's competence, the Court considered *inter alia* whether the Committee on Applications for Review could be considered one of the "organs of the United Nations" entitled to request advisory opinions under Article 96 of the Charter, and had any activities of its own which enabled it to be considered as requesting advisory opinions on legal questions arising within the scope of its activities, as provided by Article 96. The Court concluded that the Committee was an organ of the United Nations, duly constituted under Articles 7 and 22 of the Charter, and duly authorized under Article 96, paragraph 2, of the Charter to request advisory opinions of the Court. It followed that the Court was competent under Article 65 of its Statute to entertain a request for an advisory opinion from the Committee made within the scope of Article 11 of the Statute of the Administrative Tribunal.

The Court then considered whether the character of certain features of the review procedure should lead it to decline to answer the request for an opinion. It found that there did not appear to be anything in the character or operation of the Committee which required the Court to conclude that the review procedure was incompatible with the general principles governing the judicial process, and it rejected the objections based upon what was said to be an inherent inequality between the staff member, on the one hand, and the Secretary-General and member States, on the other. While not considering that the review procedure was free from difficulty, the Court had no doubt that, in the circumstances of the case, it should comply with the request for an advisory opinion.

Scope of the Questions put to the Court (paras. 41-48 of the Advisory Opinion)

The Court noted that the two questions formulated in the request were specifically limited to the grounds of objection raised and contentions put forward by Mr. Fasla in his application to the Committee. The two grounds advanced corresponded to two of the grounds of objection specified in Article 11 of the Statute of the Administrative Tribunal, namely failure to exercise jurisdiction and fundamental error in procedure. A challenge to a decision of the Tribunal on one of those two grounds could not properly be transformed into a proceeding against the substance of the decision.

Was There a Failure by the Administrative Tribunal to Exercise Jurisdiction Vested In It? (paras. 49-87 of the Advisory Opinion)

In the Court's view, this first ground of challenge covered situations where the Tribunal had either consciously or inadvertently omitted to exercise jurisdictional powers vested in it and relevant for its decision of the case or of a particular material issue in the case.

In that connection, the Court rejected the contentions of Mr. Fasla that the Tribunal had failed to exercise jurisdiction in that it had not fully considered and passed upon his claims for damages for injury to professional reputation and career prospects and for reimbursement of costs, and in that it had omitted to order the recalculation of his remuneration and the correction and completion of his personal record.

The Court next examined certain contentions which had not been fully set forth by Mr. Fasla in his application to the Committee on Applications for Review but which he had enlarged upon in the statement of his views transmitted to the Court, according to which his recall and the non-renewal of his contract had been decided for unlawful reasons constituting a misuse of powers. The Court noted that, in his application to the Tribunal, Mr. Fasla had not requested the rescission of those decisions on grounds of illegality or improper motivation, and

that the Tribunal could not be accused of failure to exercise jurisdiction on the ground that it had failed to take measures which had not been requisite for its adjudication and which none of the parties had asked it to take.

Did the United Nations Administrative Tribunal Commit a Fundamental Error in Procedure Occasioning a Failure of Justice? (paras. 88-100 of the Advisory Opinion)

The Court first determined the meaning and scope of the concept of fundamental error in procedure which had occasioned a failure of justice. In cases before the Administrative Tribunal the essence of the matter was that a staff member had a fundamental right to present his case, either orally or in writing, and to have it considered by the Tribunal before it determined his rights. An error in procedure was fundamental and constituted a failure of justice when it was of such a kind as to violate that right and in that sense to deprive the staff member of justice.

The Court noted that what Mr. Fasla formulated under the heading whether of failure to exercise jurisdiction or of fundamental error in procedure, or both simultaneously, appeared to be essentially the same complaints, concerning for the most part the manner in which the Tribunal had adjudicated the merits of his claims, rather than assertions of errors in procedure in the proper sense of the term. His only complaint concerning an error in procedure was the complaint that the Tribunal's decisions rejecting the claims had not been supported by any adequate reasoning. After considering this complaint, the Court concluded that, having regard to the form and content of the Judgement, its reasoning did not fall short of the requirements of the rule that a judgement of the Administrative Tribunal must state the reasons on which it was based.

The Court finally declared that there was no occasion for it to pronounce upon Mr. Fasla's request for costs in respect of the review proceedings. It confined itself to the observation that when the Committee found that there was a substantial basis for the application, it might be undesirable that the costs should have to be borne by the staff member.

Chapter VIII

DECISIONS OF NATIONAL TRIBUNALS

1. Italy

SUPREME COURT OF CASSATION (PLENARY FOR CIVIL MATTERS)

MRS. C. v. INTERGOVERNMENTAL COMMITTEE FOR EUROPEAN MIGRATION (ICEM): DECISION OF 7 JUNE 1973[1]

Jurisdictional immunity of subjects of international law—Distinction made by the courts of Italy[2] and other countries between private law activities and exercise of public functions—The Convention on the Privileges and Immunities of the Specialized Agencies is not intended to extend immunity to private law activities—Acts regarding the internal structure of an international organization, including the employment relationship with members of its staff, fall within the sovereign powers of subjects of international law and are therefore exempt from the jurisdiction of Italian courts

The plaintiff, an Italian who had worked as stenographer at the ICEM office in Rome, claimed after the termination of her contract the difference between the terminal emoluments received from ICEM and the amount that would be due to her under Italian labour law.

The defendant intergovernmental organization entered a plea of immunity from jurisdiction relying on an agreement with the Italian Government which rendered applicable to ICEM the Convention on the Privileges and Immunities of the Specialized Agencies.[3]

The Court of first instance rejected the plea of immunity and the ICEM appealed on the ground (i) that the immunity enjoyed by it under the Convention was not subject to the distinction drawn in Italian judicial practice between private and public law activities of international organizations and (ii) that even applying this distinction, the employment relationship between the organization and its staff would fall into the second category and hence be covered by the immunity.

The Supreme Court of Cassation rejected the first ground of appeal, reconfirming the distinction between private law activities and public law functions, drawn in Italy and, as the Court indicated, in other countries, including the United States, and adding that the Convention on the Privileges and Immunities of the Specialized Agencies contained nothing that would extend immunity also to private law activities.

With regard to the second ground of appeal, on the other hand, the Court held that acts by which an intergovernmental organization arranges its internal structure, including the rules laid down by it in respect of the employment relationship with the staff, were manifestations of

---

[1] File No. 19/70 of civil matters before the Supreme Court of Cassation.

[2] See judgement of the Rome Court of first instance of 25 June 1968 in an analogous case reported in the *Juridical Yearbook* 1969, p. 238. See also the opinion of the Legal Counsel of the United Nations, reproduced in the *Juridical Yearbook* 1965, pp. 236-237 and that of the Legal Counsel of FAO, reproduced in the *Juridical Yearbook* 1970, pp. 189-193.

[3] United Nations, *Treaty Series*, vol. 33, p. 262; Italy acceded to the Convention pursuant to Law No. 1740 of 24 July 1951, but the instrument of accession contained certain reservations on account of which Italy is not considered by the United Nations as having acceded to the Convention, see FAO document C 69/40. July 1969, p. 15.

the organization's powers under international law, just as such acts of the Italian State itself constituted acts in the exercise of the latter's authority governed by public law.

The Court concluded, therefore, that the provisions and measures adopted by the ICEM, also in so far as they regarded terminal emoluments, were governed by the organization's own system of rules; they were consequently not subject to the Italian legal system and were exempt from the jurisdiction of Italian Courts. Accordingly, the Court quashed the judgement of first instance and dismissed the case for lack of jurisdiction.

---

2. United States of America

NEW YORK COUNTY SUPREME COURT SPECIAL TERM: PART I

MATTER OF MENON[4]

Application pursuant to article 78 of the Civil Practice Law and Rules to compel judges of another court to issue an order to show cause— Dismissal of the application on the ground that whether an order to show cause shall issue involves the exercise of judicial discretion, not a ministerial act— The sovereign status of the United Nations is beyond the court authority to challenge

Mrs. Esterya Menon, the estranged wife of a non-resident United Nations employee, was challenging the refusal of Family Court judges to order the United Nations to show cause why Mr. Menon's salary should not be sequestered to provide support for herself and her minor child. Her application pursuant to article 78 of the Civil Practice Law and Rules (CPLR) in the nature of mandamus, to compel the Family Court judges to issue an order to show cause, was dismissed by a decision reading in part as follows:

"CPLR 7801 specifically excepts from article 78 'challenge [of] a determination . . . 2. Which was made in a civil action in criminal matter . . .' where the relief sought is review of such a determination . . .

"Whether an order to show cause shall issue involves the exercise of judicial discretion, not a ministerial act. Accordingly, the Family Court judges cannot be compelled to issue an order to show cause where in their discretion they find such procedure is not warranted.

"Petitioner has litigated this matter extensively. While the court is sympathetic to an abandoned wife and child, the law specifically exempts a sovereign from the jurisdiction of our courts, unless the sovereign consents to submit itself. The United Nations holds sovereign status and may extend that protection over its agents and employees. Various courts have repeatedly so advised this very petitioner (Means *v.* Means, 60 Misc. 2d 538;[5] Menon *v.* Weil, 66 Misc. 2d 114[6]).

"What can be done for petitioner in terms of financial assistance this community is doing. However, as has been ruled on her prior application, the sovereign status of the United Nations, concerning its personnel and its financial agents, is beyond this or the Family Court authority to challenge."

---

[4] Decision reproduced in the *New York Law Journal* of 28 November 1973.

[5] See *Juridical Yearbook*, 1969, p. 243.

[6] See *Juridical Yearbook*, 1971, p. 249.

Part Four

BIBLIOGRAPHY

LEGAL BIBLIOGRAPHY OF THE UNITED NATIONS AND RELATED INTERGOVERNMENTAL ORGANIZATIONS

MAIN HEADINGS

A. INTERNATIONAL ORGANIZATIONS IN GENERAL

1. *General*

Ballarino, Tito. Organizzazione internazionale; aspetti giuridici. [Milan] Celuc [1973] 267 p. (Ricerche, 34)

Chen, Samuel Shih-Tsai. The theory and practice of international organization. 2. ed. [New Britain, Conn., The author, 1973] 213 p.

Gamboa de Zelaya, Cumandá. Coexistencia pacífica. [Guayaquil] Casa de la Cultura Ecuatoriana [1973] 76 p.

Gherghescu, Vasile. Reguli de drept internaţional privind starea de pace şi starea de război [by] V. Gherghescu [and] I. Cloşcă. [Bucureşti] Editura Militară, 1972. 358 p.
[Rules of international law and their relations to peace and war]

Goodrich, L. M. *and* D. A. Kay. International organization; politics and process. Madison, University of Wisconsin Press, 1973. 465 p.

Goodwin, Geoffrey. International institutions and international order. *In* James, Alan, ed.: The bases of international order. London, Oxford University Press, 1973. p. 156-187.

Henig, Ruth B. The League of Nations. Edited by R. B. Henig. Edingurgh, Oliver and Boyd [1973] 203 p. (Evidence and commentary)

James, Alan. The bases of international order; essays in honour of C. A. W. Manning. Edited by A. James. London, Oxford U.P., 1973. 218 p. illus.

Năstăsescu, Ştefan. Some considerations on the unitary character of the fundamental principles of international law. *Revue roumaine d'études internationales* (Bucarest) no. 2-3:73-84, 1973.

Plehwe, Friedrich Karl von. Internationale Organisationen und die moderne Diplomatie. München, Günter Olzog [1972] 240 p. (Deutsches Handbuch der Politick, 6)

Rochester, Joel Martin. The international system as a prismatic policy; assessing political development through a comparative empirical study of the role of the World Court, League of Nations, and United Nations in dyadic disputes. [Ann Arbor, Mich., University Microfilms, 1973] 225 p.
Diss. Syracuse. University, 1972.

Schachter, Oscar. New directions in international law. [Chicago, Ill.] 1972. [16] p. (Chicago-Kent law review, v. 49, no. 1, Spring 1972, p. 13-28).

Scott, G. The rise and fall of the League of Nations. London, Hutchinson, 1973. 432 p.

2. *Particular questions*

Abraszewski, Andrzej. Koordynacja działalności organizacji międzynarodowych w systemie Narodów Zjednoczonych. Warszawa, Polski Instytut Spraw Międzynarodowych, 1973. 259 p.

[Coordination of activities of international organizations within the United Nations system]

Akindele, R. A. From the covenant to the Charter; constitutional relations between universal and regional organizations in the promotion of peace and security. *Israel law review* (Tel Aviv)8:91-122, January 1973.

The anatomy of influence; decision making in international organization, by R. W. Cox [and others] New Haven [Conn.] Yale U.P., 1973. 497 p.

Bernhardt, Rudolf. Qualifikation und Anwendungsbereich des internen Rechts internationaler Organisationen; Referate und Diskussion der 12. Tagung der Deutschen Gesellschaft für Völkerrecht in Bad Godesberg vom 14. bis 16. Juni 1971. Mit den Referaten von R. Bernhardt [and] H. Miehsler. [Karlsruhe] C. F. Müller, 1973. 136 p. (Deutsche Gesellschaft für Völkerrecht. Berichte, 12)

Chernichenko, S. V. Iuridicheskaia priroda vnutrennego prava mezhdunarodynkh organizatsii. *In* Sovetskii ezhegodnik mezhdunarodnogo prava, 1971. Moskva, Izdatel'stvo "Nauka", 1973. p. 216-225.

[Legal nature of the internal law of international organizations]
Summary in English.

Contini, Paolo. Methods of co-ordinating the activities of the different international organizations and teamwork among them. *Uniform law review* (Rome)2:38-62, 1973.

Gold, Joseph. The amendment and variation of their charters by international organizations. *Revue belge de droit international* (Bruxelles)9:50-76, 1973, no. 1.

Gordenker, Leon. Structure for influence: international organizations and development aid. [30] p. (*In* Jordan, Robert Smith. Multinational cooperation. N.Y., 1972. p. 20-49)

Kaiser, J. H. Recht und System des öffentlichen Dienstes: ILO, IAEA, OECD, Europarat, NATO und Europäische Gemeinschaften. Baden-Baden, Nomos-Verlag Ges., 1973. 352 p.

Kim, Joungwon Alexander *and* Carolyn Campbell Kim. The divided nations in the international system. *World politics* (Princton, N.J.)25:479-507, July 1973.

Klepacki, Zbigniew M. Organy organizacji międzynarodowych; studium porównawcze. Warszawa [Polski Instytut Spraw Międzynarodowych] 1973. 147 p. (Biblioteka spraw międzynarodowych, 49)

[Comparative study of the organs of international organizations]
Summary in English.

Klepacki, Zbigniew M. Procedura głosowania w organizacjach międzynarodowych. *Sprawy międzynarodowe* (Warszawa)26:64-79, luty 1973.

[Voting procedure in international organizations]

Klepacki, Zbigniew M. Proces podejmowania uchwał przez organizacje międzynarodowe. *Sprawy międzynarodowe* (Warszawa)26:43-56, marzec 1973.

[The processing of resolutions through international organizations]

Malinin, S. A. O pravotvorcheskoi deiatel'nosti mezhgosudarstvennykh organizatsii. *In* Sovetskii ezhegodnik mezhdunarodnogo prava, 1971. Moskva, Izdatel'stvo "Nauka", 1973. p. 173-188.

[On the law-creating activities of interstate organizations]
Summary in English.

Mendelson, M. H. Reservations to the constitutions of international organizations. *In* British yearbook of international law, v. 45, 1971. London, Oxford U.P., 1973. p. 137-171.

Morozov, G. I. Du droit des organisations internationales. *International associations* (Brussels)25:528-534, November 1973.

Okeke, Christian Nwachukwu. The expansion of new subjects of contemporary international law through their treaty-making capacity; an insight into the legal place of the proliferating controversial international legal persons. [Rotterdam] Rotterdam U.P., 1973. xx, 244 p.

Summary in Dutch.

Pérez González, Manuel. La retirada de una organizacion internacional; sus efectos sobre los regimenes convencionales conexos con la calidad de miembro. *Revista española de derecho internacional* (Madrid)24:79-124, 1971, no. 1-2.

Ruzié, David. Le non-renouvellement des contrats à durée déterminée et l'ingérence des Etats; à propos de l'affaire Ballo. *In* Annuaire français de droit international, v. 18, 1972. Paris, Centre national de la recherche scientifique, 1973. p. 378-391.

Shibaeva, E. A. Mezhdunarodno-pravovye voprosy vzaimootnoshenii obshchikh mezhpravitel'stvennykh organizatsii. *In* Sovetskii ezhegodnik mezhdunarodnogo prava, 1971. Moskva, Izdatel'stvo "Nauka", 1973. p. 189-202.

[International law questions of relations among inter-governmental organizations]
Summary in English.

B. UNITED NATIONS

1. *General*

Bastid, Suzanne. Observations sur la pratique du consensus. *In* Tittel, J. Multitudo legum ius unum; Festschrift für Wilhelm Wengler zu seinem 65. Geburtstag. Berlin, 1973. v.1. p. 11-25.

Claude Inis L. Jr. The United Nations, 27th Session. Introduction: the central challenge to the United Nations; weakening the strong or strengthening the weak? *Harvard international law journal* (Cambridge, Mass.)14:517-529, summer 1973.

Fernández Flores, José Luis. Consideraciones sobre las competencias de las Naciones Unidas. *Revista española de derecho internacional* (Madrid)24:247-259, 1971, no. 1-2.

Hambro, Edvard. The United Nations and the rule of law. *In* Tittel, J. Multitudo legum ius unum; Festschrift für Wilhelm Wengler zu seinem 65. Geburtstag. Berlin, 1973. v.1. p. 201-208.

Jenks, C. Wilfred. Some structural dilemmas of world organization. *Georgia journal of international and comparative law* (Athens, Georgia)3:1-17, winter 1973.

Jessup, Phillip C. Silence gives consent. *Georgia journal of international and comparative law* (Athens, Ga.)3:46-54, winter 1973.

Kamiya, T. Basic problems of the United Nations. Tokyo, Sakai shoten, 1973. 320 p.

In Japanese.

Kim, Jung-gun. Conflict of international obligations and state interests, by J. Kim and J. M. Howell. The Hague, Martinus Nijhoff, 1972. 135 p.

Lleonart y Amselem, Alberto J. Teorías y realidades internacionales en el marco de la Organizacion de las Naciones Unidas. *Revista española de derecho internacional* (Madrid)24:61-77, 1971, no. 1-2.

Medina Ortega, Manuel. La Carta de las Naciones Unidas como derecho internacional general. *Revista española de derecho internacional* (Madrid)24:31-60, 1971, no. 1-2.

Morawiecki, Wojciech. Les fonctions des Nations Unies et leur efficacité. *In* Polish yearbook of international law, v. 4, 1971. Warsaw, Institute of Legal Sciences, Polish Academy of Sciences, 1973. p. 69-99.

Münch, F. Tätigkeit der Vereinten Nationen in völkerrechtlichen Fragen. *Archiv des Völkerrechts* (Tuebingen)15:425-450, 1972.

Orbach, William W. The United Nations as an international arena; an evaluation of the role of the United Nations in the international field through an analysis of the formulation and effects of its condemnation resolutions. [Ann Arbor, Mich.] University Microfilms [1973] 330 p.

Diss. New York. City University of New York. Graduate Faculty in Political Science, 1972.

Paxman, J. M. *and* G. T. Boggs. The United Nations: a reassessment; sanctions, peacekeeping, and humanitarian assistance. Charlottesville, Univ. of Virginia Press, 1973. 153 p. (Virginia legal studies)

Pfeifenberger, Werner. Chance et dilemme de la contribution des Nations Unies à la paix. *Revue de droit international, de sciences diplomatiques et politiques* (Genève)51:1-10, janvier-mars 1973.

Seminar on the role of the United Nations in the development of international law, Patna University, 1970. International law through United Nations, ed. by R. C. Hingorani. Bombay, Tripathi, 1972. 202 p.

Stavropoulos, Constantin. Current legal problems of the United Nations. *International lawyer* (Chicago)7:70-77, January 1973.

Trepczyński, Stanislaw. ONZ—dynamiczny instrument pokojowej rywalizacji i współpracy państw. *Sprawy międzynarodowe* (Warszawa)26:11-16, marzec 1973.

[The United Nations—a dynamic instrument of peaceful competition and co-operation of States]

2. *Particular organs*

General Assembly

Bota, Liviu [*and*] Olimpiu A. G. Crauciuc. Din agenda celei de-a XXVII-a sesiumi a Adunării Generale a O.N.U. *Studii şi cercetari juridice* (Bucuresti)18:287-294, 1973, no. 2.

[Review of the work of the United Nations General Assembly at its twenty-seventh session]

Chaudhri, Mohammed Ahsen. Origin, composition and functions of the Sixth Committee. *Pakistan horizon* (Karachi)26:3-15, 1973, no. 2.

Fraga Estévez, José Manuel. El Caso de Sudafrica y el problema de la verificación de poderes en la Asamblea de las Naciones Unidas. *Revista española de derecho internacional* (Madrid)24:261-263, 1971, no. 1-2.

