Extract from:

UNITED NATIONS JURIDICAL YEARBOOK

1993

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

CONTENTS (*continued*)

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

(*a*) Non-proliferation

The question of non-proliferation continued to be one of the most prominent disarmament issues at the bilateral, regional and global levels in 1993. The General Assembly adopted three resolutions concerning non-proliferation in the broad sense. By its resolution 48/75 C of 16 December 1993,[1] the General Assembly requested the Secretary-General to prepare a short report containing a brief description of the question of the non-proliferation of weapons of mass destruction and of vehicles for their delivery in all its aspects and to transmit it to a representative intergovernmental group of experts for its consideration and suggestions regarding further study of the question by the international community in various multilateral disarmament forums. The Assembly also requested the Secretary-General to submit his report, together with the suggestions of the representative intergovernmental group of experts, to the General Assembly at its forty-ninth session.

The General Assembly, by its resolution 48/65 of 16 December 1993,[2] requested the Secretary-General to render the necessary assistance to the depositary Powers of the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction[3] and to provide such services as might be required for the convening of a special conference should the depositary Powers be requested by a majority of States parties to convene such a conference in order to consider the final report of the Ad Hoc Group of Governmental Experts. By the same resolution, the Assembly called upon all signatory States that had not yet ratified the Convention to do so without delay and also called upon those other States that had not signed the Convention to become parties thereto at an early date.

Lastly, on the topic of international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons, the General Assembly adopted resolution 48/73, also of 16 December 1993.[4] By that resolution, the Assembly appealed to all States, especially the nuclear-weapon States, to work actively towards an early agreement on a common approach and, in particular, on a common formula that could be included in an international instrument of a legally binding character.

(*b*) Comprehensive test-ban treaty

In 1993, the most important development in the cessation of tests was the decision by the Conference on Disarmament to give its Ad Hoc Committee on a Nuclear Test Ban a mandate to negotiate a comprehensive nuclear-test-ban treaty. By its resolution 48/70 of 16 December 1993,[5] the General Assembly fully endorsed that decision, and urged the Conference at the commencement of its 1994 session to re-establish, with an appropriate negotiating mandate, the Ad Hoc Committee on a Nuclear Test Ban, and to proceed intensively, as a priority task, in its negotiation of such a universal and internationally and effectively verifiable treaty.

(*c*) Nuclear arms limitation, disarmament and related issues

Nuclear-arms limitation, nuclear disarmament, the prevention of nuclear war and other questions related to nuclear weapons continued to be discussed at the bilateral, regional and multilateral levels. A major development in the nuclear field was the adoption by the General Assembly of resolution 48/75 L of 16 December 1993,[6] in which it recommended the negotiation, in the most appropriate international forum, of a non-discriminatory, multilateral and internationally and effectively verifiable treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices.

Regarding other nuclear-weapons-related issues, the General Assembly adopted three resolutions: on the prohibition of the development and manufacture of new types of weapons of mass destruction; on the prohibition of the dumping of radioactive wastes; and on a convention banning the use of nuclear weapons. While the first two were supported by all States and were adopted without a vote, the third continued to be opposed by many Western and Eastern European countries.

Nuclear-weapon-free zones and zones of peace

Several positive developments took place in 1993 concerning existing or future nuclear-weapon-free zones. The General Assembly, by its resolution 48/86 of 16 December 1993,[7] welcoming the progress made at the Third Meeting of the Group of Experts to Draw up a Treaty or Convention on the Denuclearization of Africa, organized by the United Nations in cooperation with the Organization of African Unity, strongly renewed its call upon all States to consider and respect the continent of Africa and its surrounding areas as a nuclear-weapon-free zone. By its resolution 48/71 of 16 December 1993,[8] the General Assembly urged all parties directly concerned seriously to consider taking the practical and urgent steps required for the implementation of the proposal to establish a nuclear-weapon-free zone in the region of the Middle East in accordance with the relevant resolutions of the General Assembly, and, as a means of promoting that objective, invited the countries concerned to adhere to the Treaty on the Non-Proliferation of Nuclear Weapons.[9] Furthermore, by its resolution 48/78 of 16 December 1993,[10] the General Assembly called upon Israel to renounce possession of nuclear weapons and to accede to the Treaty

on the Non-Proliferation of Nuclear Weapons and called upon States of the region to place all their nuclear facilities under International Atomic Energy Agency Safeguards.

By its resolution 48/72 of 16 December 1993,[11] the General Assembly urged once again the States of South Asia to continue to make all possible efforts to establish a nuclear-weapon-free zone in South Asia and to refrain, in the meantime, from any action contrary to that objective.

By its resolution 48/85 of 16 December 1993,[12] the General Assembly welcomed the concrete steps taken by several countries of the region during the past year for the consolidation of the regime of military denuclearization established by the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco)[13] and urged the countries of the region which had not yet done so to deposit their instruments of ratification of the amendments to the Treaty.

Finally, by its resolution 48/82 on the implementation of the Declaration of the Indian Ocean as a Zone of Peace, also of 16 December 1993,[14] the General Assembly requested the Ad Hoc Committee on the Indian Ocean to continue consideration of new alternative approaches building upon its deliberations at the session held in 1993, with a view to reaching early agreement to give new impetus to the process of strengthening cooperation and ensuring peace, security and stability in the Indian Ocean region, and called upon the permanent members of the Security Council and the major maritime users of the Indian Ocean to participate in the work of the Ad Hoc Committee.

(*d*) Regional approaches to disarmament and security

In 1993, no less than in previous years, many initiatives were taken at the regional level with a view to strengthening regional peace and security and promoting the process of arms reduction.

At its forty-eighth session, the General Assembly adopted six resolutions on regional approaches to disarmament and security: three were strictly on regional disarmament; one was on regional confidence-building measures in Central Africa; one on the development of good-neighbourly relations among Balkan States; and one on strengthening security and cooperation in the Mediterranean region.

The three resolutions adopted concerning strictly regional disarmament included resolution 48/75 G of 16 December 1993.[15] By that resolution, the General Assembly endorsed the guidelines and recommendations for regional approaches to disarmament within the context of global security, as adopted by the Disarmament Commission at its 1993 substantive session, and recommended them to all Member States for implementation. By its resolution 48/75 I of the same date,[16] the General Assembly stressed that sustained efforts were needed, within the framework of the Conference on Disarmament and under the umbrella of the United Nations, to make progress on the entire range of disarmament issues, and affirmed that global and regional approaches to disarmament complemented each other and should therefore be pursued simultaneously to promote regional and international peace and security. And by its resolution 48/75 J of the same date,[17] the General Assembly, believing that militarily significant States, and States with larger military capabilities, had a special responsibility

in promoting such agreements for regional security, and believing also that one of the principal objectives of conventional arms control should be to prevent the possibility of military attack launched by surprise, decided to give urgent consideration to the issues involved in conventional arms control at the regional and subregional levels, and requested the Conference on Disarmament, as a first step, to consider the formulation of principles that could serve as a framework for regional agreements on conventional arms control, and looked forward to a report of the Conference on the subject.

(*e*) Conventional weapons and advanced technologies

Although some progress had been made at the regional level in the reduction of conventional weapons, there had been no discernible progress at the global level. However, efforts to curb the illicit traffic in conventional arms at the global level gained wide support. In this regard, with resolution 48/75 F of 16 December 1993,[18] the General Assembly called upon all Member States to give priority to eradicating the illicit arms traffic associated with destabilizing activities, such as terrorism, drug trafficking and common criminal acts, and to take immediate action towards that end. And by its resolution 48/75 H, also of 16 December 1993,[19] the General Assembly invited Member States to take appropriate enforcement measures aimed at ending the illegal export of conventional weapons from their territories.

In the debate at the forty-eighth session of the General Assembly, differences of view persisted regarding the role of science and technology in the context of international security. The Assembly adopted two resolutions on the subject, owing to continuing differences between most industrialized countries and most developing countries. By its resolution 48/67 of 16 December 1993,[20] the General Assembly invited Member States to undertake additional efforts to apply science and technology for disarmament-related purposes and to make disarmament-related technologies available to interested States. And by its resolution 48/66, also of 16 December 1993,[21] the General Assembly, while stressing the interests of the international community in the subject and the need to follow closely the scientific and technological developments that might have a negative impact on the security environment and on the process of arms limitation and disarmament, and to channel scientific and technological developments for beneficial purposes, fully agreed that the international community needed to position itself better to follow the nature and direction of technological change, and that the United Nations could serve as a catalyst and a clearing house for ideas to that purpose.

On the question of disarmament and development, a great majority of States, particularly developing ones, continued to consider that there was a strong link between the two concepts and to insist that the United Nations play a more active role in this regard.

(*f*) Inhumane Weapons Convention

Throughout the year, there was renewed interest, in different international forums, in questions related to the prohibition of certain conventional weapons, particularly, anti-personnel mines. While the Convention on Prohibitions

or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects,[22] together with its Protocols—the Protocol on Non-Detectable Fragments (Protocol I), the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby Traps and Other Devices (Protocol II) and the Protocol on Prohibitions or Restrictions on the Use of Incendiary Weapons (Protocol III)—had been kept under review with regard to the status of adherence ever since its conclusion in 1980, the question of broadening its scope, either through amendment of its Protocols or through adoption of additional protocols, had gained momentum in the last few years.

At the forty-eighth session, the General Assembly, by its resolution 48/79 of 16 December 1993,[23] welcomed the request to the Secretary-General to convene at an appropriate time, if possible in 1994, in accordance with article 8 of the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, a conference to review the Convention. In addition, by its resolution 48/75 K, also of 16 December 1993,[24] the General Assembly called upon States to agree to a moratorium on the export of anti-personnel landmines that posed grave dangers to civilian populations, and urged States to implement such a moratorium.

(*g*) Outer space issues

In all forums dealing with the question, concern continued to be expressed about the danger of the militarization of outer space and the importance and urgency of preventing an arms race in that environment. At the forty-eighth session of the General Assembly, as at previous sessions, there was no extensive discussion of outer space questions. The Assembly adopted two resolutions on the subject. By its resolution 48/74 A of 16 December 1993,[25] the General Assembly called upon all States, in particular those with major space capabilities, to contribute actively to the objective of the peaceful use of outer space and of the prevention of an arms race in outer space and to refrain from actions contrary to that objective and to the relevant existing treaties in the interest of maintaining international peace and security and promoting international cooperation. And by its resolution 48/74 B, also of 16 December 1993,[26] the General Assembly took note of the report of the Secretary-General[27] containing the expert study on the application of confidence-building measures in outer space, and requested the Secretary-General to give it the widest possible distribution.

(*h*) Transparency and the Arms Register

On 11 October 1993, the Secretary-General issued the first report on the United Nations Register of Conventional Arms,[28] containing replies received from Member States pursuant to resolution 47/52 L of 15 December 1992. As almost all of the major exporters had reported data for the Register, it was estimated that most of the world's trade in major conventional arms in 1992 was now transparent. At its forty-eighth session, the General Assembly adopted two resolutions on transparency—transparency in armaments and transparency

in military expenditures—as well as one on verification and one on compliance with arms limitation and disarmament agreements.

2. OTHER POLITICAL AND SECURITY QUESTIONS

(*a*) Membership in the United Nations

In 1993, the following States were admitted to membership in the United Nations:

State	*Decision of the General Assembly resolution*	*Date of adoption*
Andorra	47/232	28 July 1993
Czech Republic	47/221	19 January 1993
Eritrea	47/230	28 May 1993
Monaco	47/231	28 May 1993
Slovakia	47/222	19 January 1993
The former Yugoslav Republic of Macedonia	47/225	8 April 1993

By the end of 1993, 184 States had become Members of the United Nations.

(*b*) Implementation of the Declaration on the Strengthening of International Security[29]

In its resolution 48/83 of 16 December 1993,[30] adopted on the recommendation of the First Committee,[31] the General Assembly reaffirmed the continuing validity of the Declaration on the Strengthening of International Security, and called upon all States to contribute effectively to its implementation; also reaffirmed the fundamental role of the United Nations in the maintenance of international peace and security, and expressed the hope that it would continue to address all threats to international peace and security in accordance with the Charter of the United Nations; urged all States to take further immediate steps aimed at promoting and using effectively the system of collective security as envisaged in the Charter, as well as halting effectively the arms race, with the aim of achieving general and complete disarmament under effective international control; and stressed the urgent need for more equitable development of the world economy and for redressing the current asymmetry and inequality in economic and technological development between the developed and developing countries, which were basic prerequisites for the strengthening of international peace and security.

(*c*) Legal aspects of the peaceful uses of outer space

The Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space held its thirty-second session at United Nations Headquarters in New York from 22 March to 8 April 1993.[32]

In considering agenda item entitled "Question of early review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space", the Legal Subcommittee re-established its Working Group on the item. The Subcommittee had before it the report of the Scientific and Technical Subcommittee on the work of its thirtieth session in 1993,[33] and General Assembly resolution 47/68 of 14 December 1992, whereby the Assembly had adopted without a vote the Principles Relevant to the Use of Nuclear Power Sources in Outer Space, as well as General Assembly resolution 47/67 of 14 December 1992, which provided that the Legal Subcommittee at its current session should consider, through its Working Group, the question of early review and possible revision of the principles relevant to the use of nuclear power sources in outer space. The Working Group expressed its satisfaction that the Principles Relevant to the Use of Nuclear Power Sources in Outer Space had been adopted, without a vote, by the General Assembly at its forty-seventh session. Furthermore, the Working Group considered that any future revision by it of the substantive scientific and technical provisions of the Principles should be based on developments which might occur in the scientific and technical fields, and that it was therefore advisable to await the input of the Scientific and Technical Subcommittee in that regard.

The Subcommittee also re-established its Working Group on the agenda item entitled "Matters relating to the definition and delimination of outer space and to the character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of the International Telecommunication Union". The Subcommittee had before it documents submitted at its previous sessions. The Working Group considered the two aspects of the agenda item, namely, the definition and delimitation of outer space, on the one hand, and the geostationary orbit, on the other, separately.

The Subcommittee re-established as well its Working Group on the item entitled "Consideration of the legal aspects related to the application of the principle that the exploration and utilization of outer space should be carried out for the benefit and in the interests of all States, taking into particular account the needs of developing countries". The Subcommittee had before it a working paper entitled "Principles regarding international cooperation in the exploration and utilization of outer space for peaceful purposes", submitted at its current session by the delegations of Argentina, Brazil, Chile, Colombia, Mexico, Nigeria, Pakistan, the Philippines, Uruguay and Venezuela.[34] The Working Group agreed to conduct a preliminary exchange of ideas on the provisions of the working paper, which took the form of a draft General Assembly resolution, with an annex.

The Committee on the Peaceful Uses of Outer Space, at its thirty-sixth session, held at United Nations Headquarters from 7 to 18 June 1993, took note with appreciation of the report of the Legal Subcommittee on the work of its thirty-second session and made recommendations concerning the agenda of the Subcommittee at its thirty-third session.[35]

With regard to the item entitled "Question of early review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space", the Committee noted with satisfaction that the Principles had been adopted by the General Assembly in its resolution 47/68 of 14 December 1992, and was in agreement with the General Assembly that the Principles should be

implemented and that they should be reviewed to consider whether revision was necessary, in view of emerging nuclear power applications and of evolving international recommendations on radiological protection.

Regarding the agenda of the Legal Subcommittee, the Committee recommended that the Subcommittee at its thirty-third session should continue the work on its current agenda items.

The Committee also considered, in accordance with paragraph 31 of General Assembly resolution 47/67 of 14 December 1992, the item entitled "Spin-off benefits of space technology: review of current status". The Committee agreed that spin-offs of space technology were yielding substantial benefits in many fields and noted that the importance of those benefits was growing rapidly. Furthermore, the Committee recommended that the United Nations Programme on Space Applications should consider including, in at least one of its training courses, seminars or expert meetings each year, the subject of the promotion of spin-off benefits from space technology.

At its forty-eighth session, by its resolution 48/39 of 10 December 1993,[36] adopted on the recommendation of the Special Political Committee,[37] the General Assembly endorsed the report of the Committee on the Peaceful Uses of Outer Space; invited States that had not yet become parties to the international treaties governing the uses of outer space[38] to give consideration to ratifying or acceding to those treaties; endorsed the recommendations of the Committee that the Legal Subcommittee, at its thirty-third session, taking into account the concerns of all countries, particularly those of developing countries, should continue, through its working groups, (*a*) its consideration of the question of early review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space, (*b*) its consideration of matters relating to the definition and delimitation of outer space and to the character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of the International Telecommunication Union, and (*c*) its consideration of the legal aspects related to the application of the principle that the exploration and utilization of outer space should be carried out for the benefit and in the interests of all States, taking into particular account the needs of developing countries.

(*d*) Question of Antarctica

By its resolution 48/80 of 16 December 1993,[39] adopted on the recommendation of the First Committee,[40] the General Assembly reiterated—while noting the cooperation of some United Nations specialized agencies and programmes at the Seventeenth Antarctic Treaty Consultative Meeting—the need for the Secretary-General or his representative to be invited to the meetings of the Antarctic Treaty Consultative Parties; urged the Antarctic Treaty Consultative Parties to build on the agreements achieved at the United Nations Conference on Environment and Development, and actively to consider the possibility of organizing an annual seminar/symposium covering issues relating to the environment, with international participation as wide as possible, including that of international organizations such as the United Nations; also urged the Antarctic Treaty Consultative Parties to establish monitoring and implementation

mechanisms to ensure compliance with the provisions of the 1991 Madrid Protocol on Environmental Protection to the Antarctica Treaty;[41] urged the international community to ensure that all activities in Antarctica were carried out exclusively for the purpose of peaceful scientific investigation and that all such activities would ensure the maintenance of international peace and security and the protection of the Antarctic environment and were for the benefit of all mankind.

(*e*) Comprehensive review of the whole question of peacekeeping operations in all their aspects

The General Assembly, by its resolution 48/42 of 10 December 1993,[42] adopted on the recommendation of the Fourth Committee,[43] recalled its resolutions 47/120 A of 18 December 1992 and 47/120 B of 20 September 1993 and took note of the report of the Secretary-General on the implementation of the recommendations contained in "An Agenda for Peace",[44] reaffirmed its resolution 47/120 B, in particular section II, entitled "Preventive deployment and demilitarized zones", and in that context recalled the importance of considering, on a case-by-case basis, the use of preventive deployment and/or the establishment of demilitarized zones as a means to prevent existing or potential disputes from escalating into conflicts and to promote efforts to achieve the peaceful settlement of such disputes, the continuance of which was likely to endanger the maintenance of international peace and security; welcomed efforts by the Secretary-General to develop, in consultation with Member States, a set of guidelines governing cooperation between the United Nations and regional organizations; and requested the Secretary-General, in accordance with Chapter VIII of the Charter, to consider ways to provide advice and assistance, in a variety of forms such as advisory services, seminars and conferences, to regional organizations and arrangements in their respective areas of competence, so as to enhance their capacity to cooperate with the United Nations in the field of peacekeeping operations. By the same resolution, the General Assembly urged all Member States in whose territory United Nations peacekeeping operations were conducted to provide, in accordance with relevant Articles of the Charter and other instruments, comprehensive support to all United Nations peacekeeping operations personnel in fulfilling their functions, as well as to take all necessary measures to ensure respect for and guarantee the safety and security of those personnel; considered that any State in whose territory a United Nations peacekeeping operation was conducted should act promptly to deter and prosecute all those responsible for attacks and other acts of violence against all personnel of United Nations peacekeeping operations; noted the particular difficulties and dangers that could arise when United Nations peacekeeping operations were conducted in situations where no authority exercised jurisdiction or discharged responsibilities with regard to ensuring the safety and security of United Nations personnel, and in such an eventuality agreed that measures appropriate to the particular circumstances and in accordance with the purposes and principles of the United Nations should be considered by the Security Council and other appropriate bodies of the United Nations; urged the Secretary-General to review the current arrangements of compensation for death, injury, disability or illness attributable to peacekeeping service with a view to developing equitable and appropriate arrangements, and to ensure expeditious reim-

bursement; called upon the Security Council to include in mandates for the deployment of United Nations personnel specific provisions recalling the obligations of Member States and the expectations of the United Nations concerning the status and safety of United Nations personnel; and noted that a legally binding international instrument to reinforce the existing arrangements regarding the status and safety of United Nations personnel was being considered by the Sixth Committee.

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3. ENVIRONMENTAL, ECONOMIC, SOCIAL, HUMANITARIAN AND CULTURAL QUESTIONS

(*a*) Environmental questions

Seventeenth session of the Governing Council of the United Nations Environment Programme[45]

The seventeenth session of the Governing Council of the United Nations Environment Programme was held at UNEP headquarters, Nairobi, from 10 to 21 May 1993. At the session the Governing Council adopted a number of decisions.

By its decision 17/13,[46] entitled "Carriage of irradiated nuclear fuel by sea", the Governing Council, welcoming the Executive Director's initiative to involve the United Nations Environment Programme with the International Atomic Energy Agency and the International Maritime Organization in the preparation of future policies on the matter, took note that the Joint Working Group has completed its work on the draft Code for the Safe Carriage of Irradiated Nuclear Fuel, Plutonium, and High-level Radioactive Wastes in Flasks on Board Ships.[47] By its decision 17/14,[46] entitled "Control of transboundary movements of hazardous wastes and their disposal", the Governing Council urged all Governments that had not yet ratified or acceded to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal[48] to do so as soon as possible and appealed to Governments, parties and non-parties to the Basel Convention that had still not paid their contributions for 1993 to the Trust Fund for the Basel Convention and the Technical Cooperation Trust Fund to do so as a matter of highest priority so as to enable the Convention secretariat to implement the decisions adopted at the first meeting of the Conference of the Parties, as well as the relevant parts of Agenda 21. The Governing Council, by its decision 17/15,[46] entitled "Proposals for an update of the list of selected environmentally harmful chemical substances, processes and phenomena of global significance", took note of the report of the Executive Director,[49] in particular the recommendations made on proposals to update the list, and requested the Executive Director to follow up on recommendations by, *inter alia*, replacing the list by an assessment, every four years, of chemical issues that were critical at the global level. By its decision 17/17,[46] entitled "Transfer of environmentally sound technology", the Governing Council noted the progress made by the cleaner production programme in promoting the transfer of environmentally sound technologies; also noted, however, that environmentally damaging technologies continued to

be exported, in particular to developing countries; and requested the Executive Director to examine the feasibility of developing international guidelines on what information on potential environmental impacts the exporters of technology should provide to importers. By its decision 17/18,[46] entitled "Environmentally sound management of hazardous wastes", the Governing Council took note of the report of the Executive Director on environmentally sound management of hazardous wastes[50] and invited Governments to use the elements of the international strategy prepared by the ad hoc meeting of Government-designated experts while preparing, consolidating or revising national strategies for environmentally sound management of hazardous wastes.

By its decision 17/24,[46] entitled "Climate", the Governing Council urged Governments to increase their support for the Intergovernmental Panel on Climate Change and endorsed its revised structure and future workplans; requested the Executive Director of UNEP, within the constraints of available resources, to further develop the World Climate Impact Assessment and Response Strategies Programme; and further urged Governments to ensure the early implementation of the recommendations of the Intergovernmental Meeting on the World Climate Programme, particularly in the provision of sufficient resources for the effective implementation of the expanded World Climate Programme. The Governing Council, by its decision of 17/19,[46] entitled "Desertification", took note of the report of the Executive Director on the implementation of the Plan of Action to Combat Desertification in 1991 and 1992,[51] and of the compatibility of the action taken with the recommendations of chapter 12 of Agenda 21,[52] and encouraged the ongoing efforts by UNEP to define appropriate methodologies for monitoring and assessment of desertification, to carry out mapping of thematic indicators of desertification and to assign benchmarks and progress indicators for desertification control, along with other indicators of global changes within the system-wide Earthwatch programme.

By its decision 17/20,[46] entitled "Protection of the marine environment from land-based activities", the Governing Council, having noted the invitation by the United Nations Conference on Environment and Development in paragraph 17.26 of Agenda 21 for UNEP to convene, as soon as practicable, an intergovernmental meeting on protection of the marine environment from land-based activities, authorized the Executive Director to implement the recommendations of UNCED, taking into account General Assembly resolution 47/190 of 22 December 1992. Consistent with the recommendations outlined in chapter 17 of Agenda 21, the Governing Council believed that the item was one of the important areas of follow-up to the Conference and that the Executive Director should coordinate a process preparing for the intergovernmental meeting on protection of the marine environment from land-based activities to be held in 1995. By its decision 17/23,[46] entitled "Urgent measures for the conservation of the African elephant and African and Asian populations of the rhinoceros", the Governing Council: (*a*) called upon African elephant range States to implement their country elephant conservation action plans across the species' range and urged donors in a position to do so to assist in that urgent conservation task and called upon Governments, the United Nations and its specialized agencies, and non-governmental organizations to support the implementation of the country elephant conservation action plans and the establishment of a coordinating body for African elephant conservation through financial contributions and technical assistance, and (*b*) called upon African and Asian

rhinoceros range States to implement their country rhinoceros conservation action plans across the species' range and called upon Governments, the United Nations and its specialized agencies, and the non-governmental organizations to support the preparation and implementation of the priority projects and/or country rhinoceros conservation action plans, the convening of the Conference and the establishment of a coordinating body for rhinoceros conservation through financial contributions and technical assistance. By its decision 17/30,[46] entitled "Convention on Biological Diversity",[53] the Governing Council called upon States that had not yet done so to sign the Convention and upon signatories of the Convention that had not yet done so to ratify, accept or approve it at the earliest opportunity.

The Governing Council, by its decision of 17/25,[46] entitled "Programme for the Development and Periodic Review of Environmental Law", adopted the Programme, as contained in the annex to the decision, as the broad strategy for the activities of UNEP in the field of environmental law for the 1990s, and underlined the role of UNEP in the continued progressive development of international environmental law as a means for achieving wider adherence to and more efficient implementation of international environmental conventions, and for future negotiating processes for legal instruments in the field of sustainable development.

Consideration by the General Assembly

At its forty-eighth session, the General Assembly, by its resolution 48/174 of 21 December 1993,[54] adopted on the recommendation of the Second Committee,[55] endorsed the report of the Governing Council of the United Nations Environment Programme on the work of its seventeenth session and the decisions contained therein; stressed the need for close cooperation between the United Nations Environment Programme and the Commission on Sustainable Development in implementing the recommendations of the United Nations Conference on Environment and Development, in accordance with the relevant provisions of chapter 38 of Agenda 21; and welcomed the action-oriented approach of the Governing Council towards the implementation of the follow-up activities to the Conference, as outlined in its report. By its resolution 48/192 of 21 December 1993,[56] adopted on the recommendation of the Second Committee,[57] the General Assembly invited Governments, relevant organizations of the United Nations system, within their respective mandates, and other relevant entities to review, as appropriate, their contribution to international cooperation in environmental monitoring, including environmentally related remote sensing and data assessment, and to provide appropriate support for such activities within existing resources; and requested the Executive Director of UNEP to prepare and to submit to the Governing Council of UNEP at its eighteenth session a report on the activities of the Programme in environmental monitoring, containing proposals and recommendations within the context of Agenda 21 and a review of Earthwatch. The General Assembly, by its resolution 48/189 of 21 December 1993,[58] adopted on the recommendation of the Second Committee,[59] decided that the first session of the Conference of the Parties to the United Nations Framework Convention on Climate Change would be held from 28 March to 7 April 1995, subject to the applicable provisions of the United Nations Framework Convention on Climate Change.[60] By its resolution 48/190 of 21 December 1993,[61] adopted on the recommendation of the Sec-

ond Committee,[62] the General Assembly urged all Governments to promote widespread dissemination of the Rio Declaration on Environment and Development[63] in the public and private sectors; and requested the Secretary-General to ensure that the Declaration was widely disseminated by the competent organs and bodies of the United Nations system and that its principles were incorporated in their programmes and processes, in accordance with paragraphs 32 and 42 of chapter I of the report of the Commission on Sustainable Development[64] on its first session.

By its resolution 48/175 of 21 December 1993,[65] adopted on the recommendation of the Second Committee,[66] the General Assembly welcomed the support of the international community and urged it to continue its financial, technical and material support to the countries most affected by drought and desertification in order to support their effort to translate the decisions of the United Nations Conference on Environment and Development into concrete activities to implement the programmes outlined in chapter 12 of Agenda 21, duly taking into account the provisions of the future international convention to combat desertification in those countries experiencing serious drought and/or desertification, particularly in Africa, and took note with satisfaction of decision 93/33 of the Governing Council of UNDP, in which the Governing Council decided that the experience and technical expertise of the United Nations Sudano-Sahelian Office in drought and desertification control should be made available to all affected countries, in particular those in Africa. The General Assembly, by its resolution 48/191 of 21 December 1993,[67] adopted on the recommendation of the Second Committee,[68] urged the Intergovernmental Negotiating Committee for the Elaboration of an International Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, particularly in Africa, to complete the negotiations successfully by June 1994, in accordance with General Assembly resolution 47/188 of 22 December 1992; decided that the Intergovernmental Negotiating Committee should hold one session after the adoption of the Convention in order to review the situation in the interim period pending its entry into force, in particular with regard to the implementation of provisions adapted to the specific needs of each region; also decided that the session of the Intergovernmental Negotiating Committee after the adoption of the Convention should be held not later than 31 January 1995, and requested the Secretary-General to make appropriate arrangements for the functioning of the ad hoc secretariat and the multidisciplinary panel of experts to service that session; and further decided that the negotiating process should continue to be funded through existing United Nations budgetary resources, without negatively affecting its programmed activities, and through voluntary contributions to the trust fund established pursuant to resolution 47/188 specifically for that purpose for the duration of the negotiations and administered by the head of the ad hoc secretariat under the authority of the Secretary-General, with the possibility of carrying over contributed resources from one fiscal year to the next.

By its resolution 48/194 of 21 December 1993,[69] adopted on the recommendation of the Second Committee,[70] the General Assembly noted the progress made by the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks;[71] reaffirmed that the Conference should complete its work before the forty-ninth session of the General Assembly; and renewed its request to Governments and regional economic integration organizations to contribute to the voluntary fund established in accordance with paragraph 9 of

General Assembly resolution 47/192 of 22 December 1992 for the purpose of assisting developing countries, especially those most concerned by the subject matter of the Conference, in particular the least developed among them, to participate fully and effectively in the Conference, and expressed its appreciation for the contributions to the fund made so far.

(*b*) International code of conduct on the transfer of technology

By its resolution 48/167 of 21 December 1993,[72] adopted on the recommendation of the Second Committee,[73] the General Assembly recognized that the conditions did not currently exist to reach full agreement on all outstanding issues in the draft international code of conduct on the transfer of technology and also that, should Governments indicate, either directly or through the Secretary-General of the United Nations Conference on Trade and Development reporting in accordance with General Assembly resolution 46/214 of 20 December 1991, that there was a convergence of views necessary to reach agreement on all outstanding issues, then the Trade and Development Board should re-engage and continue its work aimed at facilitating agreement on the code. By the same resolution, the General Assembly also invited the Secretary-General of UNCTAD, based on the relevant provisions of the Cartegena Commitment[74] and taking into account the findings of the ad hoc Working Group on the Interrelationship between Investment and Technology Transfer, to report to the General Assembly at its fiftieth session on the state of the discussion.

(*c*) Crime prevention and criminal justice

By its resolution 48/103 of 20 December 1993,[75] adopted on the recommendation of the Third Committee,[76] the General Assembly reiterated its request to the Secretary-General to upgrade the United Nations Crime Prevention and Criminal Justice Branch to a Division, as recommended in and in accordance with Assembly resolution 47/91 of 16 December 1991; also requested the Secretary-General to provide from existing resources adequate funds to build and maintain the institutional capacity of the United Nations crime prevention and criminal justice programme to respond to requests of Member States for assistance in the field of crime prevention and criminal justice, if necessary through the reallocation of resources; further requested the Secretary-General to take all necessary measures to assist the Commission on Crime Prevention and Criminal Justice, as the principal policy-making body in the field of crime prevention and criminal justice, to perform its functions and to ensure the proper coordination of all relevant activities in the field, in particular with the Commission on Human Rights and the Commission on Narcotic Drugs. Furthermore, by the same resolution, the General Assembly requested the Secretary-General to undertake all steps necessary to ensure the appropriate organization of the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, in accordance with Economic and Social Council resolution 1993/32 of 27 July 1993; expressed its support for the World Ministerial Conference on Organized Transnational Crime, to be held in Italy in 1994, and called upon Member States to be represented at the Conference at the highest possible level; and welcomed the initiative to hold in Italy in June

1994, under the auspices of the Crime Prevention and Criminal Justice Branch, the International Conference on "Laundering and Controlling Proceeds of Crime: a Global Approach".

(*d*) International drug control

In the course of 1993, 11 more States became parties to the 1961 Single Convention on Narcotic Drugs,[77] nine more States became parties to the 1972 Protocol amending the Single Convention on Narcotic Drugs, 1961,[78] eight more States became parties to the Single Convention on Narcotic Drugs, 1961, as amended by the Protocol of 25 March 1972 amending the Single Convention on Narcotic Drugs, 1961,[79] 18 more States became parties to the 1971 Convention on Psychotropic Substances[80] and 24 more States became parties to the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988.[81]

The General Assembly, by its resolution 48/12 of 28 October 1993,[82] adopted without reference to a Main Committee, renewed its commitment further to strengthen international cooperation and increase substantially efforts against the illicit production, sale, demand, trafficking and distribution of narcotic drugs and psychotropic substances, based on the principle of shared responsibility and taking into account experience gained; called upon States that had not yet done so to ratify and to implement fully all provisions of the abovementioned legal instruments; further called upon all States to adopt adequate national laws and regulations, to strengthen national judicial systems and to carry out effective drug control activities in cooperation with other States in compliance with those international instruments; requested the Economic and Social Council at its coordination segment in 1994 to examine the status of international cooperation within the United Nations system against the illicit production, sale, demand, trafficking and distribution of narcotic drugs and psychotropic substances in order to recommend ways and means to improve such cooperation, and to report thereon to the General Assembly at its forty-ninth session; and also requested the Commission on Narcotic Drugs, with the support of the United Nations International Drug Control Programme and in cooperation with the International Narcotics Control Board, to monitor and evaluate action at the national and international levels in implementing the international drug control instruments, with a view to identifying areas of satisfactory progress and weakness, and to recommend to the high-level segment of the Economic and Social Council in 1995 appropriate adjustments of drug control activities whenever required.

