

*Extract from:*

# UNITED NATIONS JURIDICAL YEARBOOK

1973

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

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



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

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## **Chapter III**

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

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

##### **1. DISARMAMENT AND RELATED MATTERS<sup>1</sup>**

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.<sup>2</sup> 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.<sup>3</sup>

**(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.<sup>4</sup> Noting with satisfaction that a new agreement entitled

<sup>1</sup>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.

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

<sup>3</sup>The *Ad Hoc* Committee held three series of meetings in 1974.

<sup>4</sup>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<sup>5</sup> containing the comments of Member States on his 1972 report entitled *Napalm and Other Incendiary Weapons and All Aspects of Their Possible Use*.<sup>6</sup> 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.<sup>7</sup> 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.<sup>8</sup> 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,<sup>9</sup> and called anew for the strict observance by all States of the principles and objectives contained therein.

<sup>5</sup>A/9207 and Corr.1 and Add.1.

<sup>6</sup>United Nations publication, Sales No. E.73.I.3.

<sup>7</sup>A/9141-DC/ 236.

<sup>8</sup>Reproduced in the *Juridical Yearbook*, 1971, p. 118.

<sup>9</sup>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.<sup>10</sup> 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;<sup>11</sup> 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 TLAZOLCO<sup>12</sup>

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.

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## 2. OTHER POLITICAL AND SECURITY QUESTIONS

### STRENGTHENING OF INTERNATIONAL SECURITY<sup>13</sup>

The General Assembly [resolution 3185 (XXVIII)] *inter alia* reaffirmed the principles and provisions contained in the Declaration on the Strengthening of International Security,<sup>14</sup> 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

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<sup>10</sup>A/9141-DC/236.

<sup>11</sup>Reproduced in the *Juridical Yearbook*, 1963, p. 107.

<sup>12</sup>Reproduced in the *Juridical Yearbook*, 1967, p. 272.

<sup>13</sup>For detailed information, see *Official Records of the General Assembly, Twenty-eighth Session, Annexes*, agenda item 39.

<sup>14</sup>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*.

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### 3. ECONOMIC, SOCIAL AND HUMANITARIAN ACTIVITIES

#### (1) HUMAN RIGHTS QUESTIONS

##### (a) *Observance of the twenty-fifth anniversary of the Universal Declaration of Human Rights*<sup>15</sup>

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.<sup>16</sup>

##### (b) *Elimination of racial discrimination*

###### (i) *International Convention on the Elimination of All Forms of Racial Discrimination*<sup>17</sup>

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.<sup>18</sup>

###### (ii) *International Convention on the Suppression and Punishment of the Crime of Apartheid*<sup>19</sup>

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

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<sup>15</sup>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).

<sup>16</sup>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.

<sup>17</sup>Reproduced in the *Juridical Yearbook*, 1965, p. 63. The Convention came into force on 4 January 1969.

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

<sup>19</sup>For detailed information, see *Official Records of the General Assembly, Twenty-eighth Session, Annexes*, agenda item 53.

<sup>20</sup>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<sup>21</sup> 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<sup>22</sup>*

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.

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<sup>21</sup>See E/AC.57/8.

<sup>22</sup>For detailed information, see *Official Records of the General Assembly, Twenty-eighth Session, Annexes*, agenda item 56.

7. In accordance with article I of the Declaration on Territorial Asylum of 14 December 1967,<sup>23</sup> 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.<sup>24</sup>

## (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,<sup>25</sup> *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

<sup>23</sup>General Assembly resolution 2312 (XXII), reproduced in the *Juridical Yearbook*, 1967, p. 249.

<sup>24</sup>General Assembly resolution 2625 (XXV), Annex, reproduced in the *Juridical Yearbook*, 1970.

<sup>25</sup>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<sup>26</sup>*

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,<sup>27</sup> 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.<sup>28</sup>

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.

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## 4. INTERNATIONAL COURT OF JUSTICE<sup>29</sup>

### 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.<sup>30</sup>

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<sup>26</sup> 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)*.

<sup>27</sup> A/CONF.9/15.

<sup>28</sup> United Nations, *Treaty Series*, vol. 189, p. 137.

<sup>29</sup> For detailed information see I.C.J. *Yearbook 1972–1973* No. 27, and 1973–1974 No. 28.

<sup>30</sup> 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.

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## 5. INTERNATIONAL LAW COMMISSION<sup>31</sup>

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

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<sup>31</sup> 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;<sup>32</sup> 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.