Garzón Clariana, G. El valor jurídico de las declaraciones de la Asamblea General de las Naciones Unidas. *(Revista jurídica de Cataluña* (Barcelona)72:871-920, 1973.

Raton, Pierre. Travaux de la Commission juridique de l'Assemblée générale des Nations Unies (XXVII[e] session). *In* Annuaire français de droit international, v. 18, 1972. Paris, Centre national de la recherche scientifique, 1973. p. 544-583.

Ruda, José María. Drafting history of articles 10 and 11 of the Charter of the United Nations on the functions and powers of the General Assembly. *In* Tittel, J. Multitudo legum ius unum; Festschrift für Wilhelm Wengler Zu seinem 65. Geburtstag. Berlin, 1973. v. 1., p. 375-449.

International Court of Justice

Auburn, F. M. The North Sea continental shelf boundary settlement. *Archiv des Völkerrechts* (Tübingen)16:28-36, 1973.

Bernhardt, Rudolf. Homogenität, Kontinuität and Dissonanzen in der Rechtsprechung des Internationalen Gerichtshofts, eine Fall-Studie zum Südwestafrika/Namibia-Komplex. *Zeitschrift für ausländisches Recht und Völkerrecht* (Stuttgart)33:1-37, März 1973.

Summary in English.

Brezoianu, Dumitru. Contributii la studiul Curţii Internationale de Justitie cu referire specială la competenta acesteia. Bucuresti, 1972. 270 p.

Thesis. Bucharest. Universitatea. Facultatea de Drept, 1972.

[Contribution to the study of the International Court of Justice with special reference to its jurisdiction]

Brown, E. D. Iceland's fishery limits: the legal aspect. *World today* (London)29:68-80, February 1973.

Chaturvedi, S. C. The North Sea Continental Shelf cases analysed. *Indian journal of international law* (New Delhi)13:481-493, July-September 1973.

Deutsch, Eberhard P. Recent movements toward strengthening the International Court of Justice. *American journal of international law* (Washington, D.C.)67:741-745, October 1973.

Díaz Albónico, R. La protección diplomática de accionistas ante la Corte Internacional de Justicia. *Revista de derecho económico* (Santiago, Chile)10:69-95, 1971-1972, no. 37-38.

Dupuy, René Jean. La réforme du règlement de la Cour internationale de Justice. *In* Annuaire français de droit international, v. 18, 1972. Paris, Centre national de la recherche scientifique, 1973. p. 265-283.

Eisemann, Pierre Michel. L'arrêt du 18 août 1972 en l'affaire de l'appel concernant la compétence du Conseil de l'O.A.C.I. (Inde c. Pakistan). *In* Annuaire français de droit international, v. 18, 1972. Paris, Centre national de la recherche scientifique, 1973. p. 284-290.

Favoreu, Louis. Les ordonnances des 17 et 18 août 1972 dans l'affaire de la compétence en matière de pêcheries: (Royaume-Uni c/ Islande, Allemagne fédérale c/ Islande); contribution au droit procédural de la Cour en matière de mesures conservatoires, exceptions préliminaires et compétence en cas de défaut. *In* Annuaire français de droit international, v. 18, 1972. Paris, Centre national de la recherche scientifique, 1973. p. 291-322.

French nuclear testing; International Court case. *New Zealand foreign affairs review* (Wellington)23:8-15, May 1973.

García Arias, Luis. Balance y perspectivas del Tribunal Internacional de Justicia. *Revista española de derecho internacional* (Madrid)24:241-246, 1971, no. 1-2.

Goldie, L. F. E. The International Court of Justice's "natural prolongation" and the continental shelf problem of islands. *In* Netherlands yearbook of international law, v. 4, 1973. Leiden, A. W. Sijthoff, 1973. p. 237-261.

Goldie, L. F. E. North Sea continental shelf cases; a postscript. *New York law forum* (New York)18:411-434, fall 1972.

Guyomar, Geneviève. Commentaire du règlement de la Cour Internationale de Justice; interprétation et pratique. Paris, A. Pedone [1973] xix, 535 p. (Revue générale de droit international public. Publications. Nouvelle série, 20)

Guyomar, Geneviève. La révision du règlement de la Cour internationale de justice. *Revue générale de droit international public* (Paris)77:751-773, juillet-septembre 1973.

Hambro, E. and A. W. Rovine. La jurisprudence de la Cour internationale. Vol. VI-A, 1967-1970. Leiden, Sijthoff, 1972. 2 v.

Higgins, Rosalyn. French tests and the International Court. *World today* (London)29:277-280, July 1973.

Houben, Piet-Hein. The revocation of the Mandate for South West Afria in the light of recent pronouncements of the International Court of Justice; some marginal notes. *Nederlands tijdschrift voor internationaal recht* (Leyden)20:5-15, 1973, no. 1.

Hudson, M. O. The Permanent Court of International Justice 1920-1942. New York, Garland, 1972 [reprint of 1943 ed.] 807 p. (Garland library of war and peace)

Jiménez de Aréchaga, E. Amendments to the rules of procedure of the International Court of Justice. *American journal of international law* (Washington, D.C.)67:1-22, January 1973.

Kato, L. L. Article 38(2) of the ICJ Statute in retrospect and prospect. *Indian journal of international law* (New Delhi)13:1-24, January-March 1973.

Katz, Stephen R. Issues arising in the Icelandic fisheries case. *International and comparative law quarterly* (London)22:83-108, January 1973.

Kooijmans, P. H. The Advisory Opinion on Namibia of the International Court of Justice. *Nederlands tijdschrift voor internationaal recht* (Leyden)20:17-25, 1973, no. 1.

Lewald, W. Die Stellung der juristischen Person des Handelsrechts im Völkerrecht. *In* Tittel, J. Multitudo legum ius unum; Festschrift für Wilhelm Wengler zu seinem 65. Geburtstag. Berlin, 1973. v.1. p. 245-259.

McRae, D. M. International Court of Justice; interim measures of protection; jurisdiction; nuclear tests cases (New Zealand v. France [1973] ICJ 135). *University of British Columbia law reivew* (Vancouver, B.C.)8:375-382, 1973.

Mani, V. S. On interim measures of protection; I.C.J. practice. *Indian journal of international law* (New Delhi)13:262-272, April-June 1973.

Mann, F. A. The protection of shareholder's interests in the light of the Barcelona Traction case. *American journal of international law* (Washington, D.C.)67:259-274, April 1973.

Nsereko, Daniel D. The International Court, impartiality and judges ad hoc. *Indian journal of international law* (New Delhi)13:207-230, April-June 1973.

Oellers-Frahm, K. Einstweilige Anordnungen des Internationalen Gerichtshofs im Fisheries Jurisdiction Case. *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht* (Stuttgart)32:565-582, Dezember 1972.

Perrin, Georges. Les mesures conservatoires dans les affaires relatives à la compétence en matière de pêcheries. *Revue générale de droit international public* (Paris)77:16-34, janvier-mars 1973.

Pirotte, Olivier. La notion d'équité dans la jurisprudence récente de la Cour internationale de justice. *Revue générale de droit international public* (Paris)77:92-135, janvier-mars 1973.

Pomerance, Michla. The admission of judges ad hoc in advisory proceedings: some reflections in the light of the Namibia case. *American journal of international law* (Washington, D.C.)67:446-464, July 1973.

Pomerance, Michla. The advisory function of the International Court in the League and U.N. eras. Baltimore [Md.] Johns Hopkins U.P. [1973] xv, 440 p.

Bibliography: p. 407-423.

Puente Egido, José. Condiciones de voto en los organos políticos de la Sociedad de Naciones y Naciones Unidas en la petición de opiniones consultivas. *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht* (Stuttgart)33:223-265, Juni 1973.

Summary in English.

Reese, K. The making of a case for the International Court of Justice; Icelandic fishing rights. *Comparative and international law journal of Southern Africa* (Pretoria)6:394-402, November 1973.

Rey Caro, Ernesto J. La costumbre internacional y el fallo de la Corte Internacional de Justicia en el caso de la plataforma continental. *Revista de derecho internacional y ciencias diplomáticas* (Rosario, Argentina)20:67-97, 1971, nos. 39-40.

Riphagen, W. The legal consequences of illegal acts under public international law (Advisory Opinion I.C.J. of June 21, 1971). *Nederlands tijdschrift voor internationaal recht* (Leyden)20:27-36, 1973, no. 1.

Rojahn, O. Die Fischereigrenze Islands von 1972 im Lichte maritimer Abrenzungsprinzipien des internationalen Gerichtschofes. *Archiv des Völkerrechts* (Tübingen)16:37-59, 1973.

Rosenne, S. The World Court; what it is and how it works. 3.ed. Leiden, Sijthoff, 1973. 252 p.

Rosenne, Shabtai. The 1972 revision of the Rules of the International Court of Justice. *Israel law review* (Tel Aviv)8:197-253, April 1973.

Rosenne, Shabtai. The protection of certain Jewish interests in the statute of the Permanent Court of International Justice. *In* Israel yearbook on human rights, v. 3, 1973. Tel Aviv, Faculty of Law, Tel Aviv University, 1973. p. 136-172.

Rothpfeffer, Tomas. Equity in the North Sea Continental Shelf cases; a case study in the legal reasoning of the International Court of Justice. *Nordisk tidsskrift for international ret* (København)42:81-137, 1972, no. 1-4.

Saito, Yasuhiko. La non-discrimination, serait-elle un principe du droit naturel? Opinion dissidente de M. K. Tanaka, juge de la Cour internationale de Justice, dans l'arrêt concernant le Sud-Ouest africain (le 18 juillet 1966). *In* Weiler, Rudolf *and* Valentin Zsifkovits. Unterwegs zum Frieden; Beiträge zur Idee und Wirklichkeit des Friedens. Wien, Herder, 1973. p. 493-510.

Schwarzenberger, Georg. The problem of functional incompatibilities before international courts. *In* Yearbook of world affairs, v. 27, 1973. London, Stevens, 1973. p. 434-449.

Sligar, James S. International Court of Justice. *Harvard international law journal* (Cambridge, Mass.)14:536-548, summer 1973.

Tiewul, S. A. Fisheries jurisdiction cases (1973) (United Kingdom v. Iceland; Federal Republic of Germany v. Iceland [1973] ICJ 3) and the ghost of rebus sic stantibus. *New York University journal of international law and politics* (New York)6:455-472, winter 1973.

Wehberg, Hans. Der Internationale Gerichtshof; Entstehungsgeschichte, Analyse, Dokumentation [by] H. Wehberg [and] H. W. Goldschmidt. [Berlin] Berlin Verlag, 1972. 114 p. (Völkerrecht und Politik, 7)

Wengler, W. Die isländische Fischereivorbehalt zone vor dem Internationalen Gerichtshof. *Neue juristische Wochenschrift* (Berlin)26:936-940, Mai 1973.

Zuijdwijk, Antony J. M. The International Court and South-West Africa: latest phase. *Georgia journal of international and comparative law* (Athens, Georgia)3:323-343, spring 1973.

Regional economic commissions

Gregg, Robert Whitcomb. The UN regional economic commissions and multinational cooperation. [60] p. (*In* Jordan, Robert Smith. Multinational cooperation. N.Y., 1972. p. 50-109)

Security Council

Ayaga, O. O. United Nations and African decolonisation; ineffectiveness of the Security Council. *Indian journal of international law* (New Delhi)12:581-605, October 1972.

Jankowitsch, P. Österreich im Sicherheitsrat der Vereinten Nationen. *Die Vereinten Nationen und Österreich* (Vienna)22:10-14, 1973, no. 3.

Kikoski, John Frank. The United Nations Security Council resolution of November 22, 1967; international politics and law in an organizational setting. Ann Arbor, Mich., University Microfilms [1973] 353 p.

Diss. Massachusetts. University, 1972.

Koeck, Heribert Franz. A permanently neutral state in the Security Council. *Cornell international law journal* (Ithaca, N.Y.)6:137-162, 1973, no. 2.

United Nations Industrial Development Organization

Leriche, A. La procédure contractuelle de l'Organisation des Nations Unies pour le développement industriel. *In* Annuaire français de droit international, v. 18, 1972. Paris, Centre national de la recherche scientifique, 1973. p. 596-602.

3. *Particular questions or activities*

Charter revision

Butte, Woodfin L. The great rehearsal. *International lawyer* (Chicago)7:855-866, October 1973.

Brief report and suggested draft amendments to the Charter of the U.N. and the Statute of the I.C.J. resulting from an international law seminar, University of Texas, Austin, autumn 1972.

Fedorov, V. N. Kritika nekotorykh planov peresmotra Ustava OON. *Sovetskoe gosudarstvo i pravo* (Moskva)no. 4:85-92, 1973.

[Critics of the plans to review the United Nations Charter]

Köck, H. F. Die gegenwärtigen Bestrebungen zur Änderung der Satzung der Vereinten Nationen. *Österreichische Zeitschrift für öffentliches Recht* (Wien)24:25-52, 1973, no. 1-2.

Sohn, Louis B. The development of the Charter of the United Nations; the present state. *In* Bos, Maarten, ed.: The present state of international law and other essays. [Deventer], Kluwer, 1973. p. 39-59.

Commercial arbitration

Domke, Martin *and* Ottoarndt Glossner. The present state of the law regarding international commercial arbitration. *In* Bos, Maarten, ed.: The present state of international law and other essays. [Deventer], Kluwer, 1973. p. 307-330.

Evans, C. L *and* R. W. Ellis. International commercial arbitration; a comparison of legal regimes. *Texas international law journal* (Austin, Texas)8:17-55, winter 1973.

Goldring, J. 1958 United Nations convention on recognition and enforcement of foreign arbitral awards and the Australian constitution. *Federal law review* (Canberra)5:303-314, 1973.

Kasalý, Miloň, Unifikace práva mezinárodní obchodní arbitráže. *Právnik* (Praha)112:72-79, 1973, no. 1.

[Unification of the law of international commercial arbitration]

Recchia, Giorgio. L'adeguamento dell'ordinamento interno alla Convenzione di New York in materia di arbitrato; profili giurisprudenziali. *Diritto negli scambi internazionali* (Milano)12:38-65, gennaio-marzo 1973.

Sanders, P. International commercial arbitration. *Nederlands tijdschrift voor internationaal recht* (Leyden)20:37-50, 1973, no. 1.

Consular relations

Ahmad, Mohammed Ali. L'institution consulaire et le droit international; étude de la Convention de Vienne du 24 avril 1963 sur les relations consulaires et la pratique des états dans ce domaine. Paris, Librairie Générale de Droit et de Jurisprudence, 1973. 311 p. (Bibliothèque de droit international, 73)

Duculescu, Victor. Unele probleme ale conflictului de tratate cu privire specială la dreptul consular. *Studii şi cercetări juridice* (Bucureşti)18:101-109, 1973, no. 1.

[Some problems of treaty conflict with special reference to consular law]

Definition of aggression

Blanco Gaspar, Vicente. La agresión internacional; intentos de definición. Madrid, 1973. 89 p. (Spain. Consejo Superior de Investigaciones Científicas. Instituto Francisco de Vitoria. Colección de estudios internacionales. Serie I: Problemas actuales, 4)

Dmitriev, D. *and* E. Skakunov. Opredelenie agressii i ustav OON. *Mezhdunarodnaia zhizn'* (Moskva)no 4:73-79, 1973.

[Definition of aggression and the Charter of the United Nations]

Duculescu, Victor. Conceptul de legitimă apărare în dreptul internaţional contemporan. *Studii şi cercetări juridice* (Bucureşti)18:411-422, 1973, no. 3.

[The concept of self-defence on contemporary international law]

Ferencz, Benjamin B. Defining aggression; the last mile. *Columbia journal of transnational law* (New York)12:430-463, 1973, no. 3.

Ferencz, Benjamin B. A proposed definition of aggression: by compromise and consensus. *International and comparative law quarterly* (London)22:407-433, July 1973.

Schwebel, S. M. Aggression, intervention and self-defence in modern international law. *In* Recueil des cours de l'Académie de droit international de La Haye, 1972-II. Leyde, A. W. Sijthoff, 1973. p. 411-498.

Verosta, S. Die Definition des Angriffs und die Staatenpraxis. *In* Tittel, J. Multitudo legum ius unum; Festschrift für Wilhelm Wengler zu seinem 65. Geburtstag. Berlin, 1973. v.1. p. 693-704.

Williams, T. W. Defining "aggression" in light of India-Pakistan conflict of 1971. *St. Louis University law journal* (St. Louis, Mo.)18:129-149, fall 1973.

Diplomatic relations

Ganiushkin, B. V. K. voprosu o pravovom statuse postoiannykh predstavitel'stv gosudarstv pri mezhdunarodnykh organizatsiiakh. *In* Sovetskii ezhegodnik mezhdunarodnogo prava, 1971. Moskva, Izdatel'stvo "Nauka", 1973. p. 201-215.

[On the question of the legal status of the permanent missions of States to international organizations]
Summary in English.

Mukharji, P. B. The modern trends of diplomatic law. Calcutta, Eastern Law House, 1973. 95 p. (Calcutta University. Manmatha Nath Bose lectures 1972)

Sandrovskii, K. K. Garantii osushchestvleniia norm mezhdunrodnogo prava o zashchite diplomaticheskikh predstavitel'stv i bezopasnosti ikh personala. *Pravovedenie* (Moskva)no. 5:100-107, Sentiabr'-Oktiabr' 1973.

[The guarantees of implementation of the rules of international law concerning the protection of diplomatic missions and the security of their personnel]
Summary in English.

Sapozhnikov, V. I. Okhrana predstavitel'stv gosudarstv pri OON i obespechenie bezopasnosti ikh personala. *Sovetskoe gosudarstvo i pravo* (Moskva)no 5:81-85, 1973.

[The protection of the missions of States to the United Nations and of the security of their personnel]

Suy, Erik. La protection des diplomates. *In* Tittel, J. Multitudo legum, ius unum; Festschrift für Wilhelm Wengler zu seinem 65. Geburtstag. Berlin, 1973. v.1. p. 591-621.

Disarmament

Bako, Zbigniew. Problemy rozbrojenia na XXVII sesji Zgromadzenia Ogólnego ONZ. *Sprawy miedzynarodowe* (Warszawa)26:120-127, marzec 1973.

[Disarmament problems at the twenty-seventh session of the United Nations General Assembly]

Bechhoefer, Bernhard G. The nuclear test ban treaty in retrospect. *Case Western Reserve journal of international law* (Cleveland, Ohio) 5:125-154, spring 1973.

Bogdanov, O. V. Pravo razoruzheniia; itogi i perspektivy. *Sovetskoe gosudarstvo i pravo* (Moskva)no 10:75-83, 1973.

[Law of disarmament; results and perspectives]

Bos, E. Developments in disarmament law (with particular reference to the Biological Weapons Convention of 10 April 1972). *In* Netherlands yearbook of international law, v. 3, 1972. Leiden, A. W. Sijthoff, 1973. p. 134-141.

Bos, E. Developments in disarmament law. *In* Netherlands yearbook of international law, v. 4, 1973. Leiden, A. W. Sijthoff, 1973. p. 265-271.

Bothe, Michael. Das völkerrechtliche Verbot des Einsatzes chemischer und bakteriologischer Waffen; kritische Würdigung und Dokumentation der Rechtsgrundlagen. Köln, Carl Heymanns Verlag, 1973. 397 p. (Beiträge zum ausländischen öffentlichen Recht und Völkerrecht, 59)

Brown, Edward D. The demilitarisation and denuclearisation of hydrospace. *In* Annales d'études internationales, v. 4, 1973. Geneva, Association des Anciens Etudiants de l'Institut Universitaire de Hautes Etudes Internationales, 1973. p. 71-92.

Clemens, Walter C. Arms control as a way to peace. *In* Weiler, Rudolf *and* Valentin Zsifkovits. Unterwegs zum Friedin; Beiträge zur Idee und Wirklichkeit des Friedens. Wien, Herder, 1973. p. 369-390.

De Gara, John Paul. Security guarantees and the Nuclear Non-Proliferation Treaty. Ann Arbor, Mich., University Microfilms [1973] 272 p.

Diss. Princeton University. Dept. of Politics, 1972.

Dupuy, Trevor N. A documentary history of arms control and disarmament. Edited by T. N. Dupuy and G. M. Hammerman. N.Y., R.R. Bowker, 1973. 629 p.

Fischer, Georges. Les accords sur la limitation des armes stratégiques. *In* Annuaire français de droit international, v. 18, 1972. Paris, Centre national de la recherche scientifique, 1973. p. 9-84.

Furet, Maire Françoise. Le désarmement nucléaire. Paris, A. Pedone [1973] 303 p. (Revue générale de droit international public. Publications. Nouvelle série, 19)

International Institute for Peace and Conflict Research. The problem of chemical and biological warfare. Vol. 2: CB weapons today. Stockholm, Almqvist & Wiksell, 1973. 420 p.

Kirilin, S. I. *i* V. P. Perfil'ev. K voprosu o iuridicheskom statuse komiteta po razoruzheniiu. *In* Sovetskii ezhegodnik mezhdunarodnogo prava, 1971. Moskva, Izdatel'stvo "Nauka", 1973. p. 272-280.