By its resolution 48/112 of 20 December 1993,[83] adopted on the recommendation of the Third Committee,[84] the General Assembly, underlining the role of the Commission on Narcotic Drugs as the principal United Nations policy-making body on drug control issues, reaffirming the importance of the role of the United Nations International Drug Control Programme as the main focus for concerted international action for drug abuse control and commending its performance of the functions entrusted to it, and affirming the proposals set out in the United Nations System-Wide Action Plan on Drug Abuse Control,[85] and recognizing that further efforts were needed to implement and update it, reaffirmed that the fight against drug abuse and illicit trafficking should

continue to be based on strict respect for the principles enshrined in the Charter of the United Nations and international law, particularly respect for the sovereignty and territorial integrity of States and non-use of force or the threat of force in international relations; reiterated its condemnation of the crime of drug trafficking in all its forms, and urged continued and effective international action to combat it, in keeping with the principle of shared responsibility; also reaffirmed the importance of the Global Programme of Action[86] as a framework for national, regional and international action to combat the illicit production of, demand for and trafficking in narcotic drugs and psychotropic substances, and its commitment to implementing the mandates and recommendations contained therein; further reaffirmed the role of the Executive Director of the United Nations International Drug Control Programme to coordinate and provide effective leadership for all United Nations drug control activities, in order to ensure coherence of actions within the Programme as well as coordination, complementarity and non-duplication of such activities across the United Nations system; called for completion of the updated United Nations System-Wide Action Plan on Drug Abuse Control, as requested in its resolution 47/100 of 16 December 1992, in full cooperation with the Administrative Committee on Coordination, in time for the review and recommendation of the Commission on Narcotic Drugs at its thirty-seventh session and for the consideration of the Economic and Social Council at its substantive session of 1994 and of the General Assembly at its forty-ninth session; and welcomed the efforts of the United Nations International Drug Control Programme to implement its mandates within the framework of the international drug control treaties, the Comprehensive Multidisciplinary Outline of Future Activities in Drug Abuse Control,[87] the Global Programme of Action and other relevant consensus documents.

(*e*) Refugees

(1) *Office of the United Nations High Commissioner for Refugees*[88]

During the reporting period, the global refugee situation again deteriorated as demonstrated by the increase of the world's refugee population to approximately 19 million.[89] In the post-cold war era, resurgent nationalism coupled with the serious economic and social consequences of the collapse of the old world order have led to a multiplication of conflicts, which in turn has given rise to the large number of refugees. For its part, UNHCR continued to implement the High Commissioner's three-pronged strategy of prevention, preparedness and solutions. While responding to refugee situations in countries of asylum, the Office also started focusing activities in countries of origin, seeking to prevent and contain refugee movements. UNHCR began to provide assistance not only to refugees, returnees and displaced persons—addressing the needs of entire communities rather than focusing on individuals—but also, in the case of the former Yugoslavia, to people under a direct threat of expulsion or threatened by the form of persecution known as ethnic cleansing. In terms of preparedness, the Office continued to strengthen its emerging preparedness and response capacity, recognizing that the capacity to deliver was a necessary prerequisite for improved system-wide coordination to address complex humanitarian emergencies. As to solutions, during the same period, UNHCR helped 2.4 million refugees to return home voluntarily—including over 1.2 million to Afghanistan, some 360,000 to Cambodia and tens of thousands to Ethiopia.

Providing international protection to refugees and seeking durable solutions to refugee problems comprises the basic functions of UNHCR. The right to seek asylum and the corresponding principle of *non-refoulement* are the cornerstone of the Office's efforts to ensure that persons in need of international protection receive it. During the period under review, the disturbing trend of intolerance and violence against foreigners, including asylum-seekers and refugees, by segments of the population in a number of countries, continued to be observed, despite preventive and deterrent measures taken by the authorities to improve their security and prosecute the perpetrators of violent acts. UNHCR supported and participated in increased efforts being made by governmental organizations as well as NGOs to combat negative attitudes against asylum-seekers and refugees.

During 1993, Armenia, Azerbaijan, the Bahamas, Bosnia and Herzegovina, Bulgaria, the Czech Republic, the Russian Federation, Slovakia and Tajikistan acceded or succeeded to the 1951 Convention relating to the Status of Refugees[90] and its 1967 Protocol.[91] Saint Vincent and the Grenadines acceded to the Convention only, bringing the number of States parties to one or both instruments to 121.

UNHCR's promotional activities sought to strengthen knowledge and understanding of refugee issues and were also aimed at promoting the effective implementation of international standards in national legislation administrative procedures. In order to meet an increasing demand for refugee law and protection training activities throughout the world, UNHCR organized over 100 refugee law and protection courses for government officials and others and intensified efforts in training, legal advice and institution-building in countries with potential refugee problems, particularly in Eastern Europe and the newly independent States of the Commonwealth of Independent States and the Baltic States.

At the forty-fourth session of the Executive Committee of the Programme of the High Commissioner for Refugees, held at Geneva from 4 to 8 October 1993,[92] the Committee reaffirmed the importance of the 1951 Convention and 1967 Protocol relating to the Status of Refugees as the centre of the international legal framework for the protection of refugees and called upon States to uphold asylum as an indispensable instrument for the international protection of refugees and to respect scrupulously the fundamental principle of *non-refoulement*. The Committee recognized that in certain regions the arrival and presence of large numbers of applicants for asylum and refugee status who had no valid claim to international protection created serious problems both for refugees and for the States concerned by adversely affecting the institution of asylum, jeopardizing the effectiveness of national procedures for the determination of refugee status and preventing the prompt and effective protection of refugees. Furthermore, the Committee requested the High Commissioner, in pursuance of the need for the international community to explore methods and means to address better within the United Nations system the protection and assistance needs of internally displaced persons, to promote further consultations on this priority issue with the United Nations Department of Humanitarian Affairs and the Special Representative of the Secretary-General on Internally Displaced Persons and with other appropriate international organizations and bodies, including the International Committee of the Red Cross, and to report on the results of those discussions to the Subcommittee of the Whole on

International Protection and, as appropriate, the Subcommittee on Administrative and Financial Matters. The Committee also requested the High Commissioner, given the diversity and persistent character of certain obstacles hampering the protection of refugee women and refugee children, in consultation with the Chairman of the Executive Committee, to convene an informal working group of the Committee to examine those obstacles, as well as to review options and propose concrete measures to overcome them. The Committee noted the report of the Secretary-General entitled "In-depth evaluation of the Programme on International protection of and Assistance to Refugees: Office of the United Nations High Commissioner for Refugees"[93] and the report of the Committee for Programme and Coordination thereon,[94] and in that connection requested the High Commissioner to keep the Subcommittee of the Whole on International Protection informed of the progress and constraints in the implementation of the protection-related recommendations.

At its forty-eighth session, the General Assembly, by its resolution 48/116 of 20 December 1993,[95] adopted on the recommendation of the Third Committee,[96] strongly reaffirmed the fundamental importance of the function of the United Nations High Commissioner for Refugees of providing international protection to refugees and the need for States to cooperate fully with her Office in order to facilitate the effective exercise of that function; called upon all States that had not yet done so, including Governments of newly independent States, to accede to or to declare succession to and to implement fully the 1951 Convention and the 1967 Protocol relating to the Status of Refugees and relevant regional instruments for the protection of refugees; also called upon all States to uphold asylum as an indispensable instrument for the international protection of refugees and to respect scrupulously the fundamental principle of *non-refoulement*; and urged all States and relevant organizations to support the High Commissioner's search for durable solutions to refugee problems, including voluntary repatriation, integration in the country of asylum and resettlement in a third country, as appropriate, and welcomed in particular the ongoing efforts of her Office to pursue wherever possible opportunities to promote conditions conducive to the preferred solution of voluntary repatriation. Furthermore, the General Assembly, by the same resolution, encouraged the High Commissioner, on the basis of her broad humanitarian experience and expertise, to continue to explore and to undertake protection and assistance activities aimed at preventing conditions that gave rise to refugee outflows, bearing in mind fundamental protection principles, in close coordination with the Governments concerned, and within an inter-agency, intergovernmental and non-governmental framework, as appropriate; reaffirmed the importance of promoting and disseminating refugee law and principles for the protection of refugees as well as facilitating the prevention of and solutions to refugee problems, and encouraged the High Commissioner to continue to strengthen the promotion and training activities of her Office, *inter alia*, through increased cooperation with bodies and organizations concerned with human rights and humanitarian law; and noted the relationship between safeguarding human rights and preventing refugee problems, and reiterated its support for the High Commissioner's efforts to increase cooperation between her Office and the Commission on Human Rights, the Centre for Human Rights of the Secretariat and other relevant international bodies and organizations.

By its resolution 48/115 of 20 December 1993,[97] adopted on the recommendation of the Third Committee,[98] the General Assembly decided to increase the number of members of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees from forty-six to forty-seven States, and requested the Economic and Social Council to elect an additional member at its resumed organizational session in 1994.

(2) *Convening of a United Nations conference for the comprehensive consideration and review of the problems or refugees, returnees, displaced persons and migrants*

By its resolution 48/113 of 20 December 1993,[99] adopted on the recommendation of the Third Committee,[100] the General Assembly took note of the proposal to convene a United Nations conference for the comprehensive consideration and review of the problems of refugees, returnees, displaced persons and migrants, and invited all Member States, the specialized agencies, other international organizations, concerned United Nations bodies, regional organizations and non-governmental organizations concerned to undertake reviews and submit recommendations to the Secretary-General with regard to the appropriateness of convening such a conference, taking into consideration, *inter alia*, the deliberations of the International Conference on Population and Development, to be held at Cairo in September 1994, as well as the work of the representative of the Secretary-General.

(*f*) Human rights questions

(1) *Status and implementation of international instruments*

(i) *International Convenants on Human Rights*[101]

In 1993, ten more States became parties to the International Covenant on Economic, Social and Cultural Rights;[102] 11 more States became parties to the International Covenant on Civil and Political Rights;[103] eight more States became parties to the Optional Protocol to the International Covenant on Civil and Political Rights;[104] and seven more States became parties to the Second Optional Protocol to the International Covenant on Civil and Political Rights, Aiming at the Abolition of the Death Penalty.[105]

By its resolution 48/119 of 20 December 1993,[106] adopted on the recommendation of the Third Committee,[107] the General Assembly took note with appreciation of the annual reports of the Human Rights Committee submitted to the General Assembly at its forty-seventh[108] and forty-eighth[109] sessions; once again urged all States that had not yet done so to become parties to the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights and to consider acceding to the Optional Protocols to the International Covenant on Civil and Political Rights; invited the States parties to the International Covenant on Civil and Political Rights to consider making the declaration provided for in article 41 of the Covenant; stressed the importance of avoiding the erosion of human rights by derogation, and underlined the necessity of strict observance of the agreed conditions and procedures for derogation under article 4 of the International Covenant on Civil and Political Rights, bearing in mind the need for States parties

to provide the fullest possible information during states of emergency, so that the justification for and appropriateness of measures taken in these circumstances could be assessed; encouraged States to consider limiting the extent of any reservations they lodged to the International Covenants on Human Rights, to formulate any reservations as precisely and narrowly as possible and to ensure that no reservation is incompatible with the object and purpose of the relevant treaty or was otherwise contrary to international law; and further encouraged all Governments to publish the texts of the Covenants and the Optional Protocols to the International Covenant on Civil and Political Rights in as many local languages as possible and to distribute them and make them known as widely as possible in their territories.

(ii) *International Convention on the Suppression and Punishment of the Crime of Apartheid*[110]

In 1993, four more States became parties to the International Convention on the Suppression and Punishment of the Crime of Apartheid.

By its resolution 48/89 of 20 December 1993,[111] adopted on the recommendation of the Third Committee,[112] the General Assembly underlined the importance of the universal ratification of the Convention, which would be an effective contribution to the fulfilment of the ideals of the Universal Declaration of Human Rights[113] and other human rights instruments; appealed once again to those States which had not yet done so to ratify or to accede to the Convention without further delay; and requested the Secretary-General to intensify his efforts, through appropriate channels, to disseminate information on the Convention and its implementation with a view to promoting further ratification of or accession to the Convention.

(iii) *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*[114]

In 1993, two States became parties to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

By its resolution 48/148 of 20 December 1993,[115] adopted on the recommendation of the Third Committee,[116] the General Assembly called upon all Member States to consider signing and ratifying or acceding to the Convention as a matter of priority, and expressed the hope that it would enter into force at an early date, and requested the Secretary-General to provide all facilities and assistance necessary for the promotion of the Convention, through the World Public Information Campaign on Human Rights and the programme of advisory services in the field of human rights.

(iv) *Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights*

By its resolution 48/120 of 20 December 1993,[117] adopted on the recommendation of the Third Committee,[118] the General Assembly requested the

Secretary-General to give high priority to establishing a computerized database to improve the efficiency and effectiveness of the functioning of the human rights treaty bodies; again urged States parties to make every effort to meet their reporting obligations and to contribute, individually and through meetings of States parties, to identifying and implementing ways of further streamlining and improving reporting procedures as well as enhancing coordination and information flow between the treaty bodies and with relevant United Nations bodies, including specialized agencies; welcomed the emphasis placed by the meeting of persons chairing the treaty bodies[119] and by the Commission on Human Rights on the importance of technical assistance and advisory services; and endorsed the recommendations of the meetings of persons chairing the human rights treaty bodies on the need to ensure financing and adequate staffing resources for the operations of the treaty bodies.

(2) *World Conference on Human Rights*[120]

By its resolution 48/121 of 20 December 1993,[121] adopted on the recommendation of the Third Committee,[122] the General Assembly took note of the report of the World Conference on Human Rights;[123] endorsed the Vienna Declaration and Programme of Action,[124] adopted by the Conference on 25 June 1993; confirmed the views of the Conference on the urgency of eliminating denials and violations of human rights; requested the Secretary-General to ensure the distribution of the Vienna Declaration and Programme of Action as widely as possible and to include the text of the Declaration in the next edition of *Human Rights: A Compilation of International Instruments*; and urged all States to give widespread publicity to the Vienna Declaration and Programme of Action and the work of the Conference in order to promote increased awareness of human rights and fundamental freedoms.

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

By its resolution 48/93 of 20 December 1993,[125] adopted on the recommendation of the Third Committee,[126] the General Assembly reaffirmed that the universal realization of the right of all peoples, including those under colonial, foreign and alien domination, to self-determination was a fundamental condition for the effective guarantee and observance of human rights and for the preservation and promotion of such rights, declared its firm opposition to acts of foreign military intervention, aggression and occupation, since they had resulted in the suppression of the right of peoples to self-determination and other human rights in certain parts of the world; and requested the Commission on Human Rights to continue to give special attention to the violation of human rights, especially the right to self-determination, resulting from foreign military intervention, aggression or occupation.

(4) *Importance of the universal realization of the right of peoples to self-determination and of the speedy granting of independence to colonial countries and peoples for the effective guarantee and observance of human rights*

The General Assembly, by its resolution 48/94 of 20 December 1993,[127] adopted on the recommendation of the Third Committee,[128] called upon all States

to implement fully and faithfully all the relevant resolutions of the United Nations regarding the exercise of the right to self-determination and independence by peoples under colonial and foreign domination; urged all States, the specialized agencies and organizations of the United Nations system, as well as other international organizations, to extend their support to the Palestinian people through its sole and legitimate representative, the Palestine Liberation Organization, in its struggle to regain its right to self-determination and independence in accordance with the Charter of the United Nations; strongly urged the Government of South Africa to take additional steps to implement fully the provisions of the statement on developments in South Africa adopted on 29 September 1993 by the Ad Hoc Committee of the Organization of African Unity on Southern Africa,[129] in order to achieve the objectives of the Declaration on Apartheid and its Destructive Consequences in Southern Africa;[130] appealed to the international community, pursuant to General Assembly resolution 47/82 of 16 December 1992, to continue to extend assistance to Lesotho to enable it to fulfil its international humanitarian obligations towards refugees; paid tribute to the Government and people of Angola for their noble contribution to the evolving climate of peace in southern Angola, and addressed its strongest appeal to the National Union for the Total Independence of Angloa (UNITA) to undertake to commit itself to the peace process that would lead to a comprehensive settlement in Angola on the basis of the Peace Accords;[131] called upon the international community to continue to extend its generous support to the ongoing efforts aimed at ensuring respect for and the successful implementation of the General Peace Agreement for Mozambique and at assisting the Government of Mozambique in the establishment of lasting peace and democracy and in the promotion of an effective programme of national reconstruction in that country; fully supported the Secretary-General in his efforts to implement the plan for the settlement of the question of Western Sahara by organizing, in cooperation with the Organization of African Unity, a referendum for the self-determination of people of Western Sahara; and noted the contacts between the Government of the Comoros and the Government of France in the search for a just solution to the problem of the integration of the Comorian island of Mayotte into the Comoros, in accordance with the resolution of the Organization of African Unity and the United Nations on the question.

(5) *Effective realization of the right of self-determination through autonomy*

The General Assembly, by its decision of 48/427 of 20 December 1993,[132] adopted on the recommendation of the Third Committee,[133] having noted with interest the debate on the question, decided to defer consideration of the question to one of its future sessions.

(6) *Use of mercenaries as a means to violate human rights and to impede the exercise of the right of peoples to self-determination*

The General Assembly, by its resolution 48/92 of 20 December 1993,[134] adopted on the recommendation of the Third Committee,[135] took note with appreciation of the report of the Special Rapporteur of the Commission on Human Rights;[136] reaffirmed that the use of mercenaries and their recruitment, financing and training were offences of grave concern to all States and violated the purposes and principles enshrined in the Charter of the United Nations; urged

all States to take the necessary steps and to exercise the utmost vigilance against the menace posed by the activities of mercenaries and to ensure, by both administrative and legislative measures, that their territory and other territories under their control, as well as their nationals, were not used for the recruitment, assembly, financing, training and transit of mercenaries or for the planning of activities designed to destabilize or overthrow the Government of any State and to fight the national liberation movements struggling against racism, apartheid, colonial domination and foreign intervention or occupation; and called upon all States that had not yet done so to consider taking early action to sign or to ratify the International Convention against the Recruitment, Use, Financing and Training of Mercenaries.[137]

(7) *Respect for the principles of national sovereignty and non-interference in the internal affairs of States in their electoral processes*

The General Assembly, by its resolution 48/124 of 20 December 1993,[138] adopted on the recommendation of the Third Committee,[139] reiterated that, by virtue of the principle of equal rights and self-determination of peoples enshrined in the Charter of the United Nations, all peoples had the right, freely and without external interference, to determine their political status and to pursue their economic, social and cultural development, and that every State had the duty to respect that right in accordance with the provisions of the Charter; urged all States to respect the principle of non-interference in the internal affairs of States and the sovereign right of peoples to determine their political, economic and social systems; and strongly appealed to all States to refrain from financing or providing, directly or indirectly, any other form of overt or covert support for political parties or groups and from taking actions to undermine the electoral processes in any country.

(8) *Right to development*

By its resolution 48/130 of 20 December 1993,[140] adopted on the recommendation of the Third Committee,[141] the General Assembly, noting that the World Conference on Human Rights had examined the relationship between development and the enjoyment by everyone of economic, social and cultural rights as well as civil and political rights, recognizing the importance of creating the conditions whereby everyone might enjoy those rights as set out in the International Covenants on Human Rights, requested the Secretary-General to submit to the Commission on Human Rights at its fiftieth session concrete proposals on the effective implementation and promotion of the Declaration on the Right to Development,[142] taking into account the views expressed on the issue at the forty-ninth session of the Commission as well as any further comments and recommendations that might be submitted pursuant to paragraph 10 of Commission resolution 1993/22 of 4 March 1993, and noted with appreciation the convening of the first meeting of the Working Group on the Right to Development from 8 to 19 November 1993 at Geneva.

(9) *Human rights and scientific and technological progress*

By its resolution 48/140 of 20 December 1993,[143] adopted on the recommendation of the Third Committee,[144] the General Assembly, noting that cer-

tain advances, notably in the biomedical and life sciences as well as in information technology, might have potentially adverse consequences for the integrity, dignity and human rights of the individual, and that illicit dumping of toxic and dangerous substances and waste potentially constituted a serious threat to the human rights, the life and health of everyone, called upon all Member States to ensure that the achievements of scientific and technological progress and the intellectual potential of mankind were used for promoting and encouraging universal respect for human rights and fundamental freedoms; once again called upon Member States to take the necessary measures to ensure that the results of science and technology were used only for the benefit of the human being and did not lead to the disturbance of the ecological environment, that is, *inter alia*, measures against the illicit dumping of toxic and dangerous products and waste; and emphasized the fact that many advances in scientific knowledge and technology in health, education, housing and other social spheres should be readily available to the populations as the heritage of humanity, with a view to sustainable development, taking into account the need to protect intellectual property rights.

(10) *Human rights and mass exoduses*

By its resolution 48/139 of 20 December 1993,[145] adopted on the recommendation of the Third Committee,[146] the General Assembly once again invited all Governments and intergovernmental and humanitarian organizations concerned to intensify their cooperation with and assistance to worldwide efforts to address the serious problems resulting from mass exoduses of refugees and displaced persons, and also the causes of such exoduses; requested all Governments to ensure the effective implementation of the relevant international instruments, in particular in the field of human rights and humanitarian law, as that would contribute to averting new massive flows of refugees and displaced persons; requested all United Nations bodies, including the United Nations human rights treaty bodies, the specialized agencies and governmental, intergovernmental and non-governmental organizations, to cooperate fully with all mechanisms of the Commission on Human Rights and, in particular, to provide them with all relevant and accurate information in their possession on the human rights situations creating or affecting refugees and displaced persons within their mandates; welcomed the recommendation in Commission on Human rights resolution 1993/70 of 10 March 1993 that special rapporteurs, special representatives and working groups studying situations of violation of human rights pay attention to problems resulting in mass exoduses of populations and, where appropriate, report and make relevant recommendations to the Commission; noted that the Executive Committee of the Programme of the United Nations High Commissioner for Refugees had specifically acknowledged the direct relationship between the observance of human rights standards, refugee movements, problems of protection and solutions; and welcomed the contributions of the United Nations High Commissioner for Refugees to the deliberations of international human rights bodies, and encouraged her to seek ways to make those contributions even more effective.

(11) *Human rights and terrorism*

By its resolution 48/122 of 20 December 1993,[147] adopted on the recommendation of the Third Committee,[148] the General Assembly unequivocally

condemned all acts, methods and practices of terrorism in all its forms and manifestations, wherever and by whomever committed, as activities aimed at the destruction of human rights, fundamental freedoms and democracy, threatening the territorial integrity and security of States, destabilizing legitimately constituted Governments, undermining pluralistic civil society and having adverse consequences on the economic and social development of States, and called upon States, in accordance with international standards of human rights, to take all necessary and effective measures to prevent, combat and eliminate terrorism.

(12) *Protection of children affected by armed conflicts*

The General Assembly, by its resolution 48/157 of 20 December 1993,[149] adopted on the recommendation of the Third Committee,[150] expressed grave concern about the tragic situation of children in many parts of the world as a result of armed conflicts; called upon States fully to respect the provisions of the Geneva Conventions of 12 August 1949[151] and the Additional Protocols thereto, of 1977,[152] as well as those of the Convention on the Rights of the Child,[153] which accorded children affected by armed conflicts special protection and treatment; and urged all Member States to continue seeking comprehensive improvement of the situation of children affected by armed conflicts with appropriate and concrete measures.

(13) *Need to adopt efficient international measures for the prevention of the sale of children, child prostitution and child pornography*

By its resolution 48/156 of 20 December 1993,[154] adopted on the recommendation of the Third Committee,[155] the General Assembly expressed great concern at the growing number of incidents worldwide related to the sale of children, child prostitution and child pornography; urged Governments to continue searching for solutions as well as ways and means of enhancing international cooperation to eradicate such aberrant practices; expressed its support for the work of the Special Rapporteur appointed by the Commission on Human Rights to examine all over the world the question of the sale of children, child prostitution and child pornography, and urged him to continue his efforts in the discharge of his mandate; and invited the Special Rapporteur, within the framework of his mandate, to continue giving attention to the economic, social, legal and cultural factors affecting those phenomena. Furthermore, the General Assembly, by the same resolution, called upon those States which had not done so to become parties to the Convention on the Rights of the Child, and called upon the States parties to the Convention to implement national measures aimed at fulfilling the provisions of the Convention.

(14) *Elimination of all forms of religious intolerance*

By its resolution 48/128 of 20 December 1993,[156] adopted on the recommendation of the Third Committee,[157] the General Assembly reaffirmed that freedom of thought, conscience, religion and belief was a human right derived from the inherent dignity of the human person and guaranteed to all without discrimination; urged States to ensure that their constitutional and legal systems provided full guarantees of freedom of thought, conscience, religion and be-

lief, including the provision of effective remedies where there was intolerance or discrimination based on religion or belief; recognized that legislation alone was not enough to prevent violations of human rights, including the right to freedom of religion or belief; and urged all States therefore to take all appropriate measures to combat hatred, intolerance and acts of violence, including those motivated by religious extremism, and to encourage understanding, tolerance and respect in matters relating to freedom of religion or belief. Furthermore, the General Assembly, by the same resolution, called upon all States to recognize, as provided in the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief,[158] the right of all persons to worship or assemble in connection with a religion or belief, and to establish and maintain places for those purposes; considered it desirable to enhance the promotional and public information activities of the United Nations in matters relating to freedom of religion or belief and to ensure that appropriate measures were taken to that end in the World Public Information Campaign for Human Rights; and encouraged the continuing efforts on the part of the Special Rapporteur appointed to examine incidents and governmental actions in all parts of the world that were incompatible with the provisions of the Declaration and to recommend remedial measures as appropriate.

(15) *Declaration on the Elimination of Violence against Women*

By its resolution 48/104 of 20 December 1993,[159] adopted on the recommendation of the Third Committee,[160] the General Assembly, recognizing the urgent need for the universal application to women of the rights and principles with regard to equality, security, liberty, integrity and dignity of all human beings, noting that those rights and principles were enshrined in international instruments, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women[161] and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,[162] and alarmed that opportunities for women to achieve legal, social, political and economic equality in society were limited, *inter alia*, by continuing and endemic violence, solemnly proclaimed the following Declaration on the Elimination of Violence against Women and urged that every effort be made so that it might become generally known and respected:

Declaration on the Elimination of Violence against Women

Article 1

For the purposes of this Declaration, the term "violence against women" means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.

Article 2

Violence against women shall be understood to encompass, but not be limited to, the following:

(*a*) Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation;

(*b*) Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;

(*c*) Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.

Article 3

Women are entitled to the equal enjoyment and protection of all human rights and fundamental freedoms in the political, social, cultural, civil or any other field. These rights include, *inter alia*:

(*a*) The right to life;[163]

(*b*) The right to equality;[164]

(*c*) The right to liberty and security of person;[165]

(*d*) The right to equal protection under the law;[164]

(*e*) The right to be free from all forms of discrimination;[158]

(*f*) The right to the highest standard attainable of physical and mental health;[166]

(*g*) The right to just and favourable conditions of work;[167]

(*h*) The right not to be subjected to torture, or other cruel, inhuman or degrading treatment or punishment.[168]

Article 4

States should condemn violence against women and should not invoke any custom, tradition or religious consideration to avoid their obligations with respect to its elimination. States should pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end, should:

(*a*) Consider, where they have not yet done so, ratifying or acceding to the Convention on the Elimination of All Forms of Discrimination against Women or withdrawing reservations to that Convention;

(*b*) Refrain from engaging in violence against women;

(*c*) Exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons;

(*d*) Develop penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subjected to violence; women who are subjected to violence should be provided with access to the mechanisms of justice and, as provided for by national legislation, to just and effective remedies for the harm that they have suffered; States should also inform women of their rights in seeking redress through such mechanisms;

(*e*) Consider the possibility of developing national plans of action to promote the protection of women against any form of violence, or to include provisions for that purpose in plans already existing, taking into account, as appropriate, such cooperation as can be provided by non-governmental organizations, particularly those concerned with the issue of violence against women;

(*f*) Develop, in a comprehensive way, preventive approaches and all those measures of a legal, political, administrative and cultural nature that promote the protection of women against any form of violence, and ensure that the re-victimization of women

does not occur because of laws insensitive to gender considerations, enforcement practices or other interventions;

(*g*) Work to ensure, to the maximum extent feasible in the light of their available resources and, where needed, within the framework of international cooperation, that women subjected to violence and, where appropriate, their children have specialized assistance, such as rehabilitation, assistance in child care and maintenance, treatment, counselling, and health and social services, facilities and programmes, as well as support structures, and should take all other appropriate measures to promote their safety and physical and psychological rehabilitation;

(*h*) Include in government budgets adequate resources for their activities related to the elimination of violence against women;

(*i*) Take measures to ensure that law enforcement officers and public officials responsible for implementing policies to prevent, investigate and punish violence against women receive training to sensitize them to the needs of women;

(*j*) Adopt all appropriate measures, especially in the field of education, to modify the social and cultural patterns of conduct of men and women and to eliminate prejudices, customary practices and all other practices based on the idea of the inferiority or superiority of either of the sexes and on stereotyped roles for men and women;

(*k*) Promote research, collect data and compile statistics, especially concerning domestic violence, relating to the prevalence of different forms of violence against women and encourage research on the causes, nature, seriousness and consequences of violence against women and on the effectiveness of measures implemented to prevent and redress violence against women; those statistics and findings of the research will be made public;

(*l*) Adopt measures directed towards the elimination of violence against women who are especially vulnerable to violence;

(*m*) Include, in submitting reports as required under relevant human rights instruments of the United Nations, information pertaining to violence against women and measures taken to implement the present Declaration;

(*n*) Encourage the development of appropriate guidelines to assist in the implementation of the principles set forth in the present Declaration;

(*o*) Recognize the important role of the women's movement and non-governmental organizations worldwide in raising awareness and alleviating the problem of violence against women;

(*p*) Facilitate and enhance the work of the women's movement and non-governmental organizations and cooperate with them at local, national and regional levels;

(*q*) Encourage intergovernmental regional organizations of which they are members to include the elimination of violence against women in their programmes, as appropriate.

Article 5

The organs and specialized agencies of the United Nations system should, within their respective fields of competence, contribute to the recognition and realization of the rights and the principles set forth in the present Declaration and, to this end, should, *inter alia*:

(*a*) Foster international and regional cooperation with a view to defining regional strategies for combating violence, exchanging experiences and financing programmes relating to the elimination of violence against women;

(*b*) Promote meetings and seminars with the aim of creating and raising awareness among all persons of the issue of the elimination of violence against women;

(*c*) Foster coordination and exchange within the United Nations system between human rights treaty bodies to address the issue of violence against women effectively;

(*d*) Include in analyses prepared by organizations and bodies of the United Nations system of social trends and problems, such as the periodic reports on the world social situation, examination of trends in violence against women;

(*e*) Encourage coordination between organizations and bodies of the United Nations system to incorporate the issue of violence against women into ongoing programmes, especially with reference to groups of women particularly vulnerable to violence;

(*f*) Promote the formulation of guidelines or manuals relating to violence against women, taking into account the measures referred to in the present Declaration;

(*g*) Consider the issue of the elimination of violence against women, as appropriate, in fulfilling their mandates with respect to the implementation of human rights instruments;

(*h*) Cooperate with non-governmental organizations in addressing the issue of violence against women.

Article 6

Nothing in the present Declaration shall affect any provision that is more conducive to the elimination of violence against women that may be contained in the legislation of a State or in any international convention, treaty or other instrument in force in a State.

(16) *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*[169]

By its resolution 48/138 of 20 December 1993,[170] adopted on the recommendation of the Third Committee,[171] the General Assembly took note on the report of the Secretary-General on the effective promotion of the Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities;[172] urged States and the international community to promote and protect the rights of persons belonging to national or ethnic, religious and linguistic minorities, as set out in the Declaration, including through the facilitation of their full participation in all aspects of the political, economic, social, religious and cultural life of society and in the economic progress and development of their country; called upon the Commission on Human Rights to examine ways and means to promote and protect effectively the rights of persons belonging to minorities, as set out in the Declaration; and appealed to States to take all the necessary legislative and other measures to promote and give effect, as appropriate, to the principles of the Declaration.

(17) *Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples*[173]

By its resolution 48/52 of 10 December 1993,[174] adopted without reference to a Main Committee, the General Assembly reaffirmed its resolution 1514 (XV) and all other resolutions on decolonization, including its resolution 43/47 of 22 November 1988, in which it had declared the decade that began in 1990 as the International Decade for the Eradication of Colonialism, and called upon the administering Powers, in accordance with those resolutions, to take all necessary steps to enable the peoples of the Territories concerned to exercise fully as soon as possible their right to self-determination and independence; approved the report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to

Colonial Countries and Peoples covering its work during 1993, including the programme of work envisaged for 1994;[175] and requested the Special Committee to continue to seek suitable means for the immediate and full implementation of the Declaration and to carry out those actions approved by the General Assembly regarding the International Decade that had not yet exercised their right to self-determination and independence.