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## 6. UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW<sup>33</sup>

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.

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## 7. OTHER LEGAL QUESTIONS

### (I) QUESTION OF DEFINING AGGRESSION<sup>34</sup>

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

<sup>32</sup> *Ibid.*, Twenty-seventh Session, Supplement No. 10 (A/8710/Rev.1).

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

<sup>34</sup> 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<sup>35</sup>

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<sup>36</sup>

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.

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<sup>35</sup>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.

<sup>36</sup>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<sup>37</sup>

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

(5) LEGAL ASPECTS OF THE PEACEFUL USES OF OUTER SPACE<sup>40</sup>

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<sup>41</sup>

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

<sup>37</sup> For detailed information, see *Official Records of the General Assembly, Twenty-eighth Session, Annexes*, agenda item 90.

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

<sup>39</sup> Reproduced in this *Yearbook*, p. 74.

<sup>40</sup> For detailed information, see *Official Records of the General Assembly, Twenty-eighth Session, Supplement No. 20 (A/9020).*

<sup>41</sup> 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.<sup>42</sup>

#### (7) RELATIONS WITH THE HOST COUNTRY<sup>43</sup>

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.<sup>44</sup>

#### (8) UNITED NATIONS INSTITUTE FOR TRAINING AND RESEARCH<sup>45</sup>

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.

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<sup>42</sup> See *Juridical Yearbook*, 1972, p. 58.

<sup>43</sup> 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.

<sup>44</sup> Reproduced in the *Juridical Yearbook*, 1972, p. 3.

<sup>45</sup> 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<sup>46</sup>

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,<sup>47</sup> and a Convention and a Recommendation concerning Minimum Age for Admission to Employment, 1973.<sup>48</sup>

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.<sup>49</sup>

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

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### 2. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

#### I. OFFICE OF THE LEGAL COUNSEL<sup>52</sup>

##### 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

<sup>46</sup> 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.

<sup>47</sup> *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.

<sup>48</sup> *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.

<sup>49</sup> 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.

<sup>50</sup> *Official Bulletin*, vol. LV, Supplement, pp. 159-211.

<sup>51</sup> *Official Bulletin*, vol. LVI, Supplement, 144 pages.

<sup>52</sup> 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;<sup>53</sup> 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;<sup>54</sup>
- 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<sup>55</sup> in accordance with Conference Resolution 33/71;<sup>56</sup>
- 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;<sup>57</sup>
- 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;<sup>58</sup>
- to increase the number of Council seats from 34 to 42 by amendment to Article V of the Constitution;<sup>59</sup> 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;<sup>60</sup>
- 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;<sup>61</sup>
- to amend the Financial Regulations (and some rules of the General Rules) as part of the standardization throughout the United Nations system;<sup>62</sup>
- 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

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<sup>53</sup>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.

<sup>54</sup>C 73/LIM/51 Rev.1; C 73/PV/18; C 73/PV/19; C 73/PV/22.

<sup>55</sup>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.

<sup>56</sup>Published in the *Juridical Yearbook* 1971, p. 107.

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

<sup>58</sup>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.

<sup>59</sup>C 73/REP, paras. 306–310.

<sup>60</sup>C 73/III/PV.

<sup>61</sup>C 73/REP, paras. 311–313.

<sup>62</sup>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.<sup>63</sup>

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;<sup>64</sup>
- status and role of Permanent Representatives: Government comments requested on document of the Secretariat;<sup>65</sup>
- methods of work of the Council: draft prepared by *Ad Hoc* Committee revised and adopted and proposals for delegation of authority to committees requested;<sup>66</sup>
- 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;<sup>67</sup>
- International Rice Commission: Constitution and Rules of Procedure amended;<sup>68</sup>
- European Commission for the Control of Foot-and-Mouth Disease: Constitution, Rules of Procedure and Financial Regulations amended;<sup>69</sup>
- 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.<sup>70</sup>

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.<sup>71</sup> Legislative information on environment protection laws was provided to a number of governments and private researchers.

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<sup>63</sup> C 73/REP, paras. 334–335 and Appendix H.

<sup>64</sup> CL 60/REP, paras. 200–201; C 73/INF/3.

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

<sup>66</sup> CL 60/REP, paras. 170–179 and Appendix G; CL 61/REP, paras. 190–191.

<sup>67</sup> CL 60/REP, paras. 190–194 and Appendix H.

<sup>68</sup> CL 62/REP, paras. 16–17 and Appendix D.