[On the legal status of the Committee on Disarmament]

Lawrence, Robert M. Arms control and disarmament; practice and promise. Minneapolis, Minn., Burgess [1973] 72 p. (Critical issues in political science)

Mayer, Roger. Vers le désarmement; étapes, projets, problèmes. Paris, Editions Sociales [1973] 254 p. (Notre temps)

Shaker, Mohamed Ibrahim. The Moscow Test Ban Treaty. *In* Revue égyptienne de droit international, v. 27, 1971. Le Caire, Egyptian Society of International Law, 1973. p. 41-58.

Stockholm International Peace Research Institute. The implementation of international disarmament agreements. [Stockholm, Almqvist and Wiksell, 1973] 74 p.

Takemoto, M. Report of the Secretary-General of the United Nations on napalm and other incendiary weapons. *Hogaku ronshu* (Tokyo)23:74-110, 1973, no. 2.

Environmental questions

Bramsen, Christopher Bo. Transnational pollution and international law. *Nordisk tidsskrift for international ret* (København)42:153-173, 1972, no. 1-4.

Brown, E. D. The conventional law of the environment. *Natural resources journal* (Albuquerque, N. Mex.)13:203-234, April 1973.

Brownlie, Ian. A survey of international customary rules of environmental protection. *Natural resources journal* (Albuquerque, N. Mex.)13:179-189, April 1973.

Campbell, Tim E. J. The political meaning of Stockholm; Third World participation in the environment conference process. *Stanford journal of international studies* (Stanford, Calif.)8:138-153, spring 1973.

Chandelle, Jean-Marie. Droit et environnement. *Annales de la Faculté de Droit de Liège* (Liège)18:95-163, 1973, nos. 1-2.

Chedal, Albert. La conservation de la nature en Afrique et le droit international de l'environnement (la Convention d'Alger 1968 et la Conférence de Stockholm 1972). *Verfassung und Recht in Übersee* (Hamburg)6:153-171, 1973, no. 2.

Summary in English.

Devine, D. J. Protection of maritime environment by the courts of third states: some difficulties. *McGill law journal* (Montreal)19:279-283, fall 1973.

Dickstein, H. L. International lake and river pollution control; questions of method. *Columbia journal of transnational law* (New York)12:487-519, 1973, no. 3.

Dimitriu, Adrian [*and*] Dumitra Popescu. Consideratii juridice asupra mediului înconjurător în lumina Conferinţei de la Stockholm şi a documentelor adoptate. *Studii şi cercetări juridice* (Bucureşti)18:19-29, 1973, no. 1.

[Legal considerations concerning the environment in the light of the Stockholm Conference and of the documents adopted]

Hardy, Michael. The United Nations environment program. *Natural resources journal* (Albuquerque, N. Mex.)13:235-255, April 1973.

International Joint Commission (United States-Canada) and the International Boundary and Water Commission (United States-Mexico): potential for environmental control along the boundaries. *New York University journal of international law and politics* (New York) 6:499-531, winter 1973.

Kiss, Alexandre *and* Jean-Didier Sicault. La Conférence des Nations Unies sur l'environnement (Stockholm, 5-16 juin 1972). *In* Annuaire français de droit international, v. 18, 1972. Paris, Centre national de la recherche scientifique, 1973. p. 603-628.

Neiburger, Morris. International aspects of air pollution. *Stanford journal of international studies* (Stanford, Calif.)8:16-30, spring 1973.

New perspectives on international environmental law. *Yale law journal* (New Haven, Conn.)82:1659-1680, July 1973.

Olmstead, Cecil J. Prospects for regulation of environmental conservation under international law. *In* Bos, Maarten, ed.: The present state of international law and other essays. [Deventer], Kluwer, 1973. p. 245-253.

Sand, P. H. Conférence des Nations Unies sur l'environnement. *Revue internationale de droit comparé* (Paris)25:679-680, juillet-septembre 1973.

Schechter, Minda R. Organizational instruments for effectiveness; a comparative study with recommendations to a United Nations environmental agency. *Stanford journal of international studies* (Stanford, Calif.)8:123-137, spring 1973.

Schenker, Michael S. Saving a dying sea? The London Convention on Ocean Dumping. *Cornell international law journal* (Ithaca, N.Y.)7:32-48, December 1973.

Scorer, R. S. Pollution in the air; problems, policies and priorities. London, Routledge & K. Paul, 1973. 148 p.

Shatas, Iu. Iu. Mezhdunarodono-pravovaia okhrana okruzhaiushchei sredy ot radioaktivnogo zagriazneniia. *Sovetskoe gosudarstvo i pravo* (Moskva)no. 10:120-123, 1973.

[International legal protection of environment from radioactive pollution]

Smoktunowicz, Eugeniusz. Ochrona wód przed zanieczyszczeniem; niektóre zagadnienia prawne. *Państwo i prawo* (Warszawa)28:55-67, lipiec 1973.

[Protection of water against pollution; some legal aspects]

Sohn, Louis B. The Stockholm Declaration on the Human Environment. *Harvard international law journal* (Cambridge, Mass.)14:423-515, summer 1973.

The Stockholm Conference: a synopsis and analysis. *Stanford journal of international studies* (Stanford, Calif.)8:31-78, spring 1973.

Taubenfeld, Howard J. International environmental law: air and outer space. *Natural resources journal* (Albuquerque, N. Mex.)13:315-326, April 1973.

Teclaff, Ludwik A. The impact of environmental concern on the development of international law. *Natural resources journal* (Albuquerque, N. Mex.)13:357-390, April 1973.

Thacher, Peter S. Assessment and control of marine pollution; the Stockholm recommendations and their efficacy. *Stanford journal of international studies* (Stanford, Calif.)8:79-98, spring 1973.

Udall, S. L. Some second thoughts on Stockholm. *American University law review* (Washington, D.C.)22:717-732, summer 1973.

Utton, Albert E. International environmental law and consultation mechanisms. *Columbia journal of transnational law* (New York)12:56-72, 1973, no. 1.

Utton, Albert E. International water quality law. *Natural resources journal* (Albuquerque, N. Mex.)13:282-314, April 1973.

Wilson, Thomas W. Jr. Creating mechanisms for international environmental action; requirements and response. *Stanford journal of international studies* (Stanford, Calif.)8:113-122, spring 1973.

Financing

Ciobanu, D. Financial obligations of States under Article 19 of the UN Charter. Milano, Giuffrè, 1973. 110 p. (Quaderni della Rivista di diritto internazionale, 5)

Friendly relations and co-operation among States

Babović, Bogdan. The duty of States to co-operate with one another in accordance with the Charter. *In* Šahović, Milan, *ed.*: Principles of international law concerning friendly relations and co-operation. Belgrade, Institute of International Politics and Economics, 1972. p. 277-321.

Bos, E. Afzien van gebruik van geweld in betrekkingen tussen staten. *Internationale spectator* ('s-Gravenhage)27:343-350, 22 mei 1973.

[Prohibition of the use of force in international relations]
Summary in English.

Cafari Panico, Ruggiero. L'inchiesta internazionale come strumento di soluzione pacifica delle controversie fra gli Stati. *Diritto internazionale* (Milano)25:460-499, 1971, no. 4.

Cloşcă, Ionel. Despre diferendele internaţionale se căile soluţionării lor. Bucuresti, Editura stiintifică, 1973. 308 p.

[International disputes and the means to solve them]

Cochauz, Henri *and* Miloš Radojković. Implications et aspects juridiques de la coexistence pacifique. *In* Bos, Maartan, ed.: The present state of international law and other essays. [Deventer], Kluwer, 1973. p. 61-74.

Conforti, Erik. Sull'art. 2, par. 6, della Carta delle Nazioni Unite. *In* Tittel, J. Multitudo legum ius unum; Festschrift für Wilhelm Wengler zu seinem 65. Geburtstag. Berlin, 1973. v.1. p. 69-76.

Dohna, B. G. zu. Die Grundprinzipien des Völkerrechts über die freundschaftlichen Beziehungen und die Zusammenarbeit zwischen den Staaten. Berlin, Duncker & Humblot, 1973. 292 p. (Schriften zum Völkerrecht, 30)

Espada Ramos, Mará Luisa. Comité especial de los principios de amistad y cooperación entre los Estados· sus trabajos y resultados. *Revista española de derecho internacional* (Madrid)24:125-162, 1971, no. 1-2.

Frowein, Jochen Abr. Freundschaft und Zusammenarbeit unter den Staaten; die UN-Resolution über freundschaftliche Beziehungen als Ausdruck wichtiger Strömungen im heutigen Völkerrecht. *Europa-Archiv* (Bonn)28:70-76, 25 Januar 1973.

Magarašević, Aleksandar. The sovereign equality of States. *In* Šahović, Milan, *ed.*: Principles of international law concerning friendly relations and co-operation. Belgrade, Institute of International Politics and Economics, 1972. p. 171-218.

Marković, Milan. Fulfilment in good faith of obligations assumed in accordance with the Charter. *In* Šahović, Milan, *ed.*: Principles of international law concerning friendly relations and co-operation. Belgrade, Institute of International Politics and Economics, 1972. p. 375-424.

Matsuda, T. New development of the principle of non-intervention; study based on the debate in the United Nations Special Committee on Friendly Relations and Co-operation. *Hôsei Ronshu* (Nagoya)no. 59:43-81, 1973.

In Japanese.

Mitrović, Tomislav. Non-intervention in the internal affairs of States. *In* Šahović. Milan, *ed.*: Principles of international law concerning friendly relations and co-operation. Belgrade, Institute of International Politics and Economics, 1972. p. 219-275.

Murphy, Cornelius F. The obligation of States to settle disputes by peaceful means. *Virginia journal of international law* (Charlottesville, Va.)14:57-74, fall 1973.

Obradović, Konstantin, Prohibition of the threat or use of force. *In* Šahović, Milan, *ed.*: Principles of international law concerning friendly relations and co-operation. Belgrade, Institute of International Politics and Economics, 1972. p. 51-128.

Potočný, M. Deklarace zásad mírového soužiti. Praha, Universita Karlova, 1972. 97 p. (Acta Universitatis Carolinae. Iuridica. Monographia 17, 1972)

[Declaration on principles of international co-existence]

Raéič, Obrad. The principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered. *In* Šahović, Milan, *ed.*: Principles of international law concerning friendly relations and co-operation. Belgrade, Institute of International Politics and Economics, 1972. p. 129-170.

Renunciation to the use and threat of force; a fundamental principle of international law, by Ion Diacoun, *et al. Revue roumaine d'études internationales* (Bucarest)no. 2-3:175-232, 1973.

Šahović, Milan. Principles of international law concerning friendly relations and co-operation. Edited by M. Šahović. Belgrade, Institute of International Politics and Economics, 1972. 450 p.

Šahović, Milan, *ed.* Codification of the legal principles of coexistence and the development of contemporary international law. *In* Principles of international law concerning friendly realtions and co-operation. Belgrade, Institute of International Politics and Economics, 1972. p. 9-50.

Šuković, Olga, Principle of equal rights and self-determination of peoples. *In* Šahović, Milan, *ed.*: Principles of international law concerning friendly relations and co-operation. Belgrade, Institute of International Politics and Economics, 1972. p. 323-373.

Touret, Denis. Le principe de l'égalité souveraine des Etats, fondement du droit international. *Revue générale de droit international public* (Paris)77:136-199, janvier-mars 1973.

Vasiliu, K. [*and*] I. Kloshke. Nekotorye soobrazheniia po povodu evoliutsii mirnykh sredstv uregulirovaniia mezhdunarodnykh sporov. *Revue roumaine d'études internationales* (Bucarest)no 2-3:125-151, 1972.

[Some considerations about the evolution of the peaceful settlement of international disputes]

Human rights

Antunes, E. M. Natureza jurídica da declaraçao universal dos direitos humanos. *Revista dos tribunais* (Bahia, Brazil)446:27-36, 1972.

Clark, R. *and* L. Nevas. U.N. and human rights; some modest proposals. *American Bar Association journal* (Chicago)59:1393-1397, December 1973.

Colloque sur la protection internationale des droits de l'homme dans le cadre européen, 3d, Brussels, 1970. Privacy and human rights, ed. by A. H. Robertson. Manchester, Manchester Univ. Press, 1973. 457 p.

Dominicé, Christian. La Convention européenne des droits de l'homme devant le juge national. *In* Schweizerisches Jahrbuch für internationales Recht, v. 28, 1972. Zurich, Schulthess Polygraphischer Verlag, 1973. p. 9-40.

Ghelmegeanu, Mihail. La discrimination raciale; flagrante transgression de la morale et du droit international. *Revue roumaine d'études internationales* (Bucarest)no. 2-3:149-155, 1973.

Graefrath, B. Internationale Zusammenbeit und Menschenrechte. *Neue Justiz* (Berlin)27:683-688, 1973.

Guggenheim, Malvina H. Key provisions of the new United Nations rules dealing with human rights petitions. *New York University journal of international law and politics* (New York)6:427-454, winter 1973.

Hassan, Parvez. The International Covenant on Civil and Political Rights; background and perspective of Article 9(1). *Denver journal of international law and policy* (Denver)3:153-183, fall 1973.

Higgins, Rosalyn. The right in international law of an individual to enter, stay in and leave a country. *International affairs* (London)49:341-357, July 1973.

Humphrey, John P. The international law of human rights in the middle twentieth century. *In* Bos, Maarten, ed.: The present state of international law and other essays. [Deventer], Kluwer, 1973. p. 75-105.

Jha, S. K. The United Nations and human rights. *India quarterly* (New Delhi)29:239-249, July-September 1973.

Kiss, Alexandre C. La protection internationale du droit de l'enfant à l'éducation. *Revue des droits de l'homme* (Paris)6:467-486, 1973, no. 3-4.

Krishna Iyer, V. R. Mass expulsion as violation of human rights. *Indian journal of international law* (New Delhi)13:169-175, April-June 1973.

Kussbach, Erich. Die Vereinten Nationen und der Schutz des religiösen Bekenntnisses. *Österreichische Zeitschrift für öffentliches Recht* (Wien)24:267-338, 1973, no. 3-4.

Law and the prevention of torture. *International Commission of Jurists review* (Geneva)no. 11:23-27, December 1973.

Macdonald, R. St. J. A United Nations High Commissioner for Human Rights: the decline and fall of an initiative. *In* Canadian yearbook of international law, v. 10, 1972. Vancouver, B.C., University of British Columbia, 1973. p. 40-64.

Mansuy, Gérard. Un médiateur des Nations Unies pour les droits de l'homme? *Revue des droits de l'homme* (Paris)6:235-262, 1973, no. 2.

Nawaz, M. K. The ratification of or accession to human rights conventions. *Indian journal of international law* 13:576-588, October-December 1973.

Niset, José. La Sous-Commission de la lutte contre les mesures discriminatoires et de la protection des minorités des Nations Unies à sa vingt-sixième session (Genève, 3 au 21 septembre 1973). *Revue des droits de l'homme* (Paris)6:565-602, 1973, no. 3-4.

Peces-Barba Martinez, G. *and* L. H. Sanchez-Pescador. Textos basicos sobre derechos humanos. Madrid, Universidad complutense, Facultad de derecho, Sección de publicaciones e intercambio, 1973. 459 p.

Potočny, M. Mezinárodně právní ochrana základních lidských práv. *Mezinárodni vztahy* (Praha)8:56-63, 1973, no. 6.

[International legal protection of the basic human rights]

Rycroft, R. The United Nations High Commissioner for Human Rights; a proposed international government control agency. *Rutgers Camden law journal* (Camden, N.J.)4:237-259, spring 1973.

Salzberg, John Paul. The United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities; a functional analysis of an independent expert body promoting human rights. Ann Arbor, Mich., University Microfilms, 1973. 334 p.

Diss. New York University. Dept. of Politics, 1973.

Schlüter, Bernhard. The domestic status of the human rights clauses of the United Nations Charter. *California law review* (Berkeley, Calif.)61:110-164, January 1973.

Schwelb, Egon. An instance of enforcing the Universal Declaration of Human Rights—action by the Security Council. *International and comparative law quarterly* (London)22:161-163, January 1973.

Schwelb, Egon. Die Menschenrechtsbestimmungen der Charta der Vereinten Nationen und die allgemeine Erklärung der Menschenrechte. *Vereinte Nationen* (Bonn)21:180-187, Dezember 1973.

Sohn, L. B. *and* T. Buergenthal. International protection of human rights. Indianapolis, Ind., Bobbs-Merrill, 1973. 1402 p. (Contemporary legal education series)

Turack, Daniel C. Freedom of movement and the travel document. *California Western international law journal* (San Diego, Calif.)4:8-42, winter 1973.

Uribe Vargas, Diego. Los derechos humanos y el sistema interamericano. Madrid, 1972. xvi, 359 p. (Spain. Centro de Estudios Juridicos Hispanoamericanos. Colección de monografías jurídicas)

Vierdag, E. W. The concept of discrimination in international law; with special reference to human rights. The Hague, Martinus Nijhoff, 1973. 176 p.

Warren, Earl. It's time to implement the Declaration of Human Rights. *American Bar Association journal* (Chicago)59:1257-1260, November 1973.

International criminal law

Bassiouni, M. Cherif. A treatise on international criminal law. Comp. and edited by M. C. Bassiouni and V. P. Nanda. Springfield, Ill., Charles C. Thomas [1973] 2 v.

v.1: Crimes and punishment
v.2: Jurisdiction and cooperation

Dąbrowa, Sławomir. UN Convention on non-applicability of statutory limitations to war crimes; present state and prospects for its implementation. *In* Polish yearbook of international law, v. 4, 1971. Warsaw, Institute of Legal Sciences, Polish Academy of Sciences, 1973. p. 171-186.

Galenskaia, L. N. *i* Iu. V. Petrovskii. Otvetstvennost' fizicheskikh lits za sovershenie mezhgosudarstvennykh prestuplenii. *In* Sovetskii ezhegodnik mezhdunarodnogo prava, 1971. Moskva, Izdatel'stvo "Nauka", 1973. p. 117-129.

[Responsibility of individuals for international crimes]
Summary in English.

Graven, J. L'extradition des auteurs de crimes de guerre et de crimes contre l'humanité. *Annales de droit international médical* (Monaco)no. 24:7-45, 1973.

Marković, Milan. Medunarodna krivična dela i razvoj medunarodnog krivičnog prava. *Jugoslovenska revija za medunarodno pravo* (Beograd)19:1-8, 1972, no. 1.

[International crimes and the development of international criminal law]

Miller, R. I. Far beyond Nuremberg; steps toward international criminal jurisdiction. *Kentucky law journal* (Lexington, Ky.)61:925-930, 1972-1973.

Rigaux, Marcel. Sur la route du droit pénal européen. *Revue de droit pénal et de criminologie* (Bruxelles)53:643-663, avril 1973.

International economic law

Becher, K. Grundfagen der völkerrechtlichen Regelung internationaler wirtschaftsbeziehungen. *Staat und Recht* (Berlin)21:1076-1087, July 1972.

Chronique de droit international économique, by Dominique Carreau, *et al. In* Annuaire français de droit international, v. 18, 1972. Paris, Centre national de la recherche scientifique, 1973. p. 649-716.

Fernández Flores, José Luis. Las sociedades multinacionales. *Revista española de derecho internacional* (Madrid)24:311-337, julio-diciembre 1971

Hahlo, H. R. [et al]. Nationalism and the multinational enterprise; legal, economic and managerial aspects. Leiden, Sijthoff, 1973. 373 p.

Juszkiewicz, Jerzy. Prawne aspekty dyskryminacji w miedzynarodowych stosunkach gospodarczych. *Sprawy miedzynarodowe* (Warszawa)26:77-90, lipiec-sierpień 1973.

[Legal aspects of discrimination in international economic relations]

Kintner, Earl W., Mark R. Joelson *and* Peter J. Vaghi. Groping for a truly international anti-trust law. *Virginia journal of international law* (Charlottesville, Va.)14:75-100, fall 1973.

Libbrecht, E. Entreprises à caractère juridiquement international. Leiden, Sijthoff, 1972. 645 p. (Collection de droit international, 2)

Merle, Marcel. Firmes multinationales et relations internationales. *In* Revue égyptienne de droit international, v. 27, 1971. Le Caire, Egyptian Society of International Law, 1973. p. 1-12.

Sundström, Z. Comparative law in the development of the law of international corporations. *In* Mélanges de droit comparé en l'honneur du Doyen Åke Malmström, p. 211-242. (Stockholm, 1972)

International terrorism

Bennett, W. Tapley Jr. U.S. initiatives in the United Nations to combat international terrorism. *International lawyer* (Chicago)7:752-760, October 1973.

Coussirat-Coustère, V. *and* P.-M. Eisemann. Enlèvement de personnes privées et le droit international. *Revue générale de droit international public* (Paris)76:346-400, avril-juin 1972.

Glaser, Stefan. Le terrorisme international et ses divers aspects. *Revue internationale de droit comparé* (Paris)25:825-850, octobre-décembre 1973.

Gross, Leo. International terrorism and international criminal jurisdiction. *American journal of international law* (Washington, D.C.)67:508-511, July 1973.

Hamer, John. Protection of diplomats. *Editorial research reports* (Washington, D.C.)2:759-776, 3 October 1973.