(18) *International Decade of the World's Indigenous People*

By its resolution 48/163 of 21 December 1993,[176] adopted on the recommendation of the Third Committee,[177] the General Assembly proclaimed the International Decade of the World's Indigenous People, commencing on 10 December 1994, the period from 1 January to 9 December 1994 to be set aside for planning for the Decade in partnership with indigenous people; decided that the goal of the Decade should be the strengthening of international cooperation for the solution of problems faced by indigenous people in such areas as human rights, the environment, development, education and health; also decided that, beginning in the first year of the Decade, one day of every year should be observed as the International Day of Indigenous People; and requested the Commission on Human Rights to ask the Working Group on Indigenous Populations of the Subcommittee on Prevention of Discrimination and Protection of Minorities to identify possible programmes and projects in connection with the Decade and to submit them through the Subcommission to the Commission for its consideration.

(19) *Third Decade to Combat Racism and Racial Discrimination*

By its resolution 48/91 of 20 December 1993,[178] adopted on the recommendation of the Third Committee,[179] the General Assembly declared once again that all forms of racism and racial discrimination, whether in their institutionalized form, such as apartheid, or resulting from official doctrines of racial superiority and/or exclusivity, such as ethnic cleansing, were among the most serious violations of human rights in the contemporary world and must be combated by all available means; and decided to proclaim the ten-year period beginning in 1993 as the Third Decade to Combat Racism and Racial Discrimination, and to adopt the Programme of Action proposed for the Third Decade contained in the annex to the resolution:

ANNEX

Programme of Action for the Third Decade to Combat Racism and Racial Discrimination (1993-2003)

INTRODUCTION

1. The goals and objectives of the Third Decade to Combat Racism and Racial Discrimination are those adopted by the General Assembly for the first Decade and contained in paragraph 8 of the annex to its resolution 3057 (XXVIII) of 2 November 1973:

> "The ultimate goals of the Decade are to promote human rights and fundamental freedoms for all, without distinction of any kind on grounds of race, colour, descent or national or ethnic origin, especially by eradicating racial prejudice, racism and

racial discrimination; to arrest any expansion of racist policies, to eliminate the persistence of racist policies and to counteract the emergence of alliances based on mutual espousal of racism and racial discrimination; to resist any policy and practices which lead to the strengthening of the racist regimes and contribute to the sustainment of racism and racial discrimination; to identify, isolate and dispel the fallacious and mythical beliefs, policies and practices that contribute to racism and racial discrimination; and to put an end to racist regimes."

2. In drawing up suggested elements for the Programme of Action for the Third Decade, account has been taken of the fact that current global economic conditions have caused many Member States to call for budgetary restraint, which in turn requires a conservative approach to the number and type of programmes of action that may be considered at this time. The Secretary-General also took into account the relevant suggestions made by the Committee on the Elimination of Racial Discrimination at its forty-first session. The elements presented below have been suggested as those which are essential, should resources be made available to implement them.

Measures to ensure a peaceful transition from apartheid to a democratic, non-racial regime in South Africa

3. Recently, there have been signs of change in South Africa, notably the abolition of such legal pillars of apartheid as the Group Areas Act, the Land Areas Act and the Population Registration Act. Although there is reason to be hopeful that South Africa is moving into the mainstream of the international community, the transition period may prove to be difficult and dangerous. Fierce political competition between political parties and ethnic groups has in fact already lead to bloodshed.

4. The General Assembly and the Security Council should therefore continue to exercise constant vigilance with regard to South Africa until a democratic regime is installed in that country. These two bodies might, moreover, consider initiating a mechanism to advise and assist the parties concerned in order to bring apartheid to an end, not only in law but also in fact. References should be made to Security Council resolution 765 (1992) of 16 July 1992 urging the South African authorities to bring an effective end to the violence and bring those responsible to justice.

5. The General Assembly will continue to examine the relevant work undertaken by the established United Nations bodies in the fight against apartheid, that is, the Special Committee against Apartheid, the Group of Three and the Ad Hoc Working Group of Experts on Southern Africa.

Measures to remedy the legacy of cultural, economic and social disparities left by apartheid

6. Action will be needed to rectify the consequences of apartheid in South Africa, since the policy of apartheid has entailed the use of State power to increase inequalities between racial groups. The knowledge and experience of human rights bodies dealing with racial discrimination could be most useful in promoting equality. Assistance to the victims of the political antagonisms resulting from the process of dismantling apartheid must also be given the greatest attention, and international solidarity on their behalf should be intensified.

7. The Centre for Human Rights should offer technical assistance in the field of human rights to South Africa during and after the transition period. A cycle of seminars intended to encourage the advent of an egalitarian society should be envisaged, in cooperation with the concerned specialized agencies and units of the United Nations Secretariat, which could include the following:

(*a*) Seminar on measures to be taken on behalf of the disadvantaged groups in South African society in the cultural, economic and social fields ("positive discrimination");

(*b*) Seminar on the effects of racial discrimination on the health of members of disadvantaged groups;

(*c*) Training courses in human rights for the South African police force, military and judiciary.

8. In addition, in cooperation with the democratically elected Government of South Africa, the United Nations Educational, Scientific and Cultural Organization might undertake a project for the total revision of the South African educational system in order to eliminate all methods and references of a racist character.

ACTION AT THE INTERNATIONAL LEVEL

9. During the discussion at the substantive session of 1992 of the Economic and Social Council concerning the Second Decade to Combat Racism and Racial Discrimination, many delegations expressed their concern with regard to new expressions of racism, racial discrimination, intolerance and xenophobia in various parts of the world. In particular, these affect minorities, ethnic groups, migrant workers, indigenous populations, nomads, immigrants and refugees.

10. The biggest contribution to the elimination of racial discrimination will be that which results from the actions of States within their own territories. International action undertaken as part of any programme for the Third Decade should therefore be directed so as to assist States to act effectively. The International Convention on the Elimination of All Forms of Racial Discrimination[5] has established standards for States, and every opportunity should be seized to ensure that these are universally accepted and applied.

11. The General Assembly should consider more effective action to ensure that all States parties to the International Convention on the Elimination of All Forms of Racial Discrimination fulfil their reporting and financial obligations. National action against racism and racial discrimination should be monitored and improved by requesting an expert member of the Committee on the Elimination of Racial Discrimination to prepare a report on obstacles encountered with respect to the effective implementation of the Convention by States parties and suggestions for remedial measures.

12. The General Assembly requests the Secretary-General to organize regional workshops and seminars. A team from the Committee should be invited to monitor these meetings. The following themes are suggested for the seminars:

(*a*) Seminar to assess the experience gained in the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination. The seminar would also assess the efficiency of national legislation and recourse procedures available to victims of racism;

(*b*) Seminar on the eradication of incitement to racial hatred and discrimination, including the prohibition of propaganda activities and of organizations involved in them;

(*c*) Seminar on the right to equal treatment before tribunals and other judicial institutions, including the provision of reparation for damages suffered as a result of discrimination;

(*d*) Seminar on the transmission of racial inequality from one generation to another, with special reference to the children of migrant workers and the appearance of new forms of segregation;

(*e*) Seminar on immigration and racism;

(*f*) Seminar on international cooperation in the elimination of racial discrimination, including cooperation between States, the contribution of non-governmental organizations, national and regional institutions, United Nations bodies and petitions to treaty-monitoring bodies;

(*g*) Seminar on the enactment of national legislation to combat racism and racial discrimination affecting ethnic groups, migrant workers and refugees (in Europe and North America);

(*h*) Seminar on flows of refugees resulting from ethnic conflicts or political restructuring of multi-ethnic societies in socio-economic transition (Eastern Europe, Africa and Asia) and their link with racism in the host country;

(*i*) Training course on national legislation prohibiting racial discrimination for nationals from countries with and without such legislation;

(*j*) Regional seminars on nationalism, ethno-nationalism and human rights could also provide an opportunity for broadening knowledge of the causes of today's ethnic conflicts and particularly of the so-called policy of "ethnic cleansing", in order to provide solutions.

13. The General Assembly requests the Department of Public Information of the Secretariat to undertake specific activities that could be carried out by Governments and relevant national non-governmental organizations to commemorate the International Day for the Elimination of Racial Discrimination on 21 March each year. Support should be sought from artists, as well as religious leaders, trade unions, enterprises and political parties, to sensitize the population on the evils of racism and racial discrimination.

14. The Department of Public Information should also publish its posters for the Third Decade and informative brochures on the activities planned for the Decade. Documentary films and reports, as well as radio broadcasts on the damaging effects of racism and racial discrimination, should, moreover, be considered.

15. In cooperation with the United Nations Educational, Scientific and Cultural Organization and the Department of Public Information, the General Assembly supports the organization of a seminar on the role of mass media in combating or disseminating racist ideas.

16. In cooperation with the International Labour Organization, the possibility of organizing a seminar on the role of trade unions in combating racism and racial discrimination in employment should be explored.

17. The General Assembly invites the United Nations Educational, Scientific and Cultural Organization to expedite the preparation of teaching materials and teaching aids to promote teaching, training and educational activities against racism and racial discrimination, with particular emphasis on activities at the primary and secondary levels of education.

18. The General Assembly calls upon Member States to make special efforts:

(*a*) To promote the aim of non-discrimination in all educational programmes and policies;

(*b*) To give special attention to the civic education of teachers. It is essential that teachers be aware of the principles and essential content of the legal texts relevant to racism and racial discrimination and of how to deal with the problem of relations between children belonging to different communities;

(*c*) To teach contemporary history at an early age, presenting children with an accurate picture of the crimes committed by fascist and other totalitarian regimes, and more particularly of the crimes of apartheid and genocide;

(*d*) To ensure that curricula and textbooks reflect anti-racist principles and promote intercultural education.

Action at the national and regional levels

19. The following questions are addressed in the context of action to be taken at the national and regional levels: have there been any successful national models to eliminate racism and racial prejudices that could be recommended to States, for example, for educating children, or principles of equality to tackle racism against migrant workers, ethnic minorities or indigenous people? What kind of affirmative action programmes are there at the national or regional level to redress discrimination against specific groups?

20. The General Assembly recommends that States that have not yet done so adopt, ratify and implement legislation prohibiting racism and racial discrimination, such as the International Convention on the Elimination of All Forms of Racial Discrimination,[5] the International Convention on the Suppression and Punishment of the Crime of Apartheid[2] and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.[14]

21. The General Assembly recommends that Member States review their national programmes to combat racial discrimination and its effects in order to identify and to seize opportunities to close gaps between different groups, and especially to undertake housing, educational and employment programmes that have proved to be successful in combating racial discrimination and xenophobia.

22. The General Assembly recommends that Member States encourage the participation of journalists and human rights advocates from minority groups and communities in the mass media. Radio and television programmes should increase the number of broadcasts produced by and in cooperation with racial and cultural minority groups. Multicultural activities of the media should also be encouraged where they can contribute to the suppression of racism and xenophobia.

23. The General Assembly recommends that regional organizations cooperate closely with United Nations efforts to combat racism and racial discrimination. Regional organizations dealing with human rights issues could mobilize public opinion in their regions against the evils of racism and racial prejudices directed towards disadvantaged racial and ethnic groups. These institutions could serve an important function in assisting Governments to enact national legislation against racial discrimination and promote adoption and application of international conventions. Regional human rights commissions should be called upon to publicize widely basic texts on existing human rights instruments.

Basic research and studies

24. The long-term viability of the United Nations programme against racism and racial discrimination will depend in part on continuing research into the causes of racism and into the new manifestations of racism and racial discrimination. The General Assembly may wish to examine the importance of preparing studies on racism. The following are some aspects to be studied:

(*a*) Application of article 2 of the International Convention on the Elimination of All Forms of Racial Discrimination. Such a study might assist States to learn from one another the national measures taken to implement the Convention;

(*b*) Economic factors contributing to perpetuation of racism and racial discrimination;

(*c*) Integration or preservation of cultural identity in a multiracial or multi-ethnic society;

(*d*) Political rights, including the participation of various racial groups in political processes and their representation in government service;

(*e*) Civil rights, including migration, nationality and freedom of opinion and association;

(*f*) Educational measures to combat racial prejudice and discrimination and to propagate the principles of the United Nations;

(*g*) Socio-economic costs of racism and racial discrimination;

(*h*) Global integration and the question of racism and the nation State;

(*i*) National mechanisms against racism and racial discrimination in the fields of immigration, employment, salary, housing, education and ownership of property.

COORDINATION AND REPORTING

25. It may be relevant to recall that in its resolution 38/14 of 22 November 1983, in which it proclaimed the Second Decade to Combat Racism and Racial Discrimination, the General Assembly charged the Economic and Social Council with coordinating the implementation of the Programme of Action for the Second Decade and evaluating the activities. The Assembly decides that the following steps should be taken to strengthen the United Nations input into the Third Decade to Combat Racism and Racial Discrimination:

(*a*) The General Assembly entrusts the Economic and Social Council and the Commission on Human Rights, in cooperation with the Secretary-General, with the responsibility for coordinating the programmes and evaluating the activities undertaken in connection with the Third Decade;

(*b*) The Secretary-General is invited to provide specific information on activities against racism, to be contained in one annual report, which should be comprehensive in nature and allow a general overview of all mandated activities. This will facilitate coordination and evaluation;

(*c*) An open-ended working group of the Commission on Human Rights, or other appropriate arrangements under the Commission, may be established to review Decade-related information on the basis of the annual reports referred to above, as well as relevant studies and reports of seminars, to assist the Commission in formulating appropriate recommendations to the Economic and Social Council on particular activities, allocation of priorities and so on.

26. Furthermore, an inter-agency meeting should be organized immediately after the proclamation of the Third Decade, in 1994, with a view to planning working meetings and other activities.

REGULAR SYSTEM-WIDE CONSULTATIONS

27. On an annual basis, consultations between the United Nations, specialized agencies and non-governmental organizations should take place to review and plan Decade-related activities. In this framework, the Centre for Human Rights should organize inter-agency meetings to consider and discuss further measures to strengthen the coordination and cooperation of programmes related to the issues of combating racism and racial discrimination.

28. The Centre should also strengthen the relationship with non-governmental organizations fighting against racism and racial discrimination by holding consultations and briefings with the non-governmental organizations. Such meetings could help them to initiate, develop and present proposals regarding the struggle against racism and racial discrimination.

29. The Secretary-General should include the activities to be carried out during the Decade, as well as the related resource requirements, in the proposed programme budgets, which will be submitted biennially, during the Decade, starting with the proposed programme budget for the biennium 1994-1995.

(20) *Draft model national legislation for the guidance of Governments in the enactment of further legislation against racial discrimination, revised by the Secretariat in accordance with the comments made by the Committee on the Elimination of Racial Discrimination at its fortieth and forty-first sessions*

The General Assembly, by its decision 48/426 of 20 December 1993,[180] adopted on the recommendation of the Third Committee,[181] took note of the draft model national legislation.

(21) *Decade for human rights education*

By its resolution 48/127 of 20 December 1993,[182] adopted on the recommendation of the Third Committee,[183] the General Assembly appealed to all Governments to step up their efforts to eradicate illiteracy and to direct education towards the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms; urged governmental and non-governmental educational agencies to intensify their efforts to establish and implement programmes of human rights education, as recommended in the Vienna Declaration and Programme of Action;[184] took note of the World Plan of Action on Education for Human Rights and Democracy[185] and recommended that Governments and non-governmental organizations consider it in preparing national plans for human rights education; and requested the Commission on Human Rights, in cooperation with Member States, human rights treaty-monitoring bodies, other appropriate bodies and competent non-governmental organizations, to consider proposals for a United Nations decade for human rights education, which should be incorporated by the Secretary-General into a plan of action for such a decade and submitted, through the Economic and Social Council, to the General Assembly at its forty-ninth session, with a view of the proclamation of a decade for human rights education.

(22) *Strengthening the rule of law*

By its resolution 48/132 of 20 December 1993,[186] adopted on the recommendation of the Third Committee,[187] the General Assembly, firmly convinced that, as stressed in the Universal Declaration of Human Rights, the rule of law was an essential factor in the protection of human rights, endorsed the recommendation of the World Conference on Human Rights that a comprehensive programme be established within the United Nations and under the coordination of the Centre for Human Rights of the United Nations Secretariat, with a view to helping States in the task of building and strengthening adequate national structures having a direct impact on the overall observance of human rights and the maintenance of the rule of law,[188] and expressed its conviction that such a programme should be able to provide, upon the request of the interested Government, technical and financial assistance for the implementation of national plans of action as well as specific projects for the reform of penal and correctional establishments and the education and training of lawyers, judges and security forces in human rights, and in any other sphere of activity relevant to the good functioning of the rule of law.

(23) *Human rights in the administration of justice*

By its resolution 48/137 of 20 December 1993,[189] adopted on the recommendation of the Third Committee,[190] the General Assembly acknowledged that the administration of justice, including law enforcement and prosecutorial agencies and, especially, an independent judiciary and legal profession in full conformity with applicable standards contained in international human rights instruments, were essential to the full and non-discriminatory realization of human rights and indispensable to the process of democracy and sustainable development; once again called upon all States to pay due attention to United Nations

norms and standards on human rights in the administration of justice in developing national and regional strategies for their practical implementation and to spare no effort in providing for effective legislative and other mechanisms and procedures, as well as for adequate financial resources to ensure more effective implementation of those norms and standards; appealed to Governments to include in their national development plans the administration of justice as an integral part of the development process and to allocate adequate resources for the provision of legal-aid services with a view to the promotion and protection of human rights; urged the Secretary-General to consider favourably requests for assistance by States in the field of the administration of justice within the framework of the United Nations programme of advisory services and technical cooperation in the field of human rights and to strengthen coordination of activities in this field; and strongly recommended, in this context, that the establishment of a comprehensive programme within the system of advisory services and technical assistance be considered in order to help States in the task of building and strengthening adequate national structures having a direct impact on the overall observance of human rights and the maintenance of the rule of law; such a programme should provide, upon the request of the interested Governments, technical and financial assistance to national projects for the reform of penal and correctional establishments and for the education and training of lawyers, judges and security forces in human rights and in any other sphere of activity relevant to the good functioning of the rule of law.

(24) *Alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms*

The General Assembly, by its resolution 48/123 of 20 December 1993,[191] adopted on the recommendation of the Third Committee,[192] reiterated its request that the Commission on Human Rights continue its current work on overall analysis with a view to further promoting and strengthening human rights and fundamental freedoms, including the question of the programme and working methods of the Commission, and on the overall analysis of the alternative approaches and ways and means for improving the effective enjoyment of human rights and fundamental freedoms in accordance with the provisions and ideas set forth in General Assembly resolution 32/130 of 16 December 1977; affirmed that a primary aim of international cooperation in the field of human rights was a life of freedom, dignity and peace for all peoples and for every human being, that all human rights and fundamental freedoms were indivisible and interrelated and that the promotion and protection of one category of rights should never exempt or excuse States from promoting and protecting the others; and reaffirmed that equal attention and urgent consideration should be given to the implementation, promotion and protection of civil and political rights and of economic, social and cultural rights.

(*g*) Return or restitution of cultural property to the countries of origin

The General Assembly, by its resolution 48/15 of 2 November 1993,[193] adopted without reference to a Main Committee, commended the United Na-

tions Educational, Scientific and Cultural Organization and the Intergovernmental Committee for Promoting the Return of Cultural Property to Its Countries of Origin or Its Restitution in Case of Illicit Appropriation on the work they had accomplished, in particular through the promotion of bilateral negotiations, for the return or restitution of cultural property, the preparation of inventories of movable cultural property, the reduction of illicit traffic in cultural property and the dissemination of information to the public; recommended that Member States adopt or strengthen the necessary protective legislation with regard to their own heritage and that of other peoples; and requested States parties to the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property[194] to keep the Secretary-General of UNESCO fully informed of the measures taken to ensure implementation of the Convention at the national level.

(*h*) International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

The Security Council, by its resolution 808 (1993) of 22 February 1993, decided to establish an international tribunal for the prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991. The International Tribunal was established as an enforcement measure under Chapter VII, a subsidiary organ within the terms of Article 29 of the Charter of the United Nations, but one of a judicial nature.

The statute of the International Tribunal reads as follows:

Article 1

Competence of the International Tribunal

The International Tribunal shall have the power to prosecute persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991 in accordance with the provisions of the present Statute.

Article 2

Grave breaches of the Geneva Conventions of 1949

The International Tribunal shall have the power to prosecute persons committing or ordering to be committed grave breaches of the Geneva Conventions of 12 August 1949, namely the following acts against persons or property protected under the provisions of the relevant Geneva Convention:

(*a*) wilful killing;

(*b*) torture or inhuman treatment, including biological experiments;

(*c*) wilfully causing great suffering or serious injury to body or health;

(*d*) extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly;

(*e*) compelling a prisoner of war or a civilian to serve in the forces of a hostile power;

(*f*) wilfully depriving a prisoner of war or a civilian of the rights of fair and regular trial;

(*g*) unlawful deportation or transfer or unlawful confinement of a civilian;

(*h*) taking civilians as hostages.

Article 3

Violations of the laws or customs of war

The International Tribunal shall have the power to prosecute persons violating the laws or customs of war. Such violations shall include, but not be limited to:

(*a*) employment of poisonous weapons or other weapons calculated to cause unnecessary suffering;

(*b*) wanton destruction of cities, towns or villages, or devastation not justified by military necessity;

(*c*) attack, or bombardment, by whatever means, of undefended towns, villages, dwellings, or buildings;

(*d*) seizure of, destruction or wilful damage done to institutions dedicated to religion, charity and education, the arts and sciences, historic monuments and works of art and science;

(*e*) plunder of public or private property.

Article 4

Genocide

1. The International Tribunal shall have the power to prosecute persons committing genocide as defined in paragraph 2 of this article or of committing any of the other acts enumerated in paragraph 3 of this article.

2. Genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

(*a*) killing members of the group;

(*b*) causing serious bodily or mental harm to members of the group;

(*c*) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

(*d*) imposing measures intended to prevent births within the group;

(*e*) forcibly transferring children of the group to another group.

3. The following acts shall be punishable:

(*a*) genocide;

(*b*) conspiracy to commit genocide;

(*c*) direct and public incitement to commit genocide;

(*d*) attempt to commit genocide;

(*e*) complicity in genocide.

Article 5

Crimes against humanity

The International Tribunal shall have the power to prosecute persons responsible for the following crimes when committed in armed conflict, whether international or internal in character, and directed against any civilian population:

(*a*) murder;

(*b*) extermination;

(*c*) enslavement;

(*d*) deportation;

(*e*) imprisonment;

(*f*) torture;

(*g*) rape;

(*h*) persecutions on political, racial and religious grounds;

(*i*) other inhumane acts.

Article 6

Personal jurisdiction

The International Tribunal shall have jurisdiction over natural persons pursuant to the provisions of the present Statute.

Article 7

Individual criminal responsibility

1. A person who planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of a crime referred to in articles 2 to 5 of the present Statute shall be individually responsible for the crime.

2. The official position of any accused person, whether as Head of State or Government or as a responsible Government official, shall not relieve such person of criminal responsibility nor mitigate punishment.

3. The fact that any of the acts referred to in articles 2 to 5 of the present Statute was committed by a subordinate does not relieve his superior of criminal responsibility if he knew or had reason to know that the subordinate was about to commit such acts or had done so and the superior failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.

4. The fact that an accused person acted pursuant to an order of a Government or of a superior shall not relieve him of criminal responsibility, but may be considered in mitigation of punishment if the International Tribunal determines that justice so requires.

Article 8

Territorial and temporal jurisdiction

The territorial jurisdiction of the International Tribunal shall extend to the territory of the former Socialist Federal Republic of Yugoslavia, including its land surface, airspace and territorial waters. The temporal jurisdiction of the International Tribunal shall extend to a period beginning on 1 January 1991.

Article 9

Concurrent jurisdiction

1. The International Tribunal and national courts shall have concurrent jurisdiction to prosecute persons for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1 January 1991.

2. The International Tribunal shall have primacy over national courts. At any stage of the procedure, the International Tribunal may formally request national courts to defer to the competence of the International Tribunal in accordance with the present Statute and the Rules of Procedure and Evidence of the International Tribunal.

Article 10

Non-bis-in-idem

1. No person shall be tried before a national court for acts constituting serious violations of international humanitarian law under the present Statute, for which he or she has already been tried by the International Tribunal.

2. A person who has been tried by a national court for acts constituting serious violations of international humanitarian law may be subsequently tried by the International Tribunal only if:

(*a*) the act for which he or she was tried was characterized as an ordinary crime; or

(*b*) The national court proceedings were not impartial or independent, were designed to shield the accused from international criminal responsibility, or the case was not diligently prosecuted.

3. In considering the penalty to be imposed on a person convicted of a crime under the present Statute, the International Tribunal shall take into account the extent to which any penalty imposed by a national court on the same person for the same act has already been served.

Article 11

Organization of the International Tribunal

The International Tribunal shall consist of the following organs:

(*a*) The Chambers, comprising two Trial Chambers and an Appeals Chamber;

(*b*) The Prosecutor; and

(*c*) A Registry, servicing both the Chambers and the Prosecutor.

Article 12

Composition of the Chambers

The Chambers shall be composed of eleven independent judges, no two of whom may be nationals of the same State, who shall serve as follows:

(*a*) Three judges shall serve in each of the Trial Chambers;

(*b*) Five judges shall serve in the Appeals Chamber.

Article 13

Qualifications and election of judges

1. The judges shall be persons of high moral character, impartiality and integrity who possess the qualifications required in their respective countries for appointment to the highest judicial offices. In the overall composition of the Chambers due account shall be taken of the experience of the judges in criminal law, international law, including international humanitarian law and human rights law.

2. The judges of the International Tribunal shall be elected by the General Assembly from a list submitted by the Security Council, in the following manner:

(*a*) The Secretary-General shall invite nominations for judges of the International Tribunal from States Members of the United Nations and non-member States maintaining permanent observer missions at United Nations Headquarters;

(*b*) Within sixty days of the date of the invitation of the Secretary-General, each State may nominate up to two candidates meeting the qualifications set out in paragraph 1 above, no two of whom shall be of the same nationality;

(*c*) The Secretary-General shall forward the nominations received to the Security Council. From the nominations received the Security Council shall establish a list of not

less than twenty-two and not more than thirty-three candidates, taking due account of the adequate representation of the principal legal systems of the world;

(*d*) The President of the Security Council shall transmit the list of candidates to the President of the General Assembly. From that list the General Assembly shall elect the eleven judges of the International Tribunal. The candidates who receive an absolute majority of the votes of the States Members of the United Nations and of the non-Member States maintaining permanent observer missions at United Nations Headquarters shall be declared elected. Should two candidates of the same nationality obtain the required majority vote, the one who received the higher number of votes shall be considered elected.

3. In the event of a vacancy in the Chambers, after consultation with the Presidents of the Security Council and of the General Assembly, the Secretary-General shall appoint a person meeting the qualifications of paragraph 1 above, for the remainder of the term of office concerned.

4. The judges shall be elected for a term of four years. The terms and conditions of service shall be those of the judges of the International Court of Justice. They shall be eligible for re-election.

Article 14

Officers and members of the Chambers

1. The judges of the International Tribunal shall elect a President.

2. The President of the International Tribunal shall be a member of the Appeals Chamber and shall preside over its proceedings.

3. After consultation with the judges of the International Tribunal, the President shall assign the judges to the Appeals Chamber and to the Trial Chambers. A judge shall serve only in the Chamber to which he or she was assigned.

4. The judges of each Trial Chamber shall elect a Presiding Judge, who shall conduct all of the proceedings of the Trial Chamber as a whole.

Article 15

Rules of procedure and evidence

The judges of the International Tribunal shall adopt rules of procedure and evidence for the conduct of the pre-trial phase of the proceedings, trials and appeals, the admission of evidence, the protection of victims and witnesses and other appropriate matters.

Article 16

The Prosecutor

1. The Prosecutor shall be responsible for the investigation and prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1 January 1991.

2. The Prosecutor shall act independently as a separate organ of the International Tribunal. He or she shall not seek or receive instructions from any Government or from any other source.

3. The Office of the Prosecutor shall be composed of a Prosecutor and such other qualified staff as may be required.

4. The Prosecutor shall be appointed by the Security Council on nomination by the Secretary-General. He or she shall be of high moral character and possess the highest level of competence and experience in the conduct of investigations and prosecutions of criminal cases. The Prosecutor shall serve for a four-year term and be eligible for reap-

pointment. The terms and conditions of service of the Prosecutor shall be those of an Under-Secretary-General of the United Nations.

5. The staff of the Office of the Prosecutor shall be appointed by the Secretary-General on the recommendation of the Prosecutor.

Article 17

The Registry

1. The Registry shall be responsible for the administration and servicing of the International Tribunal.

2. The Registry shall consist of a Registrar and such other staff as may be required.

3. The Registrar shall be appointed by the Secretary-General after consultation with the President of the International Tribunal. He or she shall serve for a four-year term and be eligible for reappointment. The terms and conditions of service of the Registrar shall be those of an Assistant Secretary-General of the United Nations.

4. The staff of the Registry shall be appointed by the Secretary-General on the recommendation of the Registrar.

Article 18

Investigation and preparation of indictment

1. The Prosecutor shall initiate investigations ex-officio or on the basis of information obtained from any source, particularly from Governments, United Nations organs, intergovernmental and non-governmental organizations. The Prosecutor shall assess the information received or obtained and decide whether there is sufficient basis to proceed.

2. The Prosecutor shall have the power to question suspects, victims and witnesses, to collect evidence and to conduct on-site investigations. In carrying out these tasks, the Prosecutor may, as appropriate, seek the assistance of the State authorities concerned.

3. If questioned, the suspect shall be entitled to be assisted by counsel of his own choice, including the right to have legal assistance assigned to him without payment by him in any such case if he does not have sufficient means to pay for it, as well as to necessary translation into and from a language he speaks and understands.

4. Upon a determination that a prima facie case exists, the Prosecutor shall prepare an indictment containing a concise statement of the facts and the crime or crimes with which the accused is charged under the Statute. The indictment shall be transmitted to a judge of the Trial Chamber.

Article 19

Review of the indictment

1. The judge of the Trial Chamber to whom the indictment has been transmitted shall review it. If satisfied that a prima facie case has been established by the Prosecutor, he shall confirm the indictment. If not so satisfied, the indictment shall be dismissed.

2. Upon confirmation of an indictment, the judge may, at the request of the Prosecutor, issue such orders and warrants for the arrest, detention, surrender or transfer of persons, and any other orders as may be required for the conduct of the trial.

Article 20

Commencement and conduct of trial proceedings

1. The Trial Chambers shall ensure that a trial is fair and expeditious and that proceedings are conducted in accordance with the rules of procedure and evidence, with full

respect for the rights of the accused and due regard for the protection of victims and witnesses.

2. A person against whom an indictment has been confirmed shall, pursuant to an order or an arrest warrant of the International Tribunal, be taken into custody, immediately informed of the charges against him and transferred to the International Tribunal.

3. The Trial Chamber shall read the indictment, satisfy itself that the rights of the accused are respected, confirm that the accused understands the indictment, and instruct the accused to enter a plea. The Trial Chamber shall then set the date for trial.

4. The hearings shall be public unless the Trial Chamber decides to close the proceedings in accordance with its rules of procedure and evidence.

Article 21

Rights of the accused

1. All persons shall be equal before the International Tribunal.

2. In the determination of charges against him, the accused shall be entitled to a fair and public hearing, subject to article 22 of the Statute.

3. The accused shall be presumed innocent until proved guilty according to the provisions of the present Statute.

4. In the determination of any charge against the accused pursuant to the present Statute, the accused shall be entitled to the following minimum guarantees, in full equality:

(*a*) to be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;

(*b*) to have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;

(*c*) to be tried without undue delay;

(*d*) to be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;

(*e*) to examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(*f*) to have the free assistance of an interpreter if he cannot understand or speak the language used in the International Tribunal;

(*g*) not to be compelled to testify against himself or to confess guilt.

Article 22

Protection of victims and witnesses

The International Tribunal shall provide in its rules of procedure and evidence for the protection of victims and witnesses. Such protection measures shall include, but shall not be limited to, the conduct of *in camera* proceedings and the protection of the victim's identity.

Article 23

Judgement

1. The Trial Chambers shall pronounce judgements and impose sentences and penalties on persons convicted of serious violations of international humanitarian law.

2. The judgement shall be rendered by a majority of the judges of the Trial Chamber, and shall be delivered by the Trial Chamber in public. It shall be accompanied by a reasoned opinion in writing, to which separate or dissenting opinions may be appended.

Article 24

Penalties

1. The penalty imposed by the Trial Chamber shall be limited to imprisonment. In determining the terms of imprisonment, the Trial Chambers shall have recourse to the general practice regarding prison sentences in the courts of the former Yugoslavia.

2. In imposing the sentences, the Trial Chambers should take into account such factors as the gravity of the offence and the individual circumstances of the convicted person.

3. In addition to imprisonment, the Trial Chambers may order the return of any property and proceeds acquired by criminal conduct, including by means of duress, to their rightful owners.

Article 25

Appellate proceedings

1. The Appeals Chamber shall hear appeals from persons convicted by the Trial Chambers or from the Prosecutor on the following grounds:

(*a*) an error on a question of law invalidating the decision; or

(*b*) an error of fact which has occasioned a miscarriage of justice.

2. The Appeals Chamber may affirm, reverse or revise the decisions taken by the Trial Chambers.

Article 26

Review proceedings

Where a new fact has been discovered which was not known at the time of the proceedings before the Trial Chambers or the Appeals Chamber and which could have been a decisive factor in reaching the decision, the convicted person or the Prosecutor may submit to the International Tribunal an application for review of the judgement.

Article 27

Enforcement of sentences

Imprisonment shall be served in a State designated by the International Tribunal from a list of States which have indicated to the Security Council their willingness to accept convicted persons. Such imprisonment shall be in accordance with the applicable law of the State concerned, subject to the supervision of the International Tribunal.

Article 28

Pardon or commutation of sentences

If, pursuant to the applicable law of the State in which the convicted person is imprisoned, he or she is eligible for pardon or commutation of sentence, the State concerned shall notify the International Tribunal accordingly. The President of the International Tribunal, in consultation with the judges, shall decide the matter on the basis of the interests of justice and the general principles of law.