<sup>69</sup> CL 61/REP, paras. 123–125 and Appendix N.

<sup>70</sup> 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).

<sup>71</sup> *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,<sup>72</sup> 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.<sup>73</sup>

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.<sup>74</sup>

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.<sup>75</sup> 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.<sup>76</sup>

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.<sup>77</sup>

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.<sup>78</sup>

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<sup>72</sup>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.

<sup>73</sup>CL 60/5, paras. 87-90; CL 60/REP, para. 11(b); with regard to open membership see C71/REP, paras. 343-348.

<sup>74</sup>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.

<sup>75</sup>CL 60/REP, paras. 204-206 and Appendix I; C 73/REP, paras. 319-320.

<sup>76</sup>CL 61/REP, paras. 120-122.

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

<sup>78</sup>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<sup>79</sup>

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.

### I. 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.<sup>80</sup>

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<sup>79</sup> *Criteria and principles for discharge of matter or energy into coastal waters.* FID:PPM/74/6, Add.2; 4 pp., October 1973.

<sup>80</sup> *International collaboration in pollution emergencies affecting living resources.* FID: PPM/74/7; 5 pp., November 1973.

<sup>79</sup> For general information on the organization and functions of the Legislation Branch, see *Juridical Yearbook* 1972, p. 62, note 59.

<sup>80</sup> 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 establecimiento 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* (E1FAC/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*.

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### 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<sup>81</sup> at its 93rd session, the Board decided<sup>82</sup> to summon an extraordinary session of the General Conference<sup>83</sup> under the terms of Article IV.D 9(a) of the Constitution,<sup>84</sup> to meet in Paris from 23 to 27 October 1973.<sup>85</sup>

It was further decided<sup>86</sup> 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,<sup>87</sup> 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<sup>88</sup> 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.

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F. J. Smithüsén) (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 II-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).

<sup>81</sup> 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.

<sup>82</sup> See 93 EX/Decision 7.2.3, Part I, September-October 1973, English, French, Russian, Spanish.

<sup>83</sup> This was the third time that such an extraordinary session had been convened.

<sup>84</sup> United Nations, *Treaty Series*, vol. 4, p. 275.

<sup>85</sup> The session actually ended on 26 October 1973, i.e. one day before its scheduled closing date.

<sup>86</sup> See 93 EX/Decision 7.2.3., Part I, September-October 1973, English, French, Russian, Spanish.

<sup>87</sup> See paragraph 28 of Document 3XC/4, 28 September 1973, English, French, Russian, Spanish.

<sup>88</sup> 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".<sup>89</sup>

(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.<sup>90</sup>

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<sup>91</sup> 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,<sup>92</sup> 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,"<sup>93</sup> certified copies of the Convention concerning the Protection of the World Cultural and Natural Heritage<sup>94</sup> 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

<sup>89</sup>See 92 EX/Decision 3.1.1, Part II, April-May 1973, English, French, Russian, Spanish.

<sup>90</sup>Reproduced in the *Juridical Yearbook*, 1967, p. 264.

<sup>91</sup>See 92 EX/Decision 3.4, Part I, April-May 1973, English, French, Russian, Spanish.

<sup>92</sup>See Articles II and XV of the Constitution.

<sup>93</sup>See also the Final Clause of the Convention concerning the Protection of the World Cultural and Natural Heritage.

<sup>94</sup>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<sup>95</sup> 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;<sup>96</sup>
- revision of the Recommendation concerning Technical and Vocational Education of 1962;<sup>97</sup>
- the status of scientific research workers;<sup>98</sup>

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<sup>99</sup>

(a) *Universal Copyright Convention (1952)*<sup>100</sup>

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.<sup>101</sup>

(b) *International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention)*<sup>102</sup>

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

<sup>95</sup>17C/Resolutions 1.222, 1.312 and 2.122.

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

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

<sup>98</sup>See Document SC/MD/35, 16 August 1973, 18 p., English, French, Russian, Spanish.

<sup>99</sup>A quarterly review, the *Copyright Bulletin*, is published in three separate editions: English, French and Spanish.

<sup>100</sup>United Nations, *Treaty Series*, vol. 216, p. 132.

<sup>101</sup>See Report adopted by the Committee, IGC/XII/17, 15 February 1974.

<sup>102</sup>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.<sup>103</sup>

(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<sup>104</sup> 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

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<sup>103</sup>See Report adopted by the Committee, ILO/UNESCO/WIPO/ICR.4/10, 20 December 1973.