Kutner, L. Constructive notice; a proposal to end international terrorism. *New York law forum* (New York)19:325-350, fall 1973.

McNeil, Mark S. Aerial hijacking and the protection of diplomats. *Harvard international law journal* (Cambridge, Mass.)14:595-600, summer 1973.

Mallison, W. T. Jr. *and* S. V. Mallison. Concept of public purpose terror in international law; doctrines and sanctions to reduce the destruction of human and material values. *Howard law journal* (Washington, D.C.)18:12-28, 1973.

Przetacznik, Franciszek. Convention on the Special Protection of Officials of Foreign States and International Organizations. *Revue belge de droit international* (Bruxelles)9:455-470, 1973, no. 2.

Przetacznik, Franciszek. Prevention and punishment of crimes against internationally protected persons. *Indian journal of international law* (New Delhi)13:65-86, January-March 1973.

Rovine, Arthur W. The contemporary international legal attack on terrorism. *In* Israel yearbook on human rights, v. 3, 1973. Tel Aviv, Faculty of Law, Tel Aviv University, 1973. p. 9-38.

Terrorism: the proposed United States Draft Convention. *Georgia journal of international and comparative law* (Athens, Georgia)3:430-447, spring 1973.

Tiewul, Sylvanus A. Terrorism; a step towards international control. *Harvard international law journal* (Cambridge, Mass)14:585-595, summer 1973.

Živić, J. The non-aligned and the problem of international terrorism. *Review of international affairs* (Belgrade)24:6-8, 20 January 1973.

International trade law

Alpa, Guido *and* Francesco Berlingieri. The liability of the carrier by sea; present regulation and prospects of reform. *Diritto marittimo* (Genova)75:528-615, ottobre-dicembre 1973.
Texts in Italian and English

Burguchev, G. Ob unifikatsii pravovykh norm, reguliruiushchikh mezhdunarodnuiu torgovliu. *Vneshniaia torgovlia* (Moskva)no 12:32-38, 1973

[On the unification of the rules of law governing international trade]

Dohm, Jürgen. Draft uniform law on international bills of exchange and international promissory notes. *American journal of comparative law* (Ann Arbor, Mich.)21:474-530, summer 1973.

Enderlein, F. Fünfte Tagung der UNCITRAL. *Staat und Recht* (Berlin)21:1735-1745, 1972.

Farnsworth, E. Allan. UNCITRAL and the progressive development of international trade. [11] p. (In: Fabricius, Fritz. Law and international trade. [Frankfurt, 1973] p. 145-155)

Gal, I. Commercial law of nations and the law of international trade. *Cornell international law journal* (Ithaca, N.Y.)6:55-75, 1973.

Gondra Romero, J. M. La moderna lex mercatoria y la unificación del derecho del comercio internacional. *Revista de derecho mercantil* (Bogotá):7-38, 1973, no. 127.

Graham, Thomas *and* Erik Chrispeels. Revision of the Hague Rules. Journal of world trade law (London)7:252-265, March-April 1973.

Guest, A. G. The future of the law of international trade. *In* Current legal problems, v. 26, 1973. London, Stevens and Sons, 1973. p. 66-81.

El Hachemi, Mohamed. Vers un droit commercial international. *In* Revue tunisienne de droit, 1972. Tunis, Institut des Hautes Etudes de Tunis [1973] p. 65-77.

Langen, E. Transnational commercial law. Leiden, Sijthoff, 1973. 280 p.

Lemontey, Jacques. Bilan des travaux de la Commission des Nations Unies pour le droit commercial international. *Journal de droit international* (Paris)100:859-874, octobre-novembre-décembre 1973.

Popov, Liubomir. Nova mnogostranna unifikatsiia na pravoto na mezhdunarodnata prodazhba. *Pravna mis'l* (Sofia)17:89-95, 1973, no. 1.

[New multilateral unification of the law concerning the international sale of goods]

Sassoon, D. M. Liability for the international carriage of goods by sea, land and air. *In* Fabricius, F. Law and international trade: Festschrift für Clive M. Schmitthoff zum 70. Geburtstag, p. 325-339 (Frankfurt am Main, 1973)

Villanueva, Eugenio V. Jr. International law of sales, contracts, and arbitration. *International lawyer* (Chicago)7:830-837, October 1973.

International waterways

Babović, Bogdan. Neki medunarodnopravni vidovi borbe protiv zagadivanja Dunava. *Jugoslovenska revija za medunarodno pravo* (Beograd)19:346-353, 1972, no. 2-3.

[Controlling pollution of the Danube; international aspects]

Bourne, C. B. Procedure in the development of international drainage basins: the duty to consult and to negotiate. *In* Canadian yearbook of international law, v. 10, 1972. Vancouver, B.C., University of British Columbia, 1973. p. 212-234.

De Rocher, F. G. Freedom of passage through international straits; community interest amid present controversy. Coral Gables, University of Miami Sea Grant, 1972. 129 p. (Sea Grant technical bulletin, 23)

Drept international fluvial, *by* Edwin Glaser et al. Bucuresti, Editura Academiei Republicii Socialiste Romania, 1973. 288 p.

[The international law of rivers]
Summary in English.

Jessup, P. C. El Chamizal. *American journal of international law* (Washington, D.C.)67:423-445, July 1973.

Loriot, R. La théorie des eaux historiques et le régime juridique du Golfe Saint-Laurent en droit interne et international. Québec, 1972. 705 p.

Manner, E. J. The present state of international water resources law. *In* Bos, Maarten, ed.: The present state of international law and other essays. [Deventer], Kluwer, 1973. p. 131-141.

Piper, Don C. The Great Lakes. *In* New directions in the law of the sea, v. 3, Collected papers. Edited by Robin Churchill [and others] Dobbs Ferry, N.Y., Oceana Publications [for] British Institute of International and Comparative Law, 1973. p. 223-230.

Rouppert, Leszek M. Prawy międzynarodowych kanałów morskich. *Sprawy międzynarodowe* (Warszawa)26:109-117, kwiecień 1973.

[The law of international canals]

Schröer, F. Der Gegenstand des internationalen Wasserrechts. *Nederlands tijdschrift voor internationaal recht* (Leyden)20:147-161, april 1973.

Slomanson, W. R. Free transit in territorial straits. *California western international law journal* (San Diego, Calif.)3:375-396, May 1973.

Utton, A. E. International water quality law. *Natural resources journal* (Albuquerque, N. Mex.)13:282-314, April 1973.

Intervention

Lillich, Richard B. Humanitarian intervention and the United Nations. Edited by R. B. Lillich. Charlottesville, Virginia U.P. [1973] 240 p. (Virginia. University. School of Law. Virginia legal studies)

Includes proceedings of a conference at Charlottesville, Va., on Mar. 11-12, 1972.

Law of the sea

Aja Espil, J. A. El derecho del mar. Bogotá, Temis, 1973. 122 p.

Ajomo, M. A. Third World expectations. *In* New directions in the law of the sea, v. 3, Collected papers. Edited by Robin Churchill [and others] Dobbs Ferry, N.Y., Oceana Publications [for] British Institute of International and Comparative Law, 1973. p. 302-310.

Akademiia Nauk SSSR. Institut Gosudarstva i Prava. Sektor Mezhdunarodnogo Morskogo Prava. Novoe v mezhdunarodnom morskom prave. [Red. kollegiia: S.L. Zivs i dr.] Moskva, 1972. 185 p.

[New developments in the law of the sea]

Alexander, L. M. Future régimes; a survey of proposals. *In* New directions in the law of the sea, v. 3, Collected papers. Edited by Robin Churchill [and others] Dobbs Ferry, N.Y., Oceana Publications [for] British Institute of International and Comparative Law, 1973. p. 119-133.

Alexander, Lewis M. The law of the sea; needs and interests of developing countries. Proceedings of the seventh annual conference of the Law of the Sea Institute, June 26-29, 1972. Edited by L. M. Alexander. Kingston, University of Rhode Island, 1973. 238 p.

Amerasinghe, C. F. The problem of archipelagoes in the international law of the sea. *International and comparative law quarterly* (London)23:539-575, July 1974.

Anand, R. P. Interests of the developing countries and the developing law of the sea. *In* Annales d'études internationales, v. 4, 1973. Geneva, Association des Anciens Etudiants de l'Institut Universitaire de Hautes Etudes Internationales, 1973. p. 13-29.

Anand, R. P. International machinery for sea-bed; issues and prospects. *Indian journal of international law* (New Delhi)13:351-366, July-September 1973.

Anand, R. P. Legal continental shelf and what it includes. *Institute for Defence Studies and Analyses journal* (New Delhi)5:358-416, January 1973.

Anand, R. P. Limits of national jurisdiction in the sea-bed. *India quarterly* (New Delhi)29:79-103, April-June 1973.

Anand, R. P. "Tyranny" of the freedom-of-the-seas doctrine. *International studies* (New Delhi)12:416-429, July-September 1973.

Andreani, Luigi. Revision of the Hague Rules' activities of UNCTAD and of UNCITRAL, and the developing countries. *Diritto marittimo* (Genova)75:470-527, ottobre-dicembre 1973.
Texts in Italian and English.

Aramburu Menchaca, Andrés A. La costumbre y la delimitación de los espacios marítimos en el continente americano. *Revista Uruguaya de derecho internactional* (Montevideo)2:105-126, 1973, no. 2.

Armas Barea, Calixto. Nuevas normas jurídicas para la regulación de los fondos marinos y oceánicos fuera de los límites de la jurisdicción estatal. *Revista Uruguaya de derecho internacional* (Montevideo)2:157-190, 1973, no. 2.

Auburn, F. M. International law and sea-ice jurisdiction in the Arctic ocean. *International and comparative law quarterly* (London)22:552-557, July 1973.

Bardonnet, Daniel. La dénonciation par le Gouvernement sénégalais de la Convention sur la mer territoriale et la zone contiguë et de la Convention sur la pêche et la conservation des ressources biologiques de la haute mer en date à Genève du 29 avril 1958. *In* Annuaire français de droit international, v. 18, 1972. Paris, Centre national de la recherche scientifique, 1973. p. 123-180.

Barrie, G. N. Third Law of the Sea Conference; a preview of some of the issues. *Tydskrif vir Hedendaagse Romeins-Hollandse Reg* (Amsterdam)36:23-45, februari 1973.

Barrie, George N. Historical bays. *Comparative and international law journal of Southern Africa* (Pretoria)6:39-62, March 1973.

Bernigaud, Jean. Droit de la mer et protection du milieu marin; approches internationales et régionales du problème. *Défense nationale* (Paris)29:83-94, juillet 1973.

Bouchez, Leo J. Some basic problems of coastal state jurisdiction and the future conference on the law of the sea. *In* Annales d'études internationales, v. 4, 1973. Geneva, Association des Anciens Etudiants de l'Institut Universitaire de Hautes Etudes Internationales, 1973. p. 143-170.

Bouchez, Leo J. Some reflections on the present and future law of the sea. *In* Bos, Maarten, ed.: The present state of international law and other essays. [Deventer], Kluwer, 1973. p. 143-181.

Brantley, Thomas H. Law of the sea. *Harvard international law journal* (Cambridge, Mass.)14:555-565, summer 1973.

Brown, E. D. Maritime zones; a survey of claims. *In* New directions in the law of the sea, v. 3, Collected papers. Edited by Robin Churchill [and others] Dobbs Ferry, N.Y., Oceana Publications [for] British Institute of International and Comparative Law, 1973. p. 157-192.

Brown, E. D. The U.N. Conference on the Law of the Sea; a progress report. *In* Current legal problems, v. 26, 1973. London, Stevens and Sons, 1973. p. 131-165.

Burger, W. Treaty provisions concerning marine science research. *Ocean development and international law journal* (New York)1:159-184, summer 1973.

Caflisch, Lucius. The future of the law of the sea. *International Commission of Jurists review* (Geneva) no 11:35-47, December 1973.

Castañeda, Jorge. The concept of patrimonial sea in international law. *Indian journal of international law* (New Delhi)12:535-542, October 1972.

Cole, Otis Robert. Towards the development of an international régime for the seabed beyond the limits of national jurisdiction: a comparative study of four proposals. Ann Arbor, Mich., University Microfilms, 1973. 497, 233 p.

Diss. Los Angeles. University of Southern California, 1973.
Bibliography: p. 471-497.

Commission to Study the Organization of Peace. The United Nations and the oceans: current issues in the law of the sea. N.Y., 1973. 46 p. (Its: Twenty-third report)

Corredor Serrano, Alonso. Del mar territorial y otros espacios marítimos. Bogotá, 1973. 77, 18 p. maps.

Tesis. Colombia. Universidad La Gran Colombia, Bogotá. Facultad de Derecho y Ciencias Políticas, 1973.

Cundick, R. Palmer. High seas intervention; parameters of unilateral action. *San Diego law review* (San Diego)10:514-558, May 1973.

Danzig, Aaron L. Draft treaty proposals by the United States, the United Kingdom and France on the exploitation of the seabed; an analysis. *Ocean management* (Amsterdam)1:55-82, March 1973.

Danzig, Aaron L. Marine pollution; a framework for international control. *Ocean management* (Amsterdam)1:347-379, December 1973.

Doorn, H. R. van. Volkenrechtelijke vragen rond kunstmatige afvaleilanden in de Noordzee. *Nederlands juristenblad* (Zwolle)48:252-256, Maart 1973.

[International legal problems relating to the artificial islands formed by dumping on the North Sea]

Ely, Northcutt. The jurisdiction of the coastal States with respect to submarine mineral resources. *In* Private investors abroad—problems and solutions in international business in 1972; lectures given at symposium . . ., Dallas, Texas. N.Y., Matthew Bender, 1973. p. 387-414.

Fawcett, J. E. S. How free are the seas? *International affairs* (London)49:14-22, January 1973.

Fay, François-Michel. La nationalité des navires en temps de paix. *Revue générale de droit international public* (Paris)77:1000-1080, octobre-décembre 1973.

Fleischer, Carl August. Pollution from seaborne sources. *In* New directions in the law of the sea, v. 3, Collected papers. Edited by Robin Churchill [and others] Dobbs Ferry, N.Y., Oceana Publications [for] British Institute of International and Comparative Law, 1973. p. 78-102.

Freeman, Robert O. Possible solutions to the 200-mile territorial limit. *International lawyer* (Chicago)7:387-395, April 1973.

Friedheim, Robert L. International organizations and the uses of the ocean. [59] p. (In: Jordan, Robert Smith. Multinational cooperation. N.Y., Oxford U.P., 1972. p. 223-281)

Garron, Robert. La répartition des richesses de la mer. *Droit maritime français* (Paris)no. 298:579-587, octobre 1973.

Goldie, L. F. E. A general international law doctrine for seabed régimes. *International lawyer* (Chicago)7:796-824, October 1973.

Goldie, L. F. E. Rich and poor countries and the limits of ideology; an introduction to the day's proceedings. *Syracuse journal of international law and commerce* (Syracuse, N.Y.)1:92-103, October 1972.

Góralczyk, Wojciech. Legal problems of the peaceful uses of the sea-bed and the ocean floor beyond the limits of national jurisdiction. *In* Polish yearbook of international law, v. 4, 1971. Warsaw, Institute of Legal Sciences, Polish Academy of Sciences, 1973. p. 147-170.

Gordon, R. L. Ocean resources and world mineral supplies. *In* Annales d'études internationales, v. 4, 1973. Geneva, Association des Anciens Etudiants de l'Institut Universitaire de Hautes Etudes Internationales, 1973. p. 109-125.

Greenblatt, Gershon D., James Robert Miller *and* Alfred J. Waldchen. Recent developments in the law of the sea IV; a synopsis. *San Diego law review* (San Diego)10:559-598, May 1973.

Gutteridge, Joyce A. C. The UN and the law of the sea. *In* New directions in the law of the sea, v. 3, Collected papers. Edited by Robin Churchill [and others] Dobbs Ferry, N.Y., Oceana Publications [for] British Institute of International and Comparative Law, 1973. p. 313-334.

Haight, G. W. International developments in the law of the sea. *In* Private investors abroad—problems and solutions in international business in 1972; lectures given at symposium . . ., Dallas, Texas. N.Y., Matthew Bender, 1973. p. 353-386.

Haimbaugh, G. D. Jr. Technological disparity and the United Nations seabed debates. *Indiana law review* (Bloomington, Indiana)6:690-698, 1973.

Hardy, Michael. Definition and forms of marine pollution. *In* New directions in the law of the sea, v. 3, Collected papers. Edited by Robin Churchill [and others] Dobbs Ferry, N.Y., Oceana Publications [for] British Institute of International and Comparative Law, 1973. p. 73-77.

Hardy, Michael. Offshore development and marine pollution. *Ocean development and international law journal* (New York)1:239-273, fall 1973.

Hargrove, John Lawrence. New concepts in the law of the sea. *Ocean development and international law journal* (New York)1:5-12, spring 1973.

Hayashi, Moritaka. An international machinery for the management of the seabed; birth and growth of the idea. *In* Annales d'études internationales v. 4, 1973. Geneva, Association des Anciens Etudiants de l'Institut Universitaire de Hautes Etudes Internationales, 1973. p. 251-279.

Healy, N. J. An economic analysis of marine risk allocation, economic impacts of new regulations and the extension of coastal state jurisdiction. *In* Law of the sea workshop, 3d, Nassau, 1973. Hazards of maritime transit, p. 77-84 (Cambridge, Mass., 1973)

Hedberg, Hollis D. The national-international jurisdictional boundary on the ocean floor. *Ocean management* (Amsterdam)1:83-118, March 1973.

Henkin, Louis. The changing law of sea-mining. *In* Annales d'études internationales, v. 4, 1973. Geneva, Association des Anciens Etudiants de l'Institut Universitaire de Hautes Etudes Internationales, 1973. p. 281-305.

Henkin, Louis. Old politics and new directions. *In* New directions in the law of the sea, v. 3, Collected papers. Edited by Robin Churchill [and others] Dobbs Ferry, N.Y., Oceana Publications [for] British Institute of International and Comparative Law, 1973. p. 3-11.

Hjertonsson, Karin. The new law of the sea; influence of the Latin American states on recent developments of the law of the sea. A study of the law on coastal jurisdiction as it has emerged in Latin America and its impact on present and future law. Leiden, A. W. Sijthoff [1973] 187 p.

Ibler, Vladimir. The land- and shelf-locked States and the development of the law of the sea. *In* Annales d'études internationales, v. 4, 1973. Geneva, Association des Anciens Etudiants de l'Institut Universitaire de Hautes Etudes Internationales, 1973. p. 55-65.

Idowu, E. O. A. Regulation and control of the seas; the United Nations proposed conference; an opportunity or a trap: African view. Washington, D.C., World Peace through Law Center, 1973. 84 p. map (In: World Conference on World Peace through Law. 6th, Abidjan, 1973. Work paper)

Ingles, José D. What is an archipelago? *Ambassador* (Makati, Philippines)4:25-31, August 1973.

International fisheries regulation. *Georgia journal of international and comparative law* (Athens, Ga.)3:387-407, spring 1973.

Jain, I. C. Legal control of marine pollution. *Indian journal of international law* (New Delhi)13:411-424, July-September 1973.

Janis, Mark W. The development of European regional law of the sea. *Ocean development and international law journal* (New York)1:275-289, fall 1973.

Jennings, R. Y. The Santiago Conference and the future. *In* New directions in the law of the sea, v. 3, Collected papers. Edited by Robin Churchill [and others] Dobbs Ferry, N.Y., Oceana Publications [for] British Institute of International and Comparative Law, 1973. p. 12-16.

Johnson, Bo. Suveränitet i havet och luftrummet; folkrättsliga studier kring suveränitetsanspràk i öppna havet samt den nationella jurisdiktionens gränser i havet och luftrummet. Stockholm, P.A. Norstedt [1972] 413 p.

[Sovereignty of the sea and in the air space; international law studies regarding claims of sovereignty on the high seas and the limits of national jurisdictions at sea and in the air space]

Johnson, D. H. N. The special interests of coastal States. *In* New directions in the law of the sea, v. 3, Collected papers. Edited by Robin Churchill [and others] Dobbs Ferry, N.Y., Oceana Publications [for] British Institute of International and Comparative Law, 1973. p. 46-51.

Johnston, Douglas M. The economic zone in the law of the sea; survey, analysis and appraisal of current trends, by D. M. Johnston and E. Gold. [Kingston, R.I.] 1973. 53 p. (Law of the Sea Institute, Kingston, R.I. Occasional paper, 17)

Johnston, Douglas M. Marine pollution control: law, science, and politics. *International journal* (Toronto)28:69-102, winter 1972-1973.

Jones, Erin Bain. Law of the sea: oceanic resources. Dallas [Tex.] Southern Methodist U.P. [1972] 162 p. (Dallas. Southern Methodist University. School of Law. SMU law school study)

Kachurenko, Iu. Aktual'ni problemy mizhnarodnogo mors'kogo prava. *Radians'ke pravo* (Kiev)no 2:96-99, 1973.

[Contemporary problems of the law of the sea]

Kahn, Rahmatullah. Marine pollution and international legal controls. *Indian journal of international law* (New Delhi)13:389-410, July-September 1973.