Article 29

Cooperation and judicial assistance

1. States shall cooperate with the International Tribunal in the investigation and prosecution of persons accused of committing serious violations of international humanitarian law.

2. States shall comply without undue delay with any request for assistance or an order issued by a Trial Chamber, including, but not limited to:

(*a*) the identification and location of persons;

(*b*) the taking of testimony and the production of evidence;

(*c*) the service of documents;

(*d*) the arrest or detention of persons;

(*e*) the surrender or the transfer of the accused to the International Tribunal.

Article 30

The status, privileges and immunities of the International Tribunal

1. The Convention on the Privileges and Immunities of the United Nations of 13 February 1946 shall apply to the International Tribunal, the judges, the Prosecutor and his staff, and the Registrar and his staff.

2. The judges, the Prosecutor and the Registrar shall enjoy the privileges and immunities, exemptions and facilities accorded to diplomatic envoys, in accordance with international law.

3. The staff of the Prosecutor and of the Registrar shall enjoy the privileges and immunities accorded to officials of the United Nations under articles V and VII of the Convention referred to in paragraph 1 of this article.

4. Other persons, including the accused, required at the seat of the International Tribunal shall be accorded such treatment as is necessary for the proper functioning of the International Tribunal.

Article 31

Seat of the International Tribunal

The International Tribunal shall have its seat at The Hague.

Article 32

Expenses of the International Tribunal

The expenses of the International Tribunal shall be borne by the regular budget of the United Nations in accordance with Article 17 of the Charter of the United Nations.

Article 33

Working languages

The working languages of the International Tribunal shall be English and French.

Article 34

Annual report

The President of the International Tribunal shall submit an annual report of the International Tribunal to the Security Council and to the General Assembly.

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4. LAW OF THE SEA

Status of the United Nations Convention on the Law of the Sea[195]

As of 31 December 1993, 60 States had accepted the United Nations Convention on the Law of the Sea.

Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea[196]

The Preparatory Commission, at its eleventh session in 1993, held three formal meetings of the plenary, four meetings of the plenary as a Working Group on the organs of the International Seabed Authority and 18 meetings of the four Special Commissions. In accordance with the decision of the Preparatory Commission, the Training Panel held eight meetings during the first week of the eleventh session of the Preparatory Commission.

At the eleventh session of the Preparatory Commission, the General Committee considered and took note of periodic reports submitted by the certifying States—the People's Republic of China (on behalf of the China Ocean Mineral Resources Research and Development Association (COMRA)), France (on behalf of Institut français de recherche pour l'exploitation de la mer (IFREMER)—Association française d'études et de recherche des nodules (AFERNOD)), India, Japan (on behalf of Deep Ocean Resources Development Co., Ltd. (DORD)) and the Russian Federation (on behalf of Yuzhmorgeologiya).[197]

The General Committee noted the statement contained in the letter dated 25 March 1993 from the coordinator of the group of registered pioneer investors[198] that account should be taken of the principle of equal treatment and that the principle of non-discrimination should be taken into account in the implementation of the obligations of the registered pioneer investors, as reflected in the relevant documents of the Preparatory Commission. This matter will be further considered at the next meeting of the Preparatory Commission.

The General Committee took note of the report of the fourth meeting of the Training Panel, approved the recommendations and designated five candidates selected by the Panel for traineeships under the training programmes offered by India and the Russian Federation. The General Committee also took note of the notes verbales announcing the traineeships under the training programmes offered by China and the Interoceanmetal Joint Organization (IOM) and its certifying States, and the note verbale on the traineeship in chemical engineering offered by India.

The General Committee reaffirmed its decision to invite any State member or observer in the Preparatory Commission to submit candidates for the training programme. In the process of the selection of trainees, however, the Training Panel should give priority to candidates presented by States members of the Preparatory Commission.

The informal plenary and Special Commissions 1, 2, 3 and 4 each reviewed their draft provisional final reports.[199]

A revised version of those reports incorporating the amendments made thereon during the eleventh session will be prepared by the Secretariat and will

be issued, at the appropriate time, as a consolidated provisional final report of the Preparatory Commission.[200]

The Secretary-General's report[201] also provided in its part two information on the activities of the Division for Ocean Affairs and the Law of the Sea.

Consideration by the General Assembly

By its resolution 48/28 of 9 December 1993,[202] adopted without reference to a Main Committee, the General Assembly recalled the historic significance of the United Nations Convention on the Law of the Sea as an important contribution to the maintenance of peace, justice and progress for all peoples of the world; called upon all States that had not done so to consider ratifying or acceding to the Convention at the earliest possible date, and also called upon all States to take appropriate steps to promote universal participation in the Convention, including through dialogue aimed at addressing the issues of concern to some States; also called upon States to observe the provisions of the Convention when enacting their national legislation; noted the progress made by the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea in all areas of its work, including the completion of its draft provisional final report at its eleventh session; and further recalled the Understanding on the Fulfilment of Obligations by the Registered Pioneer Investors and their Certifying States adopted by the Preparatory Commission on 30 August 1990,[203] as well as the understandings adopted on 12 March 1992[204] and 18 August 1992.[205]

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5. INTERNATIONAL COURT OF JUSTICE[206, 207]

Cases before the Court[208]

A. CONTENTIOUS CASES BEFORE THE FULL COURT

1. *Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark v. Norway)*

Denmark chose Mr. Paul Henning Fischer to sit as judge *ad hoc*. He made the solemn declaration required by the Statute and Rules of Court on 11 January 1993, at the opening of the oral proceedings in the case.

Oral proceedings were held from 11 to 27 January 1993. During 11 public sittings, the Court heard statements made on behalf of Denmark and of Norway. Questions were put to both Agents by Vice-President Oda.

On 14 June 1993, at a public sitting, the Court delivered its Judgment,[209] a summary of which is given below, followed by the text of the operative paragraph.

Review of the proceedings and summary of facts (paras. 1–21)

The Court outlined the successive stages of the proceedings as from the date the case was brought before it (paras. 1–8) and set out the submissions of the Parties (paras. 9–10). It recalled that Denmark, instituting proceedings on 16 August 1988, had asked the Court

"to decide, in accordance with international law, where a single line of delimitation shall be drawn between Denmark's and Norway's fishing zones and continental shelf areas in the waters between Greenland and Jan Mayen";

and had, in the course of the proceedings, made the following submissions, asking the Court:

"To adjudge and declare that Greenland is entitled to a full 200-mile fishery zone and continental shelf area vis-à-vis the island of Jan Mayen; and consequently

To draw a single line of delimitation of the fishing zone and continental shelf area of Greenland in the waters between Greenland and Jan Mayen at a distance of 200 nautical miles measured from Greenland's baseline."

"If the Court, for any reason, does not find it possible to draw the line of delimitation requested in paragraph (2), Denmark requests the Court to decide, in accordance with international law and in light of the facts and arguments developed by the Parties, where the line of delimitation shall be drawn between Denmark's and Norway's fisheries zones and continental shelf areas in the waters between Greenland and Jan Mayen, and to draw that line."

It likewise recalled that Norway had asked the Court to adjudge and declare that the median line constituted the boundary for the purposes of delimitation of the relevant areas of both the continental shelf and the fisheries zone between Norway and Denmark in the region between Jan Mayen and Greenland. The Court then described the maritime areas, which had featured in the arguments of the Parties (paras. 11–21).

The contention that a delimitation already exists (paras. 22–40)

A principal contention of Norway was that a delimitation had already been established between Jan Mayen and Greenland. The effect of treaties in force between the Parties—a bilateral Agreement of 1965 and the 1958 Geneva Convention on the Continental Shelf[210]—had, according to Norway, been to establish the median line as the boundary of the continental shelf of the Parties, and the practice of the Parties in respect of fishery zones had represented a recognition of existing continental shelf boundaries as being also applicable to the exercise of fisheries jurisdiction. These contentions, that the applicability of a median line delimitation in the relations between the Parties had long been recognized in the context both of the continental shelf and of fishery zones and that a boundary was already in place, needed to be examined in the first place.

The 1965 Agreement (paras. 23–30)

On 8 December 1965, Denmark and Norway concluded an Agreement concerning the delimitation of the continental shelf. Article 1 of that Agreement read:

"The boundary between those parts of the continental shelf over which Norway and Denmark respectively exercise sovereign rights shall be the median line which at every point is equidistant from the nearest points of

the baselines from which the breadth of the territorial sea of each Contracting Party is measured."

Article 2 provided that "in order that the principle set forth in article 1 may be properly applied, the boundary shall consist of straight lines" which were then defined by eight points, enumerated with the relevant geodetic coordinates and as indicated on the chart thereto annexed; the lines so defined lay in the Skagerrak and part of the North Sea, between the mainland territories of Denmark and Norway. Norway contended that the text of article 1 was general in scope, unqualified and without reservation, and that the natural meaning of that text had to be "to establish definitively the basis for all boundaries which would eventually fall to be demarcated" between the Parties. In its view article 2, which admittedly related only to the continental shelves of the two mainlands, was "concerned with *demarcation*". Norway deduced that the Parties were and remained committed to the median line principle of the 1965 Agreement. Denmark on the other hand argued that the Agreement was not of such general application and that its object and purpose was solely the delimitation in the Skagerrak and part of the North Sea on a median line basis.

The Court considered that the object and purpose of the 1965 Agreement was to provide simply for the question of the delimitation in the Skagerrak and part of the North Sea, where the whole seabed (with the exception of the "Norwegian Trough") consisted of continental shelf at a depth of less than 200 metres, and that there was nothing to suggest that the Parties had had in mind the possibility that a shelf boundary between Greenland and Jan Mayen might one day be required, or had intended that their Agreement should apply to such a boundary.

After examining the Agreement in its context, in the light of its object and purpose, the Court also took into account the subsequent practice of the Parties, especially a subsequent treaty in the same field concluded in 1979. It considered that if the intention of the 1965 Agreement had been to commit the Parties to the median line in all ensuing shelf delimitations, it would have been referred to in the 1979 Agreement. The Court thus took the view that the 1965 Agreement did not result in a median line delimitation of the continental shelf between Greenland and Jan Mayen.

The 1958 Geneva Convention on the Continental Shelf (paras. 31–32)

The validity of the argument that the 1958 Convention resulted in a median line continental shelf boundary already "in place" between Greenland and Jan Mayen was found to depend on whether the Court found that there were "special circumstances" as contemplated by the Convention, a question that would be dealt with later. The Court therefore turned to the arguments which Norway had based upon the conduct of the Parties and of Denmark in particular.

Conduct of the Parties (paras. 33–40)

Norway contended that, at least up to some ten years previously, the Parties by their "conjoint conduct" had long recognized the applicability of a median line delimitation in their mutual relations. The Court observed that it was the conduct of Denmark which had primarily to be examined in that connection.

The Court was not persuaded that a Danish Decree of 7 June 1963 concerning the Exercise of Danish Sovereignty over the Continental Shelf supported the argument which Norway sought to base on conduct. Nor had a Danish Act of 17 December 1976 or an Executive Order of 14 May 1980, issued pursuant to that Act, committed Denmark to acceptance of a median line boundary in the area. An Agreement of 15 June 1979 between the Parties concerning the delimitation between Norway and the Faroe Islands did not commit Denmark to a median line boundary in a quite different area. Danish statements made in the course of diplomatic contacts and during the Third United Nations Conference on the Law of the Sea had also not prejudiced Denmark's position.

Summing up, the Court concluded that the Agreement entered into between the Parties on 8 December 1965 could not be interpreted to mean, as contended by Norway, that the Parties had already defined the continental shelf boundary as the median line between Greenland and Jan Mayen. Nor could the Court attribute such an effect to the provision of article 6, paragraph 1, of the 1958 Convention, so as to conclude that by virtue of that Convention the median line was already the continental shelf boundary between Greenland and Jan Mayen. Nor could such a result be deduced from the conduct of the Parties concerning the continental shelf boundary and the fishery zone. In consequence, the Court did not consider that a median line boundary was already "in place", either as the continental shelf boundary, or as that of the fishery zone. The Court therefore proceeded to examine the law currently applicable to the delimitation question still outstanding between the Parties.

The applicable law (paras. 41–48)

The Court noted that the Parties differed on the question whether what was required was one delimitation line or two lines, Denmark asking for "a single line of delimitation of the fishery zone and continental shelf area", and Norway contending that the median line constituted the boundary for delimitation of the continental shelf, and also constituted the boundary for the delimitation of the fishery zone, i.e., that the two lines would coincide, but that the two boundaries would remain conceptually distinct.

The Court referred to the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area* in which it had been asked what was "the course of the single maritime boundary that divides the continental shelf and fishery zones of Canada and the United States of America".[211] It observed that in the instant case it was not empowered—or constrained—by any agreement for a single dual-purpose boundary and that it had already found that there was not a continental shelf boundary already in place. It therefore went on to examine separately the two strands of the applicable law: the effect of article 6 of the 1958 Convention if applied at the present time to the delimitation of the continental shelf boundary, and then the effect of the application of the customary law governing the fishery zone.

The Court further observed that the applicability of the 1958 Convention to the continental shelf delimitation in this case did not mean that article 6 of that Convention could be interpreted and applied either without reference to customary law on the subject, or wholly independently of the fact that a fishery zone boundary was also in question in those waters. After examining the case law in that field and the provisions of the 1982 United Nations Conven-

tion on the Law of the Sea, the Court noted that the statement (in those provisions) of an "equitable solution" as the aim of any delimitation process reflected the requirements of customary law as regards the delimitation both of continental shelf and of exclusive economic zones.

The provisional median line (paras. 49–52)

Turning first to the delimitation of the continental shelf, the Court found that it was appropriate, both on the basis of article 6 of the 1958 Convention and on the basis of customary law concerning the continental shelf, to begin with the median line as a provisional line and then to ask whether "special circumstances" required any adjustment or shifting of that line. After a subsequent examination of the relevant precedents with regard to the delimitation of the fishery zones, it appeared to the Court that, both for the continental shelf and for the fishery zones in the instant case, it was proper to begin the process of delimitation by a median line provisionally drawn.

"Special circumstances" and "relevant circumstances" (paras. 54–58)

The Court then observed that it was called upon to examine every particular factor of the case which might suggest an adjustment or shifting of the median line provisionally drawn. The aim in each and every situation had to be to achieve "an equitable result". From that standpoint, the 1958 Convention required the investigation of any "special circumstances", while, on the other hand, the customary law based upon equitable principles required the investigation of "relevant circumstances".

The concept of "special circumstances" had been included in the 1958 Geneva Conventions on the Territorial Sea and the Contiguous Zone[212] (art. 12) and on the Continental Shelf (art. 6, paras. 1 and 2). It had been and remained linked to the equidistance method there contemplated. It was thus apparent that special circumstances were those circumstances which might distort the result produced by an unqualified application of the equidistance principle. General international law had employed the concept of "relevant circumstances". That concept could be defined as a fact necessary to be taken into account, in the delimitation process, to the extent that it affected the rights of the Parties over certain maritime areas. Although it was a matter of categories which were different in origin and in name, there was inevitably a tendency towards assimilation between the special circumstances of article 6 of the 1958 Convention and the relevant circumstances under customary law, if only because they were both intended to enable the achievement of an equitable result. This had to be especially true in the case of opposite coasts where, as had been seen, the tendency of customary law, like the terms of article 6, had been to postulate the median line as leading prima facie to an equitable result.

The Court then turned to the question whether the circumstances of the instant case required adjustment or shifting of that line, taking into account the arguments relied on by Norway to justify the median line, and the circumstances invoked by Denmark as justifying the 200-mile line.

Disparity of length of coasts (paras. 61–71)

A first factor of a geophysical character, and one which had featured most prominently in the argument of Denmark, in regard to both continental shelf

and fishery zone, was the disparity or disproportion between the lengths of the "relevant coasts".

Prima facie, a median line delimitation between opposite coasts resulted in general in an equitable solution, particularly if the coasts in question were nearly parallel. There were, however, situations—and the instant case was one such—in which the relationship between the length of the relevant coasts and the maritime areas generated by them by application of the equidistance method was so disproportionate that it had been found necessary to take that circumstance into account in order to ensure an equitable solution.

In the light of the existing case law the Court came to the conclusion that the striking difference in length of the relevant coasts in the case in hand (which had been calculated as approximately 9 (for Greenland) to 1 (for Jan Mayen)) constituted a special circumstance within the meaning of article 6, paragraph 1, of the 1958 Convention. Similarly, as regards the fishery zones, the Court was of the opinion that the application of the median line led to manifestly inequitable results.

It followed that, in the light of the disparity of coastal lengths, the median line would have to be adjusted or shifted in such a way as to effect a delimitation closer to the coast of Jan Mayen. It had, however, to be made clear that taking account of the disparity of coastal lengths did not mean a direct and mathematical application of the relationship between the length of the coastal front of eastern Greenland and that of Jan Mayen. Nor did the circumstances require the Court to uphold the claim of Denmark that the boundary line should be drawn 200 miles from the baselines on the coast of eastern Greenland, i.e., a delimitation giving Denmark maximum extension of its claim to continental shelf and fishery zone. The result of such a delimitation would have been to leave to Norway merely the residual part of the "area relevant to the delimitation dispute" as defined by Denmark. The delimitation according to the 200-mile line calculated from the coasts of eastern Greenland might from a mathematical perspective seem more equitable than that effected on the basis of the median line, regard being had to the disparity in coastal lengths; but this did not mean that the result was equitable in itself, which was the objective of every maritime delimitation based on law. The Court observed in this respect that the coast of Jan Mayen, no less than that of eastern Greenland, generated potential title to the maritime areas recognized by customary law, i.e., in principle up to a limit of 200 miles from its baselines. To have attributed to Norway merely the residual area left after giving full effect to the eastern coast of Greenland would have run wholly counter to the rights of Jan Mayen and also to the demands of equity.

At this stage of its analysis, the Court thus considered that neither the median line nor the 200-mile line calculated from the coasts of eastern Greenland in the relevant area ought to be adopted as the boundary of the continental shelf or of the fishery zone. It followed that the boundary line had to be situated between those two lines described above, and located in such a way that the solution obtained was justified by the special circumstances contemplated by the 1958 Convention on the Continental Shelf, and equitable on the basis of the principles and rules of customary international law. The Court accordingly proceeded to consider what other circumstances might also affect the position of the boundary line.

Access to resources (paras. 72–78)

The Court then turned to the question whether access to the resources of the area of overlapping claims constituted a factor relevant to the delimitation. The Parties were essentially in conflict over access to fishery resources, the principal exploited fishery resource being capelin. The Court had therefore to consider whether any shifting or adjustment of the median line, as fishery zone boundary, would be required to ensure equitable access to the capelin fishery resources.

It appeared to the Court that the seasonal migration of the capelin presented a pattern which, north of the 200-mile line claimed by Iceland, might be said to centre on the southern part of the area of overlapping claims, approximately between that line and the parallel of 72° North latitude, and that the delimitation of the fishery zone ought to reflect this fact. It was clear that no delimitation in the area could guarantee to each Party the presence in every year of fishable quantities of capelin in the zone allotted to it by the line. It appeared, however, to the Court that the median line was too far to the west for Denmark to be assured of an equitable access to the capelin stock, since it would attribute to Norway the whole of the area of overlapping claims. For that reason also the median line thus required to be adjusted or shifted eastwards. The Court was further satisfied that while ice constituted a considerable seasonal restriction of access to the waters, it did not materially affect access to migratory fishery resources in the southern part of the area of overlapping claims.

Population and economy (paras. 79–80)

Denmark considered as also relevant to the delimitation the major differences between Greenland and Jan Mayen as regards population and socio-economic factors.

The Court observed that the attribution of maritime areas to the territory of a State, which, by its nature, was destined to be permanent, was a legal process based solely on the possession by the territory concerned of a coastline. The Court recalled in the context of the instant case the observations it had had occasion to make, concerning continental shelf delimitation, in the *Continental Shelf (Libyan Arab Jamahiriya/Malta)* case, namely that a delimitation ought not to be influenced by the relative economic position of the two States in question, in such a way that the area of continental shelf regarded as appertaining to the less rich of the two States would be somewhat increased in order to compensate for its inferiority in economic resources.

The Court therefore concluded that, in the delimitation to be effected, there was no reason to consider either the limited nature of the population of Jan Mayen or socio-economic factors as circumstances to be taken into account.

Security (para. 81)

Norway had argued, in relation to the Danish claim to a 200-mile zone off Greenland, that "the drawing of a boundary closer to one State than to another would imply an inequitable displacement of the possibility of the former State to protect interests which require protection".

In the Libya/Malta case, the Court had been satisfied that

"the delimitation which will result from the application of the present Judgment is . . . not so near to the coast of either Party as to make questions of security a particular consideration in the present case".[213]

The Court was similarly satisfied in the instant case as regards the delimitation to be described below.

Conduct of the Parties (paras. 82–86)

Denmark had contended that the conduct of the Parties was a highly relevant factor in the choice of the appropriate method of delimitation where such conduct had indicated some particular method as being likely to produce an equitable result. In that respect, Denmark relied on the maritime delimitation between Norway and Iceland, and on a boundary line established by Norway between the economic zone of mainland Norway and the fishery protection zone of the Svalbard Archipelago (Bear Island - Bjørnøya).

So far as Bear Island was concerned, that territory was situated in a region unrelated to the area of overlapping claims to be delimited. In that respect, the Court observed that there could be no legal obligation for a party to a dispute to transpose, for the settlement of that dispute, a particular solution previously adopted by it in a different context. As for the delimitation between Iceland and Norway, international law did not prescribe, with a view to reaching an equitable solution, the adoption of a single method for the delimitation of the maritime spaces on all sides of an island, or for the whole of the coastal front of a particular State, rather than, if desired, varying systems of delimitation for the various parts of the coast. The conduct of the parties would in many cases therefore have no influence on such a delimitation. For those reasons, the Court concluded that the conduct of the Parties did not constitute an element such as to influence the operation of delimitation in the instant case.

The definition of the delimitation line (paras. 87–93)

Having thus completed its examination of the geophysical and other circumstances brought to its attention as appropriate to be taken into account for the purposes of the delimitation of the continental shelf and the fishery zones, the Court came to the conclusion that the median line, adopted provisionally for both as a first stage in the delimitation, should be adjusted or shifted to become a line such as to attribute a larger area of maritime space to Denmark than the median line would have done. The line drawn by Denmark 200 nautical miles from the baselines of eastern Greenland would, however, have been excessive as an adjustment, and would have been inequitable in its effects. The delimitation line had therefore to be drawn within the area of overlapping claims, between the lines proposed by each Party. The Court accordingly proceeded to examine the question of the precise position of that line.

To have given only a broad indication of the manner in which the definition of the delimitation line ought to be fixed, and to have left the matter for the further agreement of the Parties, as urged by Norway, would in the Court's view not have been a complete discharge of its duty to determine the dispute. The Court was satisfied that it ought to define the delimitation line in such a way that any questions which might have still remained would have been matters strictly relating to hydrographic technicalities which the Parties, with the

help of their experts, could certainly resolve. The area of overlapping claims in this case was defined by the median line and the 200-mile line from Greenland, and those lines were both geometrical constructs; there might be differences of opinion over basepoints, but given defined basepoints, the two lines followed automatically. The median line provisionally drawn as a first stage in the delimitation process had accordingly been defined by reference to the basepoints indicated by the Parties on the coasts of Greenland and Jan Mayen. Similarly, the Court might have defined the delimitation line to be indicated, by reference to that median line and to the 200-mile line calculated by Denmark from the basepoints on the coast of Greenland. Accordingly, the Court would proceed to establish such a delimitation, using for that purpose the baselines and coordinates which the Parties themselves had been content to employ in their pleadings and oral argument.

The delimitation line was to lie between the median line and the 200-mile line from the baselines of eastern Greenland. It was to run from point A in the north, the point of intersection of those two lines, to a point on the 200-mile line drawn from the baselines claimed by Iceland, between points D (the intersection of the median line with the 200-mile line claimed by Iceland) and B (the intersection of Greenland's 200-mile line and the 200-mile line claimed by Iceland) on sketch-map No. 2 (annexed). For the purposes of definition of the line, and with a view to making proper provision for equitable access to fishery resources, the area of overlapping claims would be divided into three zones, as follows. Greenland's 200-mile line (between points A and B on sketch-map No. 2) showed two marked changes of direction, indicated on the sketch-map as points I and J; similarly, the median line showed two corresponding changes of direction, marked as points K and L. Straight lines drawn between point I and point K, and between point J and point L, thus divided the area of overlapping claims into three zones, to be referred to successively from south to north, as zone 1, zone 2 and zone 3 (para. 91 of the Judgment).

The southernmost zone, zone 1, corresponded essentially to the principal fishing area. In the view of the Court, the two Parties ought to enjoy equitable access to the fishing resources of this zone. For that purpose a point, to be designated point M, was identified on the 200-mile line claimed by Iceland between points B and D, and equidistant from those points, and a line was drawn from point M so as to intersect the line between points J and L, at a point designated point N, so as to divide zone 1 into two parts of equal area. The dividing line was shown on sketch-map No. 2 as the line between points N and M. So far as zones 2 and 3 were concerned, it was a question of drawing the appropriate conclusions, in the application of equitable principles, from the circumstance of the marked disparity in coastal lengths, discussed in paragraphs 61 to 71 above. The Court considered that an equal division of the whole area of overlapping claims would have given too great a weight to that circumstance. Taking into account the equal division of zone 1, it considered that the requirements of equity would be met by the following division of the remainder of the area of overlapping claims: a point (O on sketch-map No. 2) was to be determined on the line between I and K in such a way that the distance from I to O was twice the distance from O to K; the delimitation of zones 2 and 3 was then effected by the straight line from point N to that point O, and the straight line from point O to point A (para. 92 of the Judgment).

The Court set out the coordinates of the various points, for the information of the Parties.

Operative paragraph (para. 94)

"THE COURT,

By fourteen votes to one,

Decides that, within the limits defined

(1) to the north by the intersection of the line of equidistance between the coasts of Eastern Greenland and the western coasts of Jan Mayen with the 200-mile limit calculated as from the said coasts of Greenland, indicated on sketch-map No. 2 as point A, and

(2) to the south, by the 200-mile limit around Iceland, as claimed by Iceland, between the points of intersection of that limit with the two said lines, indicated on sketch-map No. 2 as points B and D,

the delimitation line that divides the continental shelf and fishery zones of the Kingdom of Denmark and the Kingdom of Norway is to be drawn as set out in paragraphs 91 and 92 of the present Judgment.

IN FAVOUR: *President* Sir Robert Jennings; *Vice-President* Oda; *Judges* Ago, Schwebel, Bedjaoui, Ni, Evensen, Tarassov, Guillaume, Shahabuddeen, Aguilar Mawdsley, Weeramantry, Ranjeva, Ajibola;

AGAINST: *Judge* ad hoc Fischer."

Vice-President Oda and Judges Evensen, Aguilar Mawdsley and Ranjeva appended declarations,[214] Vice-President Oda and Judges Schwebel, Shahabuddeen, Weeramantry and Ajibola appended separate opinions,[215] and Judge *ad hoc* Fischer appended a dissenting opinion[216] to the Judgment.

2. *Certain Phosphate Lands in Nauru (Nauru* v. *Australia)*

By an Order of 25 June 1993,[217] the Court, taking into account the views of the Parties, directed that a Reply by the Applicant and a Rejoinder by the Respondent should be filed and fixed the following time limits: 22 December 1993 for the Reply of Nauru and 14 September 1994 for the Rejoinder of Australia.

By a joint notification filed in the Registry on 9 September 1993 the two Parties informed the Court that they had, in consequence of having reached a settlement, agreed to discontinue the proceedings. By an Order of 13 September 1993,[218] the Court placed on record the discontinuance and directed that the case be removed from the list.

3. *Territorial Dispute (Libyan Arab Jamahiriya/Chad)*

Chad chose Mr. Georges M. Abi-Saab and the Libyan Arab Jamahiriya Mr. José Sette-Camara to sit as judges *ad hoc*. They made the solemn declaration required by the Statute and Rules of Court on 14 June 1993, at the opening of the oral proceedings in the case.

Oral proceedings were held from 14 June to 14 July 1993. During 19 public sittings, the Court heard statements on behalf of Libya and of Chad. A Mem-

ber of the Court put a question to one of the Parties. The President of Chad, His Excellency Colonel Idriss Deby, attended the opening sitting of 14 June.

4. *East Timor (Portugal* v. *Australia)*

By an Order of 19 June 1992,[219] the Court, having ascertained the views of the Parties, fixed 1 December 1992 as the time limit for the filing of a Reply by Portugal and 1 June 1993 for the filing of a Rejoinder by Australia. The Reply was filed within the prescribed time limit.

Australia filed its Rejoinder following an Order of 19 May 1993,[220] by which the President of the Court, upon the request of Australia and after Portugal had indicated that it had no objection, had extended the time limit for the filing of that Rejoinder to 1 July 1993.

5. *Oil Platforms (Islamic Republic of Iran* v. *United States of America)*

By an Order of 3 June 1993,[221] the President of the Court, upon the request of Iran and after the United States had indicated that it had no objection, extended those time limits to 8 June and 16 December 1993, respectively. The Memorial was filed within the prescribed time limit.

The Islamic Republic of Iran chose Mr. François Rigaux to sit as judge *ad hoc*.

On 16 December 1993, within the extended time limit for filing the Counter-Memorial, the United States of America filed certain preliminary objections to the Court's jurisdiction.

6. *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Yugoslavia (Serbia and Montenegro))*

On 20 March 1993, the Republic of Bosnia and Herzegovina filed in the Registry of the Court an Application instituting proceedings against Yugoslavia (Serbia and Montenegro) "for violating the Genocide Convention".

The Application referred to several provisions of the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948,[222] as well as of the Charter of the United Nations, which Bosnia and Herzegovina alleged were violated by Yugoslavia (Serbia and Montenegro). It also referred in this respect to the four Geneva Conventions of 1949 and their Additional Protocol I of 1977, to the Hague Regulations on Land Warfare of 1907, and to the Universal Declaration of Human Rights.

The Application referred to article IX of the Genocide Convention as the basis for the jurisdiction of the Court.

In the Application, Bosnia and Herzegovina requested the Court to adjudge and declare:

> "(*a*) that Yugoslavia (Serbia and Montenegro) has breached, and is continuing to breach, its legal obligations towards the People and State of Bosnia and Herzegovina under articles I, II (*a*), II (*b*), II (*c*), II (*d*), III (*a*), III (*b*), III (*c*), III (*d*), III (*e*), IV and V of the Genocide Convention;

(*b*) that Yugoslavia (Serbia and Montenegro) has violated and is continuing to violate its legal obligations toward the People and State of Bosnia and Herzegovina under the four Geneva Conventions of 1949,[223] their Additional Protocol I of 1977,[224] the customary international laws of war including the Hague Regulations on Land Warfare of 1907, and other fundamental principles of international humanitarian law;

(*c*) that Yugoslavia (Serbia and Montenegro) has violated and continues to violate articles 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26 and 28 of the Universal Declaration of Human Rights with respect to the citizens of Bosnia and Herzegovina;

(*d*) that Yugoslavia (Serbia and Montenegro), in breach of its obligations under general and customary international law, has killed, murdered, wounded, raped, robbed, tortured, kidnapped, illegally detained, and exterminated the citizens of Bosnia and Herzegovina, and is continuing to do so;

(*e*) that in its treatment of the citizens of Bosnia and Herzegovina, Yugoslavia (Serbia and Montenegro) has violated, and is continuing to violate, its solemn obligations under Articles 1 (3), 55 and 56 of the Charter of the United Nations;

(*f*) that Yugoslavia (Serbia and Montenegro) has used and is continuing to use force and the threat of force against Bosnia and Herzegovina in violation of Articles 2 (1), 2 (2), 2 (3), 2 (4) and 33 (1) of the Charter of the United Nations;

(*g*) that Yugoslavia (Serbia and Montenegro), in breach of its obligations under general and customary international law, has used and is using force and the threat of force against Bosnia and Herzegovina;

(*h*) that Yugoslavia (Serbia and Montenegro), in breach of its obligations under general and customary international law, has violated and is violating the sovereignty of Bosnia and Herzegovina by:

— armed attacks against Bosnia and Herzegovina by air and land;

— aerial trespass into Bosnian airspace;

— efforts by direct and indirect means to coerce and intimidate the Government of Bosnia and Herzegovina;

(*i*) that Yugoslavia (Serbia and Montenegro), in breach of its obligations under general and customary international law, has intervened and is intervening in the internal affairs of Bosnia and Herzegovina;

(*j*) that Yugoslavia (Serbia and Montenegro), in recruiting, training, arming, equipping, financing, supplying and otherwise encouraging, supporting, aiding, and directing military and paramilitary actions in and against Bosnia and Herzegovina by means of its agents and surrogates, has violated and is violating its express charter and treaty obligations to Bosnia and Herzegovina and, in particular, its charter and treaty obligations under Article 2 (4) of the Charter of the United Nations, as well as its obligations under general and customary international law;

(*k*) that under the circumstances set forth above, Bosnia and Herzegovina has the sovereign right to defend itself and its People under Article 51 of the Charter of the United Nations and customary international law, including by means of immediately obtaining military weapons, equipment, supplies and troops from other States;

(*l*) that under the circumstances set forth above, Bosnia and Herzegovina has the sovereign right under Article 51 of the Charter of the United Nations and customary international law to request the immediate assistance of any State to come to its defence, including by military means (weapons, equipment, supplies, troops, etc.);

(*m*) that Security Council resolution 713 (1991), imposing a weapons embargo upon the former Yugoslavia, must be construed in a manner that shall not impair the inherent right of individual or collective self-defence of Bosnia and Herzegovina under the terms of Article 51 of the Charter of the United Nations and the rules of customary international law;

(*n*) that all subsequent Security Council resolutions that refer to or reaffirm resolution 713 (1991) must be construed in a manner that shall not impair the inherent right of individual or collective self-defence of Bosnia and Herzegovina under the terms of Article 51 of the Charter of the United Nations and the rules of customary international law;

(*o*) that Security Council resolution 713 (1991) and all subsequent Security Council resolutions referring thereto or reaffirming thereof must not be construed to impose an arms embargo upon Bosnia and Herzegovina, as required by Articles 24 (1) and 51 of the Charter of the United Nations and in accordance with the customary doctrine of *ultra vires*;

(*p*) that pursuant to the right of collective self-defence recognized by Article 51 of the Charter of the United Nations, all other States parties to the Charter have the right to come to the immediate defence of Bosnia and Herzegovina—at its request—including by means of immediately providing it with weapons, military equipment and supplies, and armed forces (soldiers, sailors, airpeople, etc.);

(*q*) that Yugoslavia (Serbia and Montenegro) and its agents and surrogates are under an obligation to cease and desist immediately from its breaches of the foregoing legal obligations, and is under a particular duty to cease and desist immediately:

— from its systematic practice of so-called 'ethnic cleansing' of the citizens and sovereign territory of Bosnia and Herzegovina;

— from the murder, summary execution, torture, rape, kidnapping, mayhem, wounding, physical and mental abuse, and detention of the citizens of Bosnia and Herzegovina;

— from the wanton devastation of villages, towns, districts, cities, and religious institutions in Bosnia and Herzegovina;

— from the bombardment of civilian population centres in Bosnia and Herzegovina, and especially its capital, Sarajevo;

— from continuing the siege of any civilian population centres in Bosnia and Herzegovina, and especially its capital, Sarajevo;

— from the starvation of the civilian population in Bosnia and Herzegovina;

— from the interruption of, interference with, or harassment of humanitarian relief supplies to the citizens of Bosnia and Herzegovina by the international community;

— from all use of force—whether direct or indirect, overt or covert—against Bosnia and Herzegovina, and from all threats of force against Bosnia and Herzegovina;

— from all violations of the sovereignty, territorial integrity or political independence of Bosnia and Herzegovina, including all intervention, direct or indirect, in the internal affairs of Bosnia and Herzegovina;

— from all support of any kind—including the provision of training, arms, ammunition, finances, supplies, assistance, direction or any other form of support—to any nation, group, organization, movement or individual engaged or planning to engage in military or paramilitary actions in or against Bosnia and Herzegovina;

(*r*) that Yugoslavia (Serbia and Montenegro) has an obligation to pay Bosnia and Herzegovina, in its own right and as *parens patriae* for its citizens, reparations for damages to persons and property as well as to the Bosnian economy and environment caused by the foregoing violations of international law in a sum to be determined by the Court. Bosnia and Herzegovina reserves the right to introduce to the Court a precise evaluation of the damages caused by Yugoslavia (Serbia and Montenegro)."

