

STATUTE OF THE INTERNATIONAL COURT OF JUSTICE

The Statute of the Permanent Court of International Justice

Under article 14 of the Covenant of the League of Nations, the Council was called to “formulate and submit to the Members of the League for adoption plans for the establishment of a Permanent Court of International Justice”. At its second session, in 1920, the Council appointed an Advisory Committee of Jurists, which held thirty-five meetings in The Hague between 16 June and 24 July 1920. On 24 July 1920, the Committee adopted a report, to be submitted to the Council of the League of Nations, which contained draft articles of the statute of the Court (*Procès verbaux of the Proceedings of the Committee*, p. 693), as well as three resolutions. The establishment of an international court was considered by the Council at its eighth session, held in San Sebastián from 30 July to 5 August 1920, and at its tenth session, held in Brussels from 20 to 28 October 1920. After examining the draft submitted by the Committee and making some amendments to it, the Council adopted a report that was submitted to the First Assembly of the League of Nations, which opened in Geneva in November 1920 (*Documents concerning the Action Taken by the Council of the League of Nations under Article 14 of the Covenant and the Adoption by the Assembly of the Statute of the Permanent Court*, pp. 20 ff.). The Assembly referred the question of the draft scheme for an international court of justice to its Third Committee, which, on 22 November 1920, decided to appoint a sub-committee for the purpose of considering the question in detail. The sub-committee held ten meetings from 11 November to 7 December 1920, at which the articles of the draft statute were discussed (*ibid.*, pp. 82 ff.). On 7 December, the sub-committee adopted a report containing the results of its work, which was submitted to the Third Committee, where it was considered on 8 December 1920 (*ibid.*, p. 96). On 11 December, the Third Committee adopted unanimously the draft statute as a whole, and submitted it to the Assembly (*ibid.*, p. 172). The draft statute was considered by the First Assembly at the twentieth and twenty-first plenary meetings on 13 December 1920 (*ibid.*, pp. 225 ff.). At the latter meeting, the draft Statute, as amended by the Assembly, was adopted unanimously. In a resolution of the same day, the Assembly called the Council to submit to the Members of the League of Nations a protocol adopting the Statute and decided that the Statute should come into force as soon as the protocol had been ratified by a majority of Member States (*ibid.*, p. 257). The protocol was opened for signature on 16 December 1920 and, by the time of the next meeting of the Assembly, in September 1921, it had been ratified by a majority of Member States and thus entered into force (League of Nations, *Treaty Series*, vol. 6, p. 379 and p. 390 (Statute)).

The Statute of the Permanent Court of International Justice was amended once, in 1929. In view of the re-election of the members of the Court to be held in 1930, the French delegate suggested at the 1928 session of the Assembly that the Statute of the Court be re-examined. Pursuant to a resolution adopted by the Assembly on 20 September 1928, on 13 December the same year, the Council established a Committee of Jurists to “report what amendments appear desirable in the various provisions of the Court’s Statute” (fourth and fifth meetings of the Council, Official Journal, January 1929, pp. 35 and 56). The Committee met in Geneva between 11 and 19 March 1929 and adopted, *inter alia*, a report containing a number of resolutions and recommendations which were submitted to the Council (*Committee of Jurists on the Statute of the Permanent Court of International Justice, Minutes, 1929*, p. 118). On 12 June 1929, the Council, after having considered the report of the Committee, decided to convoke a conference of States parties to the Statute with a view to examining the amendments and recommendations formulated by the Committee. This Conference, at which representatives of the 48 States parties to the

Statute participated, was held from 4 to 12 September 1929. At its last meeting on 12 September, the Conference adopted a draft Protocol to the Statute (*Conference regarding the Revision of the Statute of the Permanent Court of International Justice, Minutes, 1929, Annex 12*), which was submitted to the Assembly. The Revision Protocol was adopted by the Assembly on 14 September 1929, and entered into force on 1 February 1936 (League of Nations, *Treaty Series*, vol. 165, p. 353).

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In 1942, the Secretary of State of the United States and the Foreign Secretary of the United Kingdom declared themselves in favour of the establishment or re-establishment of an international court after the war. In the same year, the Inter-American Juridical Committee recommended the extension of the jurisdiction of the Permanent Court. Early in 1943, the British Government took the initiative of inviting a number of experts to London to constitute an informal Inter-Allied Committee on the Future of the Permanent Court of International Justice to examine the matter. This Committee held nineteen meetings and published a report with its recommendations on 10 February 1944.

The “Proposals for the Establishment of a General International Organization”, adopted on 9 October 1944 at the conclusion of the Dumbarton Oaks Conference (see the procedural history of the Charter of the United Nations) contained provisions relating to the establishment of an international court of justice in the framework of such international organization. On behalf of the four Powers represented at Dumbarton Oaks, the United States thereafter convened in Washington, in April 1945, the United Nations Committee of Jurists, representing 44 States, entrusted with the preparation of a draft statute for the future court. The draft prepared by this committee, which was based to a large extent upon that of the Permanent Court, left a number of issues unresolved, including the question whether a new court should be created. It was submitted to the United Nations Conference on International Organization, convened in San Francisco on 25 April 1945. At this Conference, the decision was made to create a new court, which, under Article 92 of the Charter of the United Nations finally adopted, “shall be the principal judicial organ of the United Nations” and shall function in accordance with its Statute “based upon the Statute of the Permanent Court of International Justice”. Under the same provision, the Statute of the International Court of Justice, annexed to the Charter of the United Nations, forms an integral part of the Charter. It was adopted unanimously, together with the Charter, at the end of the Conference, on 25 June 1945, and entered into force, in accordance with Article 110, paragraph 3, of the Charter, on 24 October 1945.

The Permanent Court met for the last time in October 1945 and its judges resigned on 31 January 1946. The first members of the International Court of Justice were elected at the ninth meeting of the Security Council (S/PV.9) and at the 23rd, 24th and 25th meetings of the General Assembly (A/PV.23, 24 and 25), on 6 February 1946, in accordance with Articles 2 to 15 of the Statute of the Court. The Court met for the first time at the Peace Palace on 3 April 1946 and elected its President, Vice-President and Registrar on 6 April. On 17 April 1946, the Permanent Court of International Justice was formally dissolved by a resolution of the League of Nations (*Official Journal of the League of Nations, special supplement No. 194*, p.100 (1946) (A.35.1946)). The International Court of Justice held an inaugural public seating on 18 April 1946.