Khan, Rahmatullah. On the fairer and equitable sharing of the fishery resources of the oceans. *Indian journal of international law* (New Delhi)13:87-95, January-March 1973.

Khlestov, O. Mezhdunarodno-pravovye problemy mirovogo okeana. *Mezhdunarodnaia zhizn'* (Moskva)no 2:44-57, 1973.

[International law problems of the world's oceans]

Knauss, John A. Development of the freedom of scientific research, issue of the third Law of the Sea Conference. *Ocean development and international law journal* (New York)1:93-120, spring 1973.

Koers, Albert W. The freedom of fishing in decline; the case of the North-East Atlantic. *In* New directions in the law of the sea, v. 3, Collected papers. Edited by Robin Churchill [and others] Dobbs Ferry, N.Y., Oceana Publications [for] British Institute of International and Comparative Law, 1973. p. 19-35.

Kolodkin, Anatolii Lazarevich. Mirovoi okean; mezhdunarodno-pravovoi rezhim; osnovnye problemy. Moskva, Mezhdunrodnye Otnosheniia, 1973. 232 p.

[World ocean; international legal régime; main problems]

Kolodkin, Anatolii Lazarevich. Seefriedensrecht; das völkerrechtliche Regime der Territorialgewässer, der Anschlusszone und des Hohen Meeres [by] A. L. Kolodkin und S. V. Molodcov. [Aus dem Russischen übertragen ... von H. Weber] Hamburg, Alfred Metzner, 1973. 169 p. (Hamburg. Universität. Forschungsstelle für Völkerrecht und ausländisches öffentliches Recht. Werkhefte, 21)

Kopal, Vladimir. Výchozí otázky právního režimu mořského dna. *Právník* (Praha)112:493-519, 1973, no. 6.

[Fundamental questions of the legal régime of the seabed]

Koulouris, Michel. Les droits souverains sur le plateau continental en vue de l'exploration et de l'exploitation; Article 2 de la Convention de 1958 sur le plateau continental. *Egypte contemporaine* (Le Caire)64:87-101, avril 1973.

Koulouris, M. Les nouvelles tendances depuis 1962 dans le régime international des pêches maritimes. Paris, Librairie générale de droit et de jurisprudence, 1973. 219 p. (Bibliothèque de droit maritime, fluvial, aérien et spatial, 18)

Krüger-Sprengel, Friedhelm. Der Einfluss militaerischer Interessen auf die Neuordnung des Meeresvoelkerrechts. *Revue de droit penal militaire et de droit de la guerre* (Bruxelles)12:51-72, 1973, no. 1.

Summaries in French, English and Spanish

Law of the sea; historic bays; a body of water is a historic bay when continuous authority is exercised by the coastal state and recognized by foreign nations, despite United States government disclaimers. *Vanderbilt journal of transnational law* (Nashville, Tenn.)7:225-234, winter 1973.

Law of the Sea Institute, Kingston, R.I. Conference, 8th, 1973. Law of the sea; the emerging regime of the oceans, ed. by J. K. Gamble Jr. and G. Pontecorvo. Cambridge, Mass., Ballinger, 1973. 393 p.

Law of the sea workshop, 3d, Nassau, 1973. Hazards of maritime transit, ed. by T. A. Clingan Jr. and L. M. Alexander. Cambridge, Mass., Ballinger, 1973. 138 p.

Lay, S. Houston. New directions in the law of the sea. Comp. and edited by S. H. Lay, R. Churchill [and] M. Nordquist. Dobbs Ferry, N.Y., Oceana Publications [for] British Institute of International and Comparative Law, 1973- . v.1-2.

Laylin, John G. The law to govern deepsea mining until superseded by international agreement. *San Diego law review* (San Diego)10:433-445, May 1973.

Laylin, John G. The legal regime of the deep seabed pending multinational agreement. *Virginia journal of international law* (Charlottesville, Va.)13:319-330, spring 1973.

Lazarev, M. I. Nekotorye problemy mezhdunarodnogo prava v perspektive. *In* Sovetskii exhegodnik mezhdunarodnogo prave, 1971. Moskva, Izdatel'stvo "Nauka", 1973. p. 162-172.

[Some problems of the international law of the sea in perspective]
Summary in English.

Lazarev, M. I. Okean, teknhika, pravo. Otv. red.: M. I. Lazarev i L. V. Speranskaia. Moskva, Iurid. Litra, 1972. 230 p.

[Ocean, technique, law]

Leitzell, Terry L. The Ocean Dumping Convention; a hopeful beginning. *San Diego law review* (San Diego)10:502-513, May 1973.

Lévy, Jean-Pierre. Ocean management and a new law of the sea. *Ocean management* (Amsterdam)1:129-143, July 1973.

Loris, William T. Preparations for the Third United Nations Conference on the Law of the Sea; maritime jurisdiction over fisheries. *Nederlands tijdschrift voor internationaal recht* (Leyden)20:233-265, 1973, no 3.

McDougal, Myres S. The law of the high seas in time of peace. *Denver journal of international law and policy* (Denver)3:45-58, spring 1973.

Mangone, Gerard J. The United Nations, international law, and the bed of the seas. Newark, Del., College of Marine Studies, University of Delaware [1972] 44 p.

"Reprinted from Ocean series, 303, Woodrow Wilson International Center for Scholars, Washington, D.C., Jan. 1972."

Marcoux, J. Michel. Seabed mineral resource production and the free market. *Natural resources lawyer* (Chicago)6:217-248, spring 1973.

Margue, G. Les îles artificielles en haute mer. *Jus gentium* (Roma)9:62-72, 1973, no. 1.

Marston, Geoffrey. International law and "midocean" archipelagos. *In* Annales d'études internationales, v. 4, 1973. Geneva, Association des Anciens Etudiants de l'Institut Universitaire de Hautes Etudes Internationales, 1973. p. 171-190.

Martel, Eric-Ignacio. El Pacto de la Mar Océana (PAMO). *Revista de política internacional* (Madrid) no. 127:77-94, mayo-junio 1973.

Martinez, Arthur D. The politics of territorial waters: 12 miles or 200? *Studies in comparative international development* (New Brunswick, N.J.)8:213-223, summer 1973.

Mengozzi, P. Executivo ed autorità giudiziaria nella determinazione dei poteri dello stato sulla piattaforma continentale. *Rivista di diritto internazionale* (Milano)55:609-660, 1972.

Method of analysis and precedents in the international litigation of marine pollution claims. *Columbia journal of law and social problems* (New York)9:537-574, summer 1973.

Moore, Jonathan R. The future of scientific research in contiguous resource zones; legal aspects. *Indian journal of international law* (New Delhi)13:231-250, April-June 1973.

Morin, J. Y. Les nouvelles utilisations du milieu marin et l'avenir du droit de la mer. *Canadian Bar review* (Ottawa)51:333-338, May 1973.

Nawaz, M. K. Alternative criteria for delimiting the continental shelf. *Indian journal of international law* (New Delhi)13:25-40, January-March 1973.

Nelson, L. D. M. The patrimonial sea. *International and comparative law quarterly* (London)22:668-686, October 1973.

Newton, L. K. *and* I. D. Richardson. Marine fish farming; some legal problems. *In* New directions in the law of the sea, v. 3, Collected papers. Edited by Robin Churchill [and others] Dobbs Ferry, N.Y., Oceana Publications [for] British Institute of International and Comparative Law, 1973. p. 61-70.

Notas motivadas por el Decreto uruguayo de 3 de diciembre de 1969 sobre Extensión del Mar Territorial presentadas por diversos Gobiernos y respuestas a las mismas. *Revista Uruguaya de derecho internacional* (Montevideo)2:209-230, 1973, no. 2.

O'Connell, D. P. The juridical nature of the territorial sea. *In* British yearbook of international law, v. 45, 1971. London, Oxford U.P., 1973. p. 303-383.

O'Connell, D. P. Mid-ocean archipelagos in international law. *In* British yearbook of international law, v. 45, 1971. London, Oxford U.P., 1973. p. 1-77.

Oda, S. The delimitation of the continental shelf in Southeast Asia and the Far East. *Ocean management* (Amsterdam)1:327-346, December 1973.

Oda, S. New directions in the international law of fisheries. *In* Japanese annual of international law, no. 17, 1973. Tokyo, The International Law Association of Japan, 1973. p. 84-90.

Oda, Shigeru. New developments in the United Nations Seabed Committee. *Journal of maritime law and commerce* (Silver Spring, Md.)4:577-598, July 1973.

Oda, Shigeru. New directions in the law of the sea. *Kokusaiho gaiko zasshi* (Tokyo)71:110-136, March 1973.

In Japanese. Summary in English.

Oda, Shigeru. Towards a new regime for ocean development. *Ocean development and international law journal* (New York)1:291-302, fall 1973.

Opoku, Kwame. The law of the sea and the developing countries. *Revue de droit international, de sciences diplomatiques et politiques* (Genève)51:28-45, janvier-mars 1973.

Pak, C.-s. Haeyangpŏp t'usu yŏn'gu. Seoul, Tan'guk taehakkyo ch'ulp'anbu, 1973. 423 p. (Haksul ch'ongsŏ, 2)

[The law of the sea]

Palmer, William. The United States draft United Nations convention on the international seabed area and the accommodation of ocean uses. *Syracuse journal of international law and commerce* (Syracuse, N.Y.)1:110-115, October 1972.

Panhuys, Haro F. van. In search of an international law of emergency; with specific reference to the law of the sea. *In* Netherlands yearbook of international law, v. 3, 1972. Leiden, A. W. Sijthoff, 1973. p. 148-170.

Pearson, Charles S. Extracting rent from ocean resources; discussion of a neglected source. *Ocean development and international law journal* (New York)1:221-237, fall 1973.

Peters, H. [*and*] H. Wünsche. Einige Probleme des internationalen Seerechts in Vorbereitung der III. UNO-Seerechtskonferenz. *Staat und Recht* (Berlin)22:630-643, April 1973.

Pharand, Donat. Contiguous zones of pollution prevention. *Syracuse journal of international law and commerce* (Syracuse, N.Y.)1:257-263, fall 1973.

Plano, J. C. International approaches to the problems of marine pollution. Brighton, Institute for the Study of International Organization, University of Sussex, 1972. 38 p. (ISIO Monographs, series 1, no. 7)

Rajan, H. P. Towards codification of archipelagos in international law. *Indian journal of international law.* (New Delhi)13:468-480, July-September 1973.

Rao, P. Sreenivasa. Legal regulation of maritime military uses. *Indian journal of international law* (New Delhi)13:425-454, July-September 1973.

Rao, P. S. Off-shore natural resources; an evaluation of African interests. *Indian journal of international law* (New Delhi)12:345-367, July 1972.

Reintanz, Gerhard. Meeresverschmutzung und Meeresforschung. *Deutsche Aussenpolitik* (Berlin) 18:1105-1120, 1973, no. 5.

Ricaldoni, Américo. Derecho del mar en América Latina; soberanía, razonabilidad, instrumentalidad y otras cuestiones. *Revista Uruguaya de derecho internacional* (Montevideo)2:33-65, 1973, no. 2.

Riphagen, W. International legal aspects of artificial islands. *International relations* (London)4:327-347, 364, November 1973.

Robinson, George S. Evolution of the law of the seas—destruction of the pristine nature of basic oceanographic research. *Natural resources journal* (Albuquerque, N. Mex.)13:504-510, July 1973.

Rogge, Hartwig. Aktive oder passive Teilhabe der Entwicklungsländer am Meeresbergbau? Der tansanische Entwurf des Statuts einer internationalen Meeresbodenbehörde. *Verfassung Recht und Übersee* (Hamburg)6:87-92, 1973, no. 1.

Rousseau, C. La condition juridique des espaces maritimes adjacents au territoire français. *In* Tittel, J. Multitudo legum ius unum; Festschrift für Wilhelm Wengler zu seinem 65. Geburtstag. Berlin, 1973. v.1. p. 369-373.

Sabaté Lichtschein, D. La plataforma continental y la lucha por la extensión del mar territorial. *Justicia* (Mexico City)32:47-61, 1973, no. 516.

Saetersdal, G. Fisheries conservation in the North-East Atlantic and the North Sea. *In* New directions in the law of the sea, v. 3, Collected papers. Edited by Robin Churchill [and others] Dobbs Ferry, N.Y., Oceana Publications [for] British Institute of International and Comparative Law, 1973. p. 36-45.

Skubiszewski, Krzysztof. La nature juridique de la "Déclaration des principes" sur les fonds marins. *In* Annales d'études internationales, v. 4, 1973. Geneva, Association des Anciens Etudiants de l'Institut Universitaire de Hautes Etudes Internationales, 1973. p. 237-248.

Slouka, Zdenek J. United Nations and the deep ocean; from data to norms. Syracuse journal of international law and commerce (Syracuse, N.Y.)1:61-90, October 1972.

Soto, Alvaro de. The Latin American view of the law of the sea. *India quarterly* (New Delhi)29:126-137, April-June 1973.

Speranskaia, L. V. Mezhdunarodno-pravovoi rezhim vod arkhipelagov. *Sovetskoe gosudarstvo i pravo* (Moskva)no. 9:109-114, 1973.

[International legal status of archipelagoes]

Stang, David P. Ocean polemics. *India quarterly* (New Delhi)29:138-150, April-June 1973.

Stang, David P. Political cobwebs beneath the sea. *International lawyer* (Chicago)7:1-15, January 1973.

Stanley, C. Maxwell. Who will control ocean space? *War/Peace report* (New York)12:8-11, March-April 1973.

Stevenson, J. R. Statement [on the recent meeting of the UN Seabed Committee and the preparations for the Law of the Sea Conference]. Washington, D.C., 1973. 31 p.

Straburzyński, A. Przestrzenny zakres praw państwa nadbrzeznego do wyłącznego korzystania z obszarów morskich i posmorskich. *Studia prawnicze* (Warszawa)no. 38:35-66, 1973.

[The territorial extent of the rights of the coastal States with respect to the use of the sea and the seabed]

Syatauw, J. J. G. Revisiting 'the archipelago'; an old concept gains new respectability. *India quarterly* (New Delhi)29:104-119, April-June 1973.

Timagenis, G. J. International control of dumping at sea. *Anglo-American law review* (Chichester)2:157-187, 1973.

Vargas Carreño, Edmundo. América Latina y los problemas contemporaneos del derecho del mar. [Santiago de Chile] Andres Bello [1973] 159 p.

Vargas Carreño, Edmundo. Mar territorial y mar patrimonial. *Revista Uruguaya de derecho internacional* (Montevideo)2:67-82, 1973, no. 2.

Vignes, D. The EEC and the law of the sea. *In* New directions in the law of the sea, v. 3, Collected papers. Edited by Robin Churchill [and others] Dobbs Ferry, N.Y., Oceana Publications [for] British Institute of International and Comparative Law, 1973. p. 335-347.

Vignes, Daniel. Les Communautés européennes et le droit de la mer. *Revue du Marché Commun* (Paris) no. 163:84-94, mars 1973.

Summary in English.

Villagrán Kramer, Francisco. El mar patrimonial como base del consenso regional; el caso del Mar Caribe. *Revista Uruguaya de derecho internacional* (Montevideo) 2:83-104, 1973, no. 2.

Waldichuk, Michael. International approach to the marine pollution problem. *Ocean management* (Amsterdam)1:211-261, November 1973.

Walker, Craig W. Jurisdictional problems created by artificial islands. *San Diego law review* (San Diego)10:638-663, May 1973.

Warbrick, Colin. The regulation of navigation. *In* New directions in the law of the sea, v. 3, Collected papers. Edited by Robin Churchill [and others] Dobbs Ferry, N.Y., Oceana Publications [for] British Institute of International and Comparative Law, 1973. p. 137-154.

Wenk, Edward Jr. International institutions for rational management of ocean space. *Ocean management* (Amsterdam)1:171-200, July 1973.

Wide limits and "equitable" distribution of seabed resources. *Ocean development and international law journal* (New York)1:137-158, summer 1973.

Author has used "Kanenas" as a pseudonym.

Working group on an ocean dumping convention. The question of an ocean dumping convention, by L. A. W. Hunter. Washington, D.C., 1972, 53 p. (American Society of International Law. Studies in transnational legal policy, 2)

Young, Elizabeth. The law of the sea [by] E. Young [and] B. Johnson. [London, 1973] 48 p. (Fabian Society, London, Research series, 313)

Yturriaga, J. A. de. Navigation through the territorial sea including straits used for international navigation. *In* Law of the sea workshop, 3d, Nassau, 1973. Hazards of maritime transit, p. 85-89 (Cambridge, Mass. 1973)

Zacklin, R. América Latina y el desarrollo del derecho del mar. *Revista Uruguaya de derecho internacional* (Montevideo)no 2:9-32, 1973.

Zacklin, Ralph. Latin America and the development of the law of the sea. *In* Annales d'études internationales, v. 4, 1973. Geneva, Association des Anciens Etudiants de l'Institut Universitaire de Hautes Etudes Internationales, 1973. p. 31-54.

Law of treaties

Abdelsalam, Gaafar. The role of law-making treaties in international relations. *In* Revue égyptienne de droit international, v. 27, 1971. Le Caire, Egyptian Society of International Law, 1973. p. 61-98.

In Arabic.

Bleckmann, Albert. Die Nichtrückwirkung völkerrechtlicher Verträge; Kommentar zu Art. 28 der Wiener Vertragsrechtskonvention. *Zeitschrift für ausländisches öffentliches Recht and Völkerrecht* (Stuttgart)33:38-55, März 1973.

Summary in English.

Bolintineanu, Alexandru. Recunoaşterea statelor şi tratatele multilaterale cu caracter universal. *Studii şi cercetări juridice* (Bucureşti)18:573-585, 1973, no. 4.

[Recognition of States and universal multilateral treaties]

Danisz, Josef. Normotvorba kogentního práva mezinárodního (obyčejonormotvorná procedura). *Právník* (Praha)112:1022-1034, 1973, no. 11.

[Formation of the imperative norms of international law]

Elreedy, El-Sayed Abdel Raouf. The main features of the concept of invalidity in the Vienna Convention on Treaties. *In* Revue égyptienne de droit international, v. 27, 1971. Le Caire, Egyptian Society of International Law, 1973. p. 13-40.

Foda, Ezzeldine. The legislative role of treaties in international law. *Revue égyptienne de droit international* (Le Caire)27:99-150, 1971.

In Arabic.

Golsong, H. Zur Frage der einheitlichen Auslegung zwischenstaatlicher Verträge. *In* Müller, K. und H. Soell. Rechtswissenschaft und Gesetzgebung: Festschrift für Eduard Wahl zum 70. Geburtstag, p. 61-66 (Heidelberg, 1973)

Haraszti, György. Some fundamental problems of the law of treaties. [Tr. by J. Decsényi] Budapest, Akadémiai Kiadó, 1973. 439 p.

Hilf, Meinhard. Die Auslegung mehrsprachiger Verträge; eine Untersuchung zum Völkerrecht und zum Staatsrecht der Bundesrepublik Deutschland. Berlin, Springer Verlag, 1973. 249 p. (Beiträge zum ausländischen öffentlichen Recht and Völkerrecht, 61)

Jongbloed-Hamerlynck, R. Het ius cogens in het volkenrecht. *Tijdschrift voor Bestuurswetenschappen en Publiekrrecht* (Brussels)28:233-242, 1973.

[The jus cogens in international law]

Khan, Riaz Mohammad. Vienna Convention on Law of Treaties—Article 62; fundamental change of circumstances. *Pakistan horizon* (Karachi)26:16-28, 1973, no. 1.

Kliuev, V. N. K voprosu o depozitariiakh mnogostoronnikh dogovorov vseobshchego kharaktera. *In* Sovetskii ezhegodnik mezhdunarodnogo prava, 1971. Moskva, Izdatel'stvo "Nauka", 1973. p. 266-271.

[On the question of depositaries of general international treaties]

Lang, Winfried. Les règles d'interprétation codifiées par la Convention de Vienne sur le Droit des Traités et les divers types de traités. *Osterreichische Zeitschrift für öffentliches Recht* (Wien)24:113-173, 1973, no. 1-2.

Leonetti, Antoine-Jean. Interprétation des traités et règles impératives du droit international général (jus cogens). *Osterreichische Zeitschrift für öffentliches Recht* (Wien)24:91-111, 1973, no. 1-2.

Lukashuk, I. I. Parties to treaties—the right of participation. *In* Recueil des cours de l'Académie de droit international de La Haye, 1972-I. Leyde, A. W. Sijthoff, 1973. p. 231-328.

Menzione, Elio. La modificazione dei trattati per via della condotta successiva delle parti. *Diritto internazionale* (Milano)25:440-459, 1971, no. 4.

Narasimhaswamy, M. G. Jus cogens and international law. *Journal of the Indian Law Institute* (New Delhi)14:340-357, July-September 1972.

Nisot, Joseph. Les réserves aux traités et la convention de Vienne du 23 mai 1969. *Revue générale de droit international public* (Paris)77:200-206, janvier-mars 1973.