On the same day, the Government of Bosnia and Herzegovina, stating that:

"The overriding objective of this Request is to prevent further loss of human life in Bosnia and Herzegovina",

and that:

"The very lives, well-being, health, safety, physical, mental and bodily integrity, homes, property and personal possessions of hundreds of thousands of people in Bosnia and Herzegovina are right now at stake, hanging in the balance, awaiting the order of this Court",

filed a request for the indication of provisional measures under Article 41 of the Statute of the Court.

The provisional measures requested were as follows:

"1. That Yugoslavia (Serbia and Montenegro), together with its agents and surrogates in Bosnia and elsewhere, must immediately cease and desist from all acts of genocide and genocidal acts against the People and State of Bosnia and Herzegovina, including but not limited to murder; summary executions; torture; rape; mayhem; so-called 'ethnic cleansing'; the wanton devastation of villages, towns, districts and cities; the siege of villages, towns, districts and cities; the starvation of the civilian population; the interruption of, interference with, or harassment of humanitarian relief supplies to the civilian population by the international community; the bombardment of civilian population centres; and the detention of civilians in concentration camps or otherwise.

2. That Yugoslavia (Serbia and Montenegro) must immediately cease and desist from providing, directly or indirectly, any type of support—including training, weapons, arms, ammunition, supplies, assistance, finances, direction or any other form of support—to any nation, group, organization, movement, militia or individual engaged in or planning to engage in military or paramilitary activities in or against the People, State and Government of Bosnia and Herzegovina.

3. That Yugoslavia (Serbia and Montenegro) itself must immediately cease and desist from any and all types of military or paramilitary activities by its own officials, agents, surrogates, or forces in or against the

People, State and Government of Bosnia and Herzegovina, and from any other use or threat of force in its relations with Bosnia and Herzegovina.

4. That under the current circumstances, the Government of Bosnia and Herzegovina has the right to seek and receive support from other States in order to defend itself and its People, including by means of immediately obtaining military weapons, equipment and supplies.

5. That under the current circumstances, the Government of Bosnia and Herzegovina has the right to request the immediate assistance of any State to come to its defence, including by means of immediately providing weapons, military equipment and supplies, and armed forces (soldiers, sailors, airpeople, etc.).

6. That under the current circumstances, any State has the right to come to the immediate defence of Bosnia and Herzegovina—at its request—including by means of immediately providing weapons, military equipment and supplies, and armed forces (soldiers, sailors, and airpeople, etc.)."

Hearings on the request for the indication of provisional measures were held on 1 and 2 April 1993. At two public sittings the Court heard the oral observations of each of the Parties. A Member of the Court put a question to both Agents.

At a public sitting held on 8 April 1993, the President of the Court read the Order on the request for provisional measures made by Bosnia and Herzegovina,[225] the operative paragraph of which reads as follows:

Operative paragraph (para. 52)

"52. For these reasons,

THE COURT

Indicates, pending its final decision in the proceedings instituted on 20 March 1993 by the Republic of Bosnia and Herzegovina against the Federal Republic of Yugoslavia (Serbia and Montenegro), the following provisional measures:

A. (1) Unanimously,

The Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) should immediately, in pursuance of its undertaking in the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948, take all measures within its power to prevent commission of the crime of genocide;

(2) By 13 votes to 1,

The Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) should in particular ensure that any military, paramilitary or irregular armed units which may be directed or supported by it, as well as any organizations and persons which may be subject to its control, direction or influence, do not commit any acts of genocide, of conspiracy to commit genocide, of direct and public incitement to commit genocide, or of complicity in genocide, whether directed against the Muslim population of Bosnia and Herzegovina or against any other national, ethnical, racial or religious group;

IN FAVOUR: *President* Sir Robert Jennings; *Vice-President* Oda; *Judges* Ago, Schwebel, Bedjaoui, Ni, Evensen, Guillaume, Shahabuddeen, Aguilar Mawdsley, Weeramantry, Ranjeva, Ajibola;

AGAINST: *Judge* Tarassov.

B. Unanimously,

The Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) and the Government of the Republic of Bosnia and Herzegovina should not take any action and should ensure that no action is taken which may aggravate or extend the existing dispute over the prevention or punishment of the crime of genocide, or render it more difficult of solution."

*

Judge Tarassov appended a declaration to the Order.[226]

*

By an Order of 16 April 1993,[227] the President of the Court, taking into account an agreement of the Parties, fixed 15 October 1993 as the time limit for the filing of the Memorial of Bosnia and Herzegovina and 15 April 1994 for the filing of the Counter-Memorial of Yugoslavia (Serbia and Montenegro).

Bosnia and Herzegovina chose Mr. Elihu Lauterpacht and Yugoslavia (Serbia and Montenegro) Mr. Milenko Kreća to sit as judges *ad hoc*.

On 27 July 1993, the Republic of Bosnia and Herzegovina filed a second request for the indication of provisional measures, stating that:

"This extraordinary step is being taken because the Respondent has violated each and every one of the three measures of protection on behalf of Bosnia and Herzegovina that were indicated by this Court on 8 April 1993, to the grave detriment of both the People and State of Bosnia and Herzegovina. In addition to continuing its campaign of genocide against the Bosnian People—whether Muslim, Christian, Jew, Croat or Serb—the Respondent is now planning, preparing, conspiring to, proposing, and negotiating the partition, dismemberment, annexation and incorporation of the sovereign State of Bosnia and Herzegovina—a Member of the United Nations Organization—by means of genocide."

The provisional measures then requested were as follows:

"1. That Yugoslavia (Serbia and Montenegro) must immediately cease and desist from providing, directly or indirectly, any type of support—including training, weapons, arms, ammunition, supplies, assistance, finances, direction or any other form of support—to any nation, group, organization, movement, military, militia or paramilitary force, irregular armed unit, or individual in Bosnia and Herzegovina for any reason or purpose whatsoever.

2. That Yugoslavia (Serbia and Montenegro) and all of its public officials—including and especially the President of Serbia, Mr. Slobodan

Milosevic—must immediately cease and desist from any and all efforts, plans, plots, schemes, proposals or negotiations to partition, dismember, annex or incorporate the sovereign territory of Bosnia and Herzegovina.

3. That the annexation or incorporation of any sovereign territory of the Republic of Bosnia and Herzegovina by Yugoslavia (Serbia and Montenegro) by any means or for any reason shall be deemed illegal, null, and void *ab initio*.

4. That the Government of Bosnia and Herzegovina must have the means 'to prevent' the commission of acts of genocide against its own People as required by article I of the Genocide Convention.

5. That all Contracting Parties to the Genocide Convention are obliged by article I thereof 'to prevent' the commission of acts of genocide against the People and State of Bosnia and Herzegovina.

6. That the Government of Bosnia and Herzegovina must have the means to defend the People and State of Bosnia and Herzegovina from acts of genocide and partition and dismemberment by means of genocide.

7. That all Contracting Parties to the Genocide Convention have the obligation thereunder 'to prevent' acts of genocide, and partition and dismemberment by means of genocide, against the People and State of Bosnia and Herzegovina.

8. That in order to fulfil its obligations under the Genocide Convention under the current circumstances, the Government of Bosnia and Herzegovina must have the ability to obtain military weapons, equipment, and supplies from other Contracting Parties.

9. That in order to fulfil their obligations under the Genocide Convention under the current circumstances, all Contracting Parties thereto must have the ability to provide military weapons, equipment, supplies and armed forces (soldiers, sailors, airpeople) to the Government of Bosnia and Herzegovina at its request.

10. That United Nations peacekeeping forces in Bosnia and Herzegovina (i.e., UNPROFOR) must do all in their power to ensure the flow of humanitarian relief supplies to the Bosnian People through the Bosnian city of Tuzla."

On 5 August 1993, the President of the Court addressed a message to both Parties, referring to Article 74, paragraph 4, of the Rules of Court, which enables him, pending the meeting of the Court:

"to call upon the parties to act in such a way as will enable any order the Court may make on the request for provisional measures to have its appropriate effects",

and stating:

"I do now call upon the Parties so to act, and I stress that the provisional measures already indicated in the Order which the Court made after hearing the Parties, on 8 April 1993, still apply.

Accordingly I call upon the Parties to take renewed note of the Court's Order and to take all and any measures that may be within their power to

prevent any commission, continuance, or encouragement of the heinous international crime of genocide".

On 10 August 1993, Yugoslavia filed a request, dated 9 August 1993, for the indication of provisional measures, whereby it requested the Court to indicate the following provisional measure:

> "The Government of the so-called Republic of Bosnia and Herzegovina should immediately, in pursuance of its obligation under the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948, take all measures within its power to prevent commission of the crime of genocide against the Serb ethnic group."

The hearings concerning the further requests for the indication of provisional measures were held on 25 and 26 August 1993. In the course of two public sittings the Court heard statements from each of the Parties. Judges put questions to both Parties.

At a public sitting held on 13 September 1993, the President of the Court read out the Order concerning the further requests for the indication of provisional measures,[228] a summary of which is given below, followed by the text of the operative paragraph.

In its Order the Court recalled that on 20 March 1993 Bosnia and Herzegovina had instituted proceedings against Yugoslavia in respect of a dispute concerning alleged violations by Yugoslavia of the Convention on the Prevention and Punishment of the Crime of Genocide. In the Application Bosnia and Herzegovina, basing the jurisdiction of the Court on article IX of the Convention for the Prevention and Punishment of the Crime of Genocide, adopted by the General Assembly of the United Nations on 9 December 1948 (hereinafter called "the Genocide Convention"), recounted a series of events in Bosnia and Herzegovina from April 1992 up to the time of the filing of that Application which, in its contention, amounted to acts of genocide within the definition given in the Genocide Convention and claimed that the acts complained of had been committed by former members of the Yugoslav People's Army (YPA) and by Serb military and paramilitary forces under the direction of, at the behest of, and with assistance from Yugoslavia, and that Yugoslavia was therefore fully responsible under international law for their activities.

The Court then referred to the submissions of Bosnia and Herzegovina, and to its request of 20 March 1993 for the indication of provisional measures.

The Court also referred to the recommendation by Yugoslavia (in written observations on the request for provisional measures, submitted on 1 April 1993) that the Court order the application of the following provisional measures:

> "— to instruct the authorities controlled by A. Izetbegovic to comply strictly with the latest agreement on a cease-fire in the 'Republic of Bosnia and Herzegovina' which went into force on 28 March 1993;
>
> — to direct the authorities under the control of A. Izetbegovic to respect the Geneva Conventions for the Protection of Victims of War of 1949 and the 1977 Additional Protocols thereof, since the genocide of Serbs living in the 'Republic of Bosnia and Herzegovina' is being carried out by the commission of very serious war crimes which are in violation of the obligation not to infringe upon the essential human rights;

— to instruct the authorities loyal to A. Izetbegovic to close immediately and disband all prisons and detention camps in the 'Republic of Bosnia and Herzegovina' in which the Serbs are being detained because of their ethnic origin and subjected to acts of torture, thus presenting a real danger for their life and health;

— to direct the authorities controlled by A. Izetbegovic to allow, without delay, the Serb residents to leave safely Tuzla, Zenica, Sarajevo and other places in the 'Republic of Bosnia and Herzegovina', where they have been subject to harassment and physical and mental abuse, and having in mind that they may suffer the same fate as the Serbs in eastern Bosnia, which was the site of the killing and massacres of a few thousand Serb civilians;

— to instruct the authorities loyal to A. Izetbegovic to cease immediately any further destruction of Orthodox churches and places of worship and of other Serb cultural heritage, and to release and stop further mistreatment of all Orthodox priests being in prison;

— to direct the authorities under the control of A. Izetbegovic to put an end to all acts of discrimination based on nationality or religion and the practice of 'ethnic cleansing', including the discrimination relating to the delivery of humanitarian aid, against the Serb population in the 'Republic of Bosnia and Herzegovina'."

After recalling its Order of 8 April 1993, the Court referred to a second request of Bosnia and Herzegovina, filed on 27 July 1993.

The Court then recalled the message addressed by the President of the Court, on 5 August 1993, to both Parties, and referred to the request by Yugoslavia, filed on 10 August 1993, whereby Yugoslavia had requested the Court to indicate the provisional measure set out above.

After referring to several questions of procedure, the Court began by considering that in order to be admissible the second request by Bosnia and Herzegovina, and that of Yugoslavia, should be based upon new circumstances such as to justify their being examined. The Court found that that was the case.

Turning to the question of its jurisdiction, the Court recalled that in its Order of 8 April 1993 the Court had considered that article IX of the Genocide Convention, to which both the Applicant and the Respondent were parties, appeared to the Court

"to afford a basis on which the jurisdiction of the Court might be founded to the extent that the subject-matter of the dispute relates to 'the interpretation, application or fulfilment' of the Convention, including disputes 'relating to the responsibility of a State for genocide or for any of the other acts enumerated in article III' of the Convention".[229]

It thereafter examined several additional bases of jurisdiction relied on by the Applicant, finding that the 1919 Treaty of Saint-Germain-en-Laye was irrelevant for the request; that no new fact had been put forward to reopen the question of whether the letter of 8 June 1992 addressed to the President of the Arbitration Commission of the International Conference for Peace in Yugoslavia might constitute a ground for jurisdiction; that the Court's jurisdiction under customary and conventional laws of war and international humanitarian law was not prima facie established; and that a communication Yugoslavia made in the context of the first request for provisional measures by the Applicant,

dated 1 April 1993, could not, even prima facie, be interpreted as "an unequivocal indication" of a "voluntary and undisputable" acceptance of the Court's jurisdiction.

The Court then observed that the power of the Court to indicate provisional measures under Article 41 of the Statute of the Court had as its object to preserve the respective rights of the parties pending the decision of the Court, and presupposed that irreparable prejudice should not be caused to rights which were the subject of dispute in judicial proceedings; and whereas it followed that the Court had to be concerned to preserve by such measures the rights which might subsequently be adjudged by the Court to belong either to the Applicant or to the Respondent and that the Court, having established the existence of one basis on which its jurisdiction might be founded, namely article IX of the Genocide Convention, and having been unable to find that other suggested bases could prima facie be accepted as such, ought not to indicate measures for the protection of any disputed rights other than those which might ultimately form the basis of a judgment in the exercise of the jurisdiction thus prima facie established.

After reiterating the measures it had indicated in its Order of 8 April 1993, the Court then summed up the rights sought to be protected, as enumerated in the second request of Bosnia and Herzegovina for the indication of provisional measures, and concluded that nearly all of those rights had been asserted in almost identical terms in Bosnia and Herzegovina's first request and that only one of them was such that it might prima facie to some extent fall within the rights arising under the Genocide Convention; and that it had therefore been in relation to that paragraph and for the protection of rights under the Convention that the Court had indicated provisional measures in its Order of 8 April 1993.

The Court then turned to the list of measures which the Applicant requested it to indicate and observed that it included certain measures which would be addressed to States or entities not parties to the proceedings. The Court considered that the judgment in a particular case had, in accordance with Article 59 of the Statute of the Court, "no binding force except between the parties"; and that accordingly the Court might, for the preservation of those rights, indicate provisional measures to be taken by the parties, but not by third States or other entities who would not be bound by the eventual judgment to recognize and respect those rights.

Three of the measures requested by the Applicant provided that the Government of Bosnia and Herzegovina "must have the means" to prevent the commission of genocide, and to defend its people against genocide, and "must have the ability to obtain military weapons, equipment and supplies" from the other parties to the Genocide Convention. The Court observed that Article 41 of the Statute empowered the Court to indicate measures "which ought to be taken to preserve the respective rights of either party", and that this meant measures which ought to be taken by one or both parties to the case; that, however, it was clear that the intention of the Applicant in requesting these measures was not that the Court should indicate that the Respondent ought to take certain steps for the preservation of the Applicant's rights, but rather that the Court should make a declaration of what those rights were, which "would clarify the legal situation for the entire international community", in particular the members of the United Nations Security Council. The Court accordingly found that this request had to be regarded as outside the scope of Article 41 of the Statute.

Two of the measures requested related to the possibility of "partition and dismemberment", annexation or incorporation of the sovereign territory of Bosnia and Herzegovina. The Court was unable to accept that a "partition and dismemberment", or annexation of a sovereign State, or its incorporation into another State, could in itself constitute an act of genocide and thus a matter falling within the jurisdiction of the Court under article IX of the Genocide Convention. On the other hand, in so far as it was the Applicant's contention that such "partition and dismemberment", annexation or incorporation would result from genocide, the Court, in its Order of 8 April 1993, had already indicated that Yugoslavia should "take all measures within its power to prevent commission of the crime of genocide", whatever might be the consequences.

*

Turning to the request by Yugoslavia, the Court did not find that the circumstances, as they presented themselves to the Court, were such as to require a more specific indication of measures addressed to Bosnia and Herzegovina so as to recall to it both its undoubted obligations under the Genocide Convention and the need to refrain from action of the kind contemplated by paragraph 52 B of the Court's Order of 8 April 1993.

*

The Court finally referred to Article 75, paragraph 2, of the Rules of Court, which recognized the power of the Court, when a request for provisional measures had been made, to indicate measures that were in whole or in part other than those requested and observed that the Court had to consider the circumstances drawn to its attention and to determine whether those circumstances required the indication of further provisional measures to be taken by the Parties for the protection of rights under the Genocide Convention.

After reviewing the situation and after referring to several pertinent resolutions of the Security Council, the Court came to the conclusion that

> "the present perilous situation demands, not an indication of provisional measures additional to those indicated by the Court's Order of 8 April 1993 but immediate and effective implementation of those measures".

Operative paragraph (para. 61)

> "THE COURT,
>
> (1) By 13 votes to 2,
>
> *Reaffirms* the provisional measure indicated in paragraph 52 A (1) of the Order made by the Court on 8 April 1993, which should be immediately and effectively implemented;
>
> IN FAVOUR: *President* Sir Robert Jennings; *Vice-President* Oda; *Judges* Schwebel, Bedjaoui, Ni, Evensen, Guillaume, Shahabuddeen, Aguilar Mawdsley, Weeramantry, Ajibola, Herczegh; *Judge* ad hoc Lauterpacht;
>
> AGAINST: *Judge* Tarassov; *Judge* ad hoc Kreća;

(2) By 13 votes to 2,

Reaffirms the provisional measure indicated in paragraph 52 A (2) of the Order made by the Court on 8 April 1993, which should be immediately and effectively implemented;

IN FAVOUR: *President* Sir Robert Jennings; *Vice-President* Oda; *Judges* Schwebel, Bedjaoui, Ni, Evensen, Guillaume, Shahabuddeen, Aguilar Mawdsley, Weeramantry, Ajibola, Herczegh; *Judge* ad hoc Lauterpacht;

AGAINST: *Judge* Tarassov; *Judge* ad hoc Kreća;

(3) By 14 votes to 1,

Reaffirms the provisional measure indicated in paragraph 52 B of the Order made by the Court on 8 April 1993, which should be immediately and effectively implemented.

IN FAVOUR: *President* Sir Robert Jennings; *Vice-President* Oda; *Judges* Schwebel, Bedjaoui, Ni, Evensen, Tarassov, Guillaume, Shahabuddeen, Aguilar Mawdsley, Weeramantry, Ajibola, Herczegh; *Judge* ad hoc Lauterpacht;

AGAINST: *Judge* ad hoc Kreća."

*

Judge Oda appended a declaration to the Order;[230] Judges Shahabuddeen, Weeramantry and Ajibola and Judge *ad hoc* Lauterpacht appended separate opinions;[231] and Judge Tarassov and Judge *ad hoc* Kreća appended dissenting opinions.[232]

By an Order of 7 October 1993,[233] the Vice-President of the Court, at the request of Bosnia and Herzegovina and after Yugoslavia (Serbia and Montenegro) had expressed its opinion, extended to 15 April 1994 the time limit for the filing of the Memorial of Bosnia and Herzegovina, and to 15 April 1995 the time limit for the filing of the Counter-Memorial of Yugoslavia (Serbia and Montenegro). The Memorial was filed within the prescribed time limit.

7. *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*

Following negotiations under the aegis of the European Communities between Hungary and the Czech and Slovak Federal Republic, which dissolved into two separate States on 1 January 1993, the Governments of the Republic of Hungary and of the Slovak Republic notified jointly, on 2 July 1993, to the Registrar of the Court a Special Agreement, signed at Brussels on 7 April 1993, for the submission to the Court of certain issues arising out of differences which had existed between the Republic of Hungary and the Czech and Slovak Federal Republic, regarding the implementation and the termination of the Budapest Treaty of 16 September 1977 on the Construction and Operation of the Gabčíkovo-Nagymaros Barrage System and on the construction and operation of the "provisional solution". The Special Agreement records that the Slovak Republic is in this respect the sole successor State of the Czech and Slovak Federal Republic.

In article 2 of the Special Agreement:

"(1) The Court is requested to decide on the basis of the Treaty and rules and principles of general international law, as well as such other treaties as the Court may find applicable,

(*a*) whether the Republic of Hungary was entitled to suspend and subsequently abandon, in 1989, the works on the Nagymaros Project and on the part of the Gabčíkovo Project for which the Treaty attributed responsibility to the Republic of Hungary;

(*b*) whether the Czech and Slovak Federal Republic was entitled to proceed, in November 1991, to the 'provisional solution' and to put into operation from October 1992 this system, described in the Report of the Working Group of Independent Experts of the Commission of the European Communities, the Republic of Hungary and the Czech and Slovak Federal Republic dated 23 November 1992 (damming up of the Danube at river kilometre 1851.7 on Czechoslovak territory and resulting consequences on water and navigation course);

(*c*) what are the legal effects of the notification, on 19 May 1992, of the termination of the Treaty by the Republic of Hungary.

(2) The Court is also requested to determine the legal consequences, including the rights and obligations for the Parties, arising from its Judgment on the questions in paragraph 1 of this article."

By an Order of 14 July 1993,[234] the Court decided that, as provided in article 3, paragraph 2, of the Special Agreement and Article 46, paragraph 1, of the Rules of Court, each Party should file a Memorial and a Counter-Memorial, within the same time limit, and fixed 2 May 1994 and 5 December 1994 as the time limits for the filing of the Memorial and Counter-Memorial, respectively. The Memorials were filed within the prescribed time limit.

B. Request for advisory opinion

Legality of the Use by a State of Nuclear Weapons in Armed Conflict

On 14 May 1993, the World Health Assembly of the World Health Organization adopted resolution WHA46.40, by which the Assembly requested the International Court of Justice to give an advisory opinion on the following question:

"In view of the health and environmental effects, would the use of nuclear weapons by a State in war or other armed conflict be a breach of its obligations under international law including the WHO Constitution?"

The letter of the Director-General of the World Health Organization transmitting to the Court the request for an advisory opinion, together with certified true copies of the English and French texts of the aforesaid resolution, dated 27 August 1993, was received in the Registry on 3 September 1993.

By an Order of 13 September 1993,[235] the Court fixed 10 June 1994 as the time limit within which written statements might be submitted to the Court by the World Health Organization and by those of its member States which were entitled to appear before the Court, in accordance with Article 66, paragraph 2, of the Statute of the Court.

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6. INTERNATIONAL LAW COMMISSION[236]

Forty-fifth session of the Commission[237]

The International Law Commission held its forty-fifth session at Geneva from 3 May to 23 July 1993. The Commission considered all items on its agenda.

On the question of the draft Code of Crimes against the Peace and Security of Mankind, the Commission had before it the eleventh report of the Special Rapporteur on the topic,[238] which was entirely devoted to the question of a draft statute of an international criminal court. The draft statute submitted by the Special Rapporteur consisted of 37 draft articles and was divided into three titles, namely, Title I on the creation of the court; Title II on its organization and functioning; and Title III on the procedure of the court. Members of the Commission expressed their satisfaction with the work done by the Special Rapporteur, who, after several years of preliminary exploratory work, had succeeded in formulating a draft statute of an international criminal court, and decided to reconvene the Working Group it had established at the previous session, and further decided to name the Working Group "Working Group on a draft statute of an international criminal court". The Working Group subsequently submitted a report to the Commission; however, the Commission was unable to examine the draft articles in detail but felt that, in principle, the proposed draft articles provided a basis for examination by the General Assembly at its forty-eighth session.

Regarding the question of international liability for injurious consequences arising out of acts not prohibited by international law, the Commission had before it the ninth report of the Special Rapporteur,[239] which was devoted to the issue of prevention. At the conclusion of its discussions, the Commission decided to refer article 10 (non-discrimination), which the Commission had examined at its forty-second session, and articles 11 to 20 *bis*, proposed by the Special Rapporteur in his ninth report, to the Drafting Committee. The Drafting Committee provisionally adopted articles 1 (scope of the present articles), 2 (use of terms), 11 (prior authorization), 12 (risk assessment) and 14 (measures to minimize the risk); however, the Commission agreed to defer action on the proposed draft articles to its next session.

With respect to the question of State responsibility, the Commission had before it the fifth report of the Special Rapporteur,[240] which consisted of two chapters. Chapter I was entitled "Part Three of the draft articles on State responsibility and dispute settlement procedures" and contained six draft articles accompanied by an annex. After consideration, the Commission referred the draft articles and annex to the Drafting Committee. Chapter II, which was entitled "The consequences of the so-called international 'crimes' of States (article 19 of part one of the draft)", was not discussed for lack of time.

Regarding the question of the law of the non-navigational uses of international watercourses, the Commission had before it the first report of the Special Rapporteur,[241] which contained an analysis of the written comments and observations received from Governments and some changes in the articles adopted on first reading. At the conclusion of the debate, the Commission referred articles 1 to 10 to the Drafting Committee. The Commission further considered the report of the Drafting Committee,[242] which contained the text of the articles adopted by the Committee on second reading, namely, articles 1 to 6 and 8 to 10. The Commission decided to defer action on the proposed draft articles to the following session.

Consideration by the General Assembly

At its forty-eighth session, the General Assembly had before it the report of the International Law Commission on the work of its forty-fifth session.[243]

By its resolution 48/31 of 9 December 1993,[244] adopted on the recommendation of the Sixth Committee,[245] the General Assembly took note of the report of the Commission on the work of its forty-fifth session; recommended that, taking into account the comments of Governments, the Commission should continue its work on the topics in its current programme; requested the Commission to continue its work as a matter of priority on the question of an international criminal court with a view to elaborating a draft statute, if possible at its forty-sixth session in 1994; and endorsed the decision of the Commission to include in its agenda the topics "The law and practice relating to reservations to treaties" and "State succession and its impact on the nationality of natural and legal persons", on the understanding that the final form to be given to the work on the topics should be decided after a preliminary study was presented to the General Assembly.

7. UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW[246]

TWENTY-SIXTH SESSION OF THE COMMISSION[247]

The United Nations Commission on International Trade Law held its twenty-sixth session at Vienna from 5 to 23 July 1995.

In connection with the question of the draft Model Law on Procurement,[248] before entering into a substantive discussion of the articles of the draft Model Law, the Commission considered its method of work, and decided that the draft Guide to Enactment of the Model Law on Procurement[249] should be discussed and adopted by the plenary of the Commission instead of being published as a document of the United Nations Secretariat. The Commission also decided to proceed with the consideration of the draft Model Law and to defer the consideration of the draft Guide to Enactment until it had completed its consideration of the draft Model Law. The Commission agreed that the title of the draft Model Law should be changed to "UNCITRAL Model Law on Procurement of Goods and Construction". The Commission also agreed that, upon completion of its consideration of the Model Law and the Guide to Enactment, it would consider such questions as whether the Model Law and the Guide to Enactment should be published in a joint document or separately and whether, in a separate publication of the Model Law, to include a footnote reference to the Guide.

The Commission had before it a note by the United Nations Secretariat on possible future work on the elaboration of model statutory provisions on procurement of services,[250] which addressed the desirability and feasibility of preparing such model provisions, the differing considerations with respect to the procurement of services and the procurement of goods or construction, and the possible content of model statutory provisions. The note also presented the draft text of possible amendments to the UNCITRAL Model Law on Procurement of Goods and Construction that would be designed to expand its scope to cover the procurement of services. After deliberation, the Commission agreed that the draft provisions on services should be presented in a manner that was suitable both for States that had adopted the Model Law on Procurement of Goods and Construction and for States considering simultaneous adoption of provisions for goods, construction and services.

With respect to the question of electronic data interchange, the Commission had before it the report of the Working Group on Electronic Data Inter-

change (EDI) on the work of its twenty-fifth session,[251] in which the Commission noted that the Working Group had begun discussion of the content of a uniform law on EDI. Regarding the issue of the preparation of a model communication agreement for optional use between EDI users, the Commission reaffirmed its decision to postpone its consideration of the matter until the texts of model interchange agreements currently being prepared within other organizations, such as the European Communities and the Economic Commission for Europe, were available for review by the Commission. The Commission also reaffirmed the need for active cooperation between all international organizations active in the field of EDI, and it was agreed that the Commission, in view of its universal membership and general mandate as the core legal body of the United Nations system in the field of international trade law, should play a particularly active role with respect to the legal issues of EDI.

With regard to guarantees and standby letters of credit, the Commission had before it the reports of the Working Group on International Contract Practices on the work of its eighteenth[252] and nineteenth[253] sessions, which contained an examination of draft articles 1 to 8 and 9 to 17, respectively, of the draft Convention on International Guaranty Letters. The Commission expressed its appreciation for the valuable work done so far by the Working Group on a matter that was complex and on which few models existed, but also expressed its concern about the slow progress made by the Working Group so far and requested it to consider methods of carrying out its task more expeditiously.

In connection with the topic of case law on UNCITRAL texts (CLOUT), it was noted that, currently, the following legal texts were covered by the system: the 1974 Convention on the Limitation Period in the International Sale of Goods,[254] and as amended by the Protocol of 1980;[255] the 1980 United Nations Convention on Contracts for the International Sale of Goods;[256] the 1985 UNCITRAL Model Law on International Commercial Arbitration;[257] and the 1978 United Nations Convention on the Carriage of Goods by Sea (Hamburg Rules).[258] The Commission noted with pleasure the issuance of the two first CLOUT publications: (*a*) "Case law on UNCITRAL texts (CLOUT), User Guide"[259] and (*b*) the first compilation of 20 abstracts relating to the United Nations Sales Convention and the UNCITRAL Model Arbitration Law.[260]

With regard to the question of coordination of work, the Commission considered a report of the Secretary-General on current activities of international organizations related to the harmonization and unification of international trade law.[261] Further, the Commission noted with satisfaction the close cooperation between it and the Asian-African Legal Consultative Committee and the International Institute for the Unification of Private Law. It was also observed that work at UNCTAD on a draft international code of conduct on the transfer of technology,[262] which involved mainly legal issues, had slowed down, and it was suggested that the Commission cooperate with UNCTAD with a view to expediting completion of that important project. It was also suggested that the Commission should monitor work at UNCTAD on restrictive business practices,[263] since the substantive issues were of a legal rather than a trade policy nature.