<sup>104</sup>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<sup>105</sup> entitled "Communication from the Cuban National Commission for UNESCO".<sup>106</sup>

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).<sup>107</sup>

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.<sup>108</sup>

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#### 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).<sup>109</sup>

##### 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.<sup>110</sup>

##### 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

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<sup>105</sup> Item 8.2

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

<sup>107</sup> See 93EX/Decision 8.2, September-October 1973, English, French, Russian, Spanish.

<sup>108</sup> *Ibid.*

<sup>109</sup> See Annual Report of the Council to the Assembly for 1973, p. 97.

<sup>110</sup> *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,<sup>111</sup> 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.<sup>112</sup>

#### 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.<sup>113</sup>

#### 5. THE COUNCIL RESOLUTION OF 19 JUNE 1972<sup>114</sup>—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,"<sup>115</sup> 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,<sup>116</sup> 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*.<sup>117</sup>

#### 6. SUBCOMMITTEE ON THE STUDY OF THE ROME CONVENTION ON DAMAGE CAUSED BY FOREIGN AIRCRAFT TO THIRD PARTIES ON THE SURFACE (1952)<sup>118</sup>

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

<sup>111</sup> *Ibid.*

<sup>112</sup> United Nations, *Treaty Series*, vol. 15, p. 295.

<sup>113</sup> See Annual Report of the Council to the Assembly for 1973, p. 97.

<sup>114</sup> See *Juridical Yearbook*, 1972, p. 72.

<sup>115</sup> *Ibid.*, 1970, p. 131.

<sup>116</sup> *Ibid.*, 1971, p. 143.

<sup>117</sup> See Annual Report of the Council to the Assembly for 1973, p. 97.

<sup>118</sup> 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.<sup>119</sup>

## 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.<sup>120</sup>

## 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.<sup>121</sup>

## 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.<sup>122</sup>

## 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.<sup>123</sup>

## 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.

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<sup>119</sup>See Annual Report of the Council to the Assembly for 1973, p. 99.

<sup>120</sup>*Ibid.*

<sup>121</sup>*Ibid.*

<sup>122</sup>*Ibid.*

<sup>123</sup>*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.<sup>124</sup> (*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*.

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## 5. UNIVERSAL POSTAL UNION<sup>125</sup>

### PROBLEMS CONSIDERED IN THE EXECUTIVE COUNCIL

#### *General questions*

##### 1. *Possibilities of extension and development of relations between the UPU and the Restricted Unions*<sup>126</sup>

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.<sup>127</sup>

##### 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.

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<sup>124</sup> *Ibid.*

<sup>125</sup> For a short description of the respective functions of the main organs of the UPU, see *Juridical Yearbook*, 1972, p. 79, note 131.

<sup>126</sup> See also *ibid.*, pp. 79 and 80.

<sup>127</sup> 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<sup>128</sup> 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.<sup>129</sup>

## 6. WORLD HEALTH ORGANIZATION

1. By Resolution WHA26.37<sup>130</sup> 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.

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## 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;<sup>131</sup> and
  - (ii) The Protocol Relating to Intervention on the High Seas in Cases of Marine Pollution by Substances other than Oil, 1973.<sup>132</sup>

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,

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<sup>128</sup>See *Juridical Yearbook*, 1971, p. 230.

<sup>129</sup>Decision CE 20.

<sup>130</sup>Reproduced in this *Yearbook*, p. 79.

<sup>131</sup>*Ibid.* p. 81.

<sup>132</sup>*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*<sup>133</sup>

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;

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<sup>133</sup>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<sup>134</sup> 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).

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## 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<sup>135</sup> 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,<sup>136</sup> 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<sup>137</sup> was given to proposed amendments of the General Conference's Rules of Procedure,<sup>138</sup> 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.<sup>139</sup> 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.

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<sup>134</sup> Reproduced in the *Juridical Yearbook*, 1969, p. 174.

<sup>135</sup> United Nations, *Treaty Series*, vol. 276, p. 3.

<sup>136</sup> Reproduced in the *Juridical Yearbook*, 1970, p. 135.

<sup>137</sup> GC(XVII)RES/300.

<sup>138</sup> GC(VII)/INF/60.

<sup>139</sup> 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<sup>140</sup> and the Protocol Relating to Intervention on the High Seas in Cases of Marine Pollution by Substances Other than Oil,<sup>141</sup> 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.

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<sup>140</sup> Reproduced in this *Yearbook*, p. 81.

<sup>141</sup> *Ibid.*, p. 91.