Ohlinger, Theo. Der völkerrechtliche Vertrag im staatlichen Recht; eine theoretische, dogmatische und vergleichende Untersuchung am Beispiel Osterreichs. Wien, Springer-Verlag, 1973. xv, 397 p. (Forschungen aus Staat und Recht, 23)

Pienkoś, J. Wpływ wojny na obowiazywanie umów międzynarodowych. Warszawa, Państwowe wydawn naukowe, 1973. 324 p.

[Influence of war on the effectiveness of international agreements]

Reuter, P. J. M. Introduction au droit des traités. Paris, Colin, 1972. 236 p. (Collection U. Serie: Relations et institutions internationales)

Reuter, Paul. Le droit des traités et les accords internationaux conclus par les organisations internationales. [21] p. (In: Miscellanea W. J. Ganshof van der Meersch. Bruxelles, 1972. v.I, p. 195-215)

Roučka, Bohuslav. Výhrady k mnohostranným mezinárodním smlouvám. *Pravník* (Praha)122:948-955, 1973, no. 10.

[Reservations to multilateral international treaties]

Sanna, I. La procedura contenziosa nei casi di nullità, di estinzione, di sospensione e di applicazione dei trattati. *Apollinaris* (Rome)46:462-493, 1973.

Schreuer, C. H. The interpretation of treaties by domestic courts. *In* British yearbook of international law, v. 45, 1971. London, Oxford U.P., 1973. p. 255-301.

Schröer, F. Clausula rebus sic stantibus und Völkerrechtsvertrag. *Recht in Ost und West* (Berlin)17:57-62, März 1973.

Schwelb, E. The law of treaties and human rights. *Archiv des Völkerrechts* (Tübingen)16:1-27, 1973.

Sinclair, Ian McTaggart. The Vienna Convention on the Law of Treaties. [Manchester] Manchester U.P. [1973] 150 p. (Victoria University of Manchester. Melland Schill lectures)

Starke, J. G. The voluntary assignment of treaty rights and obligations. *Indian journal of international law* 13:519-529, October-December 1973.

Talalaev, A. N. Mezhdunarodnye dogovory v sovremennom mire; voprosy prava mezhdunrodnykh dogovorov v svete raboty Venskoi konferentsii OON, 1968-1969 gg. Moskva, Mezhdunarodnye Otnosheniia, 1973. 247 p.

[International agreements in the contemporary world; questions of international law in the light of the Vienna Conference of the United Nations, 1968-69]

Treves, G. Le limitazioni di sovranità e i trattati internazionali. *Rivista trimestrale di diritto pubblico* (Milano)23:561-573, 1973.

Vasilenko, V. A. Gosudarstvennyi suverenitet i mezhdunarodnoe pravo. *In* Sovetskii ezhegodnik mezhdunarodnogo prava, 1971. Moskva, Izdatel'stvo "Nauka", 1973. p. 60-79.

[State sovereignty and international treaty]
Summary in English.

Vel'iaminov, G. M. O poniatii normy mezhdunarodnogo prava. *In* Sovetskii ezhegodnik mezhdunarodnogo prava, 1971. Moskva, Izdatel'stvo "Nauka", 1973. p. 130-142.

[On the notion of a norm of international law]
Summary in English.

Vignes, Daniel. Une notion ambiguë; la mise en application provisoire des traités. *In* Annuaire français de droit international, v. 18, 1972. Paris, Centre national de la recherche scientifique, 1973. p. 181-190.

Law of war

Baxter, R. R. The evolving laws of armed conflict. *Military law review* (Washington, D.C.)60:90-111, spring 1973.

Baxter, R. R. The law of war. *In* Bos, Maarten, ed.: The present state of international law and other essays. [Deventer], Kluwer, 1973. p. 107-124.

Bindschedler, R. Frieden, Krieg und Neutralität im Völkerrecht der Gegenwart. *In* Tittel, J. Multitudo legum ius unum; Festschrift für Wilhelm Wengler zu seinem 65. Geburtstag. Berlin, 1973. v.l. p. 27-49.

Blishchenko, I. P. The national liberation movement and international humanitarian law. *Revue de droit pénal militaire et de droit de la guerre* (Bruxelles)12:308-316, 1973, no 2.

Summaries in French and Spanish.

Boehringer, K. H. Règlements et matériel d'enseignement des forces armées fédérales dans le domaine du droit international humanitaire applicable dans les conflits armés. *Revue de droit pénal militaire et de droit de la guerre* (Bruxelles)11:459-470, 1972.

Bond, James E. Application of the law of war to internal conflicts. *Georgia journal of international and comparative law* (Athens, Georgia)3:345-384, spring 1973.

Bosly, H. Responsabilité des Etats parties à un conflit et des individus quant à l'application des règles de droit humanitaire. *Revue de droit pénal militaire et de droit de la guerre* (Bruxelles)12:185-215, 1973, no. 2.

Summaries in English and Spanish.

Burwell, David G. Civilian protection in modern warfare; a critical analysis of the Geneva Civilian Convention of 1949. *Virginia journal of international law* (Charlottesville, Va.)14:123-150, fall 1973.

Dabrowa, S. Na połmetku kodyfikacji miedzynarodowego prawa konfliktow zbrojnych. *Ruch prawniczy ekonomiczny i socjologiczny* (Poznań)35:113-127, 1973, no. 2.

[Codification of the international law of armed conflicts]

Draft additional protocols to the Geneva conventions. *International review of the Red Cross* (Geneva)13:507-515, October 1973.

Draper, G. I. A. D. The implementation of the modern law of armed conflicts. *Israel law review* (Tel Aviv)8:1-22, January 1973.

Draper, G. I. A. D. Military necessity and humanitarian imperatives. *Revue de droit pénal militaire et de droit de la guerre* (Bruxelles)12:129-151, 1973, no 2.

Summaries in French and Spanish.

Draper, G.I.A.D. The status of combatants and the question of guerilla warfare. *In* British yearbook of international law, v. 45, 1971. London, Oxford U.P., 1973. p. 173-218.

Durham, W. Cole Jr. Law of war; humanitarian law in armed conflicts. *Harvard international law journal* (Cambridge, Mass.)14:573-584, summer 1973.

Falk, Richard A. Environmental warfare and ecocide facts, appraisal and proposals. *Revue belge de droit international* (Bruxelles)9:1-27, 1973, no. 1.

Falk, Richard A. International law aspects of repatriation of prisoners of war during hostilities. *American journal of international law* (Washington, D.C.)67:465-478, July 1973.

Farer, T. J. International armed conflicts; the international character of a conflict. Bruxelles, 1970. 33p. (Centre de droit international de l'Université de Bruxelles. Institut de Sociologie, Doc. R/1)

Farer, Tom J. Illicit means for the conduct of armed conflicts. *Revue de droit pénal militaire et de droit de la guerre* (Bruxelles)12:153-171, 1973, no. 2.

Summaries in French and Spanish.

Fleck, Dieter. Beiträge zur Weiterentwicklung des humanitären Völkerrechts für bewaffnete Konflikte. Hrsg. von D. Fleck, in Zusammenarbeit mit M. Bothe [and others. Hamburg]Hansischer Gildenverlag [1973] xv, 216 p. (Kiel. Universität. Institut für Internationales Recht. Veröffentlichungen, 71)

Freymond, Jacques. Confronting total war; a "global" humanitarian policy. *American journal of international law* (Washington, D.C.)67:672-692, October 1973.

Gass, James D. Can the POW Convention be enforced? *JAG journal* (Washington, D.C.)27:248-271, spring 1973.

Golović, Branko. Combatants and international law. *Review of international affairs* (Belgrade)24:23-25, 20 November 1973.

Harris, Harold E. Modern weapons and the law of land warfare. *Revue de droit pénal militaire et de droit de la guerre* (Bruxelles)12:7-49, 1973, no. 1.

Summaries in French and Spanish.

Huss, Alphonse. Mesures préventives destinées à favoriser une application effective des règles humanitaires. *Revue de droit pénal militaire et de droit de la guerre* (Bruxelles)12:217-219, 1973, no. 2.

Kalshoven, F. Belligerent reprisals. *Revue de droit pénal militaire et de droit de la guerre* (Bruxelles)12:265-279, 1973, no. 2.

Summaries in French and Spanish.

Kalshoven, F. The law of warfare; a summary of its recent history and trends in development. Leiden, Sijthoff, 1973. 138 p. (Teneat lex gladium, 2)

Kalshoven, Frits. The law of warfare; a summary of its recent history and trends in development. Leiden, A. W. Sijthoff, 1973. 138 p. (Institut Henry-Dunant, Geneva. Collection teneat lex gladium, 2)

Kalshoven, Frits. Reaffirmation and development of international humanitarian law applicable in armed conflicts: the Conference of Government Experts (second session), 3 May-2 June 1972. *In* Netherlands yearbook of international law, v. 3, 1972. Leiden, A. W. Sijthoff, 1973. p. 18-61.

Kriegsvölkerrecht; das Recht der Kriegsgefangenen. *Unterrichtsblätter für die Bundeswehrverwaltung* (Hamburg)12:271-273, 1973.

Lawrence, William H. The status under international law of recent guerrilla movements in Latin America. *International lawyer* (Chicago)7:405-422, April 1973.

Lelyveld, J. van. Guerrillastrijder in het recht. *Nederlands juristenblad* (Zwolle)48:428-438, April 1973.

[The legal position of the guerrilla fighter]

Maresca, Adolfo. La notion générale et les sources du droit humanitaire. *Revue de droit pénal militaire et de droit de la guerre* (Bruxelles)12:27-45, 1973, no. 2.

Summaries in English and Spanish.

Meyer, Klaus. Die Mindestgrundsätze für die Behandlung von Gefangenen. *Vereinte Nationen* (Bonn)21:192-195, Dezember 1973.

Meyrowitz, Henri. De la réalité du droit de la guerre. *Défense nationale* (Paris)29:99-116, avril 1973.

Meyrowitz, Henri. Le statut des guérilleros dans le droit international. *Journal de droit international* (Paris)100:875-923, octobre-novembre-décembre 1973.

Patrnogic, J. Contrôle de l'application des conventions humanitaires et problème des sanctions. *Annales de droit international médical* (Monaco)no. 24:75-83, 1973.

Patrnogic, Jovica. L'enseignement du droit humanitaire dans les institutions militaires. *Revue de droit pénal militaire et de droit de la guerre* (Bruxelles)12:251-264, 1973, no. 2.

Summaries in English and Spanish.

Paust, Jordan J. Law in a guerrilla conflict; myths, norms and human rights. *In* Israel yearbook on human rights, v. 3, 1973. Tel Aviv, Faculty of Law, Tel Aviv University, 1973. p. 39-77.

Pictet, Jean. Les conventions de Genève de 1949; aperçu des règles d'application. *Revue de droit pénal militaire et de droit de la guerre* (Bruxelles)12:59-121, 1973, no. 2.
Summaries in English and Spanish.

Pictet, Jean S. Le droit humanitaire et la protection des victimes de la guerre. Leiden, A. W. Sijthoff, 1973. 152 p. [Institut Henry-Dunant, Geneva. Collection teneat lex gladium, 1)

Pradelle, Paul de la. Notions et sources du droit humanitaire applicable aux conflits armés. *Revue de droit pénal militaire et de droit de la guerre* (Bruxelles)12:15-26, 1973, no. 2.

Summaries in English and Spanish

Rao, R. J. When does war begin? *Indian journal of international law* (New Delhi)12:368-380, July 1972.

Rölling, B. V. A. Verandering in het oorlogsrecht. *Nederlands juristenblad* (Zwolle)48:305-312, Maart 1973.

[Transformation of the law of war]

Rosenblad, Esbjörn. Guerrilla warfare and international law. *Revue de droit pénal militaire et de droit de la guerre* (Bruxelles)12:91-134, 1973, no. 1.

Summary in French.

Rosenblad, Esbjörn. Starvation as a method of warfare—conditions for regulation by convention. *International lawyer* (Chicago)7:252-270, April 1973.

Schindler, Dietrich. The laws of armed conflicts; a collection of conventions, resolutions and other documents. Edited by D. Schindler and J. Toman. Leiden, A. W. Sijthoff, 1973. xxxvi, 795 p. (Institut Henry-Dunant, Geneva. Scientific collection, 2)

Scupin, Hans Ulrich. Freischärler, Guerrilleros, Partisanen; Gedanken zum Begriff des Kombattanten. *In* Internationales Recht und Diplomatie, 1972. Köln, Verlag Wissenschaft und Politik, 1972. p. 201-217.

Seidl-Hohenveldern, I. Kombattantenstatus für Terroristen? *Neue Zeitschrift für Wehrrecht* (Berlin)15:81-88, 1973.

Seidl-Hohenveldern, I. Koordinationsprobleme bei der Ausarbeitung und Anwendung humanitären Völkerrechts. *In* Tittel, J. Multitudo legum ius unum; Festschrift für Wilhelm Wengler zu seinem 65. Geburtstag. Berlin, 1973. v. 1. p. 555-573.

Siotis, Jean. La protection de la personne humaine dans les conflits armés ne présentant pas un caractère international. *Revue de droit pénal militaire et de droit de la guerre* (Bruxelles)12:281-291, 1973, no 2.

Summaries in English and Spanish.

Takemoto, M. Qualification of the prisoners of war. *Hogaku ronshu* (Tokyo)23:7-30, 1973, no. 1.

In Japanese.

Taulbee, J. L. Retaliation and irregular warfare in contemporary international law. *International lawyer* (Chicago)7:195-204, January 1973.

Maintenance of peace

Czempiel, Ernst Otto. Schwerpunkte und Ziele der Friedensforschung. [Munchen] Kaiser [1972] 124 p. (Entwicklung und Frieden, 4)

Duculescu, V. Necesitatea creşterii rolului O.N.U. în menţinerea păcie si securităţii internationale şi a adaptării structurii sale la realităţile lumee contemporane. *Revista Româna de drept* (Bucuresti)29:66-73, 1973, no. 7.

[The need for increasing the role of the United Nations in the maintenance of international peace and security and adjusting its structure to present-day realities]

El-Ayouty, Yassin. The United Nations capacity for the promotion of international peace; an overview. *Revue égyptienne de droit international* (Le Caire)28:98-111, 1972.

García Rendón, G. Responsabilidad de los estados en el mantenimiento y consolidación de la paz mundial en el marco de la ONU. *Revista de jurisprudencia peruana* (Lima)31:1056-1073, septiembre 1972; 31:1182-1205, octubre 1972; 31:1311-1332, noviembre 1972.

Röling, B. V. A. International law and the maintenance of peace. *In* Netherlands yearbook of international law, v. 4, 1973. Leiden, A. W. Sijthoff, 1973. p. 1-103.

Lwamba, Katansi R. Le financement et la liquidation d'une opération de maintien de la paix. Paris, Impr. Mécanographique Daguerre [1973?] 301 p.

Thèse. Paris. Université de Droit, d'Economie et de Sciences Sociales, 197-

Sornarajah, M. Indian Ocean as a peace zone; possible legal framework. *Indian journal of international law* (New Delhi)12:543-563, October 1972.

Venkataraman, S. Indian Ocean as zone of peace and emergent Iran. *Eastern journal of international law* (Madras)5:151-162, July 1973.

Wainhouse, D. W. International peacekeeping at the crossroads. Baltimore, Johns Hopkins University Press, 1973. 634 p.

Membership and representation

Akindele, R. A. On the concepts of "universality", "regionalism", and "reciprocal (multiple) equilibrium" in international organization for peace and security. *Revue égyptienne de droit international* (Le Caire)28:65-97, 1972

Bastid, Suzanne (Basdevant). Du droit applicable à la RFA, à la RDA, et à la République Populaire de Chine quand elles siègeront aux Nations Unies. [10] p. (In: Miscellanea W. J. Ganshof van der Meersch. Bruxelles, 1972. v. 1, p. 105-114)

Green, L. C. Representation versus membership: the Chinese precedent in the United Nations. *In* Canadian yearbook of international law, v. 10, 1972. Vancouver, B.C., University of British Columbia, 1973. p. 102-136.

Gunter, Michael M. The problem of ministate membership in the United Nations system; recent attempts toward a solution. *Columbia journal of transnational law* (New York)12:464-486, 1973, no. 3.

Jayakumar, S. Small nations at the United Nations: the experience of Singapore. *Denver journal of international law* (Denver)3:95-106, spring 1973.

Kapoor, S. K. The problem of Bangla Desh's admission to United Nations. *Lawyer* (Madras)5:85-90, 1973.

Oraison, André. L'admission de la R.F.A. et de la R.D.A. aux Nations Unies. *Revue de droit international, de sciences diplomatiques et politiques* (Genève)51:153-160, juillet-septembre 1973.

Schwebel, Stephen M. Mini-States and a more effective United Nations. *American journal of international law* (Washington, D.C.)67:108-116, January 1973.

Weng, Byron Song-jan. Peking's UN policy; continuity and change. N.Y., Praegar [1972] xviii, 337 p. (Praegar special studies in international politics and public affairs)

Bibliography: p. 287-324.

Most-Favoured-Nation Clause

Sauvignon, E. La clause de la nation la plus favorisée. Grenoble, Presses Universitaires de Grenoble, 1972. 372 p.

Namibia (South West Africa)

Drăghici, Mariana. Le processus de décolonisation et quelques considérations concernant le statut juridique de la Namibie. *Revue roumaine d'études internationales* (Bucarest)no. 2-3:157-174, 1973.

Murphy, J. F. Whither now Namibia? *Cornell international law journal* (Ithaca, N.Y.)6:1-43, 1973.

Slonim, Solomon Israel. South West Africa and the United Nations; an international mandate in dispute. Baltimore [Md.] Johns Hopkins U.P. [1973] xix, 409 p. map.

Narcotic Drugs

Animisov, L. N. Edinaia konventsiia 1961 g. i sovershenstvovanie sistemy mezhdunarodnogo kontrolia nad narkotikami. *In* Sovetskii ezhegodnik mezhdunarodnogo prava, 1971. Moskva, Izdatel'stvo "Nauka", 1973. p. 288-297.

[The Single Convention of 1961 and the improvement of the system of international control over narcotics]

Bassiouni, M. C. International drug control. Washington, D.C., World Peace through Law Center, 1973. 90 p.

Bogaard, W. International control of the legitimate trade in narcotic drugs. *In* Netherlands yearbook of international law, v. 3, 1972. Leiden, A. W. Sijthoff, 1973. p. 97-133.

Cabranes, José A. International law and control of the drug traffic. *International lawyer* (Chicago)7:761-769, October 1973.

Cohrssen, John J. The organization of the United Nations to deal with drug abuse. [Washington, D.C.] 1973. 88 p. (Drug Abuse Council, Washington, D.C. Monograph series, 6)

Mikkelsen, M. Drug law enforcement. *International criminal police review* (Paris)28:259-271, 1973.

Van de Steen, Yves. De Verenigde Naties en de verdovende middelen. *Revue belge de droit international* (Bruxelles)9:429-454, 1973, no. 2.

[The United Nations and narcotic drugs]

Non-Self-Governing Territories

Ie, Masaji. International supervision of non-self-governing territories. *Kobe gaidai ronso* (Kobe)19:1-21, December 1968.

In Japanese.

Daillier, Patrick. L'administration internationale directe dans le contexte de la décolonisation. *Revue juridique et politique; indépendence et coopération* (Paris)27:41-60, janvier-mars 1973.

Outer space

Bota, Liviu. Sur la définition de l'espace extra-atmosphérique. *Revue roumaine d'études internationales* (Bucarest)no. 19:137-144, 1973.

Bueckling, A. Rechtsfragen satellitärer Fernerkundung im zivilen Anwendungsbereich über Fremdstaaten. *Oesterreichische Juristen-Zeitung* (Vienna)28:421-425, August 1973.

Bueckling, Adrian. The formal legal status of lunar stations. *Journal of space law* (University, Miss.)1:113-119, fall 1973.

Bušák, J. Současná mezinárodne-právni úprava kosmických telekomunikací. *Právny obzor* (Bratislava)56:116, 1973.

[Contemporary international and legal regulations of cosmic telecommunications]

Bušák, Jan. The need for an international agreement on direct broadcasting by satellites. *Journal of space law* (University, Miss.)1:139-154, fall 1973.

Colliard, Claude-Albert. Les satellites de radiodiffusion directe. *In* Annuaire français de droit international, v. 18, 1972. Paris, Centre national de la recherche scientifique, 1973. p. 717-730.

Colloquium on the law of outer space, 15th, Vienna. Proceedings, October 8-15, 1972, edited by Mortimer D. Schwartz. Davis, California, University of California School of Law, 1973. 284 p.

Courteix, Simone. La coopération américano-soviétique dans le domaine de l'exploration et de l'utilisation pacifique de l'espace extra-atmosphérique. *In* Annuaire français de droit international, v. 18, 1972. Paris, Centre national de la recherche scientifique, 1973. p. 731-751.

Dalfen, Charles M. The international legislative process: direct broadcasting and remote earth sensing by satellite compared. *In* Canadian yearbook of international law, v. 10, 1972. Vancouver, B.C., University of British Columbia, 1973. p. 186-211.

Dauses, M. A. Gegenwärtiger Stand des Weltraumrechts. *Neue Juristische Wochenschrift* (Berlin)26:172-176, Januar 1973.