With respect to training and assistance, the Commission had before it a note by the Secretariat that set out the activities that had been carried out in respect of training and assistance during the period between the twenty-fifth and the current sessions of the Commission, as well as possible future activities in that field.[264] The Commission expressed its appreciation to those who had participated in the organization of UNCITRAL seminars, and in particular to those

that had given financial assistance to the programme of seminars and the UNCITRAL Trust Fund for Symposia. The Commission further expressed its appreciation to the Secretariat for its efforts to conduct an expanded programme of seminars and symposia, and noted the need for States to consider making contributions to the UNCITRAL Trust Fund for Symposia so as to enable the Secretariat to meet the increasing demands for training and technical assistance, especially in developing countries and newly independent States.

Consideration by the General Assembly

At its forty-eighth session, the General Assembly, by its resolution 48/32 of 9 December 1993,[265] adopted on the recommendation of the Sixth Committee,[266] took note with appreciation of the report of the United Nations Commission on International Trade Law on the work of its twenty-sixth session; reaffirmed the mandate of the Commission, as the core legal body within the United Nations system in the field of international trade law, to coordinate legal activities in that field in order to avoid duplication of effort and to promote efficiency, consistency and coherence in the unification and harmonization of international trade law, and in that connection recommended that the Commission, through its secretariat, continue to maintain close cooperation with the other intergovernmental and non-governmental organizations, including regional organizations, active in the field of international trade law; expressed its appreciation to the Commission for organizing the Fifth Symposium on International Trade Law at Vienna from 12 to 16 July 1993; and stressed the importance of bringing into effect the conventions emanating from the work of the Commission for the global unification and harmonization of international trade law, and to that end invited States that had not yet done so to consider signing, ratifying or acceding to those conventions. Furthermore, by its resolution 48/33 of 9 December 1993,[267] adopted on the recommendation of the Sixth Committee,[268] the General Assembly took note with satisfaction of the completion and adoption by the Commission of the Model Law on Procurement of Goods and Construction together with the Guide to Enactment of the Model Law,[269] and recommended that, in view of the desirability of improvement and uniformity of the laws of procurement, States give favourable consideration to the Model Law when they enacted or revised their procurement laws. Moreover, by its resolution 48/34 of 9 December 1993,[270] adopted on the recommendation of the Sixth Committee,[271] the General Assembly, recalling the entry into force, on 1 November 1992, of the 1978 United Nations Convention on the Carriage of Goods by Sea (Hamburg Rules), invited all States to consider becoming parties to the Convention.

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8. LEGAL QUESTIONS DEALT WITH BY THE SIXTH COMMITTEE OF THE GENERAL ASSEMBLY AND BY AD HOC LEGAL BODIES

(*a*) United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law

By its resolution 48/29 of 9 December 1993,[272] adopted on the recommendation of the Sixth Committee,[273] the General Assembly approved the guide-

lines and recommendations contained in section III of the report of the Secretary-General[274] and adopted by the Advisory Committee on the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law, in particular those designed to achieve the best possible results in the administration of the Programme within a policy of maximum financial restraint; requested the Secretary-General to consider the possibility of admitting, for participation in the various components of the Programme of Assistance, candidates from countries willing to bear the entire cost of such participation; welcomed, in particular, the publication, in a single volume and in all official languages of the Organization, of the *Summaries of the Judgments, Advisory Opinions and Orders of the International Court of Justice (1948-1991)*;[275] invited interested States to consider the option of financing the translation and publication of the Judgments of the International Court of Justice; and welcomed the efforts undertaken by the United Nations Office of Legal Affairs to bring up to date the United Nations *Treaty Series* and the *United Nations Juridical Yearbook*. Furthermore, the General Assembly noted with appreciation the contributions made by the Hague Academy of International Law to the teaching, study, dissemination and wider appreciation of international law, and called upon Member States and interested organizations to give favourable consideration to the appeal of the Academy for a continuation of and, if possible, an increase in their financial contributions in order to enable it to carry on with the above-mentioned activities, in particular the summer courses, regional courses and programmes of the Centre for Studies and Research in International Law and International Relations; and urged all States and relevant international organizations, whether regional or universal, to make all possible efforts to implement the goals and carry out the activities contemplated in section IV of the programme of activities for the second term (1993-1994) of the United Nations Decade of International Law, dealing with the encouragement of the teaching, study, dissemination and wider appreciation of international law and contained in the annex to General Assembly resolution 47/32 of 25 November 1992.

(*b*) United Nations Decade of International Law

By its resolution 48/30 of 9 December 1993,[276] adopted on the recommendation of the Sixth Committee,[277] the General Assembly, recalling its resolution 44/23 of 17 November 1989, by which it had declared the period 1990-1999 the United Nations Decade of International Law, expressed its appreciation to States and international organizations and institutions that had undertaken activities in implementation of the programme for the activities for the second term (1993-1994) of the Decade, including sponsoring conferences on various subjects of international law; invited all States and international organizations and institutions referred to in the programme to provide, update or supplement information on activities they had undertaken in implementation of the programme, as appropriate, to the Secretary-General, as well as to submit their views on possible activities for the next term of the Decade; took note with appreciation of the International Conference on the Protection of War Victims, held at Geneva from 30 August to 1 September 1993, and its Final Declaration adopted on 1 September 1993,[278] as an important means for reaffirming, strengthening and promoting international humanitarian law, and reminded all

States of their responsibility to respect and ensure respect for international humanitarian law in order to protect the victims of war; and decided that a United Nations congress on public international law should be held in 1995, as proposed in part III of the report of the Working Group; expressed its appreciation of the work of the group of experts on the protection of the environment in times of armed conflict, conducted under the auspices of the International Committee of the Red Cross, and of the report prepared by the International Committee;[279] and invited all States to review the draft guidelines for military manuals and instructions on the protection of the environment in times of armed conflict annexed to the ICRC report and to provide their comments thereon to the International Committee, either directly or through the Secretary-General, no later than 31 March 1994.

(*c*) Report of the Committee on Relations with the Host Country

By its resolution 48/35 of 9 December 1993,[280] adopted on the recommendation of the Sixth Committee,[281] the General Assembly endorsed the recommendations and conclusions of the Committee on Relations with the Host Country contained in paragraph 58 of its report;[282] voiced its concern that the amount of financial indebtedness resulting from non-compliance with contractual obligations of certain missions accredited to the United Nations had increased to alarming proportions, reminded all permanent missions to the United Nations, their personnel and Secretariat personnel of their responsibilities to meet such obligations, and expressed the hope that the efforts undertaken by the Committee would lead to a solution of the problem; welcomed the lifting of travel controls by the host country with regard to certain missions and staff members of the Secretariat of certain nationalities, and expressed the hope that the remaining travel restrictions would be removed by the host country as soon as possible, and in that regard noted the positions of the affected States, of the Secretary-General and of the host country; and requested the Secretary-General to remain actively engaged in all aspects of the relations of the United Nations with the host country.

(*d*) Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

By its resolution 48/36 of 9 December 1993,[283] adopted on the recommendation of the Sixth Committee,[284] the General Assembly took note of the report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization;[285] decided that the Special Committee would hold its next session from 7 to 25 March 1994; requested the Special Committee, at its session in 1994: (*a*) to accord appropriate time for the consideration of all proposals concerning the question of the maintenance of international peace and security in all its aspects in order to strengthen the role of the United Nations and, in that context: (i) to consider on a priority basis proposals on the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter, (ii) to continue its consideration, also on a priority basis, of the proposal on the enhancement of cooperation between the United Nations and regional organizations and (iii) to consider other specific proposals relating to the maintenance of international peace and security

already submitted to the Special Committee or which might be submitted to the Special Committee at its session in 1994, including the proposal on the strengthening of the role of the Organization and enhancement of its efficiency and the revised proposal submitted with a view to enhancing the effectiveness of the Security Council with regard to the maintenance of international peace and security, and (*b*) to continue its work on the question of the peaceful settlement of disputes between States, and in that context: (i) to continue its consideration of the proposal on United Nations rules for the conciliation of disputes between States and (ii) to continue its consideration of other specific proposals relating to the peaceful settlement of disputes between States, in particular those relating to the enhancement of the role of the International Court of Justice; and invited the Special Committee at its session in 1994 to initiate a review of its membership and to consider various proposals regarding the membership.

(*e*) Question of responsibility for attacks on United Nations and associated personnel and measures to ensure that those responsible for such attacks are brought to justice

By its resolution 48/37 of 9 December 1993,[286] adopted on the recommendation of the Sixth Committee,[287] the General Assembly decided to establish an Ad Hoc Committee open to all Member States to elaborate an international convention dealing with the safety and security of United Nations and associated personnel, with particular reference to responsibility for attacks on such personnel; decided also that the Ad Hoc Committee should be authorized to hold a session from 28 March to 8 April 1994 and, if the Committee itself so decided, to hold a further session from 1 to 12 August 1994, to prepare the text of a draft convention, taking into account any suggestions and proposals from States, as well as comments and suggestions that the Secretary-General might wish to provide on the subject, and bearing in mind views expressed during the debate on the item at the forty-eighth session of the General Assembly; and requested that, at the forty-ninth session, the Ad Hoc Committee report to the General Assembly on progress made towards the elaboration of the draft convention and recommended that a working group be re-established in the framework of the Sixth Committee in the event that further work was required for the elaboration of the draft convention.

(*f*) Measures to eliminate international terrorism

By its decision 48/411 of 9 December 1993,[288] adopted on the recommendation of the Sixth Committee,[289] the General Assembly requested the Secretary-General to seek the views of Member States on the proposals submitted by Governments contained in his report[290] or made during the debate on the item at its forty-eighth session in the Sixth Committee or contained in resolution 46/51 of 9 December 1991 on practical measures to eliminate acts of terrorism, on ways and means of enhancing the role of the United Nations and the relevant specialized agencies in combating international terrorism, and on ways to consider the question within the Sixth Committee.

(*g*) Convention on jurisdictional immunities of States and their property

By its decision 48/413 of 9 December 1993,[291] adopted on the recommendation of the Sixth Committee,[292] the General Assembly took note of the re-

port of the Working Group[293] established by the General Assembly in its resolution 46/55 of 9 December 1991 and reconvened pursuant to Assembly decision 47/414 of 25 November 1992 to consider: (*a*) issues of substance arising out of the draft articles on jurisdictional immunities of States and their property, adopted by the International Law Commission at its forty-third session;[294] and (*b*) the question of the convening of an international conference, to be held in 1994 or subsequently, to conclude a convention on jurisdictional immunities of States and their property.

(*h*) Review of the procedure provided for under article 11 of the statute of the Administrative Tribunal of the United Nations

By its decision 48/415 of 9 December 1993,[295] adopted on the recommendation of the Sixth Committee,[296] the General Assembly requested the Secretary-General to carry out a review of the procedure provided for under article 11 of the statute of the Administrative Tribunal of the United Nations, taking into account the views expressed during the forty-eighth session of the General Assembly and any further views that States might submit, and to report thereon to the Assembly at its forty-ninth session.

(*i*) Progressive development of the principles and norms of international law relating to the new international economic order

The General Assembly, by its decision 48/412 of 9 December 1993,[297] adopted on the recommendation of the Sixth Committee,[298] taking note of the oral report presented at the 35th meeting of the Sixth Committee by the Chairman of the Working Group established under General Assembly resolution 46/52 of 9 December 1991, decided to resume consideration of the legal aspects of international economic relations at its fifty-first session and to include the item in the provisional agenda of that session.

(*j*) Request for an advisory opinion from the International Court of Justice

By its decision 48/414 of 9 December 1993,[299] adopted on the recommendation of the Sixth Committee,[300] the General Assembly decided to continue its consideration of the item and to include it in the provisional agenda of its forty-ninth session.

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9. UNITED NATIONS INSTITUTE FOR TRAINING AND RESEARCH[301]

UNITAR's training programme consisted of multilateral diplomacy and negotiation training for diplomats accredited to the United Nations; fellowship programmes, including the United Nations/UNITAR fellowship programme in international law, held at The Hague from 5 July to 13 August 1993, and the UNEP/UNITAR training programme in environmental law and policy in association with Habitat, held at Nairobi from 29 November to 17 December 1993;

and à la carte training programmes, which included the launching in August 1993 of the computer literacy training and access to United Nations databases.

During 1993, under UNITAR's research programme, the coordinator of UNITAR programmes participated in a number of international conferences, including a round-table meeting on preventive conflict management, sponsored by the Austrian ministries of Foreign Affairs and Defence; a conference on preventive diplomacy, organized by the Swedish Ministry of Foreign Affairs; and a symposium on collective responses to common threats, co-sponsored by the Norwegian Ministry of Foreign Affairs and the Commission on Global Governance.

At its forty-eighth session, the General Assembly, by its resolution 48/207 of 21 December 1993,[302] adopted on the recommendation of the Second Committee,[303] taking note of the report of the Secretary-General[304] and recognizing the importance and relevance of the interdisciplinary training functions within the United Nations system, the research activities and research relating to training aimed at enhancing the effectiveness of the work of the United Nations, invited the international community to make voluntary contributions to the restructured UNITAR so as to assure its viability and the future development of its training programmes, and requested the Secretary-General to examine, in accordance with paragraph 2 of General Assembly resolution 47/227 of 8 April 1993, the measures taken in 1993 with a view to improving further the organization and coordination of the training programmes and research activities relating to training in New York, and to provide appropriate logistical and administrative support, within existing resources.

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

1. INTERNATIONAL LABOUR ORGANIZATION

The International Labour Conference (ILC), which held its 80th session at Geneva in June 1993, adopted several amendments to its Standing Orders:[305]

(*a*) Amendments to article 11 *bis*, paragraph 2 (Procedure for the consideration of the Programme and Budget): paragraph 2 was deleted and former paragraph 3 was renumbered as paragraph 2;

(*b*) Amendments to article 12 (Reports of the Chairman of the Governing Body and the Director-General (formerly entitled "Reports of the Governing Body and the Director-General")), paragraph 1; a new paragraph 2 was added and former paragraph 2 was renumbered as paragraph 3;

(*c*) Amendments to article 17 (Resolutions relating to matters not included in an item placed on the agenda), paragraphs 1 (1), 2, 3 and 6;

(*d*) Amendments to article 25 (Order of business at the opening of each session): paragraph 2 was deleted, former paragraphs 3, 4 and 5 were renumbered as paragraphs 2, 3 and 4 respectively; and a new paragraph 5 was added;

(*e*) A note has been inserted at the end of the Standing Orders: Note for maritime sessions of the International Labour Conference.

The International Labour Conference also adopted a Convention (No. 174) and a Recommendation (No. 181) concerning the Prevention of Major Industrial Accidents.[306]

The Committee of Experts on the Application of Conventions and Recommendations met at Geneva from 11 to 24 March 1993 and presented its report,[307] which was submitted to the International Labour Conference at its 80th session.

Representations were lodged under article 24 of the Constitution of the International Labour Organization[308] alleging non-observance by Myanmar of the Forced Labour Convention, 1930 (No. 29),[309] by Sweden of the Employment Injury Benefits Convention, 1964 (No. 121),[310] by Poland of the Employment Policy Convention, 1964 (No. 122),[311] and by Brazil of the Forced Labour Convention, 1930 (No. 29), and the Abolition of Forced Labour Convention, 1957 (No. 105).[312] The representation alleging non-observance by Sweden is the only one now which has been reported on by a Committee set up by the Governing Body to examine it.[313]

The Governing Body, which met at Geneva, considered and adopted the following reports of its Committee on Freedom of Association: the 286th report[314] at its 255th session (November 1992); the 287th, 288th, 289th and 290th reports[315] at its 256th session (May 1993); and the 291st report[316] at its 258th session (November 1993).

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2. UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

(*a*) Constitutional and procedural questions

By its resolution 27 C/22.4 of 11 November 1993, the General Conference decided to amend articles IV and V of the Constitution of UNESCO[317] as follows:

Article IV, paragraph 5

"5. Subject to the provisions of Article V, paragraph 6 (*c*), the General Conference shall advise the United Nations Organization on the educational, scientific and cultural aspects of matters of concern to the latter, in accordance with the terms and procedure agreed upon between the appropriate authorities of the two Organizations."

Article V.A, paragraphs 2, 3, 4 and 5

"2. (*a*) Each member of the Executive Board shall appoint one representative. It may also appoint alternates.

(*b*) In selecting its representative on the Executive Board, the member of the Executive Board shall endeavour to appoint a person qualified in one or more of the fields of competence of UNESCO and with the necessary experience and capacity to fulfil the administrative and executive duties of the Board. Bearing in mind the importance of continuity, each representative shall be appointed for the duration of the term of the mem-

ber of the Executive Board, unless exceptional circumstances warrant his replacement. The alternates appointed by each member of the Executive Board shall act in the absence of its representative in all his functions.

3. In electing members to the Executive Board, the General Conference shall have regard to the diversity of cultures and a balanced geographical distribution.

4. (*a*) Members of the Executive Board shall serve from the close of the session of the General Conference that elected them until the close of the second ordinary session of the General Conference following their election. The General Conference shall, at each of its ordinary sessions, elect the number of members of the Executive Board required to fill vacancies occurring at the end of the session.

(*b*) Members of the Executive Board shall be eligible for re-election. Re-elected members of the Executive Board shall endeavour to change their representatives on the Board.

5. In the event of the withdrawal from the Organization of a member of the Executive Board, its term of office shall be terminated on the date when the withdrawal becomes effective."

Article V.A, paragraph 6

This paragraph is deleted.

Article V.B, paragraph 10 (which becomes paragraph 9)

"9. The Executive Board shall meet in regular session at least four times during a biennium and may meet in special session if convoked by the Chairman on his initiative or upon the request of six members of the Executive Board."

(*b*) International regulations

Entry into force of instruments previously adopted

Within the reporting period, no multilateral conventions or agreements adopted under the auspices of UNESCO entered into force.

(*c*) Human rights

Examination of cases and questions concerning the exercise of human rights coming within UNESCO's fields of competence

The Committee on Conventions and Recommendations met in private session at UNESCO headquarters from 19 to 21 May and from 5 to 7 October 1993, in order to examine communications which had been transmitted to it in accordance with Executive Board decision 104 EX/3.3.

At its May session, the Committee examined 34 communications, of which 25 were examined with a view towards their admissibility and 9 were examined on their substance. Of the communications examined as to admissibility, 4 were declared admissible, 4 were declared irreceivable and 3 were struck from the list since they were considered as having been settled. The examination of 27 communications was suspended. The Committee presented its report to the Executive Board at its 141st session.

At its October session, the Committee had before it 28 communications, of which 21 were examined as to their admissibility and 7 were examined on their substance. Of the communications examined as to their admissibility, none was declared admissible, none was declared irreceivable and 3 were struck from the list since they were considered as having been settled or did not, upon examination of the merits, appear to warrant further action. The examination of 25 communications was suspended. The Committee presented its report on its examination of these communications to the Executive Board at its 142nd session.

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3. INTERNATIONAL CIVIL AVIATION ORGANIZATION

Work programme of the Legal Committee of ICAO

During its 138th session, in March, the Council considered the General Work Programme of the Legal Committee and agreed that a rapporteur should be appointed by the Chairman of the Legal Committee on item 1 in the Work Programme: "Consideration, with regard to global navigation satellite systems (GNSS), of the establishment of a legal framework". In accordance with rule 17 of the rules of procedure of the Legal Committee, the Chairman of the Legal Committee appointed Dr. Kenneth Rattray (Jamaica) in July 1993 as Rapporteur on the subject.

The Assembly at its 29th session requested the Secretary-General to undertake a study on the subject of State/civil aircraft. During its 140th session, in November, the Council considered a study prepared by the Secretariat and instructed the Secretary-General to transmit the study to contracting States and international organizations concerned for their comments and to present the study, together with comments received, to the Legal Committee for consideration at its 29th session.

A regional seminar attended by 30 delegates from 17 States from East and West Africa was held in Mauritius from 1 to 3 December to discuss major issues and challenges in the field of air law.

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4. WORLD HEALTH ORGANIZATION

(*a*) Constitutional and legal developments

During 1993, the following countries became members of the World Health Organization by deposit of an instrument of acceptance of the Constitution,[318] as provided for in articles 4, 6 and 79 (*b*) of the Constitution:

Czech Republic	22 January 1993
Slovakia	4 February 1993
Estonia	31 March 1993
The former Yugoslav Republic of Macedonia	22 April 1993
Tuvalu	7 May 1993
Eritrea	24 July 1993

The addition of the Czech Republic did not result in an increase in the number of member States, since Czechoslovakia ceased to be listed as a member State. Thus, at the end of 1993, there were 187 member States and two associate members of WHO.

The amendments to articles 24 and 25 of the Constitution, adopted in 1986 by the Thirty-ninth World Health Assembly to increase membership of the Executive Board from 31 to 32, had been accepted by 118 member States on 31 December 1993; acceptances by two thirds of the member States are required for the amendments to enter into force.

(*b*) Health legislation

WHO's Health Legislation Programme continued its ongoing activities aimed at facilitating the international flow of information dealing with international and national health legislation. The primary vehicle for this process remains the WHO quarterly journal, *International Digest of Health Legislation/ Recueil international de legislation sanitarie*, the total circulation of the journal being approximately 4,000. The *Digest*, of which a CD-ROM version covering volumes 31 to 45 is about to appear, serves as the key element whereby the Organization operates a global clearing house for information in this field, and something of the order of 300 requests for information are received and processed annually. Such requests emanate from, *inter alia*, Governments, public health policy-makers and administrators, academic institutions, and other intergovernmental as well as non-governmental organizations and industry. Every effort is made to cooperate with other international and national entities concerned with legislative information, and WHO is one of the agencies involved in the setting-up of an International Legal Information Network (ILIN). Two workshops have so far been held to develop this system, the first being held at the Library of Congress in Washington, D.C., in December 1991, and the second at the Pan American Health Organization (which serves as the WHO Regional Office for the Americas and is likewise based in Washington, D.C.) in December 1992.[319]

WHO was represented at the World Conference on Human Rights, held at Vienna under the auspices of the United Nations in June 1993, and contributed a number of concepts and ideas that are reflected in the Vienna Declaration and Programme of Action, adopted at the conclusion of that Conference. The Organization continues to cooperate with the various United Nations entities (and, in particular, the Centre for Human Rights and the relevant treaty-based committees) in all matters relating to the health aspects and dimensions of human rights.

WHO continues to be represented at major international and national conferences and meetings at which health law/legislation and related ethical and bioethical issues are on the agenda. It cooperates closely with the Council for International Organizations of Medical Sciences (CIOMS) and contributed to the formulation of International Ethical Guidelines for Biomedical Research Involving Human Subjects, published by CIOMS in 1993. These Guidelines replace the Proposed International Guidelines for Biomedical Research Involving Human Subjects, issued under the joint auspices of WHO and CIOMS in 1982. The new Guidelines have been endorsed by WHO's global Advisory Committee on Health Research. They provide a framework for the implementation of

the World Medical Association's Declaration of Helsinki, issued in 1964 and most recently revised in 1989.

The Organization continued to provide technical support (generally in the form of consultant missions) to member States seeking advice or information in the formulation, revision or review of existing health legislation. In the course of 1993, such missions were undertaken in the following countries: Fiji, Grenada, Kiribati, Maldives, Morocco, Nicaragua, Syrian Arab Republic, Tonga, Ukraine, Venezuela and Zambia.

WHO cooperated with the Commonwealth Medical Association in the development of Guiding Principles on Medical Ethics and Human Rights. Thus, it participated in a Working Group on the Role of Medical Ethics in the Protection of Human Rights, held in London from 20 to 24 July 1993. The final text of the Guiding Principles was issued in June 1994.

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5. WORLD BANK

(*a*) IBRD, IFC and IDA—membership

During 1993, Tajikistan and the Federated States of Micronesia became members of the International Bank for Reconstruction and Development. In addition, pursuant to resolutions of the Executive Directors of IBRD and IDA and the Board of Directors of IFC, the Czech Republic and Slovakia, having met the requirements set out in the resolutions, each succeeded, for its part, to the membership of the Czech and Slovak Federal Republic as of 1 January 1993. Similarly, pursuant to resolutions of the Executive Directors of IBRD and IDA and the Board of Directors of IFC, the Republic of Croatia, the Republic of Slovenia and the former Yugoslav Republic of Macedonia, having met the requirements stated in the resolutions, each succeeded for its part to the membership of the Socialist Federal Republic of Yugoslavia in IBRD, IFC and IDA as of 25 February 1993.

Also during 1993, acting on separate requests of Portugal and Spain, the Executive Director of IDA changed the status of these two members in IDA from "Part II" members to "Part I" members. In addition to technical differences related to the currencies in which members' initial subscription to IDA are made, "Part I" members, which are mainly developed countries, are expected to make significant contributions to the replenishments of IDA's resources.

(*b*) Establishment of the World Bank Inspection Panel

On 22 September 1993, the Executive Directors of the Bank and IDA adopted a resolution which established the World Bank Inspection Panel. The Panel is an independent body which has authority, within the limits set out in the resolution, to conduct investigations at the request of the Board of Executive Directors, an Executive Director or a group of people adversely affected by Bank projects. Such complaints must be based on an alleged failure on the part of the Bank to follow its own rules and procedures with respect to the

design, appraisal or implementation of projects. The Panel consists of three Inspectors, appointed for periods of five, four and three years, respectively. The members of the Panel select a chairman among themselves, who serves for a term of one year.

The Panel was established to provide to people directly affected by Bank-financed projects an independent forum which can make recommendations to the Executive Directors and to Management to investigate its work on projects it finances, in order to find if the Bank has followed its own policies and procedures. While the Panel is independent, the Executive Directors will be closely involved in its work, as the following summary of the Panel's procedures for complaints submitted by an Executive Director or a group of affected people illustrates: After it has received a request for inspection, the Panel will promptly inform the Executive Directors and Management of the request. Within 21 days, Management will give a response to the Panel, with evidence that it has complied with its procedures, or intends to do so. Within 21 days thereafter, the Panel will decide whether the requested inspection meets the eligibility criteria and will recommend to the Executive Directors whether the inspection should be carried out. If the Executive Directors decide that a request should be investigated, the Panel chairperson will make the arrangements to have the inspection carried out. The Executive Director elected by the country where the project is located will be consulted during the inspection. The Panel will submit its inspection report to the Executive Directors and the President. Within six weeks of receiving the inspection report, Management will give to the Executive Directors for their consideration a report indicating its recommendations in response to the findings of the Panel. Within two weeks of the Executive Directors' consideration of the matter, Management must inform the affected party of the results of the investigation and the action taken in response to it.

(*c*) Multilateral Investment Guarantee Agency (MIGA)

Signatories and members

The Convention Establishing the Multilateral Investment Guarantee Agency[320] (the Convention) was opened for signature to member countries of the World Bank and Switzerland in October 1985. As of 31 December 1993, the Convention had been signed by 144 countries. During 1993, requirements for membership were completed by the following countries: Brazil, Cape Verde, Greece, Kazakhstan, Kyrgyzstan, Libyan Arab Jamahiriya, Lithuania, Micronesia, Republic of Moldova, Turkmenistan, United Arab Emirates, Uruguay and Uzbekistan. In addition, as was the case with the Bank, IFC and IDA, pursuant to resolutions of the Board of Directors, the Czech Republic and Slovakia succeeded each for its part to the membership of the Czech and Slovak Federal Republic as of 1 January 1993 and the Republic of Croatia, the Republic of Slovenia and the former Yugoslav Republic of Macedonia succeeded each for its part to the membership of the Socialist Federal Republic of Yugoslavia as of 19 March 1993.

Also in 1993, at the request of the Government of Portugal, Portugal's status as a member of MIGA was changed from "Category Two" to "Category One", and, at the request of the Government of South Africa, the status of South Africa was changed from "Category One" to "Category Two." Under the Con-

vention, only Category Two members, which are mainly developing countries, are eligible to receive investments guaranteed by MIGA. In addition, Category Two members are allowed to pay 25 per cent of the paid-in portion of their capital subscription in their own currency.

Guarantee operations

MIGA issues guarantees for foreign direct investments in its developing member countries against the political (i.e., non-commercial) risks of expropriation, currency convertibility or transfer, war and civil disturbance, and breach of contract. As of the end of fiscal year 1993 (30 June 1993), MIGA had issued, since the Agency first began operations in 1980, a total of 63 contracts of guarantee, for a maximum contingent liability of US$ 878 million. For the same period, MIGA also issued five commitment letters amounting to $105 million in potential coverage. Aggregate foreign direct investment facilitated, from FY 1990 to FY 1993, was approximately $5 billion. Investors holding MIGA guarantees for the same period are from: Belgium, Canada, Denmark, France, Germany, Japan, Luxembourg, Netherlands, Norway, Saudi Arabia, Spain, Switzerland, United Kingdom and United States. Similarly, host countries of MIGA guaranteed investments during this time period were: Argentina, Bangladesh, Chile, China, Czech Republic, El Salvador, Ghana, Guyana, Indonesia, Jamaica, Madagascar, Pakistan, Peru, Poland, Russian Federation, Turkey, Uganda and United Republic of Tanzania.

Host country investment agreements between MIGA and its member States

As directed by article 23 (*b*) (ii) of the Convention, the Agency concludes bilateral legal protection agreements with developing member countries to ensure that MIGA is afforded treatment no less favourable than that accorded by the member country concerned to any State or other public entity in an investment protection treaty or any other agreement relating to foreign investment with respect to the rights to which MIGA may succeed as subrogee of a compensated guarantee holder. As of 31 December 1993, MIGA had concluded a total of 50 such agreements; in 1993, the Agency concluded agreements with the following 14 countries: Brazil, Cape Verde, Kazakhstan, Kenya, Lithuania, Mali, Mauritania, Morocco, Nicaragua, Paraguay, Peru, Tunisia, United Republic of Tanzania and Uruguay.

In accordance with the directives of article 18 (*c*) of the Convention, the Agency also negotiates agreements on the use of local currency. These agreements enable MIGA to dispose freely of local currency acquired by it as a result of subrogation arising from a claim paid by the Agency. As of 31 December 1993, MIGA had concluded a total of 56 such agreements; and in 1993, the Agency concluded agreements with the following 15 countries: Brazil, Cape Verde, Kazakhstan, Kenya, Lithuania, Mali, Mauritania, Morocco, Nicaragua, Paraguay, Peru, Saudi Arabia, Tunisia, United Republic of Tanzania and Uruguay.

Article 15 of the Convention requires that before issuing a guarantee MIGA must obtain the approval of the host member country in which the investment is contemplated. In order to expedite the process, MIGA negotiates arrangements with host country Governments that provide a degree of automaticity in the approval procedure. As of 31 December 1993, MIGA had concluded a total

of 64 such agreements; and in 1993, the Agency concluded agreements with the following 14 countries: Benin, Brazil, Cape Verde, Georgia, Guinea, Hungary, Madagascar, Mauritania, Paraguay, Senegal, Tajikistan, Tunisia, Turkmenistan and Uzbekistan.

(*d*) International Centre for Settlement of Investment Disputes

Signatures and ratifications

During 1993, the Convention on the Settlement of Investment Disputes between States and Nationals of Other States[321] (the ICSID Convention) was signed by six countries: Cambodia, Colombia, Czech Republic, Micronesia, Slovakia and Venezuela. Two of these—Czech Republic and Micronesia—as well as China, Costa Rica and Peru, ratified the ICSID Convention in the course of the year. With these new signatures and ratifications, the numbers of signatory States and Contracting States reached 126 and 110, respectively.

Disputes before the Centre

During 1993, arbitration proceedings were instituted in one new case, *American Manufacturing & Trading, Inc.* v. *Republic of Zaire* (case ARB/93/1). In three cases, *Southern Pacific Properties (Middle East) Limited* v. *Arab Republic of Egypt* (case ARB/84/3); *Société d'Etudes de Travaux et de Gestion SETIMEG S.A.* v. *Republic of Gabon* (case ARB/87/1) and *Manufacturers Hanover Trust Company* v. *Arab Republic of Egypt and General Authority for Investment and Free Zones* (case ARB/89/1), the proceedings were discontinued after the parties had reached settlements of their disputes.

As of 31 December 1993, two other cases were pending before the Centre: *Vacuum Salt Products Ltd.* v. *Government of the Republic of Ghana* (case ARB/92/1) and *Scimitar Exploration Limited* v. *Bangladesh and Bangladesh Oil, Gas and Mineral Corporation* (case ARB/92/2).

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6. INTERNATIONAL MONETARY FUND

MEMBERSHIP ISSUES

Accession to membership

During 1993, the following countries acceded to membership in the Fund, with the following quotas:

Member	*Date*	*Quota (millions SDR)*
Czech Republic	1 January 1993	589.6
Slovakia	1 January 1993	257.4
Tajikistan	27 April 1993	40
Micronesia (Federated States of)	24 June 1993	2.25

Status under article VIII or article XIV

Under article XIV of the Fund's Articles of Agreement,[322] a member may choose, when joining the Fund, to avail itself of transitional arrangements, and

thus may maintain or adapt restrictions on the making of payments and transfers for current international transactions in existence at the time it became a Fund member. Members of the Fund accepting the obligations of article VIII undertake to refrain from imposing restrictions on the making of payments and transfers for current international transactions or engaging in multiple currency practices without the Fund's approval. During 1993, the following eight members accepted the obligations of article VIII, sections 2, 3 and 4, raising to 82 the number of members that have accepted these obligations (as of 31 December 1993): Barbados, Gambia, Israel, Lebanon, Mauritius, Morocco, Trinidad and Tobago, and Tunisia.

Suspension of voting rights—Sudan

In the first application of the Third Amendment of the Articles of Agreement, the Executive Board voted to suspend voting and certain related rights of the Sudan, effective 9 August 1993. The Third Amendment, which entered into force on 11 November 1992, is designed to permit the Fund to deal with a member that persists in its failure to fulfil any of its obligations under the Articles other than obligations with respect to the Special Drawing Rights Department. Suspension may be imposed by a decision of the Executive Board with a 70 per cent majority of the total voting power.

Representation of member countries

Special circumstances in 1993 involving Cambodia, Haiti, Somalia, the Sudan and Zaire raised issues concerning the participation of these members at the 1993 annual meetings. Representation at the 1993 annual meetings of countries whose membership applications were outstanding was also addressed: Eritrea, Bosnia and Herzegovina, and Federal Republic of Yugoslavia (Serbia and Montenegro).