Dauses, Manfred A. Die Rolle internationaler Organisationen bei der Formung eines Weltraumrechts. *Zeitschrift für Luftrecht und Weltraumrechtsfragen* (Köln)22:234-249, 1973, no. 4.

Dauses, Manfred A. La télévision directe par satellites et le droit international. *Revue générale de l'air et de l'espace* (Paris)36: 380-396, 1973, no. 4.

Dauses, Manfred A. *et* Dieter O. A. Wolf. L'espionnage par satellites et l'ordre international. *Revue générale de l'aire et de l'espace* (Paris)36:283-296, 1973, no. 3.

Delascio, V. J. Conceptos sobre temas aeronáuticos y espaciales. Caracas, Sociedad venezolana de derecho aeronautico y espacial, 1969. 465 p. (Serie Apollo)

Diederiks-Verschoor, I. H. Ph. The legal aspects of space activities with potentially harmful effects in the earth and space environments. *Diritto aereo* (Roma)12:161-177, 1973, no. 46-47.

Dudakov, B. G. Pravovye problemy ispol'zovaniia orbit dlia iskusstvennykh sputnikov Zemli. *Sovetskoe gosudarstvo i pravo* (Moskva)no.4:78-84, 1973.

[Legal problems on the use of orbits for artificial earth satellites]

Fawcett, J. E. S. Outer space: new perspectives. *International affairs* (London)49:358-370, July 1973.

Finch, Edward R. Jr. The United Nations and earth resources satellites. *International lawyer* (Chicago)7:158-176, January 1973.

Finch, Edward R. Jr. *and* Amanda Lee Moore. Outer space can help the peace. *International lawyer* (Chicago)7:881-899, October 1973.

Foster, W. F. The Convention on International Liability for Damage caused by Space Objects. *In* Canadian yearbook of international law, v. 10, 1972. Vancouver, B.C., University of British Columbia, 1973. p. 137-185.

Galicki, Zdzisław. Nationality of spacecraft and liability for space activities. *In* Polish yearbook of international law, v. 4, 1971. Warsaw, Institute of Legal Sciences, Polish Academy of Sciences, 1973. p. 209-237.

Galloway, Eilene. Should the United Nations draft a treaty on earth resources satellites? *Journal of space law* (University, Miss.)1:72-79, spring 1973.

Goedhuis, D. The present state of space law. *In* Bos, Maarten, ed.: The present state of international law and other essays. [Deventer], Kluwer, 1973. p. 201-244.

Gorove, Stephen. Arms control provisions in the Outer Space Treaty: a scrutinizing reappraisal. *Georgia journal of international and comparative law* (Athens, Georgia)3:114-123, winter 1973.

Gorove, Stephen. Earth resources survey satellites and the outer space treaty. *Journal of space law* (University, Miss.)1:80-85, spring 1973.

Grzegorczyk, Mieczysław. Komitet do Spraw Pokojowego Wykorzystania Przestrzeni Kosmicznej-COPUOS. *Sprawy miedzynarodowe* (Warszawa)26:114-122, 1973, no. 9.

[The Committee on the Peaceful Uses of Outer Space—COPUOS]

Heller, Paul P. Man-made U.F.O.s—the problem of identifying the launching state of a space object. *International lawyer* (Chicago)7:900-905, October 1973.

Kish, John. The law of international spaces. Leiden, A. W. Sijthoff, 1973. 236 p.

Marcoff, Marco G. Traité de droit international public de l'espace. Fribourg, Editions Universitaires Fribourg Suisse, 1973. 835 p. illus.

Bibliography: p. 723-788.

Miles, Edward Lancelot. International administration of space exploration and exploitation. [45] p. (In: Jordan, Robert Smith. Multinational cooperation. N.Y., 1972. p. 282-326)

Mostafa, Kairy H. Y. *and* Ishaq R. Goreish. Disarmament in outer space and the space treaty. *In* Revue égyptienne de droit international, v. 27, 1971. Le Caire, Egyptian Society of International Law, 1973. p. 59-78.

Popescu, Dumitra. Les principes juridiques concernant l'utilisation des satellites artificiels pour des émissions de télévision en direct. *Revue roumaine d'études internationales* (Bucarest)no. 19:129-135, 1973.

Poulantzas, Nicholas M. Direct satellite telecommunications; State sovereignty v. freedom of information. *Nederlands tijdschrift voor international recht* (Leyden)20:163-181, 1973, no. 2.

Robinson, George S. Legal problems of sustaining manned space-flights, space stations and lunar communities through private intitiative and non-public funding. *International lawyer (Chicago)7:455-*475, April 1973.

Rockwood, Frederick W. Direct satellite broadcasting. *Harvard international law journal* (Cambridge, Mass.)14:601-611, summer 1973.

Scharf, A. Aktuelle Fragen des Satellitenrechts unter internationalen Aspekten. *Film und Recht* (Munich)17:205-211, 1973.

Smirnoff, Michael. The problem of security in outer space in light of the recently adopted international convention on liability in outer space. *Journal of space law* (University, Miss.)1:121-127, fall 1973.

Tamm, John R. The space shuttle: investigation of earth resources by manned observations. *Journal of space law* (University, Miss.)1:64-71, spring 1973.

Tang, C. S. Boundary question in space law; a balance sheet. *Ottawa law review* (Ottawa)6:266-276, 1973.

Vasilevskaia, E. G. Osvoenie luny v interesakh mira i progressa. *Sovetskoe gosudarstvo i pravo* (Moskva)no. 1:89-93, 1973.

Summary in English.
[Exploration of the moon in the interests of peace and progress.]

Williams, Sylvia Maureen. Further remarks on space liability; the problem of the protection of the environment. *Diritto aereo* (Roma)12:35-43, 1973, no. 45.

Political and security questions

Al-Baharna, Husain. The fact-finding mission of the United Nations Secretary-General and the settlement of the Bahrain-Iran dispute, May 1970. *International and comparative law quarterly* (London)22:541-552, July 1973.

Baryshev, A. P. OON; problemy ukrepleniia mezhdunarodnoi bezopasnosti. Moskva, Znanie, 1973. 64 p. (Novoe v zhizni, nauke, tekhnike. Seriia Mezhdunarodnaia, 3)

[The United Nations; problems relating to the strengthening of international security]

Goldberg, Arthur J. United Nations Security Council Resolution 242 and the prospects for peace in the Middle East. *Columbia journal of transnational law* (New York)12:187-195, 1973, no. 2.

Herrero de la Fuente, Alberto. Seguridad colectiva y arreglo pacífico de controversias; dos sistemas en presencia: O.N.U. y O.E.A. Valladolid, 1973. 87 p. (Valladolid. Universidad. Cátedra "James Brown Scott". Caudernos, 1973)

Kapungu, Leonard T. The United Nations and economic sanctions against Rhodesia. Lexington, Mass., Lexington Books [1973] 155 p. map.

Losman, D. L. International boycotts. *Il politico; rivista italiana di scienze politiche* (Pavia)37:648-672, 1972.

Melkov, G. M. Iuridicheskoe znachenie termina "iskliuchitel'no v mirnykh tseliakh". *In* Sovetskii ezhegodnik mezhdunarodonogo prava, 1971. Moskva, Izdatel'stvo "Nauka", 1973. p. 153-161.

[The legal significance of the term "exclusively for peaceful purposes"]
Summary in English.

Merkowitz, Michael. Bangladesh. *Harvard international law journal* (Cambridge, Mass.)14:565-573, summer 1973.

United Nations activities during the crisis.

Moghtader, Hooshang. The settlement of the Bahrain question; a study in Anglo-Iranian-United Nations diplomacy. *Pakistan horizon* (Karachi)26:16-29, 1973, no. 2.

Pierson-Mathy, Paulette. L'embargo international sur les livraisons d'armes au Portugal. *Revue belge de droit international* (Bruxelles)9:107-149, 1973, no. 1.

Salmon, J. J. A. Naissance et reconnaissance du Bangla-Desh. *In* Tittel, J. Multitudo legum ius unum; Festschrift für Wilhelm Wengler zu seinem 65. Geburtstag. Berlin, 1973. v.l. p. 467-490.

Salter, Leonard M. Embargoes, quarantines and sanctions: is the UN nagging Rhodesia and South Africa? *International lawyer* (Chicago)7:177-184, January 1973.

Stephen, Michael. Natural justice at the United Nations: the Rhodesia case. *American journal of international law* (Washington, D.C.)67:479-490, July 1973.

Treaties—U.N.; obligations; breach of U.N. obligation by the United States gives potential beneficiaries of the obligation standing to challenge the action of the United States in U.S. courts; Congress may abrogate obligations imposed under U.N. Secutiry Council resolutions. *Virginia journal of international law* (Charlottesville, Va.)14:185-194, fall 1973.

Vincineau, Michel. La position belge sur l'application de la Résolution 242 (1967) du Conseil de sécurité. *Revue belge de droit international* (Bruxelles)9:150-179, 1973, no. 1.

Privileges and immunities

Sutor, Julian. Przywileje i immunitety miedzynarodowe. Warszawa, Państwowe Wydawnictwo Naukowe, 1973. 305 p.

[International privileges and immunities]

Progressive development and codification of international law (in general)

Castrén, Erik. Réflexions sur la Commission du droit international et ses activités. *In* Tittel, J. Multitudo legum ius unum; Festschrift für Wilhelm Wengler zu seinem 65. Geburtstag. Berlin, 1973. v.l. p. 59-67.

Conference on the International Law Commission with comments on the future work of the Commission, by G. D. Haimbaugh Jr. and R. D. Kearney. *South Carolina law review* (Columbia, S.C.)25:549-578, November 1973.

Daudet, Yves. Travaux de la Commission du droit international des Nations Unies. *In* Annuaire français de droit international, v. 18, 1972. Paris, Centre national de la recherche scientifique, 1973. p. 584-595.

Eustathiades, C. T. Conventions de codification non ratifiées. *In* Tittel, J. Multitudo legum ius unum; Festschrift für Wilhelm Wengler zu seinem 65. Geburtstag. Berlin, 1973. v.1. p. 77-133.

Hambro, Edvard. Some notes on the development of the sources of international law. *In* Scandinavian studies in law, v. 17, 1973. Stockholm, Almqvist & Wiksell, 1973. p. 75-93.

Jenkins, Gerald L. The International Law Commission. *Harvard international law journal* (Cambridge, Mass.)14:530-536, summer 1973.

Kearney, R. D. Comments on the future work of the International Law Commission. *South Carolina law review* (Columbia, S.C.)25:555-578, November 1973.

Kearney, Richard D. The twenty-fourth session of the International Law Commission. *American journal of international law* (Washington, D.C.)67:84-101, January 1973.

Levin, D. B. Mezhdunarodnoe pravo i razvivaiushchiesia gosudarstva. *In* Sovetskii ezhegodnik mezhdunarodnogo prava, 1971. Moskva, Izdatel'stvo "Nauka", 1973. p. 96-116.

[International law and the developing countries]
Summary in English.

Right of asylum

Doehring, Karl. Der Konventionsentwurf der International Law Association über die Gewährung territorialen Asyls. *Zeitschrift für auslandisches öffentliches Recht und Völkerrecht* (Stuttgart)33:56-72, März 1973.

Summary in English.

Francioni, F. Asilo diplomatico; contributo allo studio dell consuetudini locali nel diritto internazionale. Milano, Giuffrè, 1973. 249 p. (Istituto di diritto internazionale dell'Università di Napoli. Pubblicazione 2)

Lieber, Viktor. Die neuere Entwicklung des Asylrechts im Völkerrecht und Staatsrecht, unter besonderer Berücksichtigung der schweizerischen Asylpraxis. Zürich, Schulthess Polygraphischer Verlag [1973] xlii, 329 p. (Zürcher Studien zum internationalen Recht, 53)

Bibliography: p. xxv-xlii.

Self-determination

Ermacora, Felix. Die Selbstbestimmung im Lichte der UN-Deklaration betreffend die völkerrechtlichen Grundsätze über die freundschaftlichen Beziehungen und die Zusammenarbeit zwischen den Staaten entsprechend der Charta. *In* Internationales Recht und Diplomatie, 1972. Köln, Verlag Wissenschaft und Politik, 1972. p. 55-67.

Hu, Chou-Young. Das Selbstbestimmungsrecht als eine Vorbedingung des völligen Genusses aller Menschenrechte; eine Studie zu Art. 1 der beiden Menschenrechtskonventionen vom 16. Dez. 1966. Zürich, Schulthess Polygraphischer Verlag [1972] 276 p. [Zürcher Studien zum internationalen Recht, 52)

Zürcher Dissertation
Bibliography: p. 13-28.

Johnson, C. Don. Toward self-determination—a reappraisal as reflected in the Declaration on Friendly Relations. *Georgia journal of international and comparative law* (Athens, Georgia)3:145-163, winter 1973.

Kofman, B. I. Nekotorye voprosy mezhdunarodnopravovogo polozheniia spetsial'nogo komiteta po implementatsii deklaratsii o dekolonizatsii. *In* Sovetskii ezhegodnik mezhdunarodnogo prava, 1971. Moskva, Izdatel'stvo "Nauka," 1973. p. 281-287.

[Some questions of international law status of the Special Committee on the Implementation of the Declaration on Decolonization]

Rabl, Kurt. Das Selbstbestimmungsrecht der Völker: geschichtliche Grundlagen, Umriss der gegenwärtigen Bedeutung; ein Versuch. 2., umgearb. und erw. Aufl. Köln, Böhlav Verlag, 1973. xx, 808 p.

Summary in English.
Bibliography: p. 719-743.

Rigo Sureda, A. The evolution of the right of self-determination; a study of United Nations practice. Leiden, A. W. Sijthoff, 1973. 397 p. maps.

Bibliography: p. 373-388.

Sinha, S. Prakash. Is self-determination passé? *Columbia journal of transnational law* (New York)12:260-273, 1973, no. 2.

The United Nations, self-determination and the Namibia opinions. *Yale law journal* (New Haven, Conn.)82:533-558, January 1973.

State responsibility

Bassiouni, M. C. Unlawful seizures and irregular rendition devices as alternatives to extradition. *Vanderbilt journal of transnational law* (Nashville, Tenn.)7:25-70, winter 1973.

Kuris, P. Teoriia zloupotrebleniia pravom i problema osnovaniia otvetstvennosti gosudarstv v mezhdunarodnom prave. *Vestnik Moskovskogo Universiteta: pravo* (Moskva)no. 1:54-61, 1973.

[Theory of abuse of the law and the problem of the principles of responsibility of the States in international law].

State succession

Davinić, Prvoslav. O ugovornoj sukcesiji država. *Medunarodni problemi* (Beograd)25:109-122, 1973, no. 3.

[Succession of states in respect of treaties]

Huan, C. State succession; China's U.N. debts. *Hong Kong law journal* (Hong Kong)3:256-267, September 1973.

Kunugi, Tatsuro. State succession and multilateral treaty relations in the framework of international organizations. Ann Arbor, Mich., University Microfilms, 1973. 322 p.

Diss. Columbia University. Faculty of Political Science, 1970.

O'Connell, D. P. The present state of the law on State succession. *In* Bos, Maarten, ed.: The present state of international law and other essays. [Deventer], Kluwer, 1973. p. 331-338.

Mutharika, A. Peter. Treaty acceptance in the African States. *Denver journal of international law and policy* (Denver)3:185-196, fall 1973.

Pereira, A. G. Evolución actual de la doctrina de la sucesión de estados en los tratados. *In* Tittel, J. Multitudo legum ius unum; Festschrift für Wilhelm Wengler zu seinem 65. Geburtstag. Berlin, 1973. v.l. p. 165-179.

Równy, Kazimierz. Independence and international treaties valid under protectorate. *Africana bulletin* (Warszawa)no 17:43-74, 1972.

Sonnenfeld, Renata. Sukcesja nowych państw niepodległych w odniesieniu do umów miedzynarodowych. *Sprawy miedzynarodowe* (Warszawa)26:109-124, listopad 1973.

[The succession of newly independent countries in relation to international treaties]

Zakharova, N. V. Pravopreemstvo gosudarstv. Moskva, Mezhdunarodnye Otnosheniia, 1973. 126 p.

[State succession]

Trade and development

Červenka, Zdenek. The right of access to the sea of African land-locked countries. *Verfassung und Recht in Ubersee* (Hamburg)6:299-310, 1973, no. 3.

Fabricius, Fritz. Law and international trade; Festschrift für Clive M. Schmitthoff zum 70. Geburtstag. Hrsg. von F. Fabricius. [Frankfurt] Athenäum Verlag [1973] 423 p.

Title in English and German; text partly in English, French and German.

Falsani, Robert Carl. The International Cocoa Agreement. *Law and policy in international business* (Washington, D.C.)5:999-1017, 1973, no. 3.

Fine, R. I. The control of restrictive business practices in international trade; a viable proposal for an international trade organization. *International lawyer* (Chicago)7:635-676, July 1973.

Glassner, Martin Ira. The status of developing land-locked States since 1965. *Lawyer of the Americas* (Coral Gables, Fla.)5:480-498, October 1973.

Grenon, Jean-Yves. Les traités de commerce, cadre de la libéralisation des échanges. *In* Canadian yearbook of international law, v. 10, 1972. Vancouver, B.C., University of British Columbia, 1973. p. 65-101.

Hager, L. Michael. Commodity agreements and the developing countries—a collective bargaining approach. *International lawyer* (Chicago)7:309-325, April 1973.

Haquani, Zalmaï. Les pays sans littoral aux Nations Unies. Nice, Faculté de Droit et des Sciences Economiques, 1972. 211 p.

Diss. Nice. Université. Faculté de Droit et des Sciences Economiques, 1972.

Maffeo, Vincent A. UNCTAD III. *Harvard international law journal* (Cambridge, Mass.)14:548-555, summer 1973.

Schiavone, Giuseppe. Restricciones cuantitativas y principio de no discriminación. *Derecho de la integración* (Buenos Aires)no. 12:147-155, marzo 1973.

Schlüter, B. Kompetenz der UNCTAD. *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht* (Stuttgart)32:297-338, Dezember 1972.

Summary in English.

UNCTAD: permanent sovereignty over natural resources. *Journal of world trade law* (London)7:376-384, May-June 1973.

Walters, R. S. UNCTAD; intervener between poor and rich States. *Journal of world trade law* (London)7:527-554, September-October 1973.

Zamora, Stephen. UNCTAD III; the question of shipping. *Journal of world trade law* (London)7:91-115, January-February 1973.

Use of force

Heydte, Federico Augusto von der. El empleo de la fuerza y la intervención militar en el derecho internacional moderno; una contribución a la interpretación de los Artículos 53 y 107 de las Naciones Unidas. *Revista española de derecho internacional* (Madrid)24:163-171, 1971, no. 1-2.

Iglesias Buigues, José Luis. La prohibición general del recurso a la fuerza y las resoluciones descolonizadoras de la Asamblea General de las Naciones Unidas. *Revista española de derecho internacional* (Madrid)24:173-206, 1971, no. 1-2.

Skakunov, E. I. Nekotorye aspekty doktrinal'nogo tolkovaniia instituta samooborony. *In* Sovetskii ezhegodnik mezhdunarodnogo prava, 1971. Moskva, Izdatel'stvo "Nauka", 1973. p. 259-265.

[Some aspects of the doctrinal interpretation of the concept of self-defence]

C. INTERGOVERNMENTAL ORGANIZATIONS RELATED TO THE UNITED NATIONS

1. *General*

Alexandrowicz-Alexander, C. H. The law-making functions of the specialised agencies of the United Nations. Sydney, Angus and Robertson, 1973. 181 p.

Souliotis, Yannis. L'application des résolutions des Nations Unies relatives à la discrimination raciale et au colonialisme par les institutions spécialisées. *Revue des droits de l'homme* (Paris)6:303-328, 1973, no. 2.

Food and Agriculture Organization of the United Nations

Carroz, J. E. The richness of the sea; fisheries. *In* The future of the law of the sea. Edited by L. J. Bouchez and L. Kaijen. The Hague, Martinus Nijhoff, 1973. p. 77-94.

Carroz, J. E. Le rôle de la F.A.O. dans la conservation des ressources biologiques de la mer. *In* Actualités du droit de la mer. Paris, Pedone, 1973. p. 247-268.

Christy, Francis T. Jr. Northwest Atlantic fisheries arrangements: a test of the species approach. *Ocean development and international law journal* (New York)1:65-91, spring 1973.

Koers, Albert W. The international regulation of marine fisheries; some problems and proposals. *In* Annales d'études internationales, v. 4, 1973. Geneva, Association des Anciens Etudiants de l'Institut Universitaire de Hautes Etudes Internationales, 1973. p. 191-211.

Koers, Albert W. International regulation of marine fisheries; a study of regional fisheries organizations. London, Fishing News Books [1973] 368 p.

Bibliography: p. 347-361.

Lakshmanan, R. International regulation of fisheries. *Indian journal of international law* (New Delhi)13:367-388, July-September 1973.

Prokhorova, G. N. Prodovol'stvennaia i sel'skokhoziaistvennaia organizatsii OON. Moskva, Nauka, 1972. 158 p.

[The Food and Agricultural Organization of the United Nations]

Rivers, John P. International fisheries regulation. *Georgia journal of international and comparative law* (Athens, Georgia)3:387-407, spring 1973.

Sand, P. H. Pollution sanctions; new alternatives to civil liability. *Journal of business law* (London)17:147-154, April 1973.

Sand, P. H. The socialist response; environmental protection law in the German Democratic Republic. *Ecology law quarterly* (Berkeley, Calif.)3:451-490, summer 1973.

Zenny, F. B. Surface water pollution legislation, protection of fisheries and international aspects. *In* Les eaux résiduaires des industries agricoles et alimentaires, 12^{e} symposium international, Budapest, 1970. La Haye, Editions Dr. W. Junk N.V., 1972. p. 617-639.

Summaries in French and German.

General Agreement on Tariffs and Trade

Bratschi, Peter. GATT; targets for reform. *Journal of world trade law* (London)7:393-403, July-August 1973.

Coppens, B. Comment accommoder, dans le cadre des règles du G.A.T.T. actuellement en vigueur, des préférences tarifaires entre pays en voie de développement. *Chronique de politique étrangère* (Bruxelles)26:295-318, mars 1973.

International trade: general agreement on tariffs and trade; retaliatory tariff increases allowed. *Texas international law journal* (Austin, Tex.)8:410-421, summer 1973.

Ristic, Milan. Medunarodna trgovinska politika i revizija GATT-a. *Medunarodni problemi* (Beograd)25:55-81, 1973, no. 2.

[International trade policy and the revision of GATT]

Tumlir, Jan. A revised safeguard clause for GATT? *Journal of world trade law* (London)7:404-420, July-August 1973.

Inter-Governmental Maritime Consultative Organization

Bergman, Samuel. No fault liability for oil pollution damage. *Journal of maritime law and commerce* (Silver Spring, Md.)5:1-50, October 1973.

Caflisch, Lucius. Some aspects of oil pollution from merchant ships. *In* Annales d'études internationales, v. 4, 1973. Geneva, Association des Anciens Etudiants de l'Institut Universitaire de Hautes Etudes Internationales, 1973. p. 213-236.

Carbone, Sergio M. Trasporto di idrocarburi, inquinamento marino e conflitti di "giurisdizione" tra stato della bandiera e stato costiero; recenti tendenze evolutive. *Diritto marittimo* (Genova)75:189-212, aprile-settembre 1973.

Dale, Mitchell. International law on the prevention of oil spill pollution on the high seas. Washington, D.C., World Peace through Law Center, 1973. 13 p. (In: World Conference on World Peace through Law. 6th, Abidjan, 1973. Work paper)

Doud, Alden Lowell. Compensation for oil pollution damage: further comment on the Civil Liability and Compensation Fund Conventions. *Journal of maritime law and commerce* (Silver Spring, Md.)4:525-542, July 1973.

Folker. Internationale Konferenz über Meeresverschmutzung: London 8.10.bis 2.11.1973. *Hansa* (Hamburg)110:2103-2108, 1973.

Inter-Governmental Maritime Consultative Organization. International maritime dangerous goods code; supplement 1972. London, 1973. 53 p.

Inter-Governmental Maritime Consultative Organization. Recommendations on the safe use of pesticides in ships. London, 1973. 14 p.

The Inter-Governmental Maritime Consultative Organization (IMCO) and maritime development. *Economic bulletin for Latin America* (Santiago, Chile)17:1-25, 1972, no. 2.

Koulouris, Michel. Les aspects récents du droit international en matière de transports maritimes internationaux; coopération internationale. Athènes, 1973. 142 p. (Relations maritimes internationales)

McLaren, Robert I. "Equitable geographical distribution in the UN"—IMCO, a case-study. *India quarterly* (New Delhi)29:151-154, April-June 1973.

Mendelsohn, Allan I. The value of the Poincaré gold franc in limitation of liability conventions. *Journal of maritime law and commerce* (Silver Spring, Md.)5:125-128, October 1973.

Rodière, René. Les tendances contemporaines du droit privé maritime international. *In* Recueil des cours de l'Académie de droit international de La Haye, 1972-I. Leyde, A. W. Sijthoff, 1973. p. 329-410.

Schultsz, J. C. The Comité Maritime International, some informative notes. *In* Netherlands yearbook of international law, v. 3, 1972. Leiden, A. W. Sijthoff, 1973. p. 142-147.

International Atomic Energy Agency

Gijssels, Jan. L'accord entre EURATOM et l'AIEA en application du traité sur la non-prolifération des armes nucléaires. *In* Annuaire français de droit international, v. 18, 1972. Paris, Centre national de la recherche scientifique, 1973. p. 837-863.

Strohl, Pierre. La Convention de 1971 relative à la responsabilité civile dans le domaine du transport maritime de matières nucléaires; un essai de conciliation entre le droit maritime et le droit nucléaire. *In* Annuaire français de droit international, v. 18, 1972. Paris, Centre national de la recherche scientifique, 1973. p. 753-784.

Symposium on maritime carriage of nuclear materials, Stockholm, 1972. Maritime carriage of nuclear materials. Vienna, 1973. 418 p. (International Atomic Energy Agency. Proceedings series)

Willrich, Mason. International safeguards and nuclear industry [edited by] Mason Willrich. [Contributors:] Henry D. Smith [and others] Baltimore, Johns Hopkins U.P., 1973. ix, 307 p.

Published under the auspices of the American Society of International law.

International Bank for Reconstruction and Development

Lewis, J. P. *and* I. Kapur. The World Bank group, multilateral aid, and the 1970s. Lexington, Mass., Heath, 1973. 168 p. (Lexington books)

Mason, Edward Sagendorph. The World Bank since Bretton Woods; the origins, policies, operations, and impact of the International Bank for Reconstruction and Development and the other members of the World Bank group: the International Finance Corporation, the International Development Association, the International Centre for Settlement of Investment Disputes [by] E. S. Mason [and] R. E. Asher. Washington, D.C., Brookings Institution [1973]. xxiii, 915 p.

International Centre for Settlement of Investment Disputes

Amerasinghe, C. F. How to use the International Centre for Settlement of Investment Disputes by reference to its model clauses. *Indian journal of international law* (New Delhi)13:530-549, October-December 1973.

Amerasinghe, C. F. Model clauses for settlement of foreign investment disputes. *Arbitration journal* (New York)28:232-257, December 1973.

Broches, Aron. The Convention on the Settlement of Investment Disputes between States and Nationals of Other States. *In* Recueil des cours de l'Académie de droit international de La Haye, 1972-II. Leyde, A. W. Sijthoff, 1973. p. 331-410.

International Civil Aviation Organization

Agarwala, S. K. Aircraft hijacking and international law. Bombay, Tripathi, 1973. 242 p. (University teachers' research group series)

Bayitch, S. A. Aviation jurisdiction in the Americas. *Lawyer of the Americas* (Coral Gables, Fla.)5:270-298, June 1973.

Cheng, Bin. Das Haager Ubereinkommen über die Entführung von Luftfahrzeugen von 1970. *Zeitschrift für Luftrecht und Weltraumrechtsfragen* (Köln)22:223-233, 1973, no. 4.

Cheng, Bin *and* R. H. F. Austin. Air law. *In* Bos, Maarten, ed.: The present state of international law and other essays. [Deventer], Kluwer, 1973. p. 183-200.

Clark, Lorne S. Pour mater les pirates de l'air. *Perspectives internationales* (Ottawa):48-52, janvier-février 1973.

Conventions on unlawful interference with aircraft ("pirateria aerea") a hard line. *Revista del Colegio de Abogados de Puerto Rico* (San Juan)34:537-569, November 1973.

Corminboeuf, Hilaire, Anne Guisolan [*and*] Bernard Maitre. La piraterie aérienne et le détournement illicite d'aéronefs. *Diritto aereo* (Roma)12:125-132, 1973, no. 46-47.

Diederiks-Vershoor, I. H. Ph. Some reflections on air law. *Indian journal of international law* (New Delhi)13:41-64, January-March 1973.

Emanuelli, C. Les moyens de prévention et de sanction en cas d'action illicite contre l'aviation civile internationale. *Revue générale de droit international public* (Paris)77:577-671, juillet-septembre 1973; 77:1081-1134, octobre-décembre 1973.

Evans, Alona E. Aircraft hijacking; what is being done. *American journal of international law* (Washington, D.C.)67:641-671, October 1973.

Evans, Alona E. The law and aircraft hijacking. *Syracuse journal of international law and commerce* (Syracuse, N.Y.)1:265-274, fall 1973.

FitzGerald, Gerald F. Concerted action against States found in default of their international obligations in respect of unlawful interference with international civil aviation. *In* Canadian yearbook of international law, v. 10, 1972. Vancouver, B.C., University of British Columbia, 1973. p. 261-277.

Guillaume, Gilbert. L'échec de l'Assemblée extraordinaire de l'OACI et de la Conférence de droit aérien de Rome. *Revue générale de l'air et de l'espace* (Paris)36:261-266, 1973, no. 3.

Hailbronner, K. Aktuelle Rechtsfragen der Luftpiraterie. *Neue Juristische Wochenschrift* (Berlin)26:1636-1639, 1973.

Hammarskjöld, K. Introductory lecture on the law and the growth of international air transport. *In* Recueil des cours de l'Académie de droit international de La Haye, 1972-1. Leyde, A. W. Sijthoff, 1973. p. 413-430.

Heller, Paul P. International regulation of air transport. *Journal of world trade law* (London)7:301-315, May-June 1973.

Interpretation of the three-day notice requirement of article 26(2) of the Warsaw Convention. *Journal of air law and commerce* (Dallas, Tex.)39:251-266, spring 1973.

Kolosov, Iu. M. Nekotorye mezhdunarodno-pravovye voprosy v sviazi s vstupleniem SSSR v Organizatsiiu mezhdunrodnoi grazhdanskoi aviatsii (IKAO). *In* Sovetskii ezhegodnik mezhdunarodnogo prava, 1971. Moskva, Izdatel'stvo "Nauka", 1973. p. 248-251.

[Some international law problems in connection with the USSR admission to the International Civil Aviation Organization (ICAO)]

Łukasik, Lucjan. Prawnomiędzynarodowe środki zwalczania terroryzmu powietrznego. *Sprawy miedzynarodowe* (Warszawa)26:126-138, lipiecsierpień 1973.

[International legal means of combating air piracy]

McClintock, Michael C. Skyjacking: its domestic civil and criminal ramifications. *Journal of air law and commerce* (Dallas)39:29-80, winter 1973.

Mankiewicz, R. H. Organisation de l'aviation civile internationale. *In* Annuaire français de droit international, v. 18, 1972. Paris, Centre national de la recherche scientifique, 1973. p. 804-835.

Mapelli, Enrique. El apoderamiento ilícito de aeronaves. Madrid, Editorial Tecnos [1973] 237 p. (Biblioteca Tecnos de estudios jurídicos)

Ndulo, Mauna. The developing law of air hijacking. *Comparative and international law journal of Southern Africa* (Pretoria)6:225-244, July 1973.

Piradov, A. S. Aktual'nye voprosy mezhdunarodnogo vozdushnogo prava. [Pod red. A. S. Piradova] Moskva, Mezhdunarodnye Otnosheniia, 1973. 200 p.

[Current problems of international aerial law]

Ramakrishnan, P. Offences of piracy and hijacking of aircraft. *Lawyer* (Madras)5:159-165, 1973.

Rudolf, Alfred. Lohn der Angst bei Flugzeugent-führungen? *Zeitschrift für Luftrecht und Weltraumrechtsfragen* (Köln)22:21-27, 1973, no. 1.

Shaffer, Helen B. Control of skyjacking. *Editorial research reports* (Washington, D.C.)1:67-84, 26 January 1973.

Shubber, Sami. Aircraft hijacking under the Hague Convention 1970; a new regime? *International and comparative law quarterly* (London)22:687-726, October 1973.

Skyjacking; problems and potential solutions—a symposium. *Villanova law review* (Villanova, Pa.)18:985-1085, June 1973.

Thomas, C. S. *and* M. J. Kirby. The Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation. *International and comparative law quarterly* (London)22:163-172, January 1973.

Trajković, Miodrag. Failure of the Rome conferences on hijacking. *Review of international affairs* (Belgrade)24:25-27, 20 November 1973.

Wilcox, L. H. Aviation insurance and aircraft hijacking. *Lawyer of the Americas* (Coral Gables, Fla.)5:32-41, February 1973.

Yazawa, M. The Warsaw Convention as amended at The Hague 1955 and at Guatemala City 1971. *Kuho* (Tokyo) no. 16:1-42, 1973.

In Japanese.

International Labour Organisation

Albalate Lafita, J. Comite de Libertad Sindical de la OIT. *Estudios sindicales y cooperativos* (Madrid)6:49-139, enero-junio 1972.

Downs, M. C. A study of Soviet participation in the International Labour Organisation with emphasis on the period 1960-1964. Ann Arbor, Mich., University Microfilms, 1971. xvi, 450 p.

Thesis. Notre Dame University, Department of Government and International Studies.

Givry, Jean de. La participation de la population active au développement économique et social; état des travaux du Bureau international du Travail. *Economies et sociétés* (Paris)6:1855-1865, septembre-octobre 1972.

Gros Espiell, H. El concepto de la libertad sindical en la constitución de la O.I.T. *Estudios sociales; revista de ciencias sociales* (Ciudad de Guatemala)6:21-48, octubre-diciembre 1972.

Guigui, A. ILO and workers' education. *Convergence* (Toronto)6:57-70, 1973, no. 2.

Johnston, G. A. Archives of international organisations, with special reference to the ILO. *Journal of the Society of Archivists* (London):506-520, October 1972.

Khafagy, A. R. Observations of the International Labour Organisation concerning Egyptian legislation. *Revue égyptienne de droit international* (Le Caire)27:151-176, 1971.

In Arabic.

Offeddu, Marino. Le Convenzioni Internazionali del Lavoro e l'ordinamento giuridico italiano. Padova, CEDAM, 1973. 207 p. (Padua. Università. Facoltà di Economia e Commercio in Verona. Collana di studi giuridici, I)

Philip, Christian. Normes internationales universelles et normes internationales régionales en matière de travail. Paris, 1973. 397 p.

Thèse. Université de Droit, d'Economie et de Sciences Sociales de Paris. Mars 1973.

Potobsky, G. von. Protection of trade union rights; 20 years' work by the Committee on Freedom of Association. *International labour review* (Geneva)105:69-83, January 1972.

Tourky, A. R. Protection des jeunes gens en droit suisse et en droit international du travail. Genève, Université, Faculté de droit, 1972. 291 p.

Valticos, N. Développement du droit international du travail; les droits syndicaux et les libertés publiques. Liège, Université, Faculté de droit, 1972.

Valticos, Nicolas. Temporary work agencies and international labour standards. *International labour review* (Geneva)107:43-56, January 1973.

Vishwa Yuvak Kendra. The ILO and young workers. Bombay, Somaiya Publications [1972] viii, 53 p.

Vittori, Jacques. ILO in the billows of the wave. *Labor* (Bruxelles)no. 5:204-216, 1972.

Vries Reilingh, O. G. de. International Labour Organisation; some recent developments in the supervisory machinery. *In* Netherlands yearbook of international law, v. 4, 1973. Leiden, A. W. Sijthoff, 1973. p. 273-285.

Willatt, Norris. The ILO's hard labour. *Management today* (London):102-106, June 1973.

International Monetary Fund

Florescu, C. N. Statutul juridic al Fondului monetar internaţional ca instituţi specializată a ONU. *Revista Română de drept* (Bucuresti)29:35-42, 1973, no. 9.

[The legal status of the International Monetary Fund as a specialized agency of the United Nations]

Focsaneanu, Lazar. Le droit international monétaire à la recherche d'un "système". *Journal du droit international* (Paris)100:644-675, juillet-août-septembre 1973.

Gianviti, François. Réflexions sur l'article VIII, section 2(b) des Statuts du Fonds monétaire international. *Revue critique de droit international privé* (Paris)62:472-487, juillet-septembre 1973; 62:629-661, octobre-décembre 1973.

Gold, Joseph. The legal structure of the par value system. *Law and policy in international business* (Washington, D.C.)5:155-214, 1973, no. 1.

Guisan, Henri. Quelques aspects du droit monétaire contemporain. *In* Bos, Maarten, ed.: The present state of international law and other essays. [Deventer], Kluwer, 1973. p. 261-281.

Kafka, Alexandre. The international monetary system in transition—Part II. *Virginia journal of international law* (Charlottesville, Va.)13:539-552, summer 1973.

Jayagovind, A. The international legal regime of currency convertibility. *Indian journal of international law* (New Delhi)13:550-575, October-December 1973.

Raphaeli, Nimrod. IMF, the World Bank group, and the developing countries. [41]p. (In: Jordan, Robert Smith. Multinational co-operation. NY., 1972. p. 151-191)

Schwark, Eberhard. Investment of IMF assets in World Bank securities; an alternative to the "link". *Journal of world trade law* (London)7:607-618, November-December 1973.

International Telecommunication Union

Fernandez-Shaw, Felix. La Unión Internacional de Telecomunicaciones (UIT): pasado, presente y futuro. *Revista de política internacional* (Madrid)no. 125:91-117, enero-febrero 1973.

United Nations Educational, Scientific and Cultural Organization

Alya González, Marlene. New legal tools to curb the illicit traffic in pre-Columbian antiquities. *Columbia journal of transnational law* (New York) 12:316-341, 1973, no. 2.

Commentary on the draft convention against the unauthorized distribution of programme-carrying signals transmitted by satellites. *Copyright* (Geneva)9:9-16, January 1973.

Copyright Laws and Treaties of the World. Supplement 1972. Paris, UNESCO, 1973. 2 vols.

Published in co-operation with the Bureau of National Affairs, Washington, D.C.

Fobes, John E. UNESCO: management of an international institution, facilitating and understanding economic and social change. [41] p. (In: Jordan, Robert Smith. Multinational co-operation. N.Y., 1972. p. 110-150)

Goy, R. H. M. The international protection of the cultural and natural heritage. *In* Netherlands yearbook of international law, v. 4, 1973. Leiden, A. W. Sijthoff, 1973. p. 117-141.

United Nations Educational, Scientific and Cultural Organization. Collection of basic texts. Paris, 1973. 45 p.

Universal Postal Union

Wassermann, Ursula. The Universal Postal Union. *Journal of world trade law* (London)7:241-247, March-April 1973.

World Meteorological Organization

Samuels, J. W. International control of weather modification activities: peril or policy? *Natural resources journal* (Albuquerque, N. Mex.)13:327-342, April 1973.

كيفية الحصول على منشورات الامم المتحدة

يمكن الحصول على منشورات الامم المتحدة من المكتبات ودور التوزيع في جميع انحاء العالم . استعلم عنها من المكتبة التي تتعامل معها أو اكتب الى : الامم المتحدة ،قسم البيع في نيويورك او في جنيف .

如何购取联合国出版物

联合国出版物在全世界各地的书店和经售处均有发售。请向书店询问或写信到纽约或日内瓦的联合国销售组。

HOW TO OBTAIN UNITED NATIONS PUBLICATIONS

United Nations publications may be obtained from bookstores and distributors throughout the world. Consult your bookstore or write to: United Nations, Sales Section, New York or Geneva.

COMMENT SE PROCURER LES PUBLICATIONS DES NATIONS UNIES

Les publications des Nations Unies sont en vente dans les librairies et les agences dépositaires du monde entier. Informez-vous auprès de votre libraire ou adressez-vous à : Nations Unies, Section des ventes, New York ou Genève.

КАК ПОЛУЧИТЬ ИЗДАНИЯ ОРГАНИЗАЦИИ ОБЪЕДИНЕННЫХ НАЦИЙ

Издания Организации Объединенных Наций можно купить в книжных магазинах и агентствах во всех районах мира. Наводите справки об изданиях в вашем книжном магазине или пишите по адресу: Организация Объединенных Наций, Секция по продаже изданий, Нью-Йорк или Женева.

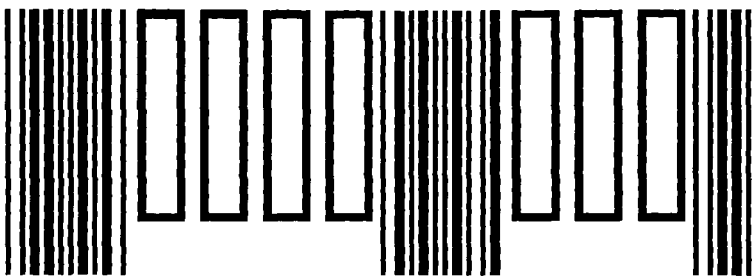
COMO CONSEGUIR PUBLICACIONES DE LAS NACIONES UNIDAS

Las publicaciones de las Naciones Unidas están en venta en librerías y casas distribuidoras en todas partes del mundo. Consulte a su librero o diríjase a: Naciones Unidas, Sección de Ventas, Nueva York o Ginebra.

Printed in U.S.A.
74-38582—September 1975—2,300

Price: $U.S. 11.00
(or equivalent
in other currencies)

United Nations publication
Sales No. E.75.V.1



Start_Book