Following the adoption of a new Constitution in Cambodia providing for a constitutional monarchy system of government, normal relations were re-established between Cambodia and the Fund, and the Governors and Alternate Governors appointed by Cambodia attended the annual meetings. With respect to Haiti, the Fund continued to accept the credentials of the Governor and the Alternate Governor designated by the government-in-exile of President Jean-Bertrand Artistide. With respect to Somalia, it was decided that since there was no effective Government in Somalia, no delegation from that country should be authorized to be seated at the annual meetings. In the case of the Sudan, the Governor and the Alternate Governor had ceased to hold office in accordance with schedule L of the Articles of Agreement, which applied following the Fund's decision effective as of 9 August 1993 to suspend the voting rights of the Sudan; therefore, as the agenda did not include any matter particularly affecting the Sudan, there was no basis for the Sudan to participate in the annual meetings. In the case of Zaire, competing claims during that country's political and constitutional crisis were resolved with respect to participation at the 1993 annual meetings by the Fund's acceptance of the credentials of the delegation appointed by Prime Minister Birindwa, representing the Government in effective control.

At the time of the 1993 annual meetings, the membership application of Eritrea was being processed in accordance with Fund procedures; a delegation

from Eritrea was invited to and attended the meetings as special invitee. In December 1992, the Fund decided that the Socialist Federal Republic of Yugoslavia had ceased to exist as a member and established a mechanism under which, when certain conditions were met, each of the five successor republics could succeed to the membership of the Socialist Federal Republic of Yugoslavia. While Croatia, Slovenia and the former Yugoslav Republic of Macedonia had become members of the Fund as of the 1993 annual meetings, Bosnia and Herzegovina and the Federal Republic of Yugoslavia (Serbia and Montenegro) had not. The Federal Republic of Yugoslavia (Serbia and Montenegro) requested observer status at the meeting, but the Chairman of the Board of Governors had already concluded, after consultation with Executive Directors, that no observers were to be invited to the 1993 annual meetings. A representative of Bosnia and Herzegovina attended the meetings as a special guest.

Systemic Transformation Facility (STF)

In view of the enormous problems confronting the Russian Federation and the other States of the former Soviet Union, as well as other transition economies experiencing systemic changes, the Executive Board in April 1993 approved the creation of a new temporary facility, the Systemic Transformation Facility. The STF makes financial assistance available to member countries facing balance-of-payments difficulties as a result of severe disruptions in their traditional trade and payments arrangements that are manifested by: (*a*) a sharp fall in total export receipts owing to a shift from significant reliance on trading at non-market prices to multilateral, market-based trade; (*b*) a substantial and permanent increase in net import costs owing to a shift from significant reliance on trading at non-market prices towards world market pricing, particularly for energy products; or (*c*) a combination of both.

The new facility is designed to provide assistance to members severely affected by these systemic changes that are willing to cooperate in an effort to find appropriate solutions to their balance-of-payments problems, including countries at an early stage of the transition process and as yet unable to formulate a programme that could be supported by IMF under its existing facilities and policies. For countries requesting financing under the new facility (outside of an upper credit tranche standby, extended or an ESAF arrangement), IMF will also need to be satisfied that the countries will move as quickly as possible towards policies that could be supported under one of these arrangements. Significant policy actions designed as first steps in this process will be expected, including prior actions. Progress towards stabilizing the economy, stemming capital flight and implementing structural and institutional reforms needed to create a market-based economy and to conduct economic policy in a market framework will be emphasized.

For members that have or already have had IMF arrangements, it would normally be expected that the use of the new facility will be in the context of their existing or future arrangements and could, when appropriate, result in an increase in their overall access to IMF resources. The approval of such an arrangement, or a completion of a review thereunder, would satisfy the conditionality requirements of the STF.

Pursuant to the decision creating this facility, access will be limited to not more than 50 per cent of the member's quota. Purchases are made from the

Fund's General Resources Account; the rate of charge will be the same as for the uses of the Fund's general resources, and repurchases will be made over 4½ to 10 years after the date of the purchases (the same as for financing under the Extended Fund Facility).

Additionally, this decision provides that financing will be provided in two tranches: half of the total financing will be available at the outset. The remainder would normally be purchased in about six months, but no later than 12 months after the first purchase, depending on continued cooperation and policy implementation, satisfactory progress towards understandings on a programme that might be supported by a Fund arrangement, articulation of a quantified financial programme, where this was not already in place, and progress in mobilizing financing from other sources. The facility will be temporary in nature, and will be in effect through 1994 (unless extended by the Executive Board). However, the second drawing may be completed by the end of 1995, provided that the first disbursement is made by the end of 1994.

Enhanced Structural Adjustment Facility (ESAF)—Amendment

In November 1993, the Executive Board extended the period during which loans could be committed pursuant to the ESAF Trust, which enables the Fund to provide resources on concessional terms to support medium-term macroeconomic adjustment and structural reforms in low-income countries facing protracted balance-of-payments problems. The November deadline was extended first to 31 December 1993 and subsequently to end February 1994 to facilitate the process of putting an enlarged and extended facility in place, scheduled to become operational in 1994.

Compensatory and Contingency Financing Facility (CCFF)

In January 1993, the Executive Board reviewed recent experience under the Compensatory and Contingency Financing Facility. Certain modifications to the compensatory element were approved, while the contingency element was simplified considerably in order to provide members with a more flexible means of reducing the vulnerability of Fund-supported programmes to unexpected external developments.

Debt and debt-service reduction operations—Amendment

In order to facilitate commercial bank debt restructuring for some countries with difficult debt situations, the Managing Director proposed in December 1993 that the Executive Board amend its guidelines on Fund support in the context of standby or extended arrangements for debt and debt-service reduction operations, established in December 1989. According to the then-existing guidelines, set-aside resources were to be used to support operations involving principal reduction, while additional resources were to be used for interest support for debt and debt-service reduction operations or for collateralization of principal in reduced interest par bond exchanges. The proposed amendment, scheduled for decision in January 1994, would permit the use of both set-aside resources and additional resources for all the above purposes, provided that such operations satisfy the other criteria set forth in the guidelines.

Joint Vienna Institute

The Joint Vienna Institute, a cooperative venture of the Fund and other international organizations to train officials and private-sector managers from former centrally planned economies, continued its operations under interim legal arrangements implemented in 1992. The negotiation of its charter, the Agreement for the Establishment of the Joint Vienna Institute, which will establish the Institute as a new international organization, was substantially completed by the sponsoring organizations in 1993. The Agreement is expected to come into force in the latter half of 1994.

Rate of charge—unification

On 1 May 1993, the Executive Board's decision became effective to simplify the Fund's system of charges by adopting a single unified rate of charge to apply to all outstanding use of Fund credit in the General Resources Account; previously a separate rate of charge had applied to use of resources financed with supplementary financing and with borrowed resources. In June 1993, the Fund adopted as a permanent feature the procedure of setting the basic rate of charge as a proportion of the weekly SDR interest rate, which had begun in June 1989 but required re-authorization annually. This practice is intended to ensure that the Fund's operational income closely reflects its operational costs, which are largely dependent on the SDR interest rate, and thus to avoid the need for large-step increases in the rate of charge in order to achieve the target amount of net income.

Review of quotas

During 1993, the Executive Board considered the deadlines for consent and payment periods for the increase in quotas pursuant to the Ninth General Review of Quotas, the participation requirement for which was determined to have been met on 11 November 1992. Under the resolution of the Board of Governors authorizing this increase, each member was required to consent to its increase in quota by 31 December 1991 and pay the increase to the Fund within 30 days after its consent or on the date on which the increase became effective, whichever was later, provided that the Executive Board was given the authority to extend both the consent and payment periods as it might determine. In 1992, the deadline for consent was extended to 31 May 1993 and the 30-day payment period to 75 days after the later of the date of the member's notification of consent or 11 November 1992. In 1993, to account for pending membership applications, the consent period was extended to 30 June 1994 and the payment period to 596 days after 11 November 1992 or the date of the member's notification of consent, whichever was later.

On 31 March 1992, the Executive Board established a Committee of the Whole for the Tenth General Review of Quotas. In accordance with article III, section 2 (*a*), of the Fund's Articles of Agreement, the Board of Governors must conduct the Tenth General Review of Quotas not later than five years from the original date of completion of the Ninth General Review, that is, not later than 31 March 1993. As required by rule D-3 of the Fund's Rules and Regulations, the Executive Board must appoint, at least one year prior to the time when a

general review of quotas must be undertaken, a Committee of the Whole to study the matter and to prepare a written report. In April 1993, the Board of Governors resolved to continue the Tenth Review and requested a report from the Executive Board not later than 31 December 1994.

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7. INTERNATIONAL MARITIME ORGANIZATION

Membership of the Organization

The following countries became members of the International Maritime Organization during 1993: Slovenia (10 February 1993), Latvia (1 March 1993), Paraguay (15 March 1993), Slovakia (24 March 1993), Albania (24 May 1993), Czech Republic (18 June 1993), Georgia (22 June 1993), Bosnia and Herzegovina (16 July 1993), Turkmenistan (26 August 1993), Eritrea (31 August 1993) and the former Yugoslav Republic of Macedonia (13 October 1993). As at 31 December 1993, the number of members of IMO was therefore 147. There are also two associate members.

Review of legal activities of IMO[323]

(i) *Liability for damage caused by hazardous and noxious substances*

During 1993, the Legal Committee continued its consideration of a draft international convention on liability and compensation for damage in connection with the carriage of hazardous and noxious substances by sea (HNS convention), as a priority subject. The Group of Technical Experts continued to meet during the sessions of the Legal Committee and to provide advice to the Committee on technical matters.

The Committee based its consideration of the subject on the previous preliminary decision that the system should provide for strict liability of the shipowner, supplemented by a second tier financed by cargo interests, and that the shipowner's liability should be covered by compulsory insurance. Another provisional basis which was maintained was that the convention also should apply to damage caused by packaged goods but with the mechanism for collection of contributions restricted to bulk or bulk plus goods carried in packaged form, i.e., goods carried in bulk plus large quantities of goods carried in containers or under similar transport arrangements.

The Group of Technical Experts continued to study whether the hazardous nature of the goods and other characteristics should be taken into account for determining the extent to which a certain substance would be required to contribute to the second tier. Another question which received particular attention was whether to make distinctions between certain categories of substances (goods). These discussions focused on whether there should be a division of the financial contributions into separate accounting systems per sector (category of goods) instead of a single fund of compensation for all sectors. A number of delegations favoured introducing separate accounts for liquefied natural gas (LNG) and oil, and possibly liquefied petroleum gas (LPG).

The issue of whether the contributions should be based on a post-event collection system was addressed by the Committee and studied in detail by the Group of Technical Experts. The Committee also addressed the issue of whether contributions to the second tier should be levied in connection with exports (i.e., normally paid by the shipper) or imports (i.e., normally paid by the receiver). In addition, consideration was given to whether the HNS substances to be covered by the convention should be defined by reference to existing lists or through enumeration in a free-standing list. It was recommended that the definition of hazardous and noxious substances by reference to existing IMO instruments should be retained but that the list of substances should also be included in the form of an annex to the convention.

The Legal Committee decided to set a target date for a diplomatic conference in early 1996 to consider the draft HNS convention. This subject would therefore continue to be given priority in 1994 and would have to be concluded in the Committee at its first session in 1995.

(ii) *Follow-up work in connection with the Basel Convention*

The Legal Committee continued to follow developments regarding the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal. The Committee noted that a group had been established to develop a draft protocol on liability and compensation for damage resulting from transboundary movement, including illegal traffic and disposal, of hazardous wastes. The establishment of an international fund for compensation for such damage would also be considered.

The IMO secretariat was requested to continue cooperation with the secretariat of the Basel Convention with a view to avoiding any overlapping between the prospective protocol to the Basel Convention and the HNS convention.

(iii) *Consideration of possible revision of the Convention on Limitation of Liability for Maritime Claims, 1976*[324]

The Legal Committee agreed generally on the need to update the limits of compensation established in the Convention on Limitation of Liability for Maritime Claims, 1976. One delegation introduced a draft protocol to update the limits, and to introduce a simplified amendment procedure enabling further adjustments to such limits to be made in a rapid and efficient way.

The relationship between the protocol to the 1976 Convention and a prospective HNS regime was also noted, and in particular the need to study the implications of either establishing a linkage between the 1976 Convention and the HNS convention, or having a free-standing HNS convention.

It was proposed that conclusion of the work on the revision of the 1976 Convention should coincide with the conclusion of the work on the draft HNS convention. Accordingly, it was agreed that this would also be a priority subject in 1994.

(iv) *Consideration of the application of the 1969 Civil Liability Convention*[325] *in cases of bareboat charter*

The Legal Committee was informed of the progress of the study being undertaken by the Comité Maritime International (CMI) at the invitation of the Secretary-General of IMO on the application of the 1969 Civil Liability Convention in cases of bareboat charter. A questionnaire had been sent to all CMI members and replies were awaited. It was expected that a report would be submitted for the consideration of the Legal Committee at a future session.

(v) *Technical Cooperation subprogramme for maritime legislation*

The Legal Committee took note of the inclusion of the Subprogramme for Maritime Legislation in the Integrated Technical Cooperation Programme which was adopted by the Technical Cooperation Committee at its thirty-seventh session on 19 November 1992. The Committee further noted the invitation from the Technical Cooperation Committee to initiate the implementation of this subprogramme and took note of progress reports on the implementation of the subprogramme in 1993.

(vi) *Wreck removal and related issues*

The Legal Committee noted the submission by several delegations that the existing principles of international maritime law left scope for the adoption of a specific treaty on wreck removal and related issues. It was proposed that the new treaty should be prepared within the framework of IMO and should in particular cover areas normally used by international navigation, where the removal of wrecks was essential to ensure safety of navigation and protection of the marine environment.

The Committee agreed that it was important to maintain the subject in its work programme, on the understanding, however, that it would not be dealt with until work on the priority items had been concluded.

(vii) *Legal issues regarding mandatory ship reporting systems and vessel traffic services*

The Legal Committee continued its consideration of various legal issues regarding the introduction of mandatory ship reporting systems and vessel traffic services (VTS) which had been referred by the Maritime Safety Committee (MSC). While there was no consensus in the Legal Committee as to whether an existing treaty instrument could provide the necessary legal basis for the establishment of mandatory VTS, comments of the Committee on the issue were forwarded to the MSC. The Legal Committee noted that those comments, and in particular the report of an informal working group, had contributed to successful discussions in the MSC, and that a set of draft amendments to the International Convention for the Safety of Life at Sea, 1974,[326] had been prepared as a means of establishing mandatory VTS.

(viii) *Report on the United Nations/IMO Conference of Plenipotentiaries on a Convention on Maritime Liens and Mortgages*

In 1993 IMO and the United Nations held a joint conference at Geneva which resulted in the adoption of the International Convention on Maritime Liens and Mortgages, 1993.[327] The Legal Committee took note of the report on the successful outcome of the Conference.

The Committee accepted the recommendation of the Conference in its resolution on the possible revision of the International Convention for the Unification of Certain Rules relating to the Arrest of Sea-going Ships, 1952, and the Committee recommended that the IMO/UNCTAD Joint Intergovernmental Group of Experts be reconvened to consider that subject. It was expected that a first session of the Group would be held in Geneva in December 1994.

(ix) *Legal issues regarding the application of uniform regional standards to fishing vessels entitled to fly the flag of States not bound by these standards under the 1993 Torremolinos Protocol*

The Legal Committee took note of the invitation by the IMO Council to examine with high priority the issues raised in connection with the Torremolinos Protocol of 1993[328] relating to the Torremolinos International Convention for the Safety of Fishing Vessels, 1977,[329] as to whether uniform regional standards could be applied to fishing vessels entitled to fly the flag of States not party to such regional arrangements and operating in the region concerned.

There was general agreement that the problem went beyond the terms of the Torremolinos Protocol and would have to be resolved in accordance with general principles of international law.

The Committee decided to consider the matter further at its first session in 1994 in consultation with the United Nations Division for Ocean Affairs and the Law of the Sea.

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8. WORLD INTELLECTUAL PROPERTY ORGANIZATION

(*a*) The Convention establishing WIPO and the Treaties administered by WIPO

In the course of 1993, the number of member States party to the treaties administered by WIPO increased with the adherences or declarations of continued application of the following countries to the following treaties:

(i) Armenia, Bhutan, Bolivia, Bosnia and Herzegovina, Czech Republic, Estonia, Latvia, Republic of Moldova, Saint Lucia, Slovakia, the former Yugoslav Republic of Macedonia and Uzbekistan to the Convention Establishing the World Intellectual Property Organization,[330] bringing the number of States party to 143;

(ii) Belarus, Bolivia, Bosnia and Herzegovina, Czech Republic, El Salvador, Latvia, Republic of Moldova, Slovakia, the former Yugoslav Republic of Macedonia and Uzbekistan to the Paris Convention for the Protection of Industrial Property,[331] bringing the number of States party to 117;

(iii) Albania, Bolivia, Bosnia and Herzegovina, Czech Republic, El Salvador, Jamaica, Kenya, Namibia, Nigeria, Saint Lucia, Slovakia and the former Yugoslav Republic of Macedonia, to the Berne Convention for the Protection of Literary and Artistic Works,[332] bringing the number of States party to 105;

(iv) Czech Republic and Slovakia to the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods,[333] bringing the number of States party to 31;

(v) Belarus, Bosnia and Herzegovina, Czech Republic, Kazakhstan, Slovakia, the former Yugoslav Republic of Macedonia and Uzbekistan to the Madrid Agreement concerning the International Registration of Marks,[334] bringing the number of States party to 38;

(vi) Côte d'Ivoire and Yugoslavia to the Hague Agreement concerning the International Deposit of Industrial Designs,[335] bringing the number of States party to 23;

(vii) Bosnia and Herzegovina, Czech Republic, Slovakia and the former Yugoslav Republic of Macedonia to the Nice Agreement concerning the International Classification of Goods and Services for the purposes of the Registration of Marks,[336] bringing the number of States party to 38;

(viii) Czech Republic and Slovakia to the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration,[337] bringing the number of States party to 17;

(ix) Bolivia, Czech Republic, Greece, Jamaica, Netherlands, Nigeria, Slovakia and Switzerland to the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations,[338] bringing the number of States party to 45;

(x) Bosnia and Herzegovina, Czech Republic, Slovakia and the former Yugoslav Republic of Macedonia to the Locarno Agreement Establishing an International Classification for Industrial Designs,[339] bringing the number of States party to 21;

(xi) Belarus, China, Czech Republic, Latvia, Niger, Slovakia, Slovenia, Trinidad and Tobago, Uzebekistan and Viet Nam to the Patent Cooperation Treaty,[340] bringing the number of States party to 63;

(xii) Czech Republic and Slovakia to the Strasbourg Agreement concerning the International Patent Classification,[341] bringing the number of States party to 27;

(xiii) China, Cyprus, Czech Republic, Greece, Jamaica, Netherlands, Slovakia and Switzerland to the Convention for the Protection of Producers of Phonograms against Unauthorized Duplication of Their Phonograms,[342] bringing the number of States party to 50;

(xiv) Armenia, Croatia and Switzerland to the Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite,[343] bringing the number of States party to 18;

(xv) Cuba, Czech Republic, Greece, Poland, Slovakia, Trinidad and Tobago and Yugoslavia to the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the purposes of Patent Procedure,[344] bringing the number of States party to 29;

(xvi) Belarus and Morocco to the Nairobi Treaty on the Protection of the Olympic Symbol,[345] bringing the number of States party to 34;

(xvii) Brazil and Chile to the Treaty on the International Registration of Audiovisual Works,[346] bringing the number of States party to 9.

(*b*) Development cooperation activities in the legal field

In 1993, WIPO was able to respond satisfactorily to the training demands of developing countries. During the year, training was given to government officials and personnel from the technical, legal, industrial and commercial sectors in the form of courses, study visits, workshops, seminars, training attachments abroad and on-the-job training by WIPO officials or consultants. That training covered, among other matters, the legal and economic aspects of industrial property, the administration of the collection and distribution of copyright royalties and the use of trade marks for marketing products and services.

At the request of the Governments concerned, WIPO prepared draft laws and regulations which, depending on the country, dealt with one or more aspects of intellectual property or WIPO commented on drafts prepared by the Governments of the countries themselves. In 1993, some 80 countries received advice and assistance. Given the interest shown in various developing regions in reinforcing regional or subregional trade links and the growing awareness of the role which intellectual property could play in that context, WIPO hosted a meeting with the States members of the Association of South-East Asian Nations (ASEAN) and with the member States of the Common Market of the Southern Cone (MERCOSUR) to discuss cooperation in harnessing their respective intellectual property systems to common economic and trade goals.

(*c*) Setting of norms and standards

Significant work was carried out in several fields of intellectual property in 1993 with a view to making the protection and enforcement of intellectual property rights more effective throughout the world with due regard to the social, cultural and economic goals of the different countries.

The fifth session of the Committee of Experts on the Settlement of Intellectual Property Disputes between States continued its consideration of a draft Treaty on the settlement of intellectual property disputes between States and concluded that a sixth session was necessary to examine further proposals. That conclusion was subsequently approved by the General Assembly of WIPO at its September meeting. The Preparatory Meeting for the Diplomatic Conference for the Conclusion of a Treaty on the Settlement of Intellectual Property Disputes between States, which also met in 1993, was to be reconvened for a second part in conjunction with that sixth session in early 1994.

The Committee of Experts on the Development of the Hague Agreement concerning the International Deposit of Industrial Designs, at its third session, discussed in detail a draft New Act of the Hague Agreement concerning the International Deposit of Industrial Designs prepared by the International Bureau on the basis of the outcome of the Committee's previous sessions.

Regarding the draft Patent Law Treaty, the Assembly of the Paris Union asked the Director General to convene an extraordinary session of that Assembly as soon as he believed the time was ripe for considering the fixing of a date for the continuation of the Diplomatic Conference (the first part of the Conference took place in 1991).

The draft Trademark Law Treaty and Regulations were discussed by the Committee of Experts on the Harmonization of Laws for the Protection of Marks at its fifth and sixth sessions. At its sixth session, the Committee of Experts reviewed the draft Trademark Law Treaty and agreed on certain amendments. The preparatory meeting for the Diplomatic Conference also met in 1993 and approved the Director General's plan to convene the Diplomatic Conference for the Conclusion of the Trademark Law Treaty from 10 to 28 October 1994.

The third session of the Committee of Experts on a Possible Protocol to the Berne Convention considered, *inter alia*, what norms such a Protocol could contain in order to clarify or widen the rights of authors and other owners of copyright. Discussions will continue at a fourth session of the Committee to be held in mid-1994.

At its first session, the Committee of Experts on a Possible Instrument on the Protection of the Rights of Performers and Producers of Phonograms discussed what norms a possible future multilateral treaty should contain to ensure better international protection of the rights of performers and producers of sound recordings. At its second session, it completed the first examination of the International Bureau's proposal for a new instrument and identified a number of issues for further examination at its third session scheduled for mid-1994.

The establishment of a WIPO Arbitration Centre, which will offer services for the resolution of intellectual property disputes between private parties, was approved by the General Assembly of WIPO. Enterprises and individuals wishing to use those services will be able to choose between four dispute-settlement procedures: mediation, arbitration, expedited arbitration (designed particularly for small-scale disputes) and a combined procedure, providing for mediation and, failing settlement through mediation, arbitration.

(*d*) Programme and budget

The Governing Bodies approved in September the draft programme and budget proposed by the Director General for the 1994-1995 biennium. The programme of the coming biennium will see the continuation of a good part of the activities of the 1992-1993 biennium. At the same time, it will cover a significantly greater volume of development cooperation activities. In respect of normative activities, the outstanding events foreseen in the new programme are the conclusion of a Treaty on the Settlement of Disputes between States in the Field of Intellectual Property, of the Trademark Law Treaty and, possibly, of the Patent Law Treaty.

The Governing Bodies also decided to apply, as from 1 January 1994, and for a trial period of four years, covering the next two bienniums (1994-1995 and 1996-1997), a unitary contribution system. This system will replace the existing contribution system in which there are six contribution-financed Unions (Paris, Berne, IPC, Nice, Locarno and Vienna), where each State pays as many contributions (each one of a different amount) to the International Bureau of WIPO as the number of the Unions of which it is a member. The advantages of the unitary contribution system are that it will make the administration of contributions simpler and be an incentive for States that are not members of all the contribution-financed Unions to join further Unions since accession to such additional Unions will not increase the amount of their contributions. Under the unitary contribution system, each State member will pay one contribution

only, irrespective of the number of contribution-financed Unions of which it is a member. Further, under the new system, no State member of a Union would pay more—each would in fact pay less—than under the existing multi-contribution system.

(*e*) Countries in transition to a market-economy system

During 1993, WIPO's contacts with countries in transition to a market economy system were primarily in connection with those countries' programmes of preparation and enactment of intellectual property laws, the establishment of industrial property offices, as well as adherence to WIPO-administered treaties. Government leaders and officials from several of those countries had discussions in Geneva with the Director General and studied the International Bureau's work, while WIPO officials visited the capitals of the countries concerned to give further advice. Officials of those countries in charge of intellectual property matters were invited for discussions at WIPO's headquarters in Geneva, and study visits by them to various countries were organized by WIPO. The International Bureau assisted them, on request, in the preparation of laws dealing with one or more aspects of intellectual property. Advice was also given on the establishment of administrative structures to implement those laws, while assistance and training were extended in relation to accession to WIPO-administered treaties. Staff members of the International Bureau lectured in special seminars and meetings to promote awareness of the importance of intellectual property in those countries as well as in special training courses.

The International Bureau gave advice and assistance, in particular, to the Inter-State Council on the Protection of Industrial Property (which groups nine States of the former Soviet Union, i.e., Armenia, Belarus, Kazakhstan, Kyrgyzstan, the Republic of Moldova, the Russian Federation, Tajikistan, Ukraine and Uzbekistan) on a plan to set up a regional patent system under the proposed Eurasian Patent Convention.

(*f*) Collection of intellectual property laws and treaties

WIPO continued to keep up to date its collection of the texts of laws and regulations of all countries and treaties dealing with industrial property, copyright and neighbouring rights, both in their original languages and in English and French translations. The texts concerning industrial property were published in *Industrial Property Laws and Treaties* (*Lois et traités de propriété industrielle*) and in the monthly periodical *Industrial Property/La Propriété industrielle*, whereas the texts concerning copyright and neighbouring rights were published in the monthly periodical *Copyright/Le Droit d'Auteur*.

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9. INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT

(*a*) Appointment of new President

The expiration on 23 January 1993 of the second term of office of IFAD's second President, Mr. Idriss Jazairy, required the election of a new President

by the Governing Council. In accordance with article 6, section 8 (*a*), of the Agreement Establishing IFAD,[347] the Governing Council of IFAD had to appoint a new President by a two-thirds majority of the total number of votes. Article 6, section 3 (*a*), of the said Agreement establishes 1,800 as the total number of votes in the Governing Council. Therefore, the required minimum number of votes for the appointment of the President is 1,200.

According to article 6, section 2, of IFAD's By-laws for the Conduct of the Business of IFAD, all nominations for the office of President must be submitted no less than 60 days before the opening of the particular session in which the appointment of the President is to be decided. The deadline for the receipt of nominations expired on Friday, 20 November 1992. By that date, IFAD had received three nominations for the office of President of IFAD: Mr. Fawzi Hamad Al-Sultan, nominated by Kuwait; Mr. Bahman Mansuri, by the Islamic Republic of Iran; and Mr. Enrique ter Horst, by Venezuela. Consequently, during its sixteenth session, held from 20 to 22 January 1993, the Governing Council, for the first time, held elections for the appointment of the President of IFAD. The balloting was held in private, in accordance with paragraph 1 of rule 41 of the Council's rules of procedure. Under paragraph 2 of that rule, when in the balloting none of the nominees receive the required number of votes (i.e., at least 1,200), then the nominee receiving the lowest number of votes in this balloting shall be eliminated.

In the first ballot, none of the candidates obtained the required majority of 1,200 votes. Accordingly, a second ballot was held, for which only Mr. Al-Sultan and Mr. ter Horst were candidates. As no candidate had obtained the required majority in that ballot, the Governor for Venezuela announced his country's support for the candidature of Mr. Al-Sultan. The Chairman of the Governing Council then assumed that Mr. Al-Sultan had been elected "by consensus". However, the Governor for Iraq observed that a new ballot was needed since Mr. Al-Sultan had not obtained 1,200 votes. IFAD's Legal Counsel gave his opinion that, in accordance with rule 35.1 of the Council's rules of procedure, at any meeting of the Governing Council the Chairman must attempt to secure a consensus in lieu of taking a vote with respect to any proposal. In addition, rule 38, paragraph 1, of the Council's rules of procedure also states that where the number of candidates for elective posts does not exceed the number of elective places to be filled, a secret ballot need not be held. "In the context of the Chairman's statement, the word 'consensus' was synonymous with 'acclamation', the Chairman's assumption having been based on the obviously positive response with which the plenary session had greeted the Venezuelan announcement. If that assumption was correct, which was for the Council to decide, no further balloting would be required. Clearly, it was for the Governing Council to decide whether or not to proceed to a third ballot, but it seemed from the broad approval that had been manifested for Mr. Al-Sultan's appointment that support for the candidate did not fall below 1,200 votes."[348]

The Chairman therefore ruled that an overwhelming majority of participants had demonstrated their support of the candidature of Mr. Al-Sultan. Accordingly, the Governing Council appointed Mr. Al-Sultan the third President of IFAD by acclamation for a term of office of four years with effect from 24 January 1993.[349]

(*b*) Emoluments of the President

Section 6 of the By-laws for the Conduct of the Business of IFAD provides that "the salary, allowances and other entitlements of the President shall be determined by resolution of the Governing Council. In addition, he shall be entitled to participate in insurance, medical, pension, retirement and other plans as may be established for the employees of the Fund and not otherwise covered by his emoluments." At its first session, the Governing Council, in its resolution 77/5, established the net salary, representation allowance and benefits of the President of IFAD at par with that of the reference United Nations agency in Rome (FAO).[350]

At its forty-fifth session at Doha, Qatar, in April 1992, the Executive Board decided that, in the light of the principle of parity established for the determination of the emoluments of the President of IFAD under resolution 77/5, the representation allowance required adjustment.[351]

At its sixteenth session, the Governing Council, in its resolution 76/XVI, decided to establish a committee to review the overall emoluments and other conditions of employment of the President of IFAD in relation to other heads of United Nations agencies and international financial institutions. This Committee was composed of nine Governors or their representatives, three from each category (Category I: Denmark, Italy and the United Kingdom; Category II: Indonesia, Nigeria and Saudi Arabia; Category III: Cameroon, Thailand and Uruguay).

At its fiftieth session (1-3 December 1993), the Executive Board considered the report of the Emoluments Committee[352] and endorsed it. The Board decided to transmit the report and a draft resolution thereon to the Governing Council at its seventeenth session. The report recommended, *inter alia*, that the salary, allowances and other entitlements of the President of IFAD be maintained at par with that of the Director-General of FAO and that accordingly a housing allowance should be provided to the President in line with that given to the Director-General of FAO.

(*c*) Approval of applications for non-original membership

At its sixteenth session, the Governing Council decided, upon the recommendation of the Executive Board,[353] to accept the applications for non-original membership of Armenia, Kyrgyzstan and the Cook Islands and classified those three States as Category III members in accordance with articles 3.2 (*b*), 3.3 (*a*), 4.2 (*b*) and 13.1 (*c*) of the Agreement Establishing IFAD and section 10 of the By-laws for the Conduct of the Business of IFAD.

The application for non-original membership made by the Cook Islands raised a number of legal issues given the special relationship of the Cook Islands with New Zealand. New Zealand conducts the foreign relations of the Cook Islands through a "free association relationship". The power to do so has been voluntarily delegated by the Cook Islands to New Zealand. Before being in a position to place this request for membership before the Executive Board, the IFAD secretariat deemed it necessary to clarify the current sovereignty status of the Cook Islands vis-à-vis the requirements set forth in the Agreement Establishing IFAD regarding membership of the organization.

Article 3, section 1, of the Agreement Establishing IFAD specifies that "membership of the Fund shall be open to any State Member of the United Nations or of any of its specialized agencies, or of the International Atomic Energy Agency". At the time of its application to IFAD, the Cook Islands was a full member of ICAO, FAO, UNESCO and WHO. Based on this precedent and the fact that there had been a number of instances where a State not exercising full sovereign powers had been admitted to intergovernmental organizations, IFAD decided to approve the application.

(*d*) Assistance to small and disadvantaged farmers in Gaza and Jericho

Following the developments in favour of peace in the Middle East and, especially, the historic accord of 13 September 1993 between the Palestine Liberation Organization and the Government of Israel, IFAD decided to act immediately to assist rural families located in the Gaza Strip and Jericho. As Palestine is not a member of IFAD, this assistance was made possible under article 8, section 2, of the Agreement Establishing IFAD, which allows IFAD to establish cooperation, *inter alia*, with NGOs concerned with agricultural development. Since financial assistance to the rural families of Gaza and Jericho to promote rural and agricultural development is within the mandate of IFAD, a cooperation agreement with American Near East Refugee Aid (ANERA), an NGO, was the most effective legal method for implementing the project. The Executive Board approved this arrangement, at its fiftieth session (1-3 December 1993), to provide a grant for the Gaza Strip and Jericho Relief and Development Programme in various currencies in an amount equivalent to US$3 million.[354]

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10. UNITED NATIONS INDUSTRIAL DEVELOPMENT ORGANIZATION

(*a*) Constitutional matters

Seven States—Azerbaijan, Czech Republic, Kyrgyzstan, Republic of Moldova, Slovakia, Tajikistan and the former Yugoslav Republic of Macedonia—became members of UNIDO,[355] thus bringing the membership of UNIDO before the end of 1993 to a total of 166 member States.

(*b*) Agreements with intergovernmental, non-governmental, governmental and other organizations

Based on the Guidelines regarding relationship agreements with organizations of the United Nations system other than the United Nations, and with intergovernmental and governmental organizations, and regarding appropriate relations with non-governmental and other organizations, adopted by the General Conference,[356] in 1993 UNIDO concluded the following agreements.

(i) Upon approval by the Industrial Development Board at its sixth[357] and eighth sessions,[358] UNIDO concluded relationship agreements with the following intergovernmental organizations not in the United Nations system:[359]

—Relationship Agreement with the European Community, signed on 16 October 1992 and 15 January 1993;

—Relationship Agreement with the International Pepper Community, signed on 2 August and 17 September.

(ii) UNIDO concluded agreements or working arrangements with the following Governments or governmental organizations:[359]

—Memorandum of intent with the Government of the Argentine Republic regarding assistance to the Government in the automobile industry sector, signed on 9 August;

—Cooperation arrangement with the Government of the Argentine Republic, signed on 6 December;

—Memorandum of Understanding with the Government of Australia on cooperation in the field of investment promotion, signed on 13 January;

—Note verbale with the Permanent Representative of the Government of the Federative Republic of Brazil extending the Memorandum of Understanding concluded with the Government of the Federative Republic of Brazil on 1 September 1987, dated 31 August;

—Legal arrangement with the Government of the Islamic Republic of Iran for the UNIDO Consultation on Downstream Petrochemical Industries, signed on 15 October;

—Joint communiqué with the President of the Republic of Nicaragua on the occasion of the visit to Austria of the President of the Republic of Nicaragua, signed on 11 November;

—Memorandum of cooperation in the field of industrial development with the Council of Ministers of the Government of the Russian Federation, signed on 8 July;

—Tax reimbursement agreement with the Government of the United States of America, signed on 26 March;

—Memorandum of Understanding with the International Association of Trading Organizations for a Developing World (ASTRO), signed on 23 August;

—Memorandum of Understanding with the International Fertilizer Development Centre (IFDC), signed on 22 and 28 April;

—Exchange of letters with the President of the Research Area of Trieste regarding the extension of the 1989 agreement and related rental agreement with the Research Area of Trieste with respect to the related project on pilot activities, signed on 28 May, 25 August and 13 September.

(*c*) Agreements with the United Nations or its organs

(i) As in previous years, UNIDO concluded an agreement with the United Nations on arrangements for the sale of UNIDO publications;[359]

(ii) With the United Nations International Drug Control Programme (UNDCP), UNIDO signed an agreement with regard to a special-purpose contribution to the Industrial Development Fund;[359]

(iii) With UNDCP, UNIDO concluded a letter of agreement concerning the services to be provided by UNIDO for the implementation of UNDCP-funded drug control projects in 1993.[359]

(*d*) Standard Basic Cooperation Agreement

Standard Basic Cooperation Agreements were concluded with Gabon, Nicaragua, Oman, the Philippines and Yemen.[359]

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11. INTERNATIONAL ATOMIC ENERGY AGENCY

Convention on the Physical Protection of Nuclear Material[360]

During 1993, nine States—Antigua and Barbuda, Armenia, Belarus, Czech Republic, Lithuania, Romania, Slovakia, Tunisia and Ukraine—became parties, bringing the total at year end to 50.

Convention on Early Notification of a Nuclear Accident[361]
Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency[362]

During 1993, seven States—Armenia, Czech Republic, Indonesia, Morocco, Nicaragua, Portugal and Slovakia—adhered to the Notification Convention. By the end of 1993, there were 71 States parties.

In 1993, the same six States mentioned above (with the exception of Portugal) adhered to the Convention on Assistance, bringing the total number of parties to 68 by year end.

Vienna Convention on Civil Liability for Nuclear Damage, 1963[363]

During 1993, Armenia and Brazil adhered, bringing the total number of parties to 21 by the end of the year.

Joint Protocol Relating to the Application of the Vienna Convention and the Paris Convention[364]

Lithuania became a party during the year, making a total of 12 parties by the end of 1993.

African Regional Cooperative Agreement[365]

Two additional States—Ethiopia and Zambia—accepted the African Regional Cooperative Agreement for Research, Development and Training Related to Nuclear Science and Technology (AFRA) during 1993, bringing the total to 17 States.

Regional Cooperative Agreement for Research, Development and Training Related to Nuclear Science and Technology, 1987 (RCA Agreement)[366]

The status remained unchanged during 1993, with a total of 14 States parties.

SAFEGUARDS AGREEMENTS

During 1993, Safeguards Agreements were concluded between IAEA and two States, Armenia and Latvia, both of which were concluded pursuant to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT).[367]

The agreement with Latvia,[368] as well as the Safeguards Agreements concluded with Pakistan[369] (in 1992), with the Solomon Islands[370] (in 1991) and with Tonga[371] (signed in 1990 and 1993), entered into force in 1993.

The NPT Safeguards Agreement concluded with the Czechoslovak Socialist Republic,[372] which entered into force in 1972, continues to be applied in the Czech Republic and in Slovakia to the extent relevant to their respective territories.

The NPT Safeguards Agreement with the Socialist Federal Republic of Yugoslavia,[373] which entered into force in 1973, continues to be applied in Croatia, in Slovenia and in the Federal Republic of Yugoslavia (Serbia and Montenegro), to the extent relevant to their respective territories.

The trilateral Safeguards Agreement between India, the United States of America and IAEA,[374] which entered into force in 1971, expired in 1993. As an interim measure and pending conclusion of a new bilateral Safeguards Agreement between India and IAEA, the two parties approved arrangements under which India and IAEA continued to be bound, until 1 March 1994, by the provisions of the trilateral Safeguards Agreement, in so far as they related to the bilateral relationship between India and IAEA.

By the end of 1993, there were 193 Safeguards Agreements in force with 116 States;[375] 99 of those agreements were concluded pursuant to the NPT and/or the Treaty of Tlatelolco with 99 non-nuclear-weapon States and three nuclear-weapon States.

LIABILITY FOR NUCLEAR DAMAGE—1993

Strengthening and enhancing the international regime of nuclear liability remained a matter of priority. The Standing Committee on Liability for Nuclear Damage concentrated on the revision of the Vienna Convention and supplementary funding, where the results already achieved provided a basis for further progress. Consideration of revision of the Vienna Convention advanced substantially as a result of the adoption, for further consideration, of single texts of draft amendments on most of the issues under consideration. It was felt that the area of agreement that had been reached could allow early completion of the preparatory work on the question.

With respect to supplementary funding, negotiations focused on the alternative systems suggested in two draft conventions (the "levy" and "pool" drafts). Consultations were initiated to help reach a common solution by inclusion of certain key elements of one draft into the other. At its eighth session (November 1993),[376] the Committee was informed by the delegations of France, Germany and the United Kingdom of Great Britain and Northern Ireland, which had been involved in consultations in search of such a compromise, that it did not yet seem feasible to bridge the two and that efforts should instead be made to develop one or the other draft with a view to removing objections to it.

In the light of the uncertainty about the prospects for a compromise on the basis of the "levy" and "pool" drafts, there was much interest in a proposal by Denmark and Sweden ("joint proposal") that drew upon an earlier proposal by Poland that had been kept available as a fall-back option. The joint proposal envisaged insertion in the Vienna Convention of a higher amount of compensation which could be partly covered by public funds made available by the installation State and would then serve as a threshold for a supplementary funding convention. Since differences of principle remained on international State liability and its relationship to the civil liability regime, consideration was given to proposals regarding some State involvement in the context of the revision of the Vienna Convention and supplementary funding.

Given the interdependence between revision of the Vienna Convention and the elaboration of a convention on supplementary funding, the Standing Committee reiterated its integrated approach to the two issues with a view to the possibility of holding a single diplomatic conference and agreed that it was still premature to fix a date for such a conference.

The question of nuclear liability was considered by the Board of Governors in September 1993 and by the General Conference at its thirty-seventh regular session. In the deliberations, the need to intensify the preparatory work in the Standing Committee was emphasized so that the diplomatic conference could be convened at an early date. It was also pointed out that broad participation in the third-party liability regime would contribute to international cooperation in upgrading nuclear safety. Therefore, while work was under way to elaborate a strengthened and enhanced liability regime that could enjoy worldwide adherence, at the current juncture it was important that the regime of the existing Vienna Convention and the Joint Protocol should obtain the widest possible adherence.

Convention on Nuclear Safety[377]

Preparatory work is completed.

The General Conference of IAEA at its thirty-seventh regular session (October 1993) adopted resolution GC(XXXVII)/RES/615, "Strengthening nuclear safety through the early conclusion of a nuclear safety convention". By that resolution, the General Conference stressed the desirability of a diplomatic conference to adopt the Convention early in 1994 on the basis of a comprehensive draft text worked out by the Group of Experts and invited the greatest number of countries, in particular those having nuclear installations on their territory, to become parties to the convention as soon as possible after its finalization. During 1993, the Group of Experts on a Nuclear Safety Convention concluded its substantive work.

Notes

[1]Adopted by a recorded vote of 114 to 6, with 45 abstentions.
[2]Adopted without a vote.
[3]United Nations, *Treaty Series*, vol. 1015, p. 163.
[4]Adopted by a recorded vote of 166 to none, with 4 abstentions.
[5]Adopted without a vote.

[6]Adopted without a vote.

[7]Adopted without a vote.

[8]Adopted without a vote.

[9]United Nations, *Treaty Series*, vol. 729, p. 161.

[10]Adopted by a recorded vote of 53 to 45, with 65 abstentions.

[11]Adopted by a recorded vote of 153 to 3, with 12 abstentions.

[12]Adopted without a vote.

[13]United Nations, *Treaty Series*, vol. 634, p. 281.

[14]Adopted by a recorded vote of 130 to 4, with 36 abstentions.

[15]Adopted without a vote.

[16]Adopted by a recorded vote of 146 to none, with 22 abstentions.

[17]Adopted by a recorded vote of 170 to none, with 1 abstention.

[18]Adopted without a vote.

[19]Adopted without a vote.

[20]Adopted by a recorded vote of 161 to none, with 5 abstentions.

[21]Adopted by a recorded vote of 126 to 4, with 35 abstentions.

[22]United Nations, *Treaty Series*, vol. 1342, p. 137.

[23]Adopted by a recorded vote of 162 to none, with 3 abstentions.

[24]Adopted by a recorded vote of 156 to none, with 11 abstentions.

[25]Adopted by a recorded vote of 169 to none, with 1 abstention.

[26]Adopted without a vote.

[27]A/48/305 and Corr.1.

[28]A/48/344 and Add.1.

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

[30]Adopted by a recorded vote of 122 to 1, with 45 abstentions.

[31]See A/48/684.

[32]For the report of the Subcommittee, see A/AC.105/544.

[33]A/AC.105/543.

[34]A/AC.105/C.2/L.182/Rev.1.

[35]See *Official Records of the General Assembly, Forty-eighth Session, Supplement No. 2* (A/48/20), chap. II, sect. C.

[36]Adopted without a vote.

[37]See A/48/645.

[38]Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (resolution 2222 (XXI), annex); Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space (resolution 2345 (XXII), annex); Convention on International Liability for Damage Caused by Space Objects (resolution 2777 (XXVI), annex); Convention on Registration of Objects Launched into Outer Space (resolution 3235 (XXIX), annex); Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (resolution 34/68, annex).

[39]Adopted by a recorded vote of 96 to none, with 7 abstentions.

[40]See A/48/681.

[41]*International Legal Materials*, vol. XXX, p. 1455.

[42]Adopted without a vote.

[43]See A/48/648.

[44]See A/47/965-S/25944; see *Official Records of the Security Council, Forty-eighth Year, Supplement for April, May and June 1993*, document S/25944.

[45]For detailed information, see *Official Records of the General Assembly, Forty-eighth Session, Supplement No. 25* (A/48/25) and corrigendum.

[46]Ibid., annex.

[47]IAEA/WP.34/Rev.1, annex 8.

[48]UNEP/WG.190/4.

[49]UNEP/GC.17/24.

[50]UNEP/GC.17/15 and Corr.1, paras. 13-16.

[51]UNEP/GC.17/14.

[52]*Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992*, vol. I (United Nations publication, Sales No. E.93.I.8 and corrigendum), resolution 1, annex II.

[53]UNEP/Bio.Div/N7-INC.5/4.

[54]Adopted without a vote.

[55]See A/48/717/Add.6.

[56]Adopted without a vote.

[57]See A/48/725.

[58]Adopted without a vote.

[59]See A/48/725.

[60]A/AC.237/18 (Part II)/Add.1 and Corr.1, annex I.

[61]Adopted without a vote.

[62]See A/48/725.

[63]*Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992* (A/CONF.151/26/Rev.1 (Vol. I and Vol. I/Corr.1, Vol. II, Vol. III and Vol. III/Corr.1)) (United Nations publication, Sales No. E.93.I.8 and corrigenda), vol. I: *Resolutions adopted by the Conference*, resolution 1, annex I.

[64]*Official Records of the Economic and Social Council, 1993, Supplement No. 5* (E/1993/25/Rev.1), part two.

[65]Adopted without a vote.

[66]See A/48/717/Add.7.

[67]Adopted without a vote.

[68]See A/48/725.

[69]Adopted without a vote.

[70]See A/48/725.

[71]See A/48/479.

[72]Adopted without a vote.

[73]See A/48/717/Add.2.

[74]See *Proceedings of the United Nations Conference on Trade and Development, Eighth Session, Report and Annexes* (TD/364/Rev.1) (United Nations publication, Sales No. E.93.II.D.5), part one, sect. A.

[75]Adopted without a vote.

[76]See A/48/628.

[77]United Nations, *Treaty Series*, vol. 520, p. 151.

[78]Ibid., vol. 976, p. 3.

[79]Ibid., p. 105.

[80]Ibid., vol. 1019, p. 175.

[81]E/CONF.82/15 and Corr.2; issued also as a United Nations publication (Sales No. E.91.XI.6).

[82]Adopted without a vote.

[83]Adopted without a vote.

[84]See A/48/630.

[85]See E/1990/39 and Corr.1 and 2 and Add.1.

[86]See General Assembly resolution S-17/2, annex.

[87]See *Report of the International Conference on Drug Abuse and Illicit Trafficking, Vienna, 17-26 June 1987* (United Nations publication, Sales No. E.87.I.18), chap. I, sect. B.

[88]For detailed information, see *Official Records of the General Assembly, Forty-eighth Session, Supplement No. 12* (A/48/12), and ibid., *Supplement No. 12A* (A/48/12/Add.1).

[89]See also *Official Records of the General Assembly, Forty-ninth Session, Supplement No. 12* (A/49/12).

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

[91]Ibid., vol. 606, p. 267.

[92]For detailed information, see *Official Records of the General Assembly, Forty-eighth Session, Supplement No. 12A* (A/48/12/Add.1).

[93]E/AC.51/1993/2.

[94]*Official Records of the General Assembly, Forty-eighth Session, Supplement No. 16* (A/48/16), part one, paras. 24-29.

[95]Adopted without a vote.

[96]See A/48/631.

[97]Adopted without a vote.

[98]See A/48/631.

[99]Adopted without a vote.

[100]See A/48/631.

[101]See General Assembly resolution 2200 A (XXI), annex, also reproduced in *Juridical Yearbook, 1966*, p. 170.

[102]United Nations, *Treaty Series*, vol. 993, p. 3.

[103]Ibid., vol. 999, p. 171.

[104]Ibid.

[105]General Assembly resolution 44/128, annex.

[106]Adopted without a vote.

[107]See A/48/632/Add.1.

[108]*Official Records of the General Assembly, Forty-seventh Session, Supplement No. 40* (A/47/40).

[109]Ibid., *Forty-eighth Session, Supplement No. 40* (A/48/40).

[110]See General Assembly resolution 3068 (XXVIII), annex; reproduced in *Juridical Yearbook, 1973*, p. 70; see also United Nations, *Treaty Series*, vol. 1015, p. 243.

[111]Adopted by a recorded vote of 119 to 1, with 48 abstentions.

[112]See A/48/625.

[113]General Assembly resolution 217 A (III).

[114]General Assembly resolution 45/158.

[115]Adopted without a vote.

[116]See A/48/632/Add.3.

[117]Adopted without a vote.

[118]See A/48/632/Add.1.

[119]See A/47/628, annex.

[120]Held at Vienna from 14 to 25 June 1993.

[121]Adopted without a vote.

[122]See A/48/632/Add.2.

[123]A/CONF.157/24 (Parts I and II).

[124]A/CONF.157/24 (Part I), chap. III.

[125]Adopted without a vote.

[126]See A/48/626.

[127]Adopted by a vote of 101 to 26, with 36 abstentions.

[128]See A/48/626.

[129]A/48/461-S/26514, annex; see *Official Records of the Security Council, Forty-eighth Year, Supplement for July, August and September 1993*, document S/26514.

[130]General Assembly resolution S-16/1, annex.

[131]See S/22609, annex; see *Official Records of the Security Council, Forty-sixth Year, Supplement for April, May and June 1991*, document S/22609.

[132]Adopted without a vote.

[133]See A/48/626/Add.1, para. 11, and A/48/PV.85.

[134]Adopted by a recorded vote of 108 to 14, with 39 abstentions.

[135]See A/48/626.

[136]A/48/385, annex.

[137]General Assembly resolution 44/34, annex.

[138]Adopted by a recorded vote of 101 to 51, with 17 abstentions.

[139]See A/48/632/Add.2.

[140]Adopted without a vote.

[141]See A/48/632/Add.2.

[142]General Assembly resolution 41/128, annex.

[143]Adopted without a vote.
[144]See A/48/632/Add.2.
[145]Adopted without a vote.
[146]See A/48/632/Add.2.
[147]Adopted without a vote.
[148]See A/48/632/Add.2.
[149]Adopted without a vote.
[150]See A/48/634.
[151]United Nations, *Treaty Series*, vol. 75, Nos. 970–973.
[152]Ibid., vol. 1125, Nos. 17512 and 17513.
[153]General Assembly resolution 44/25, annex.
[154]Adopted without a vote.
[155]See A/48/634.
[156]Adopted without a vote.
[157]See A/48/632/Add.2.
[158]General Assembly resolution 36/55.
[159]Adopted without a vote.
[160]See A/48/629.
[161]General Assembly resolution 34/180, annex.
[162]General Assembly resolution 39/46, annex.
[163]Universal Declaration of Human Rights, article 3; and International Covenant on Civil and Political Rights, article 6.
[164]International Covenant on Civil and Political Rights, article 26.
[165]Universal Declaration of Human Rights, article 3; and International Covenant on Civil and Political Rights, article 9.
[166]International Covenant on Economic, Social and Cultural Rights, article 12.
[167]Universal Declaration of Human Rights, article 23; and International Covenant on Economic, Social and Cultural Rights, articles 6 and 7.
[168]Universal Declaration of Human Rights, article 5; International Covenant on Civil and Political Rights, article 7; and Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
[169]General Assembly resolution 47/135, annex.
[170]Adopted without a vote.
[171]See A/48/632/Add.2.
[172]A/48/509 and Corr.1 and Add.1 and Add.1/Corr.1.
[173]General Assembly resolution 1514 (XV).
[174]Adopted by a recorded vote of 139 to 2, with 19 abstentions.
[175]*Official Records of the General Assembly, Forty-eighth Session, Supplement No. 23* (A/48/23), chap. I, sect. J.
[176]Adopted without a vote.
[177]See A/48/632/Add.2.
[178]Adopted without a vote.
[179]See A/48/625/Add.1.
[180]Adopted without a vote.
[181]See A/48/625/Add.1, para. 9, and A/48/PV.84.
[182]Adopted without a vote.
[183]See A/48/632/Add.2.
[184]*Report of the World Conference on Human Rights, Vienna, 14-25 June 1993* (A/CONF.157/24 (Part I)), chap. III.
[185]See A/CONF.157/PC/42/Add.6.
[186]Adopted without a vote.
[187]See A/48/632/Add.2.
[188]A/CONF.157/24 (Part I), chap. III, sect. II, para. 69.
[189]Adopted without a vote.
[190]See A/48/632/Add.2.
[191]Adopted by a recorded vote of 115 to 34, with 21 abstentions.

[192]See A/48/632/Add.2.

[193]Adopted by a recorded vote of 106 to none, with 25 abstentions.

[194]United Nations, *Treaty Series*, vol. 823, p. 231.

[195]*Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XVII (United Nations publication, Sales No. E.84.V.3), document A/CONF.62/122; see also *The Law of the Sea: United Nations Convention on the Law of the Sea with Index and Final Act of the Third Nations Conference on the Law of the Sea* (United Nations publication, Sales No. E.83.V.5).

[196]For detailed information on the work of the Preparatory Commission, see the report of the Secretary-General (A/48/527 and Add.1).

[197]These reports are contained, respectively, in documents LOS/PCN/BUR/R.20, LOS/PCN/BUR/R.22, LOS/PCN/BUR/R.24, LOS/PCN/BUR/R.23 and LOS/PCN/BUR/R.25.

[198]LOS/PCN/128.

[199]These reports are contained, respectively, in LOS/PCN/WP.52, LOS/PCN/SCN.1/1992/CRP.22, LOS.PCN/SCN.2/1992/CRP.6, LOS/PCN/SCN.3/1992/CRP.17 and LOS/PCN/SCN.4/WP.15.

[200]See LOS/PCN/L.113 and Corr.1, para. 25.

[201]A/48/527 and Add.1.

[202]Adopted by a recorded vote of 144 to 1, with 11 abstentions.

[203]LOS/PCN/L.87, annex.

[204]LOS/PCN/L.102, annex.

[205]LOS/PCN/L.108, annex.

[206]For the composition of the Court, see General Assembly decision 48/308.

[207]As of 31 December 1993, the number of States recognizing the jurisdiction of the International Court of Justice as compulsory in accordance with declarations filed under Article 36, paragraph 2, of the Statute of the Court stood at 57.

[208]For detailed information, see *I.C.J. Yearbook, 1992-1993*, No. 47, and *I.C.J. Yearbook, 1993-1994*, No. 48.

[209]*I.C.J. Reports 1993*, p. 38.

[210]United Nations, *Treaty Series*, vol. 499, p. 311.

[211]*I.C.J. Reports 1984*, p. 253.

[212]United Nations, *Treaty Series*, vol. 516, p. 205.

[213]*I.C.J. Reports 1985*, p. 42, para. 51.

[214]*I.C.J. Reports 1993*, pp. 83, 84-85, 86 and 87-88.

[215]Ibid., pp. 89-117, 118-129, 130-210, 211-279 and 280-303.

[216]Ibid., pp. 303-314.

[217]Ibid., p. 316.

[218]Ibid., p. 322.

[219]*I.C.J. Reports 1992*, p. 228.

[220]*I.C.J. Reports 1993*, p. 32.

[221]Ibid., p. 35.

[222]United Nations, *Treaty Series*, vol. 78, p. 277.

[223]Ibid., vol. 75, p. 5.

[224]Ibid., vol. 1125, p. 3.

[225]*I.C.J. Reports 1993*, p. 3.

[226]Ibid., pp. 26-27.

[227]Ibid., p. 29.

[228]Ibid., p. 325.

[229]Ibid., p. 16, para. 26.

[230]Ibid., pp. 351-352.

[231]Ibid., pp. 353-369, 370-389, 390-406 and 407-448.

[232]Ibid., pp. 449-452 and 453-465.

[233]Ibid., p. 470.

[234]Ibid., p. 319.

[235]Ibid., p. 467.

[236]For the membership of the Commission, see *Official Records of the General Assembly, Forty-eighth Session, Supplement No. 10* (A/48/10), chap. I.

[237]For detailed information, see *Official Records of the General Assembly, Forty-eighth Session, Supplement No. 10* (A/48/10).

[238]A/CN.4/449 and Corr.1.

[239]A/CN.4/450.

[240]A/CN.4/453 and Add.1 and Corr.1-3; and Add.2 and 3.

[241]A/CN.4/451.

[242]A/CN.4/L.489.

[243]*Official Records of the General Assembly, Forty-eighth Session, Supplement No. 10* (A/48/10).

[244]Adopted without a vote.

[245]See A/48/612.

[246]For the membership of the Commission, see *Official Records of the General Assembly, Forty-eighth Session, Supplement No. 17* (A/48/17), chap. I, sect. B.

[247]For detailed information, see *Yearbook of the United Nations Commission on International Trade Law*, vol. XXIV: 1993 (United Nations publication, Sales No. E.94.V.16).

[248]A/CN.9/371, annex.

[249]A/CN.9/375.

[250]A/CN.9/378/Add.1.

[251]A/CN.9.373.

[252]A/CN.9/372.

[253]A/CN.9/374.

[254]A/CONF.63/15.

[255]A/CONF.97/18.

[256]Ibid.

[257]*Yearbook of the United Nations Commission on International Trade Law*, vol. XVI: 1985 (United Nations publication, Sales No. E.87.V.4), part one, document A/40/17, annex I.

[258]A/CONF.89/13.

[259]A/CN.9/SER.C/GUIDE/1.

[260]A/CN.9/SER.C/ABSTRACTS/1.

[261]A/CN.9/380.

[262]Ibid., para. 39.

[263]Ibid., para. 112.

[264]A/CN.9/379.

[265]Adopted without a vote.

[266]See A/48/613.

[267]Adopted without a vote.

[268]See A/48/613.

[269]*Official Records of the General Assembly, Forty-eighth Session, Supplement No. 17* (A/48/17), chap. II, sect. E.

[270]Adopted without a vote.

[271]See A/48/613.

[272]Adopted without a vote.

[273]See A/48/608.

[274]A/48/580.

[275]ST/LEG/SER.F/1 (United Nations publication, Sales No. E.92.V.5).

[276]Adopted without a vote.

[277]See A/48/611.

[278]A/48/742, annex.

[279]A/48/269, sect. II.

[280]Adopted without a vote.

[281]See A/48/614.

[282]*Official Records of the General Assembly, Forty-eighth Session, Supplement No. 26* (A/48/26).

[283]Adopted without a vote.

[284]See A/48/615.

[285]*Official Records of the General Assembly, Forty-eighth Session, Supplement No. 33* (A/48/33 and Corr.1).

[286]Adopted without a vote.

[287]See A/48/618.

[288]Adopted without a vote.

[289]A/48/609, para. 10.

[290]A/48/267 and Corr.1 and Add.1.

[291]Adopted without a vote.

[292]A/48/616, para. 12.

[293]A/C.6/48/L.4 and Corr.2.

[294]*Official Records of the General Assembly, Forty-sixth Session, Supplement No. 10* (A/46/10), chap. II, sect. D.

[295]Adopted without a vote.

[296]See A/48/619, para. 8.

[297]Adopted without a vote.

[298]A/48/610, para. 9; A/48/PV.73.

[299]Adopted without a vote.

[300]See A/48/617, para. 6; A/48/PV.73.

[301]For detailed information, see *Official Records of the General Assembly, Forty-ninth Session, Supplement No. 14* (A/49/14); the report covers the period 1 July 1992–30 June 1994.

[302]Adopted without a vote.

[303]See A/48/732.

[304]A/48/574.

[305]ILC, 80th session, 1993, *Record of Proceedings*, No. 2; No. 11, pp. 44–46; No. 19, pp. 7, 8, 9, English, French, Spanish; ILO *Official Bulletin*, vol. LXXVI, 1993, Series A, No. 2, pp. 117–119.

[306]ILO *Official Bulletin*, vol. LXXVI, 1993, Series A, No. 2, pp. 87–96; English, French, Spanish. (Information on the preparatory work for the adoption of instruments, which, by virtue of the double discussion procedure, normally covers a period of two years, is given in order to facilitate reference work.) Regarding the preparatory work, see: *First Discussion*—Prevention of industrial disasters, ILC, 79th session (1992), report V (1) and report V (2), 48 and 82 pages respectively; Arabic, Chinese, English, French, German, Russian, Spanish. See also ILC, 79th session (1992), *Record of Proceedings*, No. 24; No. 30, pp. 8–13; English, French, Spanish. *Second Discussion*—Prevention of major industrial accidents, ILC, 80th session (1993), report IV (1), report IV (2A) and report IV (2B), 12, 74 and 20 pages respectively; Arabic, Chinese, English, French, German, Russian, Spanish. See also ILC, 80th session (1993), *Record of Proceedings*, No. 23; No. 28, pp. 1–7; English, French, Spanish.

[307]This report has been published as report III (part 4) to the 80th session of the Conference and comprises two volumes: vol. A: General Report and Observations concerning Particular Countries, report III (4A), 531 pages, English, French, Spanish; vol. B: General Survey of the Reports on the Workers with Family Responsibilities Convention (No. 156) and Recommendation (No. 165), 1981, report III (4B), 113 pages, English, French, Spanish.

[308]United Nations, *Treaty Series*, vol. 15, p. 40.

[309]GB.255/12/8.

[310]GB.255/12/9, GB.258/13/14.

[311]GB.257/4/3.

[312]GB.258/14/5.

[313]GB.258/13/14.

[314]*ILO Official Bulletin*, vol. LXXVI, 1993, Series B, No. 1.

[315]Ibid., vol. LXXVI, 1993, Series B, No. 2.

[316]Ibid., vol. LXXVI, 1993, Series B, No. 3.

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

[318]Ibid., vol. 14, p. 185.

[319]See Blumer, T. J., Bolis, M., and Hyde, J., eds., "International access to legislative information. Vol. II. Collection, storage, retrieval and delivery of public information" (Proceedings of the Second ILIN Workshop, Washington, D.C., 16-19 December 1992), UNIFO Publishers, Sarasota, FL, 1994. Volume I is entitled "International access to legislative information: a preliminary investigation (Win-Shin S. Chiang and K. Price, eds., UNIFO Publishers, Sarasota, FL, 1992).

[320]United Kingdom, *Treaty Series*, 47 (1989); *International Legal Materials*, vol. 24, No. 6 (November 1985), p. 1605.

[321]United Nations, *Treaty Series*, vol. 575, p. 159.

[322]Ibid., vol. 2, p. 39.

[323]The reports of the two sessions of the Legal Committee held during 1993 are contained in documents LEG 68/11 and LEG 69/11 respectively.

[324]*International Legal Materials*, vol. XVI (1977), p. 606.

[325]United Nations, *Treaty Series*, vol. 973, p. 3.

[326]Ibid., vol. 1184, p. 2.

[327]*International Legal Materials*, vol. XXXIII, p. 353.

[328](Draft) IMO/SFV-P/CONF/3.

[329]IMO/SFV/CONF/8 and Corr.1.

[330]United Nations, *Treaty Series*, vol. 828, p. 3.

[331]*Paris Convention for the Protection of Industrial Property*, 20 March 1883 (as amended), official English text, WIPO publication No. 201 (E), World Intellectual Property Organization, Geneva, 1993.

[332]United Nations, *Treaty Series*, vol. 828, p. 221.

[333]Ibid., p. 163.

[334]Ibid., p. 389.

[335]League of Nations, *Treaty Series*, vol. 74, p. 343.

[336]United Nations, *Treaty Series*, vol. 550, p. 45; vol. 828, p. 191; and vol. 1154, p. 89.

[337]Ibid., vol. 923, p. 189.

[338]Ibid., vol. 496, p. 43.

[339]Ibid., vol. 828, p. 435.

[340]United Kingdom, *Treaty Series*, 78 (1978).

[341]Ibid., 113 (1975).

[342]United Nations, *Treaty Series*, vol. 866, p. 67.

[343]Ibid., vol. 1144, p. 3.

[344]*International Legal Materials*, vol. 17, p. 285.

[345]WIPO, No. 297.

[346]*Treaty on the International Registration of Audiovisual Work adopted at Geneva on April 18, 1989 and Regulations as in force since February 28, 1991*, WIPO publication No. 299 (E), World Intellectual Property Organization, Geneva, 1993.

[347]United Nations, *Treaty Series*, vol. 1059, p. 191.

[348]Report of the sixteenth session of the Governing Council (document GC/16).

[349]The Governing Council acted in accordance with article 6, section 8, of the Agreement Establishing IFAD and upon the proposal contained in documents GC 16/L.3 and GC 16/C.R.P.1.

[350]The Governing Council acted in the light of the background information provided by the IFAD Preparatory Commission in document GC 1/L.4.

[351]EB 92/45/R.32.

[352]EB 93/50/R.100.

[353]EB 93/S/R.3, EB 93/S/R.4 and EB 93/S/R.5.

[354]EB 93/50/R.103.

[355]IDB.10/35/Rev.1 and IDB.12/10.

[356]GC.1/INF.6.

[357]IDB.6/15.

[358]IDB.8/44.
[359]Annual Report of UNIDO 1993 (IDB.12/2, PBC.10/2), appendix I.
[360]United Nations, *Treaty Series*, vol. 1456, p. 101.
[361]*International Legal Materials*, vol. XXV, p. 1377 (1986).
[362]Ibid., p. 1377.
[363]United Nations, *Treaty Series*, vol. 1063, p. 265.
[364]Reproduced in IAEA document INFCIRC/402.
[365]Reproduced in IAEA document INFCIRC/377.
[366]Reproduced in IAEA document INFCIRC/167/Add.15.
[367]United Nations, *Treaty Series*, vol. 729, p. 161.
[368]Reproduced in IAEA document INFCIRC/434.
[369]Reproduced in IAEA document INFCIRC/418.
[370]Reproduced in IAEA document INFCIRC/420.
[371]Reproduced in IAEA document INFCIRC/426.
[372]Reproduced in IAEA document INFCIRC/173.
[373]Reproduced in IAEA document INFCIRC/204.
[374]Reproduced in IAEA document INFCIRC/154.
[375]IAEA also applies safeguards to nuclear facilities in Taiwan, Province of China.
[376]SCNL/8/INF.4, 11.
[377]Reproduced in IAEA documents INFCIRC/449 and Add